

0U-16-555861

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

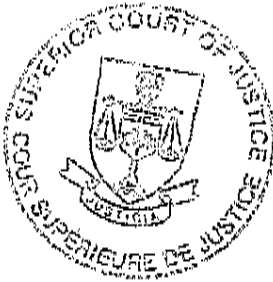
MARK THOMPSON

Plaintiff

- and -

MARC COHODES

Defendant



STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this Court Office, **WITHIN TWENTY DAYS** after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another Province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

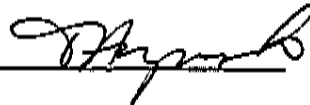
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IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFFS' CLAIM, and \$5,000.00 for costs, within the time for service and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: June 30, 2016

Issued by: 

Address of court office:
393 University Avenue
10th Floor
Toronto, Ontario

TO: **MARC COHODES**
Alder Lane Farm
1050 East Railroad Ave
Cotati, California
United States of America
94931

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CLAIM

-
1. The plaintiff claims:
 - (a) general damages for libel in the amount of \$2,000,000.00;
 - (b) aggravated damages for libel in the amount of \$1,000,000.00;
 - (c) punitive damages in the amount of \$1,000,000.00;
 - (d) a permanent injunction restraining the defendant or any other person acting on behalf of the defendant from publishing, posting, or reposting any communications defamatory of the plaintiff;
 - (e) prejudgment interest on damages awarded to the plaintiff pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
 - (f) the costs of this action on a full indemnity basis; and
 - (g) such further and other relief as this Court may deem just.
-

1. THE PARTIES

2. The plaintiff, Mark Thompson, is the founder, a Director, Chairman and Chief Executive Officer of Concordia International Corp. ("Concordia", formerly named Concordia Hcalthcare Corp.). Mr. Thompson is the former Senior Vice President and General Counsel of Legacy Pharma Limited Partnership, and co-founder of Trimel Pharmaceuticals and Tribute Pharmaceuticals Inc. From 2001 to 2005, Mr. Thompson was employed by Biovail Corporation ("Biovail"), where he was Associate General Counsel and, subsequently, Vice-President, Business Development. Prior to joining Biovail, Mr. Thompson was an associate at Osler,

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Hoskin and Harcourt LLP. Mr. Thompson holds H.B.A. and M.A. degrees from York University and an LL.B. from the University of Ottawa.

3. The defendant, Marc Cohodes, is a businessman who resides in the State of California in the United States of America. He carries on business there and elsewhere in North America.

4. Mr. Cohodes has been active in North American securities markets for many years as a "short seller" of publicly traded securities. A short seller is a person who trades in securities with a view to profiting from a future decline in the securities' market value.

5. Generally, a short seller of securities borrows securities and sells them. In doing so the short seller hopes to satisfy the seller's obligation to the lender by purchasing equivalent replacement securities in the future for a lower price. If the short seller has sold the borrowed securities for more than it costs to replace them, the difference is profit in the short seller's hands.

6. The short seller's strategy can only succeed if the market price of the borrowed securities declines after the short seller's sale of them. It is thus in the interest of a short seller of a company's securities to spread information in the public markets which will lower the reputation of the company and its senior management, and thus contribute to the market placing a lower value on the company's securities.

2. THE LIBEL COMPLAINED OF

7. Mr. Cohodes is a short seller of Concordia. To advance his financial interests as such, he has launched a campaign to manipulate downward the price of Concordia shares by,

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among other things, criticizing Mr. Thompson as the Chairman and Chief Executive Officer of Concordia.

8. In furtherance of his campaign, on Friday, April 29, 2016, Mr. Cohodes appeared on a national Canadian television broadcast on the Business News Network ("BNN"). Thereafter, the broadcast continued to be available on the Internet at BNN's website, a popular source of business news, under the title, "Short seller takes aim at Concordia".¹

9. During the broadcast Mr. Cohodes falsely and maliciously made the following statement regarding Mr. Thompson:

One of the things I always try to do is I bet the jockey and not the horse. And one thing I look at is I look at career failures. And the management of Concordia, their past gig was at something called Biovail which I was short a long time ago which was a complete and utter fraud. So Thompson has a history of nonsense when he was at Biovail.

In the interview Mr. Cohodes went on to say that in his statements about Mr. Thompson and Concordia he was "speaking out against complete and utter nonsense and frauds".

10. Mr. Cohodes' statements in the BNN interview are false and seriously defamatory of Mr. Thompson. The statements, in their plain and ordinary meaning including their implied meaning, meant and were understood to mean that Mr. Thompson had committed fraud, or participated in committing fraud, during his employment with Biovail.

¹ At <http://www.bnn.ca/Video/player.aspx?vid=859434>.

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3. DAMAGES

11. Mr. Thompson has suffered damage to his reputation and feelings as a result of the false and defamatory statements of the defendant.

12. Mr. Cohodes made the statements complained of maliciously, for the dominant purpose of harming Mr. Thompson's reputation, with knowledge that they were false or reckless disregard for their truth or falsity.

13. Mr. Cohodes made the statements as part of a campaign to damage the reputation of Mr. Thompson for the collateral purpose of reducing the market value of Concordia's securities, so as to advance Mr. Cohodes' private financial interests as a short seller of Concordia shares.

14. Mr. Cohodes sought to maximize the breadth of the publication of the statements complained of by making the statements in a broadcast on national television, which was also published internationally through the Internet.

15. By letter dated May 4, 2016, Mr. Thompson put Mr. Cohodes on notice of the libels stated above. Mr. Thompson asked Mr. Cohodes to retract and apologize for the libels. Mr. Cohodes has refused to retract the defamatory statements or apologize to Mr. Thompson.

16. In April of 2016 and since that time, Mr. Cohodes' defamatory statements regarding Mr. Thompson have been republished on the Internet. The wide republication of the defamation of Mr. Thompson was a direct result of Mr. Cohodes' statements for publication and was reasonably foreseeable by Mr. Cohodes and intended by him.

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17. The malicious, high-handed and arrogant conduct of the defendant warrants an award of punitive or exemplary damages to ensure that the defendant is appropriately punished for his conduct and deterred from such conduct in the future.

18. The plaintiff requests a permanent injunction restraining the defendant or any other person acting on behalf of the defendant from publishing, posting or reposting any communications defamatory of the plaintiff, as there is a likelihood that the defendant will continue to publish defamatory statements despite a finding of his liability to the plaintiff in this action.

19. The plaintiff is entitled to serve this originating process outside of Ontario as his claim consists of a claim in respect of a tort committed in Ontario and is for, among other things, an injunction ordering the defendant to refrain from defaming the plaintiff in Ontario. The plaintiff relies on Rules 17.02 (g) and (i) of the *Rules of Civil Procedure*.

The plaintiff proposes that this action be tried at the City of Toronto.

June 30, 2016

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MARK THOMPSON

- and -
Plaintiff

MARC COHODES

Defendant

Court File No. *CV-16-553861*

**ONTARIO
SUPERIOR COURT OF JUSTICE**
Proceedings commenced at
Toronto

STATEMENT OF CLAIM

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