



Amended pursuant to Rule 6-1(5)(a)

Originally filed on June 9, 2022

FORM 7
(RULE 3-6 (1))

No. S223793
Vancouver Registry

In the Supreme Court of British Columbia

Between

Masood Masjoody

Plaintiff(s)

and

Burnaby Beacon, Dustin Godfrey

Defendants

Amended Reply

Filed by: Masood Masjoody

1. The defendants have taken an evasive approach regarding all of the facts pleaded in the NoCC, including but not limited to the universally undeniable facts about the parties' background and the simple objective facts about defamatory publications, such as where, when, how, and by whom the publications were made.
2. The defendants' deceptive approach has extended to the entirety of the RtCC. Among other indications of this:
 - a. They lie about the source of their publication, which is their own fabrication and not established facts and fact findings;
 - b. They falsely depict their publications as a genuine product of diligent and honest "investigative journalism";
 - c. They deceptively pretend that their publications were supported by fact-finders in a judgment of a judge of this Court, Fitzpatrick J.; notwithstanding (a) Fitzpatrick J. made no fact findings; and (2) she indeed admitted in the very judgement that fact findings were "not issues before [her]";

- d. They have made another irrelevant reference to a judgment of the Court of Appeal for BC, which (a) also contains no fact finding; and (b) determined that the alleged conspiracy of Simon Fraser University and Amélie Trotignon against the plaintiff by way of sexual harassment and defamation "arose in response to [Dr. Masjoody's] political beliefs and activities" and "constitutes a serious violation by his employer of the prohibitions against discrimination and harassment";
 - e. They falsely claim that the obviously defamatory statements they made against the plaintiff are not defamatory.
- 3. The judgement of Fitzpatrick J. was published at noon on September 15, 2021. The Article was published on the Internet at 4 AM on September 17, 2021.
- 4. The defendants claim that:
 - a. They "reviewed" that judgment, which was published midday of September 15, 2021;
 - b. They "reviewed" also "the pleadings" that they say "led to" that judgment;
 - c. They even used "anonymous sources" to verify their statements; and
 - d. They did all of the above in "conducting research in advance of the publication of the Article" on September 17, 2021.
- 5. All of the September 17 publications by Burnaby Beacon, including the Article, were published at 4 AM on September 17, 2021. In general, Burnaby Beacon schedules the publication of all of the articles of a day at the same time, either at 4 AM or 5 AM on the day of publication.
- 6. Based on the defendants' claims, in a matter of few hours, and in any case **in less than 1.5 working days**, the defendants must have learned about Fitzpatrick's judgment, got interested in it and in the parties' relations, obtained pleadings in that matter, reviewed all of the aforementioned material, fact-checked with anonymous sources, and then drafted, edited, and finalized the Article for publication.
- 7. The defendants never sought, or even attempted to seek, the plaintiff's side of the stories they were about to publish. Rather, they deliberately used fabrications and fake news, which they ironically call "investigative journalism", to reverse the roles of

parties in another action and to artificially attract attention to their business of news crafting.

8. The defendants' publications are not products of research and consultation with a variety of sources. They are, instead, products of fabrications, pure recklessness, disregard for facts, and absolute lack of diligence required in verifying the defamatory statements/allegations, particularly given the seriousness of the allegations and their effects on the plaintiff's reputation and career.
9. There is no matter of public interest whose communication to the public would require the publication of the defendants' defamatory statements against the plaintiff.
10. Even if the publications had been a matter of public interest- which the plaintiff strongly denies- the publications by no means constitutes responsible reporting or fair comments.
11. Furthermore, the defendants' statements in their publications are presented as facts, not recognizable comments.
12. Moreover, the defendants' defamatory statements are not based on established facts. In each of the instances of defamatory publications, the defendants failed to provide proven facts in support of the defamatory statements made. They do not have such facts at all.
13. The defamatory sting of the defendants' publications has caused and continues to cause substantial damage to the plaintiff's reputation and career and can effectively keep the plaintiff out of stable employment until his name is vindicated and his reputation is recuperated.
14. The plaintiff promptly gave the defendants an opportunity to mitigate the damages caused or that were about to be caused. However, on Sep 22, 2021, the defendants arrogantly and highhandedly refused to take any of the steps to mitigate the damages to the plaintiff. Instead, they have persisted in keeping their defamatory statements on the Internet and prominently so on several online search engines all viewable by billions of people.
15. In RtCC, the defendants oppose "[a]n interim and permanent injunction restraining the defendants from any slanderous or libellous statement, from publication or causing statement and publication, or otherwise publishing the alleged or any similar libel and

slander concerning the plaintiff." This RtCC is yet another indication that the defendants' conduct continues to be malicious, highhanded, arbitrary, oppressive, deliberate, vicious, outrageous, callous, disgraceful, and calculated to smear the plaintiff.

16. The defendants amended their RtCC and served the amended RtCC ("ARtCC") on me on 2 May 2023. In the ARtCC, without even seeking the leave of the Court, the defendants withdrew several admissions of facts pleaded in RtCC ("Withdrawn Admissions"), based on which pleaded facts, on 23 Aug 2022 I issued a demand for several classes of documents from the defendants—which demand the defendants refused to comply with—and on 28 Nov 2022, I brought an application for document discovery, which application the defendants contested. Indeed, in my original Reply, which was served on the defendants on 9 Jun 2022 and consists of paras, 1-15 in this very document, many of the Withdrawn Admissions were challenged, particularly, and not limited to, the defendants' claim about "conducting research", having "reviewed" the "pleadings filed in the [SFU] [A]ction", and also relying on the "meticulous reporting and factual findings" of the so-called Justice Fitzpatrick of the Court, all of which they claimed to have done "in advance of the publication of the Article." Now, in ARtCC, they suddenly plead that "September 15, 2021 [which was barely a day before the defendants' publishing the defamatory Article and Newsletter]... was the first time the Defendants became aware of the SFU Action" and in a letter dated 4 May 2023 to me, they concede that regarding the SFU Action, apart from Fitzpatrick's Reasons, "the Defendants confirm they did not have pleadings or other court material ... in their possession, power, or control" before the publication of the defamatory Article and Newsletter.
17. The defendants decided to sit on their now Withdrawn Admissions for almost 11 months after the service of the Reply. Now, the defendants have struck any references to Fitzpatrick's "findings" and have added a "clarification" to their article whereby conceding that: *They are "aware of the fact that" Fitzpatrick "did not make any findings of fact and that the factual background set out" in the reasons "has not been proven in court."* However, the defendants continue to post essentially the same

defamatory publications, including the Article and Newsletter, on the Internet, which, among other things, is further evidence of malice.

18. The Article and Newsletter are not protected by qualified privilege. The defamatory statements by the defendants were not made in the discharge of any social or moral duty, were indeed contrary to the public interest, and were not made fairly. In any case, there is no question that the defendants well exceeded the limits of any such duty or interest, under which condition the defence of qualified privilege cannot stand. On top of all, the raised defence of qualified privilege in ARtCC must fail due to malice.
19. The defendants have conceded that Fitzpatrick's Reasons in the SFU Action do not contain findings of fact. The defendants' Relying on the Reasons is not relying on facts nor—in case Fitzpatrick's words are taken as comments—is it relying on comments based on true facts. The defence of fair comment must fail in its face, even if one considers the defamatory statements as comments rather than statements or assertions of facts by the defendants.
20. Furthermore, the defamatory statements were assertions of facts and did not appear as comments. Comments cannot be mixed up with statements of facts. The Article and Newsletter do not include indications where the defendants purport the statements are comments and not statements of facts. On top of these, the raised defence of fair comment cannot survive the findings of malice in this matter.
21. The only established set of facts in a jurisdictional challenge is the one pleaded in the Notice of Claim, whose truth is presumed. By misstating or failing to state those facts, the defendants engaged in significant omissions of important information which was contrary to the defamatory sting of the Article and Newsletter. The defendants deliberately refrained from making any inquiries to me and failed to allow me any fair opportunity to express my side of the story. These are more than enough to establish that the defendants acted maliciously and in bad faith. No defence of qualified or fair comment can survive this evidence of malice.
22. The raised defence of justification by the defendants in the ARtCC is bound to fail. There is no severable and distinct part of the defamatory statements that can be justified and the defendants have not shown any grounds for the truth of their defamatory publications.

Place of trial: 800 Smithe Street, Vancouver, British Columbia

The address of the registry is: 800 Smithe Street, Vancouver, British Columbia

Date: 9/June/2022

16/May/2023

[dd/mmm/yyyy]

Signature of

☒ Plaintiff

☐ Lawyer for
plaintiff(s)

Masood Masjoody

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and (b) serve the list on all parties of record.