

Court of King’s Bench of Alberta

Citation: Bains v Day, 2025 ABKB 50

Date: 20250127

Dockets: 1901 01056, 1901 03639, 1901 06857, 2001 12996, 2301 00251

Registry: Calgary

Between:

Docket: 1901 01056

Jagdev Singh Bains

Plaintiff

- and -

Roderick A. Day, John Doe I, John Doe II

Defendants

And between:

Docket: 1901 03639

Jagdev Singh Bains

Plaintiff

- and -

Kevin William Geary, Olive Odile Rawlyk, John Doe I, John Doe II

Defendants

And between:

Docket: 1901 06857

Jagdev Singh Bains

Plaintiff

- and -

Hassan Y. Adam, Youssouf Adam Abakar, John Doe I, John Doe II

Defendants

And between:

Docket: 2001 12996

Jagdev Singh Bains, Sahib Prem Kaur

Plaintiffs

- and -

Nicholas J. Yardley, Assessmed Inc., Certas Direct Insurance Company

Defendants

And between:

Docket: 2301 00251

Sahib Prem Kaur, Sifatjot Kaur Bains, Sukhmani Bains, Paaras Bains, John Doe

Plaintiffs

- and -

Hassan Youssouf Adam, Youssouf Adam Abakar, Kevin William Geary, Olive Odile Rawlyk, Roderick Day, Certas Direct Insurance Company, Belair Insurance Company Inc., Co-Operators General Insurance Company, John Doe I, John Doe II, John Doe III

Defendants

**Memorandum of Decision
of Associate Chief Justice
D.B. Nixon**

I. Introduction

[1] This Memorandum of Decision chiefly evaluates whether litigation conducted by Dr. Jagdev Singh Bains (Dr. Bains), his wife Dr. Sahib Prem Kaur (Dr. Kaur), and their three children (collectively, “the Bains” or “the Bains family”) warrants Court intervention under *Judicature Act*, RSA 2000, c J-2 ss 23-23.1. If intervention is applied under the *Judicature Act* application, it would impose pre-filing limitations on the Bains initiating and continuing litigation in the Court of King’s Bench of Alberta.

[2] This *Judicature Act* application is part of a larger process which has continued for the last few years as other litigation has played out and new matters have emerged (the “*Judicature Act* Application” or “*Judicature Act* ss 23-23.1 Application”). This complex and evolving litigation landscape means a preliminary overview and introduction of five inter-related lawsuits and their participants is necessary to orient the analysis that follows.

A. The Vehicle Lawsuits

[3] Dr. Bains filed three Statements of Claim that flowed from motor vehicle incidents that occurred on March 10, 2017, April 8, 2017, and May 30, 2017, respectively:

- *Jagdev Singh Bains v Roderick A. Day, John Doe I, John Doe II* - Court of King’s Bench of Alberta Action No. 1901 01056;
- *Jagdev Singh Bains v Kevin William Geary, Olive Odile Rawlyk, John Doe I, John Doe II* - Court of King’s Bench of Alberta Action No. 1901 03639; and
- *Jagdev Singh Bains v Hassan Y. Adam, Youssouf Adam Abakar, John Doe I, John Doe II* - Court of King’s Bench of Alberta Action No. 1901 06857.

[4] The first two incidents were motor vehicle collisions. In the third incident, a car crashed through the fence of Dr. Bains’ backyard, while Dr. Bains was in the backyard. The Defendants in these lawsuits (collectively, the “*Vehicle Lawsuits*”) admitted liability, but disputed whether Dr. Bains had been injured, and if so, the extent of Dr. Bains’ injuries. While the initial Statements of Claim were filed by legal counsel, Dr. Bains has subsequently represented himself throughout the majority of the *Vehicle Lawsuits*, including the trial.

[5] The *Vehicle Lawsuits* were case managed by then Associate Chief Justice Rooke, who ordered on December 2, 2021 that the *Vehicle Lawsuits* would be heard and decided together. There were numerous interlocutory steps and disputes during the case management, which resulted in three Court of Appeal of Alberta decisions: *Bains v Adam*, 2021 ABCA 263 (*Bains ABCA #1*); *Bains v Adam*, 2021 ABCA 378; *Bains v Adam*, 2022 ABCA 72.

[6] The *Vehicle Lawsuits* trial was heard by Justice Yamauchi in September 2022 and February 2023. As I will subsequently detail, this proceeding proved problematic in a number of ways. On August 28, 2023, Justice Yamauchi issued a detailed 317 paragraph Reasons for Decision, reported as ***Bains v Adam***, 2023 ABKB 491 (***Bains v Adam #4***). Succinctly, Justice Yamauchi dismissed Dr. Bains’ *Vehicle Lawsuits* as having no basis because Dr. Bains had not proven on a balance of probabilities that he was injured. Instead, the evidence received at trial established that Dr. Bains had grossly exaggerated and fabricated the extent to which he was impaired by the motor vehicle incidents.

[7] Video surveillance showed Dr. Bains engaged apparently without impairment and/or discomfort in physical activities that Dr. Bains had reported were impossible and debilitating for him. The Defendants also established a broad pattern of Dr. Bains producing false documents and records, and that Dr. Bains has a very “selective” memory.

[8] Justice Yamauchi concluded that Dr. Bains is not a credible witness. Additionally, Justice Yamauchi found as fact and law that Dr. Bains had not established any “substantial connection” between the motor vehicle incidents and any affliction reportedly experienced by Dr. Bains, to whatever extent those afflictions were, in fact, real.

[9] On December 13, 2023, Justice Yamauchi imposed a total of \$448,531 in costs against Dr. Bains. In his Endorsement, Justice Yamauchi observed a much higher amount would be “... beyond reasonable and proper in the circumstances ...” given Dr. Bains’ unnecessarily lengthening of the trial, and his “obstructive behaviour” that impeded completion of the *Vehicle Lawsuits* trial.

[10] The *Vehicle Lawsuits* are now completed in the Court of King’s Bench of Alberta, aside from this *Judicature Act* ss 23-23.1 Application. Dr. Bains has filed an appeal of ***Bains v Adam #4***. Dr. Bains first sought permission to appeal ***Bains v Adam #4***, which permission was partially granted on certain specified grounds: ***Bains v Adam***, 2024 ABCA 271 (***Bains ABCA #5***). Subsequently, Dr. Bains brought two further applications: (i) to appeal portions of the permission to appeal granted in ***Bains ABCA #5***, and (ii) to seek certain relief related to the *Vehicle Lawsuits*. The Court of Appeal considered the two applications together and denied the relief sought in both applications: ***Bains v Adam***, 2024 ABCA 327 (***Bains ABCA #6***). Dr. Bains then sought permission from the Court of Appeal to appeal the decision made with respect to his second application in ***Bains v Adam #6***, which was denied: ***Bains v Adam***, 2024 ABCA 374 (***Bains ABCA #7***).

[11] At various points in this Memorandum of Decision I will rely on Justice Yamauchi’s evaluation of Dr. Bains’ physical condition and Dr. Bains’ false testimony concerning that condition. I am taking this approach because Dr. Bains has made extensive submissions on his physical status and purported injuries in this *Judicature Act* ss 23-23.1 Application, and the impact of his alleged injuries and disabilities on his litigation conduct. Further, the Bains have initiated other Court of King’s Bench of Alberta proceedings whose factual basis relies on the *Vehicle Lawsuits* allegations that Dr. Bains has been effectively disabled and is unable to work because of his injuries.

B. The Lawyers Lawsuit

[12] While the *Vehicle Lawsuits* were underway, Dr. Bains initiated another lawsuit in 2021 against certain lawyers: see *Jagdev Singh Bains v Simrat Chhina, Thomas W. Percy, Cynthia*

Aoki, Daniel Downe, David J. Corrigan - Court of King's Bench of Alberta Action No. 2101 10824 (collectively, the "*Lawyers Lawsuit*"). The Defendants in the *Lawyers Lawsuit* were lawyers who represented the *Vehicle Lawsuits* Defendants and insurers. In *Bains v Day*, 2022 ABKB 844 (*Bains v Day #1*), Associate Chief Justice Rooke concluded that:

- 1) Dr. Bains initiated the *Lawyers Lawsuit* in breach of a specific prohibition in *Bains ABCA #1* on any litigation by Dr. Bains against these Defendants, making the *Lawyers Lawsuit* an illegal filing (*Bains v Day #1* at paras 21-22); and
- 2) Dr. Bains had sought excessive and impossible remedies, which made the *Lawyers Lawsuit* an abuse of court (*Bains v Day #1* at paras 23-25).

[13] The *Lawyers Lawsuit* was struck pursuant to Rule 3.68 of the *Alberta Rules of Court*, Alta Reg 124/2010: *Bains v Day #1* at para 26. Dr. Bains was ordered to pay \$10,000 in costs: *Bains v Day #1* at para 26. Dr. Bains did not appeal this result. The abusive character and form of this lawsuit, and Dr. Bains' open and defiant pursuit of this litigation, in the face of a binding Order of the Court of Appeal of Alberta, is *prima facie* contempt of court.

C. The Family Lawsuit

[14] On January 9, 2023, a Statement of Claim, Court of King's Bench of Alberta Action No. 2301 00251, was filed that named five Plaintiffs (the "*Family Lawsuit*"). Four of the Plaintiffs in the *Family Lawsuit* are identified by name: Sahib Prem Kaur, Sifatjot Kaur Bains, Sukhmani Bains, and Paaras Bains. The last is "John Doe". The Statement of Claim in the *Family Lawsuit* indicates the four named persons are the "... wife or daughters of Dr. Jagdev Singh Bains ...". The *Family Lawsuit* Statement of Claim at para 2 states:

John Doe, the plaintiff is also party to the claim but is still considering whether they will be added to this claim or they will initiate a separate claim for themselves.

[15] The *Family Lawsuit* is related to other Court of King's Bench of Alberta legal proceedings that involve Dr. Bains in several ways, including:

- 1) five of the named Defendants (Hassan Youssouf Adam, Youssouf Adam Abakar, Kevin William Geary, Olive Odile Rawlyk, Roderick Day) are the same persons who are Defendants in the *Vehicle Lawsuits*;
- 2) the other three named Defendants (Certas Direct Insurance Company, Belair Insurance Company Inc., Co-Operators General Insurance Company) are the three insurance companies that Dr. Bains illegally and abusively sued in the *Lawyers Lawsuit*;
- 3) the 120 paragraph *Family Lawsuit* Statement of Claim describes alleged misconduct that duplicates and/or overlaps with that in the *Vehicle Lawsuits*; and
- 4) the *Family Lawsuit* Statement of Claim also alleges the conduct of the then ongoing *Vehicle Lawsuits* trial proceeding was illegal and abusive, and advances very serious allegations of misconduct against the trial Judge, Justice Yamauchi, and other Justices of the Alberta Courts.

[16] The *Family Lawsuit* Statement of Claim seeks over \$30 million in damages. On February 6, 2023, an Amended Statement of Claim was filed in the *Family Lawsuit* action that expanded the allegations of misconduct by the Defendants.

[17] The *Family Lawsuit* was stayed indefinitely on July 6, 2023 by *Bains v Day*, 2023 ABKB 401 (*Bains v Day #2*). In that Memorandum of Decision, Acting Chief Justice Nielsen at para 14 made a number of negative findings concerning the *Family Lawsuit*:

- 1) the *Vehicle Lawsuits* and the *Family Lawsuit* are prohibited by the rule that only one lawsuit can emerge from alleged tortious acts (*Cahoon v Franks*, 1967 CanLII 77 (SCC), [1967] SCR 455);
- 2) the claims in the *Family Lawsuit* at least in part have no basis given litigation and judicial privilege;
- 3) the claims, timing, and remedies in the *Family Lawsuit* indicate that Dr. Bains is using his family members as litigation proxies to conduct duplicative and unmeritorious litigation; and
- 4) including an anonymous Plaintiff in the *Family Lawsuit*, “John Doe”, is inherently an abuse of the Court and Defendants by making a meaningful response to the *Family Lawsuit* impossible (*kisikawpimootewin v Canada*, 2004 FC 1426).

[18] The *Family Lawsuit* is also now a hopeless proceeding because the purported factual basis of that lawsuit is the alleged factual misconduct that was evaluated and rejected in *Bains v Adam #4* (pending the outcome of any appeal). Dr. Kaur and the Bains three children cannot re-argue facts that were previously determined in the *Vehicle Lawsuit*. That is the underlying policy reason for the rule in *Cahoon v Franks*. Multiple proceedings risk inconsistent results.

[19] Also, to the degree the *Family Lawsuit* targets Justices of this Court in the discharge of their judicial duties, that is no basis for a claim in tort: *Feeney v Alberta*, 2021 ABCA 71 at para 17. I note that the *Family Lawsuit* does not actually name Justices as Defendants, but nevertheless relies on supposed judicial misconduct as one basis for damages.

[20] In *Bains v Day #2*, Acting Chief Justice Nielsen also imposed interim court access restrictions on Dr. Bains, Dr. Kaur, and their three children. These restrictions were imposed because of the developing pattern of behaviour of Dr. Bains and his family, wherein they engaged in joint and/or coordinated abusive litigation: *Bains v Day #2* at paras 15-16.

[21] Subsequently, in a letter dated September 22, 2023, Counsel for the Defendants in Action Nos. 1901 06857, 1901 03639, 1901 01056, and 2301 00251 sought to strike out the *Family Lawsuit* Statement of Claim. In *Bains v Day*, 2023 ABKB 569 (*Bains v Day #3*) at para 23, Acting Chief Justice Nielsen concluded that the striking out application would be conducted, if necessary, after this *Judicature Act* ss 23-23.1 Application process was completed.

D. The Expert Lawsuit

[22] The next related action is a lawsuit initiated on October 26, 2020 that names Dr. Bains as Plaintiff, and Dr. Nicholas J. Yardley (Dr. Yardley) and Assessmed Inc as Defendants (the “*Expert Lawsuit*”). This is Court of King’s Bench of Alberta Action No. 2001 12996.

[23] The *Expert Lawsuit* alleges biased, negligent, and unprofessional conduct flowing from a medical examination that was conducted by Dr. Yardley on Dr. Bains as part of the Bains' *Vehicle Lawsuits* litigation. Succinctly, Dr. Bains complains that Dr. Yardley misdiagnosed him and was reckless with his finding that Dr. Bains had not suffered injuries resulting from the motor vehicle accidents. Those are the same alleged injuries that were rejected by Justice Yamauchi in *Bains v Adam #4* (pending the outcome of any appeal). Dr. Bains claimed \$4.7 million in damages on that basis.

[24] An Amended Statement of Claim was subsequently filed on August 5, 2021 that added Dr. Bains' wife as a Plaintiff, and Certas Direct Insurance Company as a Defendant. Damages sought were increased to \$5.6 million.

[25] Certas Direct Insurance Company is identified in the Amended Statement of Claim as Dr. Bains' insurer. Affidavit evidence provided by the Defendants indicates this proceeding is at a comparatively early questioning stage.

[26] The *Expert Lawsuit* is now stayed indefinitely by *Bains v Day #2*. Acting Chief Justice Nielsen concluded in *Bains v Day #2* that this action also offends the rule in *Cahoon v Franks* prohibiting multiple tort actions based on the same alleged injury. As with the *Family Lawsuit*, the alleged factual foundation for the *Expert Lawsuit* has been subverted by the factual conclusions and trial outcome in *Bains v Adam #4* (pending the outcome of any appeal).

E. The Insurer Lawsuit

[27] The allegations by Dr. Bains against Certas Direct Insurance Company in the *Expert Lawsuit* action are also repeated in part in a further lawsuit filed by Dr. Bains on February 18, 2021: *Jagdev Singh Bains and Sahib Prem Kaur v Certas Direct Insurance Company*, Court of King's Bench of Alberta Action No. 2101 02399 (the "*Insurer Lawsuit*"). In this lawsuit, Dr. Bains and his wife claim damages of more than \$20 million.

[28] The *Insurer Lawsuit* is also stayed indefinitely by *Bains v Day #2*. In *Bains v Day #2*, Acting Chief Justice Nielsen concluded that the *Insurer Lawsuit* also offends the rule in *Cahoon v Franks* prohibiting multiple tort actions based on the same alleged injury. Further, the overlapping parties, subject matter, and allegations of the *Expert Lawsuit* and *Insurer Lawsuit* mean these matters are duplicative actions.

F. The Criminal Complaints

[29] Following the conclusion of the *Vehicle Lawsuits*, Dr. Bains made criminal complaints to the Calgary Police Service ("CPS"). Those criminal complaints alleged illegal conduct by multiple lawyers, defendants, and witnesses involved in the motor vehicle litigation, as well as Justice Yamauchi and former Associate Chief Justice Rooke.

[30] On August 21-22, 2023, the CPS stated no actions would be taken in response to these complaints, and that if Dr. Bains had a remedy, that would be via court proceedings. Correspondence received on October 6, 2023 implies that Dr. Bains and his family are intending to initiate a *Criminal Code*, RSC 1985, c C-46 ss 504, 507.1 private information process.

[31] Acting Chief Justice Nielsen generally took no position on the criminal complaints made by Dr. Bains. However, in *Bains v Day #3* at paras 11, 16-17, he concluded that email communications received by Justice Yamauchi from Dr. Bains concerning alleged criminal misconduct by Justice Yamauchi were not simply improper communications with a Justice of

this Court, but were also an attempt to unilaterally impose a criminal proceeding outcome in a manner typically encountered with Organized Pseudolegal Commercial Argument (OPCA) litigants: see *Meads v Meads*, 2012 ABQB 571.

[32] That is the known extent of Dr. Bains' attempts to initiate criminal proceedings against those he identifies as enemies and malefactors. Dr. Bains comments further on these matters in his *Judicature Act* ss 23-23.1 Application submissions.

G. *Judicature Act* ss 23-23.1 Application

[33] The *Judicature Act* ss 23-23.1 Application has taken a rather winding path to its present status. The application was initially filed on May 27, 2022 by the Defendants in the *Vehicle Lawsuits*. An initial hearing occurred on June 23, 2022 before then Associate Chief Justice Rooke. All parties to the *Vehicle Lawsuits* made extensive written submissions and submitted affidavit evidence, including affidavits from Dr. Bains' family members. Associate Chief Justice Rooke decided that the *Judicature Act* ss 23-23.1 Application should be deferred until the *Vehicle Lawsuits* trial was complete: *Bains v Day #1* at paras 28-31.

[34] At that point, the *Vehicles Lawsuit* trial had already been disrupted by Dr. Bains who unilaterally refused to participate in the trial proceedings. As a consequence, Dr. Bains was found in contempt of court. Until that time, Associate Chief Justice Rooke had been case managing Dr. Bains' proceedings, but given his retirement he delegated that role to Justice Yamauchi: *Bains v Day #1* at para 30.

[35] Justice Yamauchi took no steps as the Case Management Justice. Acting Chief Justice Nielsen then took on the Case Management Justice role on July 6, 2023, as reported in *Bains v Day #2* at para 17. In that Memorandum of Decision, Acting Chief Justice Nielsen ordered that no further steps would be taken in the *Judicature Act* ss 23-23.1 Application until Justice Yamauchi issued the *Vehicle Lawsuits* trial decision: *Bains v Day #2* at para 18.

[36] Acting Chief Justice Nielsen also rejected a Case Management Application by the Defendants in the *Expert Lawsuit*. Instead, he concluded that the more efficient approach to conduct litigation management of the *Expert Lawsuit* was via the *Judicature Act* ss 23-23.1 Application process already underway: *Bains v Day #2* at paras 13-14.

[37] After the *Bains v Adam #4* judgment was issued, Acting Chief Justice Nielsen set the structure for completing the *Judicature Act* ss 23-23.1 Application in *Bains v Day #3*. The Court followed its customary practice of conducting such proceedings on a document-only basis: see *Unrau v National Dental Examining Board*, 2019 ABQB 283 at para 565 (*Unrau #2*). *Bains v Day #3* at paras 5-6 set out the process that would be followed:

[5] Given that significant events and developments have occurred since that original hearing, I conclude the parties should be permitted to submit additional and updated argument and affidavit evidence:

1) The Defendants in the Court of King's Bench of Alberta Action Nos. 1901 01056, 1901 03639, 1901 06857, 2001 12996, and 2301 00251 have until November 3, 2023 to submit to my office written argument and/or affidavit evidence concerning:

a) whether Dr. Bains, Dr. Kaur, Sifatjot Kaur Bains, Sukhmani Bains, and Paaras Bains should be subject to court access restrictions pursuant to *Judicature Act* ss 23-23.1; and

b) if so, what should be the scope of those court access restrictions.

2) Dr. Bains, Dr. Kaur, Sifatjot Kaur Bains, Sukhmani Bains, and Paaras Bains have until November 24, 2023 to file written argument and/or affidavit evidence in response.

3) The Defendants in the Court of King's Bench of Alberta Action Nos. 1901 01056, 1901 03639, 1901 06857, 2001 12996, and 2301 00251 have until December 15, 2023 to submit to my office rebuttal arguments.

[6] Participants in this process may make reference to and rely upon materials submitted in relation to the June 2022 hearing. Upon completion of this timeline the Court will issue written reasons.

[38] On December 18, 2023, Acting Chief Justice Nielsen wrote counsel for the Defendants in the 1901 01056, 1901 03639, 1901 06857, 2001 12996, and 2301 00251 Actions to confirm that the Minister of Justice (the "Minister") had been given notice of the *Judicature Act* ss 23-23.1 Application against the Bains as required by *Judicature Act* s 23.1(1) and 23.1(4). On December 19, 2023, the Defendants provided a copy of correspondence received from the Minister which confirmed that the Minister was served with notice of the Application and elected not to participate in these proceedings.

[39] All submissions set out in *Bains v Day #3* have now been received by the Court. I have been designated to conduct the analysis for the *Judicature Act* ss 23-23.1 Application and prepare this judgment because: (i) I am the Administrative Justice designated to respond to abusive litigation and litigant management steps in southern Alberta; and (ii) the various Bains-related actions are matters before the Calgary judicial centre.

H. Permanent Restraining Order Application

[40] Dr. Bains and Dr. Kaur are currently subject to a March 11, 2022 Restraining Order of Associate Chief Justice Rooke issued in the *Vehicle Lawsuits* that restricts and structures interactions by Dr. Bains and Dr. Kaur with the *Vehicle Lawsuits* Defendants, law firms, lawyers, and certain affiliated individuals. While Dr. Bains has vehemently rejected those steps, he did not appeal that Order.

[41] The *Vehicle Lawsuits* Defendants now apply to expand the scope of that Restraining Order to:

- 1) also include the three Bains family daughters; and
- 2) prohibit contact with additional persons.

[42] Counsel for the *Expert Lawsuit* Defendants seeks that contact with Dr. Yardley is also restricted in a similar manner.

[43] In *Bains v Day #3* at para 23, Acting Chief Justice Nielsen instructed that submissions concerning a Permanent Restraining Order against the Bains family should be submitted along with the *Judicature Act* ss 23-23.1 Application arguments. Those materials have also been received, and are responded to below.

II. The Parties' Submissions

[44] The notice requirement in *Judicature Act* s 23.1 has been satisfied. On November 3, 2023, the Minister was notified of this *Judicature Act* ss 23-23.1 Application. On November 7, 2023, the Minister responded advising that it would not be participating in the application. As noted above, counsel for the *Vehicle Lawsuits* Defendants have confirmed their satisfaction with that notification and response.

A. Applicants and Parties Supporting the Applicants

[45] Written submissions and affidavit evidence was received from the Defendants in each of the *Vehicle Lawsuits*, the *Family Lawsuit*, and the *Expert Lawsuit*. These Defendants generally agreed that Dr. Bains and his family had engaged in abusive litigation misconduct, and should be subject to global and indefinite prospective court access restrictions in the Court of King's Bench of Alberta.

1. *Vehicle and Family Lawsuits* Defendants

[46] The Defendants in the *Vehicle Lawsuits* and *Family Lawsuit* proceedings rely on joint written argument and Affidavit evidence submitted on June 16, 2022, then supplemented by November 3, 2023 written submissions and a Supplementary Affidavit of Roderick A. Day sworn on October 26, 2023. I will describe and evaluate these materials together.

[47] The written arguments and Affidavits review the numerous court-related and other steps and events that have occurred in the interrelated Bains actions that have emerged from the initial *Vehicle Lawsuits* proceedings. These submissions also review numerous other unrelated Alberta Court of Justice and Court of King's Bench of Alberta proceedings initiated by the Bains.

[48] The Applicants observe that the legislative and common law criteria for misconduct that warrants imposing prospective court access restrictions pursuant to *Judicature Act* ss 23-23.1 are well established. While court access restrictions are an unusual remedy, that high threshold is satisfied here by the persistent bad conduct of Dr. Bains, and an already established record that Dr. Bains uses his family as litigation proxies.

[49] The Applicants assert the Bains are engaging in hopeless, duplicative litigation. On many points there is nothing for the Applicants to prove because the Courts of Appeal and King's Bench of Alberta have already made critical relevant conclusions of fact and law, such as that the *Lawyer Lawsuit* was an abuse of process, initiated and conducted in defiance and contempt of binding court authority, and then terminated on that basis.

[50] Similarly, the *Vehicle* and *Family Lawsuits* Defendants observe that Justice Yamauchi has reviewed and criticized Dr. Bains' behaviour in the *Vehicle Lawsuits* trial in two important but different ways:

- 1) Dr. Bains' conduct as a litigant was inappropriate, leading Justice Yamauchi to observe that Dr. Bains was disruptive, threatening, and dangerous, inducing fear in witnesses and opposing counsel that "... was well-founded and real ...". Dr. Bains made groundless "... accusatory and highly offensive ..." statements and allegations against Alberta Justices and the Courts; and
- 2) Dr. Bains was not a credible witness, and the *Vehicle Lawsuits* were grounded on him making false statements and malingering to simulate injury.

These are not facts that remain in dispute. Instead, these questions are settled.

[51] Another important factor is that Dr. Bains has already been subject to a series of limited scope court access restriction litigation and litigant management orders. However, Dr. Bains has ignored and breached these orders, resulting in the *Lawyer Action* being struck out in *Bains v Day #1*. Then in *Bains v Day #3*, the Court banned Dr. Bains and Dr. Kaur from communicating with the Court by email. The Applicants stress this is part of a broader pattern, and that Affidavit evidence demonstrates that Dr. Bains has a broad and expanding pattern of abusive and threatening communications to defendants, lawyers, expert witnesses, and insurers.

[52] The *Vehicle Lawsuits* Defendants in their May 2022 materials also introduced information that documented ten Court of King's Bench of Alberta proceedings initiated by Dr. Bains between 2017-2021, and fifteen Alberta Court of Justice proceedings initiated by Dr. Bains between 2013-2020.

[53] The *Vehicle Lawsuits* Defendants argue that the majority of these proceedings are "vexatious", highlighting several patterns:

- 1) a number of these actions base their claims on alleged injuries that overlap with the alleged and now rejected bases for the *Vehicle Lawsuits*;
- 2) in some instances, the damages claimed in these matters are very large and excessive;
- 3) Dr. Bains has initiated litigation that is hopeless, for example where liability is prohibited by legislation; and
- 4) Dr. Bains has filed multiple duplicative lawsuits, for example: (i) against Harvinder Singh, and Dr. Bains also "forum shopped" that dispute between British Columbia and Alberta Courts; and (ii) duplicate Alberta lawsuits against Canadian Tire Corporation following a dispute arising during the return of a motorcycle battery.

[54] On this basis the *Vehicle Lawsuits* Defendants argue that Dr. Bains' pattern of persistent, repeated litigation misconduct extends beyond the disputes that are anchored in the 2017 vehicle incidents. Instead, Dr. Bains' problematic litigation activities are much more extensive and involve multiple parties and dispute subjects.

[55] These parties argue that, viewed as a whole, Dr. Bains' abusive litigation misconduct is persistent and escalating. More limited steps to manage Dr. Bains have failed. As a result, global and indefinite court access restrictions are now warranted.

[56] The Applicants also argue the same court access restrictions should apply to Dr. Kaur and her three daughters, since the Court has already determined that these individuals are operating as litigation proxies for Dr. Bains. The Defendants in the *Vehicle* and *Family Lawsuits* do, however, note that since two of the daughters are minors, they are not personally engaged in "blameworthy" conduct. Those minors are being used as conduits for the other adult family members to engage in abusive litigation. Given the demonstrated pattern of abusive litigation misconduct by the adult Bains, the minors should also be subject to court access restrictions.

[57] As for a Permanent Restraining Order against the Bains, the Applicants request that, effectively, new persons be added to the pre-existing Restraining Order issued by Associate Chief Justice Rooke on March 11, 2022. This new Permanent Restraining Order would protect

persons who are investigators, witnesses, and who work for law firms and insurers. Threats directed to these individuals and corporations are not hypothetical since Dr. Bains and his family have already targeted such persons. This is established by extensive Affidavit evidence. For example, Defendant Hassam Adam deposed that Dr. Bains and Dr. Kaur appeared at his residence, apparently under the pretense of delivering an Amazon package, but then were confrontational and argumentative, leading to the residents calling 911. The CPS subsequently charged Dr. Bains with mischief.

[58] In closing, the Applicants stress the court access restrictions pursuant to *Judicature Act* ss 23-23.1 and Permanent Restraining Order sought are simply a further incremental step to manage the abusive litigation misconduct of litigants. These steps are necessary and warranted to protect persons targeted by the Bains family's litigation and harassment.

2. Expert Lawsuit Defendants

[59] Counsel for Dr. Yardley provided written argument and affidavit evidence in support of the Bains being subject to court access restrictions pursuant to *Judicature Act* ss 23-23.1. Counsel for the Defendant, Assessmed Inc, adopted those submissions and the remedies sought.

[60] The *Expert Lawsuit* Defendants stress that their particular litigation is properly evaluated in the larger context of the Bains' lawsuits. The Bains are engaged in an expanding pattern of lawsuits that targets anyone involved with the *Vehicle Lawsuits*, which is documented by Affidavits submitted in the *Vehicle Lawsuits* and by the Affidavit of Dr. Yardley sworn on November 2, 2023. The *Expert Lawsuit* Defendants argue this is a deliberate and calculated strategy of harassment and intimidation through court proceedings.

[61] Counsel for the *Expert Lawsuit* Defendants illustrates how the claims against the *Expert Lawsuit* Defendants ultimately resolve on whether a medical examination and report by Dr. Yardley was, as alleged, grossly negligent, intended to harm Dr. Bains medically, socially, and financially – and did so – and via this allegedly discriminatory action Dr. Yardley inflicted intentional suffering on Dr. Bains. However, Justice Yamauchi in *Bains v Adam #4* at paras 74, 283 rejected Dr. Bains' complaints about Dr. Yardley's report. As a result, the *Expert Lawsuit* has no factual basis.

[62] The *Expert Lawsuit* Defendants identify specific evidence from the other parties who are opposed to the Bains' litigation when it comes to describing Dr. Bains and his family's problematic litigation conduct. The Bains' litigation misconduct shows a broad and consistent pattern, such as Dr. Bains' uncooperative and disruptive conduct during attempts to arrange questioning, including unilateral demands, and obscene and threatening telephone communications.

[63] The *Expert Lawsuit* Defendants conclude that the Bains are engaged in litigation misconduct that warrants court intervention pursuant to *Judicature Act* ss 23-23.1. The characteristic *indicia* of abusive litigation here are obvious and consistent throughout the court record. Of particular relevance is the pattern of escalating allegations of misconduct and re-litigation. In the *Expert Lawsuit*, Dr. Bains' and Dr. Kaur's allegations are ungrounded, the damages sought are excessive and impossible, and both the Court and Dr. Yardley are targeted for retaliation for alleged but ungrounded wrongdoing.

[64] These submissions stress that Justice Yamauchi's factual finding that Dr. Bains represents an actual physical threat is also a conclusion independently drawn by counsel for the

Expert Lawsuit Defendants, who adopted increased security in their Calgary office specifically in light of the threat represented by Dr. Bains. Another factor that the *Expert Lawsuit* Defendants identify as noteworthy is how Dr. Bains uses his own family as litigation proxies, often to evade court-imposed steps to manage his abusive litigation activity.

[65] In addition to court access restrictions, the parties seek a Permanent Restraining Order that:

- 1) prohibits the Bains from attending the law offices of counsel for the *Expert Lawsuit* Defendants;
- 2) restricts communications between counsel for the *Expert Lawsuit* Defendants and Dr. Bains and Dr. Kaur to email and exchange of written documents; and
- 3) provides an absolute prohibition on the Bains family from contacting Dr. Yardley.

[66] The Expert Witness Defendants also seek costs of this Application.

B. The Bains

[67] Dr. Bains and his family members made extensive submissions prior to the June 23, 2022 *Judicature Act* ss 23-23.1 Application hearing before Associate Chief Justice Rooke, with three additional Affidavits filed on November 24 and 27, 2023:

- Affidavit of Dr. Kaur, affirmed November 24, 2023;
- Affidavit of Sifatjot Kaur Bains, affirmed November 23, 2023; and
- Affidavit of Dr. Bains, affirmed November 27, 2023 (filed with a fiat of Justice Carruthers).

[68] The documents submitted by the Bains are not proper Affidavits, but instead combine evidence with legal argument. This complicates the Court's ability to respond to these materials. What follows generally focuses on the more recent November 2023 materials, but those materials also recapture and repeat many of the same issues, claims, and arguments from the Bains' 2022 filings, and that were found in irregular and inappropriate correspondence sent to the Court of King's Bench of Alberta and its personnel.

[69] In certain instances in the following summary, I will respond to and reject arguments and evidence by the Bains to simplify the analysis of whether court access restrictions pursuant to *Judicature Act* ss 23-23.1 are appropriate.

1. Dr. Sahib Prem Kaur

[70] Dr. Kaur deposes she is the spouse of Dr. Bains and is also authorized to make representations on behalf of her minor daughters. In her November 24, 2023 Affidavit, Dr. Kaur makes a number of legal arguments in relation to the *Judicature Act* ss 23-23.1 Application, including the following:

- 1) that Acting Chief Justice Nielsen had no jurisdiction to be involved in this proceeding, though that was rejected in *Bains v Day #3* at para 15 as an attempt at illegal and abusive "judge shopping";
- 2) the false claim that Associate Chief Justice Rooke in 2022 already decided and rejected that Dr. Bains should be subject to court access restrictions;

- 3) that Acting Chief Justice Nielsen abused his authority by imposing interim court access restrictions in *Bains v Day #2*, "... the Rules are different Court officials and different for us is a question which haunts me everytime ..." [sic];
- 4) that the Court lacks the authority to affect her litigation activities; and
- 5) that Acting Chief Justice Nielsen is "... trying to intimidate me and my family and Dr. Bains ..." with the Memorandums of Decision he issued in this matter, which Dr. Bains and Dr. Kaur have not appealed.

[71] Otherwise, Dr. Kaur makes claims that evidence submitted by the Applicants and associated persons is false, perjury, and constitutes obstruction of justice. She presents herself and her husband as good-faith, fair-dealing persons who are abused by lawyers, law firm employees, and who now exist in fear of the opposing parties in the various Bains' lawsuits. Dr. Kaur concludes these persons should be subject to criminal prosecution and professional discipline. She rejects the outcome of *Bains v Adam #4* and says that Justice Yamauchi "... dishonored her in the courtroom ..." by his response to her evidence.

[72] Dr. Kaur also makes dramatic allegations of what occurred in the *Vehicle Lawsuits* trial, for example:

... I am witness that all the defense counsel swarmed around the medical doctor of Dr. Bains when she was in the witness box. The defense counsel took control of her laptop, files and the bag she had brought and they searched her bag she had brought and intimidated had harassed her in the court and made her feel as if she is in the detention room and after which she started crying in the court. When Dr. Bains tried to stop them from dishonoring his medical doctor then [counsel for the Action No. 1901 03639 Defendants] pushed Dr. Bains and yelled at him saying, "Go and sit down". ... [sic].

[73] "Extraordinary claims require extraordinary proof.": *VWW v Wasylyshen*, 2013 ABQB 327 at para 52, aff'd 2014 ABCA 121. Dr. Kaur's claim of this in-court swarming incident has no supporting evidence, such as a transcript of the proceeding. I draw a negative inference on this point, since, as noted above, Dr. Bains has filed an appeal of *Bains v Adam #4*, that requires a trial transcript as part of a valid appeal. Other unsubstantiated extraordinary claims made by Dr. Kaur include the following:

- 1) she witnessed counsel for the *Vehicle Lawsuits* Action No. 1901 06857 blackmail Justice Yamauchi;
- 2) that transcripts of the *Vehicle Lawsuits* proceedings have been manipulated and altered, and implies that Justice Yamauchi did or instructed that;
- 3) Associate Chief Justice Rooke "... obstructed justice by forging and fabricating ..." a court order;
- 4) that she witnessed "... Justice Yamauchi lied multiple times in the trial and also never kept his word or promise ...";
- 5) that she observed the law firm of HMC LLP preparing bribes of alcohol for all three Alberta Courts; and

- 6) that Acting Chief Justice Nielsen is “... trying to intimidate me and my family and Dr. Bains ...” with the Memorandums of Decision he issued in this matter which, again, I note, Dr. Bains and Dr. Kaur have not appealed.

[74] Dr. Kaur describes negative effects of the vehicle incidents and subsequent litigation on herself, her husband, their children, and the Bains family’s economic state. She says that makes the *Family Lawsuit* a valid and lawful action. She argues that Dr. Bains has not sued anyone post-***Bains v Adam #4***, and that means he is “not vexatious”. Instead, she argues, the opposing parties are vexatious.

[75] Dr. Kaur concludes that the litigation activities of the Bains are not abusive, and, if abusive, then are not persistent. She rejects interim litigation steps taken by this Court in relation to herself. However, I note she did not appeal those litigation and litigant management steps.

[76] Dr. Kaur also rejects the findings in ***Bains v Day #3*** that she and Dr. Bains breached the Court’s instructions regarding communication with the Court. Dr. Kaur seeks as a remedy that the Bains family is authorized to sue all opposing parties in the various Bains’ lawsuits and other individuals, payment of \$33,000 that was “illegally defrauded” from Dr. Bains, and a determination that various individuals be subject to criminal and contempt sanctions.

[77] An earlier Affidavit by Dr. Kaur filed on June 16, 2022 chiefly complains about alleged bad litigation conduct by Associate Chief Justice Rooke and counsel for opposing parties. She rejects the *Judicature Act* ss 23-23.1 Application as baseless:

The defence counsel is bringing this crap application against Dr. Bains because their fraud, cheating, conspiracy and deception of persuading him to sign for certain amendments in the statement of defence of their clients is the presence of an oath commissioner has been failed and by way of which they wanted to blackmail Dr. Bains for abandoning the claims to make him feel sorry for all his truthful allegations listed in their applications. [sic]

[78] The materials in Dr. Kaur’s Affidavits are often of little assistance and/or relevance in relation to the current *Judicature Act* ss 23-23.1 Application. I put no weight on Dr. Kaur’s claims that the Court of King’s Bench of Alberta and its Justices have been operating in an illegal manner when those steps and decisions of this Court were not usually appealed, and, when appealed, have been confirmed. Dr. Kaur has alleged facts that in many instances contradict the findings of fact and conclusions in ***Bains v Adam #4***, which are currently binding, pending the outcome of any appeal. In those instances, I reject Dr. Kaur’s evidence.

[79] Instead, the written materials received from Dr. Kaur lead to many negative conclusions, such that Dr. Kaur: will not accept unfavourable litigation outcomes; rejects the authority of the Court of King’s Bench of Alberta; and claims that litigation outcomes in this Court are the result of bad faith conduct by the judiciary, bribes, coercion, and manipulation of records, all for bad purposes. These patterns not only match *indicia* of abusive litigation but predict further abusive litigation by Dr. Kaur. She is explicit that she knows what is right, and if any court outcomes are different, then the Court and opposing actors are not simply wrong, but are corrupt malefactors.

2. Sifatjot Kaur Bains

[80] Sifatjot Kaur Bains in her November 24, 2023 Affidavit deposes that she is the daughter of Dr. Bains and Dr. Kaur, and is also authorized to make representations on behalf of her minor sisters. She rejects that she and her sisters should be subject to court access restrictions since they

have only participated in the *Family Lawsuit*. However, she subsequently acknowledges she and her siblings are participating in an unrelated Bains' lawsuit against a Sikh religious institution following what Sifatjot Bains describes as a violent incident. While Sifatjot Bains claims to have closely followed and attended her father's litigation, her materials make false statements, such as that Associate Chief Justice Rooke in 2022 already decided and rejected that Dr. Bains should be subject to court access restrictions. She also advances legal arguments this Court rejected in ***Bains v Day #3*** concerning the jurisdiction of Justices of this Court to conduct the *Judicature Act* ss 23-23.1 Application.

[81] Sifatjot Bains' Affidavit continues with a broad rejection and denunciation of Court of King's Bench of Alberta processes and outcomes. For example, Sifatjot Bains rejects the outcome of ***Bains v Adam #4***, and says the post-trial *Criminal Complaints* submitted by Dr. Bains are valid. She claims the video recordings conducted by the Defendants in the *Vehicle Lawsuits* were improper.

[82] Like her mother, Sifatjot Bains describes negative effects of the vehicle incidents and subsequent litigation on herself, her father, the Bains family, and its economic state. She says that makes the *Family Lawsuit* a valid and lawful action. Sifatjot Bains concludes that she and her siblings have not engaged in persistent litigation misconduct and that the lawsuits they are involved with are valid. She seeks the same remedies as Dr. Kaur.

[83] An earlier June 16, 2022 Affidavit of Sifatjot Bains globally rejects all criticism of Dr. Bains and his litigation. That affidavit instead focuses on alleged bad conduct of the "Law Mafia" and Associate Chief Justice Rooke. As an example, she alleges that Associate Chief Justice Rooke is "corrupt, unfair, discriminatory and biased towards my father."

[84] I place minimal weight on Sifatjot Bains' Affidavits. Her allegations are ungrounded by any evidence. Most of what she has deposed is simply irrelevant to the *Judicature Act* ss 23-23.1 Application. Instead, her allegations of bad conduct by this Court's judicial decision makers, and her rejections of this Court's findings and processes, and the common law rules against re-litigation, are a factor in favour of why Sifatjot Bains should personally be subject to litigation and litigant management.

3. Dr. Jagdev Singh Bains

[85] Dr. Bains states he is authorized to make representations on behalf of his minor daughters. Dr. Bains argues that the *Judicature Act* ss 23-23.1 Application is a bad faith process intended to "intimidate and harass", blackmail him and his family, and "muzzle" his litigation.

[86] Dr. Bains globally rejects all submissions and evidence by opposing parties. Instead, Dr. Bains concludes all his litigation has a valid basis, any friction and issues that emerged in his litigation processes are solely the fault of opposing parties, their counsel, and the Court. He asserts his *Criminal Complaints* are justified. He alleges that he faces agencies and persons who are corrupt and criminal.

[87] Dr. Bains alleges that everything he has done is protected via the *Charter* rights of freedom of speech, expression, conscience, and religion. In his view, none of what others call litigation misconduct can be categorized as "vexatious" as he is faultless.

[88] Dr. Bains states he is not self-represented by choice. He purports he has unsuccessfully "... contacted as many as 70-100 lawyers in Alberta and all over Canada. ...", but was always told

by those lawyers they would not “make money” if they represented him at the Court of Appeal of Alberta. Dr. Bains provides no evidence to substantiate this claim.

[89] The Affidavit affirmed by Dr. Bains on November 27, 2023 makes specific allegations of wrongdoing by Court of King’s Bench of Alberta Justices. For example, Dr. Bains states that Associate Chief Justice Rooke took steps to protect lawyers when lawyers committed tortious and criminal acts. Dr. Bains’ materials also make many statements concerning findings and steps by this Court, including that:

- 1) the *Judicature Act* ss 23-23.1 Application was dismissed in 2022 by Associate Chief Justice Rooke, which is false, as ***Bains v Day #1*** at paras 28-30 ordered that application held in abeyance until the *Vehicle Lawsuits* trial was complete;
- 2) the *Lawyers Lawsuit* never existed, which is false;
- 3) court orders that prohibited Dr. Bains from suing opposing counsel are a criminal offence;
- 4) Associate Chief Justice Rooke deferring the *Judicature Act* ss 23-23.1 Application until after the *Vehicle Lawsuits* trial was “grave bad faith against the Bains family”, and is a basis for an “intentional tort”;
- 5) Justice Yamauchi had no jurisdiction to conduct the *Vehicle Lawsuits* trial, which is incorrect;
- 6) Acting Chief Justice Nielsen had no authority to act concerning the *Judicature Act* ss 23-23.1 Application, which is also incorrect;
- 7) Justice Yamauchi incorrectly and illegally found Dr. Bains in contempt of court during the *Vehicle Lawsuits*;
- 8) a December 16, 2022 court order is “forged and fabricated and has no legality and is null and void”; and
- 9) there were numerous illegalities and errors in the *Vehicle Lawsuits* trial, particularly in relation to evidence, that are allegedly the direct result of lying and bad faith conduct on the part of Justice Yamauchi.

[90] Dr. Bains claims that the wrongdoers in these matters are the opposing parties, their counsel, experts, and Justices of this Court. I will not summarize these claims because they are of little relevance to the *Judicature Act* ss 23-23.1 Application, which addresses how the Bains family conducted their litigation. Similarly, Dr. Bains makes numerous complaints about the *Vehicle Lawsuits* trial, especially in relation to admission and weight of evidence. These allegations are outside this analysis, since I am bound by the findings of Justice Yamauchi, and his determinations can only be properly addressed in an appeal.

[91] Beyond these complaints, Dr. Bains advances several extraordinary claims:

- 1) according to the Sikh faith, the “dishonoring” of Dr. Kaur during the *Vehicle Lawsuits* trial by Justice Yamauchi is a basis for “... heads being chopped off ...” and that is a constitutionally protected religious freedom of expression under *Charter* s 2;
- 2) the “swarming” incident also reported by Dr. Kaur;

- 3) blackmail of Justice Yamauchi;
- 4) transcripts in these proceedings were “forged and fabricated”;
- 5) Justice Yamauchi intentionally and in bad faith abused Dr. Bains during the *Vehicle Lawsuits* trial with the intention of inciting Dr. Bains so Dr. Bains would act out in violence, or be incapacitated by a panic attack; and
- 6) judges in Canada conspire with lawyers to “muzzle and discourage” litigants like Dr. Bains because judges are former lawyers.

[92] Another statement in Dr. Bains’ Affidavit rejects Acting Chief Justice Nielsen’s criticism of Dr. Bains engaging in irregular and threatening post-trial correspondence to Justice Yamauchi on October 6, 2023: see *Bains v Day #3* at paras 11-17. Similarly, Dr. Bains complains that the CPS “... chose to muzzle me and my family ...” by not investigating alleged criminal misconduct relating to the *Vehicle Lawsuits* and other litigation. I note that Dr. Bains’ explanation is that Justice Yamauchi is “... so dictatorial and authoritative and bold and commanding ...” that it was wrong for Justice Yamauchi to refer Dr. Bains’ correspondence to Acting Chief Justice Nielsen, as the Administrative Justice who at that point responded to abusive litigation in the Court of King’s Bench of Alberta.

[93] Dr. Bains also comments on the legitimacy of lawsuits by himself and the other members of the Bains family. He rejects criticism of these lawsuits as abusive and/or groundless. For example, he explains that the Bains’ lawsuit against the Dashmesh Gurdwara is legitimate, because Dr. Bains had properly challenged “... a preacher who advertises wine, whisky in his videos and he cannot be allowed from the stage of my place of worship. ...”.

[94] Dr. Bains concludes that the appropriate remedy is that: (i) “the defendants within be declared vexatious litigants”; (ii) he is granted permission to sue opposing parties; (iii) opposing lawyers are charged with criminal offenses; and (iv) Dr. Yardley is found in contempt of court.

[95] The Affidavit filed by Dr. Bains on June 16, 2022 follows the same pattern as the other Affidavits filed by the Bains family in 2022. Dr. Bains describes himself as an exemplary and blameless individual, and instead denounces Associate Chief Justice Rooke:

Behind all my current problems, misery in life and troubles with Alberta courts, with the defendants, with other judges, with Court of Appeal, with defense lawyers and with Calgary Police Service etc. is one person and he is Justice John D. Rooke.

[96] An array of unsupported and scandalous allegations then follows. Dr. Bains’ June 16, 2022 Affidavit parallels his November 27, 2023 Affidavit, making similar or the same hyperbolic claims and ungrounded arguments. Very little of this Affidavit is relevant to the question of whether Dr. Bains’ litigation activity requires court management. What is unique to the June 16, 2022 Affidavit is that Dr. Bains responds to the *Vehicle Lawsuits* Defendants’ submissions concerning his other unrelated litigation activities. Dr. Bains makes action-specific statements that explain why his other litigation activities are purportedly legitimate. For example, he explains that evidence from Mr. Day in relation to the Dashmesh Gurdwara lawsuit should not be accepted because Mr. Day is not a Sikh. In particular, Dr. Bains asserts that Mr. Day’s evidence should be rejected as “... false, frivolous, vexatious and concocted and he deserves penalty under the act of Perjury as he ... knows ... nothing about Sikh practice and Sikhism.”

[97] Similarly, Dr. Bains:

- denounces the judge who heard the *Bains v Real Estate Council of Alberta*, Alberta Court of Justice Action No. 2090102962 matter as being biased;
- claims that the outcome in *Wadena (Town) v Jagdev Singh Bains and Sahib Prem Kaur*, 2014 SKMB 023 is irrelevant due to the age of that proceeding and because the Town of Wadena “stole all the property inside”; and
- complains that the *Vehicle Lawsuits* Defendants concealed an Amended Statement of Claim, which makes them “... liars under oath ... acting in bad faith against me and are misleading the court against me. ...”.

[98] The June 16, 2022, Affidavit contains a number of disturbing statements. In particular, Dr. Bains acknowledges he sought out the personal residential addresses of counsel for the *Vehicle Lawsuits* Defendants and Associate Chief Justice Rooke. However, he claims that was only so he could send holiday greetings. Yet three paragraphs earlier Dr. Bains wrote the following:

I never threatened any one with extra judicial punishment ... I still insist that the conduct of defence counsel deserves punishment and that justice would be ultimately done and that the courts are not the only place where justice has been delivered in the human history as there are instances like wars, disease, pandemics, massacres, shootings, killings, accidents, earthquakes, floods and so many other ways where God delivers justice. Further this is a universal truth that when justice is denied or delayed people do turn to arms and become terrorists. Further this is a truth that I was chosen for being killed in a fake police encounter and this life is a bonus for me and that I am no more scared of any death.

[99] As with Dr. Kaur and Sifatjot Bains, much of the written materials submitted by Dr. Bains are simply irrelevant to the current Application. Dr. Bains does not generally respond to negative aspects of his litigation activity, except to point blame at everyone and anyone else and make complaints about his injuries having been rejected by the Court. The manner in which Dr. Bains characterizes opposing parties, their counsel, and Justices of this Court is scandalous and outrageous. Dr. Bains makes explicit he does not and will not accept any unfavourable litigation outcome.

[100] As with Dr. Kaur and Sifatjot Bains, Dr. Bains’ written materials support that he is an appropriate candidate for prospective litigation and litigant management steps. He sees nothing wrong with his acts and words. The violent and threatening manner in which Dr. Bains frames his legal conflicts is troublesome.

III. The Law

[101] The Court of King’s Bench of Alberta’s current approach to prospective court access restrictions pursuant to *Judicature Act* ss 23-23.1 was recently confirmed by the Court of Appeal of Alberta in *Weidenfeld v Alberta (Minister of Seniors, Community and Social Services)*, 2023 ABCA 353. Guiding principles for this approach include the following:

- 1) whether or not a person should be subject to prospective litigation gatekeeping pursuant to *Judicature Act* ss 23-23.1 is a backwards looking exercise that focuses on the litigation record of the abusive litigant(s);
- 2) that record may include litigation activities in other jurisdictions and steps before tribunals;
- 3) litigation and litigant management steps require the Court to identify certain forms of abusive litigation misconduct itemized in *Judicature Act* s 23(2) and detailed in case law such as *Unrau #2*;
- 4) abusive litigation misconduct must be “repeated” and “persistent”;
- 5) when evaluating whether court access restrictions should be imposed, “focused” evidence is required, rather than “... an encyclopedia of every last detail about the litigant’s litigation history ...”; and
- 6) court access restrictions are a “last ditch” step that may only be imposed after other litigation management approaches have failed, and when less intrusive alternatives, such as case management, are ineffective.

[102] The current situation is one where a primary problematic litigant, Dr. Bains, has already been determined to employ others, such as his family members, as litigation proxies. In these circumstances *Judicature Act* s 23.1(4) is engaged. That provision reads as follows:

23.1(4) The Court may at any time on application or on its own motion, with notice to the Minister, make an order under subsection (1) applicable to any other individual or entity specified by the Court who in the opinion of the Court is associated with the person against whom an order under subsection (1) is made.

[103] Justice Jones in *Docken v Anderson*, 2023 ABKB 515 at paras 16-22 recently investigated the application of the *Judicature Act* s 23.1(4) and concluded that the correct approach is as follows:

- 1) the Court evaluates whether *Judicature Act* ss 23-23.1 court access restrictions are appropriate for the “primary” abusive litigant following the criteria detailed above, and if so, then;
- 2) the Court investigates whether:
 - a. the candidates for *Judicature Act* s 23.1(4) court access restrictions are “associated” with the targets of the “primary” abusive litigant’s *Judicature Act* s 23.1(1) court access restriction order; and
 - b. that “association” is one that relates to and/or furthers the abusive conduct of the “primary” abusive litigant that led to the “primary” abusive litigant’s *Judicature Act* s 23.1(1) court access restrictions.

[104] In the analysis that follows, first, I will focus on Dr. Bains’ activities, and what litigation and litigant management steps are appropriate in relation to Dr. Bains. Second, I will examine whether those court access restrictions should be extended, in whole or in part, to Dr. Kaur and the three Bains daughters.

IV. Analysis

[105] As indicated above, whether the Bains should be subject to court access restrictions will be evaluated in two steps. As a preliminary point, I conclude that Dr. Bains is the central actor in the Bains family's litigation activities before the Court of King's Bench of Alberta because:

- 1) Dr. Bains is the common family member who participates in nearly all the problematic litigation identified by the Defendants;
- 2) the primary basis for most of the Bains family's litigation is alleged injuries and harm to Dr. Bains personally;
- 3) the one action where Dr. Bains is not a named party, the *Family Lawsuit*, centers on alleged misconduct directed against Dr. Bains, with alleged consequential effects that then "spilled over" and affected the other members of the Bains family; and
- 4) Associate Chief Justice Nielsen concluded that Dr. Bains is the directing mind behind his family's litigation, and he uses his family members as litigation proxies: ***Bains v Day #2*** at para 14.

Further, the Affidavit statements of Dr. Kaur and Sifatjot Bains are transparent that while they have participated to varying degrees in the conduct of the Bains' litigation, Dr. Bains was always directly involved in preparation of documents and materials.

[106] Given the above context, I will first evaluate whether Dr. Bains should be subject to court access restrictions pursuant to *Judicature Act* ss 23-23.1, and the scope of those restrictions. If I conclude that Dr. Bains should be subject to prospective court access restrictions, I will then evaluate whether those court access restrictions should be extended to the remainder of the Bains family pursuant to *Judicature Act* s 23.1(4).

A. Disputed Evidence

[107] The summary of the parties' submissions above makes it obvious that each advance practically opposite factual histories of Dr. Bains and his family, and their litigation. One alternative has Dr. Bains suffering at the hands of malevolent bad actors, ranging from lawyers, to businesses, to individuals, to judges. The opposing alternative paints an aggressive and predatory individual who has weaponized litigation processes to bully and abuse, and demand extraordinary remedies.

[108] After careful review of the Affidavit materials submitted in this matter, I conclude that whenever there is a conflict or disagreement between the parties as to the events, statements, documents, and communications, I reject the evidence from the Bains family. I do so for two reasons. First, the Bains' Affidavits broadly contradict findings of fact in the decisions of this Court and the Court of Appeal of Alberta. Second, the Applicants and other parties responding to the Bains family's litigation have amply documented the often-extraordinary statements, claims, threats, and allegations advanced by Dr. Bains and his family. The samples I have reproduced above only hint at the range and scope of bizarre and scandalous allegations made by Dr. Bains, Dr. Kaur, and Sifatjot Bains. I reject their allegations. As I preciously noted, extraordinary claims require extraordinary proof: ***VWW v Wasylyshen***.

[109] There is ample transcript evidence introduced by the Applicants to establish Dr. Bains' problematic in-court behaviour, groundless allegations of deceit and conspiracy, and his blatant

disregard for judicial instructions and court procedure. In the interests of judicial economy there is no need for me to elaborate further. The record speaks for itself.

[110] Justice Yamauchi concluded Dr. Bains is not a credible witness: *Bains v Adam #4*. I independently reach the same conclusion. The same applies to Dr. Kaur and Sifatjot Bains. In many ways that latter conclusion is simply because the three Bains family deponents make practically the same claims and allegations, often word-for-word. Repetition, in this instance, does not establish reliability. Dr. Kaur and Sifatjot Bains are also not credible witnesses.

[111] Based on my review of the evidence and analysis of the law, I find, on a balance of probabilities, that Dr. Bains himself directed the Affidavit evidence of the three Bains family deponents. He is simply using his wife and daughter as representatives to make the same ungrounded and unreliable claims.

B. *Judicature Act* s 23.1(1) Court Access Restrictions for Dr. Bains

[112] I generally accept and adopt the arguments and evidence advanced by the Applicants and *Expert Lawsuit* Defendants. For the reasons set out below, I agree that Dr. Bains should be subject to indefinite court access restrictions pursuant to *Judicature Act* ss 23-23.1. Prior to reviewing the “focused evidence” (*Canada v Olumide*, 2017 FCA 42 at paras 35-40) that grounds my conclusion, I observe a notable and repeating pattern in the arguments and evidence received by the Court in this matter.

[113] The Bains do not actually respond to the *Judicature Act* ss 23-23.1 Application. Instead, their materials submitted in 2022 and 2023 focus on alleged bad conduct by Justices of this Court and opposing parties. While I have rejected those claims on a factual and legal basis, those allegations are also simply irrelevant to what litigation and litigant management steps should be imposed to manage Dr. Bains’ activities at the Court of King’s Bench of Alberta.

[114] Similarly, the Bains family argues that the previous orders and judgments of this Court are wrong or in some manner defective or unauthorized. Again, that is not relevant to the *Judicature Act* ss 23-23.1 Application.

[115] The Bains also make numerous complaints about the process, findings of fact, and outcome of the *Vehicle Lawsuits* trial and Justice Yamauchi’s *Bains v Adam #4* Reasons for Decision. That is irrelevant. Subject to the outcome of any appeal of *Bains v Adam #4*, I am currently bound by those findings: *R v Sullivan*, 2022 SCC 19 at paras 73-86.

[116] A second example is this Court’s explicit rejection of Dr. Bains’ and Dr. Kaur’s allegations of a “... 100% forged, fabricated, and fraudulent ...” January 11, 2023 court order issued by Acting Chief Justice Nielsen in *Bains v Day #3*. Indeed, the Bains challenged the jurisdiction of Acting Chief Justice Nielsen to have conducted this proceeding.

[117] Identical or at least related complaints were included in the November 2023 submissions received by the Court. I will not respond to the Bains’ arguments on these points because these issues and allegations have already been evaluated and rejected by the Court. If Dr. Bains and his family disagree, then their remedy was with the Court of Appeal of Alberta.

[118] Similarly, this Court has in its reasons already made many findings of fact in relation to the numerous complaints about evidence, testimony, and witnesses involved in the *Vehicle Lawsuits* and other related matters. The fact the Bains disagree with those conclusions is, again, irrelevant and, if anything, only a matter for appeal. That said, I have carefully reviewed what

has occurred in the Bains' claims, reviewed the Affidavit evidence submitted by the parties, and I independently reject the Bains' evidence.

[119] I will now examine some of the "focused evidence" that supports imposing court access restrictions on Dr. Bains. In certain instances, I am simply repeating findings of fact and law already made by the Alberta Courts.

1. Persistently Ignoring Court Orders, Judgments, and Directions

[120] Dr. Bains persistently ignores binding court orders, judgments, and directions. For example, the *Lawyers Lawsuit* was filed in breach and contempt of a binding Order of the Court of Appeal of Alberta and struck out on that basis: ***Bains v Day #1***. Dr. Bains has abused email communications with the Court despite instructions to the contrary: ***Bains v Day #3***. Similarly, Justice Yamauchi concluded that Dr. Bains ignored court findings on entry of evidence and conducted collateral attacks on prior court rulings in that process: ***Bains v Adam #4*** at paras 203-221.

[121] Another instance of Dr. Bains' persistent failure to obey court instructions and directions was his attempt to "judge shop" complaints concerning the *Vehicle Lawsuits* and this Application by bypassing the case management structure imposed by the Court and attempting to circumvent the jurisdiction and authority of the Case Management Justice – then Acting Chief Justice Nielsen – by "going over his head" to then Chief Justice Moreau: ***Bains v Day #3*** at para 15.

2. Expanding Abusive Litigation and Related Activities

[122] The *Vehicle Lawsuits* have spawned an expanding array of related and partially duplicate abusive litigation, including the *Lawyers Lawsuit*, the *Family Lawsuit*, the *Expert Lawsuit*, and the *Insurer Lawsuit* (***Bains v Day #1***; ***Bains v Day #2***). These matters largely represent a collateral attack on the findings in ***Bains v Adam #4***, and as previously noted, offend the prohibition against multiple tort actions in ***Cahoon v Franks***, [1967] SCR 455. In the case of the *Family Lawsuit*, Acting Chief Justice Nielsen concluded that proceeding was being used as a proxy collateral attack action intended to circumvent resolution of the *Vehicle Lawsuits*. I also find as fact that filing the *Family Lawsuit* was an attempt to circumvent the case management structure imposed by the Court with respect to the *Vehicle Lawsuits*.

[123] This pattern has now escalated outside of court litigation to attempts by Dr. Bains to trigger and/or conduct criminal proceedings against opposing parties and Justices of this Court. Expanding patterns of litigation and related activities are a particularly strong justification to impose prospective court access restrictions: ***Unrau #2*** at paras 633-645.

3. Collateral Attacks and Re-Litigation

[124] I previously reviewed how this Court has already found that Dr. Bains persistently and repeatedly attempted to re-litigate settled disputes and issues. These collateral attacks are a serious form of abusive litigation misconduct that warrants court intervention: ***Unrau #2*** at paras 612-618.

[125] Beyond that, Dr. Bains' arguments in this *Judicature Act* ss 23-23.1 Application process illustrate that he will not accept any unfavourable finding or outcome. The majority of his November 2023 Affidavit is an attack on the ***Bains v Adam #4*** trial, rather than a response to the opposing parties' arguments and the issues actually at play in this matter. The remedies the Bains sought in their November 2023 Affidavits essentially seek to re-open and/or reverse prior

litigation outcomes and court decisions, and then resume abusive attacks on opposing parties. Dr. Bains' rejection of court decisions – and then acting or attempting to act on that premise – is a further basis for why court access restrictions are warranted.

4. Courtroom Conduct – Abusive, Disruptive, and Threatening

[126] Dr. Bains' conduct in the Courtroom ranges from difficult to contemptuous. Dr. Bains' problematic conduct is repeatedly illustrated in transcripts received into evidence. Calling Dr. Bains' statements and allegations "inflammatory" is arguably an understatement.

[127] Justice Yamauchi's litigant and litigation management steps and conclusions in *Bains v Adam #4* demonstrate how Dr. Bains repeatedly operates in an aggressive, disruptive manner. He was found in contempt of court for failing to appear. Justice Yamauchi's characterization of Dr. Bains' in-court behaviour that interfered with the trial proceeding warrants reproduction in full:

Dr. Bains's demeanour throughout the trial has caused this Court a great deal of concern. His conduct and hostility towards this Court, counsel for the Defendants, witnesses and even his spouse were disruptive, troubling, and, to this Court's mind, dangerous. At several times throughout the trial, Dr. Bains threatened counsel, and he inappropriately threatened to sue and seek perjury prosecution against witnesses. One counsel chose not to examine and cross-examine witnesses within close physical proximity to Dr. Bains. This fear was well-founded and real. Dr. Bains made accusatory and highly offensive statements towards the administration of justice including this Court, Associate Chief Justice Rooke, and the Alberta Court of Appeal and its justices.

[128] These highly unusual findings of fact warrant special notice. Dr. Bains' own statements demonstrate exactly that. During the *Vehicle Lawsuits* trial, Dr. Bains announced:

I'm not worried about my millions. My first thing is honour to you, honour to my wife. In my absence, if anything bad happen to you, just let me know, I can cut off their heads and go to the gaol. ... I'm that kind of person.

[129] I also observe that Dr. Bains' rhetoric in his Affidavits substantiates that he considers violence an acceptable step when he does not receive what he wants in his lawsuits.

5. Hopeless Litigation

[130] Dr. Bains repeatedly engages in hopeless litigation. For example, Justice Yamauchi concluded in *Bains v Adam #4* that not only did Dr. Bains not satisfy the evidentiary basis for the *Vehicle Lawsuits*, Dr. Bains was also actively fabricating claims of disability, and sued on false pretences. Also, I reviewed other instances where Dr. Bains' direct and proxy litigation is hopeless, duplicative, and an abuse of the Court and its processes.

6. Excessive and Impossible Remedies

[131] Another characteristic of much of the Bains' litigation is that they seek excessive and impossible remedies, which is a well-recognized *indicium* of abusive litigation: *Unrau #2* at paras 624-625. This misconduct is also reflected in my findings concerning the Bains' collateral attacks, re-litigation, and hopeless litigation.

[132] In the interests of judicial economy, I will explore one aspect of the Bains seeking excessive or impossible remedies: the damages claimed in their litigation. These sums are often enormous, for example:

- *Bains v 5AB Riders Calgary*, Court of King’s Bench of Alberta Action No. 1901 17926 - \$900,000 (assault);
- *Bains v Bashmesh Culture Centre Calgary*, Court of King’s Bench of Alberta Action No. 2001 12996 - \$13 million (assault and “polluted the sanctity of our religion”);
- *Bains v Canadian Tire Corporation*, Court of King’s Bench of Alberta Action No. 2101 00547 - \$20,765,000 (arrest and removal from a store);
- *Expert Lawsuit* - \$3.7 million;
- *Family Lawsuit* - \$55 million or \$20 million, depending on how the Statement of Claim is interpreted; and
- *Insurer Lawsuit* - \$22,765,000.

[133] I find these claim amounts excessive, given the wrongdoing alleged in the associated Statements of Claim. Further, in a number of these matters this Court has already ruled there is no basis, factually, for any claim.

[134] Many of the Bains’ lawsuits make claims for “general damages”, what is sometimes called “pain and suffering”, that are grossly unreasonable. The maximum amount of general damages that may be claimed in Canada was set in *Andrews v Grand & Toy Alberta Ltd*, [1978] 2 SCR 229, (*Andrews*) at \$100,000. After inflation, the *Andrews* general damages cap is now approximately \$365,000. The *Andrews* maximum amount is warranted only in cases of severe impairment, such as near total disability and/or paralysis of a young healthy individual.

[135] The general damages claimed in the Bains’ lawsuits approach or exceed the *Andrews* maximum amount, for example:

- Action No. 1901 17926 - \$250,000;
- Action No. 2001 12996 - \$3 million (five members of the Bains family);
- Action No. 2101 00547 - \$365,000;
- *Expert Lawsuit* - \$400,000;
- *Family Lawsuit* – maximum permitted by law; and
- *Insurer Lawsuit* - \$365,000 (Dr. Bains and Dr. Kaur each).

[136] The purported “pain and suffering” injuries alleged by the Bains do not meet the criteria for a “cap” award. Further, *Bains v Adam #4* (pending the outcome of any appeal) concluded that Dr. Bains is not injured at all, but malingering.

[137] Yet another example of Dr. Bains making excessive damage claims is found in *Bains v Canadian Tire Corporation*, Court of King’s Bench of Alberta Action No. 2101 00547 and the *Insurer Lawsuit* where Dr. Bains in both lawsuits seeks \$500,000 in “out of pocket expenses”. He particularizes little to nothing to support that very large quantum.

[138] Based on my review of the evidence and analysis of the law, I find the Bains' litigation exhibits a repeated and persistent pattern of the Bains seeking remedies that are impossible to justify or excessive. That determination favours imposing court access restrictions.

7. Extraordinary Claims

[139] I previously indicated several instances where the Bains advanced claims that are implausible. Another example that is embedded in the *Vehicle Lawsuits* and other related litigation are the bizarre allegations Dr. Bains makes whenever he is sent an email. He claims anyone sending him an email is making a life-threatening move, that doing so is "trying to kill him", and that he will retaliate against those who email him.

[140] For example, in Dr. Bains' June 16, 2022 Affidavit, he deposes that sending him an email is an "... indirect assault on me, this is an act of intentional infliction of mental pain and suffering on me and by doing so they are provoking me and aggravating my injuries ..." [sic]. Yet Dr. Bains personally uses email to communicate with the Court and parties, but engaged in email usage in such an inappropriate manner that the Court has now banned him and Dr. Kaur from using the medium to communicate with the Court.

[141] Based on my review of the evidence and analysis of the law, I find, on a balance of probabilities, that Dr. Bains' claims that he is physically injured and harmed by receiving email is groundless. Along with Justice Yamauchi, I conclude that Dr. Bains' complaints of "lethal emails" has no basis. Instead, applying "... the common-sense inference that a person intends the natural consequences of his or her actions, one can typically infer intent from the performance of the act. ..." (*R v Tatton*, 2015 SCC 33), that leads to the conclusion that Dr. Bains simply prefers to weaponize email communications, while at the same time inconveniencing opposing parties to whatever degree he can.

[142] As I previously observed, this is just another component of the broader matrix of Dr. Bains and his proxies misusing Alberta Courts and their processes as *casus belli* to engage in abusive litigation misconduct.

8. Conclusion

[143] Based on my review of the evidence and analysis of the law, I find, on a balance of probabilities, that *Judicature Act* ss 23-23.1 prospective court access restrictions for Dr. Bains are appropriate and necessary in the circumstances to manage his historical pattern of abusive litigation misconduct. Dr. Bains' abusive litigation misconduct is persistent and repeated.

[144] I note for the record that more limited steps to manage Dr. Bains' abusive litigation misconduct such as case management and narrow scope court access restrictions have been attempted. They failed. Dr. Bains circumvents existing prohibitions and limits by conducting proxy litigation. He simply ignores court orders, and, instead, counterattacks against those he designates as wrongdoers, which is essentially anyone who does not entirely agree with him.

[145] The unfortunate reality is that *Judicature Act* ss 23-23.1 court access restrictions will likely only moderate Dr. Bains' harmful conduct, rather than control it. Given his history, there is no basis to imagine that Dr. Bains will cease his often-successful attempts to misuse Alberta Courts and their processes, and harm others with baseless, aggressive, abusive litigation. There are far too many other examples (e.g., *Canadian Imperial Bank of Commerce v Hayden*, 2023 ABKB 384; *Richardson v MacDonald*, 2022 ABKB 732; *Ubah v Association of Professional Engineers and Geoscientists of Alberta*, 2023 ABKB 389; *Feeney (Re)*, 2022 ABQB 569)

where the tools and mechanism available to this Court have already proven inadequate when faced with a determined, aggressive, abusive litigant. Dr. Bains meets that description.

C. The Scope of Dr. Bains' Court Access Restrictions

[146] I agree with the Applicants and *Expert Lawsuit* Defendants that the *Judicature Act* ss 23-23.1 court access restrictions should be global. First, Dr. Bains has a pattern of engaging in abusive litigation against a wide variety of actors. He is not simply suing and/or complaining about opposing litigants, but practically anyone who touches on his litigation: experts, lawyers and law firms, insurers, and court decision makers. What adds to this issue is the fact that Dr. Bains has a pattern of:

- 1) direct and proxy expanding litigation, as described above;
- 2) conducting numerous actions unrelated to the *Vehicle Lawsuits* in Alberta Courts and elsewhere, many of which have abusive aspects; and
- 3) taking steps to evade litigation and litigant management.

These factors support global court access restrictions in line with the current interim court access restrictions.

[147] Another relevant consideration is that while limits on court litigation activities should be framed in a narrow manner, those steps must also be enforceable by the Clerks of the Court, who are tasked with applying court access restrictions. I adopt and apply the reasoning in *Unrau #2* at paras 782-799, and from that conclude that the only appropriate and enforceable court access restrictions for Dr. Bains are global. Dr. Bains must obtain leave to initiate or continue *any* litigation in the Court of King's Bench of Alberta.

D. *Judicature Act* s 23.1(4) Court Access Restrictions on Dr. Kaur and the Bains Daughters

[148] I concluded above that Dr. Bains should be subject to global and indefinite court access restrictions pursuant to *Judicature Act* s 23.1(1). Following the process in *Docken v Anderson*, my next step is to evaluate whether the remainder of the Bains family are "associated" with Dr. Bains, and if so, whether that "association" furthers Dr. Bains' abusive litigation misconduct.

[149] Both these criteria are readily met. First, the remainder of the Bains family are participating in other lawsuits, for example the *Family Lawsuit*, but also *Bains v Bashmesh Culture Centre Calgary*. The two adult family members, Dr. Kaur and Sifatjot Bains, both openly identify and acknowledge their participation in Dr. Bains' litigation. For example, Dr. Kaur states:

I have been managing with my relatives and friends and earlier with my eldest daughter all the documentation, drafts, dictation, filing, service, communications and researching and coordination with Dr. Bains's friends-lawyers from the start of all litigation to date ...

[150] Similarly, Sifatjot Bains in her most recent Affidavit deposes she operates in tight coordination with her father in his litigation. As such, she is not an unaffiliated third party. The Affidavits of Roderick A. Day provide documentation that further illustrates the coordination and participation of Dr. Kaur and the Bains children in Dr. Bains' litigation. For example,

transcripts from the *Vehicle Lawsuits* trial establish that Dr. Bains and Dr. Kaur wrote the *Family Lawsuit* Statement of Claim together.

[151] Concerning the question as to whether Dr. Kaur and the three daughters are furthering Dr. Bains' abusive litigation misconduct, that is supported by their own evidence. Additionally, this Court already concluded in *Bains v Day #2* that the *Family Lawsuit* is functionally an attempt to circumvent the court management steps imposed on Dr. Bains by this Court and the Court of Appeal of Alberta. That litigation is a collateral attack on the *Vehicle Lawsuits* court proceedings and trial decision.

[152] Based on my review of the evidence and analysis of the law, I find, on a balance of probabilities, that the indefinite and global court access restrictions now imposed on Dr. Bains should also apply to Dr. Kaur and the three daughters. In doing so I acknowledge that at some level there is an unfairness in Dr. Bains' two minor daughters being subject to these limits. Unfortunately, this step is nevertheless necessary. The record makes clear that Dr. Bains and Dr. Kaur are willing to use their minor children as vehicles to conduct abusive litigation. If this Memorandum of Decision were to not impose those limits on Sukhmani Bains and Paaras Bains, their parents would, predictably, use these children as proxy litigation agents.

[153] What goes with that conclusion is my acknowledgement that once Sukhmani Bains and Paaras Bains are adults, they may apply to this Court to no longer be subject to the court access restrictions imposed on them pursuant to *Judicature Act* s 23.1(4). While I concede the judicial independence of future judges, that step likely would be granted in the absence of any abusive litigation misconduct on their part as adults.

V. Court Access Restrictions

[154] Based on my review of the evidence and analysis of the law, I find that pursuant to *Judicature Act* ss 23-23.1, Dr. Bains' abusive litigation misconduct can be characterized as that of a "vexatious litigant" and that Dr. Kaur and the three Bains daughters are "associated" with Dr. Bains in a manner that warrants them also being subject to court access restrictions. I make this determination based on the above analysis and conclusions. I therefore order:

- 1) The "Interim Court Access Restriction Order" of July 6, 2023, filed in Action Nos. 1901 01056, 1901 03639, 1901 06857, 2001 12996, 2301 00251 is vacated;
- 2) Jagdev Singh Bains, Sahib Prem Kaur, Sifatjot Kaur Bains, Sukhmani Bains, and Paaras Bains are prohibited from commencing, or attempting to commence, or continuing, any appeal, action, application, or proceeding in the Alberta Court of King's Bench, on his or her own behalf, or on behalf of any other person or estate, without an order of the Chief Justice or an Associate Chief Justice of the Alberta Court of King's Bench, or her or his designate;
- 3) To commence or continue an appeal, action, application, or proceeding in the Alberta Court of King's Bench, Jagdev Singh Bains, Sahib Prem Kaur, Sifatjot Kaur Bains, Sukhmani Bains, and/or Paaras Bains must first submit an application to the Chief Justice or an Associate Chief Justice, or her or his designate. If such an application is made:
 - (i) The Chief Justice or an Associate Chief Justice, or his or her designate, may, at any time, direct that notice of an application to commence or

continue an appeal, action, application, or proceeding be given to any other person;

- (ii) Any application shall be made in writing;
- (iii) Any application to commence or continue any appeal, action, application, or proceeding must be accompanied by an affidavit:
 - a) Attaching a copy of the Order arising from this Memorandum of Decision that restricts Jagdev Singh Bains, Sahib Prem Kaur, Sifatjot Kaur Bains, Sukhmani Bains, and Paaras Bains' access to the Court of King's Bench of Alberta;
 - b) Attaching a copy of the appeal, action, application, or proceeding that Jagdev Singh Bains, Sahib Prem Kaur, Sifatjot Kaur Bains, Sukhmani Bains, and/or Paaras Bains proposes to issue or file or continue;
 - c) Deposing fully and completely to the facts and circumstances surrounding the proposed appeal, action, application or proceeding, so as to demonstrate that the proceeding is not an abuse of process, and that there are reasonable grounds for it;
 - d) Indicating whether Jagdev Singh Bains, Sahib Prem Kaur, Sifatjot Kaur Bains, Sukhmani Bains, and/or Paaras Bains have ever previously sued some or all the defendants or respondents in any jurisdiction or Court, and, if so, providing full particulars;
 - e) Undertaking that, if leave is granted, the authorized appeal, action, application or proceeding, the Order granting leave to proceed, and the affidavit in support of the Order will promptly be served on the defendants or respondents; and
 - f) Undertaking to diligently prosecute the proceeding;
- (iv) The Chief Justice or an Associate Chief Justice, or his or her designate, may:
 - a) Require the application for leave to, or the Court on its own motion, give notice of the proposed appeal, action, application or proceeding and the opportunity to make submissions on the proposed appeal, action, application or proceeding, if they so choose, to:
 - (1) The involved potential parties;
 - (2) Other relevant persons identified by the Court; and
 - (3) The Attorneys General of Alberta and Canada;
 - b) Respond to and dispose of the leave application in writing; or
 - c) Hear and dispose of the leave application in open Court where the decision shall be recorded;
- 4) Leave to commence or continue any appeal, action, application or proceeding may be given on conditions, including the posting of security for costs, and proof of payment of all prior cost awards;

- 5) An application that is dismissed with respect to any proposed appeal, action, application or proceeding may not be made again, directly or indirectly;
- 6) An application to vary or set aside this Order must be made on notice to any person as directed by the Court;
- 7) Jagdev Singh Bains, Sahib Prem Kaur, and Sifatjot Kaur Bains are prohibited from:
 - (i) providing legal advice, preparing proceedings or any other documents intended to be filed in court for any person other than himself or herself, and filing or otherwise communicating with any Alberta Court, except on his or her own behalf; and
 - (ii) acting as an agent, next friend, McKenzie Friend (from *McKenzie v McKenzie*, [1970] 3 All ER 1034 (UK CA) and *Rules 2.22-2.23* of the *Alberta Rules of Court*, Alta Reg 124/2010) or any other form of representation in court proceedings, before the Court of King's Bench of Alberta.
- 8) The Clerks of the Court of King's Bench of Alberta shall refuse to accept or file any documents or other materials from Jagdev Singh Bains, Sahib Prem Kaur, Sifatjot Kaur Bains, Sukhmani Bains, and/or Paaras Bains unless:
 - (i) Jagdev Singh Bains, Sahib Prem Kaur, Sifatjot Kaur Bains, Sukhmani Bains, and/or Paaras Bains are named defendants or respondents in the action in question; or
 - (ii) if the documents and other materials are intended to commence or continue an appeal, action, application, or proceeding, Jagdev Singh Bains, Sahib Prem Kaur, Sifatjot Kaur Bains, Sukhmani Bains, and/or Paaras Bains have been granted leave to take that step by the Court.

[155] I have taken the additional step of prohibiting Dr. Bains, Dr. Kaur, and Sifatjot Bains from participating in other persons litigation to address their self-reported activity as representatives of the two minor children. Abusive litigants are not suitable litigation representatives: *Unrau #2* at paras 904-912. I also take this step mindful of Dr. Bains' established pattern of using litigation proxies, and other methods to circumvent litigation and litigant management. Put another way, I have no difficulty in concluding that Dr. Bains may very well continue his attempts to evade his court access restrictions by recruiting or creating yet additional "litigation false fronts" for his disputes.

VI. Permanent Restraining Order

[156] The Applicants seek to have the Court impose a Permanent Restraining Order against Dr. Bains, Dr. Kaur, and their three daughters that operates in parallel to the pre-existing and currently operating March 11, 2022 Restraining Order of Associate Chief Justice Rooke issued in the *Vehicle Lawsuits*. Similarly, the *Expert Lawsuit* Defendants seek to have the Court impose an absolute prohibition on contact by the Bains with Dr. Yardley, and limits and structures on communications and contact between the Bains and counsel and the lawyers and law firm that represents the *Expert Lawsuit* Defendants.

[157] Dr. Bains, Dr. Kaur, and Sifatjot Bains reject that they should be subject to any restraining order. They deny any misconduct, and, beyond that, condemn anyone they have communicated with as wrongdoers and criminals. In that way, Dr. Bains, Dr. Kaur, and Sifatjot Bains simply say anyone they interacted with received precisely what they deserved.

[158] Based on my review of the evidence and analysis of the law, I find that the Permanent Restraining Order sought by the *Vehicle, Family, and Expert Lawsuits* Defendants should be imposed. First, this step is not new. Rather, the expanded Order is simply an adaptation of steps that Associate Chief Justice Rooke already determined were warranted and necessary. This litigant management order is therefore not a new step. Instead, it is an incremental expansion and adaption of existing safeguards that respond to Dr. Bains' and his family's historic, current, and escalating abusive litigation misconduct. Second, I observe, in particular, the extraordinary observations of Justice Yamauchi concerning Dr. Bains' conduct in the *Vehicle Lawsuits* trial, and Justice Yamauchi's conclusions as to the physical risk of violence posed by Dr. Bains. Third, Dr. Bains, in his own sworn Affidavits, has expressed his willingness and desire to take physical steps outside Canada's laws and legal processes. Finally, the Bains family's *Criminal Complaints* and correspondence establish malicious intent against court actors and parties on the opposite side of the family's litigation.

[159] The original March 11, 2022 Restraining Order was against both Dr. Bains and Dr. Kaur. I conclude that the new ongoing Permanent Restraining Order should also include the family's three daughters given the admitted participation of Sifatjot Bains in the Bains family's litigation, Dr. Bains' and Dr. Kaur's willingness to involve their minor daughters in litigation, and the Court having already concluded the family's children are used as litigation proxies.

[160] As a consequence, I:

- 1) Vacate the "Restraining Order" of Associate Chief Justice Rooke pronounced, on March 11, 2022, in Court of King's Bench of Alberta Action Nos. 1901 01056, 1901 03639, 1901 06857; and
- 2) Order that Jagdev Singh Bains, Sahib Prem Kaur, Sifatjot Kaur Bains, Sukhmani Bains, and Paaras Bains are subject to a Permanent Restraining Order that applies the terms and limits imposed in the March 11, 2022 "Restraining Order". In addition to the limits imposed in the March 11, 2022 "Restraining Order", I also apply those same protective prohibitions and limits against conduct and interactions that the Bains might otherwise initiate against the following additional individuals and organizations:
 - 1) Craig Burkart – MNP
 - 2) Craig Good – Collision Analysis
 - 3) Mike Thiessen – Intact Insurance investigator
 - 4) Dr. Nicholas J. Yardley – Assessmed Inc.
 - 5) Weyni Johnson – MDSI Investigators
 - 6) Erin McMillan – MDSI Investigators
 - 7) Patrick Lam – Prime Investigative Group
 - 8) Randy Rosario – Lead Investigations Inc.

- 9) Lindsay Evans – Alberta Crime
- 10) Susie Wright – Co-operators Insurance
- 11) Joelle Howe – Co-operators Insurance
- 12) Stephanie Weisgerber – Intact/Belair Direct
- 13) Sylvia Sargeant – Desjardins/Certas
- 14) Barbara Ayoub – Desjardins/Certas
- 15) Clyde & Co. Canada LLP – Calgary office address
- 16) Kwaku Adu – ACM Lawyers LLP
- 17) Cesar Agudelo – Camino Law Group
- 18) Sirat Chhina – Desjardins Insurance
- 19) Thomas Percy – Intact Insurance

[161] Counsel for the Applicants shall prepare the Order giving effect to this direction, and shall propose in the draft Order provisions for communications, service, and enforcement analogous to the March 11, 2022 “Restraining Order” paragraphs 5-11. The Bains’ approval of this Order is not required, pursuant to *Rule 9.4(2)(c)* of the *Alberta Rules of Court*.

VII. Additional Steps in Response to the *Family Lawsuit*, *Expert Lawsuit*, and *Insurer Lawsuit*

[162] Three of the various legal actions initiated by the Bains in the Court of King’s Bench of Alberta that are related to the *Vehicle Lawsuits* remain active: the *Family Lawsuit*, *Expert Lawsuit*, and *Insurer Lawsuit*. These three matters are now stayed on an indefinite basis and will only resume if this Court grants leave to do so. These matters are presumed to be illegitimate and abusive because “... [a] person subject to court access control is presumed to engage in illegitimate litigation unless the Court is satisfied otherwise. ...”: *Re Thompson*, 2018 ABQB 87 at para 19, *aff’d* 2018 ABCA 111, leave to appeal to SCC refused, 38204 (14 February 2019).

[163] The Court has also already independently concluded that these lawsuits are abusive proceedings, as collateral attacks, duplicative proceedings, proxy litigation, and in breach of the “one tort action” rule in *Cahoon v Franks: Bains v Day #2*.

[164] The *Vehicle Lawsuits* Defendants have applied to the Court, asking it to strike out the *Family Lawsuit*. In *Bains v Day #3* at para 23, Associate Chief Justice Nielsen indicated that step would be considered, if appropriate, after the *Judicature Act* ss 23-23.1 Application process was completed.

[165] Based on my review of the evidence and analysis of the law, I find that the status of the *Family Lawsuit*, *Expert Lawsuit*, and *Insurer Lawsuit* should be immediately addressed given the *Vehicle Lawsuits* Defendants’ striking out application, the Court resources already misused on this abusive litigation, and the expenses imposed on the *Family Lawsuit*, *Expert Lawsuit*, and *Insurer Lawsuit* Defendants by Dr. Bains and his family. The onus is on Dr. Bains and his family to establish these lawsuits are legitimate given the presumptive abusive character of these lawsuits (*Re Thompson*), and my unfavourable findings in relation to these matters in this Memorandum of Decision, and the earlier findings of this Court.

[166] A parallel situation was addressed by Associate Chief Justice Rooke in *Rana v Rana*, 2022 ABQB 139 at paras 95-100 wherein he stipulated that in order “... to move [the action] forward, or resolve that lawsuit in a timely manner”, Mr. Rana had to take designated steps by a date certain. In this case, I order that if Dr. Bains seeks to continue any of the *Family Lawsuit*, *Expert Lawsuit*, and/or, *Insurer Lawsuit* actions, then for each lawsuit that Dr. Bains and his family seek to continue, the Bains must within 30 days of the date this decision is issued:

- 1) submit written argument (maximum five pages for each action) and an Affidavit (maximum ten pages, not including exhibits for each action) to my office to support leave to continue each or any of the *Family Lawsuit*, *Expert Lawsuit*, or *Insurer Lawsuit* Actions, and
- 2) pay to the Clerk of the Court security for costs of \$25,000 pursuant to *Rule 4.22* of the *Alberta Rules of Court* for each of the *Family Lawsuit*, *Expert Lawsuit*, and *Insurer Lawsuit* proceedings that Dr. Bains seeks leave to continue.

[167] I note that while the security for costs sums are substantial, these are still a small fraction of the costs awarded by Justice Yamauchi in the *Vehicle Lawsuits*, and which Justice Yamauchi acknowledged in no way reflected the extreme expenses inflicted on the Defendants by Dr. Bains’ unsuccessful and abusive lawsuits.

[168] Failure by Dr. Bains and his family to meet both the written submissions and security for costs requirements within 30 days of the date this decision is issued, will result in the *Family Lawsuit*, *Expert Lawsuit*, and *Insurer Lawsuit* Actions being struck in full. If the *Family Lawsuit*, *Expert Lawsuit*, and/or *Insurer Lawsuit* Actions are struck pursuant to this process, then costs will be assessed against the Bains Plaintiffs, pursuant to *Rule 10.29* of the *Alberta Rules of Court*.

VIII. Costs

[169] The Applicants and *Expert Lawsuit* Defendants have been entirely successful in this Application. They are presumptively due costs: *Rule 10.29* of the *Alberta Rules of Court*. The manner in which the Bains operated and argued the *Judicature Act* ss 23-23.1 Application and Permanent Restraining Order Application bring into play certain factors identified in *Rule 10.33(2)* of the *Alberta Rules of Court*, including:

- activities that delayed or attempted to delay these processes;
- refusing to admit facts, including the Court’s binding findings, that ought to have been admitted;
- breach of court instructions; and
- making scandalous and abusive claims and threats without foundation.

[170] Unfortunately, the Bains’ pattern of conduct is to take every step possible to draw out and frustrate proceedings where they are unsuccessful. This Court has adopted the principle in *Fiander v Mills*, 2015 NLCA 31 that when faced with abusive litigants, a lump sum award is appropriate to bring problematic litigation to a timely and conclusive endpoint: e.g., *Uhrik v Barata*, 2023 ABKB 517; *Uhrik v Terrigno*, 2023 ABKB 223; *Rana v Rana*, 2022 ABQB 139, leave to appeal denied 2022 ABCA 179; 2022 ABCA 306, leave to appeal to SCC refused, 40505 (9 March 2023); *Doniger v Law Society of Alberta*, 2021 ABQB 200.

[171] In the interests of bringing this litigation to a timely end, and in light of the Bains' litigation practices, I conclude this is an instance where lump sum costs should be awarded. I therefore order that the Defendants in each of the *Vehicle Lawsuits* and the *Expert Lawsuit* should receive costs, paid forthwith, as follows from Dr. Bains, Dr. Kaur, and Sifatjot Bains on a joint and several basis:

- Action No. 1901 01056 Defendants - \$10,000;
- Action No. 1901 03639 Defendants - \$10,000;
- Action No. 1901 06857 Defendants - \$10,000;
- Dr. Yardley, *Expert Lawsuit* - \$15,000; and
- Assessmed, *Expert Lawsuit* - \$5,000.

[172] These amounts have been selected in light of the degree of participation of the *Expert Lawsuit* Defendants, and that the *Vehicle Lawsuits* Defendants made joint submissions. In parallel with Justice Yamauchi's cost awards decision, these amounts are very modest given the Bains' conduct and the extensive materials involved in these Applications.

IX. Concluding Comments

[173] Counsel for the *Vehicle Lawsuits* Defendants will prepare and serve the Order(s) giving effect to this Memorandum of Decision. Dr. Bains, Dr. Kaur, Sifatjot Kaur Bains, Sukhmani Bains, and Paaras Bains' approval of those Order(s) is dispensed with, pursuant to *Rule 9.4(2)(c)* of the *Alberta Rules of Court*.

[174] I strongly recommend that Dr. Bains, Dr. Kaur, and their children immediately seek out advice from legal counsel in relation to resolution of the *Family Lawsuit*, *Expert Lawsuit*, and *Insurer Lawsuit* actions.

[175] I am aware that Dr. Bains, Dr. Kaur, and their daughters are unlikely to agree with this result. Mindful of the *Pintea v Johns*, 2017 SCC 23 instruction that Canadian judges shall provide information on litigation alternatives to persons not represented by lawyers, if Dr. Bains and/or his family members seek to challenge the steps and restrictions imposed in this Memorandum of Decision, then their remedy is with the Court of Appeal of Alberta.

Dated at the City of Calgary, Alberta this 27th day of January 2025.

D.B. Nixon
A.C.J.C.K.B.A.

Appearances:

Jagdev Singh Bains, Sahib Prem Kaur, Sifatjot Kaur Bains
Self-represented litigants.

Sukhmani Bains, Paaras Bains

Minors allegedly represented by Jagdev Singh Bains, Sahib Prem Kaur, and Sifatjot Kaur Bains

Cynthia A. Aoki

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For the Defendants Roderick Day and Co-operators General Insurance Company

David J Corrigan KC

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For the Defendants Hassan Y. Adam, Youssouf Adam Abakar and Certas Direct Insurance Company

Daniel A Downe KC

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For the Defendants Kevin William Geary, Olive Odile Rawlyk and Belair Insurance Company

Alison J. Gray

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Matthew D. James

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For the Defendant Assessmed Inc.