Court File No. SC23000002770000

ONTARIO
SUPERIOR COURT OF JUSTICE
(SMALL CLAIMS COURT)

BETWEEN:

MATTHEW BUCHALTER

Plaintiff/Respondent

- and -

AMERICAN WAGERING, INC., ALSO KNOWN AS CAESARS SPORTSBOOK

Defendant/Moving Party

SUMMARY OF ARGUMENT OF
THE PLAINTIFF/RESPONDENT
MATTHEW BUCHALTER

INTRODUCTION

1. This action is a simple case about Caesars dealing unevenly with wagers. Caesars marked losing bets as losers and potential winning bets as void.

2. To avoid liability for this obviously unjust behaviour, and presumably to avoid any precedent being set regarding its conduct, Caesars brings this motion to strike. It makes two primary arguments on this motion that are bound to fail.

3. The first primary argument is that Caesars' unjust conduct is shielded by the fact that the plaintiff complained about Caesars conduct to iGaming Ontario ("**iGO**").

4. The process through which the plaintiff complained to iGO is not any sort of tribunal process which could estop this claim. iGO has no ability to award compensation to the plaintiff. In this motion, Caesars misstates the role of iGO Ontario's role in the regulation of gambling platforms. It urges this court to bar this claim in favour of a process that is incapable of making the plaintiff whole.

5. The remainder of Caesars' arguments regarding "nuisance" and similar concepts are used in an attempt to obscure the merits of this action and are not supported by any of the many authorities that it cites. Caesars argues that this action is a waste of time but has brought this unnecessary motion in lieu of simply having the merits of this matter adjudicated all while citing irrelevant information about the plaintiff.

6. The second primary argument that Caesars makes is that its terms and conditions should be applied to force the plaintiff into a disproportionate and expensive arbitration. Caesars is wrong about the proper interpretation of its own arbitration clause. But even if Caesars

is right about how that clause should be interpreted, it is clearly unenforceable under Canadian law.

7. If Caesars succeeds on this motion, there is no reasonable way for a bettor on its Canadian platform to receive recompense for Caesars' errors. Caesars has argued that permitting this action to proceed to a trial (i.e. having it decided on its merits) risks increasing the number of court proceedings. This is a speculative suggestion made by Caesars (unsupported by evidence) and it reflects a desire to have a total lack of accountability to Caesars' customers in Ontario. To the extent that more broad considerations of justice are relevant on this motion, the balance of those considerations must favour the plaintiff.

8. Sophisticated counsel with one of Canada's largest law firms has used the subject matter of this motion to attack the character of the plaintiff. Its evidence omits relevant documents which, if they exist at all, are exclusively under its control. It has misstated relevant law in making its arguments. This is awful conduct, intended to intimidate and stymie the individual, self-represented plaintiff. It should be rejected by this court and an award of exceptional costs considered in favour of the plaintiff with respect to this motion.

9. The plaintiff asks that this matter be scheduled for trial as soon as possible.

FACTS

10. The plaintiff is a practicing actuary.[1] The plaintiff also has a key interest in the use of analytics and data in gambling markets.[2] He has made a number of posts online regarding analytics and data and has provided the Court with an example of the sort of material that he publishes online.[3]

11. The plaintiff placed a number of wagers on NFL football in 2022. Different wagers containing the same condition were treated differently. The merits of this action concern Caesars' inconsistent treatment of the wagers and the appropriate remedy, if any.[4]

12. Caesars has suggested to this Honourable Court that the plaintiff benefits from the "publicity" of this action. What it has failed to disclose to the court is that the plaintiff's posts about issues relate to less than 0.1% of his more than 28,800 posts on X (formerly known as Twitter).[5] It says that these posts are a reason to prevent a trial in this action.

13. The sports gambling industry is relatively nascent in Ontario and the plaintiff and other bettors are interested in ways to safely place wagers. For that reason, the plaintiff's online posts address a number of points of public interest to the gambling public. These include, but are in no way not limited to the conduct of online operators who have acted to the detriment of Ontario's bettors, many of which are not at issue in this litigation.[6]

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[1] Affidavit of Matthew Buchalter ("Buchalter Affidavit") at para. 3.
[2] Buchalter Affidavit at para. 8.
[3] Buchalter Affidavit at para. 8, Exhibit "A".
[4] Buchalter Affidavit at paras. 10-12.
[5] Buchalter Affidavit at paras. 6-7.
[6] Buchalter Affidavit at para. 9.

14. At the first settlement conference in this action, Caesars raised the issue of iGO's role in Ontario was raised as a potential bar to a trial of this action. There was no evidence in front of the court about iGO at that time.

15. The plaintiff hoped at the outset of this matter that iGO would assist Ontario bettors treated unfairly by sportsbooks operating in this Province. The plaintiff has since come to understand that iGO cannot offer compensation to Ontario bettors and it provides no substitute for this action.[7]

16. iGaming Ontario's website states:

"iGO cannot directly settle any bets, refund wagers or award compensation"[8]

17. Caesars relies on its correspondence with the AGCO and iGO's alleged "Customer Care and Player Dispute Resolution Policy" in relation to its inconsistent treatment of the plaintiff's wagers. None of these materials have been filed by Caesars, either in this motion or otherwise in this action.[9] In any event, they go to the merits of Caesars' justification of its conduct and not to the availability of iGO as an adequate alternative remedy.

18. The plaintiff commenced this action on February 8, 2023.

19. Caesars did not file a motion at that time regarding the application of its arbitration clause. Instead, it filed a Defence.

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[7] Buchalter Affidavit at paras. 17-21.
[8] Buchalter Affidavit at para. 18, Exhibit "B".
[9] Buchalter Affidavit at paras. 13-16.

20. The arbitration clause that Caesars now relies on was not negotiated by the parties. It was agreed to as part of the plaintiff's general agreement of terms and conditions related to use of the Caesars' platform.[10] It was Caesars that designed and drafted the contract.

21. Some characteristics of the arbitration urged by Caesars in this motion are:[11]

(a) The arbitration is to be administered by ICDR Canada pursuant to its Canadian Arbitration Rules; there is no carve out for small claims court proceedings.[12]

(b) The clause requires that an arbitration be commenced within one (1) year after such claim or cause arose or you waive such claim or cause of action, including the ability to arbitrate the matter. Caesars *could have* brought this motion immediately upon receipt of my Plaintiff's Claim. Because Caesars brought this motion so late in this action, more than one year has passed since the plaintiff's claim arose. If Caesars is successful in its argument to stay this action in favour of arbitration, the plaintiff expects that Caesars will take the position that any arbitration regarding the within issues is barred due to the passage of time. This would be permitting Caesars to benefit from its own delay in bringing this motion, and bar the plaintiff's access to any adjudication entirely.[13]

(c) According to the ICDR Canada Fee Schedule attached as Exhibit "I" to Ms. Rankin's affidavit, the costs of the arbitration are likely to eclipse any amount the plaintiff may recover. The filing fees alone are $2,000 USD. Arbitrator

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[10] Buchalter Affidavit at para. 24.
[11] Buchalter Affidavit at para. 25.
[12] Plaintiff's Motion, page 129.
[13] Plaintiff's Motion, page 126.

compensation is not included this amount. The financial outlay for the plaintiff to proceed with an arbitration under Caesars' terms and conditions would be many times the value of the plaintiff's claim.[14]

(d) The prevailing party in the arbitration is entitled to "reasonable legal fees and expenses". In this case, Caesars has retained the law firm of Blake, Cassels & Graydon LLP, whose hourly rates are expected to be in the hundreds of dollars per hour.[15]

(e) The arbitration clause purports to exclude the application of the United Nations Convention on Contracts for the International Sale of Goods, if otherwise applicable.[16]

22. As a result of the foregoing, due to timing, cost and procedure, an arbitration process is all-but-inaccessible to the plaintiff with respect to this matter.[17]

23. The plaintiff is eager to have this case tried on its merits and is willing to take all appropriate steps to that end as the court may direct.[18]

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[14] Plaintiff's Motion, page 129.
[15] Plaintiff's Motion, page 129.
[16] Plaintiff's Motion, page 126.
[17] Buchalter Affidavit at para. 26.
[18] Buchalter Affidavit at para. 27.

ISSUES

24. The issues in this motion are:

(a) What is the proper standard applied to a Rule 12.02 motion?

(b) Should this claim be dismissed as:

(i) estopped or as an abuse of process;

(ii) "inflammatory, a waste of time or a nuisance"?

(c) Should this claim be stayed in favour of Caesars' arbitration clause?

(d) What award of costs is appropriate?

LAW AND ARGUMENT

Issue 1 – The Standard to be Applied on a Rule 12 Motion

25. Because the defendant has omitted relevant language in paragraph 16 of its Summary of Argument, it is important that the court be reminded of the proper standard applied to a Rule 12.02 motion and the rationale for same.

26. The Ontario Court of Appeal has addressed the standard to be applied in this motion:[19]

"Conceptually, I view rule 12.02 as being situated somewhere between the Rules 20 and 21 of the Rules of Civil Procedure. It is not a summary judgment motion involving extensive affidavits and a requirement such as contemplated in Rule 20 of the Rules of

[19] Van de Vrande v. Butkowsky, 2010 ONCA 230 at paras 19-21.

Civil Procedure where the responding party must put his "best foot forward". It is more akin to a Rule 21 motion, although it is worded more broadly and does not have the same prohibition on the filing of affidavit evidence. It is a motion that is brought in the spirit of the summary nature of Small Claims Court proceedings and involves an analysis of whether a reasonable cause of action has been disclosed or whether the proceeding should be ended at an early stage because its continuation would be "inflammatory", a "waste of time" or a "nuisance".

In my view, the references to actions that are inflammatory, a waste of time or a nuisance was intended to lower the very high threshold set by rule 21.01(3)(d)'s reference to actions that are frivolous, vexatious or an abuse of process.

It bears remembering that rule 12.02 motions will often be brought and responded to by self-represented litigants who lack the extensive training of counsel. The test to be applied on such a motion ought to reflect this, and avoid the somewhat complex case law that has fleshed out the Rules of Civil Procedure."

27. Thus, the standard applied to this motion should not be so low that it is weaponized against the plaintiff. Indeed, the reason for any relaxation in standard for dismissal of a claim was intended to benefit parties like the plaintiff, not internationally-based firms like Caesars who can afford top-tier legal advice.

28. The plaintiff does agree with Caesars that a concept of "good conscience" may be considered here. As described below, this motion is an attempt to bar the plaintiff's access to justice and compensation for the defendant's unjust enrichment. That access is only reasonably available from this court. To the extent the court has any doubt about

whether this action should proceed, it should permit a full hearing of this matter on its merits.

Issue 2: This Action Should Not be Struck Under Rule 12.02

A. This claim is not estopped or an abuse of process

29. The primary argument made by the defendant about why this action should be struck in its argument is that this matter is issue estopped. In making this argument, Caesars misstates the legal test for issue estoppel.

30. The second requirement for a finding of issue estoppel as twice established by the Supreme Court of Canada is:

"that the judicial decision which is said to create the estoppel was final"[20]

31. On this motion Caesars argues that the requirement is merely that a "prior decision" be final.[21]

32. The omission of the phrase "judicial decision" is material. iGO performs no judicial function and has no statutory authority to even render an administrative decision whereby it could order Caesars to pay the plaintiff money.

33. In order for issue estoppel to exist, the matter must have been decided in either a court of law or an administrative tribunal. iGO's dispute resolution process is neither.

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[20] *Danyluk v. Ainsworth Technologies Inc.*, 2001 SCC 44 [*Danyluk*] at para. 25, citing *Angle v. Minister of National Revenue*, [1975] 2 S.C.R. 248.

[21] Caesars' Summary of Argument at para. 17.

34. The regulation which created iGO, O. Reg. 517/21,[22] does not even include resolving disputes in its prescribed objects and duties. There is no statutory authority for the dispute resolution decisions it makes and, as such, the iGO decision does not qualify as the "exercise of a statutory power of decision conferred by or under an Act of the Legislature" as required by section 3 of the *Statutory Powers Procedures Act*.[23] Judicial review is therefore arguably not even available in these circumstances, even if a person wished to spend the resources to overturn a toothless iGO outcome.

35. Nor is this action abusive – it is not a duplicative proceeding or collateral attack for compensation.

36. iGO's Player Support web page, in describing the dispute resolution process, states that "iGO cannot directly settle any bets, refund wagers or award compensation"[24]. This should be fatal to all of Caesars' arguments that this action is in some way duplicative of the iGO proceeding or is abusive.

37. iGaming Ontario's Complaints/Disputes Service standards web page states that "this process does not affect your right to raise your concerns with the Ombudsman of Ontario if you are dissatisfied with the results provided by iGO."[25]

38. Thus, even an appeal from iGaming's optional dispute resolution process cannot afford the plaintiff a financial remedy. The appeal from an iGO decision, as stated by iGaming

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[22] O. Reg. 517/21, LOTTERY SUBSIDIARY - IGAMING ONTARIO.
[23] *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22.
[24] Buchalter Affidavit at para. 18, Exhibit "B".
[25] Buchalter Affidavit at para. 19, Exhibit "C".

itself, is not a court judicial review, but an appeal to the Ontario Ombudsman - another entity that cannot afford the plaintiff any financial remedy.

39. These processes are no substitute for correcting the unjust enrichment received by the defendant. Any finding to the contrary would be unconscionable as it would mean that there is no financial remedy available when Caesars wrongfully settles client wagers, of any size.

40. Caesars speculates (without any evidence in support) that permitting this action to be tried will increase the number of small disputes. The court has no evidence about the scope of disputes Caesars has with those in Ontario and this conjecture should be rejected on that basis alone. If, however, Caesars really is conducting itself in a way that would "inundate" the courts, perhaps it should avoid conduct which, on its merits, unjustly enriches itself at the expense of Ontario residents. It has chosen to do business here and is subject to the laws of this province.

41. To the extent that the court somehow reaches the conclusion that iGO's views are a final judicial or administrative decision which may bar this claim, it should refuse to strike this claim on equitable grounds.[26]

B. <u>This claim is not inflammatory, a waste of time or a nuisance</u>

42. Aside from its flawed argument about issue estoppel, the crux of Caesars' argument is that it does not like that the plaintiff has spoken publicly about this dispute and its impact on Ontario bettors. Caesars argues that:

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[26] *Danyluk v Ainsworth Technologies*, 2001 SCC 44.

The Claim is nothing more than a publicity stunt by the Plaintiff.

43. This is an absurd proposition, particularly when combined with Caesars' assertion that this claim is not for "a lot of money".

44. This claim seeks more than $2,000. The plaintiff's motivations for bringing this claim are, first and foremost, to seek recovery of amounts that the plaintiff believes have been wrongfully retained by Caesars. While the amount at issue in this claim is "relatively insignificant" for the plaintiff, it is still money that he believes has been unjustly retained by Caesars.

45. Suggesting that there is "nothing" at issue in this case is an affront to Caesars' customers in this province. It would indeed be a dangerous precedent for this court to hold that a claim related to a wager must exceed $2,000 in order for it to be a matter worthy of this court's attention.

46. The fact that there may be public interest in the way in which Caesar is treating Ontario bettors does nothing to detract from the merits of this matter. Caesars' submissions are tantamount to seeking an implied public gag order which would be clearly contrary to the open courts principle and law. Indeed, the plaintiff is not bound by any restrictions on public discussion of this case, other than the confidentiality requirement for matters discussed at the settlement conference with which he has fully complied. It would be an error at law to construe Rule 12.02 such that it can be used to impose a gag order on an individual litigant, without notice and then use that to prohibit consideration of the plaintiff's claim on its merits.

47. The size of plaintiff's social media following and the content of his podcast appearances and media interviews are irrelevant to the merits of this case.

48. To the extent that the small percentage of the plaintiff's online conduct does relate to this action and the underlying facts *and* to the extent that conduct is of the public interest, this court should view that as a reason to hear this case, not dismiss it without a hearing on the merits.

49. The plaintiff's candidness in engaging in public discussion of the case does not change the facts of the case nor does it change the relevant law, and such candidness does not, in and of itself, satisfy the definition of a nuisance claim.

50. None of the many cases relied upon by Caesars suggest that a meritorious action should be dismissed because there is a public interest. Those cases involve instances where:

(a) the plaintiff sued the wrong person;[27]

(b) a court previously litigated the case or duplicate court action;[28]

(c) duplicate claims before an administrative tribunal;[29] and

(d) instances involving sixty-seven small claims court actions.[30]

51. Indeed, Caesars' case law demonstrates that it is the only party whose conduct is inflammatory. The decision cited by Caesars, *Eira v Kulkami* says that "courts have found statements to be inflammatory when they are irrelevant to an issue in the case or consist of personal attacks".[31] Caesars has not identified a single statement in the

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[27] *Carroca v River Park Village*, 2014 CanLII 67463 (ON SCSM).
[28] *Vuong v Toronto East General & Orthopaedic Hospital*, 2010 ONSC 6827; *Bryton Capital Corp v CIM Bayview Creek*, 2023 ONCA 363; *Carbone v. DeGroote*, 2018 ONSC 109.
[29] *Crook v Adler*, 2021 ONSC 7719.
[30] *MDG Newmarket v Symonds*, 2022 ONSC 6481.
[31] *Eira v Kulkami*, 2021 ONSC 7015 at para 8.

Plaintiff's Claim which is somehow a "personal attack" on its corporate character. Rather, Caesars has approached this motion by talking about its assumptions about the plaintiff and his irrelevant online profile. If anyone's litigation tactics (over the validity of Caesars' marking of wagers) is inflammatory, it is Caesars.

Issue 3: This Action Should Not Be Stayed In Favour of Arbitration

52. This action should not be stayed in favour of arbitration for two reasons.

53. First, this dispute falls outside the scope of the arbitration agreement.

54. Caesars relies on the following arbitration clause in asking this court to stay this action:[32]

> **30. ARBITRATION**. Excluding those disputes identified in Section 28 above and disputes which are subject to the iGaming Ontario Customer Care and Player Dispute Resolution Policy, any claims or controversy arising out of or relating to the Agreements, including the determination of the scope or applicability of the Agreements and our use of electronic services providers, shall be determined by confidential arbitration by a single arbitrator seated in Toronto, Ontario. The arbitration shall be administered by ICDR Canada pursuant to its Canadian Arbitration Rules. The language of the arbitration shall be English. The award of the arbitrator shall be binding and final on all parties, and not subject to appeal on any question of law, fact, or mixed fact and law. Judgment on the award rendered may be entered in any court having jurisdiction. The prevailing party shall be entitled to reasonable legal fees and expenses. The arbitrator may not award any incidental, indirect, special, or

[32] Affidavit of Lisa Rankin affirmed January 11, 2024, Exhibit "H", Defendant's Motion Record, p. 126.

consequential damages, including, but not limited to, damages for lost profits. If any part of the Agreements is found to be invalid, illegal or unenforceable in any respect, it will not affect the validity of the remainder of the Agreements, which shall remain valid and enforceable according to their terms. No waiver of any breach or default of the Agreements shall be deemed to be a waiver of any preceding or subsequent breach or default.

The parties agree that this Agreement excludes the application of the United Nations Convention on Contracts for the International Sale of Goods, if otherwise applicable.

Additionally, you agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or relating to these Agreements and the use of the Services must be commenced within one (1) year after such claim or cause arose or you waive such claim or cause of action, including the ability to arbitrate the matter.

55. That language contains exceptions. The notable exception is found in Section 28 of the GTS. Section 28 of the GTS is as follows:[33]

28.NOTICES/COMPLAINTS. If you have any complaints, claims or disputes with regard to any alleged winnings, alleged losses or the award or distribution of payouts or any other item or items in a promotion or similar activity or event, or the manner in which a wager, promotion or similar activity or event is conducted regarding the Services, you must submit your complaint to us in writing as soon as is reasonably practicable following the date of the original transaction to which the claim or dispute refers. Complaints may be submitted by email to support-on@caesarssportsbook.com. You may also submit notices to us by

[33] Affidavit of Lisa Rankin affirmed January 11, 2024, Exhibit "H", Defendant's Motion Record, p. 125.

mail at Customer Service, 6325 S. Rainbow Blvd., Suite 100, Las Vegas, NV 89118, USA. Any notice we give to you (save as otherwise set out herein) will be sent to the email address that you provide when you register your Account. You can notify us of any changes to this address through the 'Change Email' facility in our software. It is your responsibility to give us notice and to check your email account for emails from us.

56. This is very clearly a case involving "claims or disputes with regard to any alleged winnings, alleged losses or the award or distribution of payouts" and, as such the arbitration clause found in section 30 of the GTS has no application.

57. Caesars' affiant, Ms. Rankin, provides her own subjective interpretation of section 28 of the GTS, which is of no probative value.

58. Ms. Rankin argues that section 28 of the GTS should be construed narrowly as relating to matters such as technical issues. There is no basis for this interpretation in the text of section 28. Section 28 specifically uses the phrase "***any*** complaints, claims or disputes" (emphasis added) with no exceptions or examples given. It contains no specific reference to technical issues. It would be impossible for a reasonable person to read the text of section 28 of the GTS and arrive at the interpretation suggested by the Defendant.

59. Caesars is effectively arguing that its own language is ambiguous and requires an implied term when the contract is a contract of adhesion drafted by Caesars. Any ambiguity in the language should be construed against Caesars, not used as a basis to stay this action.

60. The second reason this action should not be stayed in favour of arbitration is that the arbitration agreement should be held to be unenforceable.

61. The courts have repeatedly held that they will not require consumers to avail themselves of expensive or unavailable arbitration procedures for claims when it is unconscionable or contrary to public policy. It would be an error at law to stay this action at this point as Caesars urges.

62. A recent authority provides useful guidance. In the decision of *Lochan v. Binance Holdings Limited*,[34] the Superior Court of Justice declined to stay an action against Binance as a result of an arbitration agreement. The court relied on the cost to the plaintiff and the relative bargaining between the parties to find that the "expensive and all-but-inaccessible arbitration procedure" meant that the arbitration agreement was unenforceable as contrary to public policy. It also held that the potential unfairness resulting from the enforcement of arbitration clauses contained in standard form contracts are better dealt with directly through the doctrine of unconscionability and found that the agreement was also unconscionable.

63. What *Binance* and the Supreme Court decisions in *TELUS Communications Inc. v. Wellman*[35] and *Uber Technologies Inc. v. Heller*[36] demand is that the court not enforce arbitration agreements where the clause is unconscionable or contrary to public policy.

64. The facts in this case support a finding of unenforceability. The fee solely to commence the arbitration proposed by Caesars is $2,000 USD. In addition to this, the plaintiff would be expected to deliver an additional deposit for arbitrator fees. The plaintiff may also be

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[34] 2023 ONSC 6714
[35] 2019 SCC 19.
[36] 2020 SCC 16.

required to pay additional disbursements and, potentially, the legal fees for lawyers at one of Canada's most well-established firms.

65. The problems with enforcing the arbitration clause in this case are not only procedural. The arbitration urged by Caesars now is, in fact, not likely to be available.

66. The arbitration clause in the GTS requires that the arbitration be commenced within one year of the arising of the claim. Because Caesars did not bring this motion promptly, that time has passed.

67. Caesars has failed to address the time limitation of its arbitration clause in this motion. The only reasonable inference is that it would oppose having this matter dealt with in arbitration due to the passage of time.

68. It is the court's discretion to stay an action due to the application of an arbitration agreement. In this case, Caesars' delay – which can be anticipated to be used against the plaintiff – is yet another reason to refuse to stay this action. Staying this action in favour of an arbitration that is only statute barred as a result of Caesars' own delay in bringing this motion would mean that there is no hearing of this matter on its merits, ever.

Issue 4: Costs

69. Rule 15.07 of the *Rules of the Small Claims Court* states that:

The costs of a motion, exclusive of disbursements, shall not exceed $100 unless the court orders otherwise because there are special circumstances.

70. There are special circumstances in this case. This is a motion that never should have been brought. It was unreasonable. Caesars should have known that this motion was bound to fail.

71. If anyone was in a position to understand the role of iGO and a proper legal interpretation of the GTS throughout this action, it was Caesars.

72. Instead, Caesars withheld information from this court about the nature of iGO's role, misstated the law around issue estoppel and neglected to mention potential implications of the application of its arbitration agreement. Worse, it has attacked the plaintiff's willingness to advocate for himself in this court as a "nuisance" and "inflammatory".

73. Shamefully, Caesars has spilled more ink on the personal characteristics of the plaintiff than the merits of this claim. Instead of making any serious case about why Caesars has not received unjust enrichment, Caesars had one of its executives print and focus on a miniscule percentage of the plaintiff's online profile and suggest to this Honourable Court that the misleading sample warranted the dramatic step of depriving the plaintiff of having this case heard on its merits.

74. In the circumstances, the plaintiff respectfully submits that the court may make an elevated cost award in excess of $100. If the court sees, fit, it may order that Caesars pay the amount of $250. This amount is not disproportionate to the amount at issue in this litigation and would send an appropriate message to Caesars that it is inappropriate to withhold information from the court and smear Ontario bettors who are merely exercise their legal rights.

All of which is respectfully submitted,

Matthew Buchalter

Matthew Buchalter