

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

<b>BETWEEN:</b>	)	
	)	
JOE ALESSANDRO and	)	
LAW HELP LTD.	)	Plaintiffs, Self Represented
	)	
Plaintiffs	)	
<b>– and –</b>	)	
	)	
JOSEPH GAVIN BRIGGS, ROBERT	)	<i>Robert D. Moss</i> , for the Defendants,
JEFFREY BURD and NOT GUILTY	)	Jeffrey Robert Burd and Not Guilty
PLEA PARALEGAL SERVICES	)	Paralegal Services Professional Corporation
PROFESSIONAL CORPORATION	)	
	)	<i>Rachel Hung</i> , for the Defendant,
Defendants	)	Joseph Gavin Briggs
	)	
	)	
	)	
	)	<b>HEARD:</b> June 24, 2024

2024 ONSC 4636 (CanLII)

**PARGHI J.**

**REASONS FOR DECISION**

- [1] This is a motion for default judgment brought by the Defendant Joseph Gavin Briggs in respect of his counterclaim against the Plaintiffs, Law Help Ltd. (“Law Help”) and Joe Alessandro. Law Help entered bankruptcy proceedings in September 2014. Mr. Alessandro was the owner, director, and president of Law Help. Mr. Briggs is their former “client.” Mr. Alessandro has never been qualified to practice as a lawyer and the Law Society of Ontario has refused to license him to practice as a paralegal. He is currently subject to a permanent injunction prohibiting him from providing legal services to the public.
  
- [2] Mr. Briggs asserts that Mr. Alessandro misrepresented to him that he was licensed to provide paralegal services through Law Help. Mr. Briggs states that, as a result of these misrepresentations, he retained Mr. Alessandro and Law Help to represent him in traffic court matters on several occasions beginning in 2012. He later discovered that Mr. Alessandro was not a paralegal and had breached his contract for services, including by entering guilty pleas on Mr. Briggs’ behalf on charges to which Mr. Briggs had instructed him not to plead guilty.

- [3] Mr. Briggs wrote online reviews about Mr. Alessandro's business practices, leading Mr. Alessandro to commence an action against him in 2014 claiming intentional interference with economic relations and defamation. Mr. Briggs counterclaimed, pleading misrepresentation, breach of the duty of loyalty and good faith, and unjust enrichment. Mr. Alessandro has been noted in default in the counterclaim and Mr. Briggs now seeks default judgment.
- [4] Under the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, when a defendant is noted in default, they are deemed to admit the truth of all factual allegations made in the Statement of Claim. When the claim is for unliquidated damages, and the motion for default judgment is brought before a judge, an affidavit is to be filed in support of the motion. Such affidavit evidence has been provided here. The factual background discussed below is based on that affidavit evidence and the Counterclaim contained in Mr. Briggs' Fresh as Amended Statement of Defence and Counterclaim.
- [5] On a motion for default judgment, I am to consider whether the deemed factual admissions resulting from the default support a judgment on liability and on damages. For the reasons discussed below, I find that the deemed factual admissions do support a judgment on liability and on damages, and I grant default judgment on Mr. Briggs' Counterclaim.

### **Mr. Briggs' Interactions with Mr. Alessandro and Law Help**

#### **The Four Retainers (February 2012 to April/May 2013)**

- [6] In February 2012, Mr. Briggs was approached by a Law Help "referral agent" while in a grocery store. During this first encounter and subsequent discussions, Mr. Briggs and the referral agent discussed a traffic court matter that Mr. Briggs had coming up. The referral agent told Mr. Briggs that Law Help would be able to get the charges "thrown out," and that, if he was found guilty, Law Help would appeal any conviction and fine as part of their money back "guarantee." He told Mr. Briggs that Law Help would charge \$4,000.00 for these legal services, and that Mr. Alessandro, the manager of Law Help, was a paralegal.
- [7] Mr. Briggs met with Mr. Alessandro, who told him that Law Help specialized in providing legal services in connection with traffic offences and that he could "get rid of" Mr. Briggs' traffic offences and tickets.
- [8] Based on what he had been told by the referral agent and Mr. Alessandro himself, Mr. Briggs believed that Mr. Alessandro was a licensed paralegal. He believed that Law Help was a law firm that was authorized to provide legal services.
- [9] Mr. Briggs agreed to retain Mr. Alessandro and Law Help, providing an initial retainer of \$1,400.00 and giving instructions that he wished to contest the traffic offences with which he had been charged. Mr. Briggs subsequently made additional payments of \$800 and \$1,400.00. I will refer to this engagement as the First Retainer.

- [10] Despite Mr. Briggs' instructions, and Law Help's representations to him that they would seek an adjournment, a paralegal from Law Help attended at court in February 2012 and pleaded guilty on Mr. Briggs' behalf to the traffic offences underlying the First Retainer.
- [11] Mr. Alessandro and Law Help did not inform Mr. Briggs of the guilty plea. Instead, they told him that the court had refused to adjourn the trial and had convicted him. They assured Mr. Briggs that they would appeal on his behalf. They told him that if he paid \$560 to Law Help, they would pay his fine and have the conviction removed from his driver's abstract.
- [12] In total, Mr. Briggs paid Mr. Alessandro and Law Help a total of \$4,560.00 in cash in relation to the First Retainer.
- [13] In April 2012, Mr. Briggs met with Mr. Alessandro at his Law Help office regarding the appeal of a conviction for an "Over 80" charge from 2010. Mr. Alessandro advised Mr. Briggs on legal strategy and told Mr. Briggs that he would prepare and file a factum on his behalf. Mr. Briggs believes that Law Help paid \$2,000.00 to a lawyer to represent him with respect to this matter. I will refer to this engagement as the Second Retainer.
- [14] Mr. Briggs made payments of \$2,000.00, \$1,900.00 and \$100 to Law Help in respect of the Second Retainer.
- [15] In March 2013, Mr. Briggs retained Mr. Alessandro and Law Help with respect to further alleged traffic offences. Mr. Briggs met with Mr. Alessandro at the Law Help office. He told Mr. Alessandro that he did not want to plead guilty to these offences and wanted a trial, because proceeding to trial was integral to a human rights application he had filed with the Ontario Human Rights Tribunal. I will refer to this engagement as the Third Retainer.
- [16] A Law Help employee subsequently advised Mr. Briggs that his next court appearance for the offences underlying the Third Retainer was scheduled for April 2013, but that he did not need to attend because a Law Help paralegal would attend on his behalf and adjourn the matter.
- [17] Several days later, Mr. Briggs was informed by an employee of Law Help that he had been found guilty of the offences underlying the Third Retainer. However, as discussed below, transcripts of Mr. Briggs' trial on these charges indicate that a Law Help paralegal advised the court that Mr. Briggs had instructed him to plead guilty – in direct violation of the instructions Mr. Briggs had given to Mr. Alessandro.
- [18] In total, Mr. Briggs paid Mr. Alessandro and Law Help a total of \$1,800.00 with respect to the Third Retainer.
- [19] In March 2013, Mr. Briggs retained Mr. Alessandro and Law Help in relation to an additional traffic offence. I will refer to this prospective engagement as the Fourth Retainer. Mr. Briggs paid \$400 to Law Help. Mr. Alessandro told him that he would have to pay an

additional \$1,200.00, but, as described below, Mr. Briggs ended his relationship with Mr. Alessandro and Law Help before making any further payments.

- [20] In April or May 2013, Mr. Briggs was advised by the Provincial Offences Court that his driver's license was up for suspension as he had an outstanding fine of \$4,400.00 related to the charges from the First Retainer, despite having been advised by Law Help that his conviction had successfully been appealed.
- [21] The Provincial Offences Court further advised Mr. Briggs that only one of the charges underlying the Third Retainer had been appealed, contrary to Mr. Briggs' direct instruction that all of the charges be appealed.
- [22] Mr. Briggs subsequently called Law Help to address this with Mr. Alessandro. He was told by a Law Help employee that the convictions had been "taken care of" – a claim directly contradicted by the Provincial Offences Court.

#### **The Discovery of Misrepresentation and Fraud (April/May 2013 to March 2014)**

- [23] In April or May 2013, Mr. Briggs grew concerned and suspicious that Law Help and Mr. Alessandro were not providing him with the services they had promised to provide. He ordered the transcripts from his trials. The transcript for the February 2012 trial (relating to the First Retainer) showed that a paralegal appeared on Mr. Briggs' behalf and entered a guilty plea on both charges. The transcript for the April 2013 trial (relating to the Third Retainer) indicated that initially, no one appeared on Mr. Briggs' behalf at court. During the police officer's testimony, a paralegal attended and said that she had been instructed to enter a guilty plea by Mr. Briggs. On both occasions, the paralegals' actions were directly contrary to the instructions Mr. Briggs had given to Mr. Alessandro. On both occasions, Law Help and/or Mr. Alessandro lied to Mr. Briggs after the fact about the guilty pleas.
- [24] In approximately June 2013, Mr. Briggs became aware that Mr. Alessandro had been denied licensing as a paralegal by the Law Society of Ontario (then the Law Society of Upper Canada) ("LSO") for failure to meet the good character requirement, in part as a result of his convictions for forgery, uttering forged documents, and attempting to obstruct justice under very similar circumstances to those set out in Mr. Briggs' counterclaim.
- [25] In August or September 2013, Mr. Briggs received a letter from the Ministry of Transportation suspending his driver's license for unpaid fees of \$5,025.00, despite Mr. Alessandro and Law Help's representations that these fines had been successfully appealed.
- [26] In November 2013, Mr. Briggs wrote a letter to Mr. Alessandro requesting that Law Help either rectify his fines with the Ministry of Transportation or provide him with a refund. Mr. Alessandro did not respond.
- [27] In March 2014, Mr. Briggs sent Mr. Alessandro an email in which he requested a refund from Law Help.

- [28] Mr. Alessandro responded, stating that he operates a “multimillion dollar law referral service” and that Mr. Briggs “[C]ould only dream in [his] life time to ever run a sophisticated operation as mine [sic].” Mr. Alessandro told Mr. Briggs: “Do not contact my office again or I will have Toronto police charge you criminal [sic].”
- [29] Mr. Briggs had to retain a lawyer to appeal the offences underlying the Third Retainer and to defend him against the offences underlying the Fourth Retainer. Mr. Briggs paid the lawyer \$3,390.00 for their services. Additionally, he was required to pay \$4,375.00 in fines and surcharges with respect to the Third Retainer.
- [30] Law Help did not return Mr. Briggs’ files and documents to him when he requested them. They offered to provide him with some of his files, but only if he would confirm in writing that they were providing him with all of his files. He declined to provide such a confirmation. This is detailed in the affidavit evidence before me and is uncontroverted.

**This Litigation (April 2014 to present)**

- [31] After Mr. Briggs learned of Mr. Alessandro’s and Law Help’s business practices, he posted online reviews about them. In response, in April 2014, Mr. Alessandro commenced an action against Mr. Briggs seeking, among other things, \$500,000.00 in damages for intentional interference with economic relations and defamation, and \$50,000.00 in punitive damages.
- [32] In March 2015, Mr. Briggs delivered a Fresh as Amended Statement of Defence and Counterclaim pleading misrepresentation, breach of the duty of loyalty and good faith, and unjust enrichment against Mr. Alessandro and Law Help. The Counterclaim seeks the following relief:
- a. Compensatory damages in the amount of \$20,285.00, which breaks down as follows:
    - i. \$10,200.00 paid in respect of the four retainers (\$4,000.00 for the First Retainer, \$4,000.00 for the Second Retainer, \$1,800.00 for the Third Retainer, and \$400 for the Fourth Retainer);
    - ii. \$3,390.00 paid to retain legal counsel to appeal the convictions underlying the Third Retainer (as a result of Mr. Alessandro’s fraudulent representation) and to assist with the Fourth Retainer;
    - iii. \$4,935.00 in fines and surcharges paid as a result of the failure of Mr. Alessandro and Law Help to provide the legal representation that they were retained to provide to Mr. Briggs; and
    - iv. Additional amounts for the costs of ordering the transcripts of the trials and the refusal of Mr. Alessandro and Law Help to return Mr. Briggs’ files and documents to him;

- b. Aggravated and punitive damages in the amount of \$25,000.00 as a result of Mr. Alessandro's high-handed and oppressive behaviour in defrauding Mr. Briggs, and in misleading both the government and Mr. Briggs with respect to Mr. Briggs' legal proceedings; and
- c. A mandatory order requiring Mr. Alessandro to provide him with all documents relating to his and Law Help's purported legal representation of him.

- [33] In April 2015 Mr. Alessandro delivered a Reply and Defence to Counterclaim. His claim against the Defendants other than Mr. Briggs was dismissed that year.
- [34] As the chronology below makes clear, Mr. Alessandro took exceedingly few steps to move his action forward, despite efforts on the part of Mr. Briggs' counsel. He ignored Mr. Briggs' efforts to prosecute the counterclaim. He failed to appear at scheduled court dates.
- [35] In September 2016, almost a year and a half after delivering his Reply, Mr. Alessandro sent an offer to settle to Mr. Briggs.
- [36] In October 2016, Mr. Briggs engaged *pro bono* counsel. Correspondence between Mr. Alessandro and Mr. Briggs' counsel ensued.
- [37] In March 2017, Mr. Briggs' counsel wrote to Mr. Alessandro proposing a discovery plan. Mr. Alessandro did not respond.
- [38] In April 2017, Mr. Briggs' counsel followed up and advised that if Mr. Alessandro did not respond, he would book a civil practice court appearance. Mr. Alessandro did not respond.
- [39] Mr. Briggs' counsel then booked a civil practice court appearance for August 2017 and advised Mr. Alessandro of the appearance. The following day, counsel served Mr. Briggs' draft affidavit of documents.
- [40] Mr. Alessandro did not attend at civil practice court.
- [41] In December 2018, Mr. Briggs' counsel again tried to contact Mr. Alessandro but received no response.
- [42] In May 2019, Mr. Alessandro's action against Mr. Briggs was dismissed for delay.
- [43] In June 2019, Mr. Briggs elected to proceed with his Counterclaim.
- [44] In July 2021, efforts were made to conduct a mandatory mediation of the counterclaim. Mr. Alessandro did not respond to these efforts. A certificate of non-compliance was issued against him.
- [45] Mr. Briggs brought a motion to strike Mr. Alessandro's Reply and Defence to Counterclaim in light of Mr. Alessandro's refusal to participate further in the proceeding,

and in particular his failure to respond to attempts to proceed with the mandatory mediation.

- [46] On the scheduled August 2021 hearing date for Mr. Briggs' motion to strike, Mr. Alessandro did not attend. The motion was adjourned to October 2021.
- [47] On the rescheduled October 2021 hearing date, an individual who identified himself as a friend to and agent for Mr. Alessandro appeared and requested an adjournment, which was granted to November 2021.
- [48] On the rescheduled November 2021 hearing date, neither Mr. Alessandro nor anyone on his behalf appeared. Mr. Briggs eventually argued the motion. He was successful and Mr. Alessandro's Reply and Defence to Counterclaim was struck. Mr. Alessandro did not contact Mr. Briggs' counsel to inquire about the outcome of the motion.
- [49] In April 2022, Mr. Briggs noted Mr. Alessandro in default.
- [50] In August 2022, Mr. Briggs brought a motion for default judgment, which was to be heard in writing in November 2022. Mr. Alessandro served some responding materials. Mr. Briggs' motion materials were uploaded to the incorrect section on CaseLines, as a result of which the motion was adjourned *sine die*.
- [51] Mr. Alessandro then took various steps to try to set aside the November 2021 order striking his Reply and Defence to Counterclaim.
- [52] First, he brought a motion to the Ontario Court of Appeal seeking to stay or set aside the order to strike his action and an extension of time to appeal from the order to strike. In November 2022, his motion was dismissed.
- [53] He then brought a motion at the Superior Court of Justice to set aside the order striking his Reply and Defence to Counterclaim. That motion was dismissed in September 2023.
- [54] He then sought leave to appeal that dismissal to the Divisional Court, unsuccessfully, in April 2024.
- [55] Mr. Briggs now revives his motion for default judgment, which has been adjourned *sine die* since November 2022. His motion materials have been duly served on Mr. Alessandro, who has not responded.

### **Previous Proceedings Against Mr. Alessandro**

- [56] Several legal proceedings have been commenced against Mr. Alessandro (and in some cases also against Law Help) prior to the one commenced by Mr. Briggs. I discuss these here. These prior proceedings are not relevant to my analysis of liability in the case before me; however, as discussed below, they are relevant to my assessment of the claim for punitive damages.

**Proceedings against Law Help’s Predecessor Company, Advocates at Law (2007)**

- [57] In 2007, Mr. Alessandro, on behalf of a predecessor company to Law Help called Advocates at Law, pleaded guilty to unlawfully holding himself out as a barrister and solicitor.

**Proceedings against Mr. Alessandro for Filing Fake Documents with Ministry of Transportation (2008)**

- [58] In 2008, Mr. Alessandro was sentenced for fraudulently filing fake appeal documents with the Ministry of Transportation respecting certain *Highway Traffic Act* offences, with the intention of inducing the Ministry to remove the convictions from driving records, under the mistaken believe that an appeal was pending. Justice Garton, as quoted in *Giuseppe Alessandro v. Law Society of Upper Canada*, 2009 ONLSHP 91, at para. 7, held that “these offences were motivated by greed. They were not the product of a momentary lack of judgment, but the result of a sophisticated scheme.” Mr. Alessandro was sentenced to an 18-month conditional sentence with conditions including that he not act as a paralegal and not be in a courthouse unless attending as a witness or accused, or for purposes of reporting to a supervisor.

**Litigation by Former Clients (2014 to approximately 2018)**

- [59] Mr. Alessandro has been named as a defendant in three other small claims matters in which Mr. Briggs’ current *pro bono* counsel represented the plaintiffs. The procedural histories of these matters are lengthy and convoluted, in good part due to Mr. Alessandro’s approach to defending them. Below, I discuss aspects of Mr. Alessandro’s conduct in these earlier cases that are relevant to my analysis of the punitive damages claim.
- [60] In one such matter, commenced in July 2015, a former client of Mr. Alessandro alleged, among other things, that Mr. Alessandro had falsely held himself out as a lawyer or paralegal and used that misrepresentation to defraud the client. In respect of this matter, I note the following:
- a. Mr. Alessandro failed to attend at the first scheduled settlement conference, in November 2015, advising the deputy judge that he could not attend because his child was sick. The evidence indicates that in fact he was at another courthouse at that time, attending to a criminal matter in which he was the accused;
  - b. Mr. Alessandro failed to attend at the second scheduled settlement conference, in February 2016, contrary to the order of the deputy judge from the first settlement conference;

- c. Mr. Alessandro failed to attend in person at the third scheduled settlement conference, in May 2016, instead sending a paralegal on his behalf. The deputy judge was told that Mr. Alessandro was hospitalized and did not want to disclose the name of the hospital because he did not want the plaintiff's counsel to serve him with any materials. The settlement conference was rescheduled;
- d. Mr. Alessandro failed to attend at the fourth scheduled settlement conference in July 2016. The settlement conference was conducted by telephone;
- e. Mr. Alessandro was later noted in default and judgment was issued against him in November 2016; and
- f. A contempt hearing was scheduled for June 2017, at which Mr. Alessandro was ordered to personally appear. Mr. Alessandro thwarted efforts to serve him personally with the Notice of Hearing and the Order requiring his attendance at the hearing. An order for substituted service had to be obtained. Mr. Alessandro did not attend in person at the contempt hearing, contrary to the court order. He sent a paralegal. A warrant was issued for him to be brought before the court.

[61] In an earlier matter, commenced by a former client in 2014, Mr. Alessandro lost at trial and appealed the trial judge's decision. He failed to attend at his own appeal in January 2017. The court called him to inquire as to his whereabouts. He claimed he did not know about the hearing date. The court's Endorsement from this hearing date states, "It is an abuse of the process of the court to file appeals, force the other party to incur costs and then fail to be diligent about having the appeal heard". Subsequently, examinations in aid of execution were scheduled for December 2017. Mr. Alessandro failed to attend. The examinations were rescheduled to February 2018, with attendance peremptory on all parties. Mr. Alessandro failed to attend the examination and contempt hearing on that date. The matter was referred to this Court for the issuance of a warrant.

[62] Mr. Alessandro purged the contempt in both of these matters after they were settled.

[63] I find that, in both of these matters, as in this case, Mr. Alessandro tried to frustrate the court process by repeated refusals to attend in person. This finding is relevant to my analysis of the claim for aggravated and punitive damages, below.

#### **Law Society of Ontario Proceedings (2014)**

[64] In March 2014, the LSO filed an application with this court seeking a permanent injunction restraining Mr. Alessandro and Law Help from, among other things, practicing law or providing legal services in Ontario and advertising or holding themselves out as being licensed to provide legal services in Ontario (the "LSO Application"). In the Application, the LSO alleged that Mr. Alessandro and Law Help had unlawfully engaged in the unlicensed provision of legal services in Ontario and had unlawfully held themselves out as being entitled to provide legal services in Ontario.

- [65] In November 2014, the LSO Application was heard. That same month, this court issued a consent order permanently enjoining Mr. Alessandro and Law Help from:
- a. practicing law or providing legal services;
  - b. assisting members of the public with the conduct of a legal proceeding;
  - c. owning, operating, managing or entering into any contractual relationship in relation to the operation of any “referral” or other business in relation to the provision of legal services or the practice of law;
  - d. employing or contracting with persons licensed by the LSO to provide legal services or legal support services;
  - e. entering into or continuing any rental, leasing or other agreements with persons licensed by the LSO relating to the use of property or services owned by Mr. Alessandro and Law Help for the provision of legal services where Mr. Alessandro or Law Help receive any financial benefit tied to the profitability of such a business; and
  - f. representing or holding out to members of the public that they are entitled to provide legal services or practice law.

### **The Test for Default Judgment**

- [66] Where a defendant has been noted in default, Rule 19.05(1) of the *Rules of Civil Procedure* provides that the plaintiff may move before a judge for judgment against the defendant.
- [67] Rule 19.02(1)(b) provides that a defendant who has been noted in default is deemed to admit the truth of all allegations of fact made in the statement of claim.
- [68] In a motion for default judgment, I am to consider whether these deemed admissions of facts contained in Mr. Briggs’ Counterclaim, together with the facts contained in other admissible evidence tendered by Mr. Briggs, entitle Mr. Briggs to judgment on his counterclaim. The courts have articulated the inquiry I am to undertake as follows (*Elekta Ltd. v. Rodkin* 2012 ONSC 2062, at paras. 12-14):
- a. What deemed admissions of fact flow from the facts pleaded in the statement of claim?
  - b. Do those deemed admissions of fact entitle the plaintiffs, as a matter of law, to judgment on the claim?
  - c. If they do not, has the plaintiff adduced admissible evidence which, when combined with the deemed admissions, entitles it to judgment on the pleaded claim?

[69] In considering whether Mr. Briggs has proven the claim and damages, I may also consider the overall credibility of the evidence before me. The court:

has the jurisdiction and the duty to be satisfied on the civil standard of proof that the plaintiff is able to prove the claim and damages. If the court finds the evidence to be lacking in credibility or lacking an ‘air of reality,’ the court can refuse to grant judgment or grant partial judgment regardless of fault (*Fuda v. Conn*, 2009 CanLII 1140 (ON SC), at para. 16).

[70] As discussed below, I find that the facts pleaded in the Counterclaim in Mr. Briggs’ Fresh as Amended Statement of Defence and Counterclaim, which Mr. Alessandro is deemed to have admitted, corroborated by the uncontested affidavit evidence submitted on this motion, are sufficient to entitle Mr. Briggs to default judgment. He has proven his Counterclaim and his claim for damages. I do not find the evidence to be lacking credibility or an “air of reality.”

## **Liability**

### **Intentional Misrepresentation**

[71] I find that Mr. Alessandro and Law Help have committed the tort of intentional misrepresentation, also known as fraudulent misrepresentation, fraud, or deceit.

[72] The elements of this cause of action are: (1) the defendant makes a false representation; (2) the defendant has some level of knowledge that the representation is false, *i.e.* has actual knowledge or is reckless as to its truth or falsity; (3) the false representation causes the plaintiff to act; and, (4) the plaintiff’s actions result in a loss (*Hryniak v. Mauldin*, 2014 SCC 7, [2004] 1 S.C.R. 87, at para. 87; *Bruno Appliance and Furniture, Inc. v. Hryniak*, 2014 SCC 8, [2014] 1 S.C.R. 126, at para. 21).

[73] The admitted facts and affidavit evidence support a finding of intentional misrepresentation. As outlined above, Mr. Alessandro and Law Help falsely held themselves out as being licensed to provide legal services. They claimed to be “specialized” in providing legal services in connection with traffic offences. They knew those statements to be false. The false statements induced Mr. Briggs to enter into each of the four retainers. Mr. Briggs suffered damages as a result. For example, his driver’s license was suspended and he was not able to successfully appeal the guilty pleas that had been entered in direct contradiction of his instructions.

[74] Mr. Briggs entered into the retainers but did not receive the benefit of the retainers. That is, he did not receive legal advice from qualified and licensed professionals.

[75] I find on this basis that the cause of action of intentional misrepresentation has been made out.

### **Unjust Enrichment**

- [76] I find that the claim of unjust enrichment is properly made out.
- [77] The elements of a claim for unjust enrichment are: (1) an enrichment of or benefit to the defendant, (2) a corresponding deprivation of the plaintiff, and (3) the absence of a juristic reason for the enrichment (*Kerr v. Baranow*, 2011 SCC 10, [2011] 1 S.C.R. 269, at para. 32).
- [78] Mr. Alessandro and Law Help were each unjustly enriched. They received the benefit of the fees that were paid to them by Mr. Briggs.
- [79] There was a corresponding deprivation in that Mr. Briggs paid them and did not receive the services that he retained them to provide to him, and his legal rights were prejudiced as a consequence, including in relation to the suspension of his driver's license and his lost opportunity to appeal the guilty pleas entered in direct contradiction of his instructions.
- [80] There is no juristic reason for the enrichment. Mr. Alessandro and Law Help were not qualified to provide the legal services for which the fees were received.
- [81] I accordingly find that there has been an unjust enrichment of Mr. Alessandro and Law Help.

#### **Breach of Duty of Loyalty and Good Faith**

- [82] Mr. Briggs further alleges that Mr. Alessandro and Law Help breached their duty of loyalty and good faith toward him. In light of my findings that Mr. Alessandro and Law Help committed the tort of fraudulent or intentional misrepresentation, and were unjustly enriched, I need not consider this cause of action.

#### **Piercing the Corporate Veil**

- [83] Mr. Briggs asserts that the corporate veil should be pierced – that is, that I should disregard the separate legal personality of Law Help, a corporate entity, and hold Mr. Alessandro personally liable for Law Help's wrongdoing – in light of Mr. Alessandro's conduct.
- [84] I agree.
- [85] Typically, the corporate veil will be pierced where a company is incorporated for an illegal, fraudulent or improper purpose. However, the corporate veil may also be pierced if those "in control of" a corporation "expressly direct a wrongful thing to be done" (*642947 Ontario Ltd. v. Fleischer* (2001), 56 O.R. (3d) 417 (C.A.), at para. 68). Courts "will disregard the separate legal personality of a corporate entity where it is completely dominated and controlled and being used as a shield for fraudulent or improper conduct" (*Fleischer*, at para. 68, citing *Transamerica Life Insurance Co. of Canada v. Canada Life Assurance Co.* (1996), 28 O.R. (3d) 423 (Gen. Div.), at pp. 433-34, aff'd [1997] O.J. No. 3754 (C.A.)). For this doctrine to apply, the fraudulent or improper conduct must be the

reason for the complaining party's injury or loss (*Chan v City Commercial Realty Group Ltd.*, 2011 ONSC 2854, 90 C.C.E.L. (3d) 235, at para. 21).

- [86] I find, based on the admitted facts and evidence before me, that Mr. Alessandro was at all material times the owner, director, and president of Law Help and its controlling mind. I further find that he either directly carried out the wrongful acts giving rise to Mr. Briggs' loss, or instructed Law Help staff to carry out those wrongful acts. Those wrongful acts include making intentional misrepresentations to Mr. Briggs, as discussed above, entering guilty pleas without his authorization, and lying to him afterward about those guilty pleas. Mr. Alessandro dominated and controlled the conduct of Law Help and its personnel, including their conduct towards Mr. Briggs. I accordingly find that it is appropriate to disregard Law Help's separate legal personality and hold Mr. Alessandro personally liable.

### **Conclusion**

- [87] I therefore find that, based on the admitted facts and evidence before me, Mr. Alessandro and Law Help engaged in fraudulent misrepresentation toward Mr. Briggs, and were unjustly enriched at his expense. I further find that, to the extent it is required to pierce the corporate veil in order to find Mr. Alessandro personally liable, it is appropriate to do so.

### **Damages**

#### **Compensatory Damages**

- [88] Mr. Briggs seeks compensatory damages in the amount of \$20,285.00, which consists of (a) \$10,200.00 paid in respect of the four retainers, (b) \$3,390.00 paid to retain legal counsel to appeal the convictions underlying the Third Retainer and to assist with the Fourth Retainer, (c) \$4,935.00 in fines and surcharges paid as a result of the failure of Mr. Alessandro and Law Help to provide the legal representation that they were retained to provide to Mr. Briggs, and (d) \$1,760.00 for the costs of ordering the transcripts of the trials and the refusal of Mr. Alessandro and Law Help to return Mr. Briggs' files and documents to him.
- [89] The evidence supports these claims.
- [90] Mr. Briggs paid \$10,200.00 in respect of the four retainers (\$4,000.00 for the First Retainer, \$4,000.00 for the Second Retainer, \$1,800.00 for the Third Retainer, and \$400 for the Fourth Retainer). He paid these amounts to engage the services of Mr. Alessandro and Law Help. He paid these amounts as a direct consequence of their fraudulent misrepresentations to them. These amounts reflect their unjust enrichment at his expense. Accordingly, I award Mr. Briggs this amount in compensatory damages.
- [91] Mr. Briggs paid \$3,390.00 to engage legal counsel to appeal the convictions underlying the Third Retainer and to assist with the Fourth Retainer. He had to pay these amounts because of the harm he suffered due to Mr. Alessandro's and Law Help's fraudulent

misrepresentations. Accordingly, I award Mr. Briggs this amount in compensatory damages.

[92] Mr. Briggs had to pay \$4,935.00 in fines and surcharges. In connection with the First Retainer, he paid \$560 to Law Help so that they would pay his fine and have the conviction removed from his driver's abstract. In connection with the Third Retainer, he paid \$4,375.00 in fines and surcharges arising from the guilty plea entered on his behalf, again contrary to his instructions. Accordingly, I award Mr. Briggs this amount in compensatory damages.

[93] Mr. Briggs ordered transcripts to investigate his suspicions that Mr. Alessandro and Law Help were not providing the services that they had contractually agreed to provide to him, and that in fact they were acting in direct contradiction of his instructions. The transcripts confirmed his suspicions. Additionally, Mr Law Help did not return Mr. Briggs' files and documents to him when he requested them. This is detailed in the affidavit evidence before me and is uncontroverted. In respect of the costs of ordering the transcripts, and compensation for the failure to return Mr. Briggs' files and documents, I award \$1,760.00.

#### **Aggravated and Punitive Damages**

[94] Mr. Briggs also seeks aggravated and punitive damages.

[95] Aggravated damages may be awarded where a defendant's conduct is found to have been motivated by malice and is "particularly high-handed or oppressive, thereby increasing the plaintiff's humiliation and anxiety" (*Hill v. Church of Scientology of Toronto*, [1995] 2 S.C.R. 1130, at paras. 188-189). In *Nissen v. Durham Regional Police Services Board*, 2017 ONCA 10, 134 O.R. (3d) 81, at para. 55, the Court of Appeal for Ontario described the purpose of aggravated damages as follows:

Aggravated damages aim not at punishing wrongful behaviour, but at compensating the injured plaintiff for the full extent of the plaintiff's loss. Very often, aggravation of the plaintiff's loss will be caused by outrageous or reprehensible conduct, as it is that quality of the defendant's conduct that causes additional distress or humiliation that calls for compensation not captured by a purely conventional award. I am not persuaded, however, that a trial judge can only take aggravating features into account where there has been outrageous or reprehensible conduct.

[96] The principles governing punitive damages are articulated in the Supreme Court of Canada decision of *Whiten v. Pilot Insurance Co.*, 2002 SCC 18, [2002] 1 S.C.R. 595, at para. 94. In *Whiten*, the Court held that punitive damages are very much the exception rather than the rule and are to be imposed only if there has been high-handed, malicious, arbitrary or highly reprehensible misconduct that departs to a marked degree from ordinary standards of decent behaviour. Punitive damages are generally given only where the misconduct would otherwise be unpunished or where other penalties are, or are likely to be, inadequate to achieve the objectives of retribution (giving the defendant their just desert), deterrence (detering the defendant and others from similar misconduct in the future), and

denunciation (marking the community's collective condemnation of what has happened). Punitive damages are to be awarded only where compensatory damages are insufficient to accomplish these objectives.

- [97] When punitive damages are awarded, they should be assessed in an amount reasonably proportionate to such factors as the harm caused, the degree of the misconduct, the relative vulnerability of the plaintiff, and any advantage or profit gained by the defendant; and having regard to any other fines or penalties suffered by the defendant for the misconduct in question (*Whiten*, at para. 94). They are to be awarded in an amount that is no greater than necessary to rationally accomplish their purpose. The Court held that underlying these principles is “the need to emphasize the nature, scope and exceptional nature” of the punitive damages remedy, and “fairness to both sides” (*Whiten*, at para. 95).
- [98] Mr. Briggs submits that the courts have awarded punitive damages against legal professionals for negligence and for acting without their client's instructions. He points to the example of *Canavan v. Feldman* 2004 CanLII 4787 (ON SC), the facts of which are truly jarring. In *Canavan*, the plaintiff, a 67 year old, was serving as an estate administrator. His lawyer, the defendant, was responsible for passing the estate accounts but failed to do so. A court order was issued requiring the plaintiff to pass the estate accounts. The plaintiff's lawyer did not pass the accounts. Nor did he inform the plaintiff of the court order. When the order was not complied with, the plaintiff was charged with contempt. His lawyer did not advise him of the contempt charge. His lawyer then formally admitted to the court that his client was guilty of contempt, without his client's knowledge or consent. The lawyer also falsely assured the court that he had his client's authority to make the formal admission. In addition, the lawyer filed an apology under oath on his client's behalf, once again without his client's knowledge or consent. The plaintiff was incarcerated for over 30 days as a consequence of the contempt admission. He later sued his former lawyer, successfully, and was awarded, *inter alia*, punitive damages of \$100,000.00 (at para. 59).
- [99] While the consequences of Mr. Alessandro's misconduct were less grave, in that Mr. Briggs was not incarcerated, *Canavan* is nonetheless instructive, because it underscores the impropriety of legal professionals entering guilty pleas without authority, and the availability of punitive damages when they do so.
- [100] Mr. Briggs seeks both aggravated and punitive damages in the total amount of \$25,000.00. There may be overlap between the factual circumstances that can lead to awards of aggravated and punitive damages. The Ontario Court of Appeal has held that, before punitive damages are awarded, the court should consider whether the award of general and aggravated damages is “inadequate to achieve the objectives of retribution, deterrence and condemnation”. If the general and, if available, aggravated damages awards already achieve the objectives of a punitive damages award, no further punitive damages are warranted (*Cable Assembly Systems Ltd. v. Barnes*, 2019 ONCA 1013, at paras. 17-18).
- [101] I find that it is appropriate to award both aggravated and punitive damages, on the facts before me.

- [102] The full extent of Mr. Briggs' loss can only be compensated through an aggravated damages award. The loss and harm he suffered cannot be adequately compensated merely by the compensatory damages award discussed above. Those damages merely would make Mr. Briggs whole for the out-of-pocket expenses he incurred as a consequence of his interactions with Mr. Alessandro and Law Help. They would not recognize or purport to compensate him for the distress and emotional harm he experienced as a result of his dealings with Mr. Alessandro and Law Help. Mr. Briggs does not seek general damages; as such, no general damages award cannot reflect the distress and emotional harm he experienced. From this perspective, an award of aggravated damages is appropriate and indeed necessary, because it offers the only vehicle for redress of the harm and loss he has suffered.
- [103] Additionally, punitive damages are appropriate. Mr. Alessandro's behaviour was outrageous and offensive to this court's sense of decency. It was a marked departure from ordinary standards of decent behaviour.
- [104] In making this finding, I note that Mr. Alessandro's behaviour was not borne of a moment of bad judgment. It was premeditated and calculated, and it unfolded over a protracted period of time. Mr. Alessandro made intentional and false representations to Mr. Briggs over many months about his purported expertise and about the professional services that he would provide.
- [105] In so doing, Mr. Alessandro preyed upon the trust placed in him by Mr. Briggs. He abused that trust on repeated occasions, not just by purporting to provide legal advice that he was not qualified to give, but by acting in contravention of Mr. Briggs' instructions more than once, and by lying to Mr. Briggs about having done so more than once. He used his knowledge of the court system to defraud others for his own gain.
- [106] Furthermore, because Mr. Briggs was relying on Mr. Alessandro's purported expertise, Mr. Briggs lost the opportunity to retain a qualified legal representative, and his legal position in the proceedings against him was thereby prejudiced.
- [107] In addition, when Mr. Briggs attempted to raise his concerns with Mr. Alessandro, Mr. Alessandro first ignored him, and then responded in a way that I can only describe as combative and unprofessional. Notably, he threatened to call the police on Mr. Briggs. Eventually, he commenced litigation against Mr. Briggs.
- [108] For Mr. Alessandro to have behaved in this manner, over such an extended time period, under the mantle of being a duly licensed provider of legal and/or paralegal services, is extremely inappropriate and deeply concerning. It warrants an award of punitive damages.
- [109] Moreover, the goals of retribution, deterrence, and denunciation are served only by awarding aggravated and punitive damages.
- [110] Compensatory damages alone would not give Mr. Alessandro his just desert, as the objective of retribution requires. Compensatory damages would merely require him to

make Mr. Briggs whole for the out-of-pocket expenses he incurred as a consequence of Mr. Alessandro's conduct. Requiring him to pay aggravated and punitive damages is a way of ensuring that the consequences of his misconduct are more significant than they would be if he simply had to pay back the retainer fees to which he was never entitled, along with the other relatively modest amounts of compensatory damages outlined above.

- [111] Compensatory damages alone would not further the goal of deterrence. The history outlined above demonstrates that Mr. Alessandro has engaged in a pattern of unacceptable conduct against clients. In light of this prior conduct on the part of Mr. Alessandro, I am strongly of the view that aggravated and punitive damages are required in order to deter behaviour like this from Mr. Alessandro, or others, in the future. It is clear that Mr. Alessandro's prior interactions with the Law Society of Ontario and the criminal justice system have not adequately deterred him from behaving inappropriately. He is, to put it mildly, not a first-time offender. Aggravated and punitive damages are therefore not only appropriate, but necessary, to serve the deterrence objective.
- [112] Nor are the compensatory damages adequate to meet the goal of denunciation. They would not effectively denounce Mr. Alessandro's conduct, for much the same reasons.
- [113] Based on the above considerations, and recognizing that aggravated and punitive damages awards are generally fairly modest and should be fair to the parties, I accept Mr. Briggs' position that an award of \$25,000.00 in aggravated and punitive damages is appropriate.

#### **Production of Mr. Briggs' Legal Files**

- [114] Finally, Mr. Briggs seeks an order requiring Mr. Alessandro to provide him with all documents relating to, or generated or obtained in connection with, their purported legal representation of him, including all original documents or copies of documents. This is an entirely reasonable request. Mr. Briggs should be able to retrieve original documentation he provided to Mr. Alessandro and should be able to review their files regarding the work they did (and did not do) for him. It is regrettable that Mr. Alessandro did not provide these materials voluntarily. There is no reasonable basis for him to have withheld the materials. I order their production.

#### **Costs**

- [115] Mr. Briggs has been represented by Fasken Martineau Dumoulin on a *pro bono* basis. Since the inception of this file, their legal professionals have spent over 600 hours of time on this matter. I commend them for their work on this file and on the other files involving Mr. Alessandro.
- [116] Mr. Briggs has incurred disbursements in the amount of \$2,498.52.00. I order that this amount be paid to him by Mr. Alessandro.

#### **Order Granted**

[117] I accordingly order default judgment against Mr. Briggs in respect of his Counterclaim. I order the following:

- a. Mr. Alessandro shall pay Mr. Briggs compensatory damages in the amount of \$20,285.00;
- b. Mr. Alessandro shall pay Mr. Briggs aggravated and punitive damages in the total amount of \$25,000.00;
- c. Mr. Alessandro shall provide Mr. Briggs with all documents relating to, or generated or obtained in connection with, his and/or Law Help's purported legal representation of him, including all original documents or copies of documents;
- d. Mr. Alessandro shall pay Mr. Briggs pre-judgment interest at the rate of 1.3% per annum from January 28, 2015, in accordance with section 128 of *Courts of Justice Act*, R.S.O. 1990 c. C.43, as amended;
- e. Mr. Alessandro shall pay Mr. Briggs post-judgment interest in accordance with section 128 of the *Courts of Justice Act*, and (f) the costs of this proceeding; and
- f. Mr. Alessandro shall pay Mr. Briggs his disbursements in the amount of \$2,498.52.00.

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Parghi J.

**Released:** August 21, 2024

**CITATION:** Law Help Ltd. v. Briggs, 2024 ONSC 4636  
**COURT FILE NO.:** CV-14-502458  
**DATE:** 2024-08-21

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

JOE ALESSANDRO and  
LAW HELP LTD.

– and –

JOSEPH GAVIN BRIGGS, ROBERT JEFFREY  
BURD and NOT GUILTY PLEA PARALEGAL  
SERVICES PROFESSIONAL CORPORATION

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**REASONS FOR DECISION**

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Parghi J.

**Released:** August 21, 2024