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LAW OF DEFAMATION Erika Chamberlain Release No. 2024-4, September 2024

This service is a comprehensive, authoritative and extremely discerning text that addresses significant new developments in this complex area of legal practice. This landmark text offers an authoritative and comprehensive treatment of defamation law in Canada and elsewhere. The service includes topics such as: available defences, remedies, Charter implications, injurious falsehood and malicious prosecution.

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Highlights:

Part VI: Miscellaneous Actions — Chapter 28: Injurious Falsehood — I. Injurious Falsehood — B. Malicious Falsehood Involving a Business, Trade or Profession; Malicious Falsehood Involving a Goods and Products. This release includes an update to the discussion of malicious falsehood involving a business, trade or profession and specifically, the elements of the common law action which have been altered by statute. The concept that a claim which is successful without proof of special damages may be limited to nominal damages was pertinent in the case of *George v. Cannell et al.*, [2024] UKSC 19. In that case, the majority in the United Kingdom Supreme Court found that a plaintiff who could not prove special damages was not entitled to damages for her injured feelings. It was found that the gist of the tort is still financial loss and malicious falsehood is not a tort that protects mental well-being.

Part V: Charter Implications — Chapter 27: The Charter of Rights and American Constitutional Developments — Introduction — The Canadian Charter and Defamation. Chapter 27 has been updated in this release. Updates to the chapter include discussion of the versions of the defence of responsible communication on a matter of public interest introduced in England, Australia and New Zealand, as well as discussion of who is protected by the defence and the reliability of the source.