

**IN THE HIGH COURT OF NEW ZEALAND  
AUCKLAND REGISTRY**

**CIV 2013-488-108**

**BETWEEN**

**JZK, INC**

**First Plaintiff**

**AND**

**J Z KNIGHT**

**Second Plaintiff**

**AND**

**DAVID E MCCARTHY**

**Defendant**

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**FIRST AMENDED STATEMENT OF DEFENCE**

**Dated: 12 March 2014**

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**Anthony Harper** (C P Baldock)  
Level 8, Chorus House  
66 Wyndham Street  
PO Box 2646, Auckland 1140  
Tel +64 9 920 6400  
Fax +64 9 920 9599  
[www.anthonharper.co.nz](http://www.anthonharper.co.nz)

**FIRST AMENDED STATEMENT OF DEFENCE, DATED 12 MARCH 2013**

**THE DEFENDANT REFERS TO THE PLAINTIFFS' STATEMENT OF CLAIM, DATED 18 FEBRUARY 2013, AND HIS RESPONSE TO THE PLAINTIFFS' REQUEST FOR FURTHER PARTICULARS, DATED 13 FEBRUARY 2014, AND FURTHER SAYS:**

- 1 He has no knowledge of and therefore denies Paragraph 1.
- 2 He has no knowledge of and therefore denies Paragraph 2.
- 3 He admits Paragraph 3 to the extent that he was a fee-paying member of the Ramtha School of Enlightenment ("**Ramtha cult**") from 1989 to 1995.

**Background**

- 4 He admits Paragraph 4 to the extent that the Ramtha cult holds itself out as teaching a number of purported techniques and further says:
  - (a) The Ramtha cult, through its leader, the second plaintiff, claims to acquire these techniques by "channelling" a 35,000-year-old deity called "Ramtha" whilst in a trancelike state;
  - (b) The Ramtha cult claims that the techniques, "taught" exclusively to the second plaintiff by the 35,000-year-old Ramtha, lead to: spiritual enlightenment; great wealth; miraculous healing powers and physical safety ("**Benefits**");
  - (c) The techniques are taught in the confines of a 320,000 m<sup>2</sup> fenced compound that is open only to employees and members, but not the public;
  - (d) By "teaching" the techniques noted above, the plaintiffs have developed a successful business enterprise which receives income by way of fees paid by its members (between 50,000 to 75,000 over the last 25 years); and
  - (e) He otherwise denies Paragraph 4.
- 5 He denies Paragraph 5.
- 6 He admits Paragraph 6 but further says that:
  - (a) He escaped the Ramtha cult in 1995 suffering from physical and psychological exhaustion and physical and mental ill health, including Post Traumatic Stress Disorder, brought about by abuses suffered by himself and other individuals (including Caterpillar (EMF pseudonym), Cedar (EMF pseudonym), Vanilla (EMF pseudonym), Shocked (EMF pseudonym), Sunshine (EMF pseudonym), Andrew Dallow, Virginia Coverdale, Robair Barbeau, Jane H and Megan (together "**Individuals**") at the Ramtha cult compound between 1989 and 1995.
  - (b) Such abuses were perpetrated by the second plaintiff and her employees and/or agents ("**Agents**"). Such Agents were known and referred to collectively (by members of the Ramtha Cult) as either "The Red Guard" or

"The Generals". The defendant recalls some names of The Red Guard/The Generals, including Robert Jones (known as 'Sir Robert'), Gary Craig (known as 'Master Garola') and Greg Simmons.

- (c) The abuses ("**Abuses**") included (but were not limited to):
- (i) Mind control (also known as brainwashing, coercive persuasion, mind abuse, thought control and thought reform) ("**Psychological Manipulation**"), including (but not limited to):
- (A) representing to the defendant and other Ramtha cult devotees ("**Devotees**") that they would not receive the Benefits unless they fully participated in the Ramtha cult's alleged teachings;
  - (B) forced disorientation;
  - (C) group pressure;
  - (D) the inducement of dissociative states; and
  - (E) threatening (by the second plaintiff and the Agents) that unless members remain faithful to the Ramtha cult, they would:
    - (I) be shunned from the Ramtha Cult group (known as "OMakad", in the defendant's case) and the Ramtha cult community they became highly dependent on;
    - (II) be expelled from the Ramtha cult compound (and thus not complete the claimed seven year tenure that the Ramtha cult and the second plaintiff alleged was required to receive the Benefits);
    - (III) lose the physical and spiritual protection of Ramtha, the deity, allegedly provided to members and their families; and
    - (IV) fall victim to quasi-religious prophecies, such as becoming the prey of the "Lizard People" and the ancient figure of Jehovah (who it was alleged would return to earth accompanied by "Lizard People" in a spaceship).
- (ii) Extreme physical exertion techniques ("**Techniques**") that caused injury to some members including the Individuals, such as psychological trauma, broken bones, concussions, bruising and abrasions. The Techniques included (but are not limited to):
- (A) forced deprivation (by way of Psychological Manipulation) of sleep, food and water, and access to toilet facilities;

(B) forcing (by way of Psychological Manipulation) blindfolded members (including the Individuals) to run at each other within a purpose built arena and preventing participants from assisting those who became injured in this exercise; and

(C) on the instructions of the second plaintiff, the refusal by the Agents to assist anyone who became injured.

7 He admits Paragraph 7 and further says at the time he signed the 1993 COP, he was under Psychological Manipulation induced by the plaintiffs (as particularised above) and was lead to believe by the plaintiffs that the 1993 COP was merely a document releasing the Ramtha cult from any liability for personal injury.

8 He has no knowledge of therefore denies Paragraph 8.

9 He has no knowledge of therefore denies Paragraph 9.

10 He denies paragraph 10 and further says that "*free videos*" are available by "*video streaming open to the public*" through the website located at URL [www://www.ramtha.tv](http://www://www.ramtha.tv).

11 He admits Paragraph 11 only to the extent that he has viewed the 2007 conditions of participation ("**2007 COP**") and understands the 2007 COP contains the wording pleaded.

12 He admits Paragraph 12.

#### **Mr McCarthy's activities on YouTube.com**

13 He admits Paragraph 13 to the extent that he has, since about 2007, uploaded edited versions of Ramtha cult videos available on the Ramtha TV Website or sold on VHS video tape ("**Ramtha cult videos**") to YouTube.com depicting activities taking place within the Ramtha cult compound, as described in subparagraphs (a) to (i) of the statement of claim, and further says that the first occasion on which the plaintiffs sought to restrain the defendant from doing so was in 2012 when the plaintiffs commenced proceedings in the United States against the defendant (and others) but otherwise denies Paragraph 13.

14 He has no knowledge of and therefore denies Paragraph 14.

15 He has no knowledge of and therefore denies Paragraph 15.

16 He admits Paragraph 16 to the extent that:

- (a) The content is taken from Ramtha cult videos and the 11 hour JZK live stream video;
- (b) He posted the videos to YouTube.com with the primary intention of criticising and exposing the activities taking place at the Ramtha Cult compound, including (but not limited to):

- (i) The Abuses;
    - (ii) Actual fire, health and safety violations occurring at the Ramtha cult compound that are potentially dangerous for Devotees; and
  - (c) He otherwise denies Paragraph 16 (in particular, that his allegations are unfounded) and further says that in posting the videos, the defendant was hopeful that an official investigation would be carried out into possible unlawful and illegal activities, including fraud and corruption.
- 17 He admits Paragraph 17 and further notes that the additional information provided by him on YouTube is legally permissible in the United States under the "Fair Use Doctrine" of federal copyright law (17 USC, section 107).
- 18 With respect to Paragraph 18 he admits that the Ramtha cult has not authorised him to share video footage of activities taking place within the Ramtha cult compound, but otherwise he has no knowledge of and therefore denies Paragraph 18 and further says that he is entitled to post extracts ("**Extracts**") from the videos because:
- (a) The Extracts are not substantial
  - (b) He has posted the Extracts for the purpose of fair criticism; and
  - (c) He has acknowledged the origin of the Extracts.
- 19 With respect to Paragraph 19 he denies he has caused the plaintiffs any loss and/or damage and further says:
- (a) He admits that he has previously threatened to disseminate further information (but only in certain circumstances and as already particularised to the plaintiffs);
  - (b) He admits subparagraphs (a) to (f);
  - (c) He denies subparagraph (g) and further says:
    - (i) Enlighten Me Free ("EMF") is a web forum for online discussion and content sharing;
    - (ii) EMF was created by the defendant to criticise Ramtha cult activities and assist survivors of the Ramtha cult, survivors of cults generally and families of cult members seeking information about loved ones, by providing free support, information and guidance;
    - (iii) EMF has never charged a fee from its users nor has the defendant ever profited in any way from its existence; and
    - (iv) He has no knowledge of Virginia Coverdale's comments regarding EMF and therefore denies the allegations made about her.

**FIRST CAUSE OF ACTION BY PLAINTIFFS: BREACH OF CONTRACT**

20 He denies Paragraph 20 and further says:

- (a) Due to the Psychological Manipulation he suffered (as particularised above) and the financial strain brought about by his complete financial dependency on the plaintiffs, he says, by way of affirmative defence, that the 1993 COP is not an enforceable contract and/or is voidable on the grounds that the 1993 COP:
  - (i) was entered into under duress applied by the plaintiffs and or their agents/employees; and/or
  - (ii) was entered into as a result of undue influence from the plaintiffs and or their agents/employees; and/or
  - (iii) constitutes an unconscionable bargain.
- (b) Even if the 1993 COP is an enforceable contract (which is denied):
  - (i) it only restricts the teaching of "information and techniques" learnt within the confines of the Ramtha cult compound and not to material obtained after leaving the cult and/or from Ramtha cult videos available on the Ramtha TV Website or sold on VHS video tape; and
  - (ii) the defendant did not teach any "information or techniques", but rather he criticised said techniques;
- (c) As the 1993 COP was executed in the State of Washington, United States of America, the effect of the 1993 COP is a matter of the law of that state or country.

21 He denies Paragraph 21.

22 He denies Paragraph 22.

**SECOND CAUSE OF ACTION BY PLAINTIFFS: INDUCING BREACH OF CONTRACT**

23 He denies Paragraph 23 and further says that the 2007 COP only relates to "information and techniques" learnt within the confines of the Ramtha cult compound and not to material obtained after leaving the cult and/or from Ramtha cult videos available on the Ramtha TV Website or sold on VHS video tape.

24 He denies Paragraph 24 and further says that he is not aware as to whether the anonymous persons he obtained the videos/Extracts from obtained the videos/Extracts pursuant to the 2007 COP or were bound by the 2007 COP.

25 He denies Paragraph 25 and further says that:

- (a) He never signed the 2007 COP or knew of its existence;

- (b) The 2007 COP relates to teachings learnt within the confines of the Ramtha cult compound;
- (c) In respect of the 2007 COP:
  - (i) Other than being aware that the plaintiffs had required him to sign the 1993 COP, he had no knowledge of the parties to the 2007 COP;
  - (ii) He did not deliberately or intentionally interfere with the operation of the 2007 COP;
  - (iii) If the Court deems that the defendant did intentionally interfere with the 2007 COP (which is denied), the defendant will say, by way of an affirmative defence, that:
    - (A) Any interference was made with lawful justification:

**Particulars**

Devotees were induced too sign the 2007 COP and pay fees to the plaintiffs by misrepresentations ("**Misrepresentations**") including:

- (I) that the plaintiffs have provided financial advice to large corporations, including 3M;
- (II) devotees would learn how to cure physical illness and ailments; and
- (III) that the second defendant channels Ramtha;

(B) The Misrepresentations were false.

26 He denies Paragraph 26.

27 He denies Paragraph 27.

**THIRD CAUSE OF ACTION BY PLAINTIFFS: BREACH OF CONFIDENCE**

28 He denies Paragraph 28 and further says that:

- (a) In publishing the material complained of, the defendant has acted in the overriding public interest by exposing the plaintiffs' inequitable behaviour ("**Behaviour**"), including:
  - (i) The false Misrepresentations;
  - (ii) The plaintiffs' breaches of the SPR-3-89 permit by wilfully allowing dangerous overcrowding in the Ramtha cult compound;
  - (iii) Allowing and encouraging alcohol consumption in breach of applicable laws and regulations;

- (iv) Allowing and encouraging tobacco smoking in breach of applicable laws and regulations;
  - (v) Publishing racist and hateful comments;
  - (vi) Perpetrating the Abuses; and
  - (vii) Engaging in the Psychological Manipulation.
- (b) The 1993 COP:
- (i) Only relates to "information and techniques" learnt within the confines of the Ramtha cult compound and not to material obtained after leaving the cult and/or from Ramtha cult videos available on the Ramtha TV Website or sold on VHS video tape;
  - (ii) Was executed in the State of Washington, United States of America, and so the effect of the 1993 COP is a matter of the law of that state or country.
- (c) Even if the 1993 COP does apply:
- (i) It only purports to prevent him from "teaching" the "information and/or techniques" learned;
  - (ii) It does not contain any reference to "dissemination";
  - (iii) It is in the nature of a disclaimer against a personal injury claim; and
  - (iv) He has at no time purported to "teach" any of the "information and/or techniques" of the Ramtha cult.
- (d) The plaintiffs have no grounds upon which to pursue the defendant for a breach of confidence because:
- (i) It is a principle of equity that there is no confidence as to the disclosure of iniquity; and
  - (ii) In this case, iniquity arises from the plaintiffs' Behaviour, as particularised above.

29 He denies Paragraph 29 and further says that Ramtha cult members are only prohibited from "teaching" and are actively encouraged to share knowledge they have gained from the Ramtha cult including by publishing books.

30 With respect to paragraph 30, he denies that information supplied to him by the plaintiffs is confidential, and even if it was (which is denied) he was justified in using it to criticise and publically expose the Behaviour.

31 He denies Paragraph 31.

32 He denies Paragraph 32.



33 He denies Paragraph 33.

34 He denies Paragraph 34.

**FOURTH CAUSE OF ACTION BY PLAINTIFFS: PRIMARY INFRINGEMENT OF COPYRIGHT**

35 He admits Paragraph 35 to the extent that copyright subsists in the materials but further says that:

(a) He has no knowledge as to who owns such copyright;

(b) The materials contain background music of well-known artists, for which the plaintiffs neither own copyright nor have a license to use.

36 He denies Paragraph 36.

37 He has no knowledge of and therefore denies Paragraph 37.

38 He has no knowledge of and therefore denies Paragraph 38.

39 He has no knowledge of and therefore denies Paragraph 39.

40 He has no knowledge of and therefore denies Paragraph 40.

41 He denies Paragraph 41 and further says, by way of affirmative defence, that if the plaintiffs are correct that the pleaded works are protected by copyright and that the plaintiffs own such copyright, he has a defence under section 42 of the Copyright Act 1994 in that his sharing of the materials online constituted fair dealing for the purposes of criticism, review and/or news reporting.

42 He denies paragraph 42.

43 He denies paragraph 43.

44 He denies paragraph 44.

45 He denies paragraph 45.

This **STATEMENT OF DEFENCE** is filed by **RICHARD GRAHAM SMEDLEY** solicitor for the defendant of the firm of Anthony Harper.

The address for service of the defendant is at the offices of Anthony Harper, Level 8, Chorus House, 66 Wyndham Street, Auckland (attention: Chris Baldock).

Documents for service on the defendant may be left at that address for service or may be -

(a) Posted to the solicitor at PO Box 2646, Auckland; or

(b) Left for the solicitor at Level 8, Chorus House, 66 Wyndham Street, Auckland.

(c) Transmitted to the solicitor by facsimile to (09) 920 9599.