

COURT OF APPEAL FOR ONTARIO

CITATION: Miranda v. Balita Media Inc., 2026 ONCA 223

DATE: 20260330

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Sossin, Gomery and Osborne JJ.A.

BETWEEN

Liwayway Miranda

Plaintiff (Respondent)

and

Balita Media Inc. (Balita Newspaper) and Teresita “Tess” Cusipag

Defendants (Appellants)

Niklas Holmberg and Herman Wong, for the appellants

Mohsen Seddigh, for the respondent

Heard: March 12, 2026

On appeal from the judgment of Justice R. Lee Akazaki of the Superior Court of Justice, dated April 23, 2025 with reasons reported at 2025 ONSC 2331, supplementary reasons dated April 23, 2025 and from the costs endorsement dated July 23, 2025.

REASONS FOR DECISION

[1] The appellants, Balita Newspaper and its principal, Teresita Cusipag, were the defendants in a libel action brought by the respondent (plaintiff) Liwayway

Miranda based on defamatory statements published in the appellants' newspaper and on social media platforms online.

[2] Balita Newspaper is a community newspaper primarily serving the Filipino Canadian community in the Greater Toronto Area. It maintains an active online and social media presence. Ms. Cusipag is the editor and publisher.

[3] Ms. Miranda was the principal of A & L Hammer Workforce Management Inc., a recruitment agency for seasonal agricultural workers. In 2018, she was arrested and charged with six counts of human trafficking under the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27.

[4] As a result, Ms. Miranda's bank accounts were frozen, the business was locked out of its leased premises, and the business collapsed.

[5] The charges were ultimately withdrawn in December 2019.

[6] In early 2020, Balita Newspaper published two articles reporting on community meetings and discussions focused on assisting Filipino Canadians in avoiding being victimized by scammers. Among other things, the articles referred to civil judgments entered against Ms. Miranda but did not reference her by name. On August 17, 2020, Ms. Miranda delivered a libel notice pursuant to s. 5(1) of the *Libel and Slander Act*, R.S.O. 1990, c. L.12, with respect to the 2020 publications. She did not, however, commence a legal action for libel at that time.

[7] On December 18, 2022, Balita Newspaper published another article that made specific express references to Ms. Miranda in the context of a broader article further addressing community concerns about scams targeting the Filipino Canadian community. Ms. Miranda delivered a second libel notice on January 20, 2023. That second notice referenced the earlier newspaper articles published in 2020.

#### The Action and the Judgment Below

[8] Ms. Miranda commenced this action on February 6, 2023 under the Rule 76 simplified procedure: *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194. Her pleading referenced both the 2020 articles and the 2022 articles and sought general damages in the amount of \$150,000, punitive damages in the amount of \$100,000, as well as interlocutory and permanent injunctions enjoining Balita Newspaper and Ms. Cusipag from engaging in further defamatory conduct.

[9] The trial judge found that the words written and published by the appellants in 2022 were defamatory and rejected the defences pleaded of justification, responsible communication, privilege in the reporting of court proceedings, and fair comment. He found that any claim in respect of the 2020 articles was barred as a result of the expiry of the limitation period pursuant to ss. 5 and 6 of the *Libel and Slander Act*.

[10] In the result, the trial judge allowed the action and awarded general damages of \$150,000 and punitive damages of \$100,000, together with costs. In supplementary reasons for judgment, he also found a basis for granting a permanent injunction enjoining the appellants from publishing further defamatory statements concerning the respondent and requiring the appellants to remove all publications and social media posts that were not subject to the limitations defence, directing that “[t]his latter part of the injunction would be best achieved by wording setting out the start date for the publications captured by the injunction”.

[11] At the trial judge’s request, the parties jointly submitted a draft judgment containing an injunction in accordance with the above instructions.

### The Appeal

[12] The appellants ask this court to set aside the judgment against them, vacate the injunction and set aside the award of costs.

[13] The appellants raise four principal grounds of appeal with respect to the finding of liability. We will address each in turn.

[14] First, the appellants submit that the trial judge made an error of law when he relied on statute-barred publications to find that the appellants had engaged in a defamatory “campaign” against Ms. Miranda.

[15] In his reasons, the trial judge made references to Balita Newspaper's "campaign" against Ms. Miranda and stated that it began with a February, 2020 report (the first of the 2020 articles referred to above).

[16] The appellants submit that, notwithstanding the finding that the 2020 articles were not actionable, the description of the conduct of the appellants as a continuing "campaign" incorporated by reference the 2020 articles, with the result that the finding of liability was based on the "campaign" as a whole, and was not limited to the 2022 articles that were not statute-barred. They further submit that the quantum of damages awarded was inflated by the trial judge's improper consideration of the 2020 publications.

[17] We reject this ground of appeal.

[18] The trial judge expressly stated at paragraph 57 of his reasons that, to the extent that the court was provided evidence of the 2020 publications, they were admitted for background and context only and do not separately attract liability. He recognized and acknowledged that the 2020 publications were not actionable because of the statutory limitations.

[19] While the reasons do reference the actions of the appellants as a "campaign" directed at Ms. Miranda, we are satisfied that a fair reading of the reasons as a whole make it clear that the trial judge placed no reliance on the 2020 articles to find liability. Even excluding those articles, his description of the actions

as a “campaign” was open to him on the evidence. We see no error of law on this ground of appeal.

[20] Second, the appellants submit that the trial judge made an error of law by awarding damages and costs which exceed the monetary limit for damages awards under Rule 76.

[21] Rule 76 applies to actions where the amount of the claim is \$200,000 or less, exclusive of interest and costs. Recovery of costs is limited to \$50,000 all inclusive for fees and \$25,000 for disbursements: r. 76.12.1 (1). The trial judge awarded damages totaling \$250,000, and awarded costs of \$100,000 against the appellants, representing recovery on a partial indemnity basis prior to the date of an offer to settle, and on a substantial indemnity basis thereafter.

[22] Following the issuance of the reasons, the appellants did not raise any objection to the quantum of damages awarded either in the context of making submissions on costs or in settling the terms of the judgment. Notwithstanding this failure to raise the issue below, the appellants submit that the damages and costs awards exceeded the simplified procedure maximum and constitute an error of law that must be corrected.

[23] We also reject this ground of appeal. There is no question that the action was originally commenced under the simplified procedure. There is also no question that court forms were filed referencing the simplified procedure.

[24] However, r. 76.02(5)(a) is clear that where the defendant objects in the statement of defence to the action proceeding under Rule 76 because the plaintiff's claim does not comply with the requirements, and the plaintiff does not abandon the claims or parts of claim that do not comply, the action continues under the ordinary procedure.

[25] That is what happened here. In paragraph 6 of their statement of defence, the appellants objected to the action proceeding under Rule 76 as the total amount of damages claimed by the respondent exceeded the monetary limit. The respondent did not abandon their claim for the excess \$50,000 in damages claimed.

[26] Under rr. 76.02(5) and (6), the respondent was then required to give notice by way of a completed Form 76A stating that the action and any related proceedings are continued as an ordinary action. The record does not show that Form 76A was ever delivered or filed. However, the appellants made no complaint about this failure at any time during the proceedings below and cannot raise this issue for the first time on appeal now. There was no prejudice to any party in the manner in which the action proceeded.

[27] We see no error justifying appellate intervention on this basis. Since that the proceeding continued as an ordinary procedure, the trial judge did not err in awarding damages and costs as he did.

[28] Third, the appellants submit that the trial judge erred in failing to find that the defamatory publications caused Ms. Miranda harm. There is no basis for this submission. If a plaintiff in a defamation action proves that the impugned words were defamatory, the words referred to the plaintiff, and the words were published, damages are presumed: *Grant v. Torstar, Corp.*, 2009 SCC 61, [2009] 3 S.C.R. 640, at para. 28. Given the nature and extent of the defamation, and the appellants' litigation history, we find no basis to intervene with the quantum awarded.

[29] Fourth, the appellants submit that the trial judge made an error of law in imposing an overly broad and vague permanent injunction. Notwithstanding that they consented to the form of judgment, including the injunctive terms, the appellants submit that they did so as directed by the trial judge, and in any event the injunction lacks any temporal limitation and imposes a prior restraint on a community newspaper that is so broad it constitutes an error of law.

[30] In his supplementary reasons for judgment, the trial judge stated that his decision “justifies the granting of a permanent injunction requiring the defendants to refrain from further defamatory publications concerning the plaintiff and to remove all publications and social media posts that are not subject to the limitations defence. This latter part of the injunction would be best achieved by wording setting out the start date for the publications captured by the injunction”.

[31] The judgment provides as follows:

3. THIS COURT ORDERS that the defendants shall be permanently enjoined from, directly or indirectly, publishing and/or broadcasting, or encouraging or assisting others to publish or broadcast any statements about the plaintiff, in any manner whatsoever, which in their plain or ordinary meaning or by innuendo be similar to the defamatory statements made in the December 18, 2022 *Balita* article titled “BEWARE... Toronto scammers abound around us!” or the statements of the defendant, Teresita “Tess” Cusipag, on social media concerning the plaintiff.

[32] An ongoing injunction for defamation is an exceptional remedy.

[33] Injunctive relief must be broad enough to be effective, but no broader than reasonably necessary to effect compliance: *Labourers' International Union of North America, Local 183 v. Castellano*, 2020 ONCA 71, 444 D.L.R. (4th) 183, at paras. 18-19.

[34] The injunction imposed here has no temporal restrictions and is permanent in duration. In the circumstances of this case, and given the conduct of the appellants, it was open to the trial judge to award an injunction that was permanent in nature.

[35] However, the scope of the injunction is overly broad, not proportionate and not properly defined. The order enjoins the appellants from publishing any statements about the respondent “which in their plain or ordinary meaning or by innuendo be similar” to the defamatory statements made in the December 18, 2022 article or by Ms. Cusipag on social media. It does not define, and the trial judge

does not provide an exhaustive list of, the specific defamatory statements in either the articles or on social media the publication of which is enjoined, either by reference to the libel notices issued or at all.

[36] In imposing the injunction with such a scope, the trial judge made an order that was both broader than reasonably necessary to effect compliance and also incapable in practical terms of enforcement. The language of the injunction lacks precision as well as scope and invites questions about whether statements are defamatory or not.

[37] Accordingly, paragraph three of the judgment is set aside to be replaced with a new paragraph that accords with these reasons. The record, including but not limited to the illustrative and imprecise definition of the specific defamatory statements complained of in the libel notice, is such that this Court is unable to determine the terms of a properly scaled and defined injunction order.

[38] We encourage the parties to agree on revised language of an order to be submitted to the trial judge or another judge of the Superior Court of Justice as may be directed by the Regional Senior Justice for the Toronto Region, for consideration. If they cannot agree, the scope of injunctive relief will be determined by the Superior Court.

Disposition

[39] The appeal is allowed in part. The judgment below is affirmed, save and except for paragraph three thereof, which is set aside and shall be replaced with properly defined injunctive scope in accordance with these reasons.

[40] The parties advised the court that they had agreed on costs of the appeal in the all-inclusive amount of \$20,000 payable to the successful parties. Given the divided success on this appeal, costs are awarded to the appellant in the all-inclusive amount of \$10,000.

“L. Sossin J.A.”  
“S. Gomery J.A.”  
“P.J. Osborne J.A.”