

Plaintiffs awarded a total of \$800,000 in damages for defamation (Murdy v. Barrette)

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In general, the range of damages for defamation is relatively modest. It is only in a limited group of cases where damages in the few hundred thousands of dollars are awarded against a defamer. This group of cases usually involves serious false allegations of sexual impropriety against a plaintiff or defamatory allegations that destroy the livelihood of a plaintiff who has a professional designation, such as a lawyer, doctor or accountant. In circumstances, where a defendant fails to defend a case, courts are also prone to awarding high amounts of damages.

In *Murdy v. Barrette*, 2026 ONSC 5035, the court awarded the plaintiff couple a total of \$800,000 in general and punitive damages for defamation against a defendant who failed to defend their claim.

The action arose from allegations that the plaintiffs had committed serious criminal acts against the defendant when he was a child.

In 2019, the defendant made a complaint to police about those alleged criminal acts. However, the complaint did not result in the plaintiffs being criminally convicted. Although the plaintiffs were charged, those charges were withdrawn by the police.

Thereafter, the defendant started a widespread campaign accusing the plaintiffs of having committed acts of sexual assault and forcible confinement against him.

The defendant further alleged that the male plaintiff, JM, who was the defendant's brother-in-law, had also committed "multiple" other sexual offences against unidentified parties.

Using social media, text messages, as well as verbal communications, the defendant circulated his allegations about the plaintiffs to family members, local emergency services personnel and to the public at large.

Among his more specific allegations, the defendant portrayed the plaintiffs as being a danger to children and warned that third parties should avoid JM's chiropractic practice. The defendant also compared the plaintiffs to Karla Homolka and Paul Bernardo.

As a result of the repeated allegations of sexual assault, pedophilia, molestation and criminal misconduct involving a child, JM's reputation as a chiropractor was critically damaged. JM was ultimately required to close down his practice and retire from his chosen profession.

The female plaintiff, MM, who was the defendant's sister, was also required to address the defamatory allegations with her employer and her professional college. MM suffered serious emotional trauma as a result of the allegations, and was ultimately required to take a medical leave of absence from her employment. Her personal relationships with others were also destroyed.

In their statement of claim, the plaintiffs sought \$350,000 each in general damages for defamation and \$200,000 in punitive damages. The defendant failed to defend the action and was noted in default. A motion to set aside the noting in default was struck as abandoned as the defendant failed to file fulsome motion materials as directed by the court or attend to speak to the matter.

Notwithstanding that the defendant had been noted in default, the court was required to assess the amount of damages sought.

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With respect to general damages, the court noted that in a defamation case it was required to consider a non-exhaustive list of factors, including the seriousness of the allegations, the scope of the publication, the conduct of the defendant, the position and standing of the plaintiff and the impact of the defamation on the plaintiff's personal and professional life.

In this case, the defendant's allegations warranted a significant damages award because, as observed by the court in *Vanderkooy v. Vanderkooy*, 2013 ONSC 4796, "[a]llegations of sexual abuse do not die easily and probably never will."

Furthermore, the court explained that the use of social media to circulate defamatory statements was a significant aggravating factor in assessing general damages. In *Canadian Aids Treatment Information Exchange v. Blackwell*, 2025 ONSC 4678, the court described, among other things, that "[t]he internet is an amplifier: content can be copied, downloaded, screenshotted, archived, and redistributed within seconds, often without the original author's knowledge".

There is also an element of permanence to defamatory publications made on social media.

As well, the court accepted that JM's reputation, personal dignity and professional standing had, in particular, been significantly attacked by the defendant.

Lastly, the court noted that the defendant's allegations were made within a small, close-knit northern community that resulted in significant public engagement in the allegations. Online commentary demonstrated that members of the community had accepted the allegations as being true.

Accordingly, the court found the requested general damages of \$350,000 for each plaintiff to be reasonable and appropriate.

With respect to punitive damages, the court found that the award of \$350,000 in general damages to each plaintiff was insufficient to adequately address the defendant's conduct and to deter similar misconduct. The court found that the defendant's repeated allegations were deliberate and calculated to maximize the plaintiffs' reputational loss. The defendant had targeted the plaintiffs and showed no remorse for his conduct.

However, the amount of \$200,000 sought by the plaintiffs was excessive in the circumstances. Instead, the court awarded the plaintiffs \$100,000 in punitive damages.

The key takeaways from this case are that certain factors can play a significant role in a damages award for defamation. Accordingly, lawyers acting for the plaintiffs should carefully review the seriousness and extent of a defendant's defamatory statements and highlight whether the statements are directed at a client's professional reputation or business.

For defendants, this case once again demonstrates that it is imprudent to not defend a defamation action. A defendant's failure to defend a defamation action will generally result in the forfeiture of the ability to make submissions on an assessment of damages and provide a plaintiff with an uncontested opportunity to persuade a judge of the devastating impacts of the defendant's defamatory allegations. In this case, the defendant's failure to defend the action and get noted in default resulted in an \$800,000 damages award against him, plus another \$245,288 in pre-judgment interest.

(Stephen Thiele is the co-author of *A Practical Guide to the Law of Defamation*, published by LexisNexis, 2024.)

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