CITATION: *ApSimon v. Hategan*, 2026 ONSC 300
COURT FILE NO.: CV-23-91584
DATE: 2026/01/15

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:		
Paul ApSimon	Plaintiff	Jeff G. Saikaley and Albert Brunet, Counsel for the Plaintiff
– and –		
Elisa Hategan	Defendant	Joseph Kary, Counsel for the Defendant
		HEARD: September 17, 2024, January 13, 2025, and June 6, 2025 (In person and, on June 6, 2025, by videoconference)

RULING ON ANTI-SLAPP MOTION

CORTHORN J.

Introduction

[1] Paul ApSimon has been involved in elite-level competitive fencing for more than three decades. Mr. ApSimon's involvement in the sport includes as an athlete, a four-time coach of the Canadian Olympic Fencing Team, and a coach of the University of Ottawa Varsity Fencing Team ("the Team"). Mr. ApSimon now owns, operates, and is the head coach at a fencing club in Ottawa, Ontario.

[2] In the 1990s, Elisa Hategan was part of the fencing community at the University of Ottawa ("the University"). During the latter part of the 1990s, Ms. Hategan was a member of the Excalibur Fencing Club ("the Club"). The Team and the Club shared a training facility on the campus of the University ("the shared facility").

[3] Ms. Hategan's time as both a student at the University and a member of the Club overlapped for several years with Mr. ApSimon's tenure as a coach of the Team and time as a member of the Club.

[4] Ms. Hategan is now a writer and freelance journalist. Ms. Hategan writes poetry, short prose, books, and journalistic articles. Ms. Hategan's evidence is that, in addition to her own writing, she has participated or assisted in the production of articles and podcasts published by the news media including the CBC, the BBC, The Guardian, The Globe and Mail, and The Huffington Post.

[5] In February 2023, Ms. Hategan published an article on Substack.com titled "Truth is Stronger than a Sword – What the Canadian Fencing Federation Doesn't Want You to Know Will Shock You" ("the Article"). Ms. Hategan describes the Article as (a) drawn from her personal experiences, including with Mr. ApSimon; and (b) part of an increasing wave of expression about bullying and improper coaching behaviour in sports.

[6] Mr. ApSimon asserts that the contents of the Article include some of the most damaging allegations that can be levelled against an individual. The allegations about Mr. ApSimon's conduct range from sexually inappropriate behaviour to what Mr. ApSimon asserts constitute potentially criminal acts.

[7] In March 2023, Mr. ApSimon commenced this action, pursuant to the Simplified Procedure under the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, r. 76. Mr. ApSimon alleges that the statements made about him in the Article are defamatory of him ("the impugned words"). The defamatory content is of concern to Mr. ApSimon in terms of his personal reputation, professional reputation, standing in the fencing community, and standing in the community at large.

[8] The relief requested by Mr. ApSimon includes an order requiring Ms. Hategan to remove and take down the defamatory content from the Internet. In addition, Mr. ApSimon seeks general damages of $150,000, and aggravated or punitive damages of $50,000.

[9] Ms. Hategan delivered a statement of defence and counterclaim. Ms. Hategan followed the delivery of her pleading by bringing the motion now before the court. Ms. Hategan asks the court to dismiss Mr. ApSimon's action pursuant to the Strategic Law Against Public Participation provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 ("*CJA*").

The Evidentiary Record

[10] The record includes four affidavits from Ms. Hategan ("the Hategan affidavits"), one affidavit from Mr. ApSimon ("the ApSimon affidavit"), and an affidavit from Dina Vitale ("the Vitale affidavit"). Ms. Vitale is a former fencer at the shared facility and Mr. ApSimon's former spouse. None of the affiants was cross-examined.

[11] Some of the basic facts regarding the parties' overlapping time in the fencing community at the University are not in dispute. The parties disagree as to Mr. ApSimon's specific roles with the Team and the Club. In addition, the parties disagree about Mr. ApSimon's conduct. Mr. ApSimon vehemently denies the contents of the impugned words.

[12] I will identify the contentious facts, where necessary, in the analyses below. Any findings made or inferences drawn in this ruling are solely for the purpose of the motion. The findings and inferences are otherwise not binding on a judge or an associate justice.

[13] Mr. ApSimon questions the admissibility of portions of the Hategan affidavits. He asserts that the Hategan affidavits include (a) legal argument or improper opinion, and (b) content that is irrelevant to the issues raised on the motion. Mr. ApSimon asks that the portions of the Hategan affidavits about which he raises concerns be given little or no weight.

[14] I will address the admissibility of affidavit evidence, where necessary, in the analyses below.

Background to the Proceeding

[15] During the latter half of the 1990s, Ms. Hategan was a student at the University. She was enrolled in an undergraduate program in Criminology. During some of her years of study, Ms. Hategan was a member of the University's fencing community. Ms. Hategan participated in fencing classes and trained at the shared facility. Mr. ApSimon does not dispute that some of his and Ms. Hategan's respective time at the shared facility overlapped.

[16] Mr. ApSimon disagrees, however, with Ms. Hategan's characterizations of his roles with the Team and the Club during that overlapping period. Ms. Hategan describes Mr. ApSimon as one of her two coaches. Her evidence includes an assertion that she was mistreated and under-coached by both Mr. ApSimon and the other coach of the Team at the time.

[17] Mr. ApSimon's evidence is that he coached the Team in 1991-92; left Ottawa in 1992 to travel for several years; and returned to Ottawa in January 1994. Mr. ApSimon's evidence is that from January to October 1994 he (a) was a member of the Club, and (b) had no role with the Team.

[18] In his affidavit, Mr. ApSimon addresses two periods during which he was a coach of the Team. First, from October 1994 to April 1997, Mr. ApSimon was primarily a Club athlete; assisted "the program" by running practice; and was an assistant coach of the Team. Second, from April 1997 to April 2000, Mr. ApSimon was the head coach of the Team.

[19] Mr. ApSimon's evidence is that Ms. Hategan was a lower-level fencer, whose abilities were such that she was able to participate in competitions. Mr. ApSimon's belief is that Ms. Hategan did not have the abilities required to be competitive at the higher levels of fencing.

[20] The parties differ in their respective explanations or beliefs as to why Ms. Hategan received fewer hours of coaching than did other fencers training at the shared facility. In her affidavits, Ms. Hategan provides several bases for her belief that she received less favourable treatment and fewer hours of coaching from both Mr. ApSimon and the other coach. Those bases or explanations include the following allegations:

- Mr. ApSimon favoured female athletes with whom he was having a sexual relationship over Ms. Hategan and other female athletes; and

- The amount of coaching Ms. Hategan received, both prior to and during competitions, decreased after she began to question Mr. ApSimon's favouritism towards female athletes with whom he had a sexual relationship.

[21] In his affidavit, Mr. ApSimon admits that he had a "romantic relationship" with two female members of the Club. One of those individuals is Ms. Vitale, whom Mr. ApSimon later married. Mr. ApSimon denies engaging in sexual behaviour with any other Club or Team members. Mr. ApSimon denies, and describes as "scandalous", allegations that he displayed any favouritism towards athletes who had slept with one of the Team coaches.

[22] Mr. ApSimon's explanation as to why Ms. Hategan received fewer hours of training and coaching than other athletes is based on what he describes as "the competitive nature of the sport" of fencing. Mr. ApSimon's evidence is that athletes who showed more prospect for success would have received more attention – in the form of training and coaching – than recreational athletes. Mr. ApSimon's evidence includes a description of what was and remains a common method used to facilitate coaching, during practice, between higher-level and lower-level athletes.

[23] Ultimately, in the late 1990s, Ms. Hategan chose to leave the Club and to train, instead, alongside the varsity fencing team at Carleton University.

[24] Ms. Hategan's evidence is that, in both 2008 and 2012, she followed CBC television coverage of a female athlete with whom she previously trained and of Mr. ApSimon. I take judicial notice of the fact that the Olympic Summer Games were held in both 2008 and 2012. The latter year is one of the years in which Mr. ApSimon was a coach of the Canadian Olympic Fencing Team.

[25] Ms. Hategan's evidence is that as a result of that television coverage, she (a) experienced a flood of memories, and (b) was prompted to post material on her blog. Ms. Hategan's summary description of the contents of the blog posts is that they are about "endemic problems in Canadian fencing, including but not limited to [her] experience with a coach at the University of Ottawa" ("the Posts"). The coach is not mentioned by name in the Posts. The contents of the Posts do, however, form part of the basis for Mr. ApSimon's claim in defamation. Throughout this ruling, the phrase "the impugned words" includes some of the contents of the Posts.

[26] Ms. Hategan's evidence is that approximately ten years later, in 2022, she experienced a resurgence of memories of her time as a fencer at the Club. The memories are said by Ms. Hategan to have been triggered by her participation in a discussion, on Twitter, with athletes and coaches. Athlete mistreatment was one of the subjects discussed in that Twitter exchange.

[27] Following her involvement in that Twitter discussion, Ms. Hategan (a) did online research about female fencers on the Team, and (b) posted a tweet on Fencing Canada's official Twitter account. In her tweet, Ms. Hategan describes sexual exploitation of female athletes by a coach of the Team; she does so without identifying the coach by name.

[28] Ms. Hategan received two responses to her tweet. One response was from the Executive Director of the Canadian Fencing Federation ("the Federation"). That individual directed Ms. Hategan to reach out to him or to the Federation's Independent Safe Sport Official, whose name and contact information were provided to Ms. Hategan. The Executive Director also emailed Ms. Hategan to inform her that he (a) would bring her complaint to the attention of the Federation's Board of Directors, and (b) had forwarded his communication with her to the Independent Safe Sport Official.

[29] The second response Ms. Hategan received to her tweet was from a female member of the Canadian National Fencing Team ("the Female Fencer"). The two women corresponded briefly, followed by an hour-long telephone conversation. Ms. Hategan recorded and made contemporaneous notes of the telephone conversation. It is unclear from the record whether the Female Fencer was, at that time of that conversation, an active or a former member of the Canadian National Fencing Team.

[30] Excerpts from that telephone conversation form part of a formal complaint made by Ms. Hategan, in 2022, to the Federation and to the Independent Safe Sport Official. The formal complaint addresses both Ms. Hategan's personal experience as a fencer at the University and, anonymously, the experience of the Female Fencer.

[31] At the time, Ms. Hategan understood that the Federation's Executive Director had forwarded a copy of her complaint to the University.

[32] Ms. Hategan's evidence is that, in the eight months after she made her formal complaints, she received no follow up from the Federation, the Independent Safe Sport Official, or the University. During that eight-month period, Ms. Hategan

- concluded that the Federation was deliberately suppressing and concealing the contents of a March 2021 report of an investigation, by an independent third party, into the historical conduct of the Team's coaches, including Mr. ApSimon ("the 2021 Report");
- learned that Mr. ApSimon remained part of the fencing community, as a coach and operator of a training facility; and
- learned, through various forms of media coverage, about abuses of power by coaches in other sports and the consequences for athletes who are the victims of that abuse.

[33] Approximately two weeks after watching an episode of CBC Television's The Fifth Estate about sexual assault allegations in the Hockey Canada community, Ms. Hategan published the Article on her Substack blog.

[34] Ms. Hategan's evidence is that, at the same time she published the Article, she uploaded a copy of the 2021 Report to the Internet – making that document available to the public. Ms. Hategan does not explain how she obtained a copy of the 2021 Report. Her evidence is that she learned of the existence of the report during her telephone conversation with the Female Fencer.

[35] Mr. ApSimon's evidence is that, in addition to publishing the Article on her Substack blog, Ms. Hategan further publicized the Article by posting a link to it on her Twitter account.

[36] A copy of the Article is Exhibit "B" to the ApSimon affidavit. In printed form, the Article is approximately 20 pages. The Article includes excerpts from the following documents:

- Ms. Hategan's formal complaints to the Federation and to the Independent Safe Sport Official;
- Daily journals kept by Ms. Hategan during her time as a fencer training at the shared facility; and
- The notes made by Ms. Hategan contemporaneous with her telephone conversation with the Female Fencer.

[37] The Article includes commentary made and views expressed by Ms. Hategan about the culture in the sport of fencing. The Article concludes with a link to the 2021 Report.

[38] Mr. ApSimon's evidence is that he learned of the Article when individuals who had read it brought it to his attention. After learning of the existence of the Article, Mr. ApSimon posted a response on his X (Twitter) account. In that response, Mr. ApSimon (a) asserts that the Article includes lies and is defamatory of him, and (b) states that he retained legal counsel and intends to pursue the matter.

[39] Mr. ApSimon commenced this action in March 2023 – approximately three weeks after Ms. Hategan posted the Article. Ms. Hategan delivered a statement of defence and counterclaim. Ms. Hategan was self-represented when she did so. In her counterclaim, Ms. Hategan alleges that Mr. ApSimon acted with malice and that, in February and April 2023, Mr. ApSimon published defamatory statements about her on the Internet. Ms. Hategan seeks damages totaling $200,000 and non-monetary relief. Mr. ApSimon delivered a defence to the counterclaim.

[40] The notice of motion and the first of the Hategan affidavits are dated November 2023. By that month, Ms. Hategan was represented by counsel.

[41] I will review the statutory framework for the determination of Ms. Hategan's motion and then determine the substantive issues on the motion.

The Statutory Framework

[42] Section 137.1 of the *CJA* is intended "to function as a mechanism to screen out lawsuits that unduly limit expression on matters of public interest through the identification and pre-trial dismissal of such actions": *1704604 Ontario Ltd. v. Pointes Protection Association*, 2020 SCC 22, [2020] 2 S.C.R. 587 ("*Pointes*"), at para. 16. The relevant portions of s. 137.1 are reproduced below:

> (3) On motion by a person against whom a proceeding is brought, a judge shall, subject to subsection (4), dismiss the proceeding against the person if the person satisfies the judge that the proceeding arises from an expression made by the person that relates to a matter of public interest.
>
> (4) A judge shall not dismiss a proceeding under subsection (3) if the responding party satisfies the judge that,
>
> (a) there are grounds to believe that,
>
> (i) the proceeding has substantial merit, and
>
> (ii) the moving party has no valid defence in the proceeding; and

> (b) the harm likely to be or have been suffered by the responding party as a result of the moving party's expression is sufficiently serious that the public interest in permitting the proceeding to continue outweighs the public interest in protecting that expression.

[43] Pursuant to s. 137.1(3), the initial burden is on the moving party to satisfy the judge that the proceeding arises from an expression that relates to a matter of public interest. There are two parts to the analysis carried out at this stage of the motion. First, the court must be satisfied that the subject expression was made by the moving party. Second, the court must be satisfied that the expression made by the moving party relates to a matter of public interest: see *Pointes*, at para. 21.

[44] In *Pointes*, at paras. 27-30, Côté J., writing for the Supreme Court of Canada, reviews what "public interest" means for the purpose of s. 137.1(3) and addresses how a court is to determine whether the threshold burden is met. The following principles are reviewed by Côté J. in those paragraphs:

- The issue determined is "whether the expression pertains to any matter of public interest, defined broadly" (at para. 28);
- A contextual approach is taken, with the court "asking what the expression is really about" (at para. 30); and
- The word "expression" and the phrase "relates to a matter of public interest" are interpreted in "a generous and expansive fashion" (at para. 30).

[45] At para. 27, Côté J. cites the Supreme Court of Canada decision in *Grant v. Torstar Corp.*, 2009 SCC 61, [2009] 3 S.C.R. 640 ("*Grant*"), to emphasize the broad definition given to the term "public interest". Citing *Grant*, Côté J. says the following:

> 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).

[46] The parties on the motion now before the court agree that Ms. Hategan has met the initial burden. It is undisputed that the subject expressions were made by her. The parties agree that the Article and the Posts both relate to a matter of public interest. Ms. Hategan's broad description of the subject matter is "concern about bullying and improper coaching behaviour in the world of sports" – specifically, "high level competitive sport". Mr. ApSimon describes the subject matter as dealing "with allegations of abuse in competitive sports".

[47] Applying the principles summarized in paras. 44-5, above, I agree with the parties. The subject of bullying and improper coaching behaviour in the context of competitive sports falls within the scope of "public interest" for the purpose of s. 137.1(3). I am satisfied that some segment of the community would have a genuine interest in receiving information on the subject.

[48] With Ms. Hategan meeting the initial burden, for the second stage of the analysis, the burden shifts to Mr. ApSimon. To avoid dismissal of his action, Mr. ApSimon must satisfy the court regarding each of the components under s. 137.1(4); the requirements for both ss. 137.1(4)(a) and (b) must be met. If the requirements of either of those subsections are not met, then the action is dismissed.

[49] The focus of this ruling is on whether Mr. ApSimon satisfies the burden he bears pursuant to ss. 137.1(4)(a) and (b). Those subsections are colloquially known as the "merits-based hurdle" and the "public interest hurdle", respectively: see *Pointes,* at paras. 34, 61.

[50] Before turning to whether Mr. ApSimon meets the burden he bears at this second stage of the analysis, I will first address the concerns raised by Mr. ApSimon about the contents of the Hategan affidavits.

The Hategan Affidavits

[51] The primary affidavit upon which Ms. Hategan relies was sworn in November 2023 ("Hategan affidavit no. 1"). That affidavit is 40 pages, includes 106 paragraphs, and refers to documents attached as Exhibits "A" to "Q". Ms. Hategan's second affidavit was also sworn in November 2023 ("Hategan affidavit no. 2"). That affidavit contains a single paragraph. It is before the court solely to include, as part of the evidentiary record, the single exhibit to the affidavit – a copy of the 2021 Report.

[52] After receipt of Mr. ApSimon's September 2024 responding record, Ms. Hategan delivered a document titled "Supplementary Motion Record". That record includes an affidavit sworn by Ms. Hategan in September 2024 (Hategan affidavit no. 3). That affidavit is 15 pages and contains 29 paragraphs. That affidavit responds to the Vitale affidavit included as part of Mr. ApSimon's responding record.

[53] Ms. Hategan also delivered a document titled "Second Supplementary Motion Record". That record is dated September 11, 2024 – the same date that appears on the cover page for the supplementary motion record referred to in the preceding paragraph. The second supplementary motion record includes an affidavit sworn by Ms. Hategan in March 2024 ("Hategan affidavit no. 4"). That affidavit responds to the ApSimon affidavit, is 26 pages, and includes 60 paragraphs.

[54] Mr. ApSimon raises two concerns regarding the contents of Hategan affidavit nos. 1, 3, and 4. The first concern is that the affidavits include numerous internally contradictory statements. Any internal contradictions relevant to either the merits-based hurdle or the public-interest hurdle are addressed in later sections of this ruling. For the moment, I focus on Mr. ApSimon's second concern – that Hategan affidavit nos. 1, 3, and 4 include legal argument, improper expressions of opinions, and otherwise irrelevant content.

[55] I agree with Mr. ApSimon's characterization of some of the contents of Hategan affidavit nos. 1, 3, and 4. Numerous paragraphs in those affidavits fall into one of more of the categories described by Mr. ApSimon. The inadmissible content is too voluminous to list in this ruling. Set out below are examples of content from those affidavits that I conclude is inadmissible as evidence or is irrelevant to the issues on the motion:

- "My article made an important contribution to public debate on a concerning issue in the world of sports. It resulted in a watershed moment in the history of Canadian fencing." (Hategan affidavit no. 1, at para. 44; I find that content is both argument and opinion.)

- "This lawsuit […] is being used by ApSimon as a way to discredit the allegations raised by myself and others against him." (Hategan affidavit no. 1, at para. 49; I find that content is argument.);

- "My comments are fair and justified." (Hategan affidavit no. 1, at para. 63; I find that content is conclusory.);

- Mr. ApSimon "knew, or had to have known – about [the 2008 and 2012] blog posts because of news coverage at least one of the posts received when created. (Hategan affidavit no. 1, at para. 70; I find that content is both argument and conclusory.);

- At paras. 87 – 89 of Hategan affidavit no. 1, the subject addressed is team rituals (i.e., "hazings") in the context of university sports in the U.S.A. and junior hockey in the Ontario Hockey League. (That content is not relevant to the issues on the motion.);

- An assertion that, in his affidavit, Mr. ApSimon "is bending the truth or telling utter falsehoods." (Hategan affidavit no. 4, at para. 3; I find that content is argument and conclusory.); and

- At the conclusion of a review of her involvement in the sport of fencing, Ms. Hategan explains that she ultimately quit the sport, in large part, because she could not afford to continue in it. (Hategan affidavit no. 4, at paras. 53-55; I find that content is not relevant to the issues on the motion.)

[56] The content described in the bullet points listed above provides examples of the portions of the Hategan affidavits that are either inadmissible or irrelevant. Mr. ApSimon does not request that the offending content be struck from the Hategan affidavits. He asks that the court give little or no weight to the offending content.

[57] I agree with the approach suggested by Mr. ApSimon. I apply that approach when carrying out the analyses under ss. 137.1(4)(a) and (b). I move on to those analyses, starting with the merits-based hurdle.

The Merits-Based Hurdle

[58] The merits-based hurdle, stipulated in s. 137.1(4)(a) requires the responding party to satisfy the judge there are "grounds to believe" that, "(i) the proceeding has substantial merit, and (ii) the moving party has no valid defence in the proceeding".

[59] I start with what is meant by "grounds to believe".

a) "Grounds to Believe"

[60] The analysis carried out pursuant to s. 137.1(4) does not result in "a determinative adjudication of the merits of the underlying claim or a conclusive determination of the existence of a defence": *Pointes*, at para. 37. To satisfy the "grounds to believe" requirement, the responding party must demonstrate that there is a basis in the record and the law to support a finding that the underlying proceeding has substantial merit and that there is no valid defence: *Pointes*, at para. 39.

[61] The assessment is carried out on a limited record, at an early stage in the proceeding. Regardless, the inquiry "goes beyond the parties' pleading [and requires that the judge] consider the contents of the record": *Pointes*, at para. 38. The assessment is a subjective one, given that it depends on the motion judge's determination: *Pointes*, at para. 41.

b) The Claim has Substantial Merit (s. 137.1(4)(a)(i))

i) The Law

[62] For the underlying proceeding to have substantial merit "requires that the claim be legally tenable and supported by evidence that is reasonably capable of belief.": *Pointes*, at para. 49. The substantial merit requirement is met if the underlying claim has "a real prospect of success": *Pointes*, at para. 49. The responding party is not required to demonstrate a likelihood of success; they are required to demonstrate a prospect that weighs more in favour of the plaintiff: see *Pointes*, at para. 49.

[63] In the balance of this ruling, and for the most part, I use the term "the plaintiff" in place of "the responding party", where a general term is used, because it is Mr. ApSimon who bears the burden pursuant to ss. 137.1(4)(a) and (b).

[64] At paras. 50-54 of *Pointes*, Côté J. provides guidance for the determination of a motion pursuant to s. 137.1. The judge is required to

- assess the evidentiary basis for the claim, including whether the claim is supported by evidence that is capable of belief (at para. 50);
- consider whether the plaintiff has demonstrated that their claim has more than a possibility of succeeding – the plaintiff must have more than an arguable case (at para. 50);
- engage in only a limited weighing and assessment of the evidence (at para. 52);
- defer to a later stage of the proceeding ultimate assessments of credibility and other questions that require a deep dive into the evidence (at para. 52); and
- be wary of turning their assessment into the kind required for determination of a summary judgment motion (at para. 52).

[65] In summary, the issue determined at the s. 137.1(4)(a)(i) stage of the analysis is as follows: Has the plaintiff satisfied "the motion judge that there are grounds to believe that [the] underlying claim is legally tenable and supported by evidence that is reasonably capable of belief such that the claim can be said to have a real prospect of success"? (See: *Pointes*, at para. 54.)

ii) The Position of the Parties

- ***Mr. ApSimon***

[66] Mr. ApSimon submits that, at this stage of the analysis, the court decides whether there are grounds to believe that the expressions in the impugned words convey a defamatory meaning. Mr. ApSimon relies on the three criteria for a claim in defamation, articulated in *Bent v. Platnick*, 2020 SCC 23, [2020] 2 S.C.R. 645, at para. 92. Mr. ApSimon submits that, when the requisite objective standard is applied to the impugned words, the words are defamatory on their face or through innuendo.

[67] Mr. ApSimon's position is that he has discharged his burden at this stage of the analysis.

- ***Ms. Hategan***

[68] Ms. Hategan's position is that Mr. ApSimon has not discharged his burden at this stage of the proceeding. First, in his written submissions, Mr. ApSimon relies on allegedly defamatory language that does not appear in the Article and is not the subject of allegations in the statement of claim. Second, the statement of claim includes allegations of defamatory language or content that does not appear in the Article.

[69] Ms. Hategan acknowledges that some of the allegations in the statement of claim fall outside the two categories described in the preceding paragraph. Ms. Hategan's position is that to the extent that any of the allegations "survive", those allegations do not amount to a claim that has "substantial merit" within the meaning of s. 137.1(4)(a)(i).

iii) Analysis

[70] I start with the three criteria for a claim in defamation: see *Bent*, at para. 92; *Grant*, at para. 28. Satisfaction of the first criterion is not in dispute – to the extent that the impugned words appear in the Article or in the Posts, Ms. Hategan acknowledges that she published the Article and the Posts.

[71] The second criterion for a claim in defamation requires the plaintiff to establish that the words complained of refer to him/her/them. At para. 40 of her factum, Ms. Hategan submits that "[t]he actual pleading of the defamatory allegations is vague and confused". I reject that submission.

[72] In his statement of claim, Mr. ApSimon provides a general description of the subject matter of the alleged "false and defamatory statements". At para. 6, Mr. ApSimon describes the subject matter as "sexual impropriety and other inappropriate behaviours involving students he has coached over several years." In paras. 9-13, Mr. ApSimon addresses publication of the Article.

[73] In keeping with the requirements for a claim based in defamation, in para. 14, Mr. ApSimon quotes extensively from the Article to identify the words about which he complains. Mr. ApSimon therein quotes 26 passages from the Article. Mr. ApSimon utilizes bold font to identify in each passage the specific words about which he complains. In para. 16, Mr. ApSimon quotes additional passages from the Article about which he also complains.

[74] In the majority of the passages quoted in paras. 14 and 16, Mr. ApSimon is mentioned by name. Other passages quoted include descriptions of events alleged to have occurred in Mr. ApSimon's presence or at a location for which he is alleged to have been responsible (i.e., his family's cottage property).

[75] In paras. 18-20 of the statement of claim, Mr. ApSimon includes the impugned words from the Posts. He acknowledges that he is not mentioned by name in the Posts. Mr. ApSimon alleges that he is defamed as a result of "after-the-fact identification", as one of the individuals whose conduct is the subject of the Posts.

[76] Whether based on the statement of claim or on the copies of the Article and the Posts included in the evidentiary record, I am satisfied that a reasonable trier could conclude that the impugned words refer to Mr. ApSimon and, therefore, that the second criterion for a claim in defamation is met.

[77] The third criterion for a claim in defamation is that "[t]he impugned words were defamatory, in the sense that they would tend to lower the plaintiff's reputation in the eyes of a reasonable person": *Bent*, at para. 92; *Grant*, at para. 28. In *WIC Radio Ltd. v. Simpson*, 2008 SCC 40, [2008] 2 S.C.R. 420, at para. 67, Lebel J. (concurring) cites the decision in *Sim v. Stretch* (1936), 52 T.L.R. 669 (H.L.), at p. 671, for the following definition of a defamatory statement: "A defamatory statement is one which has a tendency to injure the reputation of the person to whom it refers; which tends, that is to say, to lower him in the estimation of right-thinking members of society generally and in particular to cause him to be regarded with feelings of hatred, contempt, ridicule, fear, dislike, or disesteem."

[78] At para. 68 of *WIC Radio*, Lebel J. highlights that the above-quoted test is "often construed as setting a low threshold for establishing *prima facie* defamation." In the same paragraph and quoting from a well-known text on libel and slander, Lebel J. adds that "it may well be the case that the common law takes a rather generous line on what lowers a person in the estimation of others".

[79] Balancing against that low threshold, at para. 69, Lebel J. cautions against courts being "too quick" to find a defamatory meaning. In the same paragraph, Lebel J. lists the following four factors as relevant to the assessment of whether a statement is defamatory: "whether the impugned speech is a statement of opinion rather than of fact; how much is publicly known about the plaintiff; the nature of the audience; and, the context of the comment."

[80] The words about which Mr. ApSimon complains in paras. 14, 16, and 19-20 of his statement of claim include descriptions of the following conduct on his part:

- Selecting as members of the Team student athletes with whom he was sleeping and who were not as capable fencers as were more experienced athletes;
- Mistreating, emotionally abusing, and retaliating against Ms. Hategan; and
- Permitting and perpetuating a culture of bullying at the shared facility.

[81] In para. 27, Mr. ApSimon alleges that, after reading the Article, a reasonable person would tend to think less of him. In para. 29, he alleges that the impugned words defame his "character, honesty, and integrity".

[82] At this stage of the proceeding, evidence of actual reputational harm is not required: *Bent*, at para. 96. What is required is "a realistic threat that the statement, in its full context, would reduce a reasonable person's opinion of the plaintiff": *WIC Radio*, at para. 78.

[83] The parties disagree as to Mr. ApSimon's specific role with the Team and the Club in the years during which they both trained at the shared facility. The parties agree, however, that "the full context" for consideration of the potential impact of the impugned words includes Mr. ApSimon's historical and continuing involvement in the sport of fencing – from his time as a competitive fencer, to his time at the University and, now, in his role as head coach at the fencing club that he owns and operates.

[84] As explained in para. 82 above, evidence of actual reputational harm is not required at this stage of the proceeding. For the purpose of the motion, Mr. ApSimon addresses the subject of reputational harm in a limited manner. In his affidavit, Mr. ApSimon says that, after the Article was brought to his attention, he "was also very concerned about the impact of [Ms. Hategan's] defamation on his reputation." Mr. ApSimon explains that his concern for his reputation stems in part from the fact that Ms. Hategan has more than 20,000 followers on her public X account.

[85] In summary, the impugned words include descriptions of Mr. ApSimon engaging in acts of sexual impropriety and in mistreatment of female athletes on the Team and in the Club environment. Mr. ApSimon has historically been a prominent member of the fencing community in Canada. Through his ownership and operation of a fencing club, to say nothing of his continuing coaching, Mr. ApSimon remains a member of the fencing community.

[86] I am satisfied that a reasonable trier could conclude that the impugned words would tend to lower Mr. ApSimon's reputation in the eyes of a reasonable person and, therefore, that the third criterion for a claim in defamation is met.

iv) Summary – s. 137.1(4)(a)(i)

[87] I am satisfied that there are grounds to believe Mr. ApSimon's claim in defamation against Ms. Hategan has substantial merit – the claim has a real prospect of success, in that the prospect of success weighs more in favour of Mr. ApSimon.

c) There is no Valid Defence (s. 137.1(4)(a)(ii))

i) The Law

[88] For this part of the merits-based hurdle, Mr. ApSimon must satisfy the court that there are grounds to believe that Ms. Hategan has no valid defence in the proceeding. The assessment under s. 137.1(4)(a)(ii) is made based on the defences upon which Ms. Hategan relies in her pleading: see *Pointes*, at para. 56.

[89] The assessment under s. 137.1(4)(a)(ii) is made at an early stage in the proceeding. To assess whether a defence is valid, the motion judge must be able to engage in a limited assessment of the evidence: *Pointes,* at para. 58.

[90] At para. 58 of *Pointes,* Côté J. emphasizes that, "[t]he word *no* is absolute, and the corollary is that if there is *any* defence that is valid, then the plaintiff has not met its burden and the underlying claim should be dismissed" (italicized words appear in the original). At para. 59, Côté J. explains that the plaintiff must show "that the defence, or defences, put in play are not legally tenable or supported by evidence that is reasonably capable of belief such that they can be said to have no real prospect of success." Where more than one defence is advanced, the plaintiff must show that none of the defences are valid: *Pointes*, para. 60.

[91] Although the word "no" is absolute, it may not always be possible for the court to be satisfied as to the validity or invalidity of a defence advanced. That situation is addressed by the Court of Appeal for Ontario in *Bondfield Construction Company Limited v. The Globe and Mail Inc.,* 2019 ONCA 166, 144 O.R. (3d) 291. At para. 15, Doherty J.A., writing for the Court, explains that, "[a] determination that a defence 'could go either way' in the sense that a reasonable trier could accept it or reject it is a finding that a reasonable trier could reject the defence".

[92] Ms. Hategan relies on four defences: (a) justification (truth); (b) fair comment; (c) responsible communication; and (d) a limitation defence regarding the Posts. I will deal with the four defences in the order in which they are listed in this paragraph.

ii) The Defence of Justification (Truth)

[93] I start with the consequences of a finding, if made at trial, that a *prima facie* showing of defamation has been made out by a plaintiff. Where such a finding is made, the impugned words are presumed to be false: *Bent*, at para. 107, citing *Grant* at para. 28.

[94] To counter that presumption and succeed with the defence of justification, "a defendant must adduce evidence showing that the statement was substantially true": *Bent*, at para. 107, citing *Grant*, at para. 33. In *Hamlin v. Kavanagh*, 2019 ONSC 5552, at para. 55, Cavanagh J. concludes that "minor inaccuracies" will not prevent a defendant from succeeding with the defence of justification.

[95] A limited assessment of the record reveals that Ms. Hategan's version of the events, as described in the Article and the Posts, including in the impugned words, is quite different from the versions of the events described in the ApSimon and Vitale affidavits.

[96] Some events described in the Article did not involve Ms. Hategan. At least one of Ms. Hategan's sources for portions of the Article is the Female Fencer. That individual's name is not identified in either the Article or the Hategan affidavits. To the extent that Ms. Hategan relies on (a) information received from the Female Fencer, and (b) a personal belief in the truth of that information, the Hategan affidavits do not meet the requirements for admission of evidence, on a motion, based on information and belief: see *Rules of Civil Procedure*, r. 39.01(4).

[97] For the trier to determine whether the defence of justification succeeds may require credibility assessments of the parties, Ms. Vitale, and, if called as witnesses, Ms. Hategan's source(s).

[98] As but one example of the differences in the versions of events presented by Ms. Hategan and Mr. ApSimon, I refer to the subject of hours of coaching or training Ms. Hategan received at the shared facility. In her factum, Ms. Hategan summarizes her "perception" as detailed in the Article and in her affidavits. Ms. Hategan's perception includes that "ApSimon slighted her training in favour of his favourites, women with whom he was intimate with or who were more ready to participate in the provocative play at club gatherings at ApSimon's family cottage."

[99] Leaving aside the parties' contradictory evidence as to Mr. ApSimon's role in Team selection, in his affidavit, Mr. ApSimon denies that there was favouritism towards members of either the Team or the Club on the basis of a member having been intimate with a coach. In his affidavit, Mr. ApSimon explains that the number of hours of coaching or training that members received depended, at least in part, on how competitive an athlete they were. Mr. ApSimon's evidence is that the more competitive a fencer was, the more lessons they received at the shared facility.

[100] For the purpose of Ms. Hategan's motion, it is not possible to make the findings required to resolve the many contentious factual issues related to the events described or to other matters covered in the impugned words.

[101] I turn to the concept of the 'sting' or main thrust of allegedly defamatory words. To succeed with the defence of justification it will not be sufficient for Ms. Hategan to satisfy the trier that the impugned words include only accurate facts, if she is otherwise unable to satisfy the trier that the sting of the impugned words is also true: see *Bent*, at para. 107. The sting of allegedly defamatory words is understandably important when those words relate to sexual impropriety, athlete mistreatment, and abuse of power in the coach-athlete dynamic.

[102] On the evidentiary record, I am satisfied that a reasonable trier could conclude that the defence of justification will not succeed.

iii) The Defence of Fair Comment

[103] In *WIC Radio*, at para. 28, the Supreme Court endorses Dickson J.'s (as he then was) dissenting reasons in *Cherneskey v. Armadale Publishers Ltd.*, [1979] 1 SCR 1067, at pp. 1099-1100, and lists the following as the main principles relating to the defence of fair comment:

> (a) the comment must be on a matter of public interest;
>
> (b) the comment must be based on fact;
>
> (c) the comment, though it can include inferences of fact, must be recognisable as comment;
>
> (d) the comment must satisfy the following *objective* test: could any [person] honestly express that opinion on the proved facts?
>
> (e) even though the comment satisfies the objective test the defence can be defeated *if the plaintiff proves that the defendant was [subjectively] actuated by express malice.* [Emphasis added.]

[104] At p. 1100 of *Chernesky*, Dickson J. summarizes, as follows, the issue to be determined when the defence of fair comment is put forward: "Could [any person] honestly express that opinion on the proved facts?"

[105] For the purpose of the motion now before the court, the parties agree and I find that the subject-matter of the impugned words is a "matter of public interest" within the meaning of the first principle cited above. I will address the other four principles.

- ***The comment must be based on fact***

[106] To succeed with the defence of fair comment, Ms. Hategan must satisfy the trier that the impugned words are based on true facts. Where "the factual foundation is unstated or unknown, or turns out to be false, the fair comment defence is not available": *WIC Radio*, at para. 31, citing *Price v. Chicoutimi Pulp Co.* (1915), 51 S.C.R. 179, at p. 194.

[107] Mr. ApSimon submits that, to the extent the impugned words include expressions of Ms. Hategan's opinion, Ms. Hategan "misstated and invented many facts that underpin her opinions". In his factum, Mr. ApSimon lists six subject matters about which he asserts Ms. Hategan misstated or invented the underlying facts.

[108] In this ruling, I have several times mentioned the extent to which the parties differ in their respective versions of events described in the impugned words. Those differences are relevant to the defence of fair comment. For the reasons explained under the defence of justification, I am satisfied that a reasonable trier could conclude that the factual foundation does not exist to support the comment(s) made in the impugned words.

[109] On the limited assessment permitted of the evidentiary record, I am satisfied that a reasonable trier could conclude that Ms. Hategan is unable to satisfy the second criterion for the defence of fair comment.

- ***The comment, though it can include inferences of fact, must be recognizable as comment***

[110] In *WIC Radio*, at para. 26, Binnie J., writing for the majority, defines "comment" as including a "deduction, inference, conclusion, criticism, judgment, remark or observation which is generally incapable of proof".

[111] Ms. Hategan begins her pleading of the defence of fair comment with the following sentence: "Elisa pleads that any reasonable reader of the words complained of would assume and believe that they are not statements of fact, but opinions or comments or facts coloured by Elisa's experience as a University of Ottawa fencer and her experience with ApSimon, that could honestly be held by Elisa in the circumstances."

[112] Mr. ApSimon's position is that the impugned words do not include fair comment – the impugned words are presented as facts, not as Ms. Hategan's thoughts or beliefs.

[113] Based on a limited assessment of the evidentiary record, I note the following points. First, in the Article, Ms. Hategan describes its contents as (a) "an account that spans over 25 years", and (b) including "shocking revelations". In addition, Ms. Hategan refers to going public with "her story". None of that language suggests that the contents of the Article include one or more of a deduction, inference, judgment, remark, or observation. The language used to describe the contents of the Article speaks to a factual recounting.

[114] Second, Ms. Hategan explains that a portion of the Article is taken from the complaint she filed with each of the Federation and the Independent Safe Sport Official. The excerpt from the complaint begins with the following statement: "Everything I write here is the truth to the best of my recollection, and supported by descriptions noted in fencing journal entries from 1995-1998." To that introductory statement, Ms. Hategan adds that she is "willing to swear an affidavit, if required" (i.e., to support her complaint). Once again, the language used speaks to a factual recounting and not to deductions, inferences, judgments, remarks, or observations.

[115] Third, in the Article, Ms. Hategan refers to her telephone conversation with the Female Fencer. Ms. Hategan refers to that individual's "story" and recites events said by that individual to have happened. Some of the events described involve Mr. ApSimon. The telling of that individual's "story" speaks to a factual recitation and not to deductions, inferences, judgments, remarks, or observations.

[116] I am satisfied that a reasonable trier could conclude that the impugned words are not recognizable as comment and, therefore, that the third criterion for the defence of fair comment is not satisfied.

- ***The comment must satisfy an objective test***

[117] In *WIC Radio*, at para. 49, Binnie J. highlights that the test applied when the defence of fair comment is advanced "represents a balance between free expression on matters of public interest and the appropriate protection of reputation against damage that exceeds what is required to fulfill free expression requirements." In the same paragraph, Binnie J. describes the test as "the 'honest belief' component of fair comment".

[118] In the heading preceding para. 49 of *WIC Radio*, Binnie J. sets out the honest belief test as requiring that the following question be answered: "[Could anyone] honestly have expressed the defamatory comment on the proven facts"?

[119] It is important to step back from that question and remember that "[i]f the factual foundation is unstated or unknown, or turns out to be false, the fair comment defence is not available": *WIC Radio*, at para. 31, citing *Price*, at p. 194.

[120] Once again, the contentious facts and the extent of the differences in the parties' and Ms. Vitale's recounting of events is relevant. For example, Ms. Hategan's evidence is that Mr. ApSimon (a) passively permitted the existence, or otherwise fostered a culture, of bullying; and (b) engaged in retaliatory measures against her. Mr. ApSimon and Ms. Vitale's evidence regarding the events and conduct described by Ms. Hategan paints a different picture of Mr. ApSimon and how Team and Club members, including Ms. Hategan, were treated.

[121] In addition, it is once again relevant that several events described in the impugned words do not involve Ms. Hategan. To the extent that Ms. Hategan relies, for the purpose of this motion, on information from the Female Fencer, to support the truth of foundational facts, that evidence is, for the reasons stated above, inadmissible.

[122] Based on the limited assessment of the evidentiary record permitted at this stage of the proceeding, I am satisfied that a reasonable trier could conclude that the honest belief component of the defence of fair comment is not met.

- ***Even though the comment satisfies the objective test the defence can be defeated if the plaintiff proves that the defendant was actuated by express malice***

[123] What does "malice" mean in the context of the defence of fair comment? In this context, "[m]alice is not limited to spite or ill will"; it can include "any indirect motive or ulterior purpose": *Chernesky*, at p. 1099. In addition, "[m]alice is not limited to an actual, express motive to speak dishonestly. Instead, it can be established by 'reckless disregard for the truth'": *Bent*, at para. 136.

[124] In Hategan affidavit no. 1, Ms. Hategan describes her intention in writing and publishing the Article. Ms. Hategan's evidence is that her "intent was to write a fair, evidence-backed article that moved beyond my own personal experiences with ApSimon, to address problems in Canadian fencing that I believed were being ignored and/or deliberately concealed by the [Federation]."

[125] Mr. ApSimon disputes Ms. Hategan's portrayal of her motivation as being to write a fair piece of investigative journalism. Mr. ApSimon's position is that the evidence supports a finding that, at a minimum, Ms. Hategan had an ulterior motive and, in any event, was motivated by malice. Mr. ApSimon asks the court to consider the following factors:

- At the same time that she published the Article, Ms. Hategan made available to the public a document that was intended to remain confidential (the 2021 Report);

- Through the publication of the 2021 Report, Ms. Hategan made public the names of three complainants, all of whom had expected confidentiality in the context of an investigation and reporting on it;

- Ms. Hategan made minimal effort to anonymize Ms. Vitale's identity in the Article. Instead of using Ms. Vitale's actual given name of "Dina", Ms. Hategan refers to Ms. Vitale as "Deena"; and

- The Article includes a photograph of Ms. Hategan with two female fencers. One of those fencers is Ms. Vitale; she did not consent to the use of her likeness in the Article.

[126] Mr. ApSimon asks the court to consider the possibility that Ms. Hategan was motivated by her resentment towards and disdain for him because of her beliefs about the role he played in her not being selected as a member of the Team and in her receiving fewer hours of training and coaching than did other athletes.

[127] Broadly speaking, in the absence of a fulsome record, it is not possible to resolve the factual disputes as to Ms. Hategan's motivation. Without cross-examination of Ms. Hategan, it is not possible to assess whether she was motivated by an indirect motive or ulterior purpose. Regardless, I am satisfied that, even if the honest-belief test is met, a reasonable trier could conclude that Ms. Hategan was "actuated by express malice": see *WIC Radio*, at para. 28; *Chernesky*, at p. 1100.

- ***Summary – The Defence of Fair Comment***

[128] For those reasons, I am satisfied that a reasonable trier could conclude that the defence of fair comment will not succeed.

iv) The Defence of Responsible Communication

[129] The defence of responsible communication "has two essential elements: public interest and responsibility": *Grant*, at para. 98. To succeed with the defence of responsible communication, a defendant must satisfy a two-part test. "First, the publication must be on a matter of public interest. Second, the defendant must show that publication was responsible, in that he or she was diligent in trying to verify the allegation(s), having regard to all the relevant circumstances.": *Grant*, at para. 98.

[130] In *Grant*, McLachlin C.J. reviews the approach to be taken for the first part of test. First, when determining whether a publication is about a matter of public interest, "the judge must consider the subject matter of the publication as a whole": *Grant*, at para. 101.

[131] Second, it is sufficient that "some segment of the community would have a genuine interest in receiving information on the subject": at para. 102. Relying on a well-known text on the law of defamation, at para. 105, McLachlin C.J. explains that for the subject matter to be of public interest, it "must be shown to be one inviting public attention, or about which the public has some substantial concern because it affects the welfare of citizens, or one to which considerable public notoriety or controversy has attached."

[132] For the motion before this court, the parties agree, and I find, that the subject matter of the Article and the Posts is of public interest. Therefore, in assessing whether responsible communication is a valid defence, the critical issue is whether Ms. Hategan "was diligent in trying to verify the allegation(s), having regard to all the relevant circumstances": see *Grant*, at para. 98.

[133] At para. 126 of *Grant*, McLachlin C. J. lists eight factors relevant to diligence in verification of the allegations:

> (a) the seriousness of the allegation;
>
> (b) the public importance of the matter;
>
> (c) the urgency of the matter;
>
> (d) the status and reliability of the source;
>
> (e) whether the plaintiff's side of the story was sought and accurately reported;
>
> (f) whether the inclusion of the defamatory statement was justifiable;
>
> (g) whether the defamatory statement's public interest lay in the fact that it was made rather than its truth ("reportage"); and
>
> (h) any other relevant circumstances.

[134] Ms. Hategan's position is that she demonstrated the requisite level of diligence because she (a) relied on her personal journal, with notes made contemporaneous to the events described in the impugned words; (b) consulted with other fencers with experience related to the matters addressed in the impugned words; and (c) consulted the 2021 Report.

[135] Mr. ApSimon's position is that when the factors listed in para. 133, above, are considered, Ms. Hategan falls short of the level of diligence required to succeed with the defence of responsible communication. Starting with item (a), Mr. ApSimon points to the serious sting of the communication – a sting that he asserts is clear.

[136] In light of the serious nature of both the communication and the events described, a reasonable trier could conclude that Ms. Hategan was required to rely on something more than personal recollection of Team and Club events. There is nothing in the impugned words and no evidence from Ms. Hategan to suggest that she consulted with anyone who was a Team or Club member during the relevant years.

[137] Mr. ApSimon addresses public importance (item (b)) and urgency (item (c)) together. In doing so, Mr. ApSimon does not dispute the public importance of the broad subject matter of the impugned words. In this context, Mr. ApSimon describes the subject matter as "the safe sport process".

[138] Regardless of how the matter of public interest is characterized, Mr. ApSimon's position is that there was no urgency, in 2023, to publish an article about events alleged to have occurred 25 years earlier without exercising diligence to verify the information. Ms. Hategan does not provide any evidence to support a finding, nor does she submit, that there was an element of urgency in the timing of publication of the Article.

[139] Mr. ApSimon questions the status and reliability of Ms. Hategan's sources (item (d)). Those sources are restricted to (a) Ms. Hategan – relying on memory and notes made 25 years earlier; (b) the Female Fencer – with no evidence as to efforts made to verify the information received from that individual; and (c) the contents of a report that was intended to remain confidential.

[140] Ms. Hategan acknowledges that she did not reach out to Mr. ApSimon for his side of the story (item (e)).

[141] Mr. ApSimon's position is that if Ms. Hategan's motivation was, as she claims, to spark a conversation about the 2021 Report, and to address safe sport issues in fencing, then it was not necessary for Ms. Hategan to include "scandalous and untrue allegations" about Mr. ApSimon (item (f)).

[142] On a limited assessment of the record, it is possible to contrast the primary subject of the 2021 Report with contents of the Article. I start with the 2021 Report.

[143] The 2021 Report addresses complaints received from three athletes who, at the relevant time, were competing at an elite level of fencing. The athletes' complaints relate to treatment received from one of their coaches. That coach is not Mr. ApSimon.

[144] Mr. ApSimon is mentioned in and was interviewed prior to the preparation of the 2021 Report because, at the relevant time, he was the head coach of national level programs in which the complainants were participating. There is no mention in the 2021 Report of sexually inappropriate behaviour on the part of any coach, including the coach who is the subject of the complaints.

[145] In the Article, Ms. Hategan refers to the 2021 Report as including a determination regarding "the existence of a 'culture of systemic bullying' in the sport [of fencing]". I contrast that expression with the contents of the 2021 Report in which the author of the report refers, at least twice, to the existence of "a climate that resembles a culture of systemic bullying."

[146] On a limited assessment of the record, Ms. Hategan's failure to accurately quote from the Article – about one of the primary topics covered in it – is of concern. That failure is of concern because Ms. Hategan asks the court to consider the Article in the context of her work as a journalist.

[147] I contrast the primary subject of the 2021 Report with the contents of the Article. The introductory section of the Article includes the following two paragraphs:

> What you're about to read is an account that spans over 25 years and will blow the lid off an obscure, little-known sport where misconduct keeps getting covered up, largely the result of an incestuous subculture where almost everyone seems to know each other and psychological harm is overlooked at the expense of athletes' well-being.
>
> Ultimately, what started out as me tweeting about my experiences as a student athlete at the University of Ottawa in the 1990s, led me down a rabbit hole of coach abuse, power imbalance and athlete mistreatment spanning over two decades and culminating in an ongoing crisis in Canadian fencing that impacted Canada's Olympic fencing team as recently as the Tokyo 2021 Olympic Games, but has been kept under wraps with the knowledge and complicit of the Canadian Fencing Federation (CFF). (Underlining in original.)

[148] For the moment, the purpose of contrasting the subject matter of the 2021 Report with the contents of the Article is to address item (f) from para. 133, above. I am satisfied that a reasonable trier could conclude that the allegedly salacious and scandalous content about Mr. ApSimon's conduct described in the Article, goes beyond the consideration of the culture in fencing and extends to consideration of Mr. ApSimon as an individual, including how he conducts himself in his personal life.

- ***Summary – The Defence of Responsible Communication***

[149] Based on a limited assessment of the record, I am satisfied that a reasonable trier could conclude that the defence of responsible communication will not succeed. I turn to the fourth and final defence advanced.

v) The Limitation Defence

[150] In her statement of defence, Ms. Hategan raises a limitation defence specific to claims based on the contents of the Posts. Ms. Hategan's position is that the limitation period within which to advance claims in defamation based on the contents of the Posts expired, at the latest, in August 2014.

[151] Without citing the relevant statutory provisions, Ms. Hategan relies on the two-year limitation period prescribed in the *Limitations Act, 2002*, S.O. 2002, c. 24, Sched. B., s. 4. In her pleading, Ms. Hategan addresses and relies on the discoverability principle as part of her limitation defence. Once again, she does so without citing the relevant statutory provision: *Limitations Act, 2002*, s. 5.

[152] In response, Mr. ApSimon's position is that he did not know, nor could he, through the exercise of reasonable diligence, have known, of the existence of the Posts at any time prior to the first quarter of 2023. It is undisputed that Mr. ApSimon's name does not appear in either of the Posts. Mr. ApSimon's evidence is that he did not become aware of the existence of the Posts until he was made aware of the Article. That evidence is unchallenged.

[153] Ms. Hategan's evidence addresses the attention the Posts received when they were each first published. Ms. Hategan reviews the extent to which the Posts were, at the time of their publication, known within the fencing community; the keywords with which the Posts were tagged; how the Posts were indexed on Google; and the number and nature of comments made by fencers shortly after each of the Posts was published.

[154] It is not possible on a limited assessment of the record, and potentially without assessing Mr. ApSimon's credibility, to determine the merits of the limitation defence upon which Ms. Hategan relies. With Mr. ApSimon relying on the discoverability principle, I am satisfied that a reasonable trier could conclude that the limitation defence will not succeed.

vi) Summary – s. 137.1(4)(a)(ii)

[155] For the reasons explained above, I am satisfied that a reasonable trier could conclude that none of the defences will succeed. Put another way, each of the defences could go either way – meaning that each of the defences could be rejected.

[156] I am satisfied there are grounds to believe Ms. Hategan has no valid defence in the proceeding.

[157] Before leaving the merits-based hurdle, I will address two defences identified in the record and for which no reasons are provided in this ruling. The first such defence is qualified privilege. Ms. Hategan includes that defence in her pleading – prepared at a time when she was self-represented. She did not rely on that defence for the purpose of the motion now before the court.

[158] The second such defence is a defence described in Ms. Hategan's factum as "Unreasonability". In her factum, Ms. Hategan submits that "[t]he unreasonability of the allegations [made by Mr. ApSimon and reviewed in her factum] constitutes a valid defence to the claim". Whether the allegations made by Mr. ApSimon are reasonable is not an issue at the s. 137.1(4)(a)(ii) stage of the analysis. A qualitative assessment of the allegations made by Mr. ApSimon is carried out at other stages of the analysis under s. 137.1(4), both above and below.

d) Summary – The Merits-Based Hurdle (ss. 137.1(4)(a)(i) and (ii))

[159] Mr. ApSimon has satisfied the burden he bears regarding the merits-based hurdle. What remains to be determined is whether he has satisfied the burden he bears under s.137.1(4)(b) – the public interest hurdle.

The Public Interest Hurdle

a) Overview

[160] The public interest hurdle stipulated in s. 137.1(4)(b) requires the responding party to satisfy the judge that "the harm likely to be or have been suffered by the responding party as a result of the moving party's expression is sufficiently serious that the public interest in permitting the proceeding to continue outweighs the public interest in protecting the expression."

[161] In *Pointes*, at para. 61, Côté J. describes s. 137.1(4)(b) as "the crux of the analysis" on a motion pursuant to s. 137.1. There are two components to the analysis under this subsection: (i) the harm analysis; and (ii) the weighing of public interest: *Pointes*, at paras. 68, 73. I will address each component separately.

b) The Harm Analysis

i) The Law

[162] To meet their burden on the harm analysis, the plaintiff must show: "(i) the existence of harm and (ii) causation – the harm was suffered *as a result* of the moving party's expression": *Pointes*, at para. 68 (emphasis in original). The following principles, as to the type of harm that must be shown to exist, are taken from paras. 69-71 of *Pointes*:

- Monetary harm and non-monetary harm are relevant to establishing the existence of harm. "[N]either type of harm is more important than the other" (para. 69);

- There is no threshold to be met before the alleged harm will be considered. The magnitude of the harm is, however, relevant for the weighing exercise carried out under the second component of the plaintiff's burden at this stage of the analysis (para. 70); and

- The question to be answered is as to the existence, not the quantification, of the harm (para. 71).

[163] Establishing a causal link between the expression and the impugned words is not an all-or-nothing proposition. The causal link between the impugned words might be weak for some elements of the harm and strong for other elements: *Pointes*, at para. 72.

ii) The Positions of the Parties

- ***Mr. ApSimon***

[164] Mr. ApSimon does not take an all-or-nothing approach to the alleged existence of harm. He acknowledges that the portion of the impugned words related to his coaching style or technique – even if entirely untrue – might not be sufficient to satisfy the burden he bears to establish the existence of harm justifying the continuation of the action.

[165] For the purpose of the harm analysis, Mr. ApSimon focuses on the portion of the impugned words related to sexual impropriety and manipulation of athletes. Mr. ApSimon asks the court to consider the significant defamatory sting and reputational harm that results from that portion of the impugned words. Mr. ApSimon submits that allegations of the kind included in the impugned words can be exceedingly difficult for an individual to shake off – even when there is overwhelming evidence to disprove the defamatory allegations.

- ***Ms. Hategan***

[166] Ms. Hategan's position is that Mr. ApSimon has presented virtually no evidence of harm suffered. Ms. Hategan submits that (a) Mr. ApSimon relies on nothing more than a "bald assertion" of reputational harm, and (b) such an assertion is insufficient to satisfy the burden he bears at this stage of the analysis.

iii) Analysis

- ***Evidence of Harm***

[167] For the reasons that follow, I am satisfied that Mr. ApSimon has met the burden he bears to establish the existence of harm.

[168] First, I reject Ms. Hategan's submission that Mr. ApSimon does nothing more than make a "bald assertion" as to reputational harm. I am satisfied that Mr. ApSimon does something more than ask the court to take at face value the harm pleaded: see *Pointes*, at para. 71. In both his pleading and his affidavit, Mr. ApSimon addresses his standing in the fencing community and in the community at large, as well as the impact of the impugned words on his reputation.

[169] At para. 8 of the statement of claim, Mr. ApSimon alleges that the impugned words are "entirely false and have seriously affected [his] reputation in the fencing community, but also in the community at large." In both his pleading and his affidavit, Mr. ApSimon addresses the subject of reputational harm in more detail.

[170] Both the statement of claim and the ApSimon affidavit speak to Mr. ApSimon's standing in the fencing community, standing in the community at large, and reputation – all of which are built, at least in part, on the following features of his career in fencing and the recognition he received:

- His participation as an athlete at international level competitions;
- As a coach of the Canadian Olympic Fencing Team for four Olympic Summer Games;
- Being recognized by the Federation as Coach of the Year in 2017;
- As the owner, operator, and head coach of a fencing club in Ottawa; and
- As a recipient of a Queen Elizabeth II Diamond Jubilee Medal.

[171] In Hategan affidavit no. 1, Ms. Hategan's evidence is that Mr. ApSimon "has a sizeable online audience in the North American fencing community." Mr. ApSimon disputes that he has much of an online presence. Based on Ms. Hategan's evidence alone, a reasonable trier could conclude that the existence of "a sizeable online audience" speaks to Mr. ApSimon's standing and reputation in the fencing community.

[172] In his pleading, Mr. ApSimon addresses the extent to which the Article has been read, shared, and reposted. He makes the following allegations about the extent of the publication of the Article:

- Ms. "Hategan's Twitter account is public and accessible to anyone with internet access";
- As of March 9, 2023, when the statement of claim was issued, the Article (posted on February 21, 2023) "had approximately 18,000 views"; and

- The Article "has been widely shared and reposted".

[173] In his affidavit, Mr. ApSimon says that (a) Ms. Hategan has 20,000 followers on her public X account; and (b) as a result of the Article, he was "very concerned about the impact of [Ms. Hategan's] defamation on his reputation".

[174] Mr. ApSimon's concern about the impact of the defamation on his reputation is also addressed in the following allegations in his statement of claim:

- The impugned words are "of concern" to Mr. ApSimon regarding "his standing in the fencing community and in the community at large, his professional reputation, and on a personal basis";

- The impugned words, whether on their face or by innuendo, "tend to, and do in fact, lower [Mr. ApSimon] in the estimation of reasonable people and would cause, and have in fact caused, [Mr. ApSimon] to be regarded with feelings of hatred, contempt, ridicule, fear, or dislike. The statements tend to, and do in fact, injure, prejudice and disparage [Mr. ApSimon] in the eyes of others"; and

- Ms. Hategan has "defamed [Mr. ApSimon] in his character, honesty, and integrity."

[175] In summary, I am satisfied that Mr. ApSimon does more than make a bald assertion of reputational harm.

[176] Second, I reject Ms. Hategan's submission that Mr. ApSimon's evidence about the level of support he received subsequent to the posting of the Article runs contrary to the existence of reputational harm.

[177] In his affidavit, Mr. ApSimon describes his response to the Article. The response was posted on his X account on March 2, 2023. Parenthetically, Mr. ApSimon notes that, as of that date, he had 214 followers. I am satisfied that a reasonable trier could draw an inference from the timing of the response (i.e., less than two weeks after the Article was published), to support a finding that Mr. ApSimon was genuinely concerned about the serious nature of the reputational harm arising from the Article.

[178] In the March 2023 response, Mr. ApSimon expresses appreciation for "the hundreds of messages and factual letters [he received] from those directly involved and named, recounting their experiences from their years at [the shared facility] in the 1990s and from when [he] started with the National Team in 2010."

[179] The fact that Mr. ApSimon has the support of some members of the fencing community does not, in and of itself, detract from the existence of harm. For example, and without making a finding on the point, individuals may be providing support to Mr. ApSimon because they recognize the existence and seriousness of the reputational harm he alleges arises from the impugned words.

[180] Third, I consider the significance of reputational harm in general. In *Bent*, at para. 146, Côté J. highlights that "reputational harm is eminently relevant to the harm inquiry under s. 137.1(4)(b)." In same paragraph, Côté J. includes the following passage from *Pointes*, at para. 69, to further emphasize the significance of reputational harm: "reputation is one of the most valuable assets a person or a business can possess." Also, in para. 146 of *Bent*, Côté J. notes that the Supreme Court of Canada "has repeatedly emphasized the weighty importance that reputation ought to be given."

[181] In *Bent*, the individual alleging that his reputation was harmed by defamatory remarks was a professional (a medical doctor). The importance of an individual's reputation is "only amplified when one considers *professional* reputation": *Bent*, at para. 147 (emphasis in original). In the same paragraph, Côté J. describes the medical and legal professions as "comprised of professionals who rely on their individual expertise to succeed within their respective professions."

[182] Mr. ApSimon does not suggest that he is a member of a profession. Without making a finding on the point, the extent to which Mr. ApSimon relies on his individual expertise, as an athlete and a coach, may be analogous to the individual expertise upon which members of the medical and legal professions rely to succeed in their respective professions. I am satisfied that a reasonable trier could conclude that in his various roles for the fencing club he owns and operates, including as head coach, Mr. ApSimon relies on individual expertise to succeed with both the business side and competitive aspects of fencing.

[183] Fourth, it matters not that the reputational harm Mr. ApSimon alleges he has suffered is not quantifiable at this stage of the proceeding: see *Bent*, at para. 148; *Pointes*, at para. 71. A fully developed damages brief is not required: *Bent*, at para. 145.

[184] It is important to remember that s. 137.1(4)(b) speaks of "the harm likely to be or have been suffered" by the responding party on the motion. The descriptor "likely to be or have been suffered" reminds the parties and the court that a definitive finding about the existence or the lack of harm is not required on such a motion: *Pointes*, at para. 71.

[185] Mr. ApSimon has satisfied the burden he bears to establish the existence of harm. I move on, then, to consider the issue of a causal link between the harm likely to be or have been suffered and the expression.

- ***A Causal Link Between the Harm Suffered and the Expression***

[186] For the reasons that follow, I am satisfied that Mr. ApSimon has, for the purpose of the motion, established a causal link between the impugned words and the reputational harm he alleges he suffered.

[187] In reaching that conclusion, I keep in mind the animating purpose of s. 137.1(4)(b). That purpose is described as follows by Côté J. in *Bent*, at para. 150: "[T]he point is for the plaintiff to show that they have a legitimate impetus for bringing their lawsuit, by virtue of a legitimate harm that they seek to remedy, in order to alleviate the apprehension that they are using litigation as a tool to quell expression and silence the defendant."

[188] Ms. Hategan is critical of some of the particulars of defamation pleaded by Mr. ApSimon. Specifically, Ms. Hategan asks the court to consider the particulars pleaded at paras. 25a, 25d, 25i, and 25j of the statement of claim. Ms. Hategan's submission is that the defamatory meaning alleged in each of those subparagraphs is not found in the Article. As an example, Ms. Hategan submits that the Article does not state that Mr. ApSimon "[d]emanded or expected sexual favours from athletes he coached" (as alleged in para. 25a).

[189] I reject Ms. Hategan's submission in that regard. Her submission overlooks the introductory language of para. 25 of the statement of claim. Mr. ApSimon therein pleads that the impugned words "contain serious false allegations against [him], in their plain and ordinary meaning or by virtue of the surrounding circumstances, which give the words a defamatory meaning and/or innuendo, in that they falsely state and/or infer that", with the subparagraphs following thereafter.

[190] First, it is clear that Mr. ApSimon meant to allege that the impugned words "falsely state and/or *imply* that …". Second, Mr. ApSimon may ultimately fail to satisfy the trier that the alleged innuendo or implied meaning exists. That said, an all-or-nothing approach to the potential causal link between the harm alleged and the impugned words is not required.

[191] Taking into consideration the nature of the Article and the contents of the impugned words, I conclude that Mr. ApSimon has met the burden he bears at the causal link stage of the analysis. I move on the last step in the analysis, the weighing exercise.

c) The Weighing Exercise

i) The Law

[192] For the purpose of s. 137.1(3), the parties agree, and I find, that the impugned words relate to a matter of public interest. To make that finding, the court carried out a qualitative assessment.

[193] The phrase "public interest", as it appears in s. 137.1(4)(b) means something different from the meaning it is given under s. 137.1(3). In *Pointes*, at para. 74, Côté J. provides the following explanation as to what "public interest" means for the purpose of s. 137.1(4)(b):

> [T]he legislature expressly makes the public interest relevant to specific goals: permitting the proceeding to continue and protecting the impugned expression. Therefore, not just *any matter* of public interest will be relevant. Instead, the *quality* of the expression, and the *motivation* behind it, are relevant here. [Emphasis in original.]

[194] Mr. ApSimon bears the burden of establishing that the "public interest in allowing the underlying proceeding to continue *outweighs* the deleterious effects on expression and public participation": *Pointes*, at para. 82 (emphasis in original).

ii) The Positions of the Parties

- ***Mr. ApSimon***

[195] Mr. ApSimon's position is that the public interest in allowing him, as a target of allegations of sexual impropriety and other scandalous conduct, to defend his reputation publicly in court outweighs the public interest in protecting Ms. Hategan's expressions in the Article and the Posts. Mr. ApSimon submits that his interest in pursuing vindication of his reputation is sufficient for the court to dismiss the motion and permit him to continue the action.

- ***Ms. Hategan***

[196] Ms. Hategan's position is that the public interest in protecting her expressions outweighs the public interest in permitting Mr. ApSimon to continue his action. Ms. Hategan characterizes her expressions as dealing with "subtle and complex concerns" about abuse of power in the coach-athlete dynamic.

[197] In support of her position, Ms. Hategan relies on evidence or documents about (a) events that occurred following the publication of the Article; (b) hazing rituals in other sports; (c) locker room culture in sports; and (d) examples of the coach-athlete power imbalance in other sports, including alpine skiing. Ms. Hategan's position is that allowing Mr. ApSimon's action to continue would have a chilling effect on further public expressions by others on the subjects addressed in the Article and the Posts.

iii) Analysis

[198] Section 137.1(4)(b) "serves as a robust backstop for motion judges to dismiss even technically meritorious claims if the public interest in protecting the expression that gives rise to the proceeding outweighs the public interest in allowing the proceeding to continue": *Pointes*, at para. 62. For the reasons that follow, I conclude that the public interest in allowing the proceeding to continue outweighs the public interest in protecting Ms. Hategan's expressions.

[199] First, I find that Mr. ApSimon's action does not have any hallmarks of a 'SLAPP'. For example, there is no evidence that Mr. ApSimon has a history as a litigious person or that he has historically used the threat of litigation in an attempt to silence critics. In addition, the evidence does not support a finding that Mr. ApSimon's motivation in pursuing the action is to chill discussion about safe sport – either generally or specific to the coach-athlete dynamic.

[200] Second, I reject Ms. Hategan's submissions regarding an alleged imbalance of financial power between the parties. Mr. ApSimon commenced the action under the Simplified Procedure. That choice of proceeding is indicative of a proportional approach to a claim in defamation. Also indicative of Mr. ApSimon's proportional approach to the proceeding is the restriction to $200,000 of the total of the damages claimed (i.e., the maximum amount permitted under the Simplified Procedure).

[201] The fact that Ms. Hategan no longer resides in Ottawa and may have to incur expenses to attend trial in person in Ottawa is not sufficient to support a finding of imbalance of financial power between the parties.

[202] Third, the evidence does not support a finding that allowing Mr. ApSimon's action to continue will have a chilling effect on the continued disclosure of and public debate about safe sport, including the coach-athlete dynamic. If anything, the existence of the documents included as exhibits to the Hategan affidavits supports a finding that such topics are now (a) discussed more openly than they were historically, and (b) being brought to the attention of the public with greater regularity than they were historically.

[203] Last, Mr. ApSimon asks the court to consider Ms. Hategan's counterclaim and the fact that if the motion is granted, the litigation will not be brought to an end – Ms. Hategan will be entitled to pursue her counterclaim. In that regard, Mr. ApSimon highlights that the allegations in the counterclaim include references to the Article and the 2021 Report, with the result that many of the issues raised by the main action would, in any event, have to be determined on the counterclaim.

[204] Mr. ApSimon's position is that with the counterclaim still to be determined, dismissal of his action would not serve a public interest and the objectives of s. 137.1 would not be achieved: see *Yates v. Iron Horse Corporation and St. Martin*, 2023 ONSC 4195, at para. 130.

[205] During oral submissions – in reply to Mr. ApSimon's submissions regarding the counterclaim – Ms. Hategan informed Mr. ApSimon (for the first time) and the court that she would abandon her counterclaim if her motion were granted.

[206] I agree with Mr. ApSimon that the existence of the counterclaim brings into question whether dismissal of the main action would serve the public interest and achieve the objectives of s. 137.1. Regardless of the existence of the counterclaim, I am satisfied that the public interest in allowing Mr. ApSimon to continue the action outweighs the public interest in the protection of Ms. Hategan's expressions.

iv) Summary – The Weighing Exercise

[207] In *Pointes*, at para. 81, Côté J. describes s. 137.1(4)(b) as "open-ended" in nature. In the same paragraph, Côté J. highlights that "s. 137.1(4)(b) provides courts with the ability to scrutinize what is really going on in the particular case before them".

[208] In scrutinizing what is really going on in the case before the court, I am satisfied that Mr. ApSimon is attempting to legitimately recover for the reputational harm arising from what he alleges are defamatory statements. As explained by McLachlin C.J. in *Grant*, at para. 58, "the right to free expression does not confer a licence to ruin reputations".

[209] As to what is really going on regarding Ms. Hategan's publication of the Article and the Posts, the evidence, as presented at this early stage of the proceeding, raises concerns about Ms. Hategan's (a) motivation in publishing the Article and the Posts; (b) level of diligence in attempting to verify the allegations; and (c) lack of concern for others by making available to the public a report that was otherwise intended to remain confidential. It remains to be seen whether the court will agree with Ms. Hategan's description, in her factum, of the Article as "a piece of professional journalism".

[210] In summary, I find that the public interest in allowing the proceeding to continue outweighs the public interest in the protection of Ms. Hategan's expressions. I am satisfied that Mr. ApSimon has met the burden he bears for the weighing exercise pursuant to s. 137.1(4)(b).

Disposition

[211] Ms. Hategan's motion pursuant to s. 137.1 of the *CJA* is dismissed.

Costs of the Motion

[212] The starting point for consideration of costs of the motion is s. 137.1(8). Pursuant to that subsection, "[i]f a judge does not dismiss a proceeding under this section, the responding party is not entitled to costs on the motion, unless the judge determines that such an award in appropriate in the circumstances." Had Ms. Hategan been successful on the motion, she would, subject to the court's discretion, have been entitled to her costs of the motion on a full indemnity basis: see s. 137.1(7).

[213] In his factum, Mr. ApSimon asks the court to exercise its discretion pursuant to s. 137.1(8) and make an award of costs in his favour. He does not stipulate the scale upon which he asks the court to make that award – full, substantial, or partial indemnity.

[214] Both parties delivered costs outlines in September 2024, at the outset of the motion. Mr. ApSimon delivered an updated costs outline prior to the third and final day of the hearing of the motion in June 2025. In their respective costs outlines, the parties address the factors listed in r. 57.01(1) of the *Rules of Civil Procedure* that they each considered relevant as of June 2025 (Mr. ApSimon) and September 2024 (Ms. Hategan).

[215] In my view, before the court makes a determination on the issue of costs it is appropriate to allow the parties an opportunity to resolve costs. If the parties are unable to do so, then they shall make brief written submissions on the issues of (a) entitlement, and (b) scale. The court does not require any additional materials or submissions to determine the quantum of costs (i.e., if an award of costs is made in Mr. ApSimon's favour).

[216] If the parties are unable to agree upon costs, they shall each deliver written submissions, restricted to the issues listed in the preceding paragraph, no later than Friday, February 6, 2025 at 4:00 p.m. The written submissions shall (a) comply with r. 4.01 regarding document standards; (b) be limited to five pages; (c) be in electronic format, with case and other authorities hyperlinked or, if unavailable through hyperlinking, attached to the submissions as a pdf document; (d) filed with court's civil administrative staff in the usual manner; and (e) uploaded to Case Center no later than the aforementioned deadline for delivery of the submissions.

[217] If written submissions are not filed with the court and uploaded to Case Center by 4:00 p.m. on February 6, 2025, there shall be no order as to costs.

Date: January 15, 2026

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Madam Justice Sylvia Corthorn

CITATION: *ApSimon v. Hategan*, 2026 ONSC 300
COURT FILE NO.: CV-23-91584
DATE: 2026/01/15

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:

Paul ApSimon

Plaintiff

– and –

Elisa Hategan

Defendant

RULING ON ANTI-SLAPP MOTION

Madam Justice Sylvia Corthorn

Released: January 15, 2026