

[The Case of a Corporate Moron:](#)

[How Cermaq Abused the Canadian Courts](#)

By Elena Edwards

It is hard to say at which point during the 20 day trial of [Don Staniford vs Mainstream Canada](#) that lawyer David Wotherspoon, representing [Cermaq/Mainstream Canada](#) for [Fasken law firm](#), must have realized he had taken a case that could not be won.

When Mr. Wotherspoon first sent the letter to Don Staniford demanding an apology to his clients for statements in which the Norwegian salmon farming industry was named, he surely must have thought the threat of legal action would be enough to intimidate Staniford into retracting claims in GAAIA's (Global Alliance Against Industrial Aquaculture) "[Salmon Farming Kills](#)" campaign.

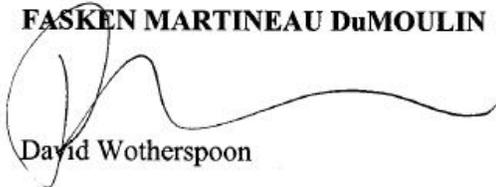
2. Remove all references to, or statements about, the Companies and salmon farming operations wherever they may be, whether those statements name the Companies directly or by innuendo and implication;
3. Cease and desist the same or similar conduct in the future; and
4. Provide an apology, in the form attached to this letter, signed by you on your own behalf and on behalf of GAAIA, that will be published on the front page of the Website and that may be used by our clients as they see fit.

We require confirmation, by 1:00 pm on Wednesday, March 23, 2011, that these steps have been taken. If you have not done so, we will file a Notice of Civil Claim against each of you and GAAIA without further notice. If this step is necessary we anticipate seeking general, special, and punitive damages, along with costs.

We look forward to your favourable response and would be pleased to discuss any of the foregoing with you or your legal counsel.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP



David Wotherspoon

DKW/grc

What Wotherspoon perhaps failed to take into account was that on the radar of Staniford's years of global campaigning against the negative impacts of salmon farming, Mainstream Canada was but a blip on the radar of the main culprit; the Norwegian salmon farming industry as a whole.

The response Wotherspoon received was not what Wotherspoon expected;

[67] In a letter dated March 18, 2011, Mainstream's lawyers wrote to Mr. Staniford, asserting that statements on GAAIA's website were defamatory of Mainstream. The letter demanded that all defamatory statements be removed and that Mr. Staniford formally apologize. The same day, the website was taken down by Mr. Staniford's Internet service providers, over Mr. Staniford's very strenuous objections. Mr. Staniford's own response to the letter from Mainstream's lawyers was to send back a copy of one of the cigarette packages, with a picture of a fist with a raised middle finger. In other words, Mr. Staniford's response was to give Mainstream and its lawyers "the finger."



On the 23rd March, 2011, following "the finger" reply, Don Staniford was sent a [Notice of Civil Claim](#).

OF BRITISH COLUMBIA
VANCOUVER REGISTRY

MAR 23 2011



S-111908

No.
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MAINSTREAM CANADA, A DIVISION OF EWOS CANADA
LTD.

PLAINTIFF

AND:

DON STANIFORD, and the said DON STANIFORD carrying on
business as THE GLOBAL ALLIANCE AGAINST
INDUSTRIAL AQUACULTURE

DEFENDANTS

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff for the relief set out in Part 2 below.

Nearly one year later, court was in session. On Feb.3, 2012, day 15 in court, Wotherspoon began his cross examination of Mr. Staniford by pushing for admittance that the response of the "finger" was "disrespectful". Staniford's response was as follows:

"I considered how I would respond over the weekend and the five-day period you gave me. You gave a deadline of 1:00 o'clock on the 23rd of March. I assembled a huge document that I at one stage was going to reply to you directly. And I considered it very, very carefully in the context of a very serious, legal threat which I considered a SLAPP suit, and at 1:00 o'clock on the deadline I sent you this finger cigarette [pack], and I wasn't clear until the last minute which reply would be sent. But I replied in a manner that I saw fitting to your letter of the 18th of March, which is a blatant SLAPP suit, and accused me of false information and inaccurate information. And I think you got what you deserved."

The huge document Mr. Staniford referred to addressed each of the purported "defamatory" statements claimed by Cermaq/Mainstream Canada and stated that:

"GAAIA honestly believes that the peer-reviewed scientific studies, documentary evidence, published papers, public register material and other published and privately-held information backs up the case that 'Salmon Farming Kills'. GAAIA firmly believes that there are no "false statements of fact" and that it is correct, in view of the global dominance of Norwegian companies, to label the cigarette-style salmon farming packets as 'Norwegian-owned'."

While Wotherspoon received the finger, the [60 plus page response](#) was sent to the CEO of Cermaq, the Norwegian Minister of Trade and Industry, Managing Director of EWOS, and the King of Norway.

March 23, 2011

Via Email to:

Geir Isaksen, CEO, Cermaq: geir.isaksen@cermaq.com
Trond Giske, Norwegian Minister of Trade and Industry: trond.giske@nhd.dep.no
Mette Wikborg, Director General, Ownership Department, Norwegian Ministry of Trade and Industry: mette.wikborg@nhd.dep.no
Kjell Bjordall, Managing Director, EWOS: kjell.bjordall@ewos.com
King Harald IV of Norway: post@slottet.no

From:

Don Staniford, Global coordinator for GAAIA: dstaniford@gaaia.org

Dear Sirs/Mesdames,

Re: “Salmon Farming Kills” – Threatened Lawsuit by Cermaq and the Norwegian Government vs. GAAIA

Further to the threatening letter dated 18th March 2011ⁱ on behalf of the Norwegian-owned companies Cermaqⁱⁱ and its subsidiary EWOS Canadaⁱⁱⁱ which does business in British Columbia as Mainstream Canada^{iv}, GAAIA takes Cermaq’s complaint extremely seriously and very much welcomes the opportunity to expand upon why we honestly and firmly believe that ‘Salmon Farming Kills’.

For reasons unknown, Cermaq/Mainstream Canada chose to take particular offense to the “[Salmon Farming Kills](#)” campaign images sent out in a press release in January of 2011 even though it was clear that the campaign was in no way specific to Mainstream Canada but addressed “Norwegian Owned” salmon farms, of which Mainstream Canada just happens to be operating as part of, also being the one Norwegian company in B.C. in which the Norwegian government has 43.5% ownership.



Mary Ellen Walling of the BC Salmon Farmers Association had responded to the campaign by saying to the Times Colonist, *“We are not planning to respond to those ads. We think they are quite immature, inappropriate and irrelevant. We are not taking them seriously at all”*.

Ms. Walling went on to become one of the witnesses for Cermaq/Mainstream Canada in the trial against GAAIA and Don Staniford, along with other witnesses for the salmon farming industry, all who seemed unprepared to provide an honest or valid defense of the salmon farming industry. Lise Bergan, spokesperson for Cermaq HQ in Norway, was nearly dismissed as a credible witness as she refused in testimony to admit that salmon farming might be controversial to others.



[Left: Ms. Walling of BCSFA. Right: ex Cermaq CEO Geir Isaksen and Cermaq spokesperson Lise Bergan.]

Throughout the 20 day trial it seemed clear the case against statements made in GAAIA's "Salmon Farming Kills" campaign had very little to go on, as the first week saw Wotherspoon ask to reduce the "sting" from 52 perceived allegations (as set out in his Notice of Civil Claim) to just 2; "salmon farming kills like smoking" and "salmon farms are cancer".

From there, Wotherspoon's main line of defence was to attack the character of Don Staniford and make his corporate client out to be the victim of Staniford's "malice", bringing up matters unrelated to the campaign the defendant was sued upon including blogs written by Mr. Staniford during the [Cohen Commission](#). Clearly, Wotherspoon was desperate to paint the worst possible picture of Mr. Staniford in the eyes of the court.

37
Donald C. Staniford (a Defendant)
Cross-exam by Mr. Wotherspoon

1 That's Carla Shore:
2
3 -- who seems to style herself after Hitler's
4 girlfriend, Eva Braun.
5
6 Now, Eva Braun was a very stylish lady and there
7 she is in the photograph below with Adolf Hitler.
8 And there in the next photo is Carla Shore in
9 front of the jail in Lillooet. So I'm clearly, in
10 this context, comparing the director of
11 communications, who orchestrated a media blackout
12 and sponsored censorship at a \$25 million public
13 inquiry with Eva Braun.
14 So for you to suggest that I am comparing
15 Justice Bruce Cohen with Hitler is distasteful. I
16 have a very good relationship with Justice Cohen.
17 I've drank coffee, and I have talked to him in the
18 lift. And I followed the Cohen Commission around.
19 So I find that extremely distasteful

Had Mr. Wotherspoon paid closer attention to the writing on the proverbial wall he'd have realized the truth of what he was getting into and that this case for Cermaq was sunk.



Hitler Loves Fish Farms, not Activists.

Boudicasalmazon Subscribe

**Anyone who thinks that Cermaq is sunk-
leave the room now.**

0:52 / 3:50

The image shows a YouTube video player interface. At the top, the video title is "Hitler Loves Fish Farms, not Activists." Below the title, there is a channel name "Boudicasalmazon", a "Subscribe" button with a plus icon, and a "1 video" dropdown menu. The main video frame shows a close-up of a man in a dark suit and white shirt, looking down and to the left. Overlaid on the bottom of the video frame is yellow text that reads "Anyone who thinks that Cermaq is sunk-leave the room now." Below the video frame is a standard YouTube player control bar with a play button, a volume icon, a progress bar showing "0:52 / 3:50", and icons for settings, a timer, and full screen.

[Watch "Hitler Loves Fish Farms Not Activists" [here.](#)]

One need not read too far into the initial claims of plaintiff Cermaq/Mainstream Canada to realize that they were blowing smoke, just as Mr. Staniford had claimed the salmon farming industry is doing in his “Smoke on the Water, Cancer on the Coast” campaign.



Do you still not believe that the salmon farming industry is blowing smoke up your ass?

Do you still fail to see through the smokescreen of Big Aquaculture?

If you can see past the smokescreen, it appears the Norwegian salmon farming industry has abused the Canadian courts in an attempt to silence their most outspoken critic. Fortunately for justice, they failed in doing so.

“Fair Comment” to say that Salmon Farming Kills: The Ruling of Justice Adair

Justice Adair made the only ruling she could have made; that Don Staniford succeed in his defence of [fair comment](#) due to his honest belief in the statements he made, statements which were directed at the predominantly Norwegian owned fish farming industry which Mainstream Canada operates under.

Summary and Disposition

[202] Although I have concluded that Mr. Staniford’s statements are defamatory of Mainstream, I have concluded that he should succeed on his defence of fair comment. I have found that he was actuated by express malice towards Mainstream. However, I have found that he had an honest belief in the statements he made, and injuring Mainstream because of spite or animosity was not his dominant purpose in publishing the words in issue.

[203] In view of those findings, I do not intend to address damages or other remedies.

[204] The plaintiff’s action is, accordingly, dismissed.

[205] If counsel wish to make submissions on costs, they have leave to do so and should contact Scheduling to arrange a convenient date.

In coming to her summary Adair went through the following deliberations;

Background Facts	5
(a) Mainstream	5
(b) Mr. Staniford	9
(c) The publications in issue	18
(d) “Peer-reviewed scientific evidence”	22
(e) Mr. Staniford’s post-publication conduct	27
Discussion and Analysis	29
(a) Mainstream’s defamation claim	30
(i) What Mainstream must prove	30
(ii) Are Mr. Staniford’s words defamatory?	31
(iii) Do the words in fact refer to Mainstream?	36
(iv) Summary on Mainstream’s defamation claim	41
(b) Mr. Staniford’s defence of fair comment	41
(i) The basic elements of the defence	41
(ii) Distinguishing fact from comment	44
(iii) Comment must be based on fact	51
(iv) Could any person honestly express Mr. Staniford’s opinions based on the proven facts?	54
(v) Malice	55

[Read reasons for judgment in full [here](#).]

It was clear throughout the 20 day trial and in Justice Adair's [70 page judgment](#) that she was not a fan of Mr. Staniford's style of campaigning, questioning his character and making statements such as the following;

[187] Mr. Staniford seems incapable of conceding he might be wrong on some things. He is devoted to a cause where salmon farming is thoroughly bad, with no possibility of redemption, and must be eradicated. To concede that salmon farming might have some value would mean that Mr. Staniford has wasted a good part of his adult life. He believes his own press, even when contradicted by other, contemporaneous documents.

[198] I agree with Mainstream that Mr. Staniford does not in fact do anything to conceal the spite, ill-will and contempt he holds for industrial aquaculture and salmon farming in general, and Mainstream and Cermaq in particular. I think the evidence is overwhelming in this regard. Mr. Staniford's Internet postings are filled with insulting and demeaning comments and cruel caricatures. He ignores and disdainfully dismisses peer-reviewed science (such as *Report No. 978*) when the conclusions conflict with his own views. The language in his publications – including the mock cigarette packages in particular – is extreme, inflammatory, sensationalized, extravagant and violent. The word "kills" is everywhere.

Unfortunately one could also question Justice Adair's judgment in certain areas, such as finding BCSFA's claims that "Farmed salmon is natural, nutritious and free of contaminants" to be true when evidence shows such statements to be sketchy and misleading at best, and downright false in the most accurate meaning of the words.

(h) in January 2011, the BCSFA launched a media campaign, which included the statement that "Farmed salmon is natural, nutritious and free of contaminants." I find these facts to be true.

One could rule that Justice Adair failed to do the research that proves such "facts" to be "blatant lies" and "extremely misleading" statements for which Mr. Staniford responded to in his campaign with scientific backing.

[54] As I noted above, in January 2011, the BCSFA published a series of advertisements, describing salmon farming in positive terms and describing some of the benefits of consuming farmed salmon. One of the advertisements was headlined "Salmon Farmers would never add chemicals to their salmon." Some of the text of the advertisement reads:

Just like you, salmon farmers want their food natural, nutritious, and free of contaminants. That's why there are no growth hormones added to BC farmed salmon. Nor are there any dyes – both farmed and wild salmon get their colour from the pigments they ingest as part of their diet. Antibiotics and medical treatments are used rarely and only on the advice of a veterinarian. And just for the record, there are no genetically engineered or modified fish in BC farms. At the end of the day the only real difference between farmed and wild salmon is that the farmed ones know where their next meal is coming from.

...

Farmed salmon is natural, nutritious, and free of contaminants.

[55] Mr. Staniford found these statements particularly offensive, based on his reading and research, including his familiarity with the January 2004 *Science* Paper and other materials he had referenced in his article "Silent Spring of the Sea." He called the BCSFA's statements "blatant lies" and "extremely misleading."

Adair also indicated her perception that a corporation is akin to a citizen, an opinion that is held by the likes of American right wing corporate advocate [Mitt Romney](#) and allows for people within a corporation to hide behind a corporate shield.

[28] Based on the evidence at trial, I conclude that EWOS (including Mainstream) and Cermaq, its parent, model the behaviour of a responsible corporate citizen.

In ruling on whether the statements were in fact defamatory of Mainstream Canada, Adair found that most of the words used are capable of defamatory meanings.

[122] In summary, I find that the words sued upon are capable of bearing each of the defamatory meanings pleaded in para. 22 of the Amended Claim, with the exception of subparas. (f) and (i).

Given that Mr. Staniford made no apologies for using whatever is available to him to campaign against an industry which has been proven destructive in numerous ways, he stood by his words with conviction and testified that;

"...as a campaigner on salmon farming issues, it's my job to focus on salmon farming and farmed salmon. And it's a fact that farmed salmon contains cancer-causing chemicals. And

the salmon farmers website, BC Salmon Facts, claims that farmed salmon is free of contaminants, and that's blatant lies."

It is also a job that does not have millions of dollars to pay for public adverts as does the salmon farming industry, leaving Staniford and others to rely on creativity and public support to ensure that the public is informed about the myriad issues that come with salmon farming practices.

Under cross examination by Wotherspoon, attempts were made to suggest that Staniford did not care about the feelings of others, a theme which ran with the belief that corporations are "citizens".

44

Donald C. Staniford (a Defendant)
Cross-exam by Mr. Wotherspoon

9 Q And I take it from your comments that you believe
10 that anyone who works in the salmon farming
11 industry is fair game to be lampooned by you;
12 correct?

13 A No. I think the public relations headliners,
14 those officials, whether they work for the
15 government, whether their environmental campaign
16 is in the public domain, whether they are the
17 salmon farming industry, in a public issue that
18 has public debate, I think it's fair in this day
19 and age of Twitter and Facebook and blogs to
20 include public figures in that debate.

21 I've never talked about, as far as I'm aware,
22 a worker on a salmon farm, or a particular person
23 working for a salmon farming company, unless I
24 think that they are a PR person or they put
25 themselves in the public domain.

26 And as this is such a controversial public
27 issue, we -- it's -- I think everybody puts
28 themselves in the firing line.

29 Q And you don't care how they feel as a result, do
30 you? You don't care what your impact has on
31 anyone?

32 A There is the famous bumper sticker that says,
33 "I'll only believe the corporations have feelings
34 when someone in Texas is executed." I don't think
35 corporations have feelings. And to put -- assign
36 to corporations in the same way as you assign
37 rights to individuals I think is really trying to
38 stretch this.

42 A I think somebody who promotes farmed salmon as
43 free of contaminants as she does in the BC Salmon
44 Facts adverts, and markets a cancer-contaminated
45 product as healthy, and pushes those adverts on
46 pregnant women, I find that thoroughly distasteful
47 and nauseating. And I think it's legitimate to

1 criticize a person for those views.

2 Q So you don't care about her feelings. Is that
3 what you are saying?

4 A Corporations don't have feelings.

Justice Adair's ruling indicated otherwise, that she thought that corporations do have feelings as she stated that;

[200] I have no hesitation, therefore, in finding that the publications in issue were actuated by Mr. Staniford's express malice towards Mainstream.

The definition of malice reads;

mal·ice

n.

1. A desire to harm others or to see others suffer; extreme ill will or spite.
2. *Law* The intent, without just cause or reason, to commit a wrongful act that will result in harm to another.

Given that it was Cermaq/Mainstream Canada the corporation that took Mr. Staniford to court and not the individuals who work for the corporation, the premise of the lawsuit became murky when Wotherspoon worked furiously to make the focus of the case about individuals who felt slighted at being caught out as public figures for a controversial industry.

When Justice Adair ruled on malice she clearly missed the point that both "just cause" and "reason" existed in Don Staniford's efforts to expose ill behaviors and wrongful acts of the salmon farming industry which results in harm to others.

Lawyer David Sutherland, well known for his work in cases of libel and advocacy for free speech, represented Don Staniford as a champion of free speech, strongly pointing out in his closing argument that for Justice Adair to rule that Don Staniford be prevented from posting comments on the salmon industry as a whole would be a downright "draconian order".

In presenting Staniford's case, Sutherland pointed out that his client had instructed his web-designer for GAAIA to mimic the Global Aquaculture Alliance website, an obvious indication of the global nature of Staniford's campaigning.

[131] In support of his argument, Mr. Sutherland notes Mr. Staniford's evidence that he instructed his web-designer for GAAIA to "ape" the look and style of website of the Global Aquaculture Alliance, which has a world-wide reach. Mr. Sutherland notes that Mr. Staniford's campaigns were launched at the Seafood Summit, which, merely co-incidentally, was in Vancouver. The means used by Mr. Staniford to communicate his messages – a website on the Internet – is consistent with the global theme, and, in Mr. Sutherland's submission, the reasonable, ordinary person browsing the Internet, looking at the statements in the context of the whole of the content at GAAIA's website, would not conclude the statements were limited to B.C. but would understand the scope was much broader and "global."

One need only look at the two web-sites to see the intent of pursuing the global aspect of salmon farming to be true.



Somehow Justice Adair failed to see what was obvious and stated in her ruling;

"I do not agree. In my view, the words about which Mainstream complains are capable of referring to Mainstream, and they are in fact of and concerning Mainstream."

Justice Adair also ruled that Staniford's words were defamatory on the basis that;

"... they would tend to lower Mainstream's reputation in the eyes of a reasonable person; the words in fact referred to Mainstream; and the words were communicated to at least one person other than Mainstream."

In the realm of campaigning against big industrial corporations, that is exactly what any good campaigner would set out to do; lower the reputation of those who are profiting off the demise of other life forms and leaving a negative impression in the eyes of all reasonable people.

Mr. Staniford's defence of fair comment: The basic elements of the defence

While it would appear in the majority of Justice Adair's judgement that she was entirely in favour of the corporation being the victim, David Sutherland brought to light the legality of "fair comment" which could not be disputed no matter how much one might dislike the intentions of another.

Justice Adair laid it out in her ruling as follows:

"Statements of opinion – a category which has been described as including any deduction, inference, conclusion, criticism, judgment, remark or observation which is generally incapable of proof – may attract the defence of fair comment:... A defendant claiming fair comment must satisfy the following test: (a) the comment must be on a matter of public interest; (b) the comment must be based on fact; (c) the comment, though it can include inferences of fact, must be recognisable as comment; (d) the comment must satisfy the following objective test: could any person honestly express that opinion on the proved facts?; and (e) even though the comment satisfies the objective test, the defence can be defeated if the plaintiff proves that the defendant was actuated by express malice... WIC expanded the fair comment defence by changing the traditional requirement that the opinion be one that a "fair-minded" person could honestly hold, to a requirement that it be one that "anyone could honestly have expressed," which, as Chief Justice McLachlin observed, allows for robust debate... As Binnie J. put it in WIC (at para. 4), "[w]e live in a free country where people have as much right to express outrageous and ridiculous opinions as moderate ones."

Following that it states;

"Honest belief" requires the existence of a relationship between the comment and underlying facts. The question is whether anyone, however prejudiced the person might be, however exaggerated or obstinate the person's views might be, could honestly express the opinions, based on the proven facts"

Mr. Staniford's lawyer David Sutherland responded to these requirements as follows:

(a) Mainstream admits that farmed salmon and salmon farming are matters of public interest;

(b) a reader would understand the mock cigarette packages, and the commentary quoted in the Amended Claim, to be a comment in the nature of a dramatic presentation, and an analogy to a warning regime;

(c) they are comment (rather than fact) because they are opinion based on Mr. Staniford's research into the field and scientific literature, and arise out of his inferences, deductions and conclusions based on his interpretation of the materials, especially the materials identified in the particulars;

(d) Mr. Staniford (and others) could honestly express those opinions based on the proven facts;

(e) all that the law requires is opinion that could honestly have been expressed on true (Binnie J. in WIC uses the word "proven") facts by a person prejudiced, exaggerated or obstinate in his or her views;

(f) if Mr. Staniford was an honest man expressing his genuine opinion on a subject of public interest then, no matter that his words conveyed derogatory imputations, no matter that his opinion was wrong or exaggerated or prejudiced and no matter that it was badly expressed so that people read all sorts of innuendo.

Adair followed to note that;

"...throughout his submissions, Mr. Sutherland has emphasized the tension between protection of reputation, on the one hand, and freedom of expression on the other"

Adair further considered Sutherland citing comments from [Deschamps J. in Bou](#);

"The concept of defamation requires that the right to the protection of reputation be reconciled with the right to freedom of expression, since that which belongs to the former is generally taken away from the latter."

Sutherland also brought forth the important matter which should have been addressed from the start; that the courts not be abused in attempts to settle defamation actions and scientific controversies, or in the case of Cermaq, to use the courts to launch [SLAPP](#) suits against individuals who oppose them.

[149] Mr. Sutherland relies on **British Chiropractic Association v. Singh**, [2010] EWCA Civ 350, [2011] 1 W.L.R. 133 ("**Singh**") to advance an additional, but important, point in connection with the defence of fair comment. He says that the courts – and defamation actions in particular – should not be used to settle or attempt to settle scientific controversies. That job should be left to scientists and the methods of science, rather than the methods of litigation.

Continuing on the deliberation of fair comment Adair notes in her judgement that;

"Fair comment is a defence that protects defamatory criticisms or expressions of opinion; it does not protect defamatory statements of fact... In order to determine whether a defamatory imputation can be protected as fair comment, it must be initially determined whether it is comment upon given facts or a statement of facts. The distinction is fundamental and must absolutely be made because an assertion of facts can never be defended as fair comment..."

Adair follows with an observation from [Binnie J.](#) on [Rafe Mair](#);

[155] What is comment and what is fact must be determined from the perspective of a reasonable viewer or reader: see **WIC**, at para. 27 (citing **Ross**, at para. 62). Context is important. For example, as Binnie J. observed of Rafe Mair, one of the defendants in **WIC**, "Mair was a radio personality with opinions on everything, not a reporter of the facts."

On page 46 of Adair's ruling she notes Mr. Sutherland's great emphasis on a concluding paragraph in a judgment of Judge Easterbrook, Chief Judge of the US Seventh Circuit Court of Appeals, [in which it was said](#) about a libel action over a scientific controversy:

"[Plaintiffs] cannot, by simply filing suit and crying 'character assassination!', silence those who hold divergent views, no matter how adverse those views may be to plaintiffs' interests. Scientific controversies must be settled by the methods of science rather than by the methods of litigation... More papers, more discussion, better data, and more satisfactory models – not larger awards of damages - mark the path towards superior understanding of the world around us."

Adair continues:

"Mr. Sutherland argues that there is a direct parallel in this case, and that what Mainstream is attempting to do by bringing this action is to silence a critic in the face of scientific controversies."

It is such observations made by Sutherland that lands him as a champion of free speech.

What's essentially at play in the establishment of "fair comment" is whether the statements made by Don Staniford are considered factual statements or are merely expressions of opinion, which should be based on fact but seen by an "ordinary reasonable person" as comments based upon bare facts and not statements of bare facts alone.

For all the denial of there being any truth to Staniford's statements in his campaign by the plaintiff, and for all of the accusations that Staniford has no proof to back his claims, Mainstream then argues the following:

[166] This is essentially the argument advanced by Mainstream: that Mr. Staniford's statements are verifiable and capable of proof, and therefore must be found to be statements of fact.

Justice Adair follows that comment to note that the flaw in Mainstream's argument emerged through the case of [British Chiropractic Association v. Singh](#):

[167] The EWCA did not agree with Eady J. The court explained the flaw in Eady J's reasoning, and thus also a flaw in Mainstream's argument, in this way (underlining added):

To read the specifics of the court case that put a big hole in the wind-bag of Wotherspoon's argument to deny Staniford "fair comment" as a defence click [here](#).

Following her conclusion of the legal example given by Sutherland, Adair commented that she could understand how Mainstream was "led to argue that they are statements of fact, pure and simple" based on Staniford's declarative statements that "Salmon Farming Kills" and "Salmon Farming Kills Like Smoking".

However, she concluded the following (along with additional insults to Staniford):

[170] However, I have concluded that the statements are comment, not fact. They reflect Mr. Staniford's value judgments – as prejudiced, exaggerated and obstinate as they are – based on what he has read in the literature and how he has interpreted that literature. They are just as much value judgments as are Dr. Gallo's opinions and conclusions. I would have no hesitation accepting Dr. Gallo's opinions and conclusions over Mr. Staniford's, if that were the contest. However, it is not. The issue is whether Mr. Staniford's statements are statements of fact, or statements of opinion.

Prior to her final conclusion, Justice Adair posed the question;

"Could any person honestly express Mr. Staniford's opinions based on the proven facts?"

She responds to that question saying *"I have concluded the answer to this question must be yes. Mr. Staniford (at least) believes what he says. He expresses his beliefs in the March 23, 2011 letter to the King of Norway, and in "Smoke on the Water, Cancer on the Coast."*

She follows this with a few more good things to say about Staniford, ("*I have no doubt that Mr. Staniford is severely prejudiced when it comes to salmon farming. His views are exaggerated and obstinate. I express no opinion on whether this makes him an effective campaigner: that is for others to judge.*") and sums up her findings to say "*However, I have concluded that he honestly believes the opinions he has expressed.*"

Leading to her final conclusion (which followed a few more paragraphs of character assassination):

[201] However, I am unable to conclude that this was Mr. Staniford's dominant purpose in publishing the statements in issue. Mr. Staniford's main goal is to end industrial aquaculture, and he seeks (albeit in clumsy, crude, irrational or foolish ways) to influence public opinion to that end. That (currently) is his life's work. His commitment to that cause is illustrated by his self-published *magnum opus* – "Smoke on the Water, Cancer on the Coast." I find that Mr. Staniford's statements and publications are related primarily to that purpose. As Tysoe J.A. observed in ***Creative Salmon*** (at para. 41), the protection of a person's ability to exercise his or her right to freedom of expression in order to attempt to influence public opinion on legitimate public issues is the objective of the defence of fair comment. The defence cannot be defeated if Mr. Staniford was doing the very thing that the defence was designed to protect.

However much Justice Adair disliked defendant Don Staniford and his campaigning objectives, she could not deny that Mr. Staniford's intentions were honest and that it was his right to make statements about industrial salmon farming practices which are of public interest and backed by overwhelming scientific evidence.

Justice was served for freedom of speech and those campaigning against large destructive industries. As Don Staniford said following the win;

"This is a victory not just for Don Staniford against Mainstream Canada. This is a victory for environmental campaigners, social-justice campaigners across the world."



There are those who are sympathetic to corporations like Cermaq being subject to the campaigning efforts of concerned citizens. However much they might object to PR people being caught out for advocating for big destructive practices like salmon farming, they cannot deny that on the final day of the 20 day trial the courtroom was filled with individuals who supported Staniford's efforts to rid the oceans of salmon farms. Justice was served in that every one of those individuals may rest assured that it is indeed fair comment to suggest that salmon farming kills.

Online via: <http://www.wildsalmonfirst.org/news-center/wild-salmon-first-blogs/63-staniford-wins-case-against-cermaq>