remained on the employer's computer, collecting data, for one month before it was discovered.

Disposition: Wrongful Dismissal

[159] Based on the foregoing analysis, I conclude that the plaintiff has failed to establish that he was wrongfully dismissed on June 21, 2010.

Notice Period

[160] Had I concluded that the plaintiff was wrongfully dismissed, which I do not, I would have to consider the proper notice period using the factors set out in *Bardal v. Globe & Mail Ltd.,* (1960) 1960 CanLII 294 (ON SC), 24 D.L.R. (2d) 140 (H.C.J.). These factors include the character of the employment, the length of service, the age of the employee, and the availability of similar employment.

[161] At the time of his dismissal the plaintiff was 49 years of age, had 4.5 years of service, worked as a Service Advisor in the automotive department, and acted as the Manager's right-hand man. He was employed at $12.50 per hour (approximately $25,000 per year), somewhat more than the minimum wage at the time ($10.25 per hour).

[162] The plaintiff claims that he is entitled to ten months' notice ($20,500) for wrongful dismissal. The plaintiff relies on the following cases to support this period of time: *Partridge v. Botony Dental Corporation*, 2015 ONCA 836 (12 months' notice for a 7 year employee, a highly skilled dental hygienist and office manager); *Bergeron v. Movati Athletic (Group) Inc.*, 2018 ONSC 885 (3 months' notice for a 16 month employee working in a middle to upper management position); *Cyr v. Banting Property Management Inc.,* [1994] O.J. No. 1566 (4 months' notice for a 3 year employee with a mixture of clerical and modest managerial duties); *Lippert v. Barkingside Investments Ltd.* [1990] O.J. No. 504 (4 months' notice for a 2 year employee, a registered nurse acting in an administrative capacity)

[163] The defendants argue that the case law supports only four months' pay in lieu of notice (approximately $8,200), subject to the plaintiff's duty to mitigate. The defendants rely on the following cases in which notice periods of four to five months were ordered in similar circumstances: *Goodman v. Medi-Edit Communications Inc.* 2002 CarswellOnt 2608 (5 months' notice for a 4.5 year salesperson), *Ross v. 413554 Ontario Limited (Chouinard Bros. Roofing*), 2008 CanLII 44716 (ON SC) (5 months for a 5.5 year salesperson); *Schlachter v. Westlock Chevrolet Oldsmobile Ltd.,* 2007 ABQB 481 (4 months' notice for a 4.5 years salesperson).

[164] The defendant points out that the plaintiff was employed in a retail store in a customer service role that required no formal education and no specialized knowledge. The plaintiff's expert witness with respect to income loss, Jim Muccilli, agreed that these types of retail jobs were readily available.

[165] In my view, the cases relied upon by the defendants are closer to the mark. Based on the *Bardal* factors, and in particular the plaintiff's age at the time of dismissal, which has

been described as "a vulnerable time for most workers": *Cyr*, at para. 29, I would have found that the plaintiff was entitled to six months, or $12,300, had he been wrongfully dismissed.

[166] However, based on the evidence relevant to mitigation, I would have reduced that notice period by one month by reason of his failure to make any effort to mitigate his loss.

[167] It is well established that in wrongful dismissal cases employees are obliged by law to mitigate the damages that flow from the wrongful dismissal by seeking an alternative source of income in the absence of a pre-determined fixed notice period or other agreement to the contrary: *Bowes v. Goss Power Products Ltd.,* 2012 ONCA 425, at paras. 23-25, and 34.

[168] The plaintiff was unable to produce a list of jobs for which he applied following his dismissal. He provided no specific examples of job applications except for an application to the TTC in April 2015, nearly five years after he was dismissed. At trial, the plaintiff testified that he had applied for minimum wage jobs. This testimony was contradicted by his discovery transcript, where he stated that he had not applied for such jobs, and his counsel took the position that he had no duty to apply for such jobs and refused further questions on the point.

[169] I agree with the defendants that the plaintiff did have an obligation to apply for minimum wage jobs. His job at Canadian Tire started as a minimum wage job and at the time of his dismissal he was earning just over the minimum wage. Given the evidence about the availability of retail jobs, I would have reduced the period for which the plaintiff was entitled to damages to five months ($10,250), had I concluded that he was wrongfully dismissed.

Punitive and/or moral damages

[170] Had I concluded that the plaintiff had been wrongfully dismissed, I would have rejected his claim for punitive and/or moral damages.

[171] In *Honda Canada Inc. v. Keays*, 2008 SCC 39, the Supreme Court of Canada set out the legal principles relating to the calculation of damages in wrongful dismissal cases. The case makes clear that punitive damages are available only in exceptional cases where the employer engages in conduct that is "unfair or is in bad faith" and "harsh, vindictive, reprehensible and malicious". The Court stated, at paras. 50, 56, 57, and 68:

> An action for wrongful dismissal is based on an implied obligation in the employment contract to give reasonable notice of an intention to terminate the relationship in the absence of just cause. Thus, if an employer fails to provide reasonable notice of termination, the employee can bring an action for breach of the implied term … The general rule … is that damages allocated in such actions are confined to the loss suffered as a result of the employer's failure to give proper notice and that no damages are available to the employee for the actual loss of his or her job

> and/or pain and distress that may have been suffered as a consequence of being terminated.
>
> ...The contract of employment is, by its very terms, subject to cancellation on notice or subject to payment of damages in lieu of notice without regard to the ordinary psychological impact of that decision. At the time the contract was formed, there would not ordinarily be contemplation of psychological damage resulting from the dismissal since the dismissal is a clear legal possibility. The normal distress and hurt feelings resulting from dismissal are not compensable.
>
> Damages resulting from the manner of dismissal must then be available only if they result from the circumstances described in *Wallace*, namely where the employer engages in conduct during the course of dismissal that is "unfair or is in bad faith by being, for example, untruthful, misleading or unduly insensitive".
>
> ...Courts should only resort to punitive damages in exceptional cases ... The independent actionable wrong requirement is but one of many factors that merit careful consideration by the courts in allocating punitive damages. Another important thing to be considered is that conduct meriting punitive damages awards must be "harsh, vindictive, reprehensible and malicious", as well as "extreme in its nature and such that by any reasonable standard it is deserving of full condemnation and punishment". [Citations omitted.]

[172] Pre and post-termination conduct may be considered in an award for moral damages, so long as it is "a component of the manner of dismissal": *Gismondi v. Toronto (City)*, 2003 CanLII 52143 (ON CA), 64 O.R. (3d) 688 (C.A.), at para. 23, leave to appeal to S.C.C. refused [2003] S.C.C.A. No. 312; *Doyle v. Zochem Inc.*, 2017 ONCA 130, at para. 13.

[173] In the present case, the plaintiff claims that the employer acted in an unfair and callous manner in terminating his employment because the employer:

a. Accused the plaintiff of installing KGB spyware despite lack of evidence;

b. Accused the plaintiff of downloading credit card data;

c. Called the police to report that the plaintiff had downloaded credit card data;

d. Tried to coerce a confession from the plaintiff;

e. Planted a USB key containing the KGB spyware on the plaintiff in an effort to frame him;

f. Collected "will-say" statements from Canadian Tire employees who lost money from their accounts in the pin pad fraud on June 22, 2010;

g. Thought that there was a relationship between the installation of the KGB spyware and the pin pad fraud;

h. Pleaded after-acquired cause and did not abandon this defence until April 2017; and

i. Mr. Beach testified in cross-examination that he still believed that the plaintiff was involved in the GTA fraud even though he has no evidence to support the belief.

[174] Based on the evidence reviewed above and the various factual findings made, I do not find the presence of any grounds to support the plaintiff's claim for punitive and/or moral damages for the manner in which he was terminated.

[175] Firstly, I find that the defendants had reasonable and probable grounds on the morning of June 21, 2010, to suspect that Mr. Sankreacha had downloaded KGB spyware onto Mr. Brennan's computer. Given those reasonable and probable grounds, the employer acted reasonably in calling in Mr. Valencia to confirm that KGB spyware had been downloaded onto the computer. Given the conclusions reached by Mr. Valencia, it was reasonable for the employer to meet with Mr. Sankreacha to give him an opportunity to respond to the questions asked and provide an explanation for the email found on Mr. Brennan's computer. The evidence does not support the allegation that Mr. Cowan, Mr. Issa, Mr. Beach or Mr. Brennan tried to coerce a confession from Mr. Sankreacha.

[176] While Mr. Cowan was incorrect in his belief that the 48-page printout contained confidential credit card and Canadian Tire Mastercard information, there were reasonable grounds for him to form that opinion in the exigencies of the situation. Given that honest but mistaken belief, and the knowledge that KGB spyware had been installed on the employer's computer, it was reasonable to suspect that a crime had been committed and to call the police. I have already rejected the contention that Mr. Cowan planted the USB key on the plaintiff's key chain.

[177] Given the proximity of timing and location between the dismissal of the plaintiff on June 21, 2010, the pin pad fraud that took place on June 22, 2010, and the fact that both incidents involved the collection of data from the automotive department, it is hardly surprising that anyone who knew of both incidents would find these coincidences suspicious. Mr. Lawson, the Corporate Security Manager for Canadian Tire Corporation Ltd., who was called by the plaintiff, testified that since both frauds involved the surreptitious collection of computer data, and happened so close together in time at the same location, this was noteworthy information that should be given to the police.

[178] In this regard, while P.C. Marshall did not investigate the pin pad fraud, he agreed that the timing of the compromised bank accounts was suspicious, and that it made sense to pass this information on to the police to investigate.

[179] On June 22, 2010, six Markham Canadian Tire employees, including Mr. Brennan, were advised by their banks that their bank cards or bank accounts had been compromised.

[180] On June 23, 2010, each of these six employees prepared a will-say, stating that their bank had advised them that their bank card or account had been compromised from their place of employment, the Markham Canadian Tire store, on June 22, 2010. None of these will-says accused or even referred to Mr. Sankreacha. These will-says were collected by Mr. Brennan and Mr. Cowan and forwarded to P.C. Marshall, who attached them to the original report.

[181] There was nothing "unfair" or "untruthful, misleading or unduly insensitive" in any of these will-says. The authors had each been the victim of a credit card fraud, and there was nothing inappropriate about providing this information to the police. Again, given the coincidence of timing and location, it was not unreasonable for Mr. Cowan or Mr. Brennan to believe that the two events might be connected, and give the information to the police to follow-up.

[182] The defendants did plead after-acquired cause, but abandoned the claim a year before the litigation commenced. While a pleading of after-acquired cause that is devoid of merit may have costs consequences at the conclusion of the trial, the pleading itself cannot give rise to punitive and/or moral damages. As Lederer J. stated in *Chrabalowski v. BMO Nesbitt Burns Inc.,* 2011 ONSC 3392, at para. 19:

> Moral damages are meant to compensate for the harm inflicted by the manner of dismissal. They do not prevent an employer from defending itself on the basis of investigating whether there is "after-acquired cause".

[183] There is, in my view, nothing improper about pleading after-acquired cause and waiting until after discovery to decide whether to advance the defence or abandon it.

[184] Moreover, an allegation in a Statement of Defence cannot give rise to a claim for damages because such statements are protected by the doctrine of absolute privilege. The doctrine of absolute privilege was summarized by the Ontario Court of Appeal in *Salasel v. Cuthbertson*, 2015 ONCA 115, at para. 35:

> The doctrine of absolute privilege contains several basic elements: no action lies, whether against judges, counsel, jury, witnesses or parties, for words spoken in the ordinary course of any proceedings before any court or judicial tribunal recognised by law; the privilege extends to documents properly used and regularly prepared for use in the proceedings.

[185] In *Samuel Manu-Tech Inc. v. Redipac Recycling Corp. (1999),* 1999 CanLII 3776 (ON CA), 124 O.A.C. 125, at para. 20, the Court of Appeal held that the immunity afforded by absolute privilege "extends to any action, however framed, and is not limited to actions for defamation".

[186] Moreover, the conduct meriting punitive or moral damages must relate to "a component of the manner of dismissal", not Mr. Sankreacha's displeasure with an answer given by Mr. Beach to a question posed by Mr. Sankreacha's counsel in cross-examination eight years later.

[187] Witness testimony is also protected by absolute privilege, and Mr. Beach's answer to Mr. Jagtoo's question cannot form the basis of a claim for damages against the defendants. The policy reasons for this absolute privilege were explained by Borins J.A. in *Reynolds v. Kingston (Police Services Board),* 2007 ONCA 166, at para. 14:

> The rationale for witness immunity, which has become less an evidentiary rule than a rule of substantive law, is that the proper administration of justice requires full and free disclosure from witnesses unhampered by fear of retaliatory lawsuits.

[188] Accordingly, if I had found that the plaintiff was wrongfully dismissed, the plaintiff's claim for punitive and/or moral damages would be dismissed. The defendants' conduct was neither egregious nor outrageous in the circumstances, and the evidence does not support the allegation that any of the defendants acted in bad faith when the plaintiff was dismissed.

2) Inducing Breach of Contract

[189] The plaintiff argues that Mr. Cowan and Mr. Brennan procured a breach of his employment contract. The basis for this alleged breach is essentially identical to the conspiracy allegations alleged against Mr. Cowan and Mr. Brennan in relation to the claim for wrongful dismissal. For the same reasons that I have dismissed the wrongful dismissal claim, the claim for inducing breach of contract must also be dismissed.

3) Injurious Falsehood

[190] The plaintiff alleges that he was wrongfully accused of downloading KGB spyware onto Mr. Brennan's computer, downloading credit card data, compromising the pin pad and stealing money from Canadian Tire employees' and others' bank accounts. He seeks damages for the tort of injurious falsehood.

[191] The tort of injurious falsehood is similar to the tort of defamation but protects a different interest. Defamation protects a person's personal reputation while injurious falsehood protects an interest in one's property, products or business. In order to recover for injurious falsehood, there must be a false statement made with malice and malice must be proven. Injurious falsehood consists in the publication of false and malicious statements concerning the plaintiff or his property calculated and intended to induce others not to deal with him; see *Husky Injection Molding Systems Ltd. v Schad,* 2016 ONSC 2297, at para. 415, citing Fleming, *The Law of Torts*, 9th ed., at pp. 778-779.

[192] This claim cannot succeed.

[193] Firstly, I have already found that the plaintiff was not wrongfully accused of downloading KGB spyware onto Mr. Brennan's computer. The defendants have proven, on a balance of probabilities, that Mr. Sankreacha was responsible for the downloading of KGB spyware.

[194] Second, as previously outlined, I have found that the plaintiff was not wrongfully dismissed and that the employer had just cause for dismissal on the basis of plaintiff's conduct in downloading KGB spyware onto his employer's computer.

[195] Third, there is no evidence that any of the defendants wrongfully accused the plaintiff of stealing money from Canadian Tire employees or others' bank accounts, or of being involved in the pin pad fraud. The will-says provided to the police did not contain false statements, nor did they accuse or even refer to Mr. Sankreacha, and they were not actuated by malice.

[196] As explained above, to the extent that such an allegation was in the Statement of Defence as part of the defendants' later abandoned after-acquired cause defence, it is protected by absolute privilege and cannot form the basis of a claim for injurious falsehood or defamation.

[197] The plaintiff is correct that some of the information reported by Mr. Cowan in his telephone call to the police, reproduced at para. 32 of these Reasons, was incorrect. Mr. Cowan reported that the 48-page printout contained the "manager's bank accounts as well as internal CTC Mastercard accounts" and "tons of CTC Canadian Tire account numbers". While the printout included the banking information and password of another employee (Mike Sue), it did not contain Mr. Brennan's bank account information and it did not contain any Canadian Tire Mastercard information.

[198] Mr. Cowan was also incorrect when he reported to the police that "the forensic computer, forensic auditor came in today and confirmed that he was in fact in possession of it". While Mr. Valencia confirmed that KGB spyware had been downloaded, likely by Mr. Sankreacha, Mr. Valencia did not confirm that the 48-page printout contained any Canadian Tire Mastercard account information.

[199] I have already concluded that Mr. Cowan's honest but mistaken belief in this regard was reasonable in the exigencies of the situation. There were folders on the email referencing "CTC mastercard" and "CTC0399", which Mr. Cowan thought might relate to credit card information of the store or its customers. Several other items in the print out contained the words "Scotia OnLine Sign-On" followed by a series of numbers, or "Scotia OnLine", or "Scotia Bank", which Mr. Cowan mistakenly believed related to Mr. Brennan's personal bank account (it actually related to Mr. Sue's personal bank account).

[200] Finally, the plaintiff has failed to prove, on a balance of probabilities, that Mr. Cowan's telephone call to the police was actuated by malice. The malice alleged was Mr. Cowan's alleged involvement in the conspiracy to frame Mr. Sankreacha in order to have him dismissed for his refusal to upsell, or to use him as a diversion for the pin pad fraud in which Mr. Cowan was involved. For the reasons given above, I have rejected both of these allegations.

[201] Accordingly, the claim for injurious falsehood is dismissed.

4) Defamation

[202] The Supreme Court of Canada in *Grant v. Torstar Corp.*, 2009 SCC 61, at paras 28-34, discussed the elements of defamation and available defences. To succeed on a defamation claim, the plaintiff must establish that the impugned words: 1) would tend to lower the plaintiff's reputation in the eyes of a reasonable person; 2) referred to the plaintiff; and (3) were communicated to at least one person other than the plaintiff.

[203] If words are defamatory, then there are two defences that are available to a defendant: justification and privilege. Justification means that the words are substantially true: *Grant v. Torstar*, at para. 33. Qualified privilege means that on the occasion that the communication was made, the person who made it had an interest or a legal social, or moral duty to make it.

[204] The plaintiff alleges that Mr. Cowan's call to the police on June 21, 2010 was defamatory. Mr. Cowan alleged that Mr. Sankreacha had downloaded "all of the manager's bank accounts as well as internal CTC Mastercard accounts" and that he was "definitely responsible for the theft of the information." The plaintiff alleges that this information was not true and that Mr. Cowan deliberately exaggerated the evidence to bolster his veracity and ensure that criminal charges were laid against Mr. Sankreacha.

[205] There is no dispute that Mr. Cowan's call to the police referred to Mr. Sankreacha and was communicated to at least one other person.

[206] In my opinion, the plaintiff has not proven that the content of Mr. Cowan's telephone call to the police "would tend to lower the plaintiff's reputation in the eyes of a reasonable person". The "eyes of a reasonable person" must be viewed in the context of to whom the call was made. In this case, the call was made to a single individual, the police dispatch, and Mr. Cowan concluded by stating: "there may be enough evidence to bring him in for it".

[207] In *Guergis v. Novak*, 2013 ONCA 449, the Court of Appeal noted that a reasonable person would know the difference between an allegation and proof of guilt. The Court stated, at para. 57:

> A reasonably thoughtful and informed reader would understand the difference between allegations and proof of guilt. Such a person would bear in mind that an accused person is presumed innocent until proven guilty: *Miguna v. Toronto (City) Police Services Board*, [2004] O.J. No. 2455 (S.C.), at paras. 4-6, aff'd [2005] O.J. No. 107 (C.A.), at para. 4.

[208] The police frequently obtain complaints and reports from members of the public. The police, better than anyone else, must understand that such complaints and reports are nothing more than allegations and requests for a police investigation; they are not proof of guilt. It is ultimately up to the investigating officer to determine for him or herself whether there is sufficient evidence to lay charges. P.C. Marshall confirmed this when he testified at the trial.

[209] Assuming that the communication meets all three elements of defamation, Mr. Cowan relies on both the justification and qualified privilege defences. He argues first that the action for defamation must fail because the statements he made to the police were "substantially true", and, in the alternative, were protected by qualified privilege.

[210] Truth is a complete defence to an action for defamation. The test is substantial truth and it is therefore not necessary to prove the truth of each word. It is a sufficient defence if the substance of the allegations is justified: *Jiang v. Sing Tao Daily Ltd.*, 2014 ONSC 287, at para. 46.

[211] Pursuant to s. 22 of the *Libel and Slander Act*, R.S.O 1990, c. L.12, the defence of justification will not fail by reason only that the truth of every allegation of fact is not proved if "the words not proved to be true do not materially injure the plaintiff's reputation having regard to the truth of the remaining charges": *DEI Films Ltd. v. Tiwari*, 2018 ONSC 4423, at para. 30.

[212] In the present case, the defendants have proven on a balance of probabilities that it was Mr. Sankreacha who downloaded the KGB spyware on Mr. Brennan's computer, and downloaded confidential information, which he then forwarded to himself. This much was confirmed by Mr. Valencia, the "forensic auditor" referred to by Mr. Cowan in his telephone call to the police.

[213] As indicated above, Mr. Cowan was incorrect when he reported that the 48-page printout contained the "manager's bank accounts as well as internal CTC Mastercard accounts" and "tons of CTC Canadian Tire account numbers". While the printout included the banking information and password of another employee, it did not contain Mr. Brennan's bank account information and it did not contain any Canadian Tire Mastercard information.

[214] In my view, the information provided by Mr. Cowan was "substantially true". It was the action of downloading the KGB spyware and collecting confidential information from his employer's computer that constituted the substance of the allegation. The specifics of the confidential information collected are not central to the substance of the allegation of wrongdoing in this case.

[215] Moreover, P.C. Marshall testified that had he known that there was no evidence of credit card data in the 48-page printout, he still would have charged Mr. Sankreacha with theft of data. This is a case in which "the words not proved to be true do not materially injure the plaintiff's reputation having regard to the truth of the remaining charges."

[216] I also find that Mr. Cowan's telephone call to the police was protected by qualified privilege.

[217] The defence of qualified privilege is described in Raymond E. Brown, *The Law of Defamation in Canada*, 2nd ed. (loose-leaf) (Toronto: Carswell 1999) at p. 13-4, as follows:

> There are certain occasions on which a person is entitled to publish untrue statements about another, where he or she will not be liable even though the publication is defamatory. One such occasion is called a conditional or qualified privilege. No action can be maintained against a Defendant unless it is shown that he or she published the statement with actual or express malice. An occasion is privileged if a statement is fairly made by a person in the discharge of some public or private duty, or for the purpose of pursuing or protecting some private interest, provided it is made to a person who has some corresponding interest in receiving it. The duty may be either legal, social or moral. The test is whether persons of ordinary intelligence and moral principal, or the great majority of right-minded persons, would have considered it a duty to communicate the information to those to whom it was published.

[218] Professor Brown describes the following situation in which qualified privilege may attach to businesses and companies sharing information concerning company personnel with others, at p. 13-95:

> When company personnel are investigating a theft, shortage of accounts, misappropriate of property, or failure to follow company accounting procedures, other officials of the company who have an interest in the matter may share in that information and the investigators may exchange information with each other.

See: *Lewis v. Terrace Tourism Society*, 2008 BCSC 361, at paras. 54, 55, reversed on other grounds, 2010 BCCA 346, 321 D.L.R. (4th) 122.

[219] In this case, Mr. Cowan was tasked with investigating an email on the employer's computer that revealed both the downloading of KGB spyware and the transfer or theft of confidential information. He clearly had an interest in sharing this information with the police in these circumstances, and the police had a corresponding interest in receiving this information. Mr. Cowan's report was therefore protected by qualified privilege, and even with the errors made, he can be held liable for defamation only if the plaintiff can prove that the statements were actuated by malice.

[220] The plaintiff argues that Mr. Cowan had a positive obligation to determine whether the email and 48-page printout actually included any CTC Mastercard information before reporting this allegation to the police and making unequivocal statements of culpability to the police. His failure to confirm this allegation – while falsely stating to the police that it was confirmed by a forensic auditor - showed a reckless disregard for the truth, and a reckless disregard for the truth is evidence of malice: see *Alleslev-Krofchak v. Valcom Limited*, 2009 CanLII 30446 (Ont. S.C.), at para. 240, affirmed, 2010 ONCA 557, 322 D.L.R. (4th) 193, leave to appeal to S.C.C. refused, [2010] S.C.C.A. No. 403:

> Recklessness as a form of malice has been described in R.E. Brown, *The Law of Defamation in Canada*, looseleaf 2d ed. (Toronto: Carswell, 1994) 16-72 to 16-77 as follows:

> Speaking recklessly and in utter disregard of the consequences, or in knowing or reckless disregard for the truth, or at least speaking without caring whether what one says is true or false, is certainly strong, if not conclusive evidence of malice. Even a defendant who makes a defamatory assertion without any, or at least sufficient, knowledge to warrant it, or without having made reasonable inquiry where the means or sources were otherwise readily available to him, or who deliberately refrains from making any inquiry, may be guilty of reckless and, therefore, malicious conduct.

[221] The plaintiff's argument goes beyond mere recklessness, however. He argues that Mr. Cowan made the false complaint to the police for the dominant purpose of having Mr. Sankreacha charged, so that Mr. Sankreacha could serve as a "decoy" for the pin pad fraud run orchestrated by Mr. Cowan, Mr. Brennan and Mr. Beach the next day "so that focus and blame would be on the Plaintiff and his termination instead of on Brennan and Cowan".

[222] As indicated above under "injurious falsehood", I have rejected the contention that Mr. Cowan's phone call to the police was actuated by malice.

[223] Given the evidence available to Mr. Cowan, he had "reasonable and probable grounds" for suspecting Mr. Sankreacha. Mr. Cowan's failure to make further investigations before calling the police does not qualify as recklessness. Based on the information available to him, Mr. Cowan essentially handed the investigation over to the police, which was the proper conduct in the circumstances.

[224] To the extent that the allegation of malice is based on the pin pad fraud diversion theory, the allegation is rejected for the reasons set out above at paras.136-145 above.

[225] Accordingly, the plaintiff's action based on defamation must fail.

5) Intentional Infliction of Mental Suffering

[226] The test for intentional infliction of mental suffering has three elements. The defendants' conduct must have been (a) flagrant and outrageous, (b) calculated to harm the plaintiff and (c) it must have caused the plaintiff to suffer a visible and provable illness: *Boucher v. Wal-Mart Canada Corp.,* 2014 ONCA 419 (CanLII), 120 O.R. (3d) 481, at para. 41; *West v. Mex Precision Wire Corporation*, 2018 ONSC 6572, at para. 16.

[227] The specific conduct relied upon by Mr. Sankreacha is Mr. Cowan's telephone call to the police, which resulted in Mr. Sankreacha being arrested by P.C. Marshall and charged with unauthorized possession of credit card data.

[228] I have already concluded that, notwithstanding the errors contained in his message to the police, Mr. Cowan's conduct that day was reasonable in the exigencies of the circumstances, and was not flagrant or outrageous. Given the information known to Mr.

Cowan at the time, his purpose was to protect the security of the store's compromised computer data, and not to harm the plaintiff.

[229] Moreover, as will be discussed in greater detail below under malicious prosecution, P.C. Marshall made it clear in his testimony that he never heard Mr. Cowan's message to the police dispatcher. He independently reviewed the 48-page printout and came to the conclusion that it contained credit card information and that he had reasonable and probable grounds to arrest Mr. Sankreacha. He independently decided to arrest Mr. Sankreacha, and independently decided on the charges to be laid and the method of arrest. Had he known that there was no credit card data on the printout, he testified that he still would have arrested Mr. Sankreacha and charged him with theft of data.

[230] Finally, the medical evidence does not prove that the plaintiff suffered a visible and provable illness. No medical expert was called and no medical records were introduced to support the plaintiff's claim. On cross-examination Mr. Sankreacha acknowledged that his doctor's notes indicate that he was not suffering from depression or anxiety, he was not prescribed any medication and did not receive any counselling.

[231] In many respects, the legal principles relating to a claim for intentional infliction of mental suffering resulting from dismissal from employment are identical to the legal principles relating to a claim for punitive and/or moral damages resulting from dismissal from employment: *Correia v. Kohler Ltd.*, 2007 CanLII 691 (ON SC), at para. 45, varied, but not on this point, 2008 ONCA 506 at para. 81. Since these claims essentially overlap, my reasons for dismissing the claim for punitive and/or moral damages apply to the claim for intentional infliction of mental suffering.

[232] Accordingly, the claim for intentional infliction of mental suffering is dismissed.

6) False Imprisonment

[233] The plaintiff must prove three elements to establish the tort of false imprisonment. He must have been totally deprived of liberty, this deprivation must have been against his will, and it must be caused by the defendant. The onus then shifts to the defendant to justify the detention, based on legal authority under common law or statute: *Kovacs v. Ontario Jockey Club*, 1995 CanLII 7397; 126 D.L.R. (4th) 576 (Ont. S.C.), at para. 46; *Dr. X v. Everson*, 2013 ONSC 6134, at para. 190.

[234] In *Kovacs*, Cummings J. set out the following summary of the tort at para. 46:

> It is unnecessary that there be actual physical force in making the arrest or in obliging the detained person to remain in one place. All that is required is that there be a reasonable belief that an attempt to leave could result in force being used against the detainee… It is clear that "moral pressure" may suffice to constitute imprisonment, such as a situation where a plaintiff submits to the defendant's acts for fear of public embarrassment. [Citations omitted.]

[235] The plaintiff alleges that once he reported to work at 2:00 p.m., Mr. Cowan escorted him into Mr. Issa's office. Once there, the plaintiff argues that he was not free to leave and was deprived of his liberty. The plaintiff was advised that he was accused of serious misconduct, including theft, and was required to give an explanation or confess. He was asked to open his Hotmail account to prove whether the email was there. Mr. Sankreacha testified that he did not feel free to leave the office. He also testified that when asked for his store key and company I.D., he handed over his entire key chain and wallet, including his house key, car key, and driver's licence, to Mr. Cowan, and that because he did not have these items he could not leave.

[236] Mr. Sankreacha also testified that he heard Mr. Cowan telephone the police, and that he did not think that he could leave once the police were called. Mr. Sankreacha alleges that he was detained by Mr. Cowan in the office from 2:00 p.m. until the police arrived at approximately 3:15 p.m.

[237] In para. 102 of his written submissions, the plaintiff's counsel argues: "All of that created pressure on the Plaintiff to stay put, or be arrested elsewhere. The Plaintiff exercised good judgment and remained where he was, until police arrived."

[238] The evidence of Mr. Beach and Mr. Cowan was that the purpose of the meeting was to give Mr. Sankreacha an opportunity to explain the email discovered on Mr. Brennan's computer. Mr. Cowan advised Mr. Sankreacha that he was opening an investigation but Mr. Sankreacha was not under arrest, did not have to speak to him, and he was free to go at any time.

[239] Even after the police were called, Mr. Cowan testified that he advised Mr. Sankreacha that he was free to go, but Mr. Sankreacha told him that he did not want to be arrested at home.

[240] There is no dispute that the door to Mr. Issa's office was left open throughout the meeting and that Mr. Sankreacha sat in the chair closest to the door.

[241] P.C. Marshall confirmed that when he arrived at the store, the plaintiff was not under arrest and was not restrained in any way. Mr. Sankreacha appeared to be calm and cooperative.

[242] The plaintiff acknowledged on cross-examination that he heard Mr. Cowan tell the police that Mr. Sankreacha was cooperating and was not under arrest. He also agreed that no one from the Markham Canadian Tire store told him that he could not leave.

[243] In my view, the evidence does not support the contention that the plaintiff was totally deprived of liberty, or that he held a reasonable belief that an attempt to leave would result in force being used to detain him. I accept the evidence of Mr. Cowan that, in accordance with his training, he advised Mr. Sankreacha that he was free to go at any time and was not under arrest. Indeed, once the police were called, there would have been no reason for Mr. Cowan to detain Mr. Sankreacha. Mr. Sankreacha's identity and address were both known and there was no suggestion that the police would be unable to find him.

[244] I have already rejected the plaintiff's contention that he gave his entire key chain and wallet to Mr. Cowan: see paras. 101 – 104. This allegation was not referenced in the plaintiff's pleading under false imprisonment.

[245] Accordingly, the claim for false imprisonment is dismissed.

7) Malicious Prosecution

[246] The test for malicious prosecution was set out by the Supreme Court of Canada in *Nelles v. Ontario*, [1989] 2 S.C.R. 170, at pp. 192-193:

> There are four necessary elements which must be proven for a plaintiff to succeed in an action for malicious prosecution:
>
> a) the proceedings must have been initiated by the defendant;
>
> b) the proceedings must have terminated in favour of the plaintiff;
>
> c) the absence of reasonable and probable cause;
>
> d) malice, or a primary purpose other than that of carrying the law into effect.

[247] See also: *Pate Estate v. Galway-Cavendish and Harvey (Township)*, 2013 ONCA 669, at para. 21.

[248] Mr. Sankreacha was charged by the police with unauthorized possession of credit card data on June 21, 2010. The charges against Mr. Sankreacha were withdrawn by the Crown on August 10, 2011.

Were the proceedings initiated by the defendant?

[249] In the present case, the plaintiff alleges that the prosecution of the plaintiff was initiated by Mr. Cowan, rather than the police.

[250] In *D'Addario v. Smith*, 2018 ONCA 163, the Ontario Court of Appeal commented on the circumstances in which a claim for malicious prosecution may be made against a private party, at paras. 24 and 25:

> Malicious prosecution is difficult to establish. It is even more difficult to establish if a plaintiff seeks to establish that a private party is liable, as opposed to the police. Absent exceptional circumstances, the court will view the police officer who laid the charge as being the person who initiated the prosecution: *Kefeli*, at para. 24.
>
> The first element of the test from *Nelles* requires that the proceedings must have been initiated by the defendants… This court has discussed the circumstances in which a private party can be found to have initiated a

> prosecution in a series of cases... In *Pate Estate,* the court made clear that the test is a high bar, but it is not necessary to demonstrate that it was "virtually impossible" for the police to exercise any independent discretion or judgment. [Citations omitted]

[251] The cases indicate that if a private party "knowingly withheld exculpatory information from the police which the police could not be expected to find" or "actively and deliberately misled" the police in circumstance in which the police rely on the private party this could undermine the independence of the police investigation and qualify as initiation of the prosecution: *McNeil v. Brewers Retail Inc.*, 2008 ONCA 405, at paras. 52-53; see also: *Pate Estate* at para. 32.

[252] I also adopt the following statement of Wilton-Siegal J. in *Mirra v. Toronto Dominion Bank*, 2004 CanLII 17192 (ON SC), at para. 35:

> [I]t is clear that no responsibility is incurred by a private citizen who confines his conduct to bringing before some proper authority information which he or she does not disbelieve, even though in so doing he or she hopes that a prosecution will be instituted, if the prosecution is actually instituted as a result of independent discretion on the part of that authority

[253] Similarly, in *Correia* at para. 89:

> In my view, even where a citizen gives his fullest cooperation and assistance, there is no compelling reason to deem him an initiator of a prosecution where the actual initiator is readily identifiable and has had the ability to exercise an independent discretion whether to lay charges or not.

[254] Many alleged victims of crime provide documents or statements to the police because they wish criminal charges to be laid and actively encourage the police to lay charges. If the police can carry out their own independent investigation and do not have to rely solely on what the complainant is telling them, then the complainant is not the "initiator" of the prosecution.

[255] The plaintiff argues that Mr. Cowan's call to the police on June 21, 2010 was designed to have the police charge Mr. Sankreacha. The plaintiff argues that all of the allegations in that phone call were false, but I have already concluded that the allegations relating to the downloading of spyware were true. Mr. Cowan's phone call did, however, also include information that we now know was false. In particular, the allegation that the 48-page printout contained confidential credit card and Canadian Tire Mastercard information, and that this had been confirmed by a "forensic auditor". The plaintiff alleges that Mr. Cowan "manipulated the police into laying the charge and undermined police independence", and that the false information related directly to the specific charge laid by the police: unauthorized possession of credit card data.

[256] P.C. Marshall testified that he laid the charge against Mr. Sankreacha because he believed that the 48-page printout contained confidential credit card information. The plaintiff alleges that P.C. Marshall's belief in this regard was based on his conversation with Mr. Cowan.

[257] In addition, the plaintiff alleges that in July 2012, Mr. Beach, through his counsel, confirmed that there was no customer or Canadian Tire credit card information on the printout, but failed to disclose this exculpatory information to the police.

[258] The plaintiff also alleges that the defendants failed to advise the police that there was no evidence that Mr. Sankreacha was responsible for the pin pad fraud. Given that Mr. Sankreacha was never charged in relation to that incident, I fail to see the relevance of this point to the claim for malicious prosecution. In any event, a claim for malicious prosecution against a private party must be based on an allegation that the private party withheld exculpatory evidence or actively misled the police – it cannot be based on a private party's failure to tell the police that he has no evidence.

[259] The plaintiff's claim is entirely inconsistent with the evidence given by P.C. Marshall, who testified that it was his decision alone to charge Mr. Sankreacha and that he concluded independently that he had reasonable and probable grounds to charge the plaintiff with unauthorized possession of credit card data. P.C. Marshall testified that he reached this decision after his own independent investigation. In particular, he reviewed the 48-page printout, and observed references to "CTC Mastercard" and "CTC 0399", that several items on the printout contained the letters "SCODEF" followed by numbers and "CREDAT" followed by numbers, several other items contained the words "Scotia OnLine Sign-On" followed by a series of numbers, or "Scotia OnLine", or "Scotia Bank", which P.C. Marshall thought related to Bank of Nova Scotia credit cards. P.C. Marshall confirmed with Mr. Beach that Mr. Sankreacha was not authorized to copy or download personal information from this computer. He also confirmed that KGB spyware had been downloaded on the computer.

[260] P.C. Marshall testified that no one at the Markham Canadian Tire store encouraged him to arrest Mr. Sankreacha. He testified: "I made the decision – I have to wear it." This statement is consistent with the general principle that the police, rather than a private party, "must shoulder the responsibility for determining whether adequate grounds exist to support the laying of charges": *Mirra,* at para. 43.

[261] In my view, it cannot be said that Mr. Cowan was the "initiator" of the prosecution, as the term has been interpreted by the courts. While Mr. Cowan was not correct about the contents of the 48-page printout, the evidence does not support the plaintiff's contention that Mr. Cowan either knew this information was false or deliberately misled the police in this regard. Nor does the evidence support the contention that P.C. Marshall relied solely on Mr. Cowan for his investigation. Mr. Cowan's statement was just one factor in P.C. Marshall's decision to lay the particular charges.

[262] Finally, the plaintiff alleges that Mr. Beach knew by July 2012 that there was no customer or Canadian Tire credit card information on the 48-page printout, but failed to

disclose this exculpatory information to the police. The fact is, however, that the charges against Mr. Sankreacha were withdrawn by the Crown the year before, on August 10, 2011. There is no evidence that Mr. Beach or Mr. Cowan had knowledge that there was no credit card information on the 48-page printout prior to August 10, 2011. The knowledge of the defendants subsequent to the withdrawal of the charges is irrelevant to the claim.

Did the defendants have reasonable and probable grounds to initiate the prosecution?

[263] The defendants argue, in the alternative, that if they initiated the prosecution, they had reasonable and probable grounds.

[264] The plaintiff's position on this issue is based on the premise that he did nothing wrong, that the defendants knew this, and that it was the defendants who planted the KGB spyware on Mr. Brennan's computer. I have already rejected those allegations.

[265] At the time that Mr. Cowan called the police, the defendants had reasonable and probable grounds to believe that a crime had been committed. This belief was based on the discovery of an email from Mr. Sankreacha's Hotmail address to his Hotmail address that appeared on Mr. Brennan's computer screen, and the 48-page attachment containing information downloaded from the computer. The printout contained confidential data, including one employee's banking information and bank password, and Mr. Brennan's email password. The belief that a crime had been committed was also based on Mr. Valencia's confirmation that KGB spyware had been installed onto Mr. Brennan's computer. All the evidence at that time pointed to Mr. Sankreacha as the likely suspect.

[266] The fact that the defendants wrongly believed that there was credit card information on the printout does not negate the reasonable and probable grounds that did exist.

Was Mr. Cowan actuated by malice?

[267] The defendants argue, in the further alternative, that the plaintiff has failed to prove that Mr. Cowan was actuated by malice or any other improper purpose.

[268] I have already rejected the allegation of malice made against Mr. Cowan and the other defendants. The malice alleged was Mr. Cowan's alleged involvement in the conspiracy to frame Mr. Sankreacha in order to have him dismissed for his refusal to upsell, or to use him as a diversion for the pin pad fraud in which Mr. Cowan was involved. For the reasons given above, I have rejected both of these allegations.

Disposition: Malicious Prosecution

[269] Accordingly, the claim for malicious prosecution is dismissed.

8) Civil Conspiracy

[270] The final cause of action raised by the plaintiff is civil conspiracy.

[271] The tort of civil conspiracy was described by the Supreme Court of Canada in *Canada Cement LaFarge Ltd. v. B.C. Lightweight Aggregate Ltd.*, 1983 CanLII 23 (SCC), [1983] 1 S.C.R. 452, at pp. 471-472:

> Although the law concerning the scope of the tort of conspiracy is far from clear, I am of the opinion that whereas the law of tort does not permit an action against an individual defendant who has caused injury to the plaintiff, the law of torts does recognize a claim against them in combination as the tort of conspiracy if:
>
> > (1) whether the means used by the defendants are lawful or unlawful, the predominant purpose of the defendants' conduct is to cause injury to the plaintiff; or,
> >
> > (2) where the conduct of the defendants is unlawful, the conduct is directed towards the plaintiff (alone or together with others), and the defendants should know in the circumstances that injury to the plaintiff is likely to and does result.
>
> In situation (2) it is not necessary that the predominant purpose of the defendants' conduct be to cause injury to the plaintiff but, in the prevailing circumstances, it must be a constructive intent derived from the fact that the defendants should have known that injury to the plaintiff would ensue. In both situations, however, there must be actual damage suffered by the plaintiff.

[272] See also: *Agribrands Purina Canada Inc. v. Kasamekas,* 2011 ONCA 460, at para. 24.

[273] In his Amended Statement of Claim, the plaintiff's claim for civil conspiracy is based on the "upsell" theory: that Brennan and Cowan conspired to have the plaintiff fired for cause because of his refusal to upsell to customers. He also alleges a conspiracy by Brennan and Cowan to withhold exculpatory evidence from the police.

[274] In his written submissions, the plaintiff relies primarily on the pin pad fraud diversion theory which, as indicated above, was not pled in the Amended Statement of Claim.

[275] I have already concluded that the plaintiff has not proven any of these conspiracy theories (assuming that he is even permitted to rely on the pin pad fraud diversion theory given that it was not pleaded in his Amended Statement of Claim). My analysis and conclusions with regard to these issues at paras. 122 – 145, 258 and 262 above are equally applicable to the civil conspiracy claim, which is, therefore, dismissed.

Limitation Period

[276] The plaintiff was brought to Mr. Issa's office on June 21, 2010, and formally dismissed from his employment on June 22, 2010.

[277] The charges against him were withdrawn by the Crown on August 11, 2011.

[278] The original Statement of Claim was issued on October 6, 2011; this was two months after the charges were withdrawn by the Crown.

[279] In September 2012, the plaintiff put the defendants on notice that he intended to move to amend his Statement of Claim to add Rod Brennan and JMC Legal Services Inc., and include a claim for conspiracy between Mr. Brennan and Mr. Cowan.

[280] The motion to amend the Statement of Claim was originally returnable on December 10, 2012, but was adjourned three times until it was heard by Master Hawkins on March 11, 2015. He granted the plaintiff leave to amend the Statement of Claim, with leave to Mr. Brennan and JMC Legal Services Inc. to raise the limitation defence.

[281] The defendants take the position that these amendments are out of time, and that the limitation period expired on June 22, 2012, two years after the plaintiff was dismissed from his employment, and three months before they were given notice of the proposed amendments.

[282] The plaintiff takes the position that he could not have known the information needed to make the claim of conspiracy until January 27, 2011, the date on which he obtained police disclosure in relation to his criminal charges. This is the date that the plaintiff was first given the will-says of Mr. Brennan and the other bank employees that were collected by Cowan and Brennan and given to the police. It was only with the receipt of this information, he argues, that he became aware that Brennan and Cowan had conspired to have him dismissed. He argues that further information came to light only during the discovery of Mr. Cowan on July 30, 2012.

[283] Whatever suspicions he may have had, the plaintiff argues that the conspiracy was not discoverable until January 27, 2011 at the earliest. Measured from January 27, 2011, the limitation period would not expire until January 27, 2013, which was after the original return date of the plaintiff's motion to amend.

[284] When a limitation period begins to run is a question of fact. The application of the discoverability rule to the facts of a particular case requires a finding of fact about when the plaintiff discovered the facts in respect of his claim or through reasonable diligence ought to have discovered the facts.

[285] Section 5 of the *Limitations Act*, 2002, S.O. 2002 c. 24, Sched. B, sets out the principles governing the discoverability doctrine. Section 5 provides as follows:

> (1) A claim is discovered on the earlier of,
>
> (a) the day on which the person with the claim first knew,
>
> (i) that the injury, loss or damage had occurred,
>
> (ii) that the injury, loss or damage was caused by or contributed to by an act or omission,

> (iii) that the act or omission was that of the person against whom the claim is made, and
>
> (iv) that, having regard to the nature of the injury, loss or damage, a proceeding would be an appropriate means to seek to remedy it; and
>
> (b) the day on which a reasonable person with the abilities and in the circumstances of the person with the claim first ought to have known of the matters referred to in clause(a).
>
> (2) A person with a claim shall be presumed to have known of the matters referred to in clause (1)(a) on the day the act or omission on which the claim is based took place, unless the contrary is proved.

[286] Section 5(2) creates a presumption that a claimant acquired knowledge of his or her claim on the date the act or omission on which the claim is based took place. In this case, by reason of s. 5(2), in the absence of evidence to the contrary, Mr. Sankreacha was presumed to have discovered the material facts on which his claims against Brennan and JMC Legal Services Inc. were based on the day that he was dismissed: *Miaskowski v. Persaud,* 2015 ONCA 758, at para. 24; *Placzek v. Green*, 2009 ONCA 83 (CanLII), at para. 23.

[287] This case is complicated by the fact that it also includes a claim for malicious prosecution, and the limitation period for malicious prosecution does not begin to run until the cause of action is complete, that is when the proceedings have terminated in favour of the plaintiff – in this case August 11, 2011: *Hill v. Hamilton-Wentworth Regional Police Services Board*, [2007] 3 SCR 129, 2007 SCC 41, at para. 96; *Diaz v Tossa*, 2017 ONSC 54, at para. 47; *Winmill v Woodstock Police Services Board et al.*, 2017 ONSC 2528, at para. 21, reversed on other grounds, 2017 ONCA 962; 138 O.R. (3d) 641, leave to appeal to S.C.C. refused, [2018] S.C.C.A. No. 39.

[288] That said, as far as I can tell from the pleadings and closing submissions, the allegation of malicious prosecution is directed only at Mr. Cowan.

[289] The principle of discoverability applies to both the discoverability of facts and to the discoverability of the tortfeasor's identity: *Pepper v. Zellers Inc.* (2006), 2006 CanLII 42355 (ON CA), 83 O.R. (3d) 648 (C.A.), at para. 17.

[290] The Court of Appeal discussed the application of the discoverability principle in *Longo v. MacLaren Art Centre*, 2014 ONCA 526, at para. 42:

> A plaintiff is required to act with due diligence in determining if he has a claim. A limitation period will not be tolled while a plaintiff sits idle and takes no steps to investigate the matters referred to in s. 5(1)(a) [of the *Limitations Act*]. While some action must be taken, the nature and extent of the required action will depend on all of the circumstances of the case.

period expired. It is, in any event, unclear from the pleadings what allegations are being made against JMC Legal Services Inc.

[292] It is more difficult to determine a precise date of discoverability for the tort of conspiracy. Conspiracies are by nature concealed from view. The plaintiff may know the individual actions of the conspirators without knowing or understanding that two or more persons have conspired. A plaintiff may harbour suspicions, but when do the plaintiff's suspicions crystalize into discoverability? This point was addressed by the Court of Appeal in *Tran v. University of Western Ontario*, 2016 ONCA 978, at para. 17:

> First, I observe that the most successful conspiracy is one in which the target remains completely unaware of it. The crucial element, which the motion judge did not mention or take into account in his assessment of discoverability, is when Dr. Tran became aware of the conspiracy. This was an error. While she knew of certain actions taken by the defendants, her understanding of those actions as indicative of a conspiracy could only be retrospective. This aspect of the cause of action in conspiracy plainly engages the discoverability elements of the *Limitations Act, 2002.*

[293] The discoverability doctrine is even more difficult to apply to the tort of conspiracy if there was no conspiracy. In the present case, I have concluded that the evidence does not support the plaintiff's contention that Brennan and Cowan conspired to have him dismissed. Since the tort complained of never happened, when should the plaintiff, through reasonable diligence, have discovered it?

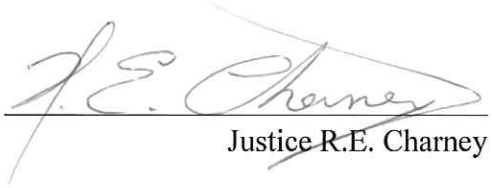
[294] In the present case, I am prepared to accept the plaintiff's argument that while he knew of certain actions taken by Mr. Brennan and Mr. Cowan, his understanding of those actions as indicative of a conspiracy could not crystalize until he was given additional information in the form of the Crown's disclosure in his criminal proceeding. As such, I find that the plaintiff's conspiracy claim against Brennan and Cowan was made within two years after it was discovered and is not barred by the expiry of the limitation period.

[295] Given my findings in relation to the various causes of action, my decision with respect to the limitation period does not affect the result of this decision.

Conclusion

[296] For the foregoing reasons, the plaintiff's claims are dismissed.

[297] If the parties are unable to agree on costs, the defendant may file costs submissions of no more than three pages each, plus costs outline and any offers to settle, within 30 days. The plaintiff will have 20 days thereafter to reply on the same terms, (three pages per reply for a total of six pages for submissions).



Justice R.E. Charney

Released: December 3, 2018

CITATION: Sankreacha v. Cameron J. and Beach Sales Ltd., 2018 ONSC 7216

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Bharath Sankreacha

Plaintiff

– and –

Cameron J. and Beach Sales Ltd., John Cowan, JMC Legal Services Inc., and Rod Brennan

Defendants

REASONS FOR JUDGMENT

Justice R.E. Charney

Released: December 3, 2018