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LAW OF DEFAMATION Erika Chamberlain Release No. 1, February 2026

This release features updates to the case law and commentary in Chapters 7 (Publication), 15 (Fair Comment), 27 (The Charter of Rights and American Constitutional Developments), and 29 (Malicious Prosecution).

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Highlights:

Chapter 27—The Charter of Rights and American Constitutional Developments—*Falardeau c. Boivin* 2025 QCCS 2117 (C.A. Que.)—This case concerns vociferous allegations against a writer ‘called out’ for “Cultural appropriation”. Namely, co-opting or stereotypically reducing Indigenous heritage. The action followed statements by a atikamekw activist and artist (Defendant Boivin) on social media impugning Plaintiff Falardeau for her recurrent ‘usurpation’ of Indigenous identity as a result of her self-labelling “Métis” (referring to herself as “une Femme Métis de l’Est” or an “Eastern Métis woman”) in her writings, which came to Defendant’s attention. Defendant is alleged to have also spearheaded a ‘cancel’ campaign against Plaintiff, accusing her of identity fraud. The Court held that reputational harm was shown under 1457 CCQ (the relevant article for establishing Defamation in Quebec) but that the essential fault criteria set out by that same article was not met (the three requisite elements being fault, causation and (reputational) harm). In other words, it opined that, in a vigorous debate, it is not unreasonable (negligent or malicious in Common Law parlance) to critically express oneself, even vehemently (or “shockingly”), as did the Defendant.

The treatise has been mentioned recently in the following cases:

- *Sanderson v. Bennett*, 2025 BCSC 118 (B.C. S.C.)
- *Venn v. Davies*, 2025 SKKB 140 (Sask. K.B.)
- *Pineau v. Glacier Media Inc.*, 2025 BCCA 101 (B.C. C.A.)
- *Tuharsky v. O’Chiese First Nation*, 2025 ABCA 267 (Atla. C.A.)