

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

GAIL ARDIEL and JOHN McKEAN

Plaintiffs

- and -

MICHAEL SEGUIN, CATHERINE
SCHULTZ, LINDA WYKES and
SHELLY SAVILL, o/a The Blue
Mountains Review and RIVERSIDE
PRESS

Defendants

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) Andrew Pinto and Jonas Granofsky,
) for the Plaintiffs
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) Gavin H. Leitch, for the Defendants
) Michael Seguin and Catherine
) Scholtz
)
) Mark Bourrie, for the Defendants
) Linda Wykes, o/a The Blue
) Mountains Review and RIVERSIDE
) PRESS
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) HEARD: March 28, 2019

REASONS FOR JUDGMENT

Fowler Byrne J.

[1] The defendants Michael Seguin, Catherine Scholtz and Linda Wykes, operating as The Blue Mountains Review, have brought a motion pursuant to s. 137.1 of the *Courts of Justice Act* to dismiss this action in its entirety as it is a proceeding designed to limit their freedom of expression on matters of public interest.

[2] The claim against the remaining defendant, namely Shelly Savill and Riverside Press, has been discontinued.

Facts

[3] Mr. Seguin and Ms. Scholtz (incorrectly named as Schultz in the claim) are spouses and long-time residents of the Town of Blue Mountains.

[4] Mr. Seguin was elected as a councillor for the Town of the Blue Mountains (“the Town”) in October 2014 for a four year term. His term commenced on or about December 1, 2014. Prior to his election, he was a retired real estate appraiser and had served as the President of the Blue Mountain Ratepayer’s Association for six years, on a volunteer basis.

[5] John McKean was the Town mayor. He was a counsellor for the Town from 2003 to 2014. He served as mayor from December 2014 to December 2018. Gail Ardiel was the deputy mayor during this period.

[6] On or about May 9, 2016, Tony Speck, the Chief Administrative Officer of the Town, made a complaint against Mr. Seguin on behalf of himself and the staff of the Town. The plaintiff John McKean informed Mr. Seguin of the complaint in a letter dated May 24, 2016, which indicated that he was being advised pursuant to the Town of the Blue Mountains policy HS.10.12 and POL COR.07.07. The letter contained few details of the complaint except that it was regarding his "actions and behaviours." He was advised that a human resources advisor, Ms. Lauren Bernardi, would be conducting an investigation and would provide Mr. McKean with her legal opinion. Mr. Seguin was advised he would be contacted for an interview.

[7] Ms. Bernardi was retained, and she in turn retained Dean Bernard to conduct a fact-finding and provide his findings to Ms. Bernardi.

[8] Sometime in or around June 2016, Mr. Seguin retained legal counsel. His counsel maintained that any investigation into Mr. Seguin should be conducted by a duly appointed Independent Integrity Commissioner. Since it

was his counsel's position that the proper procedure was not being followed, Mr. Seguin refused to be interviewed.

[9] On July 7, 2016, Mr. Bernard provided his report to Ms. Bernardi. His report concluded that the complainants were credible and that certain Facebook posts on Mr. Seguin's Facebook account demonstrated an antagonistic approach to dealing with municipal staff. This report and Ms. Bernardi's report were provided to the mayor on or about July 11, 2016.

[10] On or about August 29, 2016, Mr. Seguin sent an open letter to the Town council confirming his decision not to participate in the investigation on the advice of his counsel. He indicated his counsel's opinion that the investigation should have been conducted by an Integrity Commissioner, appointed by the Town council. He asked that the Town cover his legal fees.

[11] Ms. Bernardi's report was provided to the Town council on September 7, 2016, in a closed session. Shortly thereafter, a council held a Special Meeting, again closed to the public, to get further advice from Ms. Bernardi. The Town council decided to consider whether to impose sanctions against Mr. Seguin as a result of the report by Ms. Bernardi.

[12] On September 15, 2016, the Town council voted in favour of imposing sanctions on Mr. Seguin. These sanctions are set out in the Minutes of the Blue Mountains Special Meeting of Council for September 15, 2016:

THAT Council receive Staff Report FAF.16.90 "Recommendations for Sanctions";

AND THAT Council direct that sanctions be implemented against Councillor Michael Seguin under the *Occupational Health and Safety Act* and the Town's Policies POL.HS.10.12 Workplace Violence and Harassment Program, HR.06.01 Discrimination and Harassment-free Workplace and HR.06.02 Respectful Workplace as follows:

1. Council make a declaration that Councillor Seguin violated the harassment policy on all allegations and the workplace harassment provisions of the *Occupational Health and Safety Act*;
2. Any contact by Councillor Seguin with municipal staff must be in writing (email or letter) and delivered via the Mayor;
3. Any of Councillor Seguin's inquiries regarding municipal staff must be approved in advance by Council. Requests must be provided to the Mayor in advance for inclusion on a Council agenda.
4. Councillor Seguin may only attend at the Town's municipal offices on the following basis:
 - a. To attend council and committee meetings; or
 - b. To attend to any of the normal business of council, which will be conducted only during business hours, arranged in advance through the Mayor's office and supervised by the Mayor or his delegate;
5. Councillor Seguin not be allowed to have any one-on-one meetings with staff;
6. Councillor Seguin be enrolled in training regarding harassment and bullying, to correct his behaviour;
7. Councillor Seguin be removed as Chair of the Finance, Administration & Fire portion of the Committee of the Whole;

8. Councillor Seguin be advised to stop harassing and bullying behaviour;
9. That the above sanctions apply for a 90 day time period, to end December 15, 2016.

Carried.

[13] On or about October 17, 2016, Ms. Seguin commenced an application for judicial review to set aside the September 15, 2016, sanctions resolution.

[14] It is not disputed that Mr. Seguin maintained a Facebook page entitled "Michael Seguin the Blue Mountains Councillor". When he later resigned, it was entitled "Michael Seguin the Blue Mountains Former Councillor". Mr. Seguin maintains that it is a public page that he used while a councillor, and afterwards, to inform residents of his thoughts on issues that affect the Town.

[15] On October 22, 2016, while still an acting Councillor and following the imposition of sanctions against him, Mr. Seguin made a post on his Facebook page, attached as Schedule A to this judgment.

[16] On October 25, 2016, Mr. Seguin made a further post on his Facebook page (Schedule B).

[17] On February 24, 2017, Mr. Seguin made a third post on his Facebook page (Schedule C). The plaintiffs allege this post was in July 2018, but I have seen no evidence to support that.

[18] On or about May 8, 2017, a member of the Town staff filed another complaint alleging that Mr. Seguin violated the Town's code of conduct. The complaint also alleged that he took donations from the public in order to fund his application for judicial review. On or about May 31, 2017, Mr. Seguin responded in writing to this complaint.

[19] It is not entirely clear from the record how this complaint was handled. It does not appear that Ms. Bernardi was hired again. The materials do refer to a report of an Integrity Commissioner which was released in the spring of 2018, dealing with the May 2017 complaints. Accordingly, I can infer that in this instance, an Integrity Commissioner was appointed to handle the complaints.

[20] Both parties allege that they tried to resolve the judicial review application between 2017 and 2018. No settlement was reached. Mr. Seguin maintains that the stress of the situation, both mental and financial, took its toll on him and he took a leave of absence from his duties of Councillor from August 21, 2017, until January 22, 2018.

[21] On March 28, 2018, the Town made a settlement offer to Mr. Seguin offering to pay him \$25,000 in return for withdrawing his application for judicial review. The offer was open until April 6, 2018. Mr. Seguin accepted this offer, but not until April 12, 2018. The Town then took the position that the offer was

off the table, could not be accepted and that they wished to proceed to respond to Mr. Seguin's application.

[22] On April 6, 2018, the Town's Integrity Commission, Ms. Janet Leiper (now a judge of this court), issued a report finding that Mr. Seguin breached ss. 2 and 9 of the Town's Code of Conduct. She recommended a reprimand for the s. 9 breach (respectful workplace policy) but recommended that the issue of the s. 2 breach (gifts and benefits) be deferred until Mr. Seguin provided more information.

[23] The plaintiffs allege that on or about April 30, 2018, at a Town council meeting, Ms. Scholtz looked at Ms. Ardiel and stated "I hope you rot in hell" in the presence of staff and members of the public. Ms. Scholtz denies that she uttered these words. Ms. Scholtz admits that on April 30, 2018, she was present at a Town council meeting called to receive, review and hear depositions from members of the public regarding the Integrity Commissioner's Report of April 6, 2018. She states that after the meeting adjourned and members of council were walking out of the chambers she stated "Thank God this is an election year, because you are all going down in flames." She maintains that the statement was directed to all of council and was referring to their chances of being re-elected in October 2018.

[24] On May 7, 2018, Mr. Seguin resigned from his position as a town councillor.

[25] On or about May 25, 2018, Ms. Leiper issued a follow up report that indicated that had Mr. Seguin ran for re-election, he would have been in violation of s. 2 of the Town's Code of Conduct. Given his resignation, she recommended that sanctions be deferred.

[26] On July 11, 2018, Mr. Seguin sent an e-mail to all those on his subscriber list to voice his support for Alar Soever, who was running for mayor against the plaintiff, the deputy mayor Gail Ardiel (Schedule D). Mr. McKean had already publically announced his decision to not run for re-election in February 2018.

[27] Finally, in August 2018, Mr. Seguin authored a piece that was published in Volume 4, Issue No. 8 of The Blue Mountains Review. The article is entitled "Rumor has it that Council has moved on from the Michael Seguin Affair – This is a Myth!!!!" (Schedule E).

[28] Mr. Seguin eventually withdrew his application for judicial review, but the Town insisted on seeking an order that Mr. Seguin pay their costs. On September 21, 2018, LeMay J. ordered, without giving any opinion on the merits

of the application for judicial review, that Mr. Seguin pay \$20,000 toward the Town's costs.

[29] A new council for the Town was elected in October 2018. Ms. Ardiel lost her bid to be elected mayor.

Defamation Litigation

[30] On or about November 2, 2018, Mr. McKean and Ms. Ardiel commenced a defamation action against Mr. Seguin, Ms. Scholtz, and Ms. Linda Wykes, who operated the Blue Mountains Review.

[31] The alleged defamatory statements are set out in the Statement of Claim.

[32] With respect to the post in Schedule A, the alleged defamatory statements complained of are:

The so-called protocol that the Deputy Mayor has instituted at the last minute, were [sic] never discussed with me in advance of her declaration nor were they mentioned or discussed as part of the sanctions. In fact, they were never mentioned or enforced as part of the Committee of the Whole meeting of October 3, 2016.

[33] With respect to the post in Schedule B, the alleged defamatory statements complained of are:

That made it all the more pathetic to have our elected representatives demeaning themselves by condemning a fellow councillor without offering any evidence for their positions, and claiming that they were doing so "with a heavy heart" or clichés to that effect. It was more than just a "kangaroo court"

as someone remarked afterward; it was a ritual humiliation that they all participated in, apparently voluntarily, and in my eyes, they lost any authority they might have had, and ceded it to the CAO, who appears to be behind all of this.

[34] With respect to the post at Schedule C, the alleged defamatory statements are:

I was silenced, shamed, humiliated and treated like a criminal, through sanctions for alleged (and unknown) harassment charges by an authoritarian that were never vetted by an independent Integrity Commissioner and explained to me...I think the fact that the Mayor and the rest of Council needed to take "Harassment Training" (which they did) is an admission that they had no clue in what they were accusing and sanctioning me for... In my opinion, my so-called Council lacks both respect and professionalism and are forcing me to correct their mistakes by taking the Town to the Divisional Court, and asking for a Judicial Review of their flawed handling of my case (at the taxpayers [sic] expense).

[35] With respect to the email at Schedule D, the alleged defamatory statements are:

Alar has been instrumental in exposing the truth behind the unfair and inappropriate back-room investigation of false harassment allegations against me by the former CAO and town staff.... Although, the CAO fled the Town in August 2017, the Mayor (McKean), and Deputy Mayor or that alternate (Ardiel), with the support of the majority of Council, have continued their vindictive behaviour to cover-up the truth and avoid any settlement with me... Council's latest legal maneuver, which is designed to drag this matter out and to continue to drive up my legal bills, is a clear indication that the whole negotiation process was a total sham, and was only designed to deplete my financial resources so that I can no longer continue. They are expressing no remorse about spending your money and continuing their campaign against me.

[36] With respect to the article at Schedule E, the alleged defamatory statements are:

The majority of the Council, led by Mayor McKean and Deputy Mayor Ardiel, have rejected my acceptance of their March 28, 2018 offer to settle and want to continue to pursue action against me at the taxpayer's expense;

...which was followed by sanctions which were clearly designed to smear my good name and reputation.

Council's latest legal maneuver which is designed to drag this matter out and to continue to drive up my legal bills. They are expressing no remorse about spending your money and continuing their campaign against me.

[37] The claim against Ms. Scholtz is based on the defamatory comments she is alleged to have made after the council meeting on April 30, 2018.

The Law

[38] The moving parties, being all the remaining defendants, bring this motion pursuant to s. 137.1(3) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

[39] Doherty J.A., at paras. 3 and 7 of *1704604 Ontario Ltd. v. Pointes Protection Association*, 2018 ONCA 685, outlines the intersection of defamation claims and s. 137.1:

Lawsuits brought to silence and/or financially punish one's critics have come to be known as Strategic Lawsuits Against Public Participation ("SLAPP"). Defamation lawsuits, perhaps because of the relatively light burden the case law places on the plaintiff, have proved to be an ideal vehicle for SLAPPs.

Stripped to its essentials, s. 137.1 allows a defendant to move any time after a claim is commenced for an order dismissing that claim. The defendant must demonstrate that the litigation arises out of the defendant's expression on a matter relating to the public interest. If the defendant meets that onus, the onus shifts to the plaintiff to demonstrate that its lawsuit clears the merits-based hurdle in s. 137.1(4)(a) and the public interest hurdle in s. 137.1(4)(b).

[40] The Ontario Court for Appeal has provided excellent guidance over the last two years on how these motions should be analyzed. *Pointes* makes it clear that a motion under s. 137.1 is “a judicial screening or triage device designed to eliminate certain claims at an early stage of the litigation process.” It is not “an alternate means by which the merits of the claim can be tried and it is not a form of summary judgment”: at para. 73.

[41] Accordingly, on a s. 137.1 motion, the court must undertake the following steps:

Step One: The moving party must satisfy the court that the defendant’s impugned expression(s) relate(s) to matters of public interests. If not, the motion is dismissed. If the moving party satisfies the onus, the analysis continues.

Step Two: The responding party must show both,

- a. that its claim has merit, *and*
- b. that there is no valid defence.

If the responding party does not satisfy this conjunctive test, then the motion is granted and the action dismissed. If the responding can satisfy the test, the analysis continues.

Step Three: The responding party must satisfy the motions judge that the harm caused to it by the defendant’s expression is sufficiently serious that the public interest engaged in allowing the plaintiff to proceed with the claim outweighs the public interest in protecting the defendant’s freedom of expression. If the responding party satisfies the court on this point, the motion is dismissed and the action may continue. If not, the motion should be granted and the action dismissed.

[42] The responding party may seek to satisfy the public interest test (Step 3) in advance of the merits-based analysis (Step 2). No matter how they approach it, they must satisfy the court on both. Conversely, the moving party can show the

responding party failed to satisfy the public interest test (Step 3) first. If successful, an analysis of Step 2 may not necessary.

i. Step One

[43] Pursuant to section 137.1(3) of the *Courts of Justice Act*, the moving party must satisfy the court that (i) the proceedings arise from an expression made by the defendants, and (ii) the expression relates to a matter of public interest: *Pointes*, at para. 51.

[44] When determining if a phrase is in the public interest, I must consider the following:

- a) The phrase “public interest” is not qualified in any way. It does not require that the expression actually *further*s the public interest. Nothing in this section justifies any distinction among expressions based on the quality, merits, or manner of the expression. An expression that relates to matters of public interest remains so even if the language used is intemperate, or even harmful to the public interest, or false: *Pointes* at para. 55;
- b) Context can be crucial in determining whether a particular expression relates to a matter of public interest. If the impugned expression is

part of a broader context, the whole context is relevant to determining the issue of whether the expression relates to the public interest. Section 137.1(3) only refers to matters that *relate* to the public interest, not simply matters that *refer* to the public interest. Thus, the character of the whole of the expression is essential. A passing reference to a matter of public interest within a larger communication is not sufficient to relate the entire expression to the public interest:

Pointes at para. 60;

- c) A matter of public interest is more than something about which the public is interested. Simply because a person occupies a position of interest to the public does not mean all expressions about that person relate to the public interest: *Pointes*, at para. 61;
- d) An expression need not engage the interests of an entire community to relate to the public interest. "It is enough that some segment of the community would have a genuine interest in the subject matter of the expression": *Pointes*, at para. 62;
- e) The determination of whether an expression relates to the public interest is objective and contextual: *Pointes*, at para. 65;

- f) An expression may relate to more than one matter; a defendant need only establish that one of those matters is a matter of public interest to meet its onus under s.137.1(3): *Pointes*, at para. 65;
- g) The conduct of governmental affairs and the operation of the courts are topics that relate to the public interest: *Pointes* at para. 59; and
- h) Expressions made in the context of ongoing elections that relate to a candidates fitness or suitability for office presumptively relate to a matter of public interest and thus satisfy step one of the test: *Able Translations Ltd. v. Express International Translations Inc.*, 2018 ONCA 690, at para. 19; *Armstrong v. Corus Entertainment Inc.*, 2018 ONCA 689 at para. 15.

Analysis

[45] There is no dispute that the defendants made the impugned statements. Utilizing the principles stated above, I have no difficulty in finding that all the expressions, including Ms. Scholtz's alleged comment after the council meeting, relate to a matter of public interest.

[46] With respect to Ms. Scholtz, counsel for the plaintiff has directed me to the case of *Walsh v. Badin*, 2019 ONSC 689, to support proposition that a

defendant must admit allegedly defamatory expressions if they wish to bring a motion under section 137.1. Nishikawa J., at para. 27, cites the *Pointes* case as support for the statement that a defendant must demonstrate on a balance of probabilities that the proceeding arises from an expression made by the defendant. In that case, the defendant denied making the statement. Nishikawa J. states that defendant cannot bring a motion to dismiss under rule section 137.1 while also denying that very expression. The party must be prepared to admit making statement before such a motion can be brought.

[47] In the case before me, Ms. Schtolz does not deny making a statement, but denies the actual words said. Accordingly, in determining whether the statements related to matters of public interest, I examined both alleged statements. Had my conclusion differed depending on the statement I accepted, I would have declined to grant the motion with respect to Ms. Scholtz as this is not the stage of the proceeding to make findings of credibility.

[48] However, given the context in which the two alleged comments were made, in a Town council meeting in which there was a discussion about an Integrity Commissioner's Report, and given that the comments were made in the wider context of an ongoing public debate regarding processes put in place to

discipline or sanction a sitting councillor and the expenditure of public funds, both alleged comments relate to matters of public interest.

[49] With respect to the statements made by Mr. Seguin on his Facebook page, during the time Mr. Seguin was a councillor, his Facebook page identified him as "Michael Seguin, The Blue Mountains Councillor". After his resignation, it identified him as "Michael Seguin, The Blue Mountains Former Councillor."

[50] The Facebook post of October 22, 2016, was made while Mr. Seguin was an active member of council. He disclosed the contents of an e-mail from the deputy mayor that addressed an upcoming agenda item with respect to Mr. Seguin. Mr. Seguin took issue with the lack of prior notification and indicated that the proposed sanctions would impede his ability to act as a councillor. He also disputed the accusations made against him in the course of his duties.

[51] Given the context, I have no difficulty finding that the post was made with respect to a matter of public interest. It was posted while he was a councillor, using a Facebook page dedicated to his position as a councillor. It addressed his ability to carry out his duties as an elected official and the lack of due process afforded to him.

[52] The next post was made on October 25, 2016, and reproduced a ratepayer's thoughts on the meeting in which sanctions for Mr. Seguin were discussed. This ratepayer was providing his observations on a municipal council meeting and his lack of confidence therein. Given the context, this statement is clearly regarding a matter relating to the public interest.

[53] The next post was made on February 24, 2017. Mr. Seguin was still an acting councillor and used his public Facebook page to publish this post. In this post, Mr Seguin speaks of the conduct of another municipal official – mayor Nina Bifulchi of Wasaga Beach. He also discussed harassment charges (made by the Town of the Blue Mountains), the Independent Integrity Commissioner and makes general comments on council's conduct.

[54] Considering the post's context, I am satisfied that this is a matter of public interest. He applauds Ms. Bifulchi's commitment to transparent municipal government. He also comments on his treatment by his own council and their requirement to take harassment training. He does mention his own application for judicial review, but this application is with respect to the jurisdiction and authority of council to conduct an investigation and their handling of a complaint made by municipal staff. This post deals directly with the suitability of the Council to hold elected office. It is related to a matter of public interest.

[55] With respect to the e-mail sent by Mr. Seguin on July 11, 2018, its main purpose was to promote a candidate for mayor for the upcoming municipal election. He does mention Mr. Soever's support in the harassment investigation against Mr. Seguin, but that investigation, taken in context, was about the actions of a municipal council and the sanctions placed on an elected official that restricted his capacity to represent his constituents. The comment about having to resign is of a personal nature, but as stated at para. 65 in *Pointes*, an expression may relate to more than one matter. If one of these matters is a matter of public interest, the defendants will have met the onus under s. 137.1(3). Accordingly, the defendants have satisfied their onus to show this publication relates to a matter of public interest.

[56] Finally, with respect to the article in The Blue Mountains Review, Mr. Seguin is advising of the status of his legal action with the Town of the Blue Mountains. As stated before, in his application for judicial review he requests that the sanctions levelled against him by the council be quashed. Mr. Seguin alleges a violation of the Town's Code of Conduct, their harassment policy and requirements of the *Occupational Health and Safety Act*. He maintains that the actions taken by the council impede his ability to carry out his duties as an elected councillor and claims that the Town failed to follow the proper process in the investigation, which resulted in these sanctions being levied against him.

[57] While the application for judicial review is, on its face, a legal proceeding between the Town and Mr. Seguin in his personal capacity, it has to be viewed in context. The issues behind the sanctions and the application for judicial review involve issues of due process by the council, whether any part of the Town or council exceeded their authority, and the appropriate use of taxpayer's dollars. The ethical and proper inner workings of a municipal council are very much a matter of public interest, especially leading into an election year. Accordingly, I am satisfied that the defendants have shown, on a balance of probabilities that this article is with respect to a matter of public interest.

Step Two

[58] Given that the moving parties have satisfied this court on a balance of probabilities that all the impugned expressions relate to matters of public interest, the burden of proof then passes to the responding parties to satisfy this court that the action should proceed: *Pointes* at para. 56.

[59] Section 137.1(4)(a)(i) refers to the merits of the claim that the plaintiff must prove to succeed in the litigation. Section 137.1(4)(a)(ii) refers to any affirmative defence found in the statement of defence, if one has been filed, or specifically advanced in the material filed on this motion.

[60] The plaintiffs claim will be dismissed if they cannot meet the persuasive burden under either ss. 137.1(4)(a) or (b). “A motion judge is under no obligation to address both”: *Pointes* at para. 99.

i. Does the Claim Have Substantial Merit?

[61] The use of the word “substantial” to modify “merit” in s. 137.1(4)(a)(i) is a signal that the plaintiff must do more than simply show that its claim has some chance of success. A claim will have potential merit if the claim is shown to be legally tenable and supported by the evidence, which could lead a reasonable trier of fact to conclude that the claim as a real chance of success. The plaintiffs are not expected to present a fully developed case in response to this type of motion. When determining whether a claim shows substantial merit, the motions judge must take into account what can be reasonably expected of this point in the litigation: *Pointes* at para. 81.

[62] Bald allegations, unsubstantiated damage claims or unparticularized defences are not the stuff from which “grounds to believe” are formulated. The question is not whether the motion judge views the evidence as credible, but rather whether, on the entirety of the material before him or her, there are reasonable grounds to believe that a reasonable trier could accept the evidence: *Pointes* at para. 82.

[63] The plaintiffs have made a claim in defamation. Accordingly, to have merit, the plaintiff is required to prove, on a balance of probabilities, three things to obtain judgment and an award of damages: (a) that the impugned words are defamatory, in the sense that they would tend to lower the plaintiff's reputation in the eyes of a reasonable person; (b) that the words in fact referred to the plaintiffs; and (c) that the words were published, meaning that they were communication to at least one person other than the plaintiffs. If all three elements are established, falsity and damages are presumed: *Grant v. Torstar Corp.*, 2009 SCC 31, [2009] 3 S.C.R. 640, at para. 28.

Analysis – Catherine Scholtz

[64] With respect to the alleged comments made by Ms. Scholtz, I find that the claim lacks merit. It has not been established with any certainty that Ms. Scholtz' comments were directed to Ms. Ardiel. Even if the claim is legally tenable, Ms. Ardiel gives no evidence in her affidavit in support of this claim. She does not state what was said to her except to say that Ms. Scholtz denies the allegation set forth in the Statement of Claim. Mr. McKean gives no evidence on this alleged statement at all. Neither gave any evidence regarding the context of the statement. There is no evidence before me that would show that the words allegedly stated were made with the intention that they lower the plaintiffs'

reputation in the eyes of a reasonable person, let alone that the alleged statement was even made. Accordingly, the claim as against Ms. Scholtz should be dismissed.

Analysis – Michael Seguin

[65] There is no dispute that the written impugned statements were published, in that at least one other person, other than the plaintiffs heard it or read it.

[66] Not all these statements though, refer to both of the plaintiffs. The Facebook post at Schedule B does not refer directly to either plaintiff. At most the post refers to “our elected representatives” who demeaned themselves by “condemning a fellow councillor without offering any evidence of their positions, and claiming that they were doing so with a heavy heart or clichés to that effect”. It would not be possible for a reader to determine which elected representatives “demeaned themselves” by condemning Mr. Seguin. No evidence was provided that would show that a reader would have any way of knowing, by reviewing this publication, who voted in favour of the sanctions, whether it was unanimous, or even if all the elected representatives were present for the vote.

[67] The Facebook post at Schedule A only refers to the plaintiff Ardiel. There is no merit in the claim against McKean in this publication, and in fact the

publication makes it clear that the mayor was not present when Ardiel set out the protocol to be followed. Accordingly, to show that the claim has merit with respect to the publication at Schedule A, it must be determined whether the statements made were in fact defamatory in that they sought to lower Ms. Ardiel's reputation in the eyes of a reasonable person.

[68] To determine whether the words complained of are defamatory, the plaintiff must show the main thrust, or "defamatory sting," of those words. In every defamation action, the trier of fact must determine the defamatory sting from both the plain meaning of the words complained of and from what the ordinary, reasonable person would infer from them in the context in which those words were published. "Context is crucial as it informs what meaning the ordinary person would infer from the words complained of... Statements do not stand by themselves, but must be read in light of what has preceded them and what follows": *Rutman v. Rabinowitz*, 2016 ONSC 5864, at para. 135, upheld on appeal 2018 ONCA 80, leave to appeal to the Supreme Court of Canada refused, August 9, 2018, No. 38048.

[69] With respect to Schedule A, Ms. Ardiel is referred to in her role as a Deputy Mayor. It does not seek to lower her reputation but simply speaks to her conduct in her official capacity. The only negative comment directed at Ms.

Ardiel is that Mr. Seguin referred to the protocols presented as “so-called protocols”. On a plain reading, this does not seek to lower her reputation, but is rather a comment on the process put in place to implement his sanctions. Even if these comments could be reasonably interpreted to lower Ms. Ardiel’s reputation, the defence of justification would apply, as explained below.

[70] The plaintiffs have shown that the publications found at Schedules C, D & E refer to the plaintiffs and that they were designed to lower the reputation of these individuals in the eyes of the reasonable person. These claims have substantial merit.

ii. Is there a Valid Defence?

[71] With respect to s. 137.1(4)(a)(ii) the onus rests on the plaintiffs to convince the motion judge that there are reasonable grounds to believe that none of the defences are valid. “Valid” means successful. Accordingly, the onus rests with the plaintiffs to show that a trier could reasonably conclude that none of the defences would succeed: *Pointes* at paras. 83-84; *Lascaris v. B’nai Brith Canada*, 2019 ONCA 163, at para. 37. This onus on the plaintiffs could be satisfied by showing that a reasonable trier of fact *could* reject all the various defences put in play. If it is determined that a reasonable trier of fact could go either way with a defence, by either accepting it or rejecting it, then the onus has

been met: *Bondfield Construction Company Limited v. The Globe and Mail Inc.*, 2019 ONCA 166, at para. 15.

[72] The defendants have put the following defences in play: justification, fair comment and qualified privilege. The defendant Ms. Wykes also pleads the limitation period and a violation of her rights under s. 2(b) of the *Charter of Rights and Freedoms*.

Justification

[73] It is a complete defence to a claim of defamation if the fact alleged is true: *MacRae v. Santa*, 2006 CanLII 32920 (Ont. Sup. Ct.) at para. 23.

[74] As already indicated, it is very likely that the impugned statements in the publication found at Schedule B can be successfully defended utilizing the defence of justification. There is no evidence provided by the plaintiffs to prove that Mr. Seguin had discussed the protocol with Ms. Ardiel in advance of her declaration or that the protocol was mentioned or enforced as part of the Committee of the Whole meeting on October 3, 2016. Ms. Ardiel did not even mention it in her affidavit. This is not a situation where the defence could “go either way”. There is simply no evidence presented by the plaintiffs to support that the statements of Mr. Seguin were not true.

[75] With respect to the statements made in Schedules C, D, & E, parts of the statement made by Mr. Seguin were true, and could not be refuted by the plaintiffs. That being said, there is a possibility that taken as a whole, the defence of justification may not be accepted.

Fair Comment

[76] In order to rely on the defence of fair comment, a defendant must show:

- a) the comment pertains to 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 recognizable as comment, and
- d) the comment must satisfy the following objective test: could any person honestly express that opinion on the proven facts: *WIC Radio Ltd. v. Simpson*, 2008 SCC 40, [2008] 2 S.C.R. 420, at para. 1.

[77] “The defence of fair comment, even if successful, is defeated if the plaintiff proves express malice. Malice is commonly understood as spite or ill will, it also includes any indirect motive or ulterior purpose. It may also be established by showing that the defendant spoke dishonestly, or in knowing or

reckless disregard for the truth”: *Sustainable Development Technology Canada v. Sigurdson*, 2018 ONSC 7320 at para. 39.

Qualified Privilege

[78] The defence of qualified privilege is well set out in the decision of *Cusson v. Quan*, 2007 ONCA 771:

[38] Qualified privilege arises on occasions where the maker of the defamatory statement has an interest or duty to make it and the person to whom it is made has a corresponding interest or duty to receive it. The classic and frequently quoted formulation of qualified privilege is that of Lord Atkinson in *Adam v. Ward*, [1917] A.C. 309, [1916-1917] All E.R. Rep. 157 (H.L.) at p. 334 A.C.:

an occasion where the person who makes a communication has an interest or a duty, legal, social, or moral, to make it to the person to whom it is made, and the person to whom it is made has a corresponding interest or duty to receive it. This reciprocity is essential.

[39] Employment references, business and credit reports, and complaints to police, regulatory bodies or public authorities are classic examples of occasions of qualified privilege. The rationale for qualified privilege is that on such occasions, "no matter how harsh, hasty, untrue, or libellous the publication . . . the amount of public inconvenience from the restriction of freedom of speech or writing would far outbalance that arising from the infliction of private injury" (*Huntley v. Ward* (1859), 6 C.B. (N.S.) 514, at p. 517).

[40] The privilege is said to be qualified as it can be defeated upon proof of malice, that is spite or ill-will, ulterior purpose, or, more commonly, proof that the defendant either knew the statement was false or was reckless as to its falsity: see *Hill v. Church of Scientology of Toronto*, [1995] 2 S.C.R. 1130, [1995] S.C.J. No. 64, at para. 145. The privilege can also be lost where the limits of the duty or interest are exceeded by the use of words not reasonably appropriate to the occasion.

[79] “The defence [of qualified privilege] is aimed at serving the public in the sharing of information, rather than serving the private interests of either the defamer or the recipient. Privilege attaches only to the extent that the

communication was reasonably appropriate in the context of the circumstances at the time the information was given. The test is whether persons of ordinary intelligence and moral principle, or the great majority of right-minded persons, would have considered it a duty to communicate the information to those to whom it was published. The onus is on the defendant to prove all of the facts and circumstances necessary to bring the impugned words within the scope of the privilege”: *Brent v Nishikawa*, 2016 ONSC 4297, at para. 16.

[80] This court has already accepted that qualified privilege can attach to communications made in the course of a municipal election or to express opinions of matters of municipal affairs: *Foulidis v. Baker*, 2012 ONSC 7295, at para. 67.

Analysis

[81] I have no difficulty finding that the article in *The Blue Mountains Review* should be protected by the defence of qualified privilege and fair comment and either one of these defences should prevail. This is a publication of interest to all residents of the area. This publication had already published other articles on this issue. The piece calls for the citizens of the community to vote and elect a new council.

[82] The comments in this publication pertain to a matter of public interest. The comments, which include inferences of fact, are recognizable as comment, and any person could honestly express that opinion on the proven facts.

[83] As well, I see no malice on the part of Mr. Seguin when making these statements. He has no ulterior motive. He is not seeking re-election. He has nothing to gain from this publication. He had already made his decision to withdraw his application for judicial review, but the issue of costs had not yet been decided. Nothing in this article could impact the outcome of that issue. While the defence of justification may not be made out, it cannot be said that Mr. Seguin was reckless in his disregard of the truth. All the impugned statements are possibly verifiable at trial. While the plaintiffs advanced much evidence as to why they choose to investigate the complaints of 2016 in the manner they did, there was no suitable explanation given as to why an Integrity Commissioner was not appointed, as was done for the 2017 complaint. Read in its entirety, this publication is an appropriate forum to discuss the issue of procedural fairness and municipal expenditure in light of an upcoming election. Also, it is completely appropriate to discuss these issues in a publication that reaches the constituents of the community. The occasion of this publication is completely appropriate.

[84] Accordingly, I find that the defences of fair comment and qualified privilege apply to the publication at Schedule E, and based on the evidence before me, it is unlikely they will fail. Accordingly, the plaintiffs' claim with respect to this publication should be dismissed.

Step Three

[85] Having already found that the claim against Ms. Scholtz and the claims regarding the publications found at Schedules A, B, and E should be dismissed, the plaintiffs now have the onus of showing that the harm likely to be or that has been suffered by the responding party as a result of the moving party's expression in the remaining publications is sufficiently serious that the public interest in permitting the proceeding to continue outweighs the public interest in protecting that expression: *Pointes* at paras. 41-42.

[86] "The harm suffered or likely he suffered by the plaintiff as a consequence of the defendant's expression will be measured primarily by the monetary damages suffered or likely to be suffered by the plaintiff as a consequence of the impugned expression. However, harm to the plaintiff can refer to non-monetary harm as well. The preservation of one's good reputation or one's personal privacy have inherent value beyond the monetary value of the claim. Both are tied to an individual's liberty and security interests and can, in the appropriate

circumstances, be taken into account in assessing the harm caused to the plaintiff by the defendant's expression": *Pointes* at para. 88.

[87] Though damages are presumed if defamation is established, the plaintiff must show the nature and quantum of any damages. The court cannot presume about the nature or quantum of damages: *United Soils Management Ltd. v. Mohammed*, 2019 ONCA 128, at para. 22.

[88] If there is little evidence of potential harm, a case can be made for protecting a party's freedom of expression, especially if the expression relates to a matter of significant public importance and is part of an ongoing political dialogue in the local community: *United Soils* at para. 26.

[89] Unlike the public interest inquiry in s. 137.1(3), in which the quality of the expression or the motivation of the speaker is irrelevant, both play an important role in measuring the extent to which there is a public interest in protecting that expression under the Step Three analysis. Not all expression on matters of public interest serves the values underlying freedom of expression in the same way or to the same degree. For example, a statement that contains deliberate falsehoods, gratuitous personal attacks, or vulgar and offensive language may still be an expression that relates to a matter of public interest. However, the public interest in protecting each will be less than would have been the case had

the same message been delivered without lies, vitriol, and obscenities: *Pointes* at para. 94.

[90] In addition to the quality of the expression and the defendant's motivation for making the expression, the consequences of the plaintiff's claim will figure into the weight to be given to the public interest in protecting that expression. Evidence of an actual "libel chill" generated by the plaintiff's claim can be an important factor in the public interest evaluation required under s. 137.1(4)(b): *Pointes* at para. 95.

[91] Finally, in this type of motion, the plaintiff must also provide material that can establish the causal link between the defendant's expression and the damages claimed. This is especially important when the motion material reveals sources apart from the defendant's expression that could well have caused the plaintiff's damages: *Pointes* at para. 92.

[92] I have analyzed the various factors set out above, and find that the plaintiffs have not satisfied this court that the harm suffered or may be suffered by the plaintiffs as a result of the remaining two impugned expressions is sufficiently serious that the public interest in permitting the proceeding to continue outweighs the public interest in protecting the expression. I come to this conclusion mainly as I see no connection between the two remaining actionable

publications and the harm alleged to have occurred. In fact, no causal connection can be satisfactorily shown between any of the impugned publications and the damages claimed.

[93] Community discussions about the sanctions against councillor Seguin and the procedure followed by council was not limited to Mr. Seguin's publications. The affidavit of Linda Wykes provides a good background to the environment in which these discussions took place. The community was heading towards a hotly contested municipal election with many issues. There was also an organization entitled The Citizen's Forum created with the purpose of discussing municipal affairs, including the conduct of council surrounding the sanctions against Mr. Seguin. There was even an all candidates' debate. There is simply insufficient evidence, even at this early stage of the proceeding, that can connect the publications with the damages claimed in light of the greater debate in which these publications were made.

[94] With respect to the plaintiffs' claim of stress and anxiety, I have no doubt that this situation was stressful. It appears that the sanctions themselves and the public debate that followed was stressful on all parties. The application for judicial review and the subsequent lawsuit for defamation kept the issue alive. In the midst of this, Ms. Ardiel made the decision to put herself forward as a

candidate for mayor; public debate is part of that process and it is not always positive.

[95] Ms. Ardiel claimed there was a Facebook post that called for a boycott of all businesses associated with the Ardiel family. No evidence of this post was provided and no evidence has been provided that a boycott was ever implemented.

[96] It is unfortunate that other members of the public treated the plaintiffs in a discourteous and aggressive manner, something that should never be condoned in the midst of public debate of issues of relevance to the community. In the end though, the plaintiffs have not connected this alleged conduct to the Facebook posts, the e-mail to a defined group of people sympathetic to Mr. Seguin in July 2018 or the published article.

[97] The ability of elected municipal officials to debate issues of importance to the public, and the rights of the public to expression opinion on these issues is important and should be protected.

Costs

[98] The moving parties have sought additional damages under s. 137.1(9) in the sum of \$20,000, claiming this action was brought in bad faith.

[99] In the case of *United Soils*, starting at para. 29, the Court of Appeal discussed when these damages are warranted. It highlighted the problematic wording of s. 137.1(9) given that, if it is found that a lawsuit was commenced with a purpose of limiting free speech, it could automatically be considered as an act of bad faith. Given that a separate provision was set out for damages, the Court of Appeal opined that the court would have to find that the purpose of the claim was to punish, silence or intimidate the defendant, rather than to pursue a legitimate legal remedy.

[100] While I am not prepared to find this level of bad faith with respect to the claim against Mr. Seguin or Ms. Wykes, I am prepared to find it with respect to the claim against Ms. Schlotz. Ms. Schlotz's involvement was minimal. Her comments were minimal. The claim against her was not made out on the most basic of analyses. The claim against her was not vigorously pursued at the motion. It was not alleged that she was an important party to the debate, but simply a member of the public who voiced opposition to the plaintiffs, not unlike any individual who provided an opinion on Mr. Seguin's Facebook page, through the Citizen's Forum or at council meetings. The difference is that she was Mr. Seguin's wife, and this would punish and intimidate him on a more personal level. Accordingly, I assess damages against the plaintiffs in the sum of \$10,000.00.

Conclusion

[101] Accordingly, I make the following order:

- a) The motion to dismiss the plaintiffs' claim is granted;
- b) The plaintiffs shall pay to the defendants Catherine Scholtz (improperly named as Catherine Schultz) and Michael Seguin damages in the sum of \$10,000.
- c) The moving parties shall have their costs on a full indemnity basis, to be agreed upon or assessed.

"original signed by"

Fowler Byrne J.

Released: July 8, 2019

SCHEDULE "A"

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Michael Seguin The Blue Mountains Former Councillor

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Michael Seguin The Blue Mountains Former Councillor
October 22, 2016

To all my constituents, I must advise you that I have been saddled with additional restrictions at Council and Committee of the Whole meetings (just in case you noticed that I'm silent when sitting in my elected chair).

On Friday, October 14, 2016 at 8:28 PM, less than 3 days prior to a Council meeting on October 17th and after the Agenda was already posted, I along with the rest of Council received a surprising email from the Deputy Mayor Ardiel stating the following instructions:

"Mayor McKean is away and I will be the Acting Mayor in his absence. Further to the sanctions imposed against Councillor Seguin on September 15, 2016.

Sanction #3 states:

3. Any of Councillor Seguin's inquiries regarding municipal staff must be approved in advance by Council. Requests must be provided to the Mayor in advance for inclusion on a Council agenda.

To effect the above sanction at Council/Committee meetings, the following protocol is to be followed:

1. Councillor Seguin will provide a list of questions that he may have regarding items included on a Council or Committee of the Whole Agenda to the Mayor and Deputy Mayor, by no less than three hours before the start time of the meeting.
2. The list of questions will be itemized in accordance with the Agenda.
3. If the Mayor / Deputy Mayor deem the question to be a fair question, the Chair will read Councillor Seguin's question when the Agenda item is being discussed. The staff person will then have an opportunity to respond to Councillor Seguin's question to the Chair.

Councillor Seguin is not permitted to pose questions directly to staff."

The so-called protocol that the Deputy Mayor has instituted at the last minute, were never discussed with me in advance of her declaration nor were they mentioned or discussed as part of the sanctions. In fact, they were never mentioned or enforced as part of the Committee of the Whole meeting of October 3, 2016.

I will also note that this protocol seriously restricts me from performing my duties and responsibilities as a Councillor under the Municipal Act. It restricts me from addressing any written or oral report with serious concerns, which I may have and might be relevant in the decision making process of Council. It restricts me from participating in any discussion of Council and asking follow-up or secondary questions that might result or impact an important decision of Council.

Finally, I will also point out for the record that I have never been reprimanded or called out of order before, for a question that I have asked Staff, by any Chairperson of Council, Committee of the Whole or any Board meetings. So there is no evidence that my questioning at any type of meeting has been harassing or bullying.

Brendan Thomson and 5 others 8 Comments 1 Share

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Brendan Thomson Very sad where is the due process?

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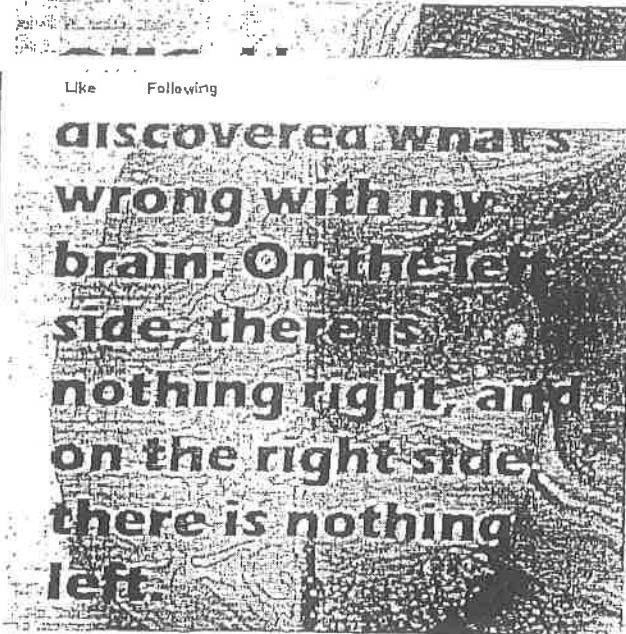
Chat (6)

SCHEDULE "B"



Michael Seguin The Blue Mountains Former Councillor

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2

2 Comments

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- Eden Hale Love this! Like · Reply · 1y
- Eileen Gamble Michael. You are a good politician, Remember that as you enter 2017. Like · Reply · 1y

Saved · 2 unopened saves this week

Michael Seguin The Blue Mountains Former Councillor
October 25, 2016 ·

I would like to share with you one ratepayer's "heart-felt" thoughts on the "Sanctions" meeting:

"...I was at the council meeting when the sanctions were imposed and I have to say I have never witnessed anything quite like it in my life. I have only a vague idea of what the facts of the case are, but as far as I'm concerned, and frankly as far as the law is concerned, you are innocent in the absence of any proof to the contrary, or any public process. That made it all the more pathetic to have our elected representatives demeaning themselves by condemning a fellow councillor without offering any evidence for their positions, and claiming that they were doing so "with a heavy heart," or cliches to that effect. It was more than just a "kangaroo court," as someone remarked afterward; it was a ritual humiliation that they all participated in, apparently voluntarily, and in my eyes, they lost any authority they might have had, and ceded it to the CAO, who appears to be behind all of this. I mean, they were the ones being humiliated, more so than you, and they didn't have the intelligence to realize it, nor the moral courage to resist playing such a pathetic role."

Thanks for sharing these thoughts! They mean a lot to me

Brendan Thomson and 6 others

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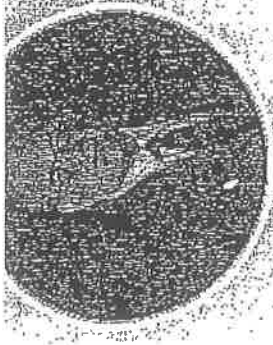
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Chat (8)

SCHEDULE "C"



Michael Seguin The Blue Mountains Former Councillor

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Michael Seguin The Blue Mountains Former Councillor

24 February 2017 · ✪

Deputy Mayor Nina Bifulchi of Wasaga Beach, I salute your courage and integrity to bring more open and transparent municipal government. Keep up the "good work" and keep asking the difficult questions. Like you, I have always acted in the best interest of the residents and the community that I serve.

However, unlike you, I never did get a fair hearing and in my opinion, I was silenced, shamed, humiliated and treated like a criminal, through sanctions for alleged (and unknown) ~~inappropriate~~ charges by an authoritarian that were never vetted by an independent Integrity Commissioner and explained to me. To this day, I still don't know what the ~~inappropriate~~ charges are. I think the fact that the Mayor and the rest of Council needed to take "~~inappropriate~~ Training" (which they did) is an admission that they had no clue in what they were accusing and sanctioning me for.

In my opinion, my so-called Council lacks both respect and professionalism and are forcing me to correct their mistakes by taking the Town to the Divisional Court, and asking for a Judicial Review of their flawed handling of my case (at the taxpayers expense). I will let everyone know when the Court date has been scheduled and hope that many people will attend in Brampton.

<http://www.simcoe.com/.../7153251-wasaga-deputy-mayor-says-5.../>

SCHEDULE "D"

From: MICHAEL SEGUIN <mpseguin@rogers.com>
Sent: Mon/09/Jul/18 4:20 PM
To: SEGUIN <mpseguin@rogers.com>
Subject: Re: Alar Soever for Mayor of The Blue Mountains

Hi Everyone:

I want to introduce you to my choice for the next Mayor of The Blue Mountains. About two weeks prior to Election Day (October 22, 2018), you will be receiving election material advising you how to vote on-line or by telephone. I ask that you and your significant other vote Alar Soever for Mayor of The Blue Mountains. Voting for the incumbent, in my opinion, is not a very good alternative for many reasons, which I would be glad to share with you.

Alar brings a great deal of knowledge and understanding of the issues, will provide more open and transparent agendas at Council, and as a TEAM, and will work and care more about our community needs, both now and in the future.

Also, full disclosure, Alar has been instrumental in exposing the truth behind the unfair and inappropriate back-room investigation of false harassment allegations against me by the former CAO and town staff (see details below). Although, the CAO fled the Town in August, 2017, the Mayor (McKean) and Deputy Mayor or that alternative (Ardiel), with support of the majority of Council, have continued their vindictive behavior to cover-up the truth and avoid any settlement with me - thus forcing me to resign and impacting both my health and financial resources.

Michael Seguin Affair Exposed <<http://www.bluemountainsreview.ca/news.cfm?newsid=227>>

<<http://www.bluemountainsreview.ca/news.cfm?newsid=227>>

Michael Seguin Affair Exposed

Finally we know what really happened. What the allegations were, and how they were dealt with. It's now all pub...

I asked that you read the material on Alar's web site and learn more about him. If you have any further questions, please do not hesitate to contact Alar directly or me at mpseguin@rogers.com.

Thanks for your attention in this important matter.

Michael Seguin

Email: mpseguin@rogers.com <<mailto:mpseguin@rogers.com>> Facebook Pages: Michael Seguin & Michael Seguin The Blue Mountains Former Councillor

bcc: Residents along Cameron Street

SCHEDULE "E"

WELCOME NEWS FOR A GREAT SUMMER!

The Board of Directors of the Blue Mountains Curling Centre are very excited to inform you that we have now received our approval from the Town of The Blue Mountains to move forward with the new curling centre at the Beaver Valley Arena in Thornbury. With your help, we look forward to building a great social and active venue for the entire family, both young and old to enjoy the sport of curling. What a perfect addition to our four season resort community! Alar Soever (right) acting President hands over the minute book to Lloyd Luckock, Incoming President on Saturday, July 14th. The ACC will be offering Friday and Saturday curling on a 4 sheet conversion of the Arena. The 2018/2019 season will consist of 15 weekends. A great deal of ice time is devoted to encouraging the newcomer / novice to get out and participate. i.e.: Daily Open Draw, Jitney Curling, Curling 11-Clinics, Student programs and Group events. For more information contact us at Maiolos Restaurant, 15 Harbour St. Thornbury for a BBQ, Sunday Sept 2 from noon-3pm. \$15 donation. Email: info@bluemountainscurling.ca or call 519-599-3345



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RUMOUR HAS IT THAT COUNCIL HAS MOVED ON FROM THE MICHAEL SEGUIN AFFAIR – THIS IS A MYTH!

Media Release from Michael Seguin Dear Supporters, Constituents, and Fellow Residents

I have been told by members of the community that some on Council may be spreading a rumour that my legal affair with the Town has been resolved. Nothing could be further from the truth. We are headed to Court on August 2nd. The majority of Council, led by Mayor McKean and Deputy Mayor Ardiel, have rejected my acceptance of their March 28th, 2018 offer to settle and want to continue to pursue action against me at the taxpayer's expense.

As I have stated in public, all I have ever asked for was procedural fairness and justice, with regard to the improperly carried out investigation of the alleged complaints filed by the former CAO, in May, 2016, which was followed by sanctions which were clearly designed to smear my good name and reputation. I've tried on many occasions to settle this matter in good faith and offered to settle

at substantially less than my legal costs, as well as offering to resign from Council.

Councillor Michael Martin hoping to resolve this matter in-house presented a motion to have the matter dealt with by a mediator but that was also turned down.

Council's latest legal maneuver, which is designed to drag this matter out and to continue to drive up my legal bills. They are expressing no remorse about spending your money and continuing their campaign against me. This has caused considerable emotional stress and financial strain on my wife (Catherine) and I over the past two years.

As I no longer have any funds to keep paying my lawyer, I am forced to defend myself against the Town's motion to continue the court proceedings. I have no choice but to ask the judge to dismiss the case. I hope that the outrage and unprecedented level of citizen activism that has been unleashed in the community, as a result of my ordeal, will continue through the 2018 election, and that we will all work together as a community to elect a new Council.

Michael Seguin, Former Councillor of The Blue Mountains
For More Information Contact: mpseguin@rogers.com

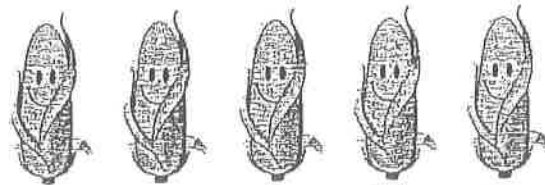
CORN ROAST

St. George's Anglican Church

Sat. August 18th

5pm until 7pm

A Free community event,
Church Open House - all welcome



Corn, hot dogs, ice cream.

COURT FILE NO.: CV-18-00000-179-0000
DATE: 2019 07 08

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

GAIL ARDIEL and JOHN McKEAN

Plaintiffs

- and -

MICHAEL SEGUIN, CATHERINE
SCHULTZ, LINDA WYKES and SHELLY
SAVILL, o/a The Blue Mountains Review
and RIVERSIDE PRESS

Defendants

REASONS FOR JUDGMENT

Fowler Byrne J.

Released: July 8, 2019