

COURT FILE NUMBER ~~2301~~ 2303 13143

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

PLAINTIFF PRIMERICA, INC., PRIMERICA LIFE INSURANCE COMPANY, PRIMERICA FINANCIAL SERVICES LLC, PFSL INVESTMENTS CANADA LTD., and PRIMERICA LIFE INSURANCE COMPANY OF CANADA

DEFENDANT MARCO MOUKHAIBER

DOCUMENT STATEMENT OF CLAIM

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT OSLER, HOSKIN & HARCOURT LLP

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NOTICE TO DEFENDANT

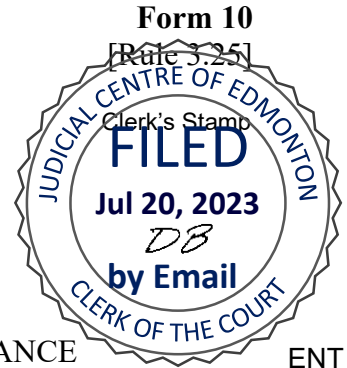
You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

STATEMENT OF FACTS RELIED ON:

Introduction

1. The Plaintiffs, Primerica, Inc., Primerica Life Insurance Company, Primerica Financial Services LLC., PFSL Investments Canada Ltd., and Primerica Life Insurance Company of Canada (collectively, “**Primerica**”), bring this claim as a result of the Defendant, Marco Moukhaiber’s (“**Mr. Moukhaiber**”), repeated pernicious attacks against Primerica on Mr. Moukhaiber’s social media channels, where he regularly makes the unfounded and defamatory



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assertions that, *inter alia*, Primerica is an “illegal pyramid scheme” that engages in “criminal fraud” with the intent of harming Primerica and enriching himself.

2. Primerica, a reputable publicly traded financial services institution, seeks to enforce its common law and statutory rights to compel Mr. Moukhaiber to remove and destroy all offending content, to prevent Mr. Moukhaiber from creating further similar content in the future, and for damages in compensation for the harm caused by Mr. Moukhaiber.

The Parties

3. Primerica, Inc. is a publicly traded financial institution that provides investment, insurance and financial services to middle-income families across North America. Primerica, Inc. is a corporation incorporated in Delaware, and is the parent organization in a corporate family consisting of several affiliated and subsidiary companies, including the other plaintiffs, that together conduct business as “Primerica”. The other plaintiffs (listed below) all operate in Canada as subsidiaries of Primerica, Inc.:

- (a) Primerica Life Insurance Company is a corporation incorporated in Georgia, USA.
- (b) Primerica Financial Services LLC is a corporation incorporated in Nevada, USA.
- (c) PFSL Investments Canada Ltd. is a corporation incorporated in Canada.
- (d) Primerica Life Insurance Company of Canada is incorporated in Canada by Letters Patent dated August 21, 1991, pursuant to the federal statute which was succeeded by the *Insurance Companies Act*.

4. Mr. Moukhaiber is a social media content creator based in Edmonton, Alberta, who earns revenue from creating and posting content and selling merchandise.

Mr. Moukhaiber’s Social Media Campaign against Primerica

5. Beginning on or around December 14, 2021, Mr. Moukhaiber has posted various videos discussing Primerica to his multiple social media accounts.

6. Mr. Moukhaiber operates social media accounts under the account name “AlwaysMarco” on, *inter alia*, YouTube, TikTok, Twitter, Facebook, Instagram, Discord, Patreon, Reddit, and Rumble.

7. Mr. Moukhaiber creates content on YouTube and shares previews and links of this content on his other social media platforms, most of which is dedicated to “Anti-MLM” content, and earns revenue from his social media presence and content, paid subscriptions, sale of related merchandise, and through GoFundMe campaigns.

8. Mr. Moukhaiber’s social media accounts are public, with two exceptions. Mr. Moukhaiber’s Discord account is private, and his Patreon account can be accessed only by users who have a paid subscription.

9. Mr. Moukhaiber sells “AlwaysMarco” merchandise, such as t-shirts, hoodies, and mugs, through an online store.

10. Mr. Moukhaiber has created and posted the following videos in particular, which are collectively referred to herein as the “**Primerica Videos**”:

- (a) On December 14, 2021, Mr. Moukhaiber posted a video entitled “Debate with Primerica Recruiter Gary Kornegay” to YouTube, in which Mr. Moukhaiber states among other things that he will soon be putting out a video explaining why Primerica is a “pyramid scheme”.
- (b) On January 14, 2023, Mr. Moukhaiber posted a video entitled “Marco vs Primerica” to YouTube in which Mr. Moukhaiber stands in front of a Primerica office in Edmonton, which clearly displays the Primerica name and logo. This video also includes the Primerica name and logo in the thumbnail. In this video, Mr. Moukhaiber states among other things that he will soon be releasing a video called “Infiltrating a Pyramid Scheme: Primerica.”
- (c) On January 19, 2023, Mr. Moukhaiber posted a video entitled “She Lost \$100,000 in Primerica | Multi-Level Misery” to YouTube, purporting to interview a former Primerica representative. This video includes the Primerica name and logo in the

thumbnail. In this video, the former Primerica representative claims among other things that she spent over \$100,000 in her involvement in Primerica on things such as snacks for meetings and membership fees, and that her team members were made to do embarrassing things, such as wear diapers, if they did not meet certain production numbers. This video includes multiple factual inaccuracies.

- (d) On January 25, 2023, Mr. Moukhaiber posted a video entitled “Infiltration Successful...” to YouTube. The thumbnail for this video depicts Mr. Moukhaiber standing in front of a Primerica sign with the name and logo clearly visible. In this video, Mr. Moukhaiber includes recordings of a discussion that he had with a Primerica representative without her consent for recording. He also states among other things that Primerica has a “cult culture” and is an “illegal pyramid scheme”. This video includes multiple factual inaccuracies.
- (e) On January 30, 2023, Mr. Moukhaiber posted a video entitled “17-Year-Old Recruited to Primerica by his DAD | Multi-Level Misery” to YouTube. The thumbnail for this video depicts the Primerica name and logo in black and white. In this video, Mr. Moukhaiber purports to interview a former Primerica representative who claims among other things that he was recruited into Primerica by his father at the age of 17, and that Primerica is predatory, like a cult. This video includes multiple factual inaccuracies.
- (f) On February 28, 2023, Mr. Moukhaiber posted a video entitled “Betting Every Penny on Primerica | Multi-Level Misery” to YouTube. The thumbnail for this video depicts the Primerica name and logo in black and white. In this video, Mr. Moukhaiber purports to interview a former Primerica representative who claims among other things that she spent her own money on Primerica products in order to meet her product targets. This video includes multiple factual inaccuracies.
- (g) On April 14, 2023, Mr. Moukhaiber streamed a video entitled “PRIMERICA is threatening to sue me” in which he displays and discusses a letter sent to him by Primerica’s legal counsel.

- (h) On July 14, 2023, Mr. Moukhaiber posted a video entitled “Infiltrating a Pyramid Scheme: Primerica” to YouTube. The thumbnail for this video depicts the Primerica name and logo in black and white. In this video, Mr. Moukhaiber states among other things that Primerica is a “commercial cult.” This video includes multiple factual inaccuracies.
- (i) On July 15, 2023, Mr. Moukhaiber streamed a video entitled “The Many Lies of Mario Arrizon”¹ to YouTube. The thumbnail of this video displays the Primerica logo modified to display as “Crimerica” and “Primericult”. Mr. Moukhaiber also displays and discusses portions of Primerica's internal training videos which features Primerica training representatives. In this video, Mr. Moukhaiber seeks donations to “Help Defeat Primerica”. Mr. Moukhaiber also displays and reads a copy of Primerica’s Social Media Guidelines Handbook and states he will post “daily examples of top leaders of Primerica posting stuff that violates their social media guidelines.” Mr. Moukhaiber states that Primerica engages in “criminal fraud”, that Primerica’s business is “crime” and “fraud”, and “is a FisherPrice playset of business, it is not real, it is completely fake, it is a scam, it is a fraud, it is a con, it is a pyramid.” This video includes multiple factual inaccuracies.

11. Also on July 14, 2023, Mr. Moukhaiber made a guest appearance on a YouTube video posted by Pocket Watching with JT, entitled “Multi-level Marketing (MLM) SCAMS Exposed! with @AlwaysMarco”. In this video, Mr. Moukhaiber states that Primerica is “definitely a multi-level marketing company [...] in my opinion it is a pyramid scheme.” Mr. Moukhaiber goes on to say that “the way Primerica does this is they say we don’t make money when we recruit anybody we’ll never get paid for recruiting [...] okay so you’re just selling well we know that’s not true or that’s not likely”. Finally, in respect of Primerica, “oftentimes what they try to do is they know they can’t make sense of what their business plan is logically so they just try to bombard you with metaphors and analogies and Law of Attraction mindset nonsense until eventually you just bang your head against the wall and go okay”. This video includes multiple factual inaccuracies.

¹ Mario Arrizon is a Senior National Sales Director.

12. Mr. Moukhaiber has also posted portions of the Primerica Videos as short-form videos on YouTube Shorts and as short videos on Instagram. Mr. Moukhaiber has promoted and linked the Primerica Videos on his TikTok, Twitter, Facebook, Instagram, Discord, Patreon, Reddit, and Rumble accounts with the intent of promoting the Primerica Videos and making further defamatory statements (the “**Social Media Posts**”).



13. On April 14, 2023, Primerica’s counsel sent a cease-and-desist letter to Mr. Moukhaiber. Mr. Moukhaiber displayed and discussed the contents of this letter in the April 14, 2023 Primerica Video and refused to comply with the requests made in the letter.

14. On July 16, 2023, Primerica’s counsel sent another cease-and-desist letter to Mr. Moukhaiber. That same day, Mr. Moukhaiber made a number of posts to Instagram discussing and displaying the letter. Mr. Moukhaiber refused to comply with the requests made in the letter.

Breaches of Primerica’s Statutory Rights

Breaches of the Trademarks Act

15. Primerica is the owner the following Canadian trademark registrations (the “**Primerica Trademarks**”):

Trademark	Registration No.	Registration Date
PRIMERICA	TMA407,595	February 5, 1993
 PRIMERICA	TMA798,948	June 1, 2011
	TMA983,927	October 30, 2017

16. Primerica, Inc., is the owner of all rights in the Primerica Trademarks. For many years, Primerica has extensively used and promoted, and continues to extensively use and promote, directly and through its licensees, the Primerica Trademarks throughout Canada in association

with Primerica's business and services. As a result, the Primerica Trademarks have become well known in Canada, and significant reputation and goodwill is associated with the Primerica Trademarks.

17. The Primerica Trademarks are prominently used and displayed by Mr. Moukhaiber in the Primerica Videos and the Social Media Posts. This use by Mr. Moukhaiber of the Primerica Trademarks was never authorized by Primerica.

18. By reason of these activities, Mr. Moukhaiber has used the Primerica Trademarks, and trademarks sufficiently similar to the Primerica Trademarks, in a manner that is likely to have the effect of depreciating the value of the goodwill attaching to such trademarks, contrary to subsection 22(1) of the *Trademarks Act*, RSC 1985, c T-13 (the "*Trademarks Act*").

19. Mr. Moukhaiber had knowledge at all material times of Primerica's rights in the Primerica Trademarks, including Primerica's rights in the Primerica Logo (defined below in paragraph 21). Mr. Moukhaiber knew or should have known that he was violating Primerica's rights because of, among other things:

- (a) the use and promotion by Primerica of the Primerica Trademarks in association with Primerica's business and services, and the resultant reputation and goodwill associated with the Primerica Trademarks in Canada;
- (b) Mr. Moukhaiber's knowledge of such use, reputation and goodwill;
- (c) Mr. Moukhaiber's receipt of cease and desist letters dated April 14, 2023 and July 16, 2023; and
- (d) the nature of Mr. Moukhaiber's business and activities.

20. Primerica pleads and relies on the *Trademarks Act*, including sections 19, 22, 50, 53.2, 54 and 55.

Breaches of the Copyright Act

21. Primerica is the owner of the copyright in the design elements of the Primerica Trademarks, as depicted below (the “**Primerica Logo**”):



22. The Primerica Logo was created by individuals who were employed or engaged by Primerica and created the Primerica Logo in the course of their employment or engagement with Primerica. These individuals were citizens of or ordinarily resident in the United States at the date of the making of the Primerica Logo, and assign all their right, title and interest in and to the Primerica Logo, including copyright, to Primerica. As a result, Primerica owns the copyright in the Primerica Logo.

23. Primerica is the owner of the copyright in the design elements of its internal policies, guidelines, and training videos (the “**Primerica Policies**”). The Primerica Policies were created by individuals who were employed or engaged by Primerica and created the Primerica Policies in the course of their employment or engagement with Primerica. These individuals were citizens of or ordinarily resident in the United States at the date of the making of the Primerica Policies, and assign all their right, title and interest in and to the Primerica Policies, including copyright, to Primerica. As a result, Primerica owns the copyright in the Primerica Policies.

24. The Primerica Logo and Primerica Policies are prominently used and displayed by Mr. Moukhaiber in the Primerica Videos and the Social Media Posts, which are streamed or made available for on-demand streaming by Mr. Moukhaiber. Primerica has not authorized Mr. Moukhaiber to perform these acts or to otherwise use the Primerica Logo or the Primerica Policies.

25. By reason of these activities, Mr. Moukhaiber has reproduced the Primerica Logo and Primerica Policies, and has communicated the Primerica Logo and Primerica Policies to the public by telecommunication, contrary to subsection 27(1) of the *Copyright Act*, RSC 1985, c C-42 (the “*Copyright Act*”).

26. Primerica pleads and relies on the *Copyright Act*, including sections 2.4, 3, 5, 6, 13, 27, 34, 35, 38, and 38.1.

Competition Act

27. As further described in paragraph 10, above, the Primerica Videos and the Social Media Posts contain numerous false and misleading statements about Primerica which were made by Mr. Moukhaiber for the purpose of promoting his social media content, and with it the potential revenues (including advertising revenue) that he can earn from his social media accounts. The Primerica Videos, and related content promoting the Primerica Videos, include false or misleading representations and Mr. Moukhaiber has posted the Primerica Videos and the Social Media Posts for the purpose of promoting his own business interests.

28. By reasons of these activities, Mr. Moukhaiber has made representations to the public that are false or misleading in material respects for the purpose of promoting, directly or indirectly, Mr. Moukhaiber's business interests, contrary to subsection 52(1) of the *Competition Act*, RSC 1985, c C-34 (the "**Competition Act**").

29. Primerica pleads and relies on the *Competition Act*, including sections 36 and 52.

Defamation

30. The Primerica Videos amount to defamation. The Primerica Videos and Social Media Posts include multiple defamatory statements that are published by Mr. Moukhaiber. Among other things, they communicate to the public unfounded, untrue and damaging statements that Primerica is engaged in unlawful activities and is an illegal "pyramid scheme" and a "scam." Primerica is plainly identifiable both in the images and the statements used in the Primerica Videos and Social Media Posts. The Primerica Videos and Social Media Posts harm Primerica's business reputation and goodwill.

31. Mr. Moukhaiber has no defence for his defamatory statements.

32. As a result of Mr. Moukhaiber's defamatory comments in the Primerica Videos and Social Media Posts, Primerica has suffered, and is likely to continue to suffer, damages in the form of loss of reputation and goodwill among its customers and licensed representatives.

33. Primerica is also seeking punitive and aggravated damages due to the purposeful, repeated, and malicious nature of the Primerica Videos and Social Media Posts.

Harassment

34. Mr. Moukhaiber's conduct in relation to the Primerica Videos and Social Media Posts constitutes tortious harassment.

35. Mr. Moukhaiber has engaged in repeated communications, surveillance, and other harassing behaviour both in the Primerica Videos and in order to obtain content for the Primerica Videos, from which Mr. Moukhaiber derives commercial benefit. Mr. Moukhaiber has, among other things, recorded Primerica representatives without their consent, obtained confidential information from Primerica, obtained and posted copies of private text messages between Primerica representatives, and monitors and posts the online activity of Primerica employees and representatives.

36. Mr. Moukhaiber knew or ought to have known that his conduct was unwelcome.

37. Mr. Moukhaiber's conduct impugns the dignity of, and causes emotional distress to, Primerica and the representatives he posts about in the Primerica Videos, which causes harm.

38. Primerica is also seeking punitive and aggravated damages due to the purposeful, repeated, and malicious nature of Mr. Moukhaiber's conduct in relation to the Primerica Videos and Social Media Posts.

REMEDIES SOUGHT:

39. The Plaintiffs seek:

- (a) an order for damages in an amount proven at the trial of this action;
- (b) damages or an accounting of the defendant's profits, as Primerica may elect, in respect of the claims under the *Trademarks Act*;

- (c) damages and an accounting of the defendant's profits in respect of the claims under the *Copyright Act*, or in the alternative, as Primerica may elect, statutory damages pursuant to section 38.1 of the *Copyright Act*;
- (d) damages in respect of the claims under the *Competition Act*;
- (e) punitive and aggravated damages;
- (f) injunctive relief requiring Mr. Moukhaiber to:
 - (i) remove and destroy all Primerica Videos and any online content posted by Mr. Moukhaiber reproducing, promoting, or mentioning the Primerica Videos in any way;
 - (ii) disclose all social media accounts directly or indirectly controlled by Mr. Moukhaiber;
 - (iii) discontinue membership to all chat groups and social media platforms in which Mr. Moukhaiber surveils the activity of Primerica employees and business associates through phony accounts or otherwise;
 - (iv) restrain from (i) making, posting, sharing, streaming, or participating in any form of media infringing the Applicant's copyright in the Primerica Logo and Primerica Policies; (ii) using the Primerica Trademarks in such a manner that is likely to have the effect of depreciating the value of the goodwill attaching to such trademarks; and (iii) making, posting, sharing, streaming, or participating in any form of media defamatory to Primerica, in any way in the future.
- (g) interest pursuant to the *Judgment Interest Act*, RSA 2000, c. J-1;
- (h) costs of this action; and
- (i) such further and other relief as this Honourable Court may deem just.

NOTICE TO THE DEFENDANT(S)

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of King's Bench at Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff against you.