

## May, Kieran

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**From:** Koehnen, Mr. Justice Markus (SCJ) <[REDACTED]>  
**Sent:** Wednesday, August 04, 2021 9:56 AM  
**To:** May, Kieran; JUS-G-MAG-CSD-Toronto-SCJ Commercial List; Levine, Natalie; Picone, John M.; Kelman, David; ngoldstein@ksv advisory.com; Shara Roy; jflood@litigate.com; chunter@litigate.com  
**Subject:** Re: Randhawa v Randhawa et al., CV-18-593636-00CL - Chambers Appointment

### Email Endorsement

This endorsement arises out of a case conference for directions relating to an examination in an investigation by an Inspector.

Rana was to be examined under oath by the Inspector last week. Rana took the position on the examination that he would be examined under oath only if he were given production of all relevant documents before the examination. In the alternative, Rana offered to proceed by way of an interview that was not conducted under oath. In light of the disagreement, the examination was adjourned.

An investigation is not a civil action to which the rules of production and discovery apply. It is designed to assist fact finding by providing a more streamlined process that avoids some of the obstruction that can occur in litigation. That indeed is why the investigation was ordered here, because Rana was being less than forthcoming and transparent.

Rana argued today that the Inspector has obtained approximately 1 million documents and that it would be unfair to subject Rana to examination without having production of all documents relevant to the investigation. I do not share that view. The focus of the investigation is on self interested transactions that Rana has entered into or that others have entered into under his control and direction. It was ordered because Rana was not cooperating in producing information. If Rana perceives any unfairness in being subjected to questions without the benefit of discovery, he is the author of his own misfortune. Had Rana complied with earlier directions by the Arbitrator who ordered the investigation, he would not be in this position.

Moreover, compelling the Inspector to engage in what is akin to documentary production would materially increase the cost and time the Investigation will take. This will only further deplete the value of the corporate estate and Rana's share in it.

The Inspector seeks costs of \$5,000 for costs thrown away on the aborted examination, preparation of a report for today's attendance and today's attendance. That strikes me as more than reasonable. Rana submits that no report was required for today and that \$2,500 is a more appropriate figure. I disagree. Time was limited to 30 minutes today. The case conference was booked at the last minute and was heard outside of ordinary court hours. Had I not received materials that set out the background to the issue, it would not have been possible to complete the case conference in the time available. Rana will pay the Inspector's costs of \$5000 forthwith.

**Justice Markus Koehnen**  
Ontario Superior Court of Justice

361 University Ave.  
Toronto, Ont.  
M5G 1T3  
[REDACTED]

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**From:** May, Kieran

**Sent:** Tuesday, August 3, 2021 5:21 PM

**To:** May, Kieran <kmay@cassels.com>; Koehnen, Mr. Justice Markus (SCJ) <[REDACTED]>; JUS-G-MAG-CSD-Toronto-SCJ Commercial List <MAG.CSD.To.SCJCom@ontario.ca>; Levine, Natalie <nlevine@cassels.com>; Picone, John M. <jpicone@cassels.com>; Kelman, David <dkelman@cassels.com>; ngoldstein@ksvadvisory.com <ngoldstein@ksvadvisory.com>; Shara Roy <sroy@litigate.com>; jflood@litigate.com <jflood@litigate.com>; chunter@litigate.com <chunter@litigate.com>

**Subject:** Randhawa v Randhawa et al., CV-18-593636-00CL - Chambers Appointment

**When:** Wednesday, August 4, 2021 9:00 AM-9:30 AM.

**Where:** <https://cassels.zoom.us/j/94768810576?pwd=YjA4aUhiUE4vY1JvWWNxMUNOU1Y4Zz09>

**Zoom Details:**

<https://cassels.zoom.us/j/94768810576?pwd=YjA4aUhiUE4vY1JvWWNxMUNOU1Y4Zz09>

Meeting ID: 947 6881 0576

Password: 523076

One tap mobile

+13126266799,,94768810576# US (Chicago)

+13462487799,,94768810576# US (Houston)

**Caselines:**

<https://ontariocourts.caselines.com/s/s/25398>

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