

CITATION: Sheridan Retail Inc. v. Roy, 2025 ONSC 2866
COURT FILE NO.: CV-23-00004979-0000
DATE: 2025 05 13

SUPERIOR COURT OF JUSTICE – ONTARIO

7755 Hurontario Street, Brampton ON L6W 4T6

RE: SHERIDAN RETAIL INC., Plaintiff

AND:

Pierre ROY, Defendant

Justice Mandhane

COUNSEL: Michael NEMANIC, for the plaintiff

Kaley PULFER and Michael ROBSON, for the defendant

HEARD: April 4, 2025, by Video Conference

REASONS ON ANTI-SLAPP MOTION

OVERVIEW

[1] In 2022, the plaintiff/responding party, Sheridan Retail Inc. (“the developer”)—a subsidiary of Dunpar Homes—began redeveloping Sheridan Mall, an aging mall in central Mississauga, as a retail and community space (“the mall”). The developer also sought permission from the city to build two 15-story condominium towers on the surrounding property (“the condos”).

[2] The defendant/moving party, Pierre Roy (“the student”), is an engineering student and local resident who has repeatedly raised environmental, social, and safety concerns about the ongoing redevelopment of the mall. The student voiced his environmental and social concerns at community consultation meetings, and reported his safety concerns to the City of Mississauga (“the city”). The city investigated and found the developer to have contravened the *Building Code Act, 1992*, S.O. 1992, c. 23, and the *Planning Act*, R.S.O. 1990, c. P.13.

[3] By way of letter dated May 2023, the developer demanded that the student cease and desist making complaints to the city about the mall, stop trespassing on its property, and threatened to sue him for trespass, intentional interference with economic relations, inducing breach of contract, and defamation.

[4] Between May and December 2023, the student continued to complain to the city about the redevelopment project and the city continued to find the developer to have failed to obtain proper building permits.

[5] In December 2023, the student attended a public consultation meeting about the proposed condos and, on behalf of the resident’s association, raised concerns about the lack of affordable housing and green space. In response to his interventions, counsel for the developer, Mr. Nemanic, told the other public attendees that the student had been found “rooting through garbage” and was asked by the developer not to trespass in the mall.

[6] On December 29, 2023, the city voted to reject the redevelopment proposal. (That matter is on appeal to the Ontario Land Tribunal, or “OLT”.)

[7] The same day, the developer commenced this action seeking \$300,000 in damages from the student (“the action”). The developer alleges that the student is “obsessed” with the mall and sues him for defamation, inducing breach of contract, interference with economic relations, and trespass. The developer casts the student as the largest and most costly obstacle it has faced in its redevelopment plans, and says that it brings this lawsuit to stop the student’s tortious conduct so that it can proceed with the mall revitalization.

[8] The student now brings a motion asking me to dismiss the action because it is a “gag proceeding”: s. 137.1, *Courts of the Justice Act*, R.S.O. 1990, c. C.43 (“CJA”). The student says that this is an archetypical strategic lawsuit against public participation (“SLAPP”) because its whole purpose is to suppress his public expression about the redevelopment project. The student says that the developer is abusing its relative power and the civil justice system to limit his free speech. He asks me to award him \$25,000 in damages because of the stress and anxiety the lawsuit has caused, the developer’s heavy-handed tactics, and the chill it has created on his ongoing public expression about the redevelopment project.

[9] In response, the developer concedes that the student was engaged in public expression as defined in s. 137.1(2) of the CJA, and that its claims of defamation,

inducing breach of contract, and interference with economic relations do not have substantial merit. The developer seeks leave to “prune” its claim to only plead trespass, and asks me to dismiss the anti-SLAPP motion on that basis.

[10] I agree with the student that the developer’s claim should be dismissed. I refuse to prune the claim at this stage because it was always focused on the student’s public expression and not on trespass into the mall. Allowing the developer to prune its claim on these facts would be tantamount to sanctioning its continued use of the legal system to silence the student. At a time when our public institutions and the rule of law are under threat, and in an atmosphere of increasing polarization, we must act swiftly to ensure that private actors do not use the law as a weapon to punish people who engage in public expression through the formal processes set up to air social, environmental and safety concerns.

[11] I would order the developer to pay the student \$25,000 in damages and full-indemnity costs: s. 137.1(7), (9). Substantial damages are warranted because the developer caused harm to the student by publicly ridiculing and belittling him and his family, threatening him with spurious legal action to silence him in advance of city council’s vote, adopting heavy-handed litigation tactics, and chilling his continued public expression about the mall redevelopment project.

ANALYSIS

[12] Freedom of expression is a fundamental right and value in a free and democratic society: *1704604 Ontario Ltd. v. Pointes Protection Association*, 2020 SCC 22, at para. 1. The purpose of anti-SLAPP legislation is to stop a plaintiff from silencing a defendant by pursuing meritless litigation to intimidate and undermine public expression and debate: s. 137.1; *1704604 Ontario Ltd.*, at para. 2. An anti-SLAPP motion allows judges to quickly identify and dismiss lawsuits that unduly limit free expression; because they proceed on a limited record, I may only engage in a limited weighing of the evidence, and a preliminary assessment of the claim and defences: *1704604 Ontario Ltd.*, at para. 16 & 52.

[13] The test under s. 137.1 is correctly set out by Parghi J. in *UM Financial Inc. v. Butler*, 2025 ONSC 480, at paras. 13-14, and by Stewart J. in *Kindred Culture Inc. v. Velasco et. al.*, 2024 ONSC 4604, at para. 69. I do not propose to repeat it here.

[14] Suffice it to say, to decide this motion I must answer the following questions:

- Should the developer be allowed to prune its claim in response to the anti-SLAPP motion?
- Has the student established that the case arises from his public expression?

- Has the developer established that there are grounds to believe that there is substantial merit to the claim and that the defendant has no valid defences?
- Has the developer shown that the harm it has or will suffer because of the student's public expression is sufficiently serious that the public interest in permitting the case to continue outweighs the public interest in protecting his expression and public participation?
- If I dismiss the lawsuit, should I award damages to the student?
- What costs should I award?

[15] I answer each question below.

Should the developer be allowed to prune its claim in response to the anti-SLAPP motion?

[16] Section 137.1(6) states that the plaintiff shall not be permitted to amend its pleadings as a substantive response to the anti-SLAPP motion without leave of the court.

[17] Here, the developer seeks leave to prune its claims to only plead trespass; it says that that the student trespassed on mall property to take photographs of ongoing construction without its express permission and that this is independent

of its other claims. It is uncontroversial that the student entered the mall premises, took pictures, and submitted these pictures to the city to substantiate his safety concerns and as part of the complaints process.

[18] To determine whether or not to allow pruning, the questions I must ask are whether the public expression is causally connected to the trespass claim, whether there is nexus between the public expression and the trespass claim, whether the public expression grounds the trespass claim, and whether the trespass claim targets expression: *Subway Franchise Systems of Canada, Inc. v. Canadian Broadcasting Corporation*, 2021 ONCA 25, at paras. 38-45.

[19] Having conceded that the student was engaged in public expression, the developer's request to prune its claim is an obvious and disingenuous attempt to recast the lawsuit as somehow not being about the student's public expression.

[20] This stands in contrast to the uncontroversial facts about how the dispute arose. In a letter dated May 2023, the developer threatened to sue the student because of his public statements at consultation meetings and his complaints to the city, and demanded that he not enter the mall, and cease and desist his public statements. After the student refused to stay silent and continued his public expression, the developer ridiculed him at community meetings, and then brought this lawsuit alleging defamation. By claiming damages of \$300,000, the developer clearly sought to intimidate a 24-year-old university student and local resident into

silence. That is why it is especially telling that the developer seeks to abandon its economic loss and defamation claims, without also lowering the quantum of damages it seeks.

[21] Based on these facts, I would not allow the developer to prune the claim because the trespass claim is inextricably linked to the defamation claim. The developer concedes that the student “trespassed” for the primary purpose of collecting information to substantiate his safety concerns and complaints to the city. While the developer claims that the student’s entry into parts of the mall that were under construction created safety risks, there is no evidence that any risk ever materialized or that the developer incurred costs to mitigate those risks. The developer did not hire additional security guards or incur any other such expenses to keep the public or the student out of the mall or even certain areas. The developer cannot point to any harm that it has allegedly suffered because of the student taking pictures from inside the mall save and except that it led to further complaints to the city.

[22] While it is not binding on me, I would distinguish *Reynolds v. Deep Water Recovery Ltd.*, 2024 BCSC 570. In that case, the court found that the defendant’s use of drone technology to conduct covert surveillance of a private corporation created harms that were independent of the defendant’s decision to disseminate the footage because the drone was distracting, unwanted, and posed safety risks

to employees: *Reynolds*, at para. 130. The court found that the plaintiff would have had a claim for nuisance and trespass independent and regardless of the defendant's public expression: *Reynolds*, at para. 131.

[23] The facts before me are different from *Reynolds* because the developer could not point to any harms that were independent of the speech. But for the student's public expression (*i.e.*, his complaints to the city), I find that the developer would not have brought a claim for trespass. Having made the tactical decision to plead trespass, defamation, and economic loss, the developer must live with the consequences on an anti-SLAPP motion.

Has the student established that the case arises from his public expression?

[24] Based on my analysis above, I find that the case arises from his public expression. By claiming damages of \$300,000, the developer sought to leverage its economic power to overwhelm and intimidate the student into disengaging from the land use development process and stopping his complaints to the city.

Has the developer established that there are “grounds to believe” that there is substantial merit to the claim and that the defendant has no valid defences?

[25] Having refused to prune the developer's claim, it must be assessed as a whole and, on that basis, I find that it does not have substantial merit. The

developer admitted that it could not particularize its economic losses and abandoned the related claims. The developer also admitted that its defamation claim did not have substantial merit, presumably because they could not prove that the student's statements were false or that they caused harm.

[26] That leads me to the trespass claim. While there may be some merit to a claim for trespass to stop a whistleblower from entering on private property to conduct surveillance, these facts are quite far from that scenario. It will be an uphill battle to prove that the student was trespassing here because the mall was open to the public, and the areas he visited were not locked and were not clearly demarcated as being off limits. This is different from say, a factor, farm or corporate headquarters where access is restricted to employees, contractors, or authorized guests.

[27] My finding that the lawsuit lacks serious merit is sufficient to decide the anti-SLAPP motion in favour of the student. However, if I am wrong and there is substantial merit to the trespass claim, I go on to consider the next question.

Has the developer shown that the harm it has or will suffer because of the student's public expression is sufficiently serious that the public interest in permitting the case to continue outweighs the public interest in protecting his expression and public participation?

[28] At the balancing stage, the goal is to step back and look at what is really going on: *The Catalyst Capital Group Inc. v. West Face Capital Inc.*, 2023 ONCA 381, at paras. 33, 104, and 114-120.

[29] Here, any harm to the developer associated with trespass is not directly linked to the student's public expression at all. On the other hand, there is a very high public interest in the student's public expression. The student was knowledgeable about engineering, land use development, and his local community, and he used his knowledge to engage in the public processes set up to allow citizens to have their say. He got involved in his local resident's association and voiced his concerns at public consultation meetings, he met with the developer and wrote emails outlining his concerns, he made complaints to the city that were duly investigated. This is not the case of a person who made false claims about the mall over a loudspeaker in the parking lot, harassed mallgoers with leaflets and flyers, posted anonymous rants on social media, or arranged protests, blockades or boycotts.

[30] While the developer tries to cast the student as "obsessive," I think the more appropriate word is *engaged*. The student raised safety concerns that were investigated by the city and required the developer to make changes to the construction site. The student raised concerns about housing affordability and

environmental sustainability—social issues that are immensely important to young people and clearly worthy of serious public debate.

[31] While the developer repeatedly referred to the student as “the kid” and as a garbage-picker as a means of belittling his public expression, it is a fact that students like Pierre Roy have always been on the forefront of movements to advance civil rights, especially in the areas of freedom of expression, peaceful assembly, non-discrimination and—more recently—to advance social and economic rights, and environmental justice: *Mathur v. Ontario*, 2024 ONCA 762.

[32] The developer’s case is dismissed because it is a gag suit aimed at curtailing public expression.

If I dismiss the lawsuit, should I award damages to the student?

[33] Pursuant to section 137.1(9) of the *CJA*, the student does not need to adduce medical evidence to support a claim for damages; it is presumed that damages will arise from the use of a SLAPP lawsuit: *United Soils Management Ltd. v. Mohammed*, 2019 ONCA 128, at para. 36. That said, the purpose of s. 137.1(9) is not to punish or sanction the plaintiff but rather to provide compensation to the defendant for the harms arising from the lawsuit itself: *United Soils*, at para. 38.

[34] In deciding to award significant damages to the student in the amount of \$25,000, I have taken the following factors into account:

- the student has suffered stress and anxiety because of the developer's treatment and this lawsuit;
- the developer belittled and ridiculed the student *and his family* during the public consultation process;
- the developer intimidated the student by threatening legal action in the lead up to city council's vote on the redevelopment project,
- the developer engaged in overly aggressive litigation tactics (for example, suing the student for \$300,000 without being able to quantify its damages; filing a responding record totaling over 1600 pages in length, including an irrelevant expert report; and seeking to prune its claim through an offer to settle on the eve of trial); and
- the lawsuit put a chill on the student's public expression such that he chose not to engage in the appeals process before the OLT.

[35] The developer shall pay the student \$25,000 in damages within seven days of release of these reasons.

What costs should I order?

[36] Costs on a successful anti-SLAPP motion are awarded on a full-indemnity basis: s. 137.1(7). Therefore, the student is entitled to full-indemnity costs. The parties shall endeavour to agree on the matter of quantum. If they are unable to agree, they shall each provide their Bills of Costs, and Costs submissions (maximum 2 pages, double-spaced, 12 font) on or before May 23, 2025.

MANDHANE J.

Released: May 13, 2025