

Court File No. CV-20-00653410-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

ANSON ADVISORS INC., ANSON FUNDS MANAGEMENT LP, ANSON
INVESTMENTS MASTER FUND LP and MOEZ KASSAM

Plaintiffs/Responding Parties

- and -

JAMES STAFFORD, ANDREW RUDENSKY, ROBERT LEE DOXTATOR,
JACOB DOXTATOR, and JOHN DOE 1, JOHN DOE 2, JOHN DOE 3,
JOHN DOE 4 and OTHER PERSONS UNKNOWN

Defendants/Moving Parties

FACTUM OF THE PLAINTIFFS/RESPONDING PARTIES
(Motion returnable of November 15, 2024)

November 8, 2024

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PART I: OVERVIEW

1. The Plaintiffs file this factum in response to a motion brought by the defendants James Stafford (“Stafford”) and Jacob Doxtator (“Jacob”) (collectively, the “Moving Defendants”) for further answers and production of documents prior to supplementary examinations of all the parties scheduled to be held on December 3 and 4, 2024.
2. The Moving Defendants’ motion alleges that the Plaintiffs failed to properly answer questions and/or produce documents in accordance with this Court’s endorsement released June 30, 2024, where the Court directed the Plaintiffs to respond to certain questions and requests posed by the Moving Defendants during the examination for discovery of Moez Kassam held on April 20 and 21, 2023.
3. The Moving Defendants’ motion boils down to requests for:
 - (a) fifteen emails between the Plaintiffs and Nate Anderson of Hindenburg Research during March to April 2018 and in respect of a research report that is not at issue in the Defamatory Manifesto;
 - (b) a litigation privileged document addressing the Plaintiffs’ proposed response to the Defamatory Manifestos;
 - (c) two emails exchanged between the Plaintiffs and Josh Fineman of Bloomberg News in July 2020 surrounding research issued on Facedrive; and
 - (d) further (undefined) particulars related to alleged investigations by the United States Securities and Exchange Commission (“SEC”), which the Moving Defendants fundamentally misunderstand and significantly mischaracterize, beyond the

particulars already provided and available to the Defendants – including an entirely untenable request for production of every single document passing between the SEC and the Plaintiffs (which, to be clear, was *never* requested during examinations for discovery or at issue on the prior refusals motion, and in any event is irrelevant and wholly disproportionate).

4. This motion is a misuse of the Court’s time and resources. Had the Moving Defendants’ counsel identified their concerns with the Plaintiffs’ amended answers and production *before* delivering a five-volume motion record, at least some of the issues could have been addressed without Court intervention. The remaining issues raised by the Moving Defendants go significantly beyond the directions provided by this Court, and can properly be explored during the supplementary examinations for discovery. By way of summary, the Plaintiffs’ position and response to the issues raised by the Moving Defendants are as follows:

- (a) The Plaintiffs already produced all of the relevant and non-privileged communication with Nate Anderson, as directed by the Court, including at least 50 documents (along with their attachments). The fifteen emails with Nate Anderson sought by the Moving Defendants from March to April 2018 are not relevant to the issues raised by the action and need not be produced.
- (b) The document entitled “Chat.txt” sought by the Moving Defendants is litigation privileged. This document reflects communications between Nate Anderson and Moez Kassam after the Defamatory Manifesto was published and discusses the Plaintiffs’ proposed response to the Defamatory Manifesto, including potential litigation options.

- (c) The Plaintiffs inadvertently missed two emails between the Plaintiffs and Joshua Fineman in preparing their supplementary productions. Those emails and their respective attachments have now been produced.
- (d) The Plaintiffs fully and properly answered the questions posed regarding any ongoing SEC investigations. The Plaintiffs confirmed that they are not subject to any pending SEC investigations and, out of an abundance of caution, provided particulars of a publicly available settlement reached with the SEC in June 2024, which addresses the Plaintiffs' disclosure of particulars in its private placement memorandum regarding a sub-strategy it employs (*not* the Plaintiffs' trading practices). The Moving Defendants fundamentally misrepresent the import of that settlement in an attempt to obtain widespread and intrusive further discovery of the Plaintiffs, in a manner not moored to the allegations raised by the Defamatory Manifesto. And in any event, the Moving Defendants may pose appropriate and proper follow up questions during the supplementary examinations, with reference to the publicly available settlement agreement between the SEC and Plaintiffs.

PART II: FACTS

5. The relevant background to this motion is set out in the Plaintiffs' Fresh as Amended Statement of Claim, dated May 27, 2022 (the "Amended Claim").¹ The Moving Defendants are alleged to have participated in a conspiracy to ruin the Plaintiffs' business and reputations by widely publishing false and defamatory statements (the "Unlawful Statements") accusing the Plaintiffs of various securities violations, criminal wrongdoing, and other serious misconduct.

¹ Plaintiffs' Fresh as Amended Statement of Claim, issued May 27, 2022 (the "**Amended Claim**"), Moving Defendants' Motion Record ("**MDMR**"), Vol. 1, Tab 2A.

6. For example, the Unlawful Statements falsely and maliciously allege that:²

- (a) “Moez Kassam and his Anson Funds have systematically engaged in capital market crimes, including insider trading and fraud, to rob North American shareholders of countless millions”;
- (b) “Anson Funds and Moez Kassam have been destroying companies through illegal means”;
- (c) Mr. Kassam is a “corrupted and criminal CIO at Anson funds”;
- (d) “In his attempt to destroy small-cap Canadian companies through nefarious means, a string of feeder funds and untraceable payments to elude regulators, Moez Kassam has betrayed even his closest friends”;
- (e) Mr. Kassam pursued “questionable and illegal activities” in “an attempt to make money by destroying small companies and the lives of anyone who happened to get in his way: even those who helped him and ended up being disposable”; and
- (f) Mr. Kassam is “a naked short seller whose activities are criminal and whose modus operandi is to manipulate the market and infiltrate companies to destroy them from the inside, while violating all short selling laws. He deliberately goes out of his way to ensure the companies fail”.

7. The defamatory campaign includes the widespread use of social media, thousands of defamatory posts disseminated on popular investor forums, and purpose-built websites used to publish long-form “Defamatory Manifestos”.

8. Over the course of this litigation, the Plaintiffs have produced four Affidavits of Documents and Supplementary Affidavits of Documents, including a detailed Schedule “B” and Schedule “B1”.³

As a result, thousands of documents have been produced to the Moving Defendants.

² See Amended Claim, MDMR, Vol. 1, Tab 2A at paras. 2, 75, 108.

³ Affidavit of Documents of the Plaintiffs sworn December 15, 2022, Affidavit of Documents of the plaintiffs Moez Kassam sworn January 25, 2023, Supplementary Affidavit of Documents of the plaintiff Moez Kassam sworn April 4, 2023 and Supplementary Affidavit of Documents of the plaintiff Moez Kassam sworn March 11, 2024, Responding Motion Record of the Plaintiffs (“**RMRP**”), Tabs A to D, p. 6 to 213. See RMRP, Tab C at p. 134 for the Plaintiffs’ detailed Schedule “B1”.

9. By contrast, the Moving Defendants have only produced one Affidavit of Documents and one Supplemental Affidavit of Documents, neither of which included a detailed Schedule “B”. In total, Stafford has produced only 153 documents, and Jacob has produced none.

10. Examinations for discovery were mostly completed in April 2023. Moez Kassam was examined for discovery for two full days and answered more than 1,500 questions posed by the Moving Defendants’ (and other defendants’) counsel. Following Mr. Kassam’s discovery, the Plaintiffs answered more than 140 questions arising from the examination and made further productions of documents.

11. Despite the fact that the Commercial List does not routinely hear refusals motions, this Court heard a full day of refusals motions on May 7, 2024, with the Court releasing its endorsement on June 30, 2024 (the “Refusals Endorsement”).⁴

12. As a result of the Refusals Endorsement, the parties exchanged further and amended answers to undertakings, under advisements and refusals in accordance with this Court’s order. The Plaintiffs produced over one thousand additional documents in response to the Court’s Refusals Endorsement.⁵

13. The Moving Defendants take issue with the Plaintiffs’ amended answers to undertakings, under advisements and refusals provided in response to the Refusals Endorsement, which were delivered on September 16, 2024 (the “Amended Answers”).⁶ But instead of first raising these issues with counsel, the Moving Defendants unilaterally wrote to the Court to schedule this motion – without identifying the specific documents or questions at issue.⁷

⁴ Endorsement of Justice Osborne dated June 30, 2024, (“**Refusals Endorsement**”), RMRP, Tab J, p. 382.

⁵ Affidavit of Lorraine Klemens sworn November 7, 2024, RMRP, Tab 1, p. 3 at para. 12.

⁶ Amended Answers to Undertakings, Under Advisements and Refusals given at the examination for discovery of Moez Kassam held on April 20 and 21, 2023, dated September 16, 2024 (“**Amended Answers**”), RMRP, Tab K, p. 396. See also Appendix A attached to this factum.

⁷ Letter from Moving Defendants’ counsel to Justice Osborne dated October 11, 2024 (“**Moving Defendants’ Letter**”), RMRP, Tab L, p. 509.

14. On this motion, the Moving Defendants paint the Plaintiffs as the non-compliant party. However, a central feature of this litigation has been, and continues to be, the Moving Defendants' failure to make even the most basic documentary disclosure. The Moving Defendants' goal has been to deprive the Plaintiffs of information and/or documents that are plainly relevant to matters going to the core issues and merits of the litigation, while also seeking to maximize delay and obstruct the orderly progress of this action's discovery process. This motion is yet another example of those efforts.

15. As was canvassed during the case conference held on October 16, 2024, the Plaintiffs' position is that the Defendants have failed to properly answer the questions the Court directed them to answer in its Refusals Endorsement. Rather than bringing a motion for further and better answers, which will only delay the action, the Plaintiffs intend to address these issues during the supplementary examinations for discovery scheduled for December 3 and 4, 2024.

A. Communications with Research Firms

16. A subset of the Unlawful Statements at issue in this action allege that the Plaintiffs colluded with research firms to fabricate and publish false reports about certain target companies in which they held short positions, in order to cause those companies' stock prices to decline, all to the Plaintiffs' ultimate financial gain.⁸

17. While these amount to but a fraction of the vast scope of defamatory allegations leveled against the Plaintiffs in this conspiracy, they have apparently become the core foundation of the

⁸ Amended Claim, MDMR, Vol. 1, Tab 2A.at paras. 31-32.

Moving Defendants' truth and justification defence, and the principal basis upon which they continue to seek intrusive production requests of the Plaintiffs.

18. Importantly, the Plaintiffs have never denied communicating and engaging with research firms.⁹ The Plaintiffs are not, and have not, alleged that the Defamatory Manifestos are defamatory because they suggest that Anson has these relationships with research firms. What *is* defamatory is the suggestion that these relationships are “illegal”, formed for the purpose of conspiring to produce “false reports” contrary to securities law, and that the Plaintiffs engage in market manipulation.

19. As explained on the refusals motion, the Plaintiffs have already produced all relevant communications with research firms. Prior to the refusals motion, the Plaintiffs produced at least 50 documents (along with their respective attachments) of email correspondences with the identified individuals.¹⁰

20. On the refusals motion, the Moving Defendants focused on a number of documents included as attachments to the parent emails identified on the Plaintiffs' Schedule “B1”. As the Plaintiffs' explained at the time, the overwhelming majority of those documents **have** already been produced.¹¹ The Moving Defendants seem to have confused these documents as having not yet been produced in referring to its original “BLK” document production ID;¹² however, each such document was already produced with the Plaintiffs' typical “AAI” document production ID.¹³

⁹ Excerpt of Transcript of Examination for discovery of Moez Kassam held on April 20 and 21, 2023, RMRP, Tab E, p. 218.

¹⁰ See Question #68 of the Amended Answers, RMRP, Tab K, p. 477.

¹¹ See Responding Factum of the Plaintiffs for the refusals motion brought by the Moving Defendants and Robert, dated April 12, 2024 (“**Responding Factum for Refusals Motion**”), RMRP, Tab F, p. 233 at para. 34.

¹² The “BLK” Doc ID refers to any documents listed in the Plaintiffs' Schedule “B1”, which, as the Plaintiffs have stated repeatedly in the course of this litigation, is not a relevant or applicable schedule for the purposes of this action. Accordingly, to the extent any documents listed in the Plaintiffs' Schedule “B1” were relevant and non-privileged, they have been produced separately using the Plaintiffs' typical “AAI” Doc ID. See also Responding Factum for Refusals Motion, RMRP, Tab F, p. 234 at para. 36.

¹³ See Question #68 of the Amended Answers, RMRP, Tab K, p. 477.

21. The “BLK” Document ID refers to the coding used on the documents listed in the Plaintiffs’ detailed Schedule “B1”. The Plaintiffs’ Schedule “B1” was a document generated in response to Stafford’s frivolous request that the Plaintiffs list *all* their privileged communications with their former counsel at Blakes (irrespective of relevance), on the basis of the baseless allegation (which he seems to have since abandoned) that Blakes misused his confidential information in launching this claim against him.

22. As the Plaintiffs have repeatedly made clear in the course of this litigation, the Schedule “B1” was expressly *not* created for any purpose tied to the relevance of this action. It was simply generated in response to Stafford’s broad – and meritless – request for sweeping, irrelevant production of *all* the Plaintiffs’ communications with Blakes. The Plaintiffs’ agreement to prepare the Schedule “B1” is yet another example of the Plaintiffs’ good faith attempts to advance this litigation, despite the Moving Defendants’ numerous attempts to hinder the progression.

23. On the refusals motion, the Moving Defendants moved on Question #66 from Mr. Kassam’s examination.¹⁴ The parties’ positions were as follows:

¹⁴ See Question #66 in the Updated Refusals Chart of the Defendants James Stafford and Jacob Doxtator, Responding Factum for Refusals Motion, RMRP, Tab F, p. 259.

Question	Specific Question	Answer or Basis for Refusal	Reason Answer Required	Pleadings Reference	Disposition by the Court
# 66 UA q. 953 pp. 275-276	To produce the Plaintiffs' emails with Mr. Anderson that are listed on the Plaintiffs' Supplemental Schedule B1.	<p>For clarity, the Plaintiffs do not accept that any/all documents listed on Schedule B1 are relevant to any issue in the action. See answer to Item #65, above.</p> <p>However, as set out in the answer to Item #68 below, the Plaintiffs have now produced all relevant communications between Mr. Kassam and/or Anson and Mr. Anderson, including any such emails that were listed on the Plaintiffs' Supplemental Schedule B1.</p> <p>****</p> <p>The Moving Defendants are factually incorrect that relevant, non-privileged documents otherwise identified as attachments to emails between the Plaintiffs and their former law firm, identified on the Plaintiffs' Schedule B1, have not been produced.</p> <p>As set out in the Plaintiffs' answer to question #68 in the Kassam Answers to Undertakings, the Plaintiffs have produced 50 documents (including attachments) reflecting communications between Mr. Anderson and representatives of the Plaintiffs. These productions are comprehensive of any communication identified on Schedule B1 that is relevant and non-privileged.</p> <p>The documents produced have a different document ID number (using the AAI convention) than those identified in the Schedule B1 (using the BLK convention) because the Plaintiffs' counsel have taken steps to segregate any communications involving their former counsel in the e-discovery database.</p>	<p>The answer is incomplete. Relevant to Plaintiffs' claim and Mr. Stafford's truth defence.</p> <p>Plaintiffs plead they were accused of providing Mr. Anderson with sensitive insider information about Aphria and taking a short position in Aphria shortly before the release of a Hindenburg Report on Aphria.</p> <p>Plaintiffs' Schedule B1 identifies emails between the Plaintiffs and Mr. Anderson about Aphria in March 2018 right before the release of the Hindenburg Report, which the Plaintiffs have not produced. Mr. Kassam admitted at his examination that he shared research with short reporters.</p> <p>No privilege attaches to these emails: they were sent in 2018, before any of the Impugned Statements were published.</p>	<p>FASOC ¶¶34, 37, 56, 106-109, 111, 133-135, 139, 143</p> <p>Appendices C (¶¶7, 11), D (¶¶13, 29, 33-34) and E (¶¶62-63, 93)</p> <p>JSSOD ¶¶14, 22-23</p>	

24. In the Refusals Endorsement, this Court said that the Plaintiffs were required to answer Question #66 while “recognizing the position of the Plaintiffs that this has already been answered.”¹⁵ The Court did not direct that every email listed on the Schedule “B1” that involved Nate Anderson needed to be produced, without regard for privilege or relevance.¹⁶

25. In their Amended Answers, the Plaintiffs confirmed that they had already produced all relevant, non-privilege communications with Nate Anderson identified on the Schedule B1.¹⁷

26. The Moving Defendants now seek production of fifteen additional documents related to Nate Anderson, which they assert relate to a report authored by Nate Anderson about Aphria in 2018. The documents are summarized at Appendix B, attached to this factum.

¹⁵ Refusals Endorsement, RMRP, Tab J, p. 392 at para. 56.

¹⁶ Refusals Endorsement, RMRP, Tab J, p. 392 at para. 56.

¹⁷ Amended Answers, RMRP, Tab K, p. 476 at Question #66.

27. The fundamental problem for the Moving Defendants is that there is no statement or allegation in the Defamatory Manifestos that Anson was illegally or inappropriately involved in the 2018 Aphria Report. The communications are not relevant.

B. Correspondence with Journalists

28. A further subset of the Unlawful Statements at issue allege that the Plaintiffs illegally collude with journalists to manipulate the stock market. The Plaintiffs have never denied speaking with journalists. Again, the Plaintiffs are not, and have not, alleged that the Defamatory Manifestos are defamatory because they suggest that Anson speaks with journalists; what *is* defamatory is the suggestion that these interactions are “illegal”.

29. On the refusals motion, the Moving Defendants moved on Question #101 from Mr. Kassam’s examination.¹⁸ The parties’ positions were as follows:

Question	Specific Question	Answer or Basis for Refusal	Reason Answer Required	Pleadings Reference	Disposition by the Court
#101 R q. 1325 p. 373	If not privileged, to produce the original emails mentioned above (Q. 1324 regarding communications between Sunny Puri, Joshua Fineman, Michael Roussel and Nate Anderson regarding <u>Facedrive</u>), including attachments, in their entirety	See answers to Items #65, 66 and 68, above. The balance of the question is refused on the grounds of relevance, proportionality, and overbreadth. *** As described above, at question #68 of the Kassam Answers to Undertakings, the Plaintiffs have produced all relevant, non-privileged communications between the Plaintiffs and Mr. Anderson.	See # 66 above. Plaintiffs plead they were falsely accused of collaborating with journalists to publish critical research while they were strategically short. These communications were between the Plaintiffs, Mr. Anderson, and Joshua Fineman of BNN Bloomberg hours before the release of a Hindenburg Report on Aphria. Request is not overbroad or disproportionate. Communications are not litigation or solicitor-client privileged.	FASOC ¶¶34, 37, 56, 106-109, 111, 133-135, 139, 143 Appendices C (¶¶7, 11), D (¶¶13, 29) and E (¶¶62-63, 93) JSSOD ¶¶14, 22-23	

¹⁸ See Question #101 in the Updated Refusals Chart of the Defendants James Stafford and Jacob Doxtator, Responding Factum for Refusals Motion, RMRP, Tab F, p. 260.

30. In the Refusals Endorsement, the Court directed the Plaintiffs to answer this question. In the Amended Answers, the Plaintiffs confirmed that they had already produced the relevant Facedrive communications between Sunny Puri and the Anson analysts.¹⁹

31. The Plaintiffs inadvertently missed a total of *two* emails between Sunny Puri and Joshua Fineman.²⁰ These emails (with their attachments) have now been produced to the Moving Defendants, without issue.²¹

C. Communications Related to the Defamatory Manifesto

32. On the refusals motion, the Moving Defendants moved on Question #163, which sought production of relevant, non-privileged communications between the Plaintiffs and certain other market actors regarding the Defamatory Manifesto.²² The parties' positions were as follows:

¹⁹ Amended Answers, RMRP, Tab K, p. 493 at Question #101.

²⁰ It is noted that the Moving Defendants move for production of six documents in the Plaintiffs' Schedule "B1", with Doc IDs BLK00000226, BLK00000227, BLK00000507, BLK00000508, BLK00000519 and BLK00000520. A review of these six documents revealed that BLK00000226 and BLK00000227 are duplicates of BLK00000519 and BLK00000520. As such, the Plaintiffs did not produce these duplicates.

²¹ Letter from Plaintiffs' counsel to Moving Defendants' counsel dated November 7, 2024, RMRP, Tab M, p. 511.

²² See Question #163 in the Updated Refusals Chart of the Defendants James Stafford and Jacob Doxtator, Responding Factum for Refusals Motion, RMRP, Tab F, p. 262.

Question	Specific Question	Answer or Basis for Refusal	Reason Answer Required	Pleadings Reference	Disposition by the Court
# 163 UA qq. 1556-1559 pp. 424-425	To produce all of the relevant communications between Mr. Kassam or anyone at Anson and Adam Spears, Nate Anderson, Andrew Left and Ben Axler about the Defamatory Manifesto.	<p>The Plaintiffs have conducted a diligent review of their records. Based on that review, there are no other relevant, non-privileged communications.</p> <p>***</p> <p>As described above, at question #68 of the Kassam Answers to Undertakings, the Plaintiffs have produced all relevant, non-privileged communications between the Plaintiffs and Mr. Anderson.</p> <p>The Moving Defendants seize on one document (AAI0001033), entitled “Chat”, which on its face appears to be a communication between Mr. Kassam and Mr. Anderson dated September 30, 2020. The “Chat” document is an attachment to a solicitor-client privileged and litigation privileged communication between Mr. Kassam and Anson’s general counsel, Laura Salvatori.</p> <p>Moreover, the underlying “Chat” document is litigation privileged. It is a communication exchanged for the purpose of preparing for contemplated litigation. Contrary to the Moving Defendants’ submissions, there is no requirement for litigation to have been commenced or external counsel retained in order for litigation privilege to apply. See: <i>Barclays Bank PLC v. Devonshire Trust (Trustee of)</i>, 2010 ONSC 5519 at para. 8, citing <i>Blank v. Canada (Minister of Justice)</i>, 2006 SCC 39 at paras. 27-28; <i>Panetta v. Retrocom et al.</i>, 2013 ONSC 2386 at para. 35).</p>	<p>See #66 and #101 above.</p> <p>Plaintiffs plead they were falsely accused of colluding with Adam Spears, Nate Anderson, Andrew Left, and Ben Axler to manipulate the stock market.</p> <p>The Plaintiffs’ AODs lists relevant, non-privileged communications with short reporters that have not been produced.</p> <p>For instance, the Plaintiffs’ Schedule B identifies a ZIP Archive and Text File Mr. Kassam received from Nate Anderson titled “Chat” on September 30, 2020, after the Defamatory Manifesto was allegedly published, but a month before the Plaintiffs retained counsel in this action on October 27, 2020.</p> <p>No privilege attaches to the documents and covering communications: the dominant purpose of those documents was not for use in or advice on litigation.</p>	<p>FASOC</p> <p>¶¶12, 33-34, 37, 39, 51, 108-109, 128, 130-131, 133-136, 139, 143</p> <p>Appendices A, B, C (¶¶10-11), D (¶¶28-29 & 33-34, 39-41) and E (¶¶51, 57-63, 83, 87)</p> <p>JSSOD ¶¶14, 22-23</p>	

33. In the Refusals Endorsement, the Court directed the Plaintiffs to answer the question “recognizing the position of the Plaintiffs that there are no other producible documents.”²³ The Plaintiffs subsequently confirmed that the “Plaintiffs [had] already produced all relevant and non-privileged communications.”²⁴

34. Now, the Moving Defendants again complain that the Plaintiffs have not produced one document – entitled “Chat.txt” – reflecting communications between Mr. Kassam and Nate Anderson of Hindenburg Research, over which the Plaintiffs assert litigation privilege.²⁵ The communications

²³ Refusals Endorsement, RMRP, Tab J, p. 392 at para. 56.

²⁴ Amended Answers, RMRP, Tab K, p. 504 at Question #163.

²⁵ Chat.txt is found at AAI00010134, which is an attachment to communications between the Plaintiffs and counsel over which solicitor-client privilege is claimed: see AAI00010132 in Schedule “B” to the Affidavit of Documents of the plaintiff Moez Kassam sworn January 25, 2023, RMRP, Tab B, p. 123.

occurred immediately after the Defamatory Manifesto was published and consider the merits of litigation against the individuals responsible for the Defamatory Manifesto. The communications are litigation privileged.

D. SEC Matters

35. The Defamatory Manifestos allege that the Plaintiffs have engaged in widespread fraud and securities violations. The Defamatory Manifestos repeatedly invite the SEC to investigate the Plaintiffs and invite readers to submit complaints to the SEC about the Plaintiffs.

36. On the refusals motion, the Plaintiffs described that in October 2023, the Plaintiffs entered into a *no-fault* settlement with the SEC (the “October SEC Settlement”).²⁶ The October SEC Settlement dealt with a strict liability rule prohibiting short selling during specific time periods, has nothing in common with the subject matter referenced in *any* of the Unlawful Statements, and *post-dates* the Unlawful Statements.

37. At that time, the Moving Defendants mischaracterized this no-fault settlement as a finding by the SEC that the Plaintiffs “violated short-selling regulations”.²⁷ The settlement pertains to a strict liability trading matter and does not contemplate the type of short selling misconduct as the Moving Defendants would suggest.²⁸ It does not substantiate, in any way, the Moving Defendants’ allegations that the Plaintiffs engage in market manipulation and fraud.

²⁶ United States Securities and Exchange Commission Administrative Proceeding File No. 3-21783, Release No. 98755, *In the matter of Anson Advisors Inc.*, dated October 19, 2023 (“October SEC Settlement”), RMRP, Tab G, p. 307.

²⁷ Responding Factum for Refusals Motion, RMRP, Tab F, p. 234 at para. 37.

²⁸ October SEC Settlement, RMRP, Tab G, p. 308 at paras. 3-5.

38. On the refusals motion, the Moving Defendants moved on two questions from Mr. Kassam’s examination for discovery: Questions #39 and #42.²⁹ The parties’ positions on those questions were as follows:

Question	Specific Question	Answer or Basis for Refusal	Reason Answer Required	Pleadings Reference	Disposition by the Court
# 39 UA qq. 692-697 pp. 203-204	If Mr. Kassam or any of the Anson entities are under investigation by the SEC, to provide the particulars of what the allegations are.	<p>Since Anson operates in a regulated industry, it has, from time-to-time, received inquiries from regulatory authorities including the SEC.</p> <p>To the extent Anson is aware of the particulars of any allegations that might underlie any regulatory inquiries, any known allegations are irrelevant to the allegations raised in this action.</p> <p>***</p> <p>The Plaintiffs’ answer remains accurate. On this motion, the Moving Defendants inaccurately suggest that Anson was found to have violated securities law, based on an order released by the SEC on October 19, 2023. In fact, the Order relied upon by the Moving Defendants indicates that the SEC agreed to “settle” allegations against Anson, without “admitting or denying” the SEC’s findings. The Order relates to trades in American Airlines and a particular regulatory provision, neither of which are mentioned in any way in any of the Unlawful Statements.</p> <p>The Moving Defendants also misrepresent the content of the Claim, in suggesting that the “Plaintiffs allege that they have suffered damages due to increased regulatory scrutiny.” The Claim expressly says that the “Plaintiffs believe that the Defendants intended to cause them harm to become the subject of regulatory inquiries or investigations on the basis of these false and misleading allegations. Such inquiries or investigations would result in serious and irreparable reputational harm, and in addition would force the Plaintiffs to divert significant time, financial and other resources....towards the investigation”: Claim, at para. 152. There is no pleading that the Plaintiffs are subject to regulatory investigation because of the Defamatory Manifestos.</p>	<p>Relevant to the Plaintiffs’ claim and damages, and Mr. Stafford’s truth defence.</p> <p>Plaintiffs plead they have been accused of violating securities regulations and are currently (or soon will be) under regulatory scrutiny. Plaintiffs allege they suffered damages due to increased regulatory scrutiny from the Impugned Statements, causing a diversion of resources and reputational harm (FASOC ¶152)</p> <p>Question is not speculative: SEC issued an Order on October 19, 2023, announcing that Anson had violated US short selling regulations and imposed a fine of over US\$3 million.</p>	<p>FASOC ¶¶2-3, 64, 73, 75, 107-108, 112, 119, 128-141, 143, 152</p> <p>Appendices D (¶¶27, 35) and E (¶¶51-52, 61, 86, 93)</p> <p>JSSOD ¶¶14, 22-23</p>	
# 42 R q. 710 pp. 208-209	To advise if Mr. Kassam has received any notice of investigation from the SEC from 2018 to the current date.	See answer to Item #39, above.	See #39 above.	See #39 above.	

²⁹ See Questions #39 and #42 in the Updated Refusals Chart of the Defendants James Stafford and Jacob Doxtator, Responding Factum for Refusals Motion, RMRP, Tab F, p. 257.

39. In the Refusals Endorsement, this Court directed the Plaintiffs to answer Questions #39 and #42.³⁰

40. Question #39 specifically asked if “Mr. Kassam or any of the Anson entities” were under investigation by the SEC. At the time the Plaintiffs were directed to answer that question, the answer was no: “to the Plaintiffs knowledge, Anson is not subject to any ongoing investigation by the SEC or any other regulator or government body.”³¹

41. But out of an abundance of caution, the Plaintiffs went on to describe in their amended answer to undertakings a “no fault/no deny” settlement that Anson Funds Management LP and Anson Advisors had entered into with the SEC on June 11, 2024 (the “June SEC Settlement”):

In particular, on June 11, 2024, Anson Funds Management LP and Anson Advisors Inc. entered into a no admit/no deny settlement with the SEC which addressed certain rules promulgated under the *Investment Adviser Act of 1940*, including the disclosure provided in Anson’s offering documents to investors and the manner in which a payment to a third party was noted in Anson’s books and records. The settlement expressly does not concern Anson’s trading practices or its relationships with research firms, and there is no suggestion in the settlement that Anson’s collaboration with research firms, short positions in particular companies, or other trading practices were contrary to U.S. securities law or otherwise illegal or inappropriate, in any way.³²

42. Separately, Question #42 specifically asked whether *Mr. Kassam* (in his personal capacity) had received “any notice of investigation from the SEC from 2018 to the current date.” The answer to that was and is again, no. But out of an abundance of caution, in the Amended Answers, the Plaintiffs described receiving a Wells Notice in October 2023, in connection with the matter that led to the June SEC Settlement:

On October 30, 2023, Anson Advisors Inc. and Anson Funds Management LP each received a Wells Notice from the United States Securities and Exchange Commission

³⁰ Refusals Endorsement, RMRP, Tab J, p. 392 at para. 56.

³¹ Amended Answers, RMRP, Tab K, p. 469 at Question #39.

³² Amended Answers, RMRP, Tab K, p. 469 at Question #39.

(the “SEC”). A Wells Notice is a letter sent by the SEC which notifies an entity or an individual that the SEC intends to bring an enforcement action against such entity or individual. Once a Wells Notice is received, the recipient is entitled to advocacy efforts in the form of a written submission to the SEC with respect to the matters referenced in the notice.

Mr. Kassam did not receive a Wells Notice in his personal capacity.³³

PART III: ISSUES

43. The issue raised by the Moving Defendants’ motion is whether the Plaintiffs have answered the questions this Court directed to be answered in its Refusals Endorsement.

44. On any view, the Plaintiffs have properly answered the specific questions posed during Mr. Kassam’s examination for discovery, in a manner consistent with this Court’s Refusals Endorsement. The Plaintiffs are not obliged to produce further irrelevant or privileged correspondence with Nate Anderson, or to provide further particulars about SEC matters. The Moving Defendants are fully positioned to complete any necessary supplementary examinations and should be directed to complete those examinations as a matter of urgency.

A. The Legal Framework

45. The governing legal framework on a refusals motion was summarized by this Court in the Refusal Endorsement.³⁴ As the Court noted:

- (a) Relevance is determined by the pleadings. An overbroad or speculative discovery, known colloquially as a "fishing expedition" is not permitted;
- (b) Under the former case law, where the *Rules* provided for questions “relating to any matter in issue,” the scope of discovery was defined with wide latitude and a question

³³ Amended Answers, RMRP, Tab K, p. 470 at Question #42.

³⁴ Refusals Endorsement, RMRP, Tab J, p. 384 at paras. 11-13.

would be proper if there was a semblance of relevance. The 2010 amendment to Rule 29.2.03(1), which changed “*relating to any matter in issue*” to “*relevant to any matter in issue*,” suggests a modest narrowing of the scope of examinations for discovery; and

- (c) The extent of discovery is not unlimited. In controlling its own process and to avoid discovery from being oppressive and uncontrollable, the Court may keep discovery within reasonable and efficient bounds.³⁵

46. Rule 30.06(c) of the *Rules of Civil Procedure* provides that the Court may order production of a document “[w]here the court is satisfied by any evidence that a relevant document in a party's possession, control or power may have been omitted from the party’s affidavit of documents.”³⁶

47. In applying Rule 30.06(c), this Court has held that “there must be evidence that documents have been withheld” and that “speculation, intuition or guesswork are insufficient.”³⁷ Importantly, the information sought must be relevant to the matters in issue, and “a responding party need not produce every single document he has within a category of documents to prove he has nothing relevant.”³⁸

48. In addition, Rule 31.06(1) provides that a person examined for discovery “shall answer, to the best of his or her knowledge, information and belief, any proper question relevant to any matter in issue in the action”.³⁹ In Ontario, the approach adopted by the courts to determine the relevancy of a

³⁵ Refusals Endorsement, RMRP, Tab J, p. 384 at para. 12, citing *Ontario v Rothmans*, [2011 ONSC 2504](#) at [para. 129](#).

³⁶ *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 (“*Rules*”), [r. 30.06\(c\)](#).

³⁷ *Ceballos v Aviva Insurance et al.*, [2021 ONSC 4695](#) at [para. 8](#).

³⁸ *In-Store Products Limited v Zuker, Torstar et al.*, [2015 ONSC 6215](#) at [para. 30](#).

³⁹ *Rules*, [r. 31.06\(1\)](#).

question asked on discovery is to consider whether the question could “elicit a response that the trial judge could rely on to resolve a matter in issue.”⁴⁰

49. Critically, in determining whether a party has appropriately answered an undertaking, under advisement or refusal as directed by the Court, it is necessary to focus on the specific question posed on examination for discovery (and subject to the Court’s direction). A refusals motion (or a follow-up to a refusals motion) is not an opportunity to recast or expand on the questions posed in order to obtain expanded discovery.

A. The Plaintiffs Have Produced All Relevant, Non-Privileged Correspondence with Nate Anderson (Questions #66 and #163)

50. The Plaintiffs have produced all relevant, non-privileged correspondence with Nate Anderson consistent with this Court’s Refusals Endorsement. The Moving Defendants’ request for production of further documents identified on the Plaintiffs’ Schedule “B” or “B1” misapprehends the issues in the litigation and the Plaintiffs’ position.

51. *First*, the Plaintiffs have not produced fifteen emails between the Plaintiffs and Nate Anderson/Hindenburg Research from March to April 2018 because they are irrelevant. While the Moving Defendants’ theory is that these emails relate to a research report published by Hindenburg Research about Aphria in March 2018, the fundamental problem for the Moving Defendants is that there is no allegation in the Defamatory Manifestos that the Plaintiffs were involved in that Report.

52. In asserting that *all* correspondence with Nate Anderson and Hindenburg Research is relevant and must be produced, the Moving Defendants fundamentally misapprehend the focus of the action and what the Plaintiffs have alleged to be defamatory in the Unlawful Statements. The Plaintiffs have

⁴⁰ *Romspen Investment Corp. v Woods Property Development Inc.*, [2010 ONSC 30005](#) at [para. 16](#); *Scanga v Balena*, [2021 ONSC 6323](#) at [para. 17](#).

never denied that they work with third-party research firms in conducting due diligence and sharing research on issuers. Nor is it defamatory to suggest that the Plaintiffs worked with Nate Anderson or other research firms.

53. But what *is* defamatory is for the Moving Defendants and their co-conspirators to assert that the Plaintiffs have engaged in “systematic markets fraud” or publishing knowingly false research reports against certain specifically identified companies, for the purpose of manipulating the market and extracting value from unsuspecting retail investors.

54. *Second*, the “Chat.txt” document sought by the Moving Defendants is litigation privileged. The only available evidence is that the communication occurred immediately after the first Defamatory Manifesto was published and considers the merits of litigation against the individuals responsible for the Defamatory Manifesto.⁴¹

55. The law is settled that litigation privilege is not restricted to communications between solicitor and client; it contemplates communications between a litigant and third parties.⁴² The law is also settled that litigation privilege applies “when litigation was contemplated”, with the document created for the “dominant purpose” of litigation.⁴³ In particular:

This privilege can exist **when documents are created by parties**, not lawyers, **even before the parties retain a lawyer**, so long as the document was created **when litigation was contemplated**, and was for the dominant (yet not sole) purpose of the expected litigation.⁴⁴ [emphasis added]

56. Contrary to the Moving Parties’ submissions, the fact that the “Chat.txt” communication occurred with a non-party to the litigation is wholly irrelevant to whether the communication is

⁴¹ Affidavit of Lorraine Klemens sworn November 7, 2024, RMRP, Tab 1, p. 3 at paras. 15-16.

⁴² *Blank v Canada (Department of Justice)*, 2006 SCC 39 (“*Blank*”) at para. 27; *Lizotte v Aviva Company of Canada*, 2016 SCC 52 at para. 31.

⁴³ *Blank* at para. 59; *Brewer v Royal College of Dental Surgeons of Ontario, et al.*, 2021 ONSC 5697 (“*Brewer*”) at para. 25.

⁴⁴ *Brewer* at para. 25.

litigation privileged. Nor does the fact that it was created prior to the Plaintiffs retaining counsel or commencing their claim negate the privilege. By September 30, 2020, not only had the Defamatory Manifesto just been published, but the Plaintiffs had also been subjected to the Unlawful Statements for over a year via Twitter and various anonymous websites, including Stockhouse.⁴⁵ The Plaintiffs were entitled to explore options to respond to the Unlawful Statements, including litigation, in a zone of privacy.

B. The Plaintiffs Have Produced Two Additional Emails with Joshua Fineman of Bloomberg (Question #101)

57. As set out above, the Plaintiffs inadvertently missed a total of *two* emails between Sunny Puri and Joshua Fineman. These emails (with their attachments) have now been produced to the Moving Defendants.⁴⁶

58. This omission was an inadvertent oversight. The Plaintiffs believed they had satisfied the ordered answer at Question #101. With their Amended Answers alone, the Plaintiffs produced over one thousand new documents in compliance with this Court's order.

59. Having received and reviewed the Plaintiffs' amended answers to undertakings, the Moving Defendants' counsel should have reached out to the Plaintiffs' counsel to discuss the omitted emails with Joshua Fineman. Had they done so – instead of sending correspondence to the Court to schedule the motion and delivering a multi-volume motion record – the Plaintiffs would have produced the documents without the need for a fully-briefed refusals motion.

⁴⁵ Amended Claim, MDMR, Vol.1, Tab 2A.

⁴⁶ Letter from Plaintiffs' counsel to Moving Defendants' counsel dated November 7, 2024, RMRP, Tab M, p. 511.

60. With respect to the other correspondence described at Question #101, the Plaintiffs previously produced these other documents relating to communications between Sunny Puri and Anson analysts regarding Facedrive.⁴⁷ As such, Question #101 has been answered and needs no further disposition.

C. The Plaintiffs Have Provided Sufficient Particulars Regarding the SEC Matters

61. The Moving Defendants complain that the Plaintiffs have failed to provide “sufficient” particulars of various interactions with the SEC. But the Moving Defendants do so in a manner not actually grounded in the specific questions posed to the Plaintiffs, and without identifying the particulars that are supposedly outstanding.

62. *First*, as set out above, Question #39 asked if the Plaintiffs “are under investigation by the SEC” and for particulars of that investigation. The answer is no: to the Plaintiffs’ knowledge they are not subject to any pending SEC investigation.

63. At the time of the refusals motion, the Plaintiffs had entered into the October SEC Settlement. The settlement agreement is publicly available and was referenced by the Moving Defendants on the refusals motion. In their responding materials on the refusals motion, the Plaintiffs explained the import of the October SEC Settlement.⁴⁸ For that reason – and given that the specific question posed was whether the Plaintiffs were “under investigation” – the Plaintiffs did not repeat those submissions in their amended answers to undertakings. There is no point in doing so: the Moving Defendants can ask whatever questions they want by way of follow up in the supplementary examinations.

64. Out of an abundance of caution, the Plaintiffs did provide a description of the June SEC Settlement in their amended answers to undertakings.⁴⁹ Contrary to the Moving Defendants’

⁴⁷ Amended Answers, RMRP, Tab K, p. 477 at Question #68.

⁴⁸ Responding Factum for Refusals Motion, RMRP, Tab F, p. 234 at para. 37.

⁴⁹ Amended Answers, RMRP, Tab K, p. 469 at Question #39.

submissions, the June SEC Settlement does *not* concern the propriety of Anson’s trading practices or whether Anson’s relationship with research firms is appropriate. There is no suggestion in the settlement that Anson’s engagement of research firms, short positions in particular companies, or other trading practices were contrary to U.S. securities law, in any way.

65. To reiterate, despite formal inquiries from the SEC (which arose only *after* the Defamatory Manifesto was released), the June SEC Settlement provides no support for the central allegations advanced in the Defamatory Manifestos and other Unlawful Statements – namely, that Anson engages in market manipulation and illegal trading practices.

66. Instead, the June SEC Settlement concerns the *disclosure* included in Anson’s offering documents about certain of its sub-strategies. It also concerns the manner in which one specific fee was paid to the ultimate beneficiary.⁵⁰ These are matters and rules promulgated pursuant to the *Investment Advisers Act of 1940*. Matters related to illegal or inappropriate trading or market manipulation are dealt with under the *Securities and Exchange Act*.

67. As set out in the June SEC Settlement, in September and October 2018, Anson engaged Citron Research in connection with diligence on Namaste Technologies Inc. and India Globalization Capital, issuers whose securities Anson ultimately decided to trade on the back of this diligence.⁵¹ The first Defamatory Manifesto was not published until September 2020, two years after the trades in issue. Critically, the Defamatory Manifestos and other Unlawful Statements do not allege that the Plaintiffs inappropriately collaborated with Citron Research in connection with Namaste Technologies Inc. and India Globalization Capital.

⁵⁰ United States Securities and Exchange Commission Administrative Proceeding, File No. 3-21961, Release No. 6622, *In the Matter of Anson Funds Management, LP and Anson Advisors, Inc.*, dated June 11, 2024 (“**June SEC Settlement**”), RMRP, Tab H, p. 315 at paras. 1-3.

⁵¹ June SEC Settlement, RMRP, Tab H, p. 317 at paras. 16-17.

68. Again, Anson has never denied that it works with research firms. Mr. Kassam addressed Anson's work with research firms at length during his examination for discovery. Anson has also already produced all relevant communications with research firms, covering the time period and companies put in issue by the Defamatory Manifestos and other Unlawful Statements.

69. The fundamental problem for the Moving Defendants is that there is nothing improper about those relationships. It is solely the disclosure regarding these relationships, and not their existence, that is dealt with in the June SEC Settlement. Nor is the thrust of the defamatory allegations simply that Anson has relationships with research firms.

70. The Moving Defendants reference that the SEC has since brought proceedings against Andrew Left and Citron Capital,⁵² and completely inaccurately suggest that the SEC alleges that Anson was "involved in [the] fraud." Anson is not a party to these proceedings and further, that assertion flies in the face of the June SEC Settlement, which is premised on the fact that Anson did *not* participate in any fraud. The fact that Mr. Left is *alleged* by the SEC to have perpetrated a fraud says nothing about the Plaintiffs' conduct.

71. *Second*, as set out above, Question #42 asked if Mr. Kassam had received notice of any SEC investigation from 2018 to present. The Plaintiffs have again answered the question: Mr. Kassam has not received a notice of SEC investigation. But again, out of an abundance of caution, in their amended answers to undertakings, the Plaintiffs described receiving a Wells Notice in October 2023, in connection with the matter that led to the June SEC Settlement.⁵³ If anything, the Plaintiffs have provided more information than was required by the specific question posed.

⁵² United States Securities and Exchange Commission Complaint, Case No. 2:24-cv-06311, *Securities and Exchange Commission v Andrew Left and Citron Capital, LLC*, filed July 26, 2024, RMRP, Tab I, p. 323.

⁵³ Amended Answers, RMRP, Tab K, p. 470 at Question #42.

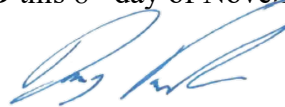
72. *Third*, contrary to the Moving Defendants' submissions,⁵⁴ there was no request or suggestion at the refusals motion for the Plaintiffs to produce every piece of correspondence between the Plaintiffs and SEC on the foregoing matters. Any such requests would be irrelevant, and wholly disproportionate.

73. Stepping back, the Moving Defendants may wish they had asked different questions on examinations for discovery; but the Plaintiffs have fully and fairly answered all of the questions they were directed by the Court to answer. All of the matters raised by the Moving Defendants in relation to the SEC matters can – and should – be addressed on supplementary examinations.

PART IV: REQUESTED RELIEF

74. The Plaintiffs respectfully request that the Moving Defendants' motion be dismissed with their costs on an appropriate scale.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 8th day of November 2024.



BENNETT JONES LLP
Robert W. Staley (#27115J)
Douglas A. Fenton (#75001I)
Dylan H. Yegendorf (#85016M)
Lawyers for the Plaintiffs/Responding Parties

⁵⁴ Factum of the Moving Defendants dated November 1, 2024 at paras. 30 and 40. See also Moving Defendants' Letter, RMRP, Tab L, p. 509.

**SCHEDULE “A”
LIST OF AUTHORITIES**

1. *Ontario v Rothmans*, [2011 ONSC 2504](#).
2. *Ceballos v Aviva Insurance et al.*, [2021 ONSC 4695](#).
3. *In-Store Products Limited v Zuker, Torstar et al.*, [2015 ONSC 6215](#).
4. *Romspen Investment Corp. v Woods Property Development Inc.*, [2010 ONSC 30005](#).
5. *Scanga v Balena*, [2021 ONSC 6323](#).
6. *Blank v Canada (Department of Justice)*, [2006 SCC 39](#).
7. *Lizotte v Aviva Company of Canada*, [2016 SCC 52](#).
8. *Brewer v Royal College of Dental Surgeons of Ontario, et al.*, [2021 ONSC 5697](#).

**SCHEDULE “B”
LEGISLATION**

Rules of Civil Procedure, R.R.O. 1990, Reg. 194

RULE 30 DISCOVERY OF DOCUMENTS

Where Affidavit Incomplete or Privilege Improperly Claimed

30.06 Where the court is satisfied by any evidence that a relevant document in a party’s possession, control or power may have been omitted from the party’s affidavit of documents, or that a claim of privilege may have been improperly made, the court may,

- (a) order cross-examination on the affidavit of documents;
- (b) order service of a further and better affidavit of documents;
- (c) order the disclosure or production for inspection of the document, or a part of the document, if it is not privileged; and
- (d) inspect the document for the purpose of determining its relevance or the validity of a claim of privilege. R.R.O. 1990, Reg. 194, r. 30.06; O. Reg. 248/21, s. 5.

RULE 31 EXAMINATION FOR DISCOVERY

Scope of Examination

General

31.06 (1) A person examined for discovery shall answer, to the best of his or her knowledge, information and belief, any proper question relevant to any matter in issue in the action or to any matter made discoverable by subrules (2) to (4) and no question may be objected to on the ground that,

- (a) the information sought is evidence;
- (b) the question constitutes cross-examination, unless the question is directed solely to the credibility of the witness; or
- (c) the question constitutes cross-examination on the affidavit of documents of the party being examined. R.R.O. 1990, Reg. 194, r. 31.06 (1); O. Reg. 438/08, s. 30 (1).

Appendix A

Court File No. CV-20-00653410-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

ANSON ADVISORS INC., ANSON FUNDS MANAGEMENT LP, ANSON INVESTMENTS MASTER FUND LP and MOEZ KASSAM

Plaintiffs

- and -

JAMES STAFFORD, ANDREW RUDENSKY, ROBERT LEE DOXTATOR, JACOB DOXTATOR, and JOHN DOE 1, JOHN DOE 2,
JOHN DOE 3, JOHN DOE 4 and OTHER PERSONS UNKNOWN

Defendants

AMENDED UNDERTAKINGS, QUESTIONS TAKEN UNDER ADVISEMENT, AND REFUSALS
given at the Examination for Discovery of Moez Kassam held on April 20 and 21, 2023⁵⁵

No.	Page(s)	Question(s)	Category	Specific Question	Documents Referenced in Transcript	Answer or Precise Basis for Refusal
39.	203-204	692-697	UA	If Mr. Kassam or any of the Anson entities are under investigation by the SEC, to provide the particulars of what the allegations are.		Since Anson operates in a regulated industry, it has, from time-to-time, received inquiries from regulatory authorities including the SEC. To the extent Anson is aware of the particulars of any allegations that might underlie any

⁵⁵ This Appendix A includes the five relevant questions at issue in the Moving Defendants' motion. The Amended Answers can be found at Tab K, p. 396 to the Affidavit of Lorraine Klemens in the Responding Motion Record of the Plaintiffs.

					<p>regulatory inquiries, any known allegations are irrelevant to the allegations raised in this action.</p> <p><u>In particular, on June 11, 2024, Anson Funds Management LP and Anson Advisors Inc. entered into a no admit/no deny settlement with the SEC which addressed certain rules promulgated under the <i>Investment Adviser Act of 1940</i>, including the disclosure provided in Anson's offering documents to investors and the manner in which a payment to a third party was noted in Anson's books and records. The settlement expressly does <i>not</i> concern Anson's trading practices or its relationships with research firms, and there is no suggestion in the settlement that Anson's collaboration with research firms, short positions in particular companies, or other trading practices were contrary to U.S. securities law or otherwise illegal or inappropriate, in any way.</u></p> <p><u>To the Plaintiffs' knowledge, Anson is not subject to any ongoing investigation by the SEC or any other regulator or government body.</u></p>
42.	208-209	710	REF	To advise if Mr. Kassam has received any notice of investigation from the SEC from 2018 to the current date.	<p>See answer to Item #39, above.</p> <p><u>On October 30, 2023, Anson Advisors Inc. and Anson Funds Management LP each received a Wells Notice from the United States Securities and Exchange Commission (the "SEC"). A Wells Notice is a letter sent by the SEC which notifies an entity or an individual that the SEC</u></p>

						<p><u>intends to bring an enforcement action against such entity or individual. Once a Wells Notice is received, the recipient is entitled to advocacy efforts in the form of a written submission to the SEC with respect to the matters referenced in the notice.</u></p> <p><u>Mr. Kassam did not receive a Wells Notice in his personal capacity.</u></p>
66.	275-276	953	U/A	To produce the Plaintiffs' emails with Mr. Anderson that are listed on the Plaintiffs' Supplemental Schedule B1.		<p>For clarity, the Plaintiffs do not accept that any/all documents listed on Schedule B1 are relevant to any issue in the action. See answer to Item #65, above.</p> <p>However, as set out in the answer to Item #68 below, the Plaintiffs have now produced all relevant communications between Mr. Kassam and/or Anson and Mr. Anderson, including any such emails that were listed on the Plaintiffs' Supplemental Schedule B1.</p> <p><u>The Plaintiffs confirm, consistent with the endorsement of Justice Osborne, dated June 30, 2024, that the Plaintiffs have already produced all relevant and non-privileged communications responsive to this request. There are no other producible documents.</u></p>
101.	373	1325	REF	If not privileged, to produce the original emails mentioned above (Q. 1324), including attachments, in their entirety.		See answers to Items #65, 66 and 68, above.

					<p>The balance of the question is refused on the grounds of relevance, proportionality, and overbreadth.</p> <p><u>The Plaintiffs confirm, consistent with the endorsement of Justice Osborne, dated June 30, 2024, that the Plaintiffs have already produced all relevant and non-privileged communications responsive to this request. There are no other producible documents.</u></p>
163.	424-425	1556-1559	UA	<p>To produce all of the relevant communications between Mr. Kassam or anyone at Anson and Adam Spears, Nate Anderson, Andrew Left and Ben Axler about the Defamatory Manifesto.</p>	<p>The Plaintiffs have conducted a diligent review of their records. Based on that review, there are no other relevant, non-privileged communications.</p> <p><u>The Plaintiffs confirm, consistent with the endorsement of Justice Osborne, dated June 30, 2024, that there are no relevant and non-privileged communications.</u></p>

Appendix B

Additional Documents related to Nate Anderson⁵⁶

Document Date	File Type	Subject/Title	From	Recipient
4/14/2018 12:07 PM	Email Message	aph calls available	"Sunny Puri" spuri@ansonfunds.com	"Nathan Anderson" nathan@clarityspring.com
4/13/2018 8:47 PM	PDF	Business Update Call	_____	_____
4/13/2018 8:48 PM	PDF	Q2 2018 Earnings Call	_____	_____
4/13/2018 8:49 PM	PDF	Business Update Call	_____	_____
3/27/2018 11:58 PM	Email Message	Aphria, Nuuvera deal prompts questions about disclosure rule gap	"Sunny Puri" spuri@ansonfunds.com	"Nathan Anderson" nathan@clarityspring.com
3/19/2018 3:10 PM	Email Message	20180130_APH_MA_Call_FS000000002395991618.pdf	"Sunny Puri" spuri@ansonfunds.com	"Nathan Anderson" nathan@clarityspring.com
1/31/2018 5:32 PM	PDF	Business Update Call	_____	_____
7/8/2018 7:53 PM	Email Message	RE: Canopy What do you think?	"Moez Kassam" mkassam@ansonfunds.com	"Sunny Puri" spuri@ansonfunds.com
3/16/2018 1:42 AM	Email Message	Fwd: The Uncloaking of Aphria International	"Sunny Puri" spuri@ansonfunds.com	"CFA CAIA Nathan Anderson" nathan@clarityspring.com

⁵⁶ See Schedule "B1" of the Supplementary Affidavit of Documents of the plaintiff Moez Kassam sworn April 4, 2023, RMRP, Tab C, p. 158-159.

7/9/2018 6:19 PM	Email Message	RE: Updates	"Sunny Puri" spuri@ansonfunds.com	"Moez Kassam" mkassam@ansonfunds.com
3/22/2018 5:46 PM	Email Message	Short-seller sounds warning over Aphria-Nuuvera deal	"Sunny Puri" spuri@ansonfunds.com	"Nathan Anderson" nathan@clarityspring.com
3/26/2018 5:41 PM	Email Message	Fwd: INK Filing Alert :: Aphria Inc. (APH) (Portfolio - CA Portfolio 1)	"Sunny Puri" spuri@ansonfunds.com	"CFA CAIA Nathan Anderson" nathan@clarityspring.com
3/26/2018 12:21 AM	Email Message	Aphria insiders held shares in takeover target, didn't disclose	"Sunny Puri" spuri@ansonfunds.com	"Nathan Anderson" nathan@clarityspring.com
4/30/2018 5:40 PM	Email Message	FW: Invoice	"Sunny Puri" spuri@ansonfunds.com	"Tony Moore" tmoore@ansonfunds.com
4/30/2018 4:22 PM	PDF	Microsoft Word - 2018.04.27 ClaritySpring Invoice Anson	_____	_____

ANSON ADVISORS INC. et al.
Plaintiffs

-and-

JAMES STAFFORD et al.
Defendants

Court File No. CV-20-00653410-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

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