

COURT FILE NUMBER Q.B. No. 500 of 2015

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE SASKAOON

PLAINTIFF ASHU SOLO

DEFENDANTS SANDRA FINLEY,
LOOSE FOOT COMPUTING LIMITED, and
FISHNET COMMUNICATIONS LLC

STATEMENT OF DEFENCE

1. Except as hereinafter expressly admitted, the defendant, SANDRA FINLEY ("Finley"), denies each and every allegation in the plaintiff's Statement of Claim, and puts the plaintiff to the strict proof thereof.
2. The defendant, Finley, admits paragraphs 1, 2, 3, and 4 of the plaintiff's Statement of Claim.
3. Finley acknowledges that the blog located at the universal resource locator <http://www.sandrafinley.ca> (the "Blog") was hosted by the internet service providers as alleged by Solo.
4. Finley publishes materials to the Blog on a variety of subjects which are of interest to her and which may be of interest to the public at large. On each blog post there is a link to a page which readers can publish responses to the blog post, and read other responses published.
5. At all relevant times Finley was involved with the Green Party of Saskatchewan, and was a member of the Green Party of Canada. During 2006 to 2008, Finley was the leader of the Green Party of Saskatchewan. In her role within the Green Party of Saskatchewan, and Green Party of Canada Finley was familiar with the processes and procedures within the party for investigation and disciplinary action against members of the provincial and federal parties. In her role within the Green Party of

Saskatchewan, Finley had been responsible for assisting in the recruitment and evaluation of prospective candidates to run for the Green Party of Saskatchewan. In her role within the Green Party of Canada, Finley had assisted in the evaluation of prospective executives within the riding association for Saskatoon-Humboldt, Saskatchewan (“Riding Association”).

6. In or about April of 2013, Finley intended to step down from an executive position within the Green Party of Canada riding association for Saskatoon-Humboldt. Solo intended to assume that position.
7. In the course of evaluating Solo for the executive position he wanted to fill, Finley and other members and executives of the Riding Association discussed between themselves, including discussions by electronic mail and other internet communications, their experiences with and results of research regarding Solo.
8. Without having been appointed to the executive position he sought in the Riding Association, Solo made numerous posts to social media purporting to represent some or all of the Green Party of Saskatchewan, the Green Party of Canada or the Riding Association. These posts were aggressive, antagonistic and exclusive, and were made without the consent of Finley, the Green Party of Saskatchewan, the Green Party of Canada or the Riding Association.
9. Solo did not gain the support of the Board of the Riding Association to be appointed to the executive position in the Riding Association.
10. In or about the fall of 2013, Solo sought to be nominated a candidate for the Green Party of Canada. In the course of evaluating Solo for suitability as a candidate, Finley and other members and executives of the Green Party of Canada discussed between themselves, including discussions by electronic mail and other internet communications, their experiences with and results of research regarding Solo.
11. Solo was found not to be suitable for nomination to be a candidate for the Green

Party of Canada.

12. In the course of assessing Solo for suitability as an executive within the Riding Association, and as a candidate for the Green Party of Canada, Finley and others performed searches using internet search engines to learn more about Solo, his conduct, and his qualifications.
13. In researching the qualifications of Solo, and assessing research provided by others, Finley came to doubt the veracity of the education and experience claimed by Solo in his curriculum vitae.
 - a. Solo claimed employment at a number of companies including Maverick Technologies America Inc., Trailblazer Intelligent Systems Inc., and Swansea University. Web searches, and searches of company by Finley and others websites revealed no connection to Solo.
 - b. Solo claimed a staggering number of publications. The number of publications claimed grows at a rate which calls into question the legitimacy and credibility of the publications. Further, the publications found to be publically available advance intellectual inquiry minimally if at all, have negligible depth, and are not cited in reputable journals or literature. Such publications have little if any value.
 - c. Solo claimed to have discovered numerous areas of interdisciplinary study. The areas claimed to have been discovered lack depth, rigor or value.
 - d. Solo claimed, either in his curriculum vitae, or Crocel News, or elsewhere, to have been an “officer trainee” and “infantry platoon commander understudy”. Finley and others determined that no such ranks exist within the Canadian military.
14. Solo claims credit for organizing conferences for WORLDCOMP. Finley and others

- performed searches about Solo and WORLDCOMP, finding numerous sources which cast doubt on the legitimacy, quality and benefit, for professionals and academics, in presenting at, or attending conferences organized by WORLDCOMP.
15. In searching in relation to Solo, the employment he claims in his curriculum vitae, and the organizations which with he claims association, Finley and others observed a web of connections between Solo, WORLDCOMP, and Crocel News. Outside of these entities there were few, if any, reputable sources crediting Solo for his claimed publications or claimed discovery of areas of study.
 16. In or about December of 2013, Finley was approached by Tonia Zimmerman (“Zimmerman”) regarding conduct of Solo, a then member of the Green Party of Canada. Finley referred Zimmerman to the appropriate contact within the Green Party of Canada, and assisted Zimmerman in navigating the complaints process with the Green Party of Canada. In the course of assisting Zimmerman, Finley communicated with Zimmerman, and the disciplinary personnel within the Green Party of Canada by e-mail, and other forms of communication via the internet.
 17. In the course of assisting Zimmerman, Finley was advised by other individuals that Solo had engaged in a campaign of targeted, threatening, and intimidating conduct against them. Finley was advised that Solo’s conduct included some or all of:
 - a. Numerous posts to social media sites of the individual, or which the individual participated in, attacking the character and integrity of that person.
 - b. Numerous e-mails to the person which included some or all of the following characteristics:
 - i. demands that they begin or continue a course of conduct;
 - ii. demands that they cease conduct, whether or not they have engaged in that conduct at any time;
 - iii. accusations of statements and conduct which are untrue;

- iv. threatening legal action; and
- v. threatening exposure of facts, whether or not such facts are true.

c. Escalation of threatening and intimidating communications, whether or not the individual responded to Solo's communications.

18. Finley was advised by individuals targeted by Solo that they felt intimidated, harassed, and powerless in the face of his barrage of communications and threats.
19. On or about December 28, 2013 Solo made telephone calls to multiple individuals prior to 6:00 a.m., in order to locate Finley.
20. On or about December 28, 2013 Finley was at the airport in Saskatoon, and was a passenger on a flight out of Saskatoon. While Finley was in line at the airport, Solo approached her in an aggressive manner, repeatedly stating that Finley had given his father's name to Zimmerman, and claiming that Finley did not have email exchanges between himself and Zimmerman. Finley was confused by the claims, and felt harassed and intimidated by Solo's aggressive demeanor and nonsensical ravings. Other individuals in line offered assistance to Finley, asking Solo to leave.
21. At no time has Solo personally served any demand letter on Finley.
22. Subsequent to the incident at the airport in Saskatoon, at or about early 2014 Solo initiated numerous complaints against Finley with the Green Party of Canada. Solo sought to have Finley's membership revoked for, *inter alia*, Finley assisting Zimmerman, and for imagined slights against him. The Green Party of Canada investigated the complaints by Solo, which investigation occurred over a period of time.
23. Finley acknowledges sending and receiving e-mails as posted to the Blog, in addition to commentary regarding Solo, and that these were password protected until at or about June 20, 2014.

24. At or about June 20, 2014 the password protection was removed by Finley for two reasons:
- a. in order to make available information necessary to defend against the complaints made by Solo to the Green Party of Canada; and
 - b. to make available to Solo the information which she would be providing to the Green Party of Canada to defend against the complaints made by him against her.
25. In response to requests by Solo to remove the materials about him on the Blog, and threats by Solo to commence a Court action against Finley in relation to the materials about him on the Blog, Finley password protected the materials about Solo in or about February of 2015.

Actions Statute Barred

26. With respect to the initial communications, by electronic mail or otherwise, which were made prior to April 17, 2013 and subsequently posted to the Blog, Finley states that the plaintiff's action is barred by *The Limitations Act, 2004*, SS 2004 c L-16.1, s 5.

Defamation

27. Finley pleads and relies on the defence of qualified privilege in respect of all communications made and received in the course of assessing Solo's suitability as a candidate for the Green Party of Canada.
28. Finley pleads and relies on the defence of qualified privilege in respect of all communications made and received in the course of assessing Solo's suitability as an executive within the Riding Association.

29. Finley pleads and relies on the defence of qualified privilege in respect of all communications made and received in the course of assisting Zimmerman and the Green Party of Canada regarding the conduct of Solo toward Zimmerman.
30. Finley denies that the impugned statements were published prior to June 20, 2014, or subsequent to the re-introduction of password protection at or about February of 2015.
31. Finley pleads and relies on the defence of qualified privilege in respect of publication of the statements on the Blog during the period of time that it was not password protected.
32. In respect of the statements alleged by Solo to be defamatory at paragraph 5 of the Amended Statement of Claim:
 - a. Without admitting to the sting complained of, Finley pleads and relies on the defences of justification and truth in respect of the statements at subparagraphs:
 - a. ii, iii, iv, v, xi;
 - b. i;
 - c. i, iii, vii, viii;
 - d. i, ii, iii, iv;
 - f. xiv, xvi;
 - h. i, ii, iii, iv, v, vi, vii, viii;
 - i. i, ii, iv, vii, viii, ix;
 - l. i, ii, iii, iv; and
 - m. i, ii, iii.
 - b. Without admitting to the sting complained of, Finley states that with respect to the statements at the following subparagraphs that it is clear from the context in which the statement appears in the publication that the statement is

opinion or belief of the author, and that the context surrounding the statement provides the basis upon which that opinion or belief is formed and justified. Further, the mechanics of the Blog allow for comment and reply by any individual, including Solo, to any post made to the Blog. Finley pleads and relies on the defences of fair comment and reasonable communication in respect of subparagraphs:

- a. i, ii, iii, iv, v, vi, vii, viii, ix, x, xi, xii, xiii, xiv, xv, xvi, xvii, xviii, xix;
 - b. i, ii;
 - c. i, ii;
 - d. i, ii, iii, iv;
 - e. i, ii, iii, iv, v, vii, viii;
 - f. i, ii, iii, iv, v, vi, vii, viii, ix, x, xi, xii, xiii, xiv, xv, xvi, xvii;
 - g. i, ii;
 - h. i, ii, iii, iv, v, vi, vii, viii;
 - i. i, ii, iii, iv, v, vi, vii, viii;
 - j. i, ii, iii, iv;
 - l. i, ii, iii, iv;
 - m. i, ii, iii, iv;
 - n. i;
 - o. i, ii;
 - p. i, ii, iii, iv, v; and
 - q. i, ii, iii.
- c. Finley denies that the sting identified in the subparagraphs, is reasonably a reasonable inference from the statement referred to in the sub-subparagraphs thereto, particularly when the impugned statement is read in the context of the publication as a whole:

- a. i, xii;

- c. vii, viii;
- e. i, ii, iii, iv, v, vi, vii, viii;
- f. i, ii, iii, iv, v, vi, vii, viii, ix, x, xi, xii, xiii, xv, xvii;
- g. i, ii;
- h. i, vi, vii, viii;
- j. ii, iii, iv;
- l. i, ii, iii, iv;
- m. i, ii, iii, iv;
- n. i;
- o. i, ii; and
- p. i, ii, iii, iv, v.

33. In respect of paragraph 6 of the Amended Statement of Claim:

- a. In consideration of the hyperlinks referred to in paragraph 1 of the Plaintiff's Reply to Request for Particulars dated September 8, 2015, Finley states:
 - i. that the context and commentary surrounding the publication of the impugned hyperlinks make clear that the content of the website referred to by the hyperlinks is not accepted or adopted by Finley, and by inference that the reader should form their own opinion;
 - ii. that the content of the website referred to contributes to formation of a basis for opinion or belief of the author of a statement published to the Blog;
 - iii. that the Blog provides opportunity for readers to comment on the content published, including content received by following the hyperlinks posted to the Blog; and
 - iv. that Finley took reasonable efforts to assess the content of the website

to which the hyperlink refers, and where appropriate indicate particular frailties of the content to which the hyperlink refers.

b. In consideration of the hyperlinks referred to in paragraph 2 of the Plaintiff's Reply to Request for Particulars dated September 8, 2015, Finley pleads and relies on the defences of truth, fair comment and reasonable communication, and that the sting is not a reasonable inference from the impugned statement as set out in this Statement of Defence.

34. In respect of all of the allegations of defamation, Finley pleads and relies on the defence of responsible communication.

The Privacy Act, RSS 1978, c.L-16.1

35. Finley denies that publication of the statements or information complained of at paragraph 11 of the Amended Statement of Claim were communicated to her in circumstance in which Solo had any expectation of privacy whatsoever.

36. Finley states that particulars of the name change of Solo are matters of public record, being published in *The Saskatchewan Gazette*, January 14, 2000 and *The Saskatchewan Gazette*, February 9, 2001.

37. Finley states that the identity of Solo's father is widely known, and is a matter of public record.

38. Finley denies that publication of the statements or information complained of at paragraph 11 of the Amended Statement of Claim would reasonably be expected to have any effect whatsoever on Solo.

39. Finley states that the statements complained of at paragraph 11 of the Amended Statement of Claim are matters of public interest.

Injurious Falsehood

40. Finley denies that the words, phrases and allegations of fact, as alleged in paragraph 5 of the Amended Statement of Claim, were intended to injure and damage Solo.
41. Finley denies that the words, phrases and allegations of fact as alleged in paragraph 5 of the Amended Statement of Claim are false, and puts Solo to the strict proof that the statements are false. In particular, and without limitation to the generality of the foregoing, Finley states that the words, phrases and allegations of fact in the paragraphs of the Amended Statement of Claim identified herein at paragraph 27.a. are true.
42. Finley denies that the publication of any word, phrase or allegation of fact as alleged in paragraph 5 was actuated by malice, or with disregard to the truth.
43. Finley denies that any word, phrase or allegation of fact as alleged in paragraph 5 injured or damaged Solo, his business, his goodwill, or his reputation, and puts him to the strict proof thereof.
44. Finley denies that Solo has suffered any loss of employment opportunity, loss of business, or any distress or medical damages as a result of the publications as alleged in paragraph 5 of Amended Statement of Claim.

Intentional Interference with Economic Relations

45. Finley denies that she did, or does, have any intention to cause Solo economic loss, and puts him to the strict proof thereof.

Damages

46. As set out herein, Finley denies that the plaintiff has suffered any damages for which she is, in law, liable.
47. The defendant, Finley, states that the within action is scandalous, frivolous and vexatious, and has been brought for an improper purpose.

WHEREFORE THE DEFENDANT prays that the Plaintiff's action be dismissed, with costs.

NOTICE

If you intend to make a reply to this Statement of Defence, you must serve and file the reply within 8 days after service of the Statement of Defence.

DATED at the City of Saskatoon, in the Province of Saskatchewan, this 26th day of October, 2015.

SCHARFSTEIN GIBBINGS WALLEN FISHER LLP

Per: 

Solicitors for the defendant, Sandra Finley

CONTACT INFORMATION AND ADDRESS FOR SERVICE

Name of firm:	Scharfstein Gibbings Walen Fisher LLP
Name of lawyer in charge of file:	Grant J. Scharfstein, Q.C.
Address of legal firm:	200 Princeton Tower 123 - 2 nd Ave S Saskatoon, SK S7K 7E6
Telephone number:	(306) 653-2838
Fax number:	(306) 652-4747
E-mail address:	gscharfstein@scharfsteinlaw.com
File Number:	16,188.1