

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Eeckhout v. Toews*,
2025 BCSC 1818

Date: 20250917
Docket: S246659
Registry: New Westminster

Between:

**Lisa Gaye Eeckhout and
Furever Freed Dog Rescue Society**

Plaintiffs

And:

Donna Toews

Defendant

Before: The Honourable Justice LeBlanc

Reasons for Judgment

Counsel for the plaintiffs:

L. Kompa

Counsel for the defendant:

J. Parmar

Place and Dates of Hearing:

Abbotsford, B.C.
August 26 - 27, 2025

Place and Date of Judgment:

Victoria, B.C.
September 17, 2025

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INTRODUCTION

[1] In this action, the plaintiffs have sued the defendant for defamation arising from expressions located on the social media platform, Facebook. The plaintiff has filed similar defamation claims against others who are alleged to have made similar expressions to those of the defendant on Facebook.

[2] In advance of any determination on the merits of the plaintiffs' claim, the defendant has brought an application to have the action dismissed pursuant to s. 4 of the *Protection of Public Participation Act*, S.B.C. 2019, c. 3 (the "*PPPA*"). In the alternative, the defendant seeks summary dismissal of the plaintiffs' claim, for failing to plead a cause of action.

[3] The *PPPA* was a legislative response to what have been referred to as strategic lawsuits against public participation ("SLAPPs"). SLAPPs are lawsuits initiated against individuals or organizations that speak out or take a position on issues of public interest with the intention to silence or deter that party from participating in public affairs.

BACKGROUND FACTS

The Parties

[4] The plaintiff, Ms. Lisa Gaye Eeckhout identifies herself as the founder and sole director of the Furever Freed Dog Rescue Society (the "Society"). Ms. Eeckhout describes the work of the Society as rescuing stray and at-risk dogs from other countries and bringing them to Canada for adoption.

[5] The defendant says that she does business as Reflection Pet Services, a dog-training service.

[6] Ms. Eeckhout and the defendant have no connection with one another aside from their interactions on Facebook.

The Demand and Notice of Civil Claim

[7] On July 22, 2022, the plaintiffs sent a cease and desist letter to the defendant demanding that she retain all records of “Defamatory Statements” for future litigation and publish an apology. The letter lacks details that would permit the reader to identify what statements the plaintiffs were alleging to be defamatory.

[8] The notice of civil claim was filed on November 22, 2022 (the “NOCC”). Paragraphs 3, 3.1 and 3.2 of the NOCC characterize the nature of the defamation being alleged, and I have reproduced those paragraphs below:

3. From on or around August 2021 (to present) the Defendant Donna Toews, falsely and maliciously printed or wrote or broadcasted and published or caused to be printed or written or broadcasted and published of and concerning the Plaintiffs.
 - 3.1 The written, broadcasted and published Facebook posts, consisting of defamatory words (along with a display, graphics, audio, and pictures) in which the Defendant alleged and accused Ms. Eeckhout and/or the Furever Freed Dog Society and *inter alia* shamed members of the public who follow the Plaintiffs social media accounts are as classified below:
 - (a) practice illegal veterinary medicine;
 - (b) not conducting home checks prior to approving individuals and families for dog adoptions and placing dogs in the homes of people with no experience;
 - (c) importing dogs with rabies or with behavioral and special needs which burden the already stretched system;
 - (d) wholesaling stolen dogs and overcharging people buying the dogs;
 - (e) ‘pre-selling’ animals with a non-refundable down payment;
 - (f) threatening and scaring the fosters that adopt from them;
 - (g) being nasty and bullying dog adopters due to which the adopters feel threatened to share their concerns regarding the Plaintiffs and approach the Defendant asking for help with training their adopted dogs;
 - (h) not caring for the welfare of the dogs in their care and not allowing an adequate ‘quarantine’ period;
 - (i) have a bad reputation;
 - (j) sue people and are on record with the court as a vexatious litigant liar;
 - (k) are dog “brokers”;

- (l) importing dogs from Mexico and selling them;
- (m) fabricate biographies for the dogs to trick buyers and spam local groups about needing temporary housing for dogs;
- (n) advertise dog sales on Facebook;
- (o) verbally abuse people;
- (p) sell aggressive dogs;
- (q) hand over dogs for adoption without a proper harness, collar, and/or leash;
- (r) sell the dogs in parking lots;
- (s) protect the high sales of imported dogs;
- (t) are 'flippers';
- (u) being careless and causing one of the recently adopted dogs to escape from its caretaker's home;
- (v) commenting on the Plaintiff's thread again in regard to the dog that had escaped stating that everyone is being duped again; and
- (w) misuse the amounts received as donations.

(Collectively referred to as the "Defamatory Words" or "Defamation")

3.2 The Defendant contacted the Plaintiff's rescue partners and pet adopters/foster parents via text messages and Facebook messenger, claiming that she is a part of the BC Watch Dog Rescue and using defamatory words against the Plaintiffs.

[9] In their response to this application, the plaintiffs referred to the alleged defamatory expressions. However, no further detail was provided concerning the particulars of the expressions:

4. From on or around August 2021 the Applicant, falsely and maliciously printed, wrote, broadcasted and published, or caused to be printed, written or broadcasted and published, statements or comments concerning the Plaintiffs (the "**Statements and Expressions**"). The Statements and Expressions were made on the social media platform, facebook.com ("**Facebook**") and consisted of defamatory expressions concerning Lisa and/or the Society.

[10] In a claim for defamation, the plaintiff is required to set out the exact words in the pleadings unless those words can only become known after examination for discovery: *Christian Advocacy Society of Greater Vancouver v. Arthur*, 2013 BCSC

1542 at paras. 107 – 109; *Isaac v. Guardian Capital Group, et al.*, 2004 BCSC 254 at para. 36; *Central Minera Corp. v. Lavarack et al*, 2001 BCSC 349 at para. 12.

[11] The plaintiffs do not argue that this is a case where discovery is required to provide full particulars of the allegations. Here, the plaintiffs had opportunity to cross-examine the defendant to gain any further particulars and chose not to do so.

[12] The pleading requirements for defamation were set out in *Cooper v. Hennan*, 2005 ABQB 709 at para. 18:

[18] ... The material facts in a defamation suit must include the publication made by each defendant, the words published by that defendant, which plaintiff was defamed by the publication, the time and place of the publication, the manner of the publication, and to whom the publication was made. It is not sufficient to name multiple defendants in a paragraph of the pleading unless all of the defendants committed the alleged conduct. If such is the case then the pleading should so state.

[13] There are no material facts plead in support of the words published by the defendant or the time and place of the publication.

[14] Section 6 of the *PPPA* prevents amendment to the pleadings in order to prevent or avoid a dismissal order under s. 4, unless the court orders otherwise. The plaintiffs do not seek leave to amend the NOCC.

[15] In the absence of adequate pleadings, the defendant engaged in a number of procedural steps, as described below, to ascertain the particulars of what was being alleged against her. Notwithstanding those efforts, the expressions have not been particularized.

[16] This application is to be decided based on expressions made by the defendant. Identifying those expressions has been a difficult undertaking in the absence of adequate pleadings and Ms. Eeckhout's failure to provide particulars. In deciding this matter, I have considered the Facebook screenshots identified by Ms. Eeckhout as consisting of the alleged defamatory expressions. It was all that was put before the court on this application.

Procedural Background

[17] This application was filed on January 5, 2024.

[18] The parties were before Associate Judge Krentz on January 18, 2024 on an application filed by the defendant. Following the hearing, Associate Judge Krentz made the following orders:

1. Leave is granted for the Defendant to proceed with her Notice of Application filed on 05/JAN/2024 (the “PPPA Application”) as it currently stands despite it exceeding 10 pages in length.
2. The substantive relief sought in the PPPA Application will be scheduled into long chambers.
3. The Plaintiffs are to file and serve their Application Response by 4:00 PM on 26/JAN/2024.
4. Leave is granted to both parties to seek further orders and directions as it relates to the substantive portion of the PPPA Application.
5. Costs thrown away are awarded to the Defendant, Donna Toews, payable by the Plaintiffs, Lisa Gaye Eeckhout and Furever Dog Rescue Society, jointly and severally and summarily assessed in the amount of \$500.

[19] On February 9, 2024, the parties were back in court before Associate Judge Bilawich on an application brought by the defendant. Associate Judge Bilawich made the following orders:

1. The hearing of today’s application is adjourned.
2. The parties are directed to set long chambers for the substantive hearing of the Defendant’s Notice of Application [the PPPA Application] filed on 05/JAN/2024 with a two (2) day [time] estimate.
3. The Parties are to cooperate and are to provide their earliest availability for such a hearing.
4. All cross-examinations on affidavits are to occur at least two (2) weeks prior to the substantive hearing.
5. Costs of today’s application are put over to the presider hearing the application.

[20] On June 25, 2024, a cross-examination of Ms. Eeckhout on her affidavit made on February 6, 2024, was conducted by the defendant. I discuss that cross-examination in more detail below.

[21] On February 21, 2025, the defendant brought an application for document production and to extend the time to cross-examine Ms. Eeckhout. Associate Judge Krentz made the following orders:

1. Pursuant to Rule 22-1(4)(c), within three (3) weeks of the date of this Order and by 4PM on 14/MAR/2025, the Plaintiff, Lisa Gaye Eeckhout, is to provide in writing full and responsive answers to the questions left on the record at Lisa Gaye Eeckhout's cross-examination on 25/JUN/2024 pursuant to s. 9(5)(b) of the *Protection of Public Participation Act*, SBC 2019, c. 3 (the "Cross-Examination"), as follows:
 - A. Barb Calderon's phone number and any other forms of contact information for her; and
 - B. The accountant, Judy Scott's phone number and any other forms of contact information for her.
2. Pursuant to Rule 22-1(4)(c) within three (3) weeks of the date of this Order and by 4PM on 14/MAR/2025, the Plaintiffs are to produce the outstanding documents requested to be produced at the Cross-Examination, with slight modification, as follows:
 - A. Copies of all PayPal records, either of Lisa Gaye McGaillard aka [Eeckhout] or Furever Freed Dog Rescue Society, showing payment to various partner societies including those from other countries from 01/JAN/2021 to 31/DEC/2022.
 - B. The full history of all Facebook Messenger communications between the Plaintiff Lisa Gaye McGaillard aka [Eeckhout], or anyone on behalf of the Plaintiff Furever Freed Dog Rescue Society, and the following persons or entities:
 - I. Together With Us;
 - II. Companion Rescue Korea;
 - III. The three kill shelters in California that Ms. Eeckhout [sic] alludes to in the Cross-Examination that are located in Lancaster, San Bernardino, and Downey;
 - IV. Barb, Norma, Charlotte, Eva from Saving Harbin; and
 - V. Kristie Swann from Korean Society and Red Collar.
 - C. Copies of all bank statements, credit card statement, and PayPal statement from the Plaintiff Furever Dog Rescue Society (or Lisa Gaye McGaillard aka [Eeckhout] if the organizations expenses or revenue went through her personal accounts), include supporting invoices that detail revenues from foster-to-adopt, and adoption activities, and expenses for the Plaintiff organization, for the period of 01/JAN/2021 to 31/DEC/2022.
3. Pursuant to s. 9(6) of the *Protection of Public Participation Act*, SBC 2019, c. 3 the time permitted for cross-examination of Ms. [Eeckhout]

is extended for an additional six (6) hours for a total of ten (10) hours, without prejudice to the ability of the Applicant to seek a further extension of time.

4. Costs of this Application to be adjudicated by the presider deciding the *PPPA* Application.

[22] The plaintiffs opted not to exercise their right to cross-examine the defendant on her affidavits.

Cross-Examination of the Plaintiff

[23] Ms. Eeckhout was cross-examined on June 25, 2024.

[24] When asked about the alleged defamatory statements, Ms. Eeckhout disclosed that she did not bring appropriate glasses to read her affidavit. When given an opportunity to go to the pharmacy across the street and obtain appropriate glasses, she refused.

[25] When asked about the alleged defamatory statements attached to her affidavit, Ms. Eeckhout did not recognize some of the posts she alleged were defamatory and acknowledged that the posts did not involve the defendant.

[26] Ms. Eeckhout further agreed that the screen shots she attached as the alleged defamatory statements pertaining to “FurBaby Rescue Bewares” were not defamatory to her or the Society as that references a different rescue group.

Alleged Defamatory Statements

[27] With the lack of particulars contained in the NOCC, I asked counsel for the plaintiff to direct me to the evidence concerning the alleged defamatory statements. Counsel submitted that the defendant engaged in a campaign of malice and I am to consider the whole of the evidence, including the plaintiff’s characterization of the defamation when considering this application. I was subsequently shown the Facebook screenshots attached to Ms. Eeckhout’s affidavit.

[28] In her affidavit, Ms. Eeckhout describes the defamatory statements as consisting of calling the Society a “broker” and accusing the Society of not following

quarantine practices. She also attributes the defendant as publishing statements against the Society that it is “unethical”, “importing aggressive dogs”, “abusive to our rescued dogs”, “dog flippers” and that the dogs come from “puppy mills”.

Ms. Eeckhout attaches “some” of the statements she says have been published which I have reproduced below:

Statement #1

[29] Ms. Eeckhout has attached a screen shot of Statement #1. It does not contain a date and is a “comment” contained within a post. The original post has not been provided nor has the rest of the conversation chain. Statement #1 reads as follows:

Donna Toews

“Paul McClintock, This one person brags about selling 600+ dogs per year. This is Aug 4 and she’s already imported and sold a number of dogs. Fees are \$700 – \$1000.

Let’s talk about “rescues” ... the legal beagle side is that one charge GST once they’ve reached \$30,000 in sales. Most don’t charge or submit PST but that’s the law. They advertise on Facebook which doesn’t allow sales of dogs (even by rescues!!) Some claim they are simply “helping” importation of “personal” dogs (latest City TV bit on LALDR showing how to cheat the system). MY concern is the welfare of all these dogs sold to first time owners. I see them all the time in my business.

Statement #2

[30] A screenshot has also been provided for Statement #2 which was in response to the following comment from another Facebook member: “You mean like FurBabies in chiliwack”. Again, Ms. Eeckhout has not provided the date, original post, or conversation chain related to Statement #2. Statement #2 reads as follows:

Donna Toews

“Terry Loeflier all brokers need to be scrutinized. Anything with “fur” in the name.

Statement #3

[31] Statement #3 is undated and the screenshot shows it as two “comments” within a larger conversation chain. Ms. Eeckhout has not provided the original post

and the complete conversation chain has not been provided. Statement #3 reads as follows:

Donna Toews

Investigation is needed. From all the donation solicitations to lack of quarantine.

Donna Toews

<http://www.facebook.com/Justiceforbullies/photos/a.1683821811841088/3093013614255227/>

Statement #4

[32] Statement #4 contains a number of different “comments” within the same conversation chain, although the entire chain has not been provided. Dates for the statement have not been provided. The evidence establishes that these statements were made within a post by BC Rescue Watchdog concerning the participation of the Society at the Vancouver Home Show.

[33] The first screenshot contains the defendant’s “comment” to another Facebook member’s comment: “They’re going to take a group of new foster dogs to Canada Place !!! and parade them among the 1000s of attendees? How absolutely terrifying and traumatic for the dogs.”, and reads as follows:

Donna Toews

Just arrived? In my opinion: How does one practice such cruelty?

[34] The next screenshot is the defendant’s “comment”:

Donna Toews

In my opinion: Ah the leafy greens background from the wholesaler in Tijuana who supplies this business. And they use it to promote their presence at the show. LOL

[35] A further screenshot in the same conversation chain includes the following comment:

Donna Toews

Brad Remillard In my opinion: Pretty harsh to put these dogs into an arena as entertainment ... after a long journey.

Statement #5

[36] Ms. Eeckhout attaches a screenshot of Statement #5 which is undated and contained in an incomplete conversation chain. Statement #5 reads as follows:

Donna Toews

The strict rule for a harness, collar and two leashes is clearly ignored by the “rescue” when this dog arrived on the weekend and given to buyers with a kerchief and a slip lead that is clearly not being used correctly.

Statement #6

[37] Ms. Eeckhout attaches a screenshot containing three separate undated comment posts. Again, the original post and complete conversation chain have not been provided. Statement #6 reads as follows:

Donna Toews

Thank you for posting these lost dogs.

For 3 reasons: 1. Brings awareness to the lost dog. 2. Brings awareness that some imported dogs are flight risks and NOT as advertised. 3. Information is sorely lacking about the industry of dog brokering.

Donna Toews

RED FLAG to look for: You apply for a dog and comply with the process. You meet your new dog at the airport and pay for the dog. Your new dog (NOT an escape artist by the bio that was posted) escapes and you spend days searching. Instead of supporting the family, the “rescue” aka the broker publicly demeans, bullies, defames, threatens, and influences others to do the same abuse on social media. Falsehoods upon falsehoods. BIG RED FLAG.

Donna Toews

There is lots going on around this dog. Family/buyer of dog is out looking and there have been sightings. There is a post by the broker announcing that she’s been in touch with AI of Petsearchers and that the dog is microchipped to HER (first denying she sold the dog and then admitting it.) Excuses that she wasn’t told of the situation by the family. The exchanges on a lost dog page have shown exceptional bullying and nastiness by Furever Freed. Attacks on the owner as they look for the dog. I was even named!!

Friends and neighbours of the family are helping. They are doing all they can (yes! They contacted AI right away and he couldn’t respond for two days). I hope the outcome is positive and that the family will soon have Fenn back in their care.

NOTE!

I am not the admin this page.

[Attachment not legible]

[38] I was directed by the plaintiffs to a number of Facebook posts attributed to an anonymous Facebook user and a second Facebook user with the name “FFBeware” and asked to make the inference that the author was the defendant. Similarly, I was asked to conclude that the defendant was the operating mind behind the Facebook group “Furever Freed Beware” which has gone by the name “Furever Freed Dog Rescue Society Beware”. Other than Ms. Eeckhout’s belief, there is no evidence establishing that the defendant is the individual behind these aliases. On this application, the plaintiffs have failed to prove on a balance of probabilities that the defendant is the author behind these Facebook posts and they will not be further considered.

Plaintiff’s Facebook Posts

[39] The defendant has put into evidence a number of Facebook posts attributable to Ms. Eeckhout to demonstrate that this proceeding falls within the purpose of the *PPPA*.

[40] One of the undated posts includes a picture with a text bubble containing the caption: “Would you like a lawsuit with that?”

[41] Another undated post calls a Facebook member a troll and welfare case and identifies that Ms. Eeckhout previously sued this individual.

[42] In another undated Facebook post, Ms. Eeckhout posted a photograph of service of legal documents on an individual.

PPPA APPLICATION

[43] Section 4 of the *PPPA* states:

4(1) In a proceeding, a person against whom the proceeding has been brought may apply for a dismissal order under subsection (2) on the basis that

- (a) the proceeding arises from an expression made by the applicant, and

- (b) the expression relates to a matter of public interest.
- (2) If the applicant satisfies the court that the proceeding arises from an expression referred to in subsection (1), the court must make a dismissal order unless the respondent satisfies the court that
- (a) there are grounds to believe that
 - (i) the proceeding has substantial merit, and
 - (ii) the applicant has no valid defence in the proceeding, and
 - (b) the harm likely to be have been or to be suffered by the respondent as a result of the applicant's expression is serious enough that the public interest in continuing the proceeding outweighs the public interest in protecting that expression.

[44] In *Hobbs v. Warner*, 2021 BCCA 290 at paras. 11–15, the Court of Appeal described the multi-step process under s. 4 for determining whether a proposed action should proceed:

- a) In the first step, under ss. 4(1)(a) and (b), the onus is on the applicant defendant to demonstrate on a balance of probabilities that:
 - i. the proceeding arises from an expression made by the defendant; and
 - ii. the expression relates to a matter of public interest. The words “relates to a matter of public interest” are to be given a broad, liberal interpretation: *1704604 Ontario Ltd. v. Pointes Protection Association*, 2020 SCC 22 at para. 28.
- b) In the second step, under s. 4(2)(b), the onus shifts to the respondent plaintiff to show that the action should not be dismissed. At this stage, the plaintiff must satisfy the judge that there are grounds to believe that:
 - i. The proceeding has substantial merit; and
 - ii. The defendant has no valid defence to the proceeding.
- c) The final step, under s. 4(2)(b), requires a weighing of the public interest in allowing meritorious lawsuits to proceed against the public interest in protecting expression on matters of public interest.

Analysis

Section 4(1)(a): does the proceeding arise from an expression made by the Defendants?

[45] The NOCC pleads relief against expressions made by the defendant and no one else.

[46] Statement #1, Statement #2, Statement #3, Statement #4, Statement #5 and Statement #6 (collectively the “Statements”) are attributable to the defendant.

[47] The defendant has satisfied the threshold burden under s. 4(1)(a) of the *PPPA* as it pertains to expressions made by the defendant.

Section 4(1)(b): does the expression relate to a matter of public interest?

[48] The plaintiffs submit that the expressions in question are based in malice and intended to tarnish the reputation of the plaintiffs. With this intention behind the expressions, the plaintiffs submit that the defendant cannot meet the threshold burden of demonstrating that the expression in question relates to a matter of public interest.

[49] The public interest is a broad concept and is discussed at length in *Grant v. Torstar Corp.*, 2009 SCC 61, as applied in *Pointes*. In both cases, the Supreme Court directs the motion judge to ask whether, “some segment of the community would have a genuine interest in receiving information on the subject”.

[50] Given the broad, liberal interpretation I must apply, I accept that the defendant has shown that the Statements relate to a matter of public interest. The Statements relate to the dog rescue community, which invites public attention and debate.

[51] The defendant has satisfied the threshold burden under s. 4(1)(b) of the *PPPA* as it pertains to the public interest requirement.

Section 4(2)(a)(i): Are there grounds to believe the proceeding has substantial merit?

[52] The plaintiffs must satisfy the court that there are grounds to believe that the plaintiff's claim is legally tenable and supportable by evidence that is reasonably capable of belief, such that the claim can be said to have a real prospect of success: *Hobbs* at para. 13.

[53] "Grounds to believe" means something more than mere suspicion, but less than proof on the balance of probabilities standard: *Pointes* at paras. 39–40.

[54] Fulfillment of the "grounds to believe" standard only requires "a basis in the record and the law – taking into account the stage of the litigation": *Pointes* at para. 39. This means that any basis in the record and the law will be sufficient. A basis exists where "there is a single basis in the record and the law to support a finding of substantial merit and the absence of a valid defence": *Bent v. Platnick*, 2020 SCC 23 at para. 88.

[55] The "substantial merit" standard is less stringent than a strong *prima facie* case, or the test of summary judgment. However, "substantial merit" is more demanding than a claim having some chance of success, and more demanding than the claim having a reasonable prospect of success: *Pointes* at paras. 51–52.

[56] In assessing whether there are grounds to believe that the plaintiffs' defamation proceeding has substantial merit for the purposes of s. 4(2), I must consider the following three criteria that the plaintiffs will have to establish to make out a case in defamation:

- a) The words complained of were published, meaning that they were communicated to at least one person other than the plaintiffs;
- b) The words complained of referred to the plaintiffs; and
- c) The impugned words were defamatory in the sense that they would tend to lower the plaintiff's reputation in the eyes of a reasonable person.

See *Hamer v. Jane Doe*, 2024 ONCA 721 at para. 56; *Beland v. Cardy*, 2025 BCSC 656 at para. 71.

[57] It is not contentious that the Statements were published. The defendants submit that the plaintiffs have not established grounds to believe that the claim has substantial merit on the remaining criteria. Further, the defendant submits that the plaintiffs' claim is without merit considering the deficiencies in the NOCC.

Are there grounds to believe that the words complained of refer to the Plaintiffs?

[58] In this case, considering the deficient NOCC and the evidence containing screenshots without context, it is unlikely that the plaintiffs will be successful in demonstrating that Statement #1, Statement #2, Statement #3, Statement #5 and Statement #6 refer to the plaintiffs. The evidence establishes that there are a number of rescue groups working in the same area as the Society and others that have "fur" in their name.

[59] I find that the plaintiffs will likely be successful in demonstrating that Statement #4 is directed at the plaintiffs as there was sufficient evidence to demonstrate Statement #4 was in response to a post concerning the Society's participation in the Vancouver Home Show.

Are there grounds to believe that the words complained of are defamatory?

[60] The plaintiffs submit that in a defamation claim involving a series of online posts, it is important not to take a piecemeal approach to the impugned statements by requiring the plaintiffs to prove each one in isolation of the other and the cumulative effect of all of the posts and comments that form the subject matter of the dispute, relying on *Hamer* at paras. 58–59.

[61] As I have found that the evidence supports that only one statement (Statement #4) refers to the plaintiffs, I am unable to consider a cumulative effect. I will proceed to consider whether there are grounds to believe Statement #4 is defamatory.

[62] Regardless of its form, an expression will not be actionable unless it is reasonably understood in a defamatory sense by those for whom it is published. A defamatory expression is one that “tends to lower a person in the estimation of right-thinking members of society, or to expose a person to hatred, contempt, or ridicule”: *Botiuk v. Toronto Free Press Publications Ltd.*, [1995] 3 S.C.R. 3 at para. 62, 1995 CanLII 60 (S.C.C.); *Crookes v. Newton*, 2011 SCC 47 at para. 39.

[63] A reasonable person approach is to be applied. This person is described as someone “who is reasonably thoughtful but not excessively sensitive or fragile: *Hudson v. Myong*, 2020 BCSC 517 at para. 105 citing *Weaver v. Corcoran*, 2017 BCCA 160 at para. 68 – 69. It is an objective assessment and the court must avoid seizing upon the worst possible meaning. Statements that merely threaten a plaintiff’s “wished-for reputation or pride”, or that are simply rude, abusive, or insulting, will not be seen as defamatory: *Cheesman v. Dobrer*, 2025 BCSC 1428 at para. 42.

[64] It is a relevant consideration whether the right-thinking person, thoughtful and informed, would accept the publication as being accurate: *Acumen Law Corporation v. Nguyen*, 2018 BCSC 961 at para. 15.

[65] The plaintiff bears the onus to demonstrate that Statement #4 is defamatory in the sense that it would tend to lower the plaintiff’s reputation in the eyes of a reasonable person. The NOCC pleads as follows:

6. The Defamatory Words in their plain and ordinary meaning, and/or by implication or innuendo, are false, malicious, and defamatory of Ms. Eeckhout and the Furever Freed Dog Rescue Society were true.

7. In the alternative, by way of innuendo, the words meant and were understood to mean that the alleged Defamatory Words of Ms. Eeckhout and the Furever Freed Dog Rescue Society were true.

[66] The question is whether Statement #4, being the defendant’s opinion that it would be cruel to have a dog participate in the Vancouver Home Show after recently arriving in Canada, lower the reputation of the plaintiffs in the view of right-thinking members of society.

[67] I find that Statement #4, premised as the opinion that it is, would not tend to lower the reputation of the plaintiffs in the estimation of right-thinking members of society. It is a statement of an opinion within a broad topic. There is likely a range of opinions on whether dogs should participate in such events. Some of those opinions may favour participation and some might be against it. A right-thinking member of society would not, based on the forum and content of the post, consider Statement #4 as being true – it is merely an opinion, which falls short of defaming the reputation of the plaintiffs.

[68] I find that the plaintiffs have failed to demonstrate that Statement #4 is defamatory.

Section 4(2)(a)(ii): Are there grounds to believe the Defendant has no valid defence?

[69] As I have determined that the claim lacks merit, the plaintiff fails on this ground. That it is without merit is a full answer to the claim.

Section 4(2)(b): Weighing Exercise

[70] The final stage requires a weighing of the public interest in allowing meritorious lawsuits to proceed against the public interest in protecting expressions on matters of interest: *Hobbs* at para. 15.

[71] There is no weighing that is required in this case as I have determined this is not a meritorious defamation action.

Conclusion on the *PPPA* Application

[72] I find that the defendant has established that the plaintiffs' defamation claim should be dismissed in accordance with s. 4 of the *PPPA*.

Costs

[73] Subsection 7(1) of the *PPPA* provides that if the court makes a dismissal order under s. 4, the applicant is entitled to costs on the application and in the

proceeding, assessed as costs on a full indemnity basis unless the court considers that assessment inappropriate in the circumstances.

[74] There being no reason to depart from costs entitlement provided for in the *PPPA*, I award the defendant costs on the application and proceeding assessed on a full indemnity basis.

Damages

[75] Section 8 of the *PPPA* provides that the court may award the damages it considers appropriate against a plaintiff if it finds that the plaintiff brought the proceeding in bad faith or for an improper purpose.

[76] The defendant seeks damages in the sum of \$20,000 relying on *United Soils Management Ltd. v. Barclay*, 2018 ONSC 1372. In that case, the court found that the plaintiff had engaged in bullying that harmed the health and financial security of the defendant. That has not been established in this case.

[77] Other than participating in this action, which the defendant will be fully indemnified for, I am not aware of any other harm suffered by the defendant. I find that the full indemnity costs I have ordered fully addresses any harm suffered by the defendant arising from this action and decline to award damages.

APPLICATION TO STRIKE

[78] Given my findings above on the inadequacy of plaintiffs' NOCC, the defendant would have also been successful on her application to have the NOCC struck pursuant to Rule 9-5.

CONCLUSION

[79] There will be an order dismissing the action pursuant to s. 4 of the *PPPA* with the defendant having her full indemnity costs pursuant to s. 7 of the *PPPA*.

“Justice LeBlanc”