

Demand for payment undermines defendant's position that defamation action involved a matter of public interest (*Diverse Transportation v. Chen*)

Anti-SLAPP Motion | Defamation | Litigation | Litigation & Dispute Resolution | Matter of Public Interest

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Is a threat to “pay me or I will destroy your reputation” a statement of public interest?

In the decision of *Diverse Transportation v. Chen*, 2025 ONSC 554, the court pondered this question in the context of an anti-SLAPP motion brought by the defendant in a defamation action to dismiss the claim brought by his former employer, a trucking company.

A key component of anti-SLAPP motions is whether the alleged defamatory statement involves a matter of public interest. If so, a court may be more inclined to dismiss the defamation claim for constituting strategic litigation against public participation (i.e. SLAPP).

After a falling out with his trucking company employer, the former employee sued for unpaid wages. The parties settled for \$20,000 but the employee argued thereafter that he was still owed interest and vacation pay of just over \$1,000.

In an attempt to collect what he felt was owed to him, the employee began to accuse the plaintiff of wrongful business practices, threatening to inform its customers if he was not paid. He accused the plaintiff of committing fraud, cheating its employee in its payroll practices, and contaminating its cargos of food grade liquids by using unwashed tanks that also carry industrial liquids.

The plaintiff did not pay him and, true to his word, the defendant began to write to the plaintiff's customers, outlining his allegations against the plaintiff. The defendant wrote to a company that accounted for roughly 40% of the plaintiff's business. He outlined his money issues with the plaintiff and said that the plaintiff “might damage and mixture your product quality, cause health and safety problems even hurt your [customers]”.

The plaintiff's lawyer wrote to the defendant, advising him to cease and desist and stating the plaintiff was considering a defamation action.

Undeterred, the defendant said he would be soon sending his accusations to the media, highlighting that while a court action could take years to adjudicate, the plaintiff's customers could be lost in one day, one email, or one Facebook message.

The plaintiff obtained an interlocutory injunction, prohibiting the defendant from communicating any disparaging comments about the plaintiff to its customers online.

The plaintiff then commenced a defamation claim against the defendant, claiming it suffered damages to its business reputation. The defendant, in turn, brought an anti-SLAPP motion, arguing that the defamation action was strategic litigation against public participation. The defendant claimed that his warnings were

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matters of public concern and that the public needed to know the plaintiff's misdeeds.

The basis for an anti-SLAPP motion is [section 137.1 of the Courts of Justice Act](#). This section contains a two-part test which first requires the defendant to meet a threshold burden that his expressions related to a matter of public interest. Then, at the second stage, the onus shifts to the plaintiff to demonstrate why its claim should not be dismissed. At the second stage, the plaintiff is required to clear a merits-based hurdle, satisfying the court that there are grounds to believe its claim has substantial merit and that the defendant has no valid defence. If this hurdle is cleared, the plaintiff is also required to clear a "public interest" hurdle, proving that the harm likely to be caused by the defendant's comments were sufficiently serious that the public interest in permitting the action to continue outweighs the public interest in protecting the expression.

In the context of anti-SLAPP motions, the "public interest component" at the first stage of the test questions whether some segment of the community would have a genuine interest in receiving information on the subject or would have a genuine interest in knowing what the defendant has to say (*704604 Ontario Ltd. v. Pointes Protection Association*, 2020 SCC 22 (CanLII), at paragraph 27). The interpretation of whether an expression is one of public interest is meant to be broad and liberal, but the public aspect must be genuine. In making this determination, the court needs to get to the heart of what the defendant was doing in saying or writing what they did. What was the expression really about?

In this matter, the expression at issue was about a private employment/interest payment dispute. The supposed public interest concern about the plaintiff company's truck cleaning practices was a façade for the real message. In his communications, while the defendant professed to be concerned about "safety," he was seeking to have such alleged concerns addressed by the plaintiff meeting his monetary demands.

The court found that while the safety of a trucking company's operations might qualify as a matter of public interest, the issue would have to be *abona fide* (or genuine) issue to pass the "public interest" threshold under section 137.1. Here, the messages regarding safety all communicated that the problems could be addressed by making a payment to the defendant as soon as possible. This position strained credulity.

The court held that even without the defendant's threats, the defendant's claim for money against the plaintiff company could not be a public interest expression just because a component of the public may have had dealings with the plaintiff and may have had an interest in knowing about it. If the court held otherwise, there would be no more distinction between a matter of public interest and a private dispute.

Concluding that the defendant's expressions were not matters of public interest, the court found it unnecessary to determine whether the public interest in permitting the plaintiff's action to continue outweighed the public interest in protecting the defendant's expression. It was also unnecessary to consider whether the plaintiff's claim had merit or whether the defendant's defences were valid.

However, the court noted that the evidence submitted by the plaintiff overwhelmingly proved that there was no public need to know about the plaintiff's safety record. The plaintiff thoroughly addressed and countered each and every one of the defendant's allegations, point by point, and proved that it had no trouble in meeting its burden to prove that the defendant's statements were false, indefensible, and harmful to its business reputation. The plaintiff was also likely to establish malice.

The plaintiff's defamation action, in short, was a tort claim aimed at vindicating its reputation and had nothing to do with stifling public participation. The defendant's motion was therefore [dismissed](#).

In the decision, the court reflected on the purpose of anti-SLAPP motions generally. Such motions were not made to be used as the defendant had used them here – to threaten to spread false information about an adversary to expedite payment of demands and then block defamation claims by using an anti-SLAPP motion. Instead, such motions were created to apply to claims against groups or citizens who speak out about public issues, such as environmental, municipal, or consumer issues. The legislation was designed to eliminate, not foster intimidation, and to put an end to lawsuits that silence genuine critics. A PDF version is available for download [here](#).

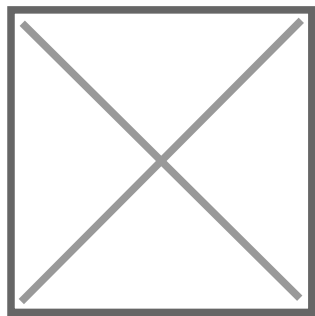
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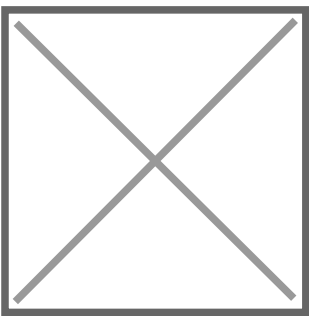
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