## **Publisher's Note**

An Update has Arrived in Your Library for:

Please circulate this notice to anyone in your office who may be interested in this publication.  Distribution List

## LAW OF DEFAMATION

Erika Chamberlain Release No. 4, September 2025

This release features updates to the case law and commentary in Chapters 13 (Qualified Privilege), 15 (Fair Comment), 17 (Bringing an Action), 25 (Damages), 26 (Injunctions), and 27 (The Charter of Rights and American Constitutional Developments).

THOMSON REUTERS®

**Customer Support** 

1-416-609-3800 (Toronto & International)

1-800-387-5164 (Toll Free Canada & U.S.)

 $\hbox{E-mail Customer Support. Legal Tax Canada@TR.com}\\$ 

This publisher's note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

## **Highlights:**

CHAPTER 13—QUALIFIED PRIVILEGE—In Thatcher-Craig v. Clearview (Township) 2023 ONCA 96, 2023 CarswellOnt 5098 (Ont. C.A.), the Township argued that posting impugned letters from residents on its website constituted qualified privilege, an argument accepted by the Court due to the normalcy of routinely posting information by municipalities. The Court of Appeal held that the defence of privilege applied, recognizing a real prospect for a successful defence due to the Township's duty to provide online access to information, which people 'expect'. As "today, a website is the most efficient, accessible and cost-effective method of allowing the public access to government information" the Court recognized that the Township had "an interest or duty" in publishing the impugned statements, and the public had a corresponding "duty or interest" to receive them. The privilege in question extended "to the entire public land use planning process", including posting the allegedly defamatory comments due to this duty "to make the planning process transparent and accessible". That said and whereas a municipality can rely on qualified privilege as a defence in this context, they are "required to exercise prudence in the operation of its website.

CHAPTER 25—DAMAGES and CHAPTER 26—INJUNCTIONS—Buv Beauty LLC v. Dong, 2024 BCSC 815, 2024 CarswellBC 1373 (B.C. S.C.), a BC Court awarded a substantial quantum of damages (350 000\$ of which 100 000 are aggravated and punitive combined) to the Plaintiff, a Beauty company, following a finding of defamation for an unrelenting and unsubstantiated YouTube smear campaign against it. The Defendant, it avers, had repeatedly defamed the plaintiff's company on YouTube engaging in 'profit-driven defamation', voicing false allegations of criminal activity (namely, false allegations of theft of credit card information from customers and money laundering against the Plaintiff). Permanent injunction granted due to the recurring nature of the defamatory content posted. Significantly, this exceptional remedy appears increasingly common in the Digital Age. This greater willingness to grant an otherwise and traditionally extraordinary measure reflects the Courts's concern, salient in the digital context, that the Defendant, who had repeatedly engaged in a malicious and repeated form of defamation (posting even multiple times a day) would otherwise not be deterred, as evident by his unrepentant attitude, and the potential inability to enforce monetary judgment.