

**IN THE MATTER OF A HEARING BEFORE THE HEARING TRIBUNAL OF THE  
ALBERTA COLLEGE AND ASSOCIATION OF CHIROPRACTORS ("ACAC")  
into the conduct of Dr. Curtis Wall, a Regulated Member of ACAC,  
pursuant to the  
*Health Professions Act, R.S.A.2000, c. P-14***

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**REPLY SUBMISSIONS AND NOTICE OF APPLICATION OF REGULATED  
MEMBER, DR. CURTIS WALL**

**MARCH 29, 2022**

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CONTACT INFORMATION  
OF REGULATED MEMBER

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**PART I: RESPONSE TO THE APPLICATION OF THE COMPLAINTS DIRECTOR**

**Background**

1. On March 28, 2022, counsel for the Complaints Director sent an email to counsel for the Tribunal, copying counsel for the regulated member, Dr. Curtis Wall (the "March 28 Email"). The March 28 Email is appended as **Schedule A**. These submissions constitute Dr. Wall's initial response to the accusations of the Complaints Director contained in the March 28 Email, as well as notice of Dr. Wall's within application to address the prosecutorial misconduct of the Complaints Director. Dr. Wall requests the Tribunal convene to hear these applications by way of an oral hearing open to the public and, indeed, submits that procedural fairness demands such a hearing.

## The Tribunal's March 16 Decision

2. On March 16, 2022, the Tribunal issued a Decision ordering, in the last three paragraphs, a partial publication ban that permitted the publication of expert witness transcripts, but with redactions of names. The Tribunal denied the Complaints Director's February 25, 2022 application for a total publication ban.
3. The Tribunal's Decision, although perhaps not fully clear, indicated the following:
  - a. That the names (and any identifying details) of College staff, counsel, and Tribunal members be redacted in the published versions of the expert witness transcripts that were to be publicly released. The context of this case strongly indicates these categories include [REDACTED], the Hearings Director, [REDACTED], and the four Tribunal members.
  - b. The names (and any identifying details) of "the witnesses". The context of this case and the publication ban sought by the Complaints Director strongly indicates the "witnesses" are all lay witnesses and/or all the witnesses called by the Complaints Director and does not mean Dr. Wall's expert witnesses.
4. There is no live issue or contest between the Complaints Director and Dr. Wall regarding part a above. The Complaints Director has not alleged, and the fact is, nobody in this first category has been identified in any way. Care was taken to redact the names of these individuals and any identifying details.
5. That is, unless "counsel" is taken to include counsel for Dr. Wall, Mr. Kitchen. As will be elaborated on below, the context of the case, the application for a publication ban, the open court presumption, and the Decision strongly indicate that "counsel" only includes the two lawyers involved who do not positively want their names published, being [REDACTED] [REDACTED]. Absent clear contrary direction, the plain reading of the term "counsel" in this case does not include Mr. Kitchen. Further, it does not appear that the Complaints Director has taken the position that "counsel" includes Mr. Kitchen, which is inconsistent with his position that the term "witnesses" includes Dr. Wall's expert witnesses.

6. The issue then becomes what the scope of the term “witnesses” is. Dr. Wall is of the position that the Tribunal’s order does not apply to his own expert witnesses. Dr. Wall submits that it is only reasonable to interpret the use by the Tribunal of the term “witnesses” to not refer to his own expert witnesses, who do not object to their names being published. The context of the Decision, the application for a publication ban, the open court presumption, and the case generally weighs in favour of that interpretation. It certainly establishes that, if the Tribunal did in fact intend the term “witnesses” to include Dr. Wall’s expert witnesses, such inclusion was not express, not clear, and it was reasonable for Dr. Wall to conclude the “witnesses” did not include his expert witnesses, just as “witnesses” did not include himself and “counsel” did not include his counsel.
7. The position of Dr. Wall from the outset was that the transcripts of the five expert witnesses be published, but with the names of lay or regular witnesses and all other individuals involved *except the experts themselves* be redacted. Implicit and ancillary to this is the presumption that the names of Dr. Wall and his counsel would also be published.
8. The position of the Complaints Director was that the transcripts not be published at all, *but if they were, that no names (or identifying details) of anybody on the College's or Tribunal's side be published*. Never did the Complaints Director take the position that, should the expert witness transcripts be published, Dr. Wall must be prohibited from publishing the names of *his* expert witnesses. Indeed, such a position would be strange, to say the least. There is an open court presumption that the publication of transcripts, *including the names of expert witnesses*, is not only permitted, but constitutionally protected. This presumption and the context of this case are critical to determining the scope of the Tribunal’s order and the scope of the term “witnesses”.
9. A publication ban is the exception to the rule. Absent such a specific exception, publication of transcripts is presumed permissible. The Tribunal’s order constitutes a partial or limited publication ban. Given the context, it was apparent to Dr. Wall that the scope of the Tribunal’s publication ban extended to redacting the names of the College’s staff, counsel for the Complaints Director, the Tribunal members, counsel for the Tribunal, and lay witnesses (which overlaps with the category of College staff, as it

includes [REDACTED]). At most, the Tribunal's publication ban extended to the Complaints Director's expert witness, [REDACTED] given that was requested by the Complaints Director as part of his application for a publication ban.

10. The only way the Tribunal's order could extend beyond these individuals, or, in other words, extend to cover Dr. Wall's experts, is if the Complaints Director sought a publication ban to extend that far, which he did not. He sought either a total publication ban preventing any and all publication of transcripts, or, in the alternative, that names of everyone who is not a witness called by Dr. Wall be redacted on published transcripts. Therefore, in this context, the meaning of "witnesses", absent explicit contrary qualification, *does not include Dr. Wall's expert witnesses*, just like "counsel" does not, in the context, include Mr. Kitchen and "witnesses" also does not include Dr. Wall himself, even though he is, in fact, a "witness". If the Complaint's Director had taken the position he now does at the hearing of his application for a publication ban on February 25, which he did not, Dr. Wall would have responded and opposed a ban on the names of his expert witnesses, himself, and his counsel.
11. The reality is that this issue was not canvassed by the parties on February 25 because it was not raised. The only live issues were publication itself, and, if publication was permitted, redacting the names of College staff and Tribunal members so as to prevent any potential, however remote, risk to the integrity of the process and risk to the unnamed individuals. Even this second issue was given little attention because Dr. Wall consented to the redaction of the names of witnesses that were not called by him. The only issue fully argued was whether the transcripts should be published at all. In light of this, and the remedies now sought by the Complaints Director in his latest application, it appears the Complaints Director wants a second kick at the can, to obtain the publication ban he failed to obtain the first time. It goes without saying that doing so is a waste of adjudicative resources and an inappropriate attempt to bring in through the back door what could not be brought through the front door.
12. Dr. Wall did not redact the names or identifying details of 3 of his 4 expert witnesses, [REDACTED]. This indeed was intentional, but was not a breach of the Tribunal's order, for the reasons set out above.

13. In the alternative, if it was a breach, it was inadvertent, and done in good faith resulting from a reasonable interpretation of the scope of the Tribunal's order. Further, no harm to anybody has resulted from the breach, least the Complaints Director or his witnesses, who remain unknown.
14. Dr. Wall redacted the name of [REDACTED] (and any identifying details). This was done out of an abundance of caution, with a view to the Tribunal's comment in the third last paragraph, "with the exception of [REDACTED] expert Testimony" (although the meaning of this comment is unclear), and with a view to being courteous toward the express desire of the Complaint's Director that [REDACTED] name not be published. Had it been important to Dr. Wall that [REDACTED] name be published along with the names of his expert witnesses, Dr. Wall would have sought further clarification from the Tribunal.
15. Dr. Wall has gone to great lengths to be courteous and civil through these proceedings, as exemplified in providing notice of the intended publication of transcripts to the Complaints Director and agreeing to delay publication until the Complaints Director brought his application for a publication ban. The open court presumption, reflected in the *HPA*, and Dr. Wall's *Charter* rights entitled Dr. Wall to publish unredacted expert witness transcripts without notice to the Complaints Director or permission from the Tribunal. However, Dr. Wall provided notice and consented to delay publication to be courteous to everyone involved in the process, even the Complaints Director who has so scornfully and scandalously accused Dr. Wall.
16. Regarding "ancillary content or explanatory comments", Dr. Wall did not, and the Complaints Director is not alleging, that Dr. Wall or his counsel made any comments that tend to identify any individual or witnesses that are not himself, his counsel, or his expert witnesses.
17. Dr. Wall submits that the Tribunal must not issue a decision regarding the allegation Dr. Wall published the expert witness transcripts in breach of the March 16 Decision until the transcripts of the February 25 hearing of the publication ban are obtained and put into the record, and an open hearing is held at which counsel for both sides can provide oral submissions. Dr. Wall objects and no longer consents to proceeding with closing argument on April 11-12, 2022.

## The Complaints Director's "Concerns"

18. The Complaints Director's purported "concerns" amount to bald and unsupported assertions of "harm" and improper accusations that Dr. Wall is in contempt of the Tribunal and its orders, has exercised his right to make a full answer and defence in bad faith, and is "ungovernable".
19. The Complaints Director has no good faith "concerns". He has improperly and disingenuously claimed "harm" has been done by the publication of the names of Dr. Wall's expert witness, but has provided absolutely no support for such claim. Indeed, such a claim is absurd. No harm has been done to anybody, least the Complaints Director or his witnesses. No harm could be done by Dr. Wall publishing the names of his own expert witnesses in what is a public, open process pursuant to his rights under the *Health Professions Act* and sections 2(b) and 11 of the *Charter*.
20. As explained above, any breach, which Dr. Wall does not concede, was committed inadvertently, in good faith.

## The Requested Remedy

21. The remedy requested by the Complaints Director is not aimed at bringing Dr. Wall into compliance with the Tribunal's Decision, if in fact Dr. Wall is not already in compliance. Rather, the Complaints Director is again asking for a total publication ban, and then some. This time, he is seeking even to censor Dr. Wall and his counsel so that they cannot publicly discuss his case.
22. The Complaints Director wants the expert witness transcripts *removed* altogether, not merely redacted to remove the names of [REDACTED], which would be the appropriate remedy if the Tribunal agrees with the Complaints Director's position.
23. The Complaints Director also wants what he refers to as the "ancillary comments" on the Liberty Coalition Canada website *removed*. This content is a description of aspects of Dr. Wall's case and contains no reference to the names of his expert witnesses. It is trite law

that Dr. Wall has a right guaranteed by sections 2(b) and 11 of the *Charter* to make these comments.

24. Dr. Wall submits that, should the Tribunal find that the names of [REDACTED] were published in breach of the March 16 Decision, the only appropriate remedy is to order that all references to the names of these three expert witnesses (and any identifying details) be redacted.

### **Costs**

25. In response to the Complaints Director's submissions regarding costs, Dr. Wall submits that he is entitled to the costs of the Complaints Director's February 25 application for a total publication ban, regardless of the ultimate outcome, as Dr. Wall was successful in that application and said application was unnecessary and had no reasonable chance of success given the law regarding publication bans. Dr. Wall had, prior to the February 25 hearing, consented to the redaction of the names of everyone involved in the proceeding except the expert witnesses.
26. As to costs for the Complaints Director's current application, if the Complaints Director succeeds, he is only entitled to costs in the regular amount, not 100% of what he actually spends, which amounts to solicitor-client costs and is only available to private parties in private proceedings, not to public bodies prosecuting professionals for alleged unprofessional conduct. Should Dr. Wall succeed on the current applications, he submits he is again entitled to costs.

### **PART 2: CROSS-APPLICATION OF THE REGULATED MEMBER**

27. The Complaints Director makes a number of very serious accusations in the March 28 Email. He does not merely assert that a breach has occurred, he states the breach was willful and deliberate. He also brazenly asserts "harm" has been done, without even attempting to identify that harm and defend his assertion of the infliction of said harm.

28. The Complaints Director makes the following accusations and threats in his email, through counsel, of March 28, 2022:

*From the Complaints Director's perspective, a straightforward set of charges confined to professional non-compliance **has been distorted** and has again led to the **further unnecessary expenditure of significant time and cost**. To date, the discipline hearing has resulted in the College incurring in excess of \$200,000.00 in costs, an astonishing amount that continues to be increased **due to the actions of Dr. Wall that have resulted in an unnecessarily lengthy and complex hearing**.*

*For the record, the Complaints Director is taking the position that the breaches of the Order by Dr. Wall are part of a continuing pattern of non-compliance and are evidence of the ungovernability of Dr. Wall as a member of the chiropractic profession. It was incumbent on Dr. Wall (and his legal counsel for whose actions Dr. Wall is responsible) to ensure meticulous and absolute compliance with the Orders. In short, this is not a situation where the breaches of the Order fall within a "gray area" or can be disputed. [Emphasis added]*

29. The Complaints Director's unsupported accusations and assertions are scandalous and the Complaints Director's conduct in making these accusations and threats on the record constitutes prosecutorial misconduct. The Complaints Director presumes to know the mind of Dr. Wall, assuming that Dr. Wall intentionally and wantonly set out to breach the Tribunal's order. If there is a breach, which Dr. Wall disputes, it was not deliberate. So much is obvious. In good faith, Dr. Wall **reasonably** believed he was permitted to publish the names of his own expert witnesses. The accusation by the Complaints Director that Dr. Wall intentionally breached the order is made in bad faith. No reasonable prosecutor, acting in good faith, would make such an outrageous accusation.

30. Without at least some evidence Dr. Wall's actions were willful and that he intentionally disobeyed the order, the Complaints Director must not make such an accusation. The Complaints Director has a duty of good faith and must uphold the honor of his office as a prosecutor in this matter and the Complaints Director of a professional regulatory body exercising statutory authority. By making this accusation, he has breached that duty of good faith and acted contrary to that honour. In the event the Complaints Director seeks to claim he is not akin to a prosecutor, it must be remembered that he relied on the

doctrine of prosecutorial discretion to support his application to amend the Charges at the beginning of this proceeding.

31. It is open to the Complaints Director to argue that the Tribunal's order prohibits the publication of the names of Dr. Wall's expert witnesses and that Dr. Wall has therefore breached the order. It is not open to him to accuse Dr. Wall of deliberately breaching the order or to accuse him of causing harm without providing any supporting evidence.
32. The Complaints Director's inappropriate conduct is exasperated by the threat of imposing large costs on Dr. Wall and purporting to blame Dr. Wall for these costs being incurred. The Complaints Director refuses or fails to acknowledge that these are the costs of *prosecuting a matter in which the accused professional has exercised his right to put forth a full answer and defence*.
33. It is scandalous and beneath the Complaints Director's office to suggest that Dr. Wall's defence is somehow frivolous, or amounts to a filibuster. The College, including the office of the Complaints Director, is bound by the *Alberta Human Rights Act* and the *Canadian Charter of Rights and Freedoms*. All the evidence Dr. Wall has called is relevant to his arguments the College has breached those instruments and his rights. This matter is not a civil suit involving a dispute between two private parties. In that context, threatening costs is acceptable. This is a public law matter, involving the prosecution of a professional by the government body that regulates that professional. Threatening costs in the manner the Complaints Director has done is reasonably perceived as a bad faith attempt by the Complaints Director to extract a conviction by intimidating Dr. Wall so that he does not exercise his right to put forth a full answer and defence.
34. Further still, the Complaints Director is seeking to unlawfully censor Dr. Wall and have the Tribunal order such unlawful censorship by requesting the removal of content on the Liberty Coalition Canada website. To seek such an impossible remedy is oppressive and evinces bad faith. The Complaints Director is seeking to subvert the process by which he prosecutes this matter, in breach of his duty of good faith. He scandalously accuses Dr. Wall of "distorting" the process by reasonably exercising his rights, yet seeks to unlawfully make his prosecution of Dr. Wall secret.

35. Further exasperation takes the form of the Complaints Director now accusing Dr. Wall of ungovernability. This is a new charge, never before expressed. This charge cannot be made in a private email to the Tribunal. It requires an application before the Tribunal, open to the public, to amend the Charges. Even then, it is procedurally unfair and impermissibly prejudicial to Dr. Wall to amend the Charges part way through the hearing of the Charges. Further, “ungovernability” is the ultimate accusation of professional misconduct, one that often results in the long-term or permanent loss of licence to practice. To make such an accusation within an email to the Tribunal is also reasonably perceived as an attempt to intimate Dr. Wall and undermine his ability to mount a full answer and defence, in breach of his rights and in violation of procedural fairness.
36. Such threats, accusations, and attempts to undermine the exercise of the rights of the accused professional is unlawful, as it is both a breach of Dr. Wall’s rights and the Complaints Director’s duty of good faith in his role as prosecutor. Such prosecutorial misconduct by a prosecutor in the criminal context leads to a mistrial, if not also tort claims of malicious prosecution.
37. Dr. Wall submits closing argument cannot proceed as scheduled on April 11-12, 2022 under the circumstances. Dr. Wall submits that the prosecution of this matter must not proceed in any manner until the issues regarding the Complaints Director’s accusation of willful breach and Dr. Wall’s allegation of prosecutorial misconduct are fully addressed. Dr. Wall objects in no uncertain terms, on the grounds of procedural unfairness, to closing argument occurring on April 11-12.
38. Further, Dr. Wall submits a hearing is required for the Tribunal to make a determination of the Complaints Director’s and Dr. Wall’s applications. Such issues of misconduct, fundamental rights, and procedural fairness demand a full hearing at which counsel make oral submissions. Further, no decision can be made by the Tribunal until the transcripts of the hearing of the Complaints Director’s February 25 application for a publication ban are obtained and entered into the record, and submissions from counsel regarding the transcripts have been provided.

## Relief Sought

39. Dr. Wall herein applies to the Tribunal for the following relief:

- a. An interim order directing that closing argument be adjourned and April 12, 2022, or some other date selected by the Tribunal, be set as the hearing date for the Complaints Director's and Dr. Wall's within applications.
- b. An order directing the removal of the Complaints Director, [REDACTED] for incurable prosecutorial misconduct, and the appointment of a new prosecutor, or, in the alternative;
- c. An order directing the Complaints Director to:
  - i. Cease issuing threats related to costs, not again to be made;
  - ii. Withdraw his scandalous accusation Dr. Wall willfully breached the Tribunal's March 16 order, not to be made again; and
  - iii. Withdraw his accusation of "ungovernability", not to again be made unless through a formal application to amend the Charges.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 29<sup>th</sup> day of March, 2022



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**James S. M. Kitchen**

**Counsel for the Regulated Member, Dr. Curtis Wall**

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## SCHEDULE A

### CCA - Dr. W.

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From: [REDACTED]

To: [REDACTED]

CC: james@jshmklaw.ca

Date: Monday, March 28th, 2022 at 9:27 AM

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Hello [REDACTED]

I am writing to you regarding a matter of great concern on the part of the Complaints Director arising from clear breaches by Dr. Wall of the Hearing Tribunal's (the "Tribunal") March 16, 2022 interim written decision (the "Decision") regarding publication of hearing transcripts (the Transcripts) and related matters. As detailed below, my client requests immediate direction from the Tribunal to Mr. Kitchen and Dr. Wall to address these breaches.

I have copied Mr. Kitchen with this e-mail.

#### **The Tribunal's March 16, 2022 Decision**

After a virtual hearing on February 25, 2022 (the "Hearing"), the Tribunal issued its Decision. On page 4 of the Decision, the Tribunal issued clear and explicit orders regarding (i) the redactions to be made to the Transcripts prior to publication and (ii) a prohibition on ancillary content or explanatory comments relating to the Transcripts. The Tribunal's stated orders are:

"We find that the transcripts of the expert witnesses who testified in this proceeding may be published on the condition that all identification of the witnesses, the tribunal, and the counsel be redacted from those transcripts. We appreciate that this will require a line-by-line review of the document proposed to be published. That will be necessary to ensure that there is no reference to any of the names of the parties that testified, nor the names of the counsel involved or the tribunal members.

We also direct that any publication does not contain any ancillary content or explanatory comments that could in any way bypass our decision and identify the witnesses, tribunal members or counsel. If the parties seek further direction or have questions arising, the panel is prepared to reconvene"

(collectively, the "Orders")

#### **Publication by Dr. Wall and Breaches of the Decision**

It has come to the Complaints Director's attention that the Transcripts have been published on the Liberty Coalition Canada ("LCC") website at:

<https://www.libertycoalitioncanada.com/acacvdrcurtiswall-case-description>

PDFs of certain witness Transcripts are on the bottom of that website page. Two of those PDFs are titled:

"Transcript of Testimony of [REDACTED]"

"Transcript of Testimony of [REDACTED]"

[Emphasis Added]

Additionally, when accessing the PDF for [REDACTED] transcript it is evident that his name and [REDACTED] name have not been completely redacted and they appear numerous times in that Transcript (for example see page 002 and lines 6, 12 and 18).

Similarly, when accessing the PDF to [REDACTED] Transcript his name has also not been completely redacted and it appears in that Transcript (for example see page 003 and line 10).

This is clearly a breach of the Tribunal's orders. As mentioned above, the Tribunal's Orders stated:

"We find that the transcripts of **the expert witnesses who testified in this proceeding** may be published on the condition that all identification of the witnesses, the tribunal, and the counsel be redacted from those transcripts." [Emphasis Added]

This prohibition applies equally to the Complaints Director's expert witnesses and Dr. Wall's expert witnesses. There was no distinction made between one parties' expert witnesses and the other parties' expert witnesses. Instead, the prohibition on naming expert witnesses was uniform and all encompassing.

This publication constitutes a clear and unequivocal breach of the Orders.

Just as troubling is the fact that the following statement appears on the LCC website just above the PDFs of the Transcripts:

"CASE UPDATE:

As with most hearings of this type, transcripts have been produced by a court reporter of the testimony of each witness, including the expert witnesses. Following the last day of testimony on January 29, 2021, Dr. Wall informed the ACAC that he would be releasing to the public the transcripts of all the expert witness testimony, as is his constitutional right to do so, protected by the open court principle, freedom of expression, and the right to a fair and public hearing. The ACAC objected to the release of transcripts, citing unspecified concerns about the timing of the release. The ACAC applied to the Tribunal hearing Dr. Wall's case for a publication ban to make all the transcripts secret so the public could not have access. A hearing was held in February at which Mr. Kitchen opposed the publication ban and urged the Tribunal to follow the law regarding open and public hearings, which includes the publication of transcripts for the public to read. On March 15, 2021, the Tribunal issued its decision to deny the publication ban sought by the ACAC and permit the release of the transcripts.

**The transcripts of expert witness testimony, which consist of nearly 1000 pages, abundantly establish through scientific and medical evidence that the masks typically mandated to purportedly stop the spread of COVID are utterly ineffective and harmful. The expert witness for the ACAC twice retracted portions of his opinion report and was repeatedly proven wrong by Dr. Wall's expert witnesses. Dr. Wall's expert witnesses established that within minutes of wearing a mask the wearer begins suffering the toxic effects of oxygen deprivation and overexposure to carbon dioxide and that the wearing of masks by asymptomatic people has no impact on the rate of transmission of the SARS-Cov-2 virus.**

**Any general requirement to wear a mask is unjustified in light of the scientific fact they are ineffective at stopping the transmission of COVID-19. But any requirement to wear a mask under the threat of professional discipline that allows for no exceptions for those medically unable to wear a mask is even more unreasonable, oppressive, and discriminatory. Defending Dr. Wall against the ACAC is LCC Chief Litigator, James S. M. Kitchen. Liberty Coalition Canada.**" [Emphasis Added]

(the "Ancillary Comments")

Again, this is clearly a breach of the Tribunal's Orders when they stated:

"We also direct that any publication does not contain any ancillary content or explanatory comments that could in any way bypass our decision and identify the witnesses, tribunal members or counsel."

### The Complaints Director's Concerns

As a starting point, the breaches mentioned above are unequivocal and unambiguous and display fundamental non-compliance with the Tribunal's mandatory direction and, in a more general sense, its authority over the entire proceedings.

The Ancillary Comments are obviously and undeniably deliberate "ancillary content or explanatory comments". Posting the Ancillary Comments was not an inadvertent or mistaken action. It represented a highly troubling deliberate and independent decision by Dr. Wall to disregard the Orders in spirit and in content and to disregard his professional obligations as a regulated member of the College.

That breach and breaching the redaction of names order represent the very "harm" that motivated the Complaints Director to bring his interim application after Mr. Kitchen ---over five months after the hearing began and prior to any written decision being issued by the Tribunal--- advised of Dr. Wall's intention to publish the Transcripts.

As emphasized at the Hearing, the Complaints Director wanted to prevent release of the Transcripts prior to the conclusion of the Hearing to avoid tainting or harming both the Tribunal's decision-making and any appeal process.

It is extremely troubling that a situation has arisen where, in breach of the Orders, Dr. Wall has effectively already begun his closing submissions and is selectively mentioning evidence without context and with his own interpretation of the expert evidence.

As the Tribunal knows, the Complaints Director has time and again focused the Tribunal on the fact that this is a simple and direct case of non-compliance with the College's Pandemic Directive and of Dr. Wall's related professional obligations.

Despite unequivocal and stringent Orders from the Tribunal, Dr. Wall has again taken a position of non-compliance and appears to have deliberately disregarded the legal authority of the Tribunal and the legislated hearing process under the HPA.

From the Complaints Director's perspective, a straightforward set of charges confined to professional non-compliance has been distorted and has again led to the further unnecessary expenditure of significant time and cost. To date, the discipline hearing has resulted in the College incurring in excess of \$200,000.00 in costs, an astonishing amount that continues to be increased due to the actions of Dr. Wall that have resulted in an unnecessarily lengthy and complex hearing.

For the record, the Complaints Director is taking the position that the breaches of the Order by Dr. Wall are part of a continuing pattern of non-compliance and are evidence of the ungovernability of Dr. Wall as a member of the chiropractic profession. It was incumbent on Dr. Wall (and his legal counsel for whose actions Dr. Wall is responsible) to ensure meticulous and absolute compliance with the Orders. In short, this is not a situation where the breaches of the Order fall within a "gray area" or can be disputed.

### **The Complaints Director's Requested Remedy**

The Complainants Director respectfully but strongly submits that the Hearing Tribunal immediately issue a supplemental order requiring complete and total compliance with the Orders including:

- (i) immediate removal of the PDFs of the Transcripts from the LCC website;
- (ii) immediate and, until the entire hearing regarding Dr. Wall and all written decisions by the Hearing Tribunal have been issued, removal of the Ancillary Comments from the LCC website;
- (iii) a review by the Tribunal of any further redacted versions of the Transcripts before any future publication to ensure all name redactions have been made.

As well, and as part of any overall costs order made by the Tribunal, the Complaints Director reserves his right to request an order requiring payment by Dr. Wall of one hundred (100%) percent of the Complaints Director's (i) costs for the publication interim application and (ii) the entirely avoidable steps to enforce of the Orders.

That application was necessitated by Dr. Wall's actions and was, in retrospect and now being confronted with Dr. Wall's breach of the Orders, entirely justified.

In summary, a clear and unambiguous message must be sent to Dr. Wall that this behavior will not be tolerated at any time of in any circumstance.

[REDACTED]

[REDACTED]  
**Barrister and Solicitor**

[REDACTED]

[REDACTED]

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