COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Pereira v. Klonarakis,*
2024 BCCA 75

Date: 20240307
Docket: CA49408

Between:

Corinne Pereira

Appellant
(Plaintiff)

And

Margaret Klonarakis

Respondent
(Defendant)

Before: The Honourable Mr. Justice Harris
The Honourable Mr. Justice Abrioux
The Honourable Justice Skolrood

On appeal from: An order of the Supreme Court of British Columbia, dated October 11, 2023 (*Pereira v. Klonarakis*, 2023 BCSC 1760, Terrace Docket 21140).

The Appellant, appearing in person (via videoconference):	C. Pereira
Counsel for the Respondent:	D.W. Burnett, K.C. B.S. Dumanowski
Place and Date of Hearing:	Vancouver, British Columbia January 29, 2024
Place and Date of Judgment:	Vancouver, British Columbia March 7, 2024

Written Reasons by:
The Honourable Mr. Justice Harris

Concurred in by:
The Honourable Mr. Justice Abrioux
The Honourable Justice Skolrood

Summary:

This appeal concerns the dismissal of a defamation claim under the Protection of Public Participation Act. The appellant submits that the chambers judge erred in finding the expressions in question to be related to a matter of public interest. Held: Appeal dismissed. On the particular facts of this case, the judge found that this lawsuit was an attempt to intimidate and silence the appellant's critics in an intense local conflict. No error in the judge's conclusion that the impugned expressions were on a matter of public interest has been made out.

Reasons for Judgment of the Honourable Mr. Justice Harris:

Introduction

[1] This is an appeal from an order dismissing Ms. Pereira's action in defamation against Ms. Klonarakis. In reasons indexed at 2023 BCSC 1760, the judge dismissed the action pursuant to s. 4 of the *Protection of Public Participation Act*, S.B.C. 2019, c. 3 (the "Act"), and ordered that Ms. Klonarakis was entitled to her costs on a full indemnity basis.

[2] On this appeal, Ms. Pereira invites us only to find error in the judge's finding on the threshold question under s. 4(1)(b). That is, whether the expression in issue relates to "a matter of public interest". Ms. Pereira does not allege error in the judge's conclusions on the other elements required to be satisfied as preconditions to dismissing an action under s. 4(2) of the Act. In her view, the issues in her defamation action are purely private matters that neither connect to nor engage any matter of public interest. She contends that the Act has been misused to prevent her from vindicating her reputation.

Background

[3] Ms. Pereira has been engaged in a large number of legal proceedings, including a number of union grievances, judicial reviews and a malicious prosecution action against Ms. Klonarakis. These proceedings arise out of the termination of her

employment in Kitimat by her employer, Horizon North. As summarized recently by Justice Butler in reasons indexed at 2023 BCCA 210:

> [3] Ms. Pereira was formerly employed by Horizon North. The respondent, Dexterra Group Inc. ("Dexterra"), is Horizon North's parent company. At all material times during her employment, Ms. Pereira was subject to a collective agreement between UNITE HERE, Local 40 (the "Union") and Horizon North. Between May and June 2020, as a result of a number of complaints by other employees about Ms. Pereira's behaviour, she received a verbal warning, a written warning, and a three-day suspension. The Union grieved this discipline.
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> [4] On June 18, 2020, Ms. Pereira took a leave of absence from work for stress. On September 23, 2020, Horizon North terminated her employment, on the basis that she had violated their Respectful Workplace Policy during her leave of absence. The Union grieved the termination of her employment.
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> [5] The Union and Horizon North ultimately settled both the discipline grievances (on September 21, 2020) and the termination grievance (on March 12, 2021).
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> [6] Ms. Pereira brought two unfair representation complaints against the Union with the BC Labour Relations Board (the "Board"), under s. 12 of the *Labour Relations Code*, R.S.B.C. 1996, c. 244 [Code], one in relation to the discipline grievances and one in relation to the termination grievance. The Board dismissed both complaints: 2021 BCLRB 44 (the "Discipline Section 12 Decision"); 2021 BCLRB 150 (the "Termination Section 12 Decision"). Ms. Pereira filed applications for leave to reconsider both Section 12 Decisions. The Board denied both applications: 2021 BCLRB 89 (the "Discipline Reconsideration Decision"); 2021 BCLRB 195 (the "Termination Reconsideration Decision"). Ms. Pereira sought judicial review of both reconsideration decisions. The Court dismissed both of her petitions for judicial review: 2022 BCSC 1205, aff'd in 2023 BCCA 165.
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> [7] Ms. Pereira also pursued litigation against various parties. On March 26, 2021, she filed a notice of civil claim against Dexterra and Horizon North, claiming she had been unjustly dismissed and defamed (the "First Supreme Court Action"). On July 30, 2021, Justice Punnett dismissed the action for lack of jurisdiction and abuse of process: 2021 BCSC 1484 (the "First Supreme Court Decision").

[4] Horizon North wrote a letter to Ms. Pereira stating that her employment had been terminated for "exhausting the progressive discipline process". The letter stated that she had "received warnings in regard to [her] conduct and behaviour and ample opportunity [had] been given to correct [her] behaviour". Horizon North cited the verbal warning and the written warning, and noted that the appellant had been away from work effective June 28, 2020. The letter then stated that Ms. Pereira's "conduct and behaviour [had] not changed as [she] continued to violate the

Respectful Workplace policy with harassing, disrespecting and threatening behaviour towards employees of Horizon North even after [she was] requested not to have any further communication".

[5] The judge was aware of the background of this dispute, having presided over a number of matters involving Ms. Pereira. He included an account of the broader litigation context, as well as relevant detail. In particular, he noted that Ms. Pereira was terminated on September 23, 2020, and that the alleged defamatory expressions occurred between May 10, 2021 and about September 8, 2021. I note that before and during this period employer and union grievances had been ongoing related to Ms. Pereira's employment and dismissal. At least one of the grievances appear to have also related to Ms. Klonarakis' conduct. The grievances also led to applications to the Labour Relations Board, which were decided in 2021, and became the subject of subsequent judicial reviews.

[6] As the judge noted:

> [11] The plaintiff alleges the defendant was writing defamatory statements about her on social media. The matters the plaintiff claims to be defamatory are social media posts by the defendant relating to the plaintiff's employment by Horizon North, her legal actions against Dexterra, and the plaintiff's alleged harassment of the defendant.
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> [12] The defendant however alleges the plaintiff has harassed, taunted and threatened her ever since her employment with Horizon North ended. That harassment culminated in the plaintiff creating and circulating to approximately 200 recipients a fake newspaper article describing the plaintiff shooting and killing the defendant. That article resulted in the plaintiff being charged with two counts of threatening to cause death or bodily harm. Those charges went to trial in Provincial Court in Kitimat. The trial judge found the *actus reus* was proven beyond a reasonable doubt. However, the trial judge held the *mens rea*—the plaintiff's intent to convey a threat—was not proven beyond a reasonable doubt and acquitted the plaintiff.
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> [13] In her notice of civil claim in this action filed on July 5, 2021 against Dexterra, the plaintiff made allegations against the defendant and four other employees of Dexterra, although the individuals were not named as defendants. The allegations remain in her second amended notice of civil claim joining the defendant as a party. The pleadings are prolix.

[7] Ms. Klonarakis was joined as a defendant by an amended notice of civil claim filed on October 1, 2021. I do not propose to set out all of the particulars of the alleged defamatory statements, they are set out in the judgment appealed from, but the first three follow:

> 96. On May 10th Maggie posted a picture on lnstagram that said "Bullies behind keyboards are still bullies".
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> In the caption she wrote "Calling names or making threats behind the keyboard is cowardly acting like the victim when [you're] the harasser is pathetic"
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> #bulliesarecowards, #narcissist, #meanworldwelivein
>
> 97. On August 3rd Maggie posted on Facebook
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> "I'm happy today it's a victory now I can say I am a believer in Karma what comes around goes around and to the ONE I'm speaking of I waited for this day, you can't go around trying to destroy people and act like a victim so now I say "Get the help you need"... Karma bit you back "C" (laughing and dancing emojis)".
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> 98. The same day shortly after she posted again on Facebook
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> "Victory" #karmagotyou #whoislaughingnow, with the laughing emoji.
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> 99. I immediately emailed Dexterra's CEO, the management team who were involved in my unwarranted discipline and wrongful dismissal, Dexterra's legal counsel as well as Maggie. I warned them that whatever Maggie does my wrath will reflect onto the company. I gave them the screenshots of Maggie's posts. I told them that since Maggie wanted to talk about it on social media I was going to show the world all of the evidence the company had on Maggie but they chose to do nothing. I also sent them a link to a news article that I had just read that morning of a Kroger worker who committed suicide because he was harassed at work and the company didn't do anything about it.

[8] The judge summarized the positions of the parties:

> **Position of the Plaintiff**
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> [18] The plaintiff submits her claim is not a strategic lawsuit against public participation ("*SLAPP*") hence the *Act* does not apply. Rather the action is being pursued by her to vindicate her reputation. She submits the defendant's application is an abuse of process by the defendant who she describes as a "serial liar". She denies there is a public interest in the matter. As support for this she argues that there is no public interest in what the defendant thinks of her character and notes that her posts are not set for public access on social media. She seeks dismissal of the application and special costs.

> **Position of the Defendant**
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> [19] The defendant submits this proceeding should be dismissed pursuant to s. 4 of *Act* as it is a claim arising from expressions on a matter of public interest. The defendant argues the plaintiff's defamation application is one in which the plaintiff is pretending to be a victim of defamation. The defendant submits that in reality it is simply another form of harassment of the defendant. Further, the defendant submits the matters claimed to be defamatory are fair comment by the defendant on the plaintiff's meritless legal actions against Dexterra. In addition, the defendant submits the plaintiff's harassment of the defendant is factually established by the plaintiff's failed proceedings and the examples of her harassment and bullying.

[9] The judge went on to explain the legislative framework under the Act and how that framework has been interpreted. None of what the judge said about this is contentious. Turning specifically to the issue whether a defendant's expressions relate to a matter of public interest, he referred to the Supreme Court of Canada's decision in *1704604 Ontario Ltd. v. Pointes Protection Association*, 2020 SCC 22. Given that this issue is the focus of the appeal, it worthwhile setting his analysis out in full:

> [29] In *Pointes*, the Supreme Court of Canada addressed the meaning of "public interest" in the context of SLAPP legislation:
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> > 26 Fourth, and finally, what does "relates to a matter of public interest" mean? These words should be given a broad and liberal interpretation, consistent with the legislative purpose of s. 137.1(3). Indeed, the APR clearly stated that a "broader test will ensure that the full scope of legitimate participation in public matters is made subject to the special procedure" (at para. 31) and that therefore a "broad scope of protection" is preferable (para. 29).
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> > 27 In *Grant v. Torstar Corp*., 2009 SCC 61, [2009] 3 S.C.R. 640, this Court considered the question of how public interest in a matter is to be established. While that case concerned the defence of responsible communication to a defamation action, it also involved determining what constitutes a "matter of public interest". The same principles apply in the present context. The expression should be assessed "as a whole", and it must be asked whether "some segment of the community would have a genuine interest in receiving information on the subject" (paras. 101-2). While there is "no single 'test'", "[t]he public has a genuine stake in knowing about many matters" ranging across a variety of topics (paras. 103 and 106). This Court rejected the "narrow" interpretation of public interest adopted by courts in Australia, New Zealand, and the United States; instead, in Canada, "[t]he democratic interest in such wide-ranging public debate must be reflected in the jurisprudence" (para. 106).

> 28 The statutory language used in s. 137.1(3) confirms that "public interest" ought to be given a broad interpretation. Indeed, "public interest" is preceded by the modifier "a matter of". This is important, as it is not legally relevant whether the expression is desirable or deleterious, valuable or vexatious, or whether it helps or hampers the public interest — there is no qualitative assessment of the expression at this stage. The question is only whether the expression pertains to any matter of public interest, defined broadly. The legislative background confirms that this burden is purposefully not an onerous one.
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> 29 Nonetheless, expression that *relates* to a matter of public interest must be distinguished from expression that simply *makes reference* to something of public interest, or to a matter about which the public is merely curious. Neither of the latter two forms of expression will be sufficient for the moving party to meet its burden under s. 137.1(3) (see Torstar, at para. 102).
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> 30 Ultimately, the inquiry is a contextual one that is fundamentally asking what the expression is really about. The animating purpose of s. 137.1 should not be forgotten: s. 137.1 was enacted to circumscribe proceedings that adversely affect expression made in relation to matters of public interest, in order to protect that expression and safeguard the fundamental value that is public participation in democracy. If the bar is set too high at s. 137.1(3), the motion judge will never reach the crux of the inquiry that lies in the weighing exercise at s. 137.1(4)(b). Thus, in light of the legislative purpose and background of s. 137.1, it is important to interpret an "expression" that "relates to a matter of public interest" in a generous and expansive fashion.
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> 31 In conclusion, s. 137.1(3) places a threshold burden on the moving party to show on a balance of probabilities (i) that the underlying proceeding does, in fact, arise from its expression, regardless of the nature of the proceeding, and (ii) that such expression relates to a matter of public interest, defined broadly. To the extent that this burden is met by the moving party, then s. 137.1(4) will be triggered and the burden will shift to the responding party to show that its underlying proceeding should not be dismissed….
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> [Italic emphasis in original; underline emphasis added [by the trial judge].]

[30] The burden on the defendant is to show the required public interest: *Pointes* at para. 18; *Platnick* at para. 76. The Court must be satisfied that the expression is a matter of public interest on a balance of probabilities: *Bent* at para. 85.

[31] The defendant states she has been the victim of “endless harassment, taunting and bullying by Ms. Pereira for almost two years, both public and private”. The defendant submits the test for public interest is met as, beginning in July of 2020, she was responding to repeated emails and posts from the plaintiff that included insults and threats. Those messages and

the subsequent attendance of the plaintiff at the defendant's home led the defendant to contact the RCMP.

[32] In August 2021, she received a threatening email from the plaintiff copied to many others advising her not to post "lies about her".

[33] On December 28, 2021, RCMP Cst. Muckle contacted her by phone and asked if she had seen an email the plaintiff had sent to 194 people. She had not. She was provided with a copy of the fake news article reporting that the plaintiff had shot and killed her and one other person. The defendant viewed the article as threatening and she provided a statement to the RCMP concerning the article on December 29, 2021.

[34] The defendant submits the public interest test is met given the plaintiff's harassment and widespread publication of the fake news article. The defendant asserts that the plaintiff's conduct has resulted in public notoriety and controversy.

[35] As noted, the plaintiff submits her defamation claim against the defendant is not a matter of public interest. However, in her response to this application, the plaintiff states it is in the public interest, particularly for employers in Kitimat, to know the character of the defendant. The plaintiff submits this argument in relation to allegations she has raised concerning the defendant's past behavior. She also states broader justifications:

> "The probative value of having the truth exposed on Dexterra and Local 40's blantant [sic] disregard to the safety of its employees and members far outweighs the prejudice to Klonarakis' personal character…"

[36] Further, the plaintiff submits that "[w]hen its's determined that Klonarakis has been lying for the past 2 years it will have a profound effect on my advocacy in making workplaces safer. There are more important issues involved in the lawsuit than just [individuals'] reputations."

[37] The plaintiff also raised public interest in her "advocacy" by releasing the newspaper article referred to earlier.

[38] The matters raised by the plaintiff in her claim relate to matters of public interest. The plaintiff is not simply making a reference to something of public interest, nor is she making a reference to something about which the public is merely curious (*Pointes* at para. 29). Rather, she is using the legal system to silence those who disagree with her and to advance her agenda. The plaintiff herself states she is pursuing a matter of public interest. As noted, this action is merely one of many arising from the plaintiff's former employment. She has taken aim at every possible party involved directly or indirectly in the aftermath of her loss of employment, including efforts to initiate a private prosecution against several individuals.

[39] The interest of an individual to report work-related concerns to an employer and union and to report concerning behavior to the police, are matters of public interest. The plaintiff is seeking to inhibit such.

[40] In summary, the plaintiff is a serial litigant. This action against the defendant is one of many. The context is not, as alleged by the plaintiff, simply that the defendant's posts are such that the plaintiff is merely a

> "private citizen who is trying to protect [her] reputation". Further, it is not the case that the defendant is "not participating in any public activity when she posts about [the plaintiff's] personal character on social media", nor is it "not in the public's interest or concern to know what [the defendant] thinks about [the plaintiff's] character".
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> [41] In this context the plaintiff's harassment of the defendant is a matter of public interest. The defendant has met the burden on her.

Standard of Review

[10] I begin by noting that this appeal is subject to a highly deferential standard of review. In *Rooney v. Galloway*, 2024 BCCA 8, this Court recently provided the following summary of the standard of review for appeals under the Act:

> [25] We underscore at the outset that strict standards of appellate review are dispositive of most of these appeals. Deference is owed both to the judge's findings of fact and to her exercises of discretion, absent reviewable error.
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> [26] A judge's interpretation of the s. 4 *PPPA* framework itself raises questions of law reviewable on a standard of correctness (*Pointes*, at para. 97). However, a judge's ultimate determination on a s. 4 application is entitled to deference on appeal absent a reviewable error (*Hansman*, at para. 56, citing *Bent*, at para. 77, which in turn cites *Housen v. Nikolaisen*, 2002 SCC 33, at paras. 8, 36).
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> [27] Once the chambers judge has correctly interpreted s. 4 of the *PPPA*, Pointes is clear that the assessment under s. 4(2)(a)—the merits-based hurdle—must be made from the perspective of the judge hearing the application. The Court's statement in *Pointes* makes clear that the standard of review on the application of s. 4 to the facts is therefore highly deferential:
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> > [41] Importantly, the assessment under s. 137.1(4)(a) must be made from the motion judge's perspective. With respect, I am of the view that the Court of Appeal for Ontario incorrectly removed the motion judge's assessment of the evidence from the equation in favour of a theoretical assessment by a "reasonable trier" (para. 82). The clear wording of s. 137.1(4) requires "the judge" hearing the motion to determine if there exist "grounds to believe". Making the application of the standard depend on a "reasonable trier" improperly excludes the express discretion and authority conferred on the motion judge by the text of the provision. The test is thus a subjective one, as it depends on the motion judge's determination.

Analysis

[11] Ms. Pereira contends that the judge failed to explain how the expressions she complains of relate or connect to a matter of public interest. She says they are

comments about a private conflict that played out in public. She maintains that the expressions are simply an attack on her character, accusing her of being a bully and a narcissist. They insult and attack her, but do not comment on any issue of public interest. She says the judge erred in relying on her advocacy to promote safer work places and inhibit bullying behaviour as a basis to say that Ms. Klonarakis' expressions were related to that issue of public importance. Moreover, Ms. Pereira submits the judge improperly relied on the fake news articles she wrote to justify a finding that the impugned expressions related to a matter of public interest because those articles were published after the expressions had been communicated. Finally, Ms. Pereira says that even if some expressions related to a matter of public interest, not all of them did. She submits the judge erred in dismissing the action to the extent it depended on those unrelated expressions.

[12] Ms. Pereira articulated and presented her submissions with admirable clarity, but, respectfully, I am unable to accede to them.

[13] I begin by observing that Ms. Pereira does not contend that the judge erred in his statement of the test. She accepts that he instructed himself properly on the test he was to apply in deciding whether the expressions related to a matter of public interest. Her challenge is to the application of the test to the facts. Accordingly, the standard of review we are to apply is highly deferential. The judge's conclusion is a finding of mixed fact and law and can be disturbed on appellate review only if it rests on palpable and overriding error: *Galloway* at para. 26. In my view, Ms. Pereira has not established such an error.

[14] It is useful to revert to the framework the judge applied. He recognized that the words "relates to a matter of public interest" must be given a broad and liberal interpretation, the expression must be assessed "as a whole", and what needs to be decided is whether a segment of the community would have a genuine interest in receiving information on the subject. As he noted, the exercise involves asking what the expression is really about: a question to be answered contextually. He quoted the Supreme Court's comment that "in light of the legislative purpose and

background of [the section] it is important to interpret an ‘expression’ that ‘relates to a matter of public interest’ in a generous and expansive fashion”: *Pointes* at para. 30.

[15] As I read the judge’s analysis, a number of different strands played into what ultimately is a contextual analysis. The comments are related to a conflict involving Ms. Pereira, Ms. Klonarakis and others that involved allegations of workplace bullying and harassment. These conflicts engaged the employer and the union in grievances. Ms. Pereira was dissatisfied with the outcome of the grievances and pursued various remedies. Around the same time, she began a public advocacy campaign focused on bullying, harassment, safe work places and the obligations of employers and unions properly to investigate and address those issues. Ms. Pereira’s campaign culminated in an open letter to the Minister of Justice, sent after the impugned expressions had been published. The judge referred further to Ms. Klonarakis’ evidence that she had been the victim of public and private threats from Ms. Pereira arising out of the workplace conflict that led her to contact the police.

[16] It seems to me that, on the evidence, it was open to the judge to conclude that the impugned comments arose in the context of allegations and counter-allegations about workplace bullying and harassment. It is apparent that the judge did not treat that context as relating exclusively, or even primarily, to a private dispute arising within a workplace without a public dimension.

[17] Ms. Klonarakis submitted that any expression relating to workplace bullying would be a matter of the public interest, regardless of the employment setting. I do not think it necessary to go so far. Even if that proposition were correct, I think the judge’s conclusion draws on further factors in support.

[18] The judge supported his conclusion by observing that Ms. Pereira relied on the public interest in justifying her lawsuit. She maintained the positions that it would be in the public interest, particularly for employers in Kitimat, to know the character

of Ms. Klonarakis and her past behaviour. Moreover, as she put it, and as quoted by the judge at para. 35:

> "The probative value of having the truth exposed on Dexterra and Local 40's blantant [sic] disregard to the safety of its employees and members far outweighs the prejudice to Klonarakis' personal character…"

[19] The judge noted Ms. Pereira's submission that "[w]hen its's [sic] determined that Klonarakis has been lying for the past 2 years it will have a profound effect on my advocacy in making workplaces safer. There are more important issues involved in the lawsuit than just [individuals'] reputations."

[20] These observations lie at the heart of the judge's conclusion that the impugned expressions related to a matter of public interest. Ms. Pereira says this is in error. She submits that her advocacy and the public interest in learning the truth about Ms. Klonarakis, the employer and union cannot support a finding that Ms. Klonarakis' comments related to a matter of public interest.

[21] I do not agree. At the heart of the disputes arising out Ms. Pereira's dismissal are conflicting versions of who was bullying whom and whether the employer and union properly discharged their obligations to the workforce. Ms. Pereira and Ms. Klonarakis were at the heart of these disputes and embroiled in various proceedings arising from them. It seems clear to me that the judge was aware of this and accepted the fact that the disputes were spilling into the public domain. On these facts, it was open to the judge to conclude that the impugned expressions related to a matter of public interest. He made no palpable and overriding error in so finding.

[22] The judge's finding was also buttressed by a number of other observations. It was, I think, open to the judge to consider the context in which the expressions were made. In this exercise, the judge referred to the fact that Ms. Pereira had demonstrated herself to be a serial litigant who had used the legal system to inhibit criticism and had also resorted to media to harass Mr. Klonarakis. I accept that the threshold inquiry under s. 4(1)(b) is whether the impugned expressions themselves

relate to a matter of public interest. But, in my view, this exercise cannot be undertaken without an appreciation for the context in which the expressions were made. Here, the judge was properly evaluating the expressions against the reality of a conflict that had spilled into the public domain in a small community.

[23] A few further comments are in order. Contrary to Ms. Pereira's submission, the judge did not misapprehend the timing of certain material events. He was aware that both the publication of the fake news article and the statement to the RCMP occurred after the impugned expressions had been published. In his reasons for judgment, the judge refers to the specific dates that Ms. Klonarakis became aware of the fake news article (December 28, 2021) and gave her statement to the RCMP (December 29, 2021).

[24] In any case, Ms. Pereira contends that those subsequent events were irrelevant to an assessment of whether the expressions related to a matter of public interest at the time they were made. She directs our attention to the following paragraph in the judge's reasons:

> [34] The defendant submits the public interest test is met given the plaintiff's harassment and widespread publication of the fake news article. The defendant asserts that the plaintiff's conduct has resulted in public notoriety and controversy.

[25] In my view, this is properly read as a restatement of the position Ms. Klonarakis took on the application, not the judge's conclusion. To the extent that the judge may have relied on the post-expression events to inform his analysis, he went no further than treating them as probative of the context existing at the time the comments were made. I think it was open to him to rely on them as informing the nature of the conflict existing at the material time. I do not think he made the mistake of treating the expressions as if they were somehow responsive to the fake news articles that had not yet been distributed.

[26] Moreover, in my view, the judge did not err, in these particular circumstances, in not examining each expression set out in the amended notice of civil claim

individually. The expressions are part of a continuing conflict and are inextricably intertwined. It was not an error to assess them as a whole.

[27] Finally, this is an unusual case. It is not the archetype of strategic litigation against public participation ("SLAPP"), in which more powerful interests seek to silence the weak or vulnerable. But the law is clear that there is no single archetypical SLAPP lawsuit. The aim of anti-SLAPP legislation is to protect expression on matters of public interest in the face of efforts to silence criticism. On the particular facts of this case, the judge ultimately found that this lawsuit was another attempt to intimidate and silence Ms. Pereira's critics in an intense local conflict. No error in the judge's conclusion that the impugned expressions were on a matter of public interest has been made out.

[28] I now turn to two other issues. Ms. Pereira submitted that the costs order in the court below should be set aside if she succeeds on appeal. I would not allow the appeal and, accordingly, would not set the order aside.

[29] Lastly, we heard submissions on whether Ms. Pereira should be ordered to pay special costs in this Court in the event her appeal is dismissed. The ground for this application is that she has written a series of rude, offensive, and uncivil emails to Ms. Klonarakis' counsel.

[30] There can be no doubt that neither a party to litigation nor their counsel should be subject to the disgraceful comments and name-calling levelled against them, as has happened here. Ms. Pereira's comments and accusations are inexcusable and, if they had been uttered by counsel, they likely would have led to serious professional repercussions.

[31] Ms. Pereira's comments are certainly worthy of censure. However, I have concluded that I would not order special costs. While uncivil, the comments have not led to improper steps being taken in advancing the appeal or conduct in the proceeding itself that requires sanction. They are uncivil, abusive, private comments without consequence beyond the sting and offence they will have caused. Rather

than order special costs, I think it sufficient to admonish Ms. Pereira for her offensive communication with counsel and leave it there. It would perhaps be some indication of regret, if she were properly to apologize for what she has said.

Disposition

[32] I would dismiss the appeal and the application for special costs in this Court.

"The Honourable Mr. Justice Harris"

I agree:

"The Honourable Mr. Justice Abrioux"

I agree:

"The Honourable Justice Skolrood"