



Doing the Wright Thing: When a Good Apology is All You Need

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By: *Tamara Céline Winegust and Mitchel Fleming*

The Federal Court (FC) companion decisions in *Warner Bros. Entertainment Inc. v. White (Beast IPTV)*, [2021 FC 989](#) and [2021 FC 996](#) showcase how a defendant's change in conduct can affect the disposition of contempt charges for non-compliance with an interim order issued in a copyright litigation. In the *Warner Bros.* cases, one defendant (Mr. White) refused to comply with the Court's interim order, and appealed the contempt charge, but eventually pled guilty. The court accepted the plea, and deferred sentencing until after the adjudication of the appeal (2021 FC 989). By contrast, after being charged with contempt, the second defendant (Mr. Wright) began complying with the terms of the order and entered into a consent judgement with the Plaintiffs. At the contempt hearing, he offered (what the judge described as) "an abject apology" to the Court and took full responsibility for his actions. The Court dismissed the contempt charges, as Mr. Wright was already complying with the Court's orders of his own accord; thus, there was "no useful purpose" in proceeding with the contempt charges against him (2021 FC 996).

Civil contempt of court proceedings are quasi-criminal in nature. The two *Warner Bros.* decisions demonstrate the useful role contempt proceedings can play in obtaining compliance by recalcitrant defendants with court orders, whether because the defendant, faced with the seriousness of the charge, chooses to comply of their own accord, or because they simply plead guilty and accept the consequences. Of note, these *Warner Bros.* decisions were not the only contempt proceedings brought in the context of a copyright litigation in 2021. In early July, the Federal Court found the defendants in a different copyright matter in contempt of court, and, in December, ordered them to pay a \$100,000 fine for such contempt. Moreover, the Court ordered the personal defendant in that case to be imprisoned for not less than six months (or, earlier, if the contempt was purged) (See *Canadian Standards Association v. P.S. Knight Co. Ltd.*, [2021 FC 770](#) and [2021 FC 1346](#)).

The *Warner Bros.* Decisions

In October 2020, Warner Bros. Entertainment Inc. and other entertainment companies (the "Plaintiffs") commenced a copyright infringement action against Tyler White and Colin Wright (collectively the "Defendants") for operating a streaming service, Beast IPTV. The service provided users with access to over 1,600 television channels without authorization from the copyright owners or broadcasters. Access was obtained via internet browsers, software applications and media players for Android devices, set-top boxes, and an M3U playlist. After litigation commenced, the Plaintiffs sought, and obtained, an interim injunction to stop the Defendants from operating the Beast IPTV Service and similar services; and to disclose financial information, transfer custody of their online infrastructure, and refrain from removing Beast IPTV assets from the court's jurisdiction ("Interim Order"). The Defendants were served with the Interim Order, and its contents were explained to them by an independent supervising solicitor and Plaintiffs' counsel. The interim injunction was to be in force for a short period, following which the Plaintiffs were required to bring a review motion to convert the interim injunction into an interlocutory injunction. During that period, the Defendants ignored the terms of the Interim Order. When the Plaintiffs brought their review motion, they also sought an order for contempt of court. Justice Roy issued the interlocutory injunction based on the Interim Order on January 14, 2021, and, at the same time, ordered the defendants to appear for a contempt hearing (2021 FC 53) ("January 14 Order").



Following the contempt hearings, the Court issued orders with respect to the charges against each of Mr. White and Mr. Wright. The differences appear largely attributable to how each defendant conducted themselves following the issuance of the January 14 Order, and prior to the contempt hearing.

The first defendant, Mr. White, appealed the January 14 Order to the Federal Court of Appeal and made no efforts to comply with the Interim Order. Instead, he refused to disclose information pertaining to Beast IPTV servers, and domains, and the requested financial information, and also communicated with others about the Interim Order, which was a direct violation of the Interim Order. However, on September 20, 2021, Mr. White pleaded guilty to the contempt charges. The Court accepted the guilty plea after confirming it was voluntary and based on an appreciation of the nature of the charges and of the consequences of the plea, and deferred judgement until after adjudication of Mr. White's appeal.

By contrast, before the contempt hearing, the other defendant, Mr. Wright, began making good faith efforts to comply with the Interim Order and cooperate with the Plaintiffs. At the hearing, Mr. Wright voluntarily apologized to the Court for his conduct. As part of the apology, Mr. Wright confirmed that he understood the importance of court orders; had learned his lesson; and would never disregard the honour of the court again. The Court confirmed that such conduct was sufficient to purge the contempt, and that the rule of law and the fair administration of justice would not be compromised by forgoing contempt charges against Mr. Wright.

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