

**IN THE SUPREME COURT OF CANADA**

B E T W E E N:

DOUGLAS QUAN, KELLY EGAN, DON CAMPBELL, OTTAWA CITIZEN, OTTAWA  
CITIZEN GROUP INC., SOUTHAM PUBLICATIONS (A CANWEST COMPANY) and  
PENNY BARAGER

Appellants

and

DANNO CUSSON

Respondent

and

THE ATTORNEY GENERAL OF BRITISH COLUMBIA, THE CANADIAN  
BROADCASTING CORPORATION, THE GLOBE and MAIL, THE TORONTO STAR  
NEWSPAPERS LIMITED, THE CANADIAN NEWSPAPER ASSOCIATION, AD  
IDEM/CANADIAN MEDIA LAWYERS ASSOCIATION, RTNDA CANADA/THE  
ASSOCIATION OF ELECTRONIC JOURNALISTS, CANADIAN PUBLISHERS' COUNCIL,  
MAGAZINES CANADA, CANADIAN ASSOCIATION OF JOURNALISTS, CANADIAN  
JOURNALISTS FOR FREE EXPRESSION, THE WRITERS' UNION OF CANADA,  
PROFESSIONAL WRITERS ASSOCIATION OF CANADA, BOOK AND PERIODICAL  
COUNCIL AND PEN CANADA THE CANADIAN CIVIL LIBERTIES ASSOCIATION

Interveners

**FACTUM OF THE INTERVENER  
THE CANADIAN CIVIL LIBERTIES ASSOCIATION**

**Torys LLP**

3000 - 79 Wellington Street West  
Box 270, TD Centre  
Toronto, Ontario M5K 1N2

Patricia D.S. Jackson

Tel: 416.865.7323

email: [pjackson@torys.com](mailto:pjackson@torys.com)

Andrew E. Bernstein

Tel: 416.865.7678

email: [abernstein@torys.com](mailto:abernstein@torys.com)

Jennifer A. Conroy

Tel: 416.865.7663

email: [jconroy@torys.com](mailto:jconroy@torys.com)

Lawyers for the Intervener

The Canadian Civil Liberties Association

**Lang Michener LLP**

Suite 300  
50 O'Connor Street  
Ottawa, Ontario K1P 6L2

Jeffrey W. Beedell

Tel: 613.232.7171 ext.122

email: [jbeedell@langmichener.ca](mailto:jbeedell@langmichener.ca)

Ottawa Agents for the Intervener

The Canadian Civil Liberties Association

**TABLE OF CONTENTS**

**PART I – FACTS ..... 1**  
    Overview of the CCLA’s position..... 1

**PART II – QUESTIONS IN ISSUE..... 2**

**PART III – ARGUMENT ..... 3**  
    Charter Values and the Common Law ..... 3  
    Defamation impairs freedom of expression..... 4  
        Expression is constitutionally guaranteed, not inherently dangerous ..... 4  
    Statements in the public interest require more protection ..... 4  
    “Reasonable Publication” not “Responsible Journalism” ..... 6  
        Why “reasonable” instead of “responsible”?..... 6  
        Why “publication” instead of “journalism”? ..... 6  
    Public interest is broad..... 7  
    State of mind not a relevant consideration ..... 9  
    Fair comment also reasonable ..... 10

**PART IV – SUBMISSIONS ON COSTS..... 10**

**PART V – ORDER REQUESTED..... 10**

**PART VI - TABLE OF AUTHORITIES ..... 11**

**PART VII - STATUTORY PROVISIONS..... 11**

**IN THE SUPREME COURT OF CANADA**

B E T W E E N:

DOUGLAS QUAN, KELLY EGAN, DON CAMPBELL, OTTAWA CITIZEN, OTTAWA  
CITIZEN GROUP INC., SOUTHAM PUBLICATIONS (A CANWEST COMPANY) and  
PENNY BARAGER

Appellants

and

DANNO CUSSON

Respondent

and

THE ATTORNEY GENERAL OF BRITISH COLUMBIA, CANADIAN BROADCASTING  
CORPORATION, THE GLOBE and MAIL, THE TORONTO STAR NEWSPAPERS  
LIMITED, CANADIAN NEWSPAPER ASSOCIATION, AD IDEM/CANADIAN MEDIA  
LAWYERS ASSOCIATION, RTNDA CANADA/THE ASSOCIATION OF ELECTRONIC  
JOURNALISTS, CANADIAN PUBLISHERS' COUNCIL, MAGAZINES CANADA,  
CANADIAN ASSOCIATION OF JOURNALISTS, CANADIAN JOURNALISTS FOR FREE  
EXPRESSION, THE WRITERS' UNION OF CANADA, PROFESSIONAL WRITERS  
ASSOCIATION OF CANADA, BOOK AND PERIODICAL COUNCIL and PEN CANADA  
CANADIAN CIVIL LIBERTIES ASSOCIATION

Interveners

**FACTUM OF THE INTERVENER  
CANADIAN CIVIL LIBERTIES ASSOCIATION**

## PART I – FACTS

### Overview of the CCLA’s position

1. Despite decades of constitutionally guaranteed freedom of expression, Canadian defamation law remains trapped in its “sixteenth century” roots. The Court below took a welcome, but modest, step towards modernizing this strict liability tort to accord with the *Charter* guarantee of free expression. The CCLA intervenes in this appeal to assist the Court in considering the scope and limits of the public interest communication defence. The CCLA’s position is that to both protect reputation and minimally impair free expression, any written or spoken communication that is both in the public interest and reasonable to make should not give rise to civil liability.

2. While the Court of Appeal articulated a “public interest responsible journalism defence,” the CCLA asks this Court to make it clear that the defence is, as Lord Hoffman and Baroness Hale described it in *Jameel*<sup>1</sup>, a defence of publication in the public interest. Using the term “responsible” creates a risk that lower courts will make implicit or explicit value judgments about a particular communication, resulting in an uneven application of the defence. The defence should protect any statement made in the public interest so long as it was reasonably made (i.e., undertaken with reasonable due diligence), having regard to, among other things, the ten factors from *Reynolds* and *Jameel*.

3. Similarly, describing the defence as “responsible journalism” unnecessarily restricts it to media. Eliminating this restriction has two advantages: first, it circumvents the difficult question of who is a “journalist” in the internet era. Second, and more importantly, it recognizes that media have no monopoly on expression that furthers the public interest, and therefore focuses on the reasonableness of the expression, rather than its source.

4. The CCLA submits that the public interest communication defence renders unnecessary a further inquiry into whether the publication was malicious or made with an “improper motive.” The defence only applies to statements that were reasonable to make under the circumstances in which they were made. Once reasonableness, based on objective factors, has been demonstrated, a subsequent (and necessarily speculative) inquiry into the defendant’s motive adds little to the analysis. Put a different way, the chance that a statement will be both “reasonable” and “malicious”

---

<sup>1</sup> *Jameel v. Wall Street Journal Europe Sprl*, [2007] 1 A.C. 359 (HL) at 381, 383, 408

is so remote that it can be safely ignored, or at least outweighed by the much stronger possibility of confusing the trier of fact (often a jury), by asking these seemingly inconsistent questions.

5. The court below recognized that strict liability for writing, publishing or broadcasting statements in the public interest is inconsistent with *Charter* values. The CCLA asks this Court to affirm that s.2(b) of the *Charter* extends beyond that which the speaker can prove is literally correct. Rather, when expression is in the public interest, the constitutional guarantee of free expression should also protect statements that were reasonably made and regardless of who made them.

## **PART II – QUESTIONS IN ISSUE**

6. The CCLA's submissions are directed to the interpretation of the *Charter* guarantee of freedom of expression and how those rights will be affected by this Court's interpretation of the public interest reasonable communication defence. Recognizing that the facts of this particular case do not strictly require a determination of each of the issues raised below, the CCLA notes that this Court's interpretation of the public interest communication defence will map the contours of its application by lower courts for years to come.

7. The CCLA therefore submits that those contours should reflect these principles:

- (1) Where a defendant can show that it communicated on a matter of public interest and acted with reasonable due diligence in the circumstances, there should be no liability for defamation.
- (2) The public interest communication defence ought not to be limited to the media, but ought to extend to anyone making a communication in the public interest.
- (3) What constitutes public interest ought to be broadly interpreted. At the very least, communication about someone who wields public power acting in that capacity should be presumed to be a matter of public interest.
- (4) The ten factors referred to by the House of Lords in *Reynolds* and incorporated by the court below in this case as indicia of whether the communication was reasonable ought to be illustrative only and neither exhaustive nor necessary criteria that must be met in every case in order to trigger application of the defence.
- (5) The defence should not be subject to malice. While the "improper purpose" question has traditionally been answered by an inquiry into the defendants' state of

mind, it is better addressed through the objective factors underpinning the reasonableness inquiry.

- (6) For the defence of public interest communication to be fully robust, the principles which underpin it should be equally applicable in the defence of fair comment. While fair comment currently requires a comment on facts that are provably true, a comment on facts that were communicated in the public interest and reasonably made should also qualify for the fair comment defence.

### PART III – ARGUMENT

#### Charter Values and the Common Law

8. This Court has regularly directed lower courts to develop the principles of the common law in a manner consistent with the fundamental values enumerated in the *Charter*. Recently, this Court held that the traditional elements of the tort of defamation may require modification to provide more robust accommodation for the values underlying freedom of expression.

*Hill v. Church of Scientology*, [1995] 2 S.C.R. 1130  
*RWDSU v. Dolphin Delivery Ltd.*, [1986] 2 S.C.R. 573  
*WIC Radio Ltd. v. Kari Simpson*, 2008 SCC 40 at para. 15

9. Although free expression is the key *Charter* value when considering the law of defamation, another, equally important value is implicated. While the Court does not typically apply the two-stage *Charter* analysis (infringement of a substantive right, reasonable justification under s. 1) to common-law rules,<sup>2</sup> the CCLA submits that the key *Charter* value of s. 1, proportionality (including the concept of minimal impairment), is fully implicated. In this case, the CCLA urges the Court to seek proportionality between the protection of reputation and minimal impairment of free expression in the service of that protection. The CCLA’s submission is therefore an attempt to provide the Court with assistance as to how defamation law’s impairment of free expression might be reduced through the introduction of a public interest communication defence.

---

<sup>2</sup> There is no reason in principle why the Court could not treat the common-law of defamation, with its complex rules, like a statutory code and approach it by asking whether it infringe s. 2(b), and, if it does, how it needed to be judicially changed so that it can be reasonably justified by s. 1. Indeed, the CCLA’s submission is that this approach would provide the most rigorous analytical precision to answering the question “how can the law of defamation protect reputation while minimally impairing free expression”? However, the CCLA appreciates that this Court prefers the “*Charter* values” approach, and will make its submission on that basis.

## **Defamation impairs freedom of expression**

### *Expression is constitutionally guaranteed, not inherently dangerous*

10. The absence of proportionality in the common law of defamation is illustrated by a comparison with most other torts. A plaintiff who has experienced life-altering injuries as a result of an action by a defendant – for example, in a motor vehicle accident – must nonetheless show negligence on the part of the defendant. It is not sufficient to show the defendant drove the car.

11. In contrast, a plaintiff whose reputation is damaged – even minimally – by the defendant’s factual report need only show the defendant published the words. Not only does the plaintiff not need to show fault, the defendant can only avoid liability by establishing justification.<sup>3</sup> In short, at common law, defamation is a strict liability tort.<sup>4</sup> Put a different way, the common law has treated the constitutionally protected act of free expression like the inherently dangerous release of a wild animal or a poisonous gas.

12. Because of this strict liability approach, the common law of defamation is designed to, and does, have a “chilling effect” on freedom of expression. Each of the highest courts of England, Australia, South Africa and the United States has recognized that the common law of defamation undervalues free expression at the expense of other interests. In particular, the requirement that all communicated facts be provably true means that statements which are carefully researched and are reasonable to make may still give rise to civil liability, or, even worse, may never be made because of a fear of being unable to prove the facts in Court.

*Reynolds v. Times Newspapers Ltd.*, [2001] 2 A.C. 127 at 192(HL)  
*Lange v. Australian Broadcasting Corporation* (1997), 145 A.L.R. 96 at 18-19(HC)  
*Bogoshi v. National Media Ltd.*, [1998] S.A.J. No. 25 at 21-25 (S.C. of Appeal)  
*New York Times Co. v. Sullivan*, 376 U.S. 254 (1964) at 300 (U.S.S.C.)  
*Cusson v. Quan*, 2007 ONCA 771 at paras. 122, 127-129

## **Statements in the public interest require more protection**

13. The concern about defamation chilling free expression is particularly important when the statement that never gets made would have been in the public interest. Although different common-law jurisdictions have found different solutions to this problem, the common theme is a shift from strict

---

<sup>3</sup> Except in very limited circumstances of privilege.

<sup>4</sup> Daniel W. Burnett and Heather E. Maconachie, “Defamation Law: Shifting Ground” (2008), *Ann. Rev. Civil Lit.* 263 at 263.

insistence on the defendant proving the truth of the statement to an inquiry into the circumstances in which the statement was made. This includes the defence articulated by the Court below.

14. Indeed, the Court below recognized that changing from a standard of strict liability to a regime based on reasonableness does not unduly sacrifice or compromise individual reputation. Rather, this simply seeks to achieve a proper balancing of that important interest with freedom of expression. As stated by the Court below, “this defence represents a natural extension of the law as it has been developing in recent years, an incremental change ‘necessary to keep the common law in step with the dynamic and evolving fabric of our society.’” The CCLA submits that this Court should confirm the public interest communication defence as an appropriate and timely modification to the common law of defamation.

*Cusson v. Quan*, 2007 ONCA 771 at paras. 127-129

15. Indeed, the relaxation of the common-law requirement of proving the facts is necessary to preserving the *Charter* value of proportionality between the law’s objective (protecting reputation) and the impairment of the right of free expression. Permitting a defence of reasonable publication in the public interest sacrifices little in the protection of reputation, because it requires a degree of rigour: a defendant who cannot prove the facts must demonstrate that he acted reasonably in (among other things) checking the facts, choosing his time of publication, and (if applicable) getting the other side of the story. After this type of reasonable investigation, the chance of getting a statement completely wrong, to the detriment of someone’s reputation, is reasonably small.

16. On the other hand, permitting this defence makes for massive gains in the protection of free expression, for three related reasons. First, the statement in the public interest that is true but cannot be proven true by a defendant will not be subject to liability (an unambiguous improvement). Second, the statement in the public interest that is not one hundred percent true, but mostly true, will not be subject to liability (an improvement, most of the time). Finally, and perhaps most importantly, the risk of chilling either of these types of statements is dramatically reduced: a maker of a statement that has acted reasonably can be confident that there will be no liability.

17. In short, to further the *Charter* values of free expression and proportionality between means and ends, this Court should adopt the formulation of Lord Hoffman, in *Jameel*, who stated that the defence “is of course available to anyone who publishes material of public interest in any medium.”

*Jameel v. Wall Street Journal Europe SpA*, [2007] 1 A.C. 359 at 383 (HL)

## “Reasonable Publication” not “Responsible Journalism”

18. Although the Court below used the formulation “responsible journalism,” the CCLA submits that the substance of this defence is whether the publication was in the public interest and whether its publication was reasonable (i.e., undertaken with reasonable due diligence), and not who made it.

### *Why “reasonable” instead of “responsible”?*

19. The CCLA accepts that, to assess whether a statement is reasonable, regard must be had to the ten factors applied by the House of Lords in *Reynolds* as indicia of reasonableness, as well as any other comparable factors relevant in the particular circumstances. However, it urges the Court to reject the label of “responsible.” “Responsible” is an inherently subjective, value-laden term. On the other hand, “reasonableness” is the epitome of objectiveness at common law. Courts have ample expertise in determining whether a particular action is “reasonable.” Indeed, the concept of (objective) “reasonableness” lies at the heart of modern tort law.

20. Considered in light of the value of proportionality, an objective “reasonable” publication standard is vastly preferable to a subjective standard of “responsible.” To effectively prevent libel chill, the maker of a statement must be able to know (or at least predict with the benefit of advice) whether s/he has met the standard of avoiding liability. The more objective the standard, the more predictable its application will be, and the less constitutionally protected expression will be chilled.

### *Why “publication” instead of “journalism”?*

21. Similarly, the use of the word “journalism” in characterizing the defence suggests that individuals who are communicating information to the public on matters of public interest outside what is considered to be “the media” will have no recourse even where they have taken all reasonable steps to verify the information that they share.

22. To protect the *Charter* value of free expression, the relevant question is not who is making a statement, but rather whether it is in the public interest. Communications to the public, or a portion of it, that are not journalistic in nature and cannot be said to be communications by “the media” but which communicate on a matter of public interest, ought to receive equal protection under this new defence. For example, where a human rights organization<sup>5</sup> or another non-governmental

---

<sup>5</sup> The importance of the information published by such organizations can be seen in the *Report of the Internal Inquiry into the Actions of Canadian Officials with respect to Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin* (“Iacobucci Report”),

organization distributes information about the human rights record of a national leader or the questionable practices of an organization, whether by annual report, press release, open letter, or mass distribution of email, it should be protected provided that it was published reasonably in the face of a public interest. Similarly, where a concerned citizen repeats the same kind of information in an online chatroom or blog, he or she should also be protected as long as the communication was in the public interest and undertaken with reasonable due diligence.

*Seaga v. Harper (Jamaica)*, [2008] UKPC 9 at para. 11 (Privy Council)  
*Jameel v. Wall Street Journal Europe Sprl*, [2007] 1 A.C. 359 at 383 (HL)

23. The traditional law of defamation was developed at a time when the majority of the information being communicated was channeled through traditional media. That is no longer true. The breadth and speed with which individuals can distribute and receive information through the internet is constantly evolving. Moreover, restricting this defence to media raises an intractable problem: who is “the media” in the internet age?

24. The internet era’s changes to the way people communicate show why the balance between free expression and protection of reputation must be vigorously maintained. While it is now easier to spread false and defamatory statements than it ever was, individuals are now much more vulnerable to charges of defamation or other attempts to censor freedom of expression. Where an individual has acted reasonably in publishing information that is in the public interest, then that individual should be as much entitled to the benefit of the public interest communication defence as they are vulnerable to a suit for defamation.

25. Again, viewed through the lens of proportionality, restricting the defence only to the media detrimentally impacts free expression but does not enhance the protection of reputation in any principled way. This Court should make it clear that anyone who publishes statements in the public interest can take advantage of the defence, so long as s/he acts with reasonable due diligence.

### **Public interest is broad**

26. This court has found that public interest is a broad concept. Public interest has been found across a wide spectrum of subject matter.

*WIC Radio Ltd. v. Kari Simpson*, 2008 SCC 40 at para. 30

---

where the Honourable Frank Iacobucci relies on information published by Amnesty International and Human Rights Watch as indicative of the human rights practices of certain countries (Iacobucci Report, pp. 101-106, available online at: [www.iacobucciinquiry.ca](http://www.iacobucciinquiry.ca)).

27. To give full effect to s. 2(b), what constitutes public interest ought to be given a broad and generous interpretation. The concept of public interest extends to matters of political, social, economic, and cultural interest. It extends to debate about the law, health care, education, welfare, taxation, the environment, and morality. The categories are never closed. As Lord Denning stated, “whenever a matter is such as to affect people at large, so that they may legitimately be interested in, or concerned at, what is going on; or what may happen to them or others; then it is a matter of public interest.”

*London Artists Ltd. v. Littler*, [1969] All E.R. 193 at 198 (HL)

28. Indeed, the House of Lords has cautioned that courts “should be slow to conclude that a publication was not in the public interest, and, therefore, the public had no right to know.” Where there is ambiguity, any lingering doubts should be resolved in favour of a determination that publication was in the public interest.

*Reynolds v. Times Newspapers Ltd.*, [2001] 2 A.C. 127 at 205 (HL)

29. At the very least, communication about someone who wields public power acting in that capacity should be presumed to be a matter of public interest. As this Court has said “Public controversy can be a rough trade, and the law needs to accommodate its requirements.” This is particularly true where the communication is by a member of the public about an individual that wields public power.

*WIC Radio Ltd. v. Simpson*, 2008 SCC 40 at para. 15

### **Striking the right balance: reasonable communication**

30. As the Court below said, there is a “very real difference between what a speaker honestly and reasonably believes to be true and what can be proved to be true in a court of law.” A legal regime that leaves no margin for error and attaches liability even where the speaker took all reasonable steps to verify the facts discourages free and open debate on matters of public importance, and is not consistent with the *Charter* values of free expression and proportionality.

*Cusson v. Quan*, 2007 ONCA 771, para. 128

31. Recognizing a defence to a charge of defamation where a defendant can show that it acted reasonably when communicating on a matter of public interest is the point at which a fair balance is struck between freedom of expression and the reputations of individuals.

32. Having determined the nature of the communication — that it was in the public interest — the Court should examine whether the communication was reasonable in the circumstances by having regard to the ten factors referred to by the House of Lords in *Reynolds* and incorporated by the court below. These factors use the steps that were taken before publication as objective indicators of whether the publication was undertaken with reasonable due diligence.

33. However, the list of ten factors ought to be interpreted as illustrative only and ought not to be taken as either exhaustive or necessary criteria that must be met in every case in order to trigger application of the defence. Every case will have to be decided on an objective assessment of its own merits. Some factors may be relevant in some cases and not in others, and there may be additional objective due diligence factors not yet contemplated that will be equally helpful in determining whether the communication was reasonable.

#### **State of mind not a relevant consideration**

34. Where the communication can be said to have been reasonable, based on an objective assessment of the above factors, the state of mind of the communicator should no longer be relevant and the defence of public interest publication should not be defeated by malice.

35. The inquiry into the state of mind of the communicator mandated by the inquiry into malice is a speculative and elusive inquiry. By focusing on the objective indicators of whether a publication was reasonable, the focus of the inquiry will be shifted to what was actually done rather than guessing about what may or may not have been the motive behind it.

36. The *Reynolds* factors, although not exhaustive, provide some objective criteria for determining whether a communication was reasonable. By determining whether a defendant took all reasonable steps to verify the information before publication, the Court will have alleviated the need to engage in a subjective inquiry into state of mind. The subjective motive for publication will be irrelevant where, objectively, the Court is satisfied that the publication was reasonable.<sup>6</sup> In any event, certain of the *Reynolds* factors – the source of the information, the steps taken to verify the information, whether the article contained the gist of the plaintiff’s side of the story, the tone of the article – will inevitably involve an objective assessment of what the defendant knew about the information they were publishing and whether it was false.

---

<sup>6</sup> It is particularly objectionable to conduct an inquiry into whether a defendant has an “ulterior or improper purpose”. For example, the fact that a profit making newspaper values stories that attract readership should not mean the attempt to encourage readership, if the publication is reasonable in the circumstances, is malicious.

37. Indeed, the likelihood that a statement will be both reasonably and maliciously made is so small that the only likely outcome of asking a jury to determine these questions independently will be confusion and inconsistency. The Court should therefore make it clear that, unlike the defence of qualified privilege, malice plays no role when a statement is a reasonable communication in the public interest.

**Fair comment also reasonable**

38. For this defence to be robust, its principles should be equally applicable to the factual component of the defence of fair comment. While the current defence requires that fair comment be an opinion on true facts that are stated, the defence should also recognize that if the facts are reasonably stated in the public interest, opinion based on those facts is protected.

39. Viewed through the lens of proportionality, this extension of fair comment does little to harm protection of reputation (since the factual portions are protected by the defence) and adds considerably to the protection of free expression (since editorializing should be encouraged as part of a free and open debate). The Court should affirm this as part of adopting the defence of public interest communication from the Court below.

**PART IV – SUBMISSIONS ON COSTS**

40. The CCLA does not seek costs, and asks that it not be liable for costs to any other party.

**PART V – ORDER REQUESTED**

41. The CCLA requests the opportunity to make 15 minutes of oral submissions to the Court at the hearing of this appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

---

Patricia D.S. Jackson

---

Andrew E. Bernstein

---

Jennifer A. Conroy

Lawyers for the Intervener  
Canadian Civil Liberties Association

## PART VI - TABLE OF AUTHORITIES

Authority	Reference in Argument
1. <i>Bogoshi v. National Media Ltd.</i> , [1998] S.A.J. No. 25 (S.C. of Appeal)	12
2. <i>Cusson v. Quan</i> , 2007 ONCA 771	12, 14, 30
3. <i>Hill v. Church of Scientology</i> , [1995] 2 S.C.R. 1130	8
4. <i>Jameel (Mohammed) v. Wall Street Journal Europe Sprl</i> , [2007] 1 A.C. 359 (HL)	2, 12, 17, 22
5. <i>Lange v. Australian Broadcasting Corporation</i> (1997), 145 A.L.R. 96 (HC)	12
6. <i>London Artists Ltd. v. Littler</i> , [1969] All E.R. 193 (HL)	27
7. <i>New York Times Co. v. Sullivan</i> , 376 U.S. 254 (1964) (U.S.S.C.)	12
8. <i>Reynolds v. Times Newspapers Ltd.</i> , [2001] 2 A.C. 127 (HL)	12, 28
9. <i>RWDSU v. Dolphin Delivery Ltd.</i> , [1986] 2 S.C.R. 57328	8
10. <i>Seaga v. Harper (Jamaica)</i> , [2008] UKPC 9	22
11. <i>WIC Radio Ltd. v. Kari Simpson</i> , 2008 SCC 40	8, 26, 29
12. Daniel W. Burnett and Heather E. Maconachie, "Defamation Law: Shifting Ground" (2008), Ann. Rev. Civil Lit. 263	11

## PART VII - STATUTORY PROVISIONS

Nil