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CANADIAN DEFAMATION LAW AND PRACTICE

Pepper, Morritt, Stephenson & Ross
Release No. 1, September 2022

Publisher's Special Release Note 2021

The pages in this work were reissued in September 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the September 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

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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 the Defamation Quantum table and to the annotations for the *Alberta Defamation Act*, R.S.A. 2000, c. D-7 and the Ontario *Libel and Slander Act*, R.S.O. 1990, c. L-12.

Highlights:

- **Appendices – Defamation Quantum Table – Public Statements** – Defendant became dissatisfied with extent of financial information provided with respect to investment opportunity he entered into with plaintiff — There was also dispute over marketing fee charged to defendant, which was subsequently refunded to him — One day at lunch defendant told two of plaintiff's business acquaintances that plaintiff stole from him and was thief — Acquaintances continued to do business with plaintiff, and plaintiff admitted he suffered no actual loss — Plaintiff brought action for defamation, and civil jury awarded general damages in amount of \$500,000 — Defendant appealed, contending that quantum of damages was unreasonable — Plaintiff cross-appealed jury's failure to award punitive damages — Appeal allowed; cross-appeal dismissed — Award of \$50,000 for general and aggravated damages was at upper end of reasonable range in present circumstances, and it was appropriate to replace jury's award with award of \$50,000 for general and aggravated damages — Regarding cross-appeal, fact that defamatory statement was made intentionally is not, by itself, sufficient to attract punitive damages — It was not persuasive that defendant's conduct in present circumstances was so malicious, oppressive and high-handed, or so egregious or truly outrageous, so as to warrant punitive damages — Compensatory award of \$50,000 for general and aggravated damages was adequate to achieve objectives of retribution, deterrence and condemnation in circumstances of this case. *Chartier v. Bibeau*, 2022 CarswellMan 5 (Man. C.A.)

- **Appendices – Relevant Statutory Provisions – Alberta – Defamation Act, R.S.A. 2000, c. D-7 – Section 2** – Damages are presumed where a claim in defamation is proved. The Court must next consider the appropriate quantum and heads of damages to be awarded. *Chak v. Levant*, 2021 CarswellAlta 2996, 2021 ABQB 946 (Alta. Q.B.)
- **Appendices – Relevant Statutory Provisions – Ontario – Libel and Slander Act, R.S.O. 1990, c. L-12 – Section 25** – Section 25 of the *Libel and Slander Act* allows qualified privilege to apply on a matter of public interest between two or more people who have a direct interest in the matter, even if the communication is witnessed or reported on by media or other people. *Gill v. Maciver*, 2022 ONSC 1279, 2022 CarswellOnt 2703 (Ont. S.C.J.)

ProView Developments

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