

SUPREME COURT OF NOVA SCOTIA
Citation: *Candelora v. Feser*, 2019 NSSC 370

Date: 2019 12 17
Docket: Hfx No. 483401
Registry: Halifax

Between:

Dawna Candelora

Applicant

v.

Trevor Feser and Sonia Dadas

Respondent

**Restriction on Publication: Sections 5 and 8 *Intimate Images*
and *Cyber-Protection Act***

Judge: The Honourable Justice Joshua M. Arnold

Heard: July 22, 23 and 26, 2019, in Halifax, Nova Scotia

Counsel: William Leahey, for the Applicant
Noel Fellows, for the Respondent Feser
Nicholaus Fitch, for the Respondent Dadas

By the Court:

Overview

[1] Dawna Candelora is involved in a family law dispute involving custody, access and child support due to the dissolution of her marriage to Trevor Feser. They have one child. Mr. Feser has a new partner, Sonia Dadas. Ms. Candelora has brought an action against Mr. Feser and Ms. Dadas for cyber-bullying under the *Intimate Images and Cyber-Protection Act*, S.N.S. 2017, c. 7 (the “*Cyber-Protection Act*”). The application mainly relates to a prolific number of comments and images posted online on Facebook.

[2] The respondents do not dispute that they posted the comments on Facebook. They say that their postings are justified for a variety of reasons, some of which include that: they are fair comment or were made in the public interest; they are protected speech under s. 2(b) of the *Charter of Rights and Freedoms*; they were therapeutic and cathartic; it is not clear that all of the postings in question were directed at Ms. Candelora; the postings on Facebook were private; Ms. Candelora deserved such postings in retaliation for the tactics of her lawyer in the family law proceedings between Ms. Candelora and Mr. Feser.

Facts

[3] Dawna Candelora and Trevor Feser were married November 28, 2006. They have one child together. They separated on September 10, 2017, while living in Halifax. Ms. Candelora is a realtor who lives and works in Halifax. Mr. Feser now lives and works in Alberta. Following the marriage breakdown, the parties are now in the midst of protracted proceedings in the Family Division regarding custody, access and child support. Ms. Dadas also lives and works in Alberta and remains in a relationship with Mr. Feser.

[4] In August 2018, during an exchange of custody involving their son in Halifax, Ms. Candelora called Ms. Dadas a “prostitute”. At that time Ms. Candelora did not know what Ms. Dadas did for a living. She was angry about Ms. Dadas’ romantic involvement with Mr. Feser.

[5] Subsequent investigation by Ms. Candelora and her legal counsel revealed some evidence that Ms. Dadas actually might be a sex trade worker, under the alias of Sophie French. Ms. Candelora’s lawyer contacted Ms. Dadas and Mr. Feser to

express her opposition to their son being exposed to Ms. Dadas' lifestyle. Ms. Dadas and Mr. Feser took umbrage at this suggestion. The parties agree that for the purpose of this hearing I do not need to make a ruling as to whether Ms. Dadas is actually involved in the sex trade. They agreed not to call evidence on this point and asked me to ignore any material already filed by the parties on this topic. However, during the hearing the parties filed the following admission as Exhibit 3:

Re: Applicant – Dawna Candelora
Respondents – Trevor Feser and Sonia Dadas
Hfx No. 483401
Partial Agreement of fact

The Respondents agree with the Applicant and do not challenge her assertion that she was acting reasonably and out of concern for the best interest of her son when she raised with Mr. Feser the possible involvement of Ms. Dadas in the sex trade.

The parties further agree that Ms. Candelora made no attempt to doctor or falsify any of the emails attached to her original affidavit and marked Exhibit B. Those emails are not being tendered for the truth of their contents.

The parties further agree that the question of the truthfulness or otherwise of Ms. Dadas's possible involvement in the sex trade is not at issue in this proceeding.

Based on this agreement the affidavit evidence of Mr. David Leriche, Mr. Bradley Pye, David James Guest, and Ms. Mary Lou Marcotte-Genest shall be removed from the record of this proceeding.

[6] Mr. Feser filed two affidavits and attached materials, much of which relates to the behaviour of Ms. Candelora during their relationship and after they separated, as well as the ongoing family court proceedings. He also discusses his Facebook postings. Ms. Dadas filed one affidavit and materials, much of which relates to aspects of her relationship with Mr. Feser, her interactions with Ms. Candelora, her employment and information relating to some of Ms. Candelora's witnesses. She also discusses her Facebook postings.

[7] Five separate affidavits were sworn by Ms. Candelora on this application. Attached to each of her affidavits was a significant amount of material, much of which was comprised of online Facebook postings made by Ms. Dadas, and to a lesser extent, Mr. Feser, about Ms. Candelora (and her lawyer, William Leahey). Many of these Facebook postings reference the ongoing custody and support issues between the parties. Some of the postings were created directly by the respondents. Some were comments made on their Facebook pages by third parties

that the respondents endorsed or commented on. Examples of some of Ms. Dadas' Facebook postings, and the responses they received, are set out below:

- You are nothing but a narcissistic, sociopath dictator, that cannot stand to lose control of Trevor's money and happiness. You attack me even though there were other [sic] before me, just because I am an easy target and I am here in Halifax with my man and your son. I am sorry Dawna, I can't control your ex-husbands [sic] past, or who he wants to be with now.
- A con artist is someone who calls another woman ugly and a prostitute because of her own insecurities (because she is younger, financially independent, and has no children). Bottom line per the Halifax police, this is a case of jealousy.

- **Jeremy Nodeland** He doesn't want to leave dad because moms a cunt!! The law should listen to the kid!!

Sonia Dadas Feser You got it Jeremy! Very true.

- Disgusting stalker. You are the most deranged horrible human being Trevor and I ever crossed path with.

- I'm sorry Trevor will not get blackmailed or extorted"

- Hi ex wife tried:

To silence me

To bully me and Trevor

Intimidate me

Humiliate me

Defame me

Defame Trevor

Blackmail Trevor

Ruin my reputation in Halifax

Ruin mine and my ex-husband's 10 year old business (calling my toll free number numerous times, acting on crude assumptions that I am taking payments by credit cards for a prostitution business in Fort McMurray and in Nova Scotia, just because I'm in the merchant account business)

We have reported everything to the police in both provinces.

I will never be silenced by anyone. I have emailed you and asked you respectfully to cease and desist your behaviour but you kept pushing it further to please your bully client.

If you had a weak person in front of you, you could've drove that person to mental breakdown or worse yet even suicide with the amount of accusations and conjecture Dawna has been levelling against Trevor and I.

It's disgusting! It's despicable!"

- Keep up with your harassment and accusations. You involved my family, my work, my ex husband (you got him detained first time in his life) I swear the God I'll involve the world I never forget!

Keep fucking with me....

Your true colours will come out very soon to the [sic]

You are nothing but a bully, narcissistic sociopath that is hiding your harassment and blackmail behind your bully lawyer.

Stop asking me for spousal support or my financials Dawna.

I'll never work for you and Trevor will never work for you either. Your time is up. Move the fuck on. Learn to live with your 200k and get the fuck out of my life and don't involve me or my family, ex husband, friends in your divorce.

3 harrassing [sic] letters in 24h from His ex wife...

It's OFFICIAL his ex wife is taking me for spousal support but WAIT she makes 200k but wants my financials... (personal income and business income)

Money I made and still make prior to meeting Trevor.

Greedy and vindictive I'd say

- A BIG Thank You to all my CCPS clients in Canada and United States for your continued support in this smear campaign made against me and my company by Dawna.
- **Leslidiana Grzegorek** I'm just wondering HOW....???

Sonia Feser She can't...But she thinks she's above the law"

Angel Savoie Been thru that i feel ya! You are all her life and the air she breaths! She wont stop you just gotta shake it off i know you can beautiful people like you are stronger than the rest, other women's jealousy [sic] make us [emoji] I hope you find her entertaining cause i'd hate to know she got into your heart and upset you, dont [sic] let her

Sonia Feser Could not say it better myself. Attacking me and bullying me through her lawyers letters consumes her everyday. We actually just got another one today. A useless one. Thank you beautiful for your wisdom and kind words!”

- Yet you haven't stopped harassing me, accusing me, shaming me, bullying me, slandering me, slandering my business, accusing me of living in a condo in fort Mc all through your lawyer.

You might of not posted on Facebook directly but behind the scene with your lawyer that will write anything for money you showed me how much of a controlling and harrassing [sic] pushy bully you are.

- Ms Candelora,

Do you want your harrassing [sic] letters public? Keep harassing us with Leahey's letters...(you are hiding your harassment and blackmail behind him)

Miss success....

Get busy finding a signer for the house and Range Rover and take care of your huge tax debt.

We don't give a fuck about your 2017 income tax. You might need it for the bank to take Trevor's name off the mortgage. We don't want any of your shit.

Didn't you say we live in a condo on Gregoire already? And Trevor is paying me to be with him? What about the Halifax condo?

Why don't you call the cops and ask them all your questions stalker?

You are fucking with the wrong bitch I tell you.

Mark's financials will have to be produced if mine are asked by court order. I will never work for you or work for anyone.

Leave to live on 200k Dawna

Trevor is paid up in child support for at least 3 years. (18k) not including the 10k you stole from his business account. (Per police report)

Unless there is a court order you will not get a penny from us.

We are out of your garbage.

It's none of your business where Trevor works or where he lives.

Unless we get a court order we are not answering Leahey or your requests.... get lost with your harassment!

[Picture that says "I wanna be there when karma dry fucks your ass with a cactus"]”

- You should've never fucked with me Dawna Your whole affidavit is a pack of lies just like your 11 year marriage. Expose all!

“Do you want your harrassing [sic] letters public? Keep harassing us with Leahey's letters...(you are hiding your harassment and blackmail behind him)

Miss success....

Get busy finding a signer for the house and Range Rover and your huge tax debt. We are out of your garbage.

It's none of your business where Trevor works or where he lives. Didn't you say we live in Gregoire already? And Trevor is paying me to be with him? Lmao

[Picture that says “I wanna be there when karma dry fucks your ass...”]

- **Sonia Feser** She's trying to get Trevor Feser back? Lmao

Melissa Mccron Sonia Feser fuckin loon bitch she is [laughing emoji]

Sonia Feser Stalker, loon and a bully she is.

Trevor Feser The world will have to stop spinning before that would ever happen!

Sonia Feser But I'm an ugly whore she said [emoji]

Kamelia Libman Very desperate...It really reinforces how insecure she is.

David James Bahahaha... A picture from last year that has been cropped and filtered 17 times.

16 years you are senior, but yet the immaturity level ceases to amaze me.

Sonia Feser Leahey will probably send you a letter tomorrow. You can't talk about her shoes for 5 years [4 laughing emojis]

He won't have a problem calling me a prostitute [monkey emoji]”

- Dear Dawna and Karen,

I reported everything to Alberta Rcmp and Halifax Police!

Enjoy my Facebook!

- The vindictive ex wife is a planner. A manipulator. A liar. she spends time scheming and concocting a strategy to destroy their ex because that is the only way they know how to deal with their hurt and anger. Here are some possible outcomes of...

- You have been slandering the both of us everywhere from his work associates, to every person you commonly knew in Nova Scotia.

Trevor has been abused financially and mentally by you. Trevor left to date other women as he no longer had feelings for you. It does not matter if it is Amanda or me. He decided to leave you from in his own will.

From all of your threats to all the drama and bullshit you put us through, you are nothing more than a big fraud. You watched him, the father of your son, owing a big tax debt and decided a pool was more appropriate then to assist in settling that tax debt that ultimately affects both of you.”

- **Angela Thompson** I am assuming she has full custody?? and does he has [sic] visitation rights in an agreement??

Sonia Feser Joint custody. She thinks above the law. She illegally pulls my personal information. I’m calling the cops I also have our lawyer on it

- According to Trevor, she creeps people’s properties all the time.”

- How do I get my current husband’s ex wife to quit cyber stalking me? It is creepy, and what is the point? She’s stalking our work, our past and family members. Very scary!”

- Dawna/leahey I’m not scared of your threats or your baseless lawsuit. Go right ahead.

I will not be blackmailed!

I thought I lived on Gregoire Dawna across the dealership?

What happened to your affidavit?

Didn’t Leahey say purjery [sic] to lie to the courts? You still got my wrong informations legal and middle name and address.”

- She has a big ego. She wants to destroy my husband for leaving her for another woman.

We can’t win in any direction. Everytime [sic] we try to diffuse the drama she start [sic] a new thing. She’s addicted to drama and uses her best friend to post my parents [sic] pictures and post my siblings [sic] names. She got a copy of my bank balances from my ex boyfriend.

We got another 2 letters today.

M husband is disgusted.

Extremely scary the stalking and harassment I'm living. Thankfully, I got tons of support.

- It's all about how you treat people and being humble. You are a very greedy individual, a shark that has the need to win no matter what and show off an expensive fake successful lifestyle (while you are both loaded with high tax [sic] debts, maxout [sic] credit cards and credit lines) to low income Nova Scotian to feel better about yourself. I know why you can't sell million dollars [sic] listings. The upper class can see through your bullshit right away. You are a bully that takes advantage of the low income, very naive Nova Scotian. Very sad. I told you a long time ago to stop poking us. I'm extremely resilient. I will make this extremely difficult for you just like you did with me in 2018. All your harassment [sic], slander by text, email, video and Leahey's letters you did against me with your friend.... I will defend myself with my lawyer and publicly here on my Facebook. I will not take this harassment and accusation campaign you did against me and Trevor lightly and in isolation. What you did against me could've drove another woman to kill herself. I will never give you that pleasure.
- You paid Leahey to call me a prostitute since September Dawna. That's what you paid him for. I hope you feel better lol and I hope you believe it the rest of your life.

Your second divorce. You will never be happy in your life. You are a bully that needs to win and crush someone no matter what.

- I don't fall under Nova Scotia Jurisdictions [sic] You are very creative Mr Leahey so i'm told by a few lawyers in Nova Scotia.
Enjoy the dollars you are making off these very emotional vindictive ex wives"

- Leahey & the Tramp!

- 1776 I hope you can handle this one. Go fuck yourself

The best day 1776

Trevor Feser

You are officially free from the ex wife forever!

I love our legal teams! no woman for 5 years and somehow Leahey tried to revive your bogus scam agreement

What happened to Trevor being a molester? What happened with you fucking with child access every single time? What happened to Trevor's 4 million

dollars? Is that why you won't produce your visa statements? What happened with you contacting my work, getting my ex husband detained?

You are right you didn't do anything NO You are the most horrible person I ever cross path with.

And you fucked with the wrong bitch

- So you did nothing Dawna? Molestation, 10k stolen off his accounts, fucking with child access
- But you were so jealous that we got married in Hawaii it burnt your ass so bad. You needed to punish. You are a narcissistic ex wife that lost control of her ex husband.

Remember karma is a bitch and you are going to get it 10 folds. You are going to remember 2019 for a long time.

- Extremely wonderful feeling to be disconnected from a poisonous vindictive ex wife.
- We went through hell and back but I'll do it over and over for Trevor Feser. We finally got Top of the top honest attorneys to take care of the situation.

And they can't stand her lawyer so that's great.

We got another court date in Halifax this Thursday. This time she's suing me civilly. lol a complete irrelevant case. I thank you so much for your support!

- What a wonderful feeling to be disconnected in every way from a poisonous vindictive ex wife!
- Move on! And stop stalking us and harassing us through Karen's posts and leahey letters. We all know what you are doing. You are a true narcissistic, greedy, vindictive ex wife. And never would a successful real estate agent would have the time to stunt, stalk my Facebook and use social net stoners in Lloyd to write affidavits on her behalf.

You are fooling many. But trust me you are not fooling me. I remember what you put me through in 2018 very well. And I will keep smiling in 2019.

I know Mr. Leahey wants me to take your accusations and harrassment [sic] quietly. No fucken [sic] way. You attacked me since December 2017 calling me a prostitute when you didn't even know my name or my Facebook. You couldn't stand Trevor could get me. I'm so thankful that Trevor kept recordings [sic] all your threats to him and all the molestation threats you did against him.

You will never silence me.

- (Yet Trevor has never said anything about Mark not be [sic] around his kid)

Either way you are being evil and vindictive cause he dumped you and he LEFT you! Unless there is a court order they won't [sic] be no answer. Don't waste your time and move on! He won't answer your calls unless it's concerning his son's welfare. (Who would want to speak with you after threatening him about being a child molester? Do you remember the recording and his police report? Like really?) We can't be civil with someone that constantly threatens us. Again everything you [sic] trying to do against us won't work I'm a dual citizen. You are nothing but a one sided dictator! I will protect Trevor until my last breath and you will not silence me. I'm sorry but I won't take your abuse and I will share my journey under the Canadian charter of rights and freedom. You harrassed my life since December 2017 it hasn't stopped! 10 years in Trevor's wasn't enough I guess...

You are not the victim here. You talk about friends and family worried and tell you what it's the same case on our side. Imagine people still don't know what you dit [sic] in the background, your threats, your lawyers letters, your recordings, your texts, and many more evil stunts....

Trevor will get his justice in court I promise you that!

- You need to have a though [sic] skin to deal with his vindictive ex wife. What I'm going through is completely horrible and cruel!
- I never called you a gold digger, I never called you obese or spoke about Trevor dealing with your obesity for 10 years, or the erection problems he had with you in all of his 30's. (Sometimes he had to pop 2 pills to get it up he almost ended up having a heart attack in 2016, he was so scared of you and your silent treatments) I never spoke about your hump in your back, I never spoke about your nose, I never spoke about the no chin or the size of your neck, I never spoke about all your scars or excess skin, or tube sucks he had to deal with, I never spoke about all the fillers you pump in your face. I haven't spoken about your relationships on match.com (Targeting younger men to control them) Yet you haven't stopped slandering me physically and tarnishing my reputation to your circle since December 2017. I have you on recording since December 2017 calling me ugly and whore, right before you threatened Trevor to report him to CRA for a joint tax debt... all over a simple profile Facebook picture of us together... and nearly a month and a half AFTER you had already posted one with your new man.

But all you did is slander me and hate me physically none stop. Yet you are the first one trying to copy my makeup, my poses, my profile pictures. People and our followers run to us to report how desperate you are copying me. At your age you should focus on your kids not fighting on a daily basis (or going on match.com after you learned your husband cheated on you) with a woman you don't even know. You should probably post pictures of your kids to show how much your [sic] love them and support them cause truthfully nobody cares about your looks or your photoshopped pictures close to 50 trying to compete with your ex husbands new wife. You are clearly not in love with the undertaker for you to go out of your way and fighting this hard for peanuts...

You just can't accept Trevor dumped you and he never wants to speak to you he's so disgusted.

- You are a narcissistic sociopath. Nothing else!
- We always talk about the deadbeat dads.... What about the true deadbeat moms?
- (What about those deadbeat moms that have several children from different relationships in order to gain child support and spousal support payments? Those mothers that are not fit to coparent [sic] or even parent, unemployment to alcoholism, shopping addictions, to weed addictions, to anger issues)
- I'm a woman who is not perfect I choose to not have kids, I choose to work my ass off to never depend on a man financially. Yet I had plenty of opportunity to move on with a wealthy man I never did. A man isn't a paycheque or a bailout. He's a human that needs to be loved and respected as much as a woman needs to be respected."
- **Chris Ckone** I knew it too!! MY EX!!! A BITCH!!!
Sonia Feser I know Trevor and Yourself are sharing the same struggle. Fuck these untitled [sic] bitches that have zero respect for a man and keep using kids as a pawn."
- Your followers are not aware of all your Leahey accusations letters you sent us 7 days a week. I don't forget the pain your put us through in 2018. 2019 I will not let you ruin our life (Hateful accusations, bullying, harassment through Leahey litigation) Thankfully they will be all public including 3 years of RBC statements (Trevor paid for everything every single year you were married and signed for every god dam thing, you have a big shopping addiction you ruined all the family money) You didn't contribute in nothing. It's actually very disgusting) in your cyber lawsuit. You did this all by yourself cause you are a jealous bully. You can't accept my and Trevor existence. We got testimonials from your ex's too. They will be used as witnesses too.
- **Nicole Giese** Woouooooowwww. She needs a straight jacket, some serious medication & a bubble room. First off – why would he use her as a realtor when she's been nothing but nasty to him. Secondly – death threats are pretty much the fastest way to lose business no matter who shes [sic] talking to let alone when it's her ex husband. The stupidity of some people absolutely astounds me.

Sonia Feser Exactly! You got it

Tim Campbell Call the cops she will loose her license

Carol Bench Wow bat shit crazy he really needs to get custody shes toxic

Sonia Feser Very toxic.

Carol Bench Wow shes got nerve you can use any realtor you wish shes just physco [sic]

Sonia Feser Yes!

Rahsheeda Braan Ok she has me scared for you guys safety!! This sounds like a lifetime horror movie I was in fear listening to this message

Sonia Feser We have been scared for 1...

Justin Anderson "Yeah let me go ahead and choose YOU as MY realtor after YOU threaten to murder ME." She literally is psycho.

Sonia Feser Psycho and a control freak

Mary Gilbert She can go fuck herself. You and trevor can do whatever you wan [sic] not her fucking business anymore"

Chris Ckone She'll get hers,,,,, eventually,.... the bitch

Sonia Feser Hopefully very soon

Carol Bench Wow inatead [sic] of saying nice things about her sons new step mom she calls names. Maybe she should be thanking and praising you for being a great step mom and being kind and loving to her child. Its cdllled [sic] feing [sic] thankful you have someone else that adores and lives [sic] your child i think she really needs to grow the hell up and stop using her son as a object to hurt his father and you becauae [sic] she has mental issues.

- **Ben Konning** Tell her to go get a job and support the child herself if she wants to be a part of the childs life tell her to stand up and do it all other legit standing parents do and quit bitching and get to work! Tired of deadbeat parents taking money from hard-working parents. You want to show a child that you love them and care for them and want them in your life, ! Then do what it takes the right way! Smarten up and set the example is what I would tell her

Sonia Feser Exactly but she still going after me lol She wants a welfare check from me every month. Even though she made over 200k last year... Thankfully I have dual citizenship...

Sonia Feser She made over 200k last year as a realtor and she's going after me for child and spousal support. It's the world [sic] greediest woman I ever crossed path with.

Tim Gileo Sonia Feser counter sue

John Hughes lawyer isprobably [sic] getting laid by the bitch lol

Sonia Feser I assume too.... he's over 70 years old probably cialis

- You don't worry! You are true racist individual that hates East Indian people, gay people, black people.
And you work with the public.... what a joke!
- Thanks for proving me how uneducated and racist you are ex wife! I'm NOT FROM THE MIDDLE EAST (I wish I was beautiful people ..."
- You are a complete psychopath and a stalker! You can't even follow the judges [sic] rules.
- You are acting like you are supporting the gay community in Halifax ?!
While you are prejudice 24/7 Makes me so sick how much of a fake hypocrite you are.

[8] In addition to filing her affidavit as evidence, Ms. Dadas testified during the hearing. Her *viva voce* evidence was quite illuminating. Ms. Candelora's reference to Ms. Dadas as a prostitute in various letters from Mr. Leahey relating to the family court issues, and the ongoing custody and child-support litigation, was referred to repeatedly by Ms. Dadas during her testimony as the catalyst for her many postings about Ms. Candelora. She also said that references to her being a waitress or being of middle eastern descent were legitimate catalysts for many of her postings about Ms. Candelora. Ms. Dadas was cross-examined at length about her postings. Some relevant excerpts include the following:

Q: The respondent, and that's you and Mr. Feser...

A: Yes.

Q: Agree with the applicant, that's Ms. Candelora, and do not challenge her assertion that she was acting reasonably and out of concern for the best interest of her son when she raised with Mr. Feser the possible involvement of Ms. Dadas in the sex trade.

A: But you have to look at the timeline. At the time she did not know that there were any sex trade when she called me a prostitute. She called me a prostitute because she wanted to call me a prostitute and degrade me cause it's what she does.

Q: After you began posting to the internet in the Summer of 2018, she heard from Mr. Leriche and Ms. Langier and Mr. Leriche provided her

information which she then provided through counsel to your lawyer, correct?

A: I disagree because in October she said she only knew in couple weeks in her affidavit on family said she only knew a couple weeks ago that I was a prostitute, that they told her and they brought up, so the whole time from December 2017 until the day she called me a prostitute she had no idea about who Sophie French was and any ad of Sophie French and she called me it was not right in the public setting she called me a prostitute in front of her nine year old son that was upset.

Q: She didn't do it on the internet.

A: She did it in the public and I taped it.

Q: You'll agree with me that she didn't do it on the internet?

A: Exactly, yes.

Q: Right.

A: I agree with you.

...

Q: Well, you obviously don't respect Ms. Candelora, do you?

A: I'm not when she calls me a waitress and when she calls me a prostitute for 11 months through her counsel and herself.

Q: Okay. Why are you claiming now over the past few weeks that she is prejudiced?

A: Because she called me a waitress and then she called me a hooker. She called me all these names. She is prejudiced, Mr. Leahey, I'm really sorry.

Q: Yeah, you say this as though this was something that happened recently. You've had no contact with my client since August 2018.

A: But she hires you and pays you.

Q: My Lord.

Court: You have to wait from him to finish asking the question. Thank you.

A: Sorry, I apologize.

Q: You've had no contact with my client since August 2018, correct?

A: Correct.

Q: Right. So all these claims that you're making about things that she's allegedly said or something like this, this is all based on stuff that's happened, even in your mind, more than a year and a half ago?

- A: No, on her affidavit, she's mentioning my name so it's being brought to me.
- Q: Okay, so let me understand this then. If she says something in an affidavit that you find offensive that gives you the right to go on the internet and publicize the notion that she's prejudiced against people. Is that what you're saying?
- A: No, I'm saying her counsel, that she pays, is hounding me. If it's not a racial thing, it's a prejudice thing about being a hooker, doing this, doing that, accusing me of doing all these things. Same thing when you accuse me about my stepson doing phone sex and video phone sex chat sessions, paid sessions, all these things.

[9] Opposing counsel asked whether Ms. Dadas had any evidence that anyone connected to Ms. Candelora had said she was involved in phone sex. After a break to allow her to look at the materials, court resumed:

- Court: The question was whether or not there was any documentation before the court that accuses you of doing or performing or participating in phone sex or video sex?
- A: He says, Ms. Dadas taking calls from customer and negotiating sex for pay session while [...] is present, as well as engaging in phone sex and videotape sex for pay session, also concern would be Ms. Dadas seeing customer while [...] is on the premises and allowing other sex workers to use premise for their business while [...] is visiting his father. And that was done March 14, and I've denied you any of this since September.
- Q: Okay, let's go through this for a moment, okay? This is a letter to your counsel and the second paragraph of the letter states that for the record now that you've both conceded in open court the relevancy of the issue of Ms. Dadas' profession as well as the relevancy of David Leriche, and there was a hearing before the court where your lawyers appeared and initially tried to contest the relevancy of Mr. Leriche's evidence and wanted that removed from the record, remember? Back in March, you weren't here.
- A: I don't know, my attorney could answer that.
- Q: Okay. And your lawyers ended up agreeing that Mr. Leriche's evidence was relevant and the issue of whether or not you were in the sex trade was relevant to the application that was being brought by Ms. Candelora. Do you remember that?
- A: I believe my counsel told me that was the honourable judge decision, so we went with his decision because he had gone out of court. I remember I

was in Fort McMurray and he gone out of court and called me by cell phone and let me know and he says that was the judge decision.

Q: And this letter is not an accusation against you, it is a request to negotiate an agreement to ensure that none of these things happen when [...] is visiting with you, correct? Correct?

A: No. I don't agree to that.

Q: I'm going to read it to you madam. Why don't you take the next logical step and negotiate an agreement with the undersigned on how to ensure [...] is not exposed to Ms. Dadas practicing her profession when visiting his father. Right? They were being invited to negotiate an agreement on how [...] could be protected against seeing this kind of activity, correct?

A: I was told that the they never got any agreement from you. This is what I was told. They never got this agreement.

Q: You refuse to negotiate that agreement, correct?

A: No. You just inflamed the situation. You wanted more Facebook posts. You wanted to get me mad to make money. Just say the truth.

Q: And you refused to consent to an order that said that there will be no business carried on when [...] is in your presence.

A: Because there is no business. I'm in the credit card payment processing business. There is no sex trade business.

Q: Okay. But you understand and you've already agreed that Ms. Candelora was acting reasonably in raising the concern that you were doing these things based on the information available to her, right?

A: Not until today.

Q: Pardon me?

A: Not until today. When we, my lawyers signed the agreement.

Q: Today you're saying that it is reasonable for her to have done this, right? You're admitting it now, correct?

A: Not really, but if that the answer that you want, that you're pushing for, you know exactly what you are doing, Mr. Leahey. You know exactly. You were making smoke, making things bigger to make money.

Q: Right.

A: You attacked me with your client. You attacked me to the bone.

[10] Ms. Dadas was then directed to a Facebook posting she had made, and questioned as to whether it violated a Family Division order that financial disclosure material not be published on the internet:

Q: Okay, are you denying that Justice Chiasson made a ruling that your husband, Mr. Feser...

A: I wasn't there.

Q: Violated the order?

A: I wasn't there, but I was told by our counsel that otherwise.

Q: The information that's on this page includes December 12, United Airlines ticket to Florida, purchased on your business Visa for personal vacation, \$1623. This was Ms. Candelora's private business information, do you agree?

A: Yes.

Q: And you made a decision to post it to the internet, correct?

A: Yes.

Q: Right, because you wanted to hurt and embarrass her as much as possible, correct?

A: Yes, because you embarrass me that day with Mr. Feser, you told us that we went on a shopping spree before the bankruptcy and you said Ms. Dadas along with Mr. Feser bought \$10,000 worth of furniture, something like that in Halifax when I've never been in a furniture store when he was buying the furniture. You had no proof of that, you did speculation and accusation. Your whole litigation's been based on speculation and accusations none stop, Mr. Leahey.

[11] Counsel went on to question Ms. Dadas about her online posting habits:

Q: Are you telling us that if you don't happen to like what's said in divorce court that you have the right to go out and publish information that was specifically ordered not to be published by the court?

A: Not divorce court, with lawyer to lawyer communication.

Q: You think you have the right to do that?

A: Yes, when you accuse me of and accuse my husband that I love very much of fraud and of doing his taxes on his own and on being a fraudster, yes, I do.

Q: What's it going to take to get you to stop posting my client's private information to the internet?

A: When you stop calling me a prostitute, very simple, I've told you that, over and over.

Q: Right.

...

Q: So, you're announcing here that you're just going to keep putting this stuff out on the internet, right? Nothing's going to stop you, right?

A: Well, I've asked you to stop since October, Mr. Leahey. I told you that those are not my pictures. I have no tattoo. I have no tattoos. I've told you everything that I could. I was very respectful to you. I sent you a letter. I was respectful. My lawyer sent you letter may times. Mr. Noel sent you, I'm irrelevant to the divorce. I'm not part of the divorce. You wouldn't take no. You're still asking for my financials. You still thinking I'm hiding money. You've accused me to hide a company of Mr. Feser. You accusing me of hiding money, doing things. Always, it's always like a fight. We can't have anything and I know you want to make money. I'm not stupid, I'm from Montreal. I grew up around people that were lawyers.

Q: Do you have any, do you distinguish, madam, between the legal process between lawyers and law firms were letters go back and forth, demands are made, arguments are raised and then people stepping outside of that and defaming somebody else by publicising the nastiest, the worst names imaginable about that person...

A: I didn't...

Q: Publicly. Do you understand those are two separate things?

A: I was defending myself over your letters. She retained you. She authorized you to go after me like this. To break me. She authorized you to break me.

Q: Do you understand that those are two separate processes?

A: I'm sorry. It doesn't, not whatever works for your client doesn't work for me, I'm really sorry. I am not a cyber bully. You said it. I have 4900 friends. I am very good in the community. I am very active in the community of Facebook. My pictures generate 200-300 likes. I am very liked in the community. I don't do anything wrong in the community of Facebook.

[12] Ms. Dadas confirmed that she had been served in the proceeding, but had continued to post in the same way:

Q: We have already been through the letters that were sent by my predecessor, Ms. MacIsaac, and myself to your, Mr. Feser's prior counsel and his present counsel in August and September asking for you to stop posting to the internet, correct?

A: No.

Q: Well, madam, you were served with them on August, on December 19, correct?

A: December 19, I was served, but those letters, I did not have a lawyer. Mr. Noel Fellows told you a million times that he does not represent me. He does not represent me. He has told you that.

Q: Mr. Fitch represents you.

A: Yes. I only had him and retained him in January. I did not have an attorney here because I don't know anybody in Halifax.

Q: Whether it was December or January, you were served with the documents that contained those letters, correct?

A: Yes.

Q: Right. So you've known about those letters at least since December or January of 2018/2019?

A: No, I didn't.

Q: You didn't?

A: No, I didn't. Unless it was mentioned. I've always told Trevor that unless my name is mentioned please send it to me. If my name is not mentioned I don't, I don't worry about his litigation, but since you came in the file it's been chaos, chaos. When we had Ms. MacIsaac she was very, very respectful. The office of Mr. Pat Casey were very, they were top of the line respectful people. They would never have written the stuff that you have written. It's quite amazing you're still a lawyer. Quite amazing actually. I'm very amazed.

Q: So there was...

A: So many lawyers. I had such a hard time retaining a lawyer because they didn't want to work with you.

...

Q: There was a period of several months between August and September of 2018 and December 2018 that you continued, during which you continued to post to the internet regardless of the letters that had been sent to the counsel for your boyfriend, husband, Mr. Feser, correct?

A: Yes.

Q: Yeah. So you ignored the warnings?

A: They were not warning, there was harassment from you. As soon as you took the file you just started harassing me. This is, you wouldn't stop. I stopped posting on Facebook for three weeks in January, just to see if this is going to stop. Mr. Feser was having a vasectomy reversal in Toronto and he was accused of abandoning his son because in Toronto we happened to cross in the patient room next to Ms. Candelora's friend that went and told her that Mr. Feser was having a vasectomy reversal, so she

lost her mind because he can make babies again and then you went on and said there was child abandonment and this and that. You started writing all kinds of stuff just because Mr. Feser wants to have a baby.

Q: Okay, we're talking about the subject of the passage of time between the date that you were given fair warning in August and September of 2018 to stop posting on the internet and the date this action was started.

A: I was just justifying myself that I am not a prostitute Ms. Leahey.

Q: Right.

A: I just justified for my friends, my family, my community, the people that love me, my customers, everyone.

Q: So you weren't going to stop, right?

A: Unless you stopped. I've asked you to stop. I sent you directly through my counsel. You wouldn't stop. I guarantee you this, all this is you, Mr. Leahey, and of course, she's the one paying you to do this, but it's all you. If it was Pat Casey, this would have been resolved a long time ago, but you saw an opportunity to make money. You're a businessman.

[13] Counsel suggested to Ms. Dadas that she had a pattern of attacking people online:

Q: I'm suggesting that this is simply a pattern that you follow that when you are not getting your way in some area, you attack and you attack by every means possible. You attack by attacking people's personal careers. You attack by trying to get them charged criminally, trying to get them charged professionally, defaming them on the internet, you don't care because you think you can get away with it because of your business, right?

A: My business? What business.

Q: You're an independent businesswoman.

...

Q: This is a pattern that you have followed for years, you did it when Mr. Leriche broke up with you, right? You started posting to the internet then.

A: I've never done that.

Q: Trying to defame Mr. Leriche. You sent letters to his employer stating that he had circulated naked pictures of you...

A: He did.

Q: And another woman.

A: We have all the proof, we did.

Q: So you followed the same pathway of using the internet to defame someone in order to get your way, correct?

A: Absolutely not, but I will defend myself if someone attacks me.

[14] Counsel returned to various exchanges between Ms. Dadas and Ms. Candelora and specifically the language she used online:

Q: So, you posted, I want to be there when karma dry fucks your ass with a cactus?

A: I didn't post, like, it's a quote. It's a general quote. It's a general quote. It's not, I did not write that.

Q: You selected it and put it on the page and posted it to the internet.

A: Yes, I did...

Q: Okay.

A: Because that day you accused me of being a prostitute and taking customers on Gregoire[?] in Fort McMurray and I do not live in Gregoire and I do not do whatever you accuse me of. It was a really bad letter you sent that day, Mr. Leahey.

Q: Uh huh.

A: And you remember that one.

Q: Okay and it's also you stating here, you are fucking with the wrong bitch I tell you, right?

A: I'm a lion. I fight for myself. When someone attacks me, I attack back, but I'm not a violent person. I've never done anything in my life that is violent.

...

Q: Okay, let's try to stick to the point here, madam. You published to the internet someone else's private information about their personal business income, correct?

A: It was a back banter between me and you, correct.

Q: So you knew what you were doing when you did that?

A: Oh yes.

...

Q: How many postings did you make on November 13, do you know?

A: How would I know? I don't remember. I'm sorry, I don't have the memory of a... how would I know? Didn't even read them.

Q: Okay, we'll get into that, how many postings you make on one day in a few minutes, but if we look at page 5.

A: I'll tell you something, it would be very simple, if I go November 13, if I had access to my cell phone, I will look at what letters I got November 13 from you and it would be very simple and the Honourable Judge will be able to see that there is a pattern here. Your letters, my posting on Facebook. My letters. It was a back to back banter with you, Mr. Leahey, and your client has retained you to do this to me, to destroy me because she did not want me to be married with Mr. Feser. She did not want me to be happy with Mr. Feser.

Q: Right. So, you're determined to destroy her first, right?

A: I don't want to destroy her. I want her to leave me alone. I've asked for it. I told her to leave me alone. I said I will not post, here's a thousand dollars in July and I will not post a thing on Facebook, but she did not want that. I stopped posting for three weeks in December. I stopped posting again for another three weeks in March, but nothing worked. I tried everything. Your letters won't stop. You won't stop.

Q: Page 5.

A: There's no limit. Until she fires you, it will not finish.

Q: Page 5.

A: Yes.

Q: From you, 8:25 PM, keep up with your harassment and accusations. You involve my family, my work, my ex-husband, you got him detained, first time in his life. I swear to god I will involve the world. I never forget. Keep fucking with me. Your true colours will come out very soon. You are nothing but a bully, narcissistic, sociopath, that is hiding your harassment and blackmail behind your bully lawyer. Stop asking me for spousal support or my financials, Dawna. I'll never work for you and Trevor will never work for you either. Your time is up. Move the fuck on.

A: Yes.

Q: Describe her as greedy and vindictive once again, right?

A: Yes.

Q: Right.

A: Because she's asking for spousal support from a prostitute. This is what she's saying. She saying you're a prostitute, Sonia, and I need spousal support and child support from you, even though you're not the mother. I'm told by Mr. Noel Fellows that I'm not party to the divorce and I don't owe Ms. Candelora child support or spousal support. I still don't live with

Mr. Feser and in Alberta there is three-year common law is three years. So I don't know why you do this to me.

...

Q: I guess the point I'm making to you, madam, is that you keep repeating these nasty statements, right?

A: Nope. I'm being attacked by yourself. She hired you to do this to me. So what does she do, she hiding, she's a real estate agent, she doesn't want to, she's like this happy person, successful person, this that, she doesn't want to show this nasty side, that's probably why there is nobody that came today that is friends with her in this court. She doesn't want to show this nasty side of her with you and this show. That's why you took off my witnesses. I'm not stupid.

...

Q: You've heard the testimony of Ms. Candelora that the purpose in doing that was to determine where Mr. Feser was working because he claims he no longer makes \$350,000 a year, he only makes \$75,000.

A: Yes.

Q: And we were trying to determine where he was working, correct?

A: Not at the time there were no financial disclosure when in November 28 there were a tracking with all due respect there were no financial disclosure exchange, so you guys had no idea he was making \$73,000 or where he was working at the time because it was not due yet the financial exchange was not due.

Q: So you understand that you're upset because you felt your privacy was invaded, right?

A: Inside my property absolutely. Absolutely. She has no business 6,000 km to come and cross my house, my property and go inside my property at 4 o'clock in the morning inside my land and place a tracker on our family truck.

Q: Okay, but some how it's alright for you to publish details of financial disclosure that she has given in her divorce file to the internet, is that correct?

A: Um, I did it as a defence, as a defence because she was attacking my husband, my life. She was, you were saying along you that worked everything, you were saying that Mr. Feser was accounting was a fraud, that he made the accounting himself, that his expenses were all fake and you kept threatening us, Mr. Leahey, this is the reason why and I find it very interesting that you're actually the lawyer of Ms. Candelora when you're attacked me.

[15] Counsel referred Ms. Dadas to further remarks she had posted to Facebook:

Q: First paragraph, down near the bottom, you have no idea how much he regrets ever meeting you. He told me how things got worse when your son was born because by then he was trapped. Now, you published this to the internet, right?

A: No, to Facebook.

Q: What?

A: To Facebook. On my Facebook page.

Q: Fine, to Facebook.

A: Yes.

Q: So publicly available.

A: To my Facebook. To my Facebook friends, yes.

Q: Any anybody in the public who is not blocked.

A: I mean, I don't see the globe in this post.

Q: Pardon me?

A: I don't, I don't see the globe in this post.

Q: Yeah. I'm going to ask you a question.

A: Yeah.

Q: When you were writing this up.

A: Yes.

Q: Did you ever think what the impact would be if somebody walked up to [...] in the school yard or out playing with his friends, someone maybe a year or two older than him said, your dad was trapped when you were born. Did you ever think about that?

A: No, I didn't never thought about that.

Q: Never thought about that, eh?

A: No, I'm sorry, I didn't. I apologize.

Q: Never thought about the effect that would have on [...] if this was brought to his attention that this is how his dad felt?

A: No, I didn't, but I can tell you that that day you asked for my personal income tax papers for the child support, but I'm not the biological mother of the child and at the same time the next line you called me a prostitute again.

Q: Right.

A: Mr. Leahey, this is you doing this to me. I'm just defending myself. You haven't stopped for 11 months. I begged you to stop. You wouldn't stop. You and your client ordered you to do this to me. You wanted to break me apart from Mr. Feser.

Q: Are you finished?

A: Yes, sir.

...

Q: My question is, did you give any thought to how this would affect [...] if this statement got back to him?

A: But Ms. Candelora said he doesn't have a Facebook account and he told us that he does not have a Facebook account, so I did not think it would affect him in any way.

Q: So, you didn't give any thought to it?

A: Well, I didn't put the name of my stepson, did I? I didn't.

Q: Right. Page 28. Bottom of page 28, Mr. James, your ex, states very successful, she can't get approved for a \$300K mortgage and a Range Rover payment, I heard. Probably why she's going after your money. You will probably get a letter from her lawyer today for your spousal support cause she can't make ends meet making \$200K a year, but she's number four at Remax. You chose to publish this to the internet, correct?

A: I didn't choose the internet, it was on my Facebook account. Please stop saying on the internet, makes me look like I'm in a campaign globally against Ms. Candelora. You're making look like worse than I am.

Q: Is Facebook part of the internet? Is social media part of the internet?

A: Facebook is inside the internet, but not all the internet.

Q: You chose to publish this on your Facebook account, public portion of it.

A: Because Ms. Candelora was going after me for child support and spousal support from an alleged, no accusation that I'm a prostitute.

...

Q: Well, it's a, the reason I ask that is because you are saying that she used my Facebook posts to build her case, and the case you have to be talking is the one that we have here this afternoon.

A: She did. She did. She admitted yesterday, my sister, she went on my sister's Facebook to find out if I was Moroccan or not.

Q: Okay. What I'm getting at, madam...

A: Yes.

Q: Is, you were writing when you made this post your opinion that the judges don't care about Facebook dear. That's your words, right?

A: It's my word after concluding what my one of our attorneys told us about Judge Chiasson in January on conference.

Q: So, am I correct in understanding then that you think you can write anything you want about Ms. Candelora on Facebook because the judges don't care what you do?

A: No, but...

Q: That's not what you...

A: When there is a bully lawyer that hasn't stopped attacking me everyday about prostitution when I told you a million times that I am not a prostitute. I told you a million times to stop. You would not stop. If you wanted to stop. If you worried about, or Ms. Candelora worried about her son, she would had, she would have got an emergency blocked access against me. You never applied for blocked access. I'm all for it. I respect Ms. Candelora. If she, if she's worried about her son, I'm more than respect her for that because I love him to death and if this, she was in the same situation, I would feel for her, but do an emergency access and let's get to court like civilized people. Do not humiliate me, slander me, do all the stuff that you have done to me. It's something I've never seen this in my whole life. It's not normal to [inaudible] someone that does video chats and sex in front of my stepson. That I do phone sex in front of my stepson. That all my girlfriends are doing sex in front of my stepson. You're despicable Mr. Leahey. You're despicable.

Court: Ms. Dadas, this is a courtroom, and you will not be calling anybody names in this courtroom. You may feel as you feel, but there are rules in court. Do you understand?

A: Yes.

Court: Do you need five minutes?

A: No. It's fine.

...

Q: So when you made the decision to post publicly to the internet a statement that Ms. Candelora is a cunt, that was a conscious decision that you made, right? Correct?

A: That day I got the letter from you calling me degrading, degrading and humiliating me, your client ordered you to write these things to me so that's why I posted.

Q: So this has been...

A: But I never called Ms. Candelora ever in my life a bitch or a cunt.

Q: You just published quotations from people who did?

A: No, I put a post, I talk about my life under the charter of right of expression and people comment on the post and I can't control what people say.

[16] Ms. Dadas was directed to a letter she had posted to the public portion of a website operated by Remax Nova on August 20, 2018. The letter stated:

Ms. Feser originally defamed me by referring to me as a prostitute in text messages back in December. More recently this month, she had also directly called me a prostitute in a public setting in front of her 9 year old son and a neighbour who were present to hear the exchange. I did expose the slander in a social media setting in an attempt to cease the actions against me, to which she then had the police involved to speak to me about removing the exposed slander. As a collateral issue, my current business partner and ex-husband (also a Remax client) was retained by police for questions on the same, when he has had no prior involvement.

[Affidavit of Dawna Candelora, filed December 17, Tab E, para. 3]

[17] Counsel questioned her as follows:

Q: So you made a deliberate decision to post this to that public portion of their website, right?

A: Yeah, it's a review.

Q: Where any member of the public could see it, right?

A: Yes.

Q: Right. And you composed this letter yourself before you sent it, correct?

A: Yes.

Q: And you said in this letter, I am writing to you today as a businesswoman and a repeat client of Remax with multiple property transactions in the past. Someone who has been very satisfied with Remax. While I am aware that civil issues are not the concern of the corporation, you state here in the first paragraph, I also believe that Remax would be concerned about the public actions of their realtors. And then you go on to say that Ms. Feser, when she was Ms. Feser, originally defamed me by referring to me as a prostitute in text messages back in December.

A: Yes.

Q: This have anything to do with her acting for you as a real estate agent?

A: No.

Q: She did act...

A: She never did and I [inaudible] that I didn't take her services, sir.

Q: So you made a public complaint about her to the website operated by her employer and I'm suggesting to you that you did this to try to get her fired or at least damage her business reputation?

A: Absolutely not. I did it for to make her stop. The harassment she did, she had, I had her record, she detained my ex-husband by the police first time in his life, he got detained over the returning the truck. She said that she did not know him and got him detained. Her action directly got him detained and it was very defensive at the time because of the situation plus Ms. Candelora decided to call me a prostitute in front of my nine-year-old stepson with no foundation. I recorded it and posted it on Facebook...

Q: Yeah.

A: To show her harassment and that's why...

Q: Show her a lesson?

A: Her harassment, not a lesson.

Q: Oh, her harassment.

A: I showed her harassment towards me in the public setting, in the public she called me in the street a prostitute several times in front of neighbours and in front of her friend that I don't, that I do not know. And I don't think it's fair to call someone a prostitute especially in front of a nine-year-old boy.

Q: Well, you now agree that she was acting reasonably in raising the issue of your possible involvement in the sex trade.

A: Absolutely not.

Q: You don't agree?

A: No.

Q: Are you denying the agreed statement of facts your lawyer just signed here about two hours ago?

A: Well, I don't agree. I agree I guess to what my lawyer signed...

Q: Yeah.

A: Yes.

Q: Right, so she was acting reasonably?

A: She wasn't because she didn't have that information Mr. Leahey. She did not have the information and the emails, the fake fabricated emails from Mr. Leriche and Ms. Langier(?).

Q: Right...

A: As a revenge.

Q: Which you say are fake.

A: Yes.

...

Q: Did Mr. Feser tell you he'd received this?

A: Later on when he was building his affidavit, yes, but I was not aware about this, and actually he was not aware himself because his, he was changing attorneys at the time, he was thinking about changing attorneys and at the time Mr. Scott was in London, like I said.

Q: You knew that Ms. Candelora did not want these postings going to the internet, correct?

A: Absolutely, I, yes.

Q: Why didn't you stop?

A: I didn't stop because I felt very, very bad about what she did to me from the start from December 2017 she has called me a prostitute and ugly, a bitch in the text with Mr. Feser, and also on calls, he had her on speaker, she would degrade me too. She said if she's not a prostitute, she's a waitress. She's a waitress. Those are her words.

Q: So you wanted revenge, right?

A: I didn't want revenge. I wanted under the Charter of Human Rights and Expression to tell my story to people that this woman had tried to destroy me.

...

Q: Why did you post this to the internet? Why didn't you simply send a communication to Ms. Candelora privately?

A: Because Ms. Candelora was not listening to me and this happened after the prostitute calling this happened. She contacted my now in-laws and told them that I was a con artist in a text and they sent it to me right away and they told me that she's making derogatory names against me and she's telling them stories that are not true and they have forwarded me a text from them and this happened the next day, I believe, or a few days after my ex-husband got detained and also she tried to get me arrested with the Halifax police and an actual policeman told me that she was very disappointed I didn't get arrested.

...

Q: Right. Okay. Mr. James says on this page that he posted on, my ex-wife has attempted to expose the slander that she has endured to date by posting the related texts and recordings on Facebook in an attempt to make them stop. So let me just understand this. Your idea was that you would create lots of pain and suffering for Ms. Candelora in the hope that she would do what?

A: Pain and suffering? We were in pain and suffering. We could not co-parent in peace and Ms. Candelora was non-stop calling me names and

prostitute and texts and causing problems and contacting my in-laws causing more problems. She would not stop. Ms. Candelora would not stop and this she did not have information from Mr. Leriche at the time.

...

Q: So the fact is there was no communication between you people from December through to August of any kind except for that incident in August. So this isn't a case of... just a moment please, let me ask the question... of Ms. Candelora calling you the same name over and over and over again. This was an incident that occurred once, maybe twice, and which you have endlessly replayed in this defamatory material that you've been posting to the internet.

A: No.

Q: That's what's really happening here, right?

A: No.

Q: No?

A: Because she actually called several times and she was still talking to Mr. Feser prior to May and she was calling me a prostitute to him. At pick ups. At drop offs. At any time she had an exchange with Mr. Feser she was calling me a prostitute.

Q: Well she had reason to call you a prostitute didn't she?

A: No.

Q: She had communications from Mr. Leriche, correct?

A: Yes. Look at the timeline Mr. Leahey. Stay on the timeline. December...

Q: The communications from Mr. Leriche occurred in September 2018.

A: I was called a prostitute December 2017. Please look at the timeline.

Q: Yeah, on one occasion.

A: Stay on the, no, stay the timeline. Several times any woman around my son is a hooker. We've got it on recording.

Q: Right.

... And then if we turn the page, we see a comment from you, correct?

A: Yes.

Q: And also from other people. Somebody named David Tane?

A: Yeah.

Q: Right. And I think we're going to come up a little later on to a statement from you that you had 4900 friends on your Facebook?

A: Yes.

Q: So, when you post something there's 4900 friends that can see it?

A: Yes. Globally, yeah.

Q: So going back to this particular page, says here, Sonia Dadas Feser, some women are pure evil and vindictive. So you're using those words to describe my client, right?

A: No, I'm actually under the Charter of Expression, I'm expressing some women, which means in general, some women when things go wrong in the divorce and you get a vindictive ex-wife, these things happen. I'm sorry, but I'm allowed to say that.

Q: And then you repeated that comment on the next page, some women are pure evil and vindictive, right?

A: Um hm.

Q: And then you made another comment right below that that says, it always seems to surprise me why spouses who live together for many years in a relationship with children would turn against each other so much after separation that the wife would get so desperate to accuse her ex-husband of being so harmful to their child that he should have supervised visitation. In this case, its pure vengeance from Dawna's part, right?

A: Absolutely.

Q: And why were you posting this to the internet?

A: Because it was, Mr. Feser put a post and I supported him and it was a defence against your letter that you sent us that you were going to take us to court, a threat, another threat.

[18] Counsel directed Ms. Dadas to various comments from other persons appearing on her Facebook page:

Q: Okay, thanks. Comment on the page from David James says, he doesn't want to leave his dad and then underneath that somebody by the name of Jeremy Nodelman, do you know him?

A: No, actually, I know that he is a childhood friend of Mr. Feser and he's been very supportive with Mr. Feser.

Q: Okay, Jeremy Nodelman comments, he doesn't want to leave dad because mom's a cunt. The law should listen to the kid. Where does he get the idea that mom's a cunt?

A: That's his own inception. I cannot control someone else's head, Mr. Leahey, I'm really sorry. It's under the Charter of communication of

freedom of communication he wrote that and he'd entitled to it. I don't control the post.

Q: But actually right underneath that you do make a comment, right? What are you, want to read that to us? What was your comment to Jeremy?

A: You got it Jeremy. Very true, but it wasn't that she was a cunt, I thought the law should listen to the kid. It was more towards that.

Q: Sure.

A: Again, Mr. Leahey, I will never insult Ms. Candelora and refer her as a cunt or derogatory names because I love too much my stepson for me to talk like that.

Q: You're saying that you didn't second his comment...

A: I never would...

Q: That she's a cunt?

A: Never.

Q: Oh.

A: Never.

Q: Alright.

A: Never.

Q: And then it's repeated again on the next page again. He doesn't want to leave dad because mom's a cunt. The law should listen to the kid. And then your comments repeated again, right?

A: Um hm.

Q: Right. And then Jeremy says, Sonia Dadas Feser no problem. Keep fighting. Don't give up. You don't owe that bitch nothing but a shovel. What did he mean by that?

A: I don't know what other people comment those things. I don't know. I can't control, like I said, I don't know what he means. I'm actually French Canadian. Sometimes I have problems understanding expression, English expression, Mr. Leahey. So I don't know.

[19] Counsel went on to direct Ms. Dadas to an email she had sent to him on June 13, 2019, not long before this hearing:

Q: And near the bottom of the page you make the following statement, you are leaving me no choice then to keep complaining to the bar. A few more files are coming your way. So, basically, Ms. Dadas, my client can expect a continuation of the exposure of her private business on the internet. She can expect, as well, to see the continued insults, degrading conduct,

degrading names published to the internet because you have no intention of stopping, correct?

A: I will stop when you stop calling me a prostitute with your client. When you give me as a woman in Canada, you give me some respect, even if I was, you'd have no right to call me for 11 months this much prostitute words and back to back banter with me. All these things you did because you're a businessman again. Once again, you're the cause of the problem and she's the cause of it because she paid for it. She paid for this to happen. This is why we're here in court today.

Q: None of this is your responsibility, right?

A: Absolutely not, I was attacked. Remember December, look at the timeline, December 2017, she's a hooker, she's a prostitute, over a picture. I'm not friends with Mr. Feser. Over a picture. This woman is prejudice and she is a racist.

[20] In various Facebook postings by Mr. Feser he said:

- The police is aware stalker!
- I am not going to tolerate my fiancé being called a prostitute by you or your counsel. We are not going to give in and suffer in silence. This shit needs to end! I will not be bullied any longer!

Word of advice... stop listening to liars and con artists, stop trying to be a dictator, follow the normal process, and leave me to live my life! Move on!

- **Trevor Feser** Not shocking, once again the only person she thinks about is herself. Disgusting.

David James Funny how Mark is living in peace in your house man. You never contacted him or his wife. Take your name off all that crap. Stay away from her bullshit and wait for court. She's definitely a psycho.

Trevor Feser Amen to all that! Funny how what's ok for one side doesn't work for the other... getting really tired of this... court can't come fast enough!

- **Trevor Feser** So you and your counsel and your friends call my new wife's toll free work number to harass her and an attempt to discredit her and her business, but then you use the write up I did for you years ago to promote your own business... that is beyond hypocritical.

This is my write-up, not yours. I demand you remove my verbiage/intellectual property from your webpage immediately.

I hold my key values in the highest regard and for me, these values – honesty, integrity, trust, knowledge and dedication – are paramount to representing my clients. I strongly believe that by maintaining these values, I will achieve the most important goal: your satisfaction, and the fulfillment of your hopes and dreams. You can be confident that I will always make the extra effort and deliver the best possible experience with buying or selling your home.

Chad Morin Asshole People

Sonia Feser It's understatement!

Chad Morin Sonia Feser You guys are amazing genuine people

Sonia Feser So are you Chad! We are so thankful to both have you as a friend!

Jeremy Nodeland Sounds like bullshit coming from that cunt!! Tell her to wash her cunt it stinks like dishonesty and loneliness!!

David James Must be a very lonely person...

Ryan Lockhart If you wrote that add, i need you to advertise my oats for me! looks like you could sell ice to an Eskimo.

Emilie Pelley Who the hell does that kinda shit.. Jesus, move on..

Sorry that you and your lovely wife have to deal with that, Trevor Feser. It doesn't make it easier now, but know that karmas a bitch, and her negativity will come back to bit her in the ass.

David James It's unbelievable! This need to be reported to Remax head office in Denver..."

- Hey TLC, I got your next reality hit for you... The Real Vindictive Ex-Housewives of Canada Plump full of threats, extortion, high spending, collusion, lies and true bullying!

- **Chad Morin** What a pathetic person
I mean no disrespect to the mother of your son
If she put a quarter of that energy into herself she's be a happier healthier person moving on in life.
Trevor Feser Yes Chad, it should be tha...
Jamie Pelley This is insane dude!
Trevor Feser Each stunt we think is the...
Kim Plant That fucking woman is a straight up lunatic.

Trevor Feser The craziness is just unbe...

Debbie Krefting This is ludicrous! I thought this only happened in movies

Trevor Feser Its funny you say that, we...

Scottie Thomson holy shit man. That woman needs help. And a solid throat punch

Ryan Lockhart Did she break/enter to place the tracker?

Trevor Feser No, had it hidden under th..."

- Cease with you [sic] excessive, your slanderous, your inflammatory litigation. You and your client are absolute scum and completely bankrupt of any professional or moral values. She is a true con artist, and you are the definition of slime.

[21] In addition to filing his affidavits, Mr. Feser also testified at the hearing. Similar to the situation with Ms. Dadas, Mr. Feser's *viva voce* testimony was very enlightening. During cross-examination, Mr. Feser was asked about material from his Facebook page:

- Q: Mr. Feser, I'm going to show you a document marked Exhibit 4. Look it over for a few minutes please. Let me know when you're finished reading please. That is the posting that you placed on the internet on July 20 at 11:46 AM?
- A: It's a posting I pasted on my private Facebook on July 20 at 11:46.
- Q: It's publicly available portion of your private Facebook.
- A: No, this one was posted to my friends.
- Q: Pardon me?
- A: This was posted to my friends.
- Q: This was posted to your friends?
- A: It was.
- Q: Do you know how it got into the public section, sir?
- A: I do not know, no.
- Q: We downloaded this at my office yesterday, sir. Am I among your friends?
- A: Not as, not on my friend list, no.

[22] Mr. Feser confirmed that when he was not at work outside Fort McMurray, he stayed at Ms. Dadas' address in Fort McMurray. Counsel indicated that this was an indication that Mr. Feser and Ms. Dadas would post on the internet while together. Counsel continued questioning Mr. Feser:

Q: Has Ms. Candelora's private business information such as her income, her debts, etc. been posted to the internet by you and or by Ms. Dadas?

A: I've seen...

Q: Since August of 2018.

A: I've only the seen the ones that are in the posts that are filed in her affidavits.

Q: So the answer to my question then is yes?

A: Yes, I've seen it in the affidavits.

Q: You've posted some of that information and Ms. Dadas has posted some of that information, correct?

A: A lot of stuff has been posted in generic, general statements, her income is public with Remax, they list their income levels with Remax in their rewards and it's publicly stated.

Q: Remax does not place their agents tax returns on the internet, correct?

A: There's never been a tax return placed on the internet.

Q: There's been information placed on the internet about the amount that is contained in my client's tax returns for her income, correct?

A: Not on my Facebook, no.

Q: No?

A: No.

Q: And this latest posting from you, Exhibit 4, you put together last weekend, correct?

A: I did.

Q: And you still have it, obviously, available on your account, on your Facebook page, right?

A: It's posted currently on my Facebook to my friends.

Q: Yep, I understand you're saying that, sir. And you state in here, we only wrote the truth of the contents per the Cyber Act, see that, the bottom of the first paragraph?

A: I see that, yes.

- Q: So, when you posted statements, either directly or posting statements that were put on your Facebook page by other people, calling Ms. Candelora a cunt and a psychopath and a dictator, is that what you mean when you say that we only wrote the truth of the content per the Cyber Act?
- A: Those were written by third party individuals. They are not published. We do not publish, we do not choose to publish or not publish what's written. They are written by third party people and their opinion on the matter. I can not control what third party people write.
- Q: Ms. Dadas has already acknowledged publishing to the internet by posting it on the public portion of her Facebook page the names I've just described. You've sat here and listened to her testimony, correct?
- A: Correct, but she did not publish them and she was emphatically deny that she published them. You do not publish to Facebook, Mr. Leahey, people write comments after your post. You don't choose whether to publish them or not.
- Q: Actually, sir, you decide what you're going to make available on your publicly available portion of your Facebook page, correct?
- A: Only the post.
- Q: Yeah.
- A: The comments...
- Q: That's what we're talking about.
- A: The third party written comments are not controlled.
- Q: The third party comments go with the post, correct?
- A: No, they're third party information on it.
- Q: Right.

[23] Mr. Feser adopted Ms. Dadas' claim that statements they posted about Ms. Candelora were a response to her calling Ms. Dadas a prostitute:

- Q: And, of course, you became aware of its contents, right?
- A: I did.
- Q: And the contents were a request to stop publicly posting derogatory material about Ms. Candelora to the internet, correct?
- A: The posting was made after Ms. Candelora called Ms. Dadas a prostitute on the pickup of my son after nine months of harassment. After nine months of bullying and harassing nature towards us.

...

- Q: But you're still posting about those same incidents today?
- A: That's right because you and, you and your client have brought it up everyday since August, since you took over the file reminding us, accusing Ms. Dadas of being a prostitute, a sex worker, you've even accused myself of being a pimp in your emails.
- Q: Mr. ...
- A: It's been daily from you.
- Q: Feser, you have agreed, as of yesterday, in an agreed statement of fact that Ms. Candelora was acting reasonably when she raised the issue of the participation of Ms. Dadas in the sex trade when she did so out of concern for her son. We have it in the agreed statement of fact.
- A: Yes, it's agreed statement of fact.
- Q: Right.
- A: In my description reasonable means once or twice, it was emphatically denied by my counsel in October. It was categorically denied as false and you continued the attack until about a week ago.
- Q: Sir, you agreed that she was acting reasonably and in the best interests of her son in raising this issue.
- A: Raising it is one thing. Writing it everyday for nine months is not reasonable.
- Q: And you've been denying it everyday.
- A: Yes, and you continue to bring it up. I'm denying it because it's not true.
- Q: In the face of the evidence that's been presented to your counsel.
- A: There's no evidence.

[24] Mr. Feser's counsel subsequently indicated to the court that Mr. Feser's claim that there was no evidence should be ignored in view of the agreed statement of facts. Mr. Leahey's cross-examination of Mr. Feser continued:

- Q: Alright, Mr. Feser, it is correct for us to understand that quote, the respondent, that's yourself and Ms. Dadas, agree with the applicant, Ms. Candelora, and do not challenge her assertion that she was acting reasonably and out of concern for the best interests of her son when she raised with Mr. Feser the possible involvement of Ms. Dadas in the sex trade. That is your, that is a correct statement of your position, correct?
- A: It was reasonable when it was initiated the first time.
- ...

Q: And all of your publications to the internet, through the publicly available portion of your Facebook page would make derogatory statements about Ms. Candelora are in response to Ms. Candelora's refusal to accept the denial, correct?

A: Absolutely not, they are from, they are in response on my personal Facebook page to the consistent, sustained, unreasonable litigation and letters sent despite our denial. They were sent for 11 months along with every other manner of accusation.

Q: The accusation has been very specific, you'll agree with sir?

A: There's been lots of accusations for 11 months.

Q: The accusation against Ms. Dadas is that she's involved in the sex trade, correct?

A: That is the only one amongst many others that you have written. The reasonable path would have been after the motion was filed to wait for it to be heard in front of an honourable justice and the proper decision made. Instead, the decision was made to completely incessantly send letters day after day after day accusing of every manner from sex trade to sex videos to sex work all in front of [...], which was not justified.

...

Q: The reason I ask that, sir, is that I'm trying to understand your position in this matter, okay? And is it your position that you were justified in publishing materials that refer to my client as a loon, a psychopath, a cunt and so forth?

A: I never published any of those terms, Mr. Leahey.

Q: The record speaks for itself, Mr. Feser, okay.

A: Yes, and they're not under my name, Mr. Leahey.

Q: Yep.

A: I never published any derogatory statements to that nature.

Q: So, if I understand your evidence, sir, you felt justified in going to the internet instead of pursuing the matter through the courts because you felt insulted about Ms. Dadas' occupation?

A: The occupation was a false accusation. It was denied. My opinion is that Ms. Candelora should have ceased her litigation through you on the same nature. She is not justified to continue to write day after day through yourself if we have denied the aspect because the aspect is false.

Q: Right.

A: And that's why we emphatically denied it and that's why we emphatically defended it.

Q: Well, first of all, the period of time we're talking about for Ms. Dadas was a period of time that you didn't even know her, as I understand it, correct?

A: I'm sorry?

Q: Ms. Dadas and Mr. Leriche were together for a period of time in 2016 and 17, correct?

A: They predated me, but your letters accused of activities still occurring. There was no activities that I am aware of. There's no activities to date and there was no activities ever done when you accused us of still doing those activities in front of [...]. There was no activities to ever be done of and spoke of.

Q: Okay, let's continue.

A: The accusations were incessant, were daily, and they stated that it was still occurring in front of [...].

[25] Mr. Feser confirmed that he had received previous letters from counsel on behalf of Ms. Candelora requesting a ceasing of the posts. He agreed that he did not stop posting:

A: Because that letter contained more accusations in it, in the same letter.

Q: Okay, and paragraph 15, Mr. Feser, refers to a letter I sent to your then counsel in August 27 of 2018, correct?

A: Correct.

Q: And that letter states that, this will confirm our teleconference of Thursday, August 23, wherein I proposed to you that my client was offering to yours a quote quiet for quiet arrangement in the hope that your client would be able to persuade his new partner to stop posting derogatory statements concerning Ms. Feser to publicly available websites. This also includes making baseless complaints to Remax and any other attempts to publicly embarrass, annoy or otherwise defame Ms. Feser. Paragraph. I've been informed by Ms. Feser that despite our teleconference on August 23, new postings were made Friday, August 24. I'll be reviewing these in the next 24 hours to determine their character and action of an appropriate nature will then be taken. You got that letter too?

A: I received that.

Q: And that made no difference to you, did it, in terms of stopping the postings

A: Absolutely it would have, but again in there you state the quiet for quiet. So a quiet for quiet would be ceasing the incessant litigation through yourself in terms to cease any posting, and then you state that there is

baseless complaints to Remax. I think we established on Tuesday that they were not baseless complaints, they were based on a person's, two people's exposure to Ms. Candelora and their subsequent response.

Q: Sir, the letter of August 27 refers to a phone call between counsel on the 23rd of August where the request to stop posting was made. There was no letter from me to your lawyer, not one at that point time, correct?

A: I would have to review the timeline, but a stop for stop, a quiet for quiet would mean stopping incessant litigation, stopping posting. It's been very simple. That's been stated since the beginning.

Q: The very next day, before there was any chance for me to write anything, you two posted more derogatory material to the internet just as that letter indicates.

A: I don't know its derogatory. I don't know what was posted without that specific reference.

Q: Right.

...

Q: When you share your pain, as you put it, on the internet, Mr. Feser, what you're actually doing is you're publicizing all these derogatory statements to the internet. You're aware that you're doing it?

A: I'm publishing them to my Facebook page. I'm sharing my pain for support because people in my position that get isolated commit suicide. I've lost two friends at work through suicide. Single fathers going through divorces when they were absolutely beaten down by the processes, the ex-wife. They had nobody to turn to, no support, and they've taken the ultimate goal.

Q: So, now you're saying that Ms. Candelora's driving you to suicide?

A: Without support, absolutely, yes.

Q: Right.

[26] Mr. Feser was further asked about Ms. Dadas' letter to Remax:

Q: Ms. Dadas sent the letter to Remax, correct?

A: Is there any evidence to show that that was stated? I have, I do not have that in front of me.

Q: Surely you're aware when Ms. Dadas sends a letter of complaint to my client's employer. The two of you live together when you're not at Surmont, correct?

A: She's my partner and my wife, and yes I live with her when I'm not in camp at work.

Q: So you know when she's sending letters to my client's employer, correct?

A: I don't control her. I don't know every specific thing. If there was a letter state, if there was a letter sent, it would have been for the same reason because there needs to be somebody to help calm Ms. Candelora down, back her off to give us peace.

[27] Counsel asked Mr. Feser why he would not "stop posting derogatory statements about Ms. Candelora":

A: I cannot stop when it continues daily that you and your client send such explicit letters, accusations, sex work, fraudulent, pimping, to us. It's almost like they are being sent for the matter of inflaming to post, to generate your case and your client's case. They're sent incessantly despite requests. My counsel in October asked for this to stop, for this to cease. You and your client never respected that. You've continued to this very day. I say over 250 letters of litigation. That is not standard divorce litigation in this province. If you want to stop, that's how you stop. You stop aggravating. You take away the fuel from the fire. You stop accusing.

Q: Mr. Feser...

A: We have asked it to stop a long time ago.

Q: You've agreed in this court that Ms. Candelora acted reasonably in raising her concern about [...]s welfare...

A: Previously.

Q: when it comes to the sex business, and Ms. Dadas' possible involvement in it.

A: My previous statement an hour ago in this court is that reasonable was in October. Continuing after denial and a second denial and 50 denials and no evidence other than improper stuff like that that it's not happening is not normal and it's not the only accusation you send. She has everything sent in there. Fraudulent, expenses, CRA fraud, everything that gets sent.

Q: Mr. Feser...

A: You are sending to inflame the situation for the matter of posting. To generate these things that we got in front of us.

Q: Mr. Feser, you're the one that posts to the internet, not Ms. Candelora, correct?

A: I share my stuff on my Facebook.

Q: Right.

A: And it's not even near the volume that you send us.

- Q: We've asked repeatedly to stop doing it, correct?
- A: You've been asked repeatedly to stop sending us stuff, accusations.
- Q: What's it going to take to get you to stop posting to the internet?
- A: Stop sending accusations. It's very simple.
- Q: You mean stop chasing you for child support, sir?
- A: There's a court, there is a case in review right now with the Honourable Justice Chiasson. It's not for you to determine what my child support is. It's for her.
- Q: That's one of the reasons...
- A: Ms. Candelora's been paid \$26, \$25,633 in child support, but you and your client will not wait for the Honourable Justice to make a decision. You continue to write daily to try and enforce your own judgments.
- ...
- Q: So, page 1 starts off with you repeating once again the whole mantra going back to day one in your divorce. When is your shit going to end? Your child molestation threat, not enough. Your theft of \$10K, not enough. Your demand for no woman for five years, not enough. How many times have you repeated that with those complaints in your postings to the internet? Care to venture a guess for us?
- A: I don't know.
- Q: I took the liberty of adding them up. 250 times, 256 times that you and Ms. Dadas...

[28] Mr. Feser denied the figure of 250 postings suggested by counsel. Counsel asked when the posting would stop:

- Q: So, the court really has no indication from you as to when, if ever, you're going to stop doing this, right?
- A: You've asked a question and I've answered that already.
- Q: No, you haven't. When are you going to stop doing it?
- A: When I stop receiving accusations of everything under the sun and you and your client respect the judicial system and wait for the courts to hear the cases. That's the way things work.
- Q: Okay. That's exactly what Ms. Candelora did when she filed two separate applications, sir. This one and the one for child support that you haven't paid in over a year. ...

[29] Counsel went on to ask Mr. Feser about a threat to Ms. Candelora he had published, from one Scotty Thompson. Counsel asked Mr. Feser who Scotty Thompson was:

A: A friend.

Q: A friend of yours. Quote, holy shit man, that woman needs help and a solid throat punch.

A: I made...

Q: Do you agree with your friend Scotty that Ms. Candelora needs a solid throat punch?

A: I do not and I would never threaten violence to Ms. Candelora or anyone.

Q: Sure you did, right here.

A: This is a third party written. I didn't write that. I did not endorse it. I did not agree to it. I have no comment underneath it that I even liked it. There is nothing I did.

Q: You published it.

A: I did not publish it. Facebook is an open page, Mr. Leahey. People can write their comments.

Q: Yep. Some of these comments include the following, Leo Vault on page 5, charge the shit out of her, Trevor, what a psycho she is buddy. You're actually hoping more people will write in and made threats against my client and say things like this about her in order to try to destroy her business reputation, correct?

A: Absolutely not.

Q: Sure, it's the only reason your doing it.

A: Absolutely not.

Q: Right.

A: This is support to share the pain and distress that Ms. Dadas and I have lived under for 18 months.

...

Q: Mr. Feser, do you think that you and you only are entitled to post obscene, defamatory, libelous material on Facebook whenever you feel like it without penalty?

A: It's not libelous. It's not defamation. It's sharing what is happening to me. It is stating what I am going through. It my...

Q: Sharing is it?

A: It is sharing. It is stating what. It is my commentary on what I am living through.

...

Q: So, I'm going to finish by asking you the same questions that I put to Ms. Dadas at the end of her cross-examination. I'm right in understanding that you are not going to stop until you are forced to stop this posting, correct?

A: That's not correct, no.

Q: Then what is correct? You tell me.

A: I stated earlier.

Q: What?

A: It's as you asked for back in August, a quiet for quiet.

Q: We asked for quiet for quiet, sir, and all we got was your postings.

A: But you didn't honour your end of it. You did not honour your end of it.

Q: Yep. So, right now today you're not going to stop until you are forced to stop by a court order, correct?

A: I will stop sharing my pain when the pain of the litigation through you and your client stops. When you guys respect the judicial process. I will respect any order of the courts, and I ask that you respect the same in both the divorce and in this civil litigation. There is no, when there is judges reviewing the file, honourable justices, there is no need to inflame the situation day after day after day after day with baseless accusations ranging anywhere over 11 months, 300 letters, Mr. Leahey.

[30] In respect of the third party comments on his page, Mr. Feser was questioned further:

Court: Mr. Feser, just in relation to some of your answers on redirect. If a comment is made to a posting that you made on Facebook, as the person who posted that original publication, do you have the ability to delete or hide or report the comment that's made?

A: Yes, it can be.

...

Mr. Leahey: With respect to the posting in question, I take it you made no attempt to delete or hide the comment that referred to the throat punch in relation to Ms. Candelora?

A: At the time of that, no.

Mr. Leahey: Okay.

A: But I did not endorse it and I did not like it.

Mr. Leahey: I'm sorry, I heard you say I did not endorse it, what was the last thing you said?

A: And I did not like it either.

Mr. Leahey: But you allowed it to stand?

A: It was, by the time it was snipped it was already up there. I can't comment the time frame from the time of the posting to when it was snipped

[31] Ms. Dadas testified that she was justified in publishing personal information about Ms. Candelora that she obtained from Mr. Feser during the ongoing custody and child support litigation. These postings discussed Ms. Candelora's income, her background and the relationship between Ms. Candelora and Mr. Feser during their marriage. There were many similar postings made by Ms. Dadas and Mr. Feser about Ms. Candelora.

[32] Some of the respondents' postings referenced other issues related to the dissolution of the family unit, including money that Mr. Feser alleges Ms. Candelora took from his business account without permission, a criminal complaint of uttering threats that Mr. Feser alleges against Ms. Candelora (which is still before the courts), and a veiled threat by Ms. Candelora involving the fabrication of child abuse by Mr. Feser. Additionally, there are allegations that a private investigator hired to determine where Mr. Feser was living and working in Alberta may have attached a GPS tracker to Mr. Feser's vehicle. Ms. Dadas and Mr. Feser reference those issues repeatedly in their Facebook postings.

[33] While testifying, Ms. Candelora did not deny that early in the dissolution of her marriage to Mr. Feser she had taken money from his business account without his consent and had made a veiled threat regarding his behaviour with their son. She agreed that a private investigator was involved in Alberta trying to determine where and how often Mr. Feser was working.

[34] Ms. Candelora testified that she had called Ms. Dadas a prostitute prior to having any evidence that Ms. Dadas worked in the sex trade. She explained that once she received information from an ex-partner of Ms. Dadas indicating that she was working in the sex trade, she had her lawyer send letters opposing their son's exposure to Ms. Dadas. For example:

Q: When was the first time you called Ms. Dadas a prostitute? Do you recall?

- A: December 3, 2017.
- Q: Do you remember what you said exactly? Was it in a text message or?
- A: It was in a text, a private text message to Trevor.
- Q: And what did you say?
- A: I said get that prostitute's picture away from my son's picture.
- ...
- Q: And at that point you had not been provided with any indication that Ms. Dadas was in fact a prostitute, had you? From anybody else?
- A: Not at the moment, but I had come to learn having evidence that she is in fact or was in fact.
- Q: But at that particular time in August 2018...
- A: That's correct.
- Q: Nobody had given you any information to, you presumed that about, is that correct?
- A: I said that, myself, yes.
- Q: Were you presuming that she was involved in prostitution or were you just saying it?
- A: I'm just, I was just saying it.
- ...
- Q: If you look at page 10, there's a Facebook post from Trevor. Do you see that there?
- A: I do, yep.
- Q: And you're not mentioned anywhere there in that post?
- A: No, but my son is.
- Q: And why do you find that concerning?
- A: Because he is trying to get support saying that I refuse to give him access to [...] which I've never denied access to [...], but that's what he's telling people.
- Q: But you did try to place restrictions on Mr. Feser's access as it relates to Ms. Dadas being around your son, is that correct?
- A: We did try to not have Ms. Dadas around [...], but Trevor refused to see [...] without seeing, without being with Sonia so therefore we did not deny them access.
- Q: And how many times did Mr. Feser have access while Ms. Dadas was present?

A: From June of 20... nine times I believe.

Q: Was there any problems with any of those access visits?

A: Just when my son came home some of the comments that he would make. They would ask him, they would be asking him questions of who I was seeing and who was at the house. So, yes, I have problems with that.

Q: Did he generally seem to...

A: He was generally happy, yes. He's very happy to see his dad.

Q: And after the visit, he was also happy?

A: Yes.

[35] Ms. Candelora also testified about her concerns with the Facebook posts in question:

Q: And you would agree that if your friends didn't send you these posts you would have, you wouldn't be aware of them?

A: Uh, no, but my clients would be aware of them and my friends are aware of them.

Q: And why do you, why do you presume that your clients would be aware of them?

A: Because they're posted publicly to the Facebook pages, so therefore, everybody can see them except for the people that you block from them.

Q: But they would have to search Mr. Feser's Facebook page, correct? Or Ms. Dadas' Facebook page?

A: Yes, they would, yep.

Q: Is there any reason why your clients would be searching Ms. Dadas' Facebook page?

A: I don't, I really don't know why people enjoy viewing gossip, but they do, so.

[36] Ms. Candelora was asked about her objection to third-party comments on the Facebook posts:

Q: You go to the next page, these are more people commenting?

A: Yes.

Q: And you would agree that if you were to post something on Facebook that you don't have any control over who would respond to those comments, correct?

- A: You don't have control, no, over what people say.
- Q: So I could make a post and then one of my friends could comment and I wouldn't necessarily have any control over that?
- A: Yes, but if you're posting happy thoughts then people are going to have happy comments and in this case they are posting things to be hateful towards me, in my opinion.
- Q: So is your evidence that Mr. Feser is responsible for the other comments?
- A: I believe so, yes, because he.
- Q: Even though you just stated he has no control over what...
- A: No, but he does have control over whether it stays up or not. He can also have the posts removed.
- Q: So he doesn't have any control over what is posted, but he has control over...
- A: He has control over whether it stays there. And then...
- Q: And you're not sure if this...
- Leahey: She's answering the question.
- Q: Oh, sorry.
- A: So, I'm just like, in reference to the same post, someone calling me a cunt and then Sonia commenting back, you got it Jeremy, very true. So, instead of removing that post when someone calls me something they contribute to the post. So that's what I have a hard time.
- Q: Who are you saying called you a cunt?
- A: Jeremy Nod... There's a Jeremy Nodelin or something.
- Q: You don't know Jeremy?
- A: I don't know Jeremy, but the post could have been removed instead of commented on.
- Q: You're not sure if it was removed or not, are you?
- A: In this case it wasn't and there was several people that commented after it.
- Q: But as you're not a friend on Facebook with either of them, it may have been taken down?
- A: It may have been later on.

[37] Ms. Candelora also explained her reasoning for the decision to send the collected materials to *Frank* magazine. Her evidence was that the magazine contacted her, and her counsel subsequently provided the materials (including the affidavits) to the magazine. The questioning continued:

- Q: Ms. Candelora, would you be aware that providing all these affidavits to *Frank* magazine the public would be aware of all of the posts, all these Facebook posts?
- A: No.
- Q: You didn't anticipate that provide, having, if these materials were in *Frank* magazine's position that they would potentially disclose that to the public?
- A: I don't read the magazine, so I don't know exactly what they would have posted or not posted, but.
- Q: What's your understanding of what that magazine is?
- A: It's basically a gossip magazine in my opinion.
- Q: So you do know what it, what that magazine represents and the types of things that they publish, controversial, sensational type scenarios locally. You're aware of that?
- A: Yep, sure, yeah.
- Q: So you didn't, did you, I guess I'll get back to my question, you did not anticipate that any of these posts would be made public if they were provided to this controversial news magazine?
- A: I didn't know what they would post. I don't, I have never been in contact with them, so I don't know what they would have put.
- Q: Do you agree that it's possible that if they had them in their possession that they...
- A: I think, yes, probably would be possible.
- Q: Okay. And a big part of this case is that you're concerned about the impact on your reputation, correct?
- A: Yes, but they were going to be writing, what they told me was that they were writing an article that I had been arrested, so that would definitely would not look good for my character.
- Q: And what does that have to do with disclosing the posts and the affidavits?
- A: Because I believe that that death threat that was made 15 months after the conversation was done maliciously and to tarnish my reputation.
- Q: But you would agree that if you are concerned about your reputation and these posts were provided to *Frank* magazine that it's possible that they would be provided to a greater audience?
- A: I'm sure they would have been yes, but it would be better to tell the honest truth of what my story actually was then to comment on a threat charge.

[38] Ms. Candelora's evidence was that she was not happy with the first story *Frank* published:

Q: I guess that gets back to the earlier questions about providing all the materials. Isn't it fair to say that if all of these materials would have been provided to *Frank* that you would be providing them with the information they need to run a story like this?

A: I believe that Sonia and Trevor called *Frank* and told them that I was being arrested and therefore sharing my side of the story was better than making myself look bad, so...

Q: But in hindsight that didn't work too well for you did it?

A: Actually *Frank* wrote the third article which they seem to depict the whole relationship perfectly. So they wrote three articles. The first two were actually not good for me and then the third one seemed to tell and explain the whole story the way it, the way it is laid out. So in the end, yes, the whole thing did come out the way I wanted it.

Q: Would you say that it back fired?

A: No.

Q: You don't think it back fired?

A: No.

Q: So you weren't happy with the first two stories. You felt that the third accurately depicted the story as you wanted it to be told, but you don't think that...

A: It wasn't the way I wanted it to be told, it's the way it actually is happening is how they *Frank* came up with their own opinion of what's happening.

Q: Would you have done anything different today? Would you still have provided all the materials?

A: Yes...

Q: To *Frank* through your lawyer?

A: I would have, yes.

Q: Even though you are disappointed with the story as it was presented?

A: Yes, because the feedback I got from people that viewed or seen the cover of the magazine, most people said they didn't, they seen it but they didn't read it.

Q: So what do you mean by that?

A: It means that they knew that there was a story written about me, but they didn't read it because they felt it was a violation of my privacy.

[39] Ms. Candelora was asked again about the *Frank* story in redirect and said the magazine first contacted her, asking for her side of the story after hearing about her arrest.

[40] Ms. Candelora was also asked about the impact of the postings on her:

Q: And Mr. Fellows asked you about the notion of, well just don't read these posts, don't look at them, the pictures, and you talked about how you tried that. What feelings did you have within you while you were going through day to day trying not to look at these postings?

A: It's a constant agony. I just, I don't.

...

A: I feel in constant fear of my life. I spent 11 years married to a man that's sharing intimate information in text messages to somebody that's posting it on the internet and sharing it. I don't know. I fear sometimes for my own children's lives as well. I just want to live my life in peace and move on with this. I can't take, I can't take anymore posts. I don't know, I don't even know what to say really.

Civil claims under the *Cyber-Protection Act*

[41] This is the first action in Nova Scotia under the *Cyber-Protection Act*. Its predecessor, the *Cyber-Safety Act*, S.N.S. 2013, c. 2, was found to be unconstitutional by McDougall J. in *Crouch v. Snell*, 2015 NSSC 340. As a result, the *Cyber-Safety Act* was repealed by the *Cyber-Protection Act*, s. 16(1). The respondents in the instant case have not made a constitutional challenge to the *Cyber-Protection Act*.

[42] Section 2 of the *Act* describes its purpose:

2 The purpose of this Act is to

- (a) create civil remedies to deter, prevent and respond to the harms of non-consensual sharing of intimate images and cyber-bullying;
- (b) uphold and protect the fundamental freedoms of thought, belief, opinion and expression, including freedom of the press and other media of communication; and
- (c) provide assistance to Nova Scotians in responding to non-consensual sharing of intimate images and cyber-bullying.

[43] Section 5 of the *Act* describes the parties to a claim under the *Act*:

5 (1) An individual whose intimate image was distributed without consent or who is or was the victim of cyber-bullying may apply to the Court for an order under Section 6.

...

(3) Subject to subsection (4) and the regulations, the applicant shall name as a respondent

(a) the person alleged to have distributed an intimate image without consent or to have cyber-bullied;

(b) where the application identifies an electronic device, Internet Protocol address, website, electronic user name or account, electronic mail address or other unique identifier as being or having been used for the distribution of intimate images without consent or cyber-bullying,

(i) the owner of the electronic device,

(ii) any person who has been assigned or has control over the use of the Internet Protocol address, or

(iii) the user or person responsible for the website, user name or account, electronic-mail address or other unique identifier;

(c) where the person referred to in clause (a) or (b) is a minor, the parent or guardian of the person;

(d) any other person against whom an order is sought; and

(e) any other person as directed by the Court.

(4) An application under this Section must identify the respondent by name or, where the name of the respondent is not known, by the Internet Protocol address, website, username or account, electronic-mail address or other unique identifier used for intimate image distribution or cyber-bullying.

[44] The *Act* permits anyone “whose intimate image was distributed without consent or who is or was the victim of cyber-bullying” to “apply to the Court for an order...”: s 5(1). The remedy created by the *Act* is a civil one: s 2(a). Bringing an application under the *Act* “does not limit the right of a victim of cyber-bullying or a person depicted in an intimate image to pursue any right of action or remedy available to that person under common law or by statute”: s 10.

[45] The available orders are described in s. 6. Before making an order, the court must be “satisfied that a person has engaged in cyber-bullying or has distributed an intimate image without consent...”: s. 6(1). The considerations in deciding whether to make an order, and, if so, what order to make, are set out at s. 6(7). There are a number of defences permitted by the *Act*, which must be affirmatively

established; the respondent is required to “show” that (for instance) the public interest defence applies: s. 7.

[46] The *Act* does not expressly address the burden of proof, but nothing in its language contravenes the general principle that a claimant in a civil proceeding has the burden to establish their claim. It being a civil claim, the standard of proof is on a balance of probabilities.

[47] Most of the factual underpinning of this application consists of undisputed evidence of the respondents’ online postings. However, the parties all filed affidavits and I have considered that evidence. Additionally, the parties testified during the hearing and I am mindful of the principles governing credibility assessment as described in cases such as *Faryna v. Chorny*, [1952] 2 D.L.R. 354 (B.C.C.A.).

Elements of the claim

[48] Section 3(c) of the *Act* defines cyber-bullying:

3 (c) "cyber-bullying" means an electronic communication, direct or indirect, that causes or is likely to cause harm to another individual's health or well-being where the person responsible for the communication maliciously intended to cause harm to another individual's health or well-being or was reckless with regard to the risk of harm to another individual's health or well-being, and may include

- (i) creating a web page, blog or profile in which the creator assumes the identity of another person,
- (ii) impersonating another person as the author of content or a message,
- (iii) disclosure of sensitive personal facts or breach of confidence,
- (iv) threats, intimidation or menacing conduct,
- (v) communications that are grossly offensive, indecent, or obscene,
- (vi) communications that are harassment,
- (vii) making a false allegation,
- (viii) communications that incite or encourage another person to commit suicide,
- (ix) communications that denigrate another person because of any prohibited ground of discrimination listed in Section 5 of the *Human Rights Act*, or
- (x) communications that incite or encourage another person to do any of the foregoing...

[49] The bulk of Ms. Candelora's complaints involve Ms. Dadas' prolific Facebook postings about her, and to a lesser extent Mr. Feser's postings, and his alleged collusion with Ms. Dadas regarding the content of her postings. In considering whether those postings constitute cyber-bullying as defined by s. 3(c) of the *Act*, I must consider several factors:

i) *Were the Facebook postings electronic communications?*

[50] Section 3(e) of the *Act* describes electronic communications as "any form of electronic communication, including any text message, writing, photograph, picture recording or other matter that is communicated electronically". Clearly, postings on Facebook fall into this broad category.

ii) *Were the Facebook postings direct or indirect?*

[51] The Facebook postings were not sent directly to Ms. Candelora. The respondents claim that because Ms. Candelora was blocked from their Facebook friend list, the postings were "private". No law was submitted by the parties on this point. Defamation law is helpful here by analogy. Facebook posts have been held to constitute "publication" for defamation purposes. In *Mueller v. Livingstone*, 2019 NBQB 28, the court said:

[22] With respect to the second requirement in a defamation action, that is, that the words, in fact, refer to the plaintiff, it is clear and unequivocal that the Facebook posts of Mr. Livingstone refers to only the plaintiff. The third condition, that the words were published, is established if it is accepted that Facebook posts indeed are a form of publication, and communicated to at least one person. In this matter it is known that at least 14 people shared the post and 33 people "liked it". There were many comments made about the post suggesting that Ms. Mueller swindled Mr. Livingstone and that she is a stinking crook. Consequently, I find that the Facebook post was published and it is evident that more than one person received the publication...

[52] In *Wilson v. Wilson*, 2019 ONSC 5726, the court said, "[w]here the defamation alleged is libel, the evidence establishes that the words were published on Ms. Wilson's Facebook page either to her friends and followers or in response to comments from a friend or follower" (para. 22).

[53] There is also authority to the effect that a so-called "private" Facebook profile does not immunize that account from a possible production order in civil

litigation. In *Leduc v. Roman* (2009), 308 D.L.R. (4th) 353, [2009] O.J. No. 681 (Sup. Ct. J.), the court said:

31 Where, as in the present case, a party maintains only a private Facebook profile and his public page posts nothing other than information about the user's identity, ... a court can infer from the social networking purpose of Facebook, and the applications it offers to users such as the posting of photographs, that users intend to take advantage of Facebook's applications to make personal information available to others. From the general evidence about Facebook filed on this motion it is clear that Facebook is not used as a means by which account holders carry on monologues with themselves; it is a device by which users share with others information about who they are, what they like, what they do, and where they go, in varying degrees of detail. Facebook profiles are not designed to function as diaries; they enable users to construct personal networks or communities of "friends" with whom they can share information about themselves, and on which "friends" can post information about the user.

32 A party who maintains a private, or limited access, Facebook profile stands in no different position than one who sets up a publicly-available profile. Both are obliged to identify and produce any postings that relate to any matter in issue in an action. Master Dash characterized the defendant's request for content from Mr. Leduc's private profile as "a fishing expedition", and he was not prepared to grant production merely by proving the existence of the plaintiff's Facebook page. With respect, I do not regard the defendant's request as a fishing expedition. Mr. Leduc exercised control over a social networking and information site to which he allowed designated "friends" access. It is reasonable to infer that his social networking site likely contains some content relevant to the issue of how Mr. Leduc has been able to lead his life since the accident.

[54] Ms. Dadas quite proudly testified that she has 4900 Facebook friends and that many of her posts or pictures receive hundreds of "likes". The Facebook postings about Ms. Candelora are not private, whether or not she is blocked as a friend of the respondents. It would obviously defeat the entire purpose of this legislation if a respondent could avoid a claim based on Facebook postings simply by blocking the applicant.

[55] In addition, despite her arguments at trial to the contrary, Ms. Dadas made it clear through certain of her Facebook postings that she was in fact intentionally using her Facebook postings on the world wide web to communicate with the wider world about Ms. Candelora. Some examples include:

- You involve [sic] me in your divorce, I'll involve the WORLD. I have nothing to do with your second divorce

- You wanted you got it! Enjoy! Goodbye Halifax! Facebook very powerful and worldwide
- The more Leahey harrasing [sic] letters (you sent us some pretty disgusting letters btw, but because you don't post anything on your Facebook you think you haven't done anything? That's what a narcissistic sociopath thinks) the more post on Facebook. I will not be silenced.
- Thank you for your support Halifax! Former neighbors and Trevor's friends and curious supporters I love you! (We got over 680 views on Trevor's videos posted on Facebook) It's quite amazing the interest we are getting on a divorce that should be between 2 people. Exactly!

Many of you know how bad the situation is getting with his ex wife already. If you would read her lawyer's letters you would be even further enlightened. (Accusations, threats, collusion, blackmail in order to reach a settlement out of court of \$6k per month with no women for 5 years for Trevor)

...

- We got a demand letter from Dawna today! Facebook is where you and Leahey can find your answers [emojis blowing a kiss and middle finger]
- Her goal is to silence me on Facebook and to remove my fundamental right of speech. I will take this case to the Supreme Court of Canada if I have too! She and her daughter have been blocked off my Facebook since December 2017.
- The best thing you ever did is suing me civilly on cyber. EVERYTHING IS PUBLIC INFORMATION

[56] The postings were in some cases directly addressed to Ms. Candelora, despite Ms. Candelora being blocked. It is clear from the respondents' postings and their evidence that they intended to communicate with Ms. Candelora and with her counsel.

iii) *Did the Facebook postings cause harm or were they likely to cause harm, to Ms. Candelora's health or well-being?*

[57] Ms. Candelora testified that Ms. Dadas' Facebook postings caused her significant psychological stress. This psychological stress affected her ability to work and had some impact on her physical health, exacerbating a pre-existing medical condition. I accept that, given the nature of the statements made about her in the public forum of Facebook, the postings either did cause harm or were likely to cause harm.

- iv) *Did Ms. Dadas or Mr. Feser maliciously intend to cause harm to Ms. Candelora's health or well-being, or were they reckless with regard to the risk?*

[58] Ms. Dadas testified that she made her Facebook posts in retaliation for letters sent by Mr. Leahey on behalf of Ms. Candelora in the course of the family proceeding. Mr. Feser reiterated Ms. Dadas' reasons for posting these comments about Ms. Candelora. They also complained twice to the Nova Scotia Barristers' Society about her legal correspondence. Both complaints were dismissed and the NSBS determined that the second complaint was made by Mr. Feser for an improper purpose.

[59] From the evidence I heard on this application, Mr. Leahey's letters to counsel for Mr. Feser on behalf of Ms. Candelora expressing concern about exposing their son to Ms. Dadas if she was in the sex trade were not objectionable and were the type of correspondence that could be expected in the normal course of litigation. Ms. Dadas testified repeatedly, and her counsel argued, that the postings were in response to those "legal letters and court filings". Ms. Dadas was adamant that she would keep posting in retaliation for these proper legal letters. Clearly, Ms. Dadas' intent was to try to intimidate Ms. Candelora into changing the course of the custody and child support proceedings with Mr. Feser. This activity was mirrored by Mr. Feser.

[60] The respondent's efforts to dissuade Ms. Candelora from pursuing the proper course of litigation through repeated venomous postings can be properly categorized as maliciously attempting to cause harm to Ms. Candelora's health or well-being, or being reckless with regard to the risk to Ms. Candelora's health or well-being. The whole point of those postings was to bully Ms. Candelora so that she would feel psychologically pressured into reversing her legal position.

- v) *Other s. 3(c) considerations*

[61] Other relevant considerations under s. 3(c) of the *Act* for analysis include the following:

Disclosure of sensitive personal facts or breach of confidence

[62] The respondents posted information relating to Ms. Candelora's tax returns, personal expenditures, and other personal information, in an effort to embarrass and humiliate her.

Threats, intimidation or menacing conduct

[63] Ms. Dadas testified that she mounted online attacks on Ms. Candelora essentially every time Mr. Leahey would send a letter in the family proceeding. She and Mr. Feser were clearly attempting to intimidate Ms. Candelora to dissuade her from pursuing litigation in its proper course.

Communications that are grossly offensive, indecent, or obscene

[64] Ms. Dadas and Mr. Feser made postings that referenced Ms. Candelora in various offensive and degrading ways as detailed above.

Communications that are harassment

[65] Again, Ms. Dadas testified that she would make postings about Ms. Candelora essentially every time Mr. Leahey would send legal correspondence. The *Act* does not define harassment, but some guidance can be drawn from criminal law. Section 264 of the *Criminal Code* deals with criminal harassment. In *R. v. Davis* (1999), 143 Man. R. (2d) 105, [1999] M.J. No. 477 (Man. Q.B.), affirmed at 2000 MBCA 42, Beard J. considered the wording of s. 264, and stated:

38 Several of the words used in s. 264 have been defined in the precedents as follows:

"harass" means something more than "vexed, disquieted or annoyed", and would include "tormented, troubled, worried continually and chronically, plagued, bedeviled and badgered" (*Sillipp, Ryback and Lamontagne*);

"fear for safety" can include safety from psychological and emotional as well as physical harm (*R. v. Sillipp* (1995), 99 C.C.C.(3d) 394 (Alta. Q.B.) at pp. 410-11, *R. v. Gowing*, [1994] O.J. No. 2743 (Ont. C.J. (Gen. Div.)) at p. 2 and *R. v. Hau*, [1996] B.C.J. No. 1047 (B.C.S.C.) at p. 10);

"repeatedly" means more than once, but with no specific numeric definition; also, overly frequent in all of the circumstances, but must be determined in each case in the context of the past relationship between the parties (*Ryback and R. v. LaFreniere*, [1994] O.J. No. 437 (Ont. C.J. (Prov. Div.)).

[66] Ms. Dadas and Mr. Feser were attempting to harass Ms. Candelora in order to dissuade her from pursuing litigation in its proper course. Ms. Candelora testified that she was worried continuously and chronically about Ms. Dadas' postings. Ms. Candelora was harassed.

[67] I am satisfied that both respondents engaged in cyber-bullying as defined in s. 3(c) of the *Act*.

Orders under section 6

[68] Section 6 of the *Act* deals with the nature and content of orders that can be made by the court. Section 6 states:

6 (1) Where the Court is satisfied that a person has engaged in cyber-bullying or has distributed an intimate image without consent, the Court may make one or more of the following orders:

- (a) an order prohibiting the person from distributing the intimate image;
- (b) an order prohibiting the person from making communications that would be cyber-bullying;
- (c) an order prohibiting the person from future contact with the applicant or another person;
- (d) an order requiring the person to take down or disable access to an intimate image or communication;
- (e) an order declaring that an image is an intimate image;
- (f) an order declaring that a communication is cyber-bullying;
- (g) an order referring the matter to dispute-resolution services provided by the agency or otherwise;
- (h) an order provided for by the regulations;
- (i) any other order which is just and reasonable.

(2) Where it is shown that distribution of an intimate image without consent or cyber-bullying has occurred, the Court may order any person to do one or more of the following

- (a) provide to the applicant any information in the possession of the person that may help identify a person who may have used an Internet Protocol address, website, electronic username or account, electronic mail address or other unique identifier that may have been used to distribute an intimate image without consent or for cyber-bullying;
- (b) take down or disable access to an intimate image or cyber-bullying communication;
- (c) perform such other action as the Court considers just and reasonable.

(3) Where the Court is satisfied that a person has distributed an intimate image without consent or has engaged in cyber-bullying, the Court may

(a) order the person to pay general, special, aggravated or punitive damages to the person depicted in the intimate image or the victim of cyber-bullying; and

(b) order the person to account for profits.

(4) In awarding damages under clause (3)(a), the Court shall not have regard to any order made under clause (3)(b).

(5) An order made under this Section may be interim or final and may include any time limit the Court considers advisable.

(6) The Court may, on application, extend, vary or terminate an order under this Section.

(7) In determining whether to make an order under this Section and what order to make, the Court shall consider the following factors, if relevant:

(a) the content of the intimate image or cyber-bullying;

(b) the manner and repetition of the conduct;

(c) the nature and extent of the harm caused;

(d) the age and vulnerability of the person depicted in the intimate image distributed without consent or victim of cyber-bullying;

(e) the purpose or intention of the person responsible for the distribution of the intimate image without consent or the cyber-bullying;

(f) the occasion, context and subject-matter of the conduct;

(g) the extent of the distribution of the intimate image or cyber-bullying;

(h) the truth or falsity of the communication;

(i) the conduct of the person responsible for the distribution of the intimate image or cyber-bullying, including any effort to minimize harm;

(j) the age and maturity of the person responsible for distribution of the intimate image without consent or cyber-bullying;

(k) the technical and operational practicalities and costs of carrying out the order;

(l) the *Canadian Charter of Rights and Freedoms*; and

(m) any other relevant factor or circumstance.

[69] Consideration of the factors listed in s. 6(7) is mandatory in determining whether to make an order under s. 6, and what order to make:

(a) *The content of the cyber-bullying*

[70] The content of the respondents' postings was offensive and designed to intimidate and humiliate Ms. Candelora.

(b) *The manner and repetition of such conduct*

[71] Ms. Dadas posted prolifically about Ms. Candelora. Mr. Feser posted considerably less than Ms. Dadas but was providing Ms. Dadas with information about Ms. Candelora that Ms. Dadas used as ammunition for her postings.

(c) *The nature and extent of the harm caused*

[72] I have found that the conduct of Ms. Dadas and Mr. Feser harmed Ms. Candelora's well-being, both mental and physical.

(d) *The age and vulnerability of the victim of cyber-bullying*

[73] Ms. Candelora was a chronologically mature adult when this occurred and there is no evidence that she was unusually vulnerable. Her main vulnerability in this context was her involvement in ongoing custody, access and child support litigation directly with Mr. Feser and indirectly with Ms. Dadas.

(e) *The purpose or intention of the person responsible for the cyber-bullying*

[74] Ms. Dadas stated repeatedly that her purposes were to stop Ms. Candelora from referencing her belief that Ms. Dadas was a sex trade worker and to curtail the litigation between Ms. Candelora and Mr. Feser regarding custody, access, and child support.

(f) *The occasion, context and subject matter of the communication*

[75] The postings were made repeatedly and in an effort to intimidate Ms. Candelora from pursuing the family law litigation.

(g) *The extent of the distribution of the cyber-bullying*

[76] Ms. Dadas testified that she had 4900 friends on Facebook. No evidence was presented as to the number of Facebook friends Mr. Feser had at that time. No evidence was presented as to whether any of the postings in question were re-posted by others. Although the respondents claimed that Ms. Dadas' Facebook postings were "private", friends of Ms. Candelora were able to obtain the postings

presented as evidence. In addition, during the course of the hearing itself, Mr. Leahey was able to access some of the postings that were clearly not private. Regardless of the extent of actual distribution, the postings to Facebook were tantamount to publication. Therefore, I find that the extent of the distribution was significant.

(h) *The truth or falsity of the communication*

[77] Much of the information posted by the respondents consisted of insults.

[78] Some of the postings referred to personal information about Ms. Candelora made available to the respondents through the course of litigation and some postings referred to information made known to Mr. Feser through his marriage to Ms. Candelora and during the dissolution of the marriage. Some of the postings may have referenced truthful information, but were being used to harass and intimidate Ms. Candelora. Any actual truth or falsity to what was said was only incidental to the true purpose of the postings.

(i) *The conduct of the person responsible for the distribution of the cyber-bullying, including any effort to minimize harm*

[79] Both respondents felt perfectly justified in what was posted and did nothing to minimize harm.

(j) *The age and maturity of the person responsible for distribution of the cyber-bullying*

[80] Ms. Dadas and Mr. Feser are chronologically mature.

(k) *The technical and operational practicalities and costs of carrying out the order*

[81] Ordering the respondents to remove any offensive posts from Facebook and ordering them to refrain from further offensive postings on Facebook or elsewhere would not be costly or onerous.

(l) *The Canadian Charter of Rights and Freedoms*

[82] Section 2(b) of the *Charter* states:

2. Everyone has the following fundamental freedoms:

...

(b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication; ...

[83] There has been no constitutional challenge to the legislation by the respondents. The *Act* provides only a civil remedy for this action, aside from the offence under s. 11 for contravening an order under the *Act*. Additionally, all of the parties involved are private citizens. There is no state action in this case. As the Supreme Court of Canada said in *Tremblay v. Daigle*, [1989] 2 S.C.R. 530, “[t]his is a civil action between two private parties. For the Canadian Charter to be invoked there must be some sort of state action which is being impugned.”

[84] That said, the *Act* must be interpreted by the court in a manner consistent with s. 2 of the *Charter*. In *R. v. Khawaja*, 2010 ONCA 862, affirmed at 2012 SCC 69, the court discussed the interaction between s. 2 of the *Charter* and the statutory framework of the *Criminal Code* anti-terrorism provisions. The court commented on s. 2(b) as follows:

[97] The constitutional right to freedom of expression has been repeatedly interpreted in a broad and purposive manner. Activity that conveys or attempts to convey meaning through a non-violent method is *prima facie* under the umbrella of s. 2(b). The content of the meaning expressed or intended, that is, the message intended or actually conveyed, cannot deprive an activity of its expressive quality...

[98] The broad reading of s. 2(b) reflects the fundamental importance of the values that animate the right to freedom of expression, both to the individual and to society as a whole. Chief Justice Dickson identified those values in *Keegstra*, at pp. 727-28 S.C.R.:

[T]he Court has attempted to articulate more precisely some of the convictions fueling the freedom of expression, these being summarized in *Irwin Toy* (at p. 976) as follows: (1) seeking and attaining truth is an inherently good activity; (2) participation in social and political decision-making is to be fostered and encouraged; and (3) diversity in forms of individual self-fulfillment and human flourishing ought to be cultivated in a tolerant and welcoming environment for the sake of both those who convey a meaning and those to whom meaning is conveyed.

[99] Conduct that falls within the definition of "terrorist activity" is, by definition, intended to convey a meaning. The requirement that the conduct be performed for

a political, religious or ideological purpose means that the Crown must prove that the activity was done in part, at least, to convey a certain message or meaning: *Ahmad*, at paras. 100-101.

[100] Although the meaning conveyed by any given activity cannot exclude that activity from the protection of s. 2(b), expressive activity that takes the form of violence is not sheltered under s. 2(b)...

...

[112] A legislative provision may limit freedom of expression either through its purpose or by its effect. If the purpose is to restrict expression that is *prima facie* protected by s. 2(b), the limit must be justified under s. 1 of the *Charter*: *Keegstra*, at p. 733 S.C.R.; *Zundel*, at p. 758 S.C.R. However, if the purpose is not to restrict expression, but the effect of the legislation is to restrict expression, the legislation limits the rights guaranteed under s. 2(b) only if the activity limited by the legislation promotes at least one of the values underlying the right to freedom of expression. These principles are the pursuit of truth, participation in the community and individual self-fulfillment: *Irwin Toy*, at pp. 976-77 S.C.R.

[85] Although the State is not involved in this litigation, I am mindful that the allegations should be considered in a context consistent with s. 2 of the *Charter*.

(m) *Any other relevant factor or circumstance*

[86] The respondents have provided a variety of materials attempting to show that Ms. Candelora is responsible for her own misfortune due to her conduct following the dissolution of her marriage, as well as by referring to Ms. Dadas as a prostitute in legal correspondence while pursuing custody, access, and support regarding her son. Ms. Candelora says that her strategy for the matrimonial litigation regarding Ms. Dadas' possible involvement in the sex trade is acceptable and the respondents were wrong in attempting to dissuade her from such a course of action through their online postings.

Defences to cyber-bullying

[87] Section 7 of the *Act* sets out possible defences to an allegation of cyber-bullying. It states, in part:

7 (1) In an application for an order respecting the distribution of an intimate image without consent or cyber-bullying under this Act, it is a defence for the respondent to show that the distribution of an intimate image without consent or communication is in the public interest and that the distribution or communication did not extend beyond what is in the public interest.

(2) In an application for an order respecting cyber-bullying under this Act, it is a defence for the respondent to show that

- (a) the victim of the cyber-bullying expressly or by implication consented to the making of the communication;
- (b) the publication of a communication was, in accordance with the rules of law relating to defamation,
 - (i) fair comment on a matter of public interest,
 - (ii) done in a manner consistent with principles of responsible journalism, or
 - (iii) privileged...

[88] Ms. Dadas says that she has a defence to any alleged cyber-bullying on various grounds: her Facebook postings are private; Ms. Candelora has been blocked from her Facebook page; Ms. Candelora sent her own affidavit to *Frank* magazine and therefore cannot complain about being the subject of a story in that magazine; Ms. Candelora is charged with uttering threats to kill Mr. Feser and any comments in that regard are true; Ms. Candelora took money from Mr. Feser's business account when the marriage dissolved, so any reference to that is true; Ms. Candelora made a veiled threat about fabricating abuse by Mr. Feser involving the child and any comments in that regard are true; Ms. Candelora hired a private investigator to determine where and how often Mr. Feser was working and where he was living for the purposes of determining child support and the private investigator allegedly attached a GPS tracker to Mr. Feser's vehicle. Therefore, Ms. Dadas says, her calling Ms. Candelora a stalker is true. Because Ms. Candelora's lawyer alleged that Ms. Dadas is a prostitute in the course of litigation, Ms. Dadas says that any online postings responding to those letters has been done out of frustration and are a permissible response (Ms. Dadas is trying to show her Facebook community that she is not a prostitute through her posts); such postings are therapeutic and cathartic due to her frustration with some of Ms. Candelora's behaviour; and all of her postings are constitutionally protected by s. 2(b) of the *Charter*.

[89] Mr. Feser says that he has a defence to any alleged cyber-bullying because he and Ms. Dadas had blocked Ms. Candelora on Facebook; neither he, nor Ms. Dadas, communicated directly with Ms. Candelora; Ms. Dadas and Ms. Candelora have no mutual friends on Facebook; Ms. Candelora has "eavesdropped" all of the Facebook communications she alleges form the basis of her claim against the respondents; Ms. Candelora forwarded many of the materials she claims are

offensive to *Frank* magazine; Ms. Candelora was responsible for having a GPS tracker affixed to Mr. Feser's vehicle by a private detective, she took money from his corporate account and she made a veiled threat about his behaviour with their son, so all online comments he posted on those topics are true; Mr. Feser had Ms. Candelora criminally charged for uttering a threat to kill him and so any online comments about that are true; Ms. Candelora's counsel has referred to Ms. Dadas as a prostitute in the course of the family proceedings and as a result Ms. Candelora should be considered to have consented to Ms. Dadas' Facebook posts in response (Ms. Dadas is trying to show her Facebook community that she is not a prostitute through her posts); most of the Facebook posts in question were created by Ms. Dadas, and Mr. Feser cannot be considered responsible for those posts; such postings are therapeutic and cathartic due to his frustration with some of Ms. Candelora's behaviour; neither he, nor Ms. Dadas, were acting maliciously when they made their posts; and his postings are constitutionally protected by s. 2(b) of the *Charter*.

[90] I reject the respondent's claim that Ms. Candelora consented to their behaviour by sending the affidavits – which are filed in a public court proceeding – to *Frank* magazine.

[91] Truth is not listed as a defence in s.7 of the *Act*. That said, s.6(7)(h) of the *Act* states that “the truth or falsity of the communication” is a factor to consider in determining whether to make an order and what type of order to make. Additionally, making a false allegation is listed in s.3(c)(vii) of the *Act* as one of the possible characteristics of cyber-bullying. While some of the respondents Facebook postings may have been true, such postings were a small part of a constellation of repetitive and public postings comprising an ongoing campaign to harass and intimidate Ms. Candelora into changing the course of her family law litigation strategy. The number of purely offensive postings, interspersed with the postings that might be true, is overwhelming. All were posted for the same improper purpose.

[92] Otherwise, the respondents' suggested defences are generally baseless, but I will consider certain aspects in more detail.

Is a Facebook posting public or private?

[93] A major theme of the proposed defences is that there should be no liability because the Facebook postings were only meant to be available to “friends” on Facebook. (I note that this is not in fact a defence under s. 7). The respondents say

that Facebook is private and as a result they can post whatever they want. As noted above, Facebook postings are not private. Ms. Dadas told the court that she has 4900 friends on Facebook. Each of those friends would have other Facebook friends. No information was provided to the court as to whether any of the respondents' posts were re-posted on Facebook or elsewhere. During the hearing in July 2019, Ms. Candelora was able to show that some of the respondents' postings about her were accessible to anyone. For example, Trial Exhibit 7 states:

Re: Applicant – Dawna Candelora
Respondents – Trevor Feser and Sonia Dadas
Hfx No. 483401
Partial Agreement of fact

All parties agree that Exhibit 4 is a posting to the Facebook Page operated by Trevor Feser and it was first published on July 20th after being created by Mr. Feser himself. This posting was accessible to any member of the public not deliberately blocked from Mr. Feser's Facebook page. It remained accessible to any member of the public not blocked by Mr. Feser until some point between 9 am and 12 noon today, July 26, 2019

[94] Attached to Exhibit 7 was Exhibit 4. Exhibit 4 is a lengthy Facebook post created by Mr. Feser with attachments. Some of the comments in Exhibit 4 include the following:

- Many of you know we are going to court for a 750k cyber civil lawsuit filed by my ex-wife out of pure jealousy and vindictiveness ... (Monday civil trial division). ... We only wrote the truth of the content per the cyber act.
- She demanded to take down the picture of Sonia and instantly called her a prostitute, and that I was to have no woman around my son, the defamation and attacks against me and my new partner would increase exponentially from there.
- Subsequent attacks labelled Sonia as 'Ugly', 'Too much Make-Up' and a 'Whore'. All based on a single Facebook picture.
- Once Sonia started to travel with me to NS in June, the stalking and aggressive behaviour escalated.
- In September 2019 she secured a new lawyer...one who will write ANYTHING, to call Sonia a prostitute disguised behind solicitor to solicitor communication. It followed in over a hundred of letters.
- The worst accusations to date that came in March is that Sonia and I were doing sex acts in front of my son for money, phone sex, video chats, and girlfriends of Sonia using our Halifax condo for sex services, all in front of my son. IN COMPLETE CONTRADICTIONS, SHE NEVER FILED AN EMERGENCY

HEARING TO BLOCK THE CHILD FROM SONIA AND I [sic] YET WE WERE ACCUSED OF ALL THIS....

- She demanded initially 5k in damages in her bogus civil Cyber lawsuit... than after looking at Sonia's financials in her filed affidavit, decided to change it to 750k... yes 750k in her latest position against Sonia and I!!! She's also demanding that we have a lifetime ban from Facebook including all other social media. It only shows how jealous and vindictive and a stalker she is, focused solely on our destruction!
- She's a prejudice and a racist, claiming that Sonia is from Turkey or somewhere in the Middle East and that we are going to kidnap my son with [sic] and leave the country to the middle east with him...
- Then, after she was charged with criminal death threats, as an attempt for her to gain another level of defamation against Sonia and I, she sends her affidavits full of lies and misinformation to a local media, before our defenses were even submitted to the courts... who were first interested in her criminal charges, they take her bullshit information and run their first article... we were slandered in front of our friends and co-workers.
- Sonia through all of this was also accused to be a waitress and a prostitute, but in her latest family affidavit she changed position and didn't once mention prostitute. She now claims she is in merchant processing business with her ex-husband so that she can drag her financials into the proceeding in her attempt to get a \$6000 per month child support from me. As you can see, after 10 months, Sonia was no longer a prostitute because now she needs money in her family file.
- We are stalked in everything we do, and all of it ends up in her litigations, the harassment from her and her lawyer have never stopped.
- Since I left her 2 years ago she tried absolutely everything to destroy Sonia and split us apart, using her bully lawyer and my son as leverage in any way possible. We pray for the proper justice this upcoming week, that the true source of the bullying and harassment will be seen by the courts, with hopes that we can move on in our life, and that this nonsense and harassment will fade away.

[95] As previously noted, the respondent's Facebook postings were public.

Fair comment or public interest

[96] Section 7(1) and (2)(a)(i) of *Act* permit a respondent to defend on the ground of "fair comment" or "public interest". The respondents argue that because Ms. Candelora is a realtor she is a "public figure" and it is therefore in the public interest to publicly post personal information about her.

[97] The majority of the Supreme Court of Canada set out the test for fair comment in *WIC Radio Ltd. v. Simpson*, [2008] 2 S.C.R. 420, 2008 SCC 40, where Binnie J said:

[28] For ease of reference, I repeat and endorse the formulation of the test for the fair comment defence set out by Dickson J., dissenting, in *Cherneskey* as follows:

- (a) the comment must be on a matter of public interest;
- (b) the comment must be based on fact;
- (c) the comment, though it can include inferences of fact, must be recognisable as comment;
- (d) the comment must satisfy the following objective test: could any [person] honestly express that opinion on the proved facts?
- (e) even though the comment satisfies the objective test the defence can be defeated if the plaintiff proves that the defendant was [subjectively] actuated by express malice. [Emphasis added; emphasis in original deleted; pp. 1099-1100.]

(citing *Duncan and Neill on Defamation* (1978), at p. 62)

I note, parenthetically, that Duncan and Neill subsequently reformulated proposition (d) to say: “[C]ould any fair-minded man honestly express that opinion on the proved facts?”; *Duncan and Neill on Defamation* (2nd ed. 1983), at p. 63 (emphasis added). In my respectful view, the addition of a qualitative standard such as “fair minded” should be resisted. “Fair-mindedness” often lies in the eye of the beholder. Political partisans are constantly astonished at the sheer “unfairness” of criticisms made by their opponents. Trenchant criticism which otherwise meets the “honest belief” criterion ought not to be actionable because, in the opinion of a court, it crosses some ill-defined line of “fair-mindedness”. The trier of fact is not required to assess whether the comment is a reasonable and proportional response to the stated or understood facts. [All emphases by Binnie J]

[98] In *Grant v. Torstar Corp.*, [2009] 3 S.C.R. 640, 2009 SCC 61, the majority of the Supreme Court of Canada discussed “public interest” in the context of defamation. The court recognized a defence on the basis of “responsible communication on matters of public interest.” On the meaning of “public interest”, McLachlin C.J. said:

[100] This is a matter for the judge to decide. To be sure, whether a statement’s publication is in the public interest involves factual issues. But it is primarily a question of law; the judge is asked to determine whether the nature of the statement is such that protection may be warranted in the public interest. The

judge acts as a gatekeeper analogous to the traditional function of the judge in determining whether an “occasion” is subject to privilege. Unlike privilege, however, the determination of whether a statement relates to a matter of public interest focusses on the substance of the publication itself and not the “occasion”. Where the question is whether a particular communication fits within a recognized subject matter of public interest, it is a mixed question of fact and law, and will therefore attract more deference on appeal than will a pure determination of public interest. But it properly remains a question for the trial judge as opposed to the jury.

[101] In determining whether a publication is on a matter of public interest, the judge must consider the subject matter of the publication as a whole. The defamatory statement should not be scrutinized in isolation. The judge’s role at this point is to determine whether the subject matter of the communication as a whole is one of public interest. If it is, and if the evidence is legally capable of supporting the defence, as I will explain below, the judge should put the case to the jury for the ultimate determination of responsibility.

[102] How is “public interest” in the subject matter established? First, and most fundamentally, the public interest is not synonymous with what interests the public. The public’s appetite for information on a given subject — say, the private lives of well-known people — is not on its own sufficient to render an essentially private matter public for the purposes of defamation law. An individual’s reasonable expectation of privacy must be respected in this determination. Conversely, the fact that much of the public would be less than riveted by a given subject matter does not remove the subject from the public interest. It is enough that some segment of the community would have a genuine interest in receiving information on the subject.

[103] The authorities offer no single “test” for public interest, nor a static list of topics falling within the public interest... Guidance, however, may be found in the cases on fair comment and s. 2(b) of the Charter.

[104] In *London Artists, Ltd. v. Littler*, [1969] 2 All E.R. 193 (C.A.), speaking of the defence of fair comment, Lord Denning, M.R., described public interest broadly in terms of matters that may legitimately concern or interest people:

There is no definition in the books as to what is a matter of public interest. All we are given is a list of examples, coupled with the statement that it is for the judge and not for the jury. I would not myself confine it within narrow limits. Whenever a matter is such as to affect people at large, so that they may be legitimately interested in, or concerned at, what is going on; or what may happen to them or to others; then it is a matter of public interest on which everyone is entitled to make fair comment. [p. 198]

[105] To be of public interest, the subject matter “must be shown to be one inviting public attention, or about which the public has some substantial concern because it affects the welfare of citizens, or one to which considerable public

notoriety or controversy has attached”: Brown, vol. 2, at pp. 15-137 and 15-138. The case law on fair comment “is replete with successful fair comment defences on matters ranging from politics to restaurant and book reviews”: *Simpson v. Mair*, 2004 BCSC 754, 31 B.C.L.R. (4th) 285, at para. 63, per Koenigsberg J. Public interest may be a function of the prominence of the person referred to in the communication, but mere curiosity or prurient interest is not enough. Some segment of the public must have a genuine stake in knowing about the matter published.

[106] Public interest is not confined to publications on government and political matters, as it is in Australia and New Zealand. Nor is it necessary that the plaintiff be a “public figure”, as in the American jurisprudence since Sullivan. Both qualifications cast the public interest too narrowly. The public has a genuine stake in knowing about many matters, ranging from science and the arts to the environment, religion and morality. The democratic interest in such wide-ranging public debate must be reflected in the jurisprudence.

[107] Care must be taken by the judge making this determination to characterize the subject matter accurately. Overly narrow characterization may inappropriately defeat the defence at the outset. For example, characterizing the subject matter in this case simply as “Peter Grant’s business dealings” would obscure the significant public interest engaged by the article and thus restrict the legitimate scope of public interest. Similarly, characterizing the subject matter too broadly as “Ontario politics” might render the test a mere rubber stamp and bring unworthy material within the protection of the defence.

[108] The question then arises whether the judge or the jury should decide whether the inclusion of a particular defamatory statement in a publication was necessary to communicating on the matter of public interest. Is this question merely a subset of determining generally whether the publication is in the public interest? Or is it better treated as a factor in the jury’s assessment of responsibility? Lord Hoffmann in *Jameel* took the view that determining whether a defamatory statement was necessary to communicating on a matter of public interest is a question of law for the judge, conceding, however, that this may require the judge to second-guess editorial judgment, and must be approached in a deferential way (para. 51).

[109] In my view, if the publication, read broadly and as a whole, relates to a matter of public interest, the judge should leave the defence to the jury on the publication as a whole, and not editorially excise particular statements from the defence on the ground that they were not necessary to communicating on the matter of public interest. Deciding whether the inclusion of the impugned statement was justifiable involves a highly fact-based assessment of the context and details of the publication itself. Whereas a given subject matter either is or is not in law a matter of public interest, the justifiability of including a defamatory statement may admit of many shades of gray. It is intimately bound up in the overall determination of responsibility and should be left to the jury. It is for the

jury to consider the need to include particular defamatory statements in determining whether the defendant acted responsibly in publishing what it did. [emphasis added]

[99] In relation to whether the postings were a matter of public interest or were fair comment, I find that they were not. Ms. Candelora is a realtor. Just because she has a job whereby she advertises her services publicly does not allow the respondents, or anyone else, to maliciously tee-off on her online for the world to see.

Consent

[100] Section 7(2)(a) of the *Act* says that a victims' express or implied consent is a defence to cyber-bullying. The respondents claim that because Ms. Candelora forwarded an affidavit containing many of the postings to *Frank* magazine she implicitly consented to the making of their communications. While it was nonsensical for Ms. Candelora or her counsel to forward the respondents' postings to *Frank* in these circumstances (while simultaneously complaining about the public nature of the respondents' postings), such *ex post facto* activity in an effort to implement some sort of ill-advised damage control strategy did not provide retroactive implied consent to the postings by Ms. Dadas or Mr. Feser. The actions of Ms. Candelora or her counsel in this regard go only to damages.

Remedy

[101] I have concluded that Ms. Dadas and Mr. Feser have cyber-bullied Ms. Candelora, and that no defence has been shown under s. 7. The court's remedial powers are set out at s. 6, which I have already quoted. In her Notice of Application, Ms. Candelora requested the following remedy:

The Applicant is applying to a judge in chambers for a cyber-protection order:

Declaring that a communication is cyber-bullying;

Prohibiting you from making communications that would be cyber-bullying;

Prohibiting you from contact with the Applicant, Dawna Candelora;

Requiring you to take down or disable access to the communication that is cyber-bullying;

Requiring you to pay damages to the victim of cyber-bullying and account for profits;

Requiring you to pay costs of the proceedings;

Such other relief as this Honourable Court may deem just.

[102] In accordance with s. 6 of the *Act*, being satisfied that the respondents have engaged in cyber-bullying, I order the following:

- Ms. Dadas and Mr. Feser are prohibited from making any further communications that would be cyber-bullying;
- Ms. Dadas and Mr. Feser must take down any communications that are cyber-bullying, including, but not limited to, Facebook postings that refer directly or indirectly to Ms. Candelora or Mr. Leahey;
- Ms. Dadas and Mr. Feser must disable access to any communications that are cyber-bullying if such communications cannot be taken down; and
- Ms. Dadas and Mr. Feser are prohibited from any communications, directly or indirectly, with Ms. Candelora except through legal counsel or for the purpose of arranging access to the child of the marriage.

[103] The *Act* provides for damages. In her Notice of Application Ms. Candelora claimed the following:

Requiring you to pay damages to the victim of cyber-bullying and account for profits;

Requiring you to pay costs of the proceedings;

Such other relief as this Honourable Court may deem just.

[104] In her brief dated April 23, 2019, Ms. Candelora expanded her damage request to include punitive and aggravated damages of unspecified amounts. Little detail accompanied Ms. Candelora's request for damages:

It is the position of Ms. Candelora that the Respondents are jointly liable to her for general, aggravated and punitive damages.

...

Applying this reasoning to the facts of this case the Court will be aware of the impact of these internet postings on Ms. Candelora. Like the victim in **Rutman** (supra) she has suffered "real distress, hurt, humiliation and deep embarrassment"

as a result of these postings. In addition, she has suffered as well out of concern for her children while the Respondents have shown only a callous disregard.

There are numerous references throughout the hundreds of postings to the number of “views” that Feser and Dadas are getting. On several occasions they appear to celebrate the fact that they have either 680 views for the latest insult and defamatory statement or in one case 2,000 views. Overall it is submitted the evidence will leave no doubt that the objective was to create the precise pain and suffering which Ms. Candelora is experiencing now.

In our respectful submission these facts must dictate a significant general damages award against each of the Respondents on a joint and several basis.

...

It is Ms. Candelora’s position that an award of aggravated damages should be made in this case. It is her position that the Defendants have acted maliciously, motivated by anger and a determination to destroy Ms. Candelora’s life. The methods selected by the Respondents including false accusations, threats, obscenity, and the repetition of insult day after day have aggravated the injury done to Ms. Candelora and therefore have justified a significant aggravated damages award.

...

On the facts of this particular case it is respectfully submitted that an award of aggravated damages is appropriate given the prolonged and outrageous nature of the attack on Ms. Candelora.

...

It is the position of Ms. Candelora that an award of punitive damages is called for in this case given the conduct of the Respondents and the other principles which must be considered in a case of this nature.

...

Ms. Candelora asks for an Order providing to her the remedies set out in the Notice of Application. She also asks that the Order include provision for substantial aggravated and punitive damages against the Defendants on a joint and several basis.

[105] In Ms. Dadas’ brief of May 10, 2019, she states:

The Applicant has included cases in relation to damages in their brief. I do not intend on dealing with damages at any length unless the merits are decided in favour of the Applicant. I would simply state that the Act requires maliciousness to found [sic] any damages. It would be redundant to have aggravated damages in a cyber bullying case which by the definition provided by the Applicant is based on maliciousness.

[106] In his brief of May 10, 2019, Mr. Feser does not address damages whatsoever.

[107] In an effort to avoid multiple orders, the remedies listed in paragraph 102 above will take effect immediately, however, the parties will be afforded the opportunity to make written submissions on damages and costs as outlined below.

[108] Ms. Candelora will forward a brief to this court addressing damages and costs by January 3, 2020. Her submissions will be limited to eight (8) pages.

[109] Ms. Dadas and Mr. Feser will file their reply briefs by January 17, 2020. Their submissions will also be limited to eight (8) pages.

[110] Ms. Candelora will file any rebuttal by January 24, 2020. Such rebuttal will be limited to five (5) pages.

Conclusion

[111] Accordingly, I conclude that the applicant has established that the respondents are liable for cyber-bullying under the *Act*. I will go on to consider damages and costs on the basis of further submissions.

Arnold, J.