

Publisher’s Note

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<p>CANADIAN DEFAMATION LAW AND PRACTICE Pepper & Morritt Release No. 2, December 2024</p>
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This year’s release has been converted into a more user-friendly softbound book. Subscribers will receive a softbound book to replace any relevant revised content within the work. This should greatly improve the reader’s experience in terms of filing pages within a limited binder system – allowing the work to easily expand as discussion of the law dictates.

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

This book is designed to provide an overview of the Canadian law of defamation and a practice guide for lawyers advising on defamation issues or engaged in prosecuting or defending defamation actions. It will also assist in-house counsel in recognizing areas of concern and help editors and others involved in the communications, advertising and media fields avoid publishing defamatory material. It is an extremely practical guide to the area providing an overview of the law, practice tips and precedents. Topics covered include: the plaintiff and defendant, defences, remedies, defamation and the internet, defamation and the charter, and more.

What's New in This Update:

This release provides valuable updates to Chapters 1 (Introduction), 2 (The Plaintiff), 3 (The Defendant), 5 (Defences), 6 (Remedies), 7 (Litigating A Defamation Action), 11 (The Internet), 12 (Quebec), 13 (Defamation Law and the Charter), and 14 (Related Actions).

Highlights:

- **§ 2:2 Can Associations and Trade Unions sue and be sued for Defamation?** In *Ford v. New Democrats of Canada Association*, 2024 ABKB 141, 2024 A.C.W.S. 2607, 2024 CarswellAlta 603 (Alta. K.B.), a former candidate for the United Conservative Party in Alberta sued the Alberta New Democrat Party (among others) in defamation. The court held that the Party was “an unincorporated association” that did not “have the legal capacity to sue or be sued”. The court nevertheless found that it had the authority to direct the Alberta NDP to name a litigation representative to act as a representative defendant, and if it did not, to appoint one itself (paras. 20 and 53). The court made such an order.
- **§ 2:3 What is the Position of Groups or Classes of Persons who may Consider Themselves to Have Been Libelled?** In *Giesbrecht v. Prpick*, 2024 ABKB 51, 2024 A.C.W.S. 2633, 2024 CarswellAlta 188 (Alta. K.B.), additional reasons 2024 ABKB 433, 2024 CarswellAlta 1870 (Alta. K.B.), the court held that a letter written to the RCMP, politicians and media organizations alleging the operation of “organized crime”, including fraud and misappropriation of public funds by unnamed “public officials in the Town including administration and councillors” would be understood as referring to the plaintiff public officials by any reasonable person in their local community, it being a small community with a proportionately compact local government.
- **§ 3:3 Repetition: Is It a Defence to an Allegation of Libel That the Publisher was Only Repeating Words Uttered by Others?** In *Durand v. Higgins*, [2024] 8 W.W.R. 441, the

importance of this fundamental principle has been elevated by the degree to which the internet and social media have vastly multiplied the opportunities for the repetition of defamatory statements. As noted by the Court of King's Bench of Alberta: There appears to exist a common misconception amongst social media users that reposting defamatory content generated by others is a protected activity, under the doctrine of fair comment or otherwise. This misunderstanding should be corrected as firmly as possible. A repetition, republication, or repost of a defamatory statement is every bit as defamatory, and every bit as subject to liability in tort, as the original statement. "[n]o one is justified in stating false facts about another merely because someone else has done so".