

CITATION: Flegel v. Dennis, 2026 ONSC 3532
COURT FILE NO.: CV-24-00000125
DATE: 2026/06/16

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:	)	
	)	
Dawn Flegel	)	
	)	J. Damstra, for the Plaintiff/Defendant by
Plaintiff/Defendant by Counterclaim	)	Counterclaim
	)	
– and –	)	
	)	
William Dennis	)	P. Millar, for the Defendant/Plaintiff by
	)	Counterclaim
Defendant/Plaintiff by Counterclaim	)	
	)	
	)	
	)	HEARD: October 24, 2025

DECISION AND REASONS FOR SUMMARY JUDGMENT

JUSTICE M.A. COOK

INTRODUCTION

- [1] The plaintiff, Dawn Flegel (“**Ms. Flegel**”), moves for summary judgment in this action for damages and injunctive relief for defamation. The action arises from a Facebook post published by the defendant, William (Bill) Dennis (“**Mr. Dennis**”), on May 23, 2024. Ms. Flegel seeks general damages of \$100,000, aggravated damages of \$25,000, punitive damages of \$25,000, an injunction restraining further defamatory publications, and an order compelling a public apology and retraction. She also seeks summary dismissal of Mr. Dennis’ counterclaim.
- [2] Mr. Dennis defended Ms. Flegel’s action, pleading defences of truth (justification), fair comment, responsible communication on a matter of public interest, qualified privilege, statutory immunity under the *Municipal Act*, 2001, S.O. 2001, c. 25, and reprisal under the *Human Rights Code*, R.S.O. 1990, c. H.19. Mr. Dennis counterclaimed for damages and ancillary relief for breach of his rights under the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 (the “**Charter**”), malicious prosecution, and misfeasance in public office.

- [3] Mr. Dennis takes the position that summary judgment is not appropriate in the circumstances of this case, stating that proper resolution of the action will require assessments of credibility that should be made at trial on a full record and with the benefit of *viva voce* evidence.
- [4] For the reasons set out below, I find there is no genuine issue requiring a trial of this action. The motion is allowed. Ms. Flegel shall have judgment against Mr. Dennis for defamation in the amount of \$33,000.00, and the counterclaim is dismissed.

BACKGROUND

- [5] Ms. Flegel has served since 2012 as the Executive Director of the Sarnia-Lambton Children's Aid Society ("SLCAS"). SLCAS provides child protection services across the Sarnia-Lambton region, including to three local First Nations communities. Ms. Flegel is the public face of SLCAS and represents it within the Social Services Network of Sarnia-Lambton, a coalition of approximately thirty social service and health organizations.
- [6] Mr. Dennis is an elected municipal councillor for the City of Sarnia. He maintains a public Facebook page which he uses for both personal and political purposes. At the material time, Mr. Dennis had approximately 8,700 followers on Facebook.

The May 15, 2024 Post

- [7] On May 15, 2024, Mr. Dennis published a Facebook post criticizing an SLCAS recruitment advertisement that invited applications from individuals identifying as Indigenous, Black, racialized, 2SLGBTQ+, or bilingual French-speaking. In his post, Mr. Dennis characterized the SLCAS recruitment practice as "discrimination" and stated that, if elected mayor, he would "never grant money to organizations like [SLCAS] that "practice discriminatory hiring practices." Mr. Dennis promised to "restore common sense and kick woke out of City Hall."

Ms. Flegel's May 23, 2024 Letter and Interview

- [8] On May 23, 2024, the Sarnia Journal published a Letter to the Editor authored by Ms. Flegel and co-signed by the Social Services Network (the "**Letter**"). The Letter did not identify Mr. Dennis by name, but stated that the assertion by "a Sarnia city councillor" that "actively seeking qualified individuals from diverse backgrounds constitutes discrimination is not only misguided, but also dangerously undermines" the work of SLCAS.
- [9] The same day, at approximately 2:39 p.m., the Sarnia Journal published an article entitled "Human Rights complaint launched against Sarnia City Councillor". The article reported that Ms. Flegel had filed complaints against Mr. Dennis with both the Integrity Commissioner and the Human Rights Tribunal of Ontario in relation to, among other things, Mr. Dennis' May 15, 2024 post criticizing SLCAS' hiring practices.

The May 23 Post

- [10] Approximately one hour later, at 3:42 p.m. on May 23, 2024, Mr. Dennis published the post that gives rise to this action (the “**May 23 Post**”):

The director of the SLCAS is a Grifter who actually purchased a luxury mansion on the St. Clair Parkway in Corunna. Clearly lots of money to be made in the race hustling / victim business. Just another far left wacko elitist. [clown emoji] And a group of bat shit crazy lunatics that try to destroy you if you don’t agree with them.

- [11] The full text of the Sarnia Journal article, which expressly named Ms. Flegel as Executive Director of SLCAS, appeared immediately below the May 23 Post.
- [12] The May 23 Post attracted numerous comments from Mr. Dennis’ followers. Many were derogatory toward Ms. Flegel. Among other things, comments described her as an “elitist pos,” “a goof,” a person who “shouldn’t have kids,” and a person who “should be investigated for being racist and ignorant.” Mr. Dennis engaged with several of these comments through “likes” and replies. In one reply, he stated that Ms. Flegel “makes a lot of money and messes up alot of families and children.” He selectively deleted comments critical of himself while preserving the comments derogatory of Ms. Flegel.
- [13] By May 31, 2024, the May 23 Post had attracted 641 public engagements, 339 comments, and fifty-nine shares.

The Libel Notice and Removal of the Post

- [14] After discovering the May 23 Post, Ms. Flegel contacted the Ontario Provincial Police, who assisted Ms. Flegel in developing a safety plan to ensure that Ms. Flegel and her family remained safe.
- [15] On May 31, 2024, Ms. Flegel’s counsel served a notice under the *Libel and Slander Act*, R.S.O. 1990, c. L.12, demanding retraction and apology. Mr. Dennis declined to retract or apologize but he deleted the post in June 2024. Mr. Dennis admits on discovery that he would not have removed it but for the libel notice.

Procedural History

- [16] On August 7, 2024, Ms. Flegel commenced this defamation action under the Simplified Procedure provided in r. 76 of the *Rules of Civil Procedure*.
- [17] Mr. Dennis filed a statement of defence and counterclaim. By his counterclaim, Mr. Dennis sought damages for breach of Charter rights, malicious prosecution, misfeasance in public office, and reprisal under the *Human Rights Code*. Mr. Dennis sought a declaration that Ms. Flegel is a vexatious litigant.

- [18] Discovery in the action is complete. Affidavits of documents were exchanged. Examinations for discovery were completed on February 25–26, 2025. Both parties have satisfied undertakings made on examination.
- [19] Ms. Flegel moved for summary judgment in May 2025. A timetable order was made to govern the motion. In support of her motion, Ms. Flegel filed an affidavit sworn May 13, 2025, the affidavit of law clerk Fatima Revnak sworn May 13, 2025, and her reply affidavit sworn August 12, 2025.
- [20] In response to the motion for summary judgment, Mr. Dennis filed a responding affidavit dated July 23, 2025. Mr. Dennis attached as an exhibit to his affidavit a will-say statement of proposed trial witness David Chisholm in the form of a letter dated April 5, 2025. Mr. Dennis later served and filed an affidavit of David Chisholm dated October 1, 2025 (the “**Chisholm affidavit**”) but it was served outside the timetable order governing the motion, and not until after the facts were served and filed. Finally, at the hearing of the motion and with the consent of Ms. Flegel, Mr. Dennis filed as an exhibit an email from Beth Rawson to ‘Resource Parents’ dated August 27, 2024.
- [21] Ms. Flegel raised a preliminary objection to the Chisholm affidavit on the basis that it was served out of time prescribed by the timetabling order and its admission would be prejudicial. Having considered the proposed evidence, I admit the Chisholm affidavit to the record because there is no real risk of prejudice to Ms. Flegel. The parties have no right of cross-examination in this motion, such that r. 39.02(2) does not apply: r. 76.04. Ms. Flegel had the opportunity to respond to the Chisholm affidavit in oral submissions and in her reply factum. Accordingly, the Chisholm affidavit shall form part of the motion record and, for completeness, it shall be marked as Exhibit 2 to the motion.

ISSUES

- [22] The central question on the motion is whether there is a genuine issue requiring a trial within the meaning of r. 20.04(2) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194. To answer that question, I have considered each of the following:
- a. Are the words in the May 23 Post defamatory of Ms. Flegel?
 - b. Has Mr. Dennis established any of the pleaded defences?
 - c. If Mr. Dennis is liable, what damages are appropriate and what ancillary relief should be ordered?
 - d. Should the counterclaim be dismissed?

LAW AND ANALYSIS

A. *Test for Summary Judgment*

- [23] Rule 20.04(2)(a) requires the Court to grant summary judgment if it is satisfied that there is no genuine issue requiring a trial. Summary judgment is available in defamation actions: *Skafco Limited v. Abdalla*, 2020 ONSC 136 (CanLII), 62 C.C.L.T. (4th) 14 (“*Skafco*”) at para. 44; *Zhong v. Wu*, 2019 ONSC 7088, at para. 13.
- [24] Whether summary judgment is appropriate in this case requires consideration of whether the three criteria in *Hryniak v. Mauldin*, 2014 SCC 7 (CanLII), [2014] 1 S.C.R. 87 (“*Hryniak*”) can be satisfied having regard to the specific characteristics of defamation as a cause of action.
- [25] In *Hryniak*, at paras. 49–51, the Supreme Court of Canada described the test as follows:
- [49] There will be no genuine issue requiring a trial when the judge is able to reach a fair and just determination on the merits on a motion for summary judgment. This will be the case when the process (1) allows the judge to make the necessary findings of fact, (2) allows the judge to apply the law to the facts, and (3) is a proportionate, more expeditious and less expensive means to achieve a just result.
- [50] These principles are interconnected and all speak to whether summary judgment will provide a fair and just adjudication. When a summary judgment motion allows the judge to find the necessary facts and resolve the dispute, proceeding to trial would generally not be proportionate, timely or cost effective. Similarly, a process that does not give a judge confidence in her conclusions can never be the proportionate way to resolve a dispute. It bears reiterating that the standard for fairness is not whether the procedure is as exhaustive as a trial, but whether it gives the judge confidence that she can find the necessary facts and apply the relevant legal principles so as to resolve the dispute.
- [51] Often, concerns about credibility or clarification of the evidence can be addressed by calling oral evidence on the motion itself. However, there may be cases where, given the nature of the issues and the evidence required, the judge cannot make the necessary findings of fact, or apply the legal principles to reach a just and fair determination.
- [26] In *Hryniak*, at para. 66, the Supreme Court set out a roadmap. I first determine whether there is a genuine issue requiring a trial on the evidence before me, without using the enhanced fact-finding powers. If there appears to be a genuine issue, I should then determine whether a trial can be avoided by using those powers, including the power to hear oral evidence under r. 20.04(2.2). The enhanced powers are discretionary and presumptively available: *Hryniak*, at para. 45.

B. Law of Defamation

[27] A statement is defamatory if it tends to lower the reputation of the plaintiff in his or her community in the estimation of reasonable persons: *Crookes v. Newton*, 2011 SCC 47 (CanLII), [2011] 3 SCR 269, at para. 39; *Botiuk v. Toronto Free Press Publications Ltd.*, 1995 CanLII 60 (SCC), [1995] 3 SCR 3, at para. 62.

[28] For a publication to be defamatory, the court must be satisfied that:

- a. the impugned words are defamatory in the sense that they would tend to lower the plaintiff's reputation in the eyes of a reasonable person;
- b. the words, in fact, referred to the plaintiff; and
- c. the words were published.

Grant v. Torstar Corp., 2009 SCC 61 (CanLII), [2009] 3 SCR 640, at para. 28.

[29] If the plaintiff proves a defamatory publication on a balance of probabilities, the onus shifts to the defendant to advance a defence to escape liability: *Torstar*, at para. 29.

[30] Summary judgment is available in actions for defamation but special considerations arise because of the special nature of the claim. In *Skafco*, Justice MacLeod reviewed the history of procedure in libel actions before concluding that summary judgment is available in some defamation actions where the motions judge is able to conclude that there is no genuine issue for trial and the affidavit evidence is sufficient. Justice MacLeod explained, at para. 44:

I conclude that summary judgment is available in defamation actions but not in all cases. The analysis of whether or not a trial is necessary will be dependent on the evidence available to the motions judge, the matters that are in issue and of course the position taken by the parties having regard to the particularities of defamation law and procedure. In that regard, credibility assessment may not be the only concern as the court will also have to consider whether questions such as the defamatory nature of the published words, the impact of those words in the community and the assessment of damages can be properly undertaken on a paper record.

[31] Mr. Dennis submits that this case is complex and that the credibility issues, particularly those surrounding the relationship between Ms. Flegel and SLCAS, the institutional involvement of SLCAS in this proceeding, and the proper interpretation of the “Grifter,” as it was used in the impugned Facebook post, require *viva voce* evidence and determination on a full trial record.

C. Analysis of Liability

[32] For the reasons set out below, this is an appropriate case for summary judgment.

Is the May 23 Post Defamatory?

- [33] Mr. Dennis has admitted that the May 23 Post referred to the plaintiff and that it was published. Accordingly, the only question to answer is whether the words, viewed in their full context, would tend to lower Ms. Flegel's reputation in the eyes of a reasonable reader: *Color Your World Corp. v. Canadian Broadcasting Corp.* (1998), 38 O.R. (3d) 97 (Ont. C.A.). The analysis is contextual and is informed by any reasonable implications the words may bear, the manner of their presentation, and the audience to whom they are published: *Botiuk* at para. 62.
- [34] Mr. Dennis argues that the intent of the May 23 Post was only to call out Ms. Flegel as a hypocrite, and that his intent is a triable issue. With respect, the applicable test is objective. Nothing turns on what Mr. Dennis intended or on how Ms. Flegel subjectively felt. What matters is whether the words would tend to lower Ms. Flegel's reputation in the eyes of an ordinary, fair-minded person.
- [35] Applied to the facts of this case, the "sting" of the words in the May 23 Post is that Ms. Flegel is an unstable person who misused her role at SLCAS to exploit race and identity issues for personal financial gain. The description of Ms. Flegel as a "far left wacko elitist" accompanied by a clown emoji, and as part of a group of "bat shit crazy lunatics," impugns Ms. Flegel's rationality, her judgment, and her fitness for her role at SLCAS. Ms. Flegel is described as a "Grifter," which, Mr. Dennis has agreed, is "a swindler, a fraudster, a con person, or a hypocrite." Mr. Dennis admitted on discovery that "race hustling" means "making money off of dividing people using race." The clear implication of the May 23 Post is that Ms. Flegel is mentally unstable and misused her position at SLCAS to exploit race and identity issues for personal gain.
- [36] It is clear from the responses of Mr. Dennis' followers on Facebook that the words of the May 23 Post lowered Ms. Flegel's reputation in the eyes of at least some members of the Sarnia community. Comments on the post calling Ms. Flegel an "elitist pos," "a goof," a person who "shouldn't have kids," and a person who "should be investigated for being racist and ignorant" demonstrate that the post was received and understood as a personal attack, not as commentary on SLCAS policy.
- [37] I recognize that it does not necessarily follow from the comments on Mr. Dennis' Facebook page that the May 23 Post was defamatory. I am also mindful that the May 23 Post appeared in the context of a broader debate between Mr. Dennis and Ms. Flegel about SLCAS' hiring practices. But the words in the May 23 Post go beyond rhetorical excess in the heat of political debate. The words make specific imputations of dishonesty, profiteering, and unfitness against a specific individual. In my view, there is no genuine issue requiring a trial whether the words in the May 23 Post would tend to lower Ms. Flegel's reputation in the eyes of a reasonable person.
- [38] Ms. Flegel has established a *prima facie* case of defamation.

Has Mr. Dennis Established Any Defence?

[39] Because Ms. Flegel has established a *prima facie* case of defamation, the onus shifts to Mr. Dennis to establish a defence. Mr. Dennis raises a constellation of defences. I address each in turn below.

(a) Truth/Justification

[40] To succeed on the defence of justification, Mr. Dennis must prove the substantial truth of the defamatory sting; *Bent v. Platnick*, 2020 SCC 23 (CanLII), [2020] 2 SCR 645, at para. 107.

[41] Mr. Dennis has adduced no evidence that Ms. Flegel is in fact a swindler, that she personally profits from “race hustling,” or that she is unstable. On discovery, he was unable to identify any factual basis for these imputations and indicated that he was not relying on truth as to the personal sting.

[42] In his submissions on this motion for summary judgment, Mr. Dennis urged that the narrower sting of “hypocrisy” can be made out because of SLCAS’ hiring practices and the Chisholm affidavit evidence that Ms. Flegel may have acted inappropriately in relation to SLCAS hiring her then-husband Karl in 2013. I reject this submission. The sting of the impugned words is not “hypocrisy” in some attenuated sense; it is the imputation that Ms. Flegel exploited her role as executive director of SLCAS for improper financial gain. The Chisholm affidavit affords no evidence that the statements made in the May 23 Post are true. Even if I accepted Mr. Chisholm’s affidavit that Ms. Flegel placed pressure on SLCAS board members in 2013 to hire her then husband Karl, this evidence does not establish the truth of any of the words in the May 23 Post.

[43] In the absence of any evidence, I find that Mr. Dennis has failed to raise a genuine issue requiring a trial that the May 23 Post is true.

(b) Fair Comment

[44] The test for the fair comment defence requires that:

- a. the comment be on a matter of public interest;
- b. the comment be based on fact;
- c. the comment be recognizable as comment;
- d. the comment satisfy the objective test that any person could honestly express it on the proved facts; and
- e. the defendant not be actuated by express malice.

WIC Radio Ltd. v. Simpson, 2008 SCC 40 (CanLII), [2008] 2 SCR 420, at para. 28.

- [45] Mr. Dennis submits that recruitment and hiring practices of SLCAS are matters of public interest. While that may be so, the difficulty for Mr. Dennis is that the defence applies to the defamatory words spoken. As Belobaba J. observed in *Paramount Fine Foods v. Johnston*, 2018 ONSC 3711, at para. 45, a person who embeds defamatory expression within political or social commentary cannot claim immunity on the basis that the expression relates to a matter of public interest.
- [46] The May 23 Post is not about SLCAS' recruitment and hiring practices as such. It asserts, in declarative form, that Ms. Flegel is "a Grifter" who makes money from the "race hustling / victim business" and who belongs to a group of "bat shit crazy lunatics." These are not deductions, inferences, or observations recognizable as comment on established facts about SLCAS hiring practices. They are presented as factual imputations about Ms. Flegel as an individual.
- [47] Mr. Dennis has failed to raise a genuine issue for trial in relation to the first, second, third and fourth elements of the defence of fair comment. In the circumstances, I need not consider malice but note that Mr. Dennis has admitted that the May 23 Post was published in "frustration" and that he was "punching back" at Ms. Flegel for the Letter to the Editor published in the *Sarnia Journal*.

(c) Responsible Communication on a Matter of Public Interest

- [48] In *Torstar*, the Supreme Court established the defence of responsible communication. To be protected by the defence, the publication must be on a matter of public interest and the defendant must show that the publication was responsible, in that he was diligent in trying to verify the allegation having regard to all relevant circumstances.
- [49] Mr. Dennis has failed to raise a genuine issue requiring a trial that the May 23 Post was responsible communication on a matter of public interest. Mr. Dennis presented no evidence of what steps he took to verify the allegations made against Ms. Flegel personally that she was a Grifter and misused her position as executive director of SLCAS for personal gain. Moreover, his separate plea of "reasonable journalism" is not a recognized defence.

(d) Privilege

- [50] Qualified privilege attaches to the occasion upon which the communication is made, and not to the communication itself: *Hill v. Church of Scientology of Toronto*, 1995 CanLII 59 (SCC), [1995] 2 SCR 1130, at para. 143. A privileged occasion is one where the defendant has an interest or a legal, moral, or social duty to make the statement to the person to whom it is made, and the person to whom it is made has a corresponding interest or duty to receive the communication.
- [51] The privilege is narrowly applied and does not extend to comments that go beyond the exigency of the occasion or which are communicated to those who have no interest in receiving them: *Hill*, at paras. 146-147; *Bent v. Platnick*, at paras. 128-30.

[52] To maintain the privilege, Mr. Dennis must demonstrate that he communicated appropriate information to appropriate people. Publication to the world at large via the internet or social media will rarely be recognized as necessary or reasonable and will often work to defeat the privilege: *Canadian Standards Association v. P.S. Knight Co. Ltd.*, 2019 ONSC 1730 (CanLII), at para. 58.

[53] Mr. Dennis has failed to raise a genuine issue requiring a trial that the May 23 Post was made on an occasion of qualified privilege. Mr. Dennis admitted on discovery that, in publishing the May 23 Post, he was not exercising his duties as a councillor. He was, in his own words, “punching back” at Ms. Flegel out of personal frustration. Moreover, Mr. Dennis published the May 23 Post to the world at large via Facebook and allowed readers to forward and repost without limitation.

(e) Charter Values

[54] Mr. Dennis invokes s. 2(b) of the *Charter* in defence of the May 23 Post.

[55] *Charter* rights do not exist in the absence of state action, and the *Charter* is not intended to govern relations between private actors: *Charter*, s. 32.

[56] In *Hill*, the Supreme Court held at para. 71 that the “determination of whether state involvement existed is dependent upon the circumstances surrounding the institution of the libel proceedings”. In that case, the appellants argued that Casey Hill was an agent of the Crown acting on behalf of the Attorney General of Ontario and that the defamatory statements forming the subject matter of the action were made against Hill in relation to acts undertaken by him as a state actor. The Supreme Court rejected these submissions in their entirety as lacking any legal, evidentiary, and logical basis.

[57] Mr. Dennis’ claim suffers the same frailties. While Mr. Dennis pleaded that Ms. Flegel is a “State Actor,” he has not presented any evidence to prove this fact. The mere fact that Ms. Flegel is employed by SLCAS does not establish state action. Nothing in the May 23 Post related to SLCAS. Rather, it impugned Ms. Flegel’s personal character, personal integrity, and her mental fitness. In response, Ms. Flegel brought this action in her personal capacity.

[58] Mr. Dennis places great weight on the email correspondence from Beth Rawson to Resource Parents dated August 27, 2024 as evidence that SLCAS supported or perhaps even directed this proceeding. However, the fact that the action may have been supported or even funded by SLCAS does not alter Ms. Flegel’s individual constitutional status or cloak her personal action in the mantle of government action: *Hill*, para. 75.

(f) Statutory Immunity

[59] Section 448(1) of the *Municipal Act, 2001* provides immunity for acts done in good faith in the performance of a duty or authority under the Act. Section 448(1) provides:

Immunity

448 (1) No proceeding for damages or otherwise shall be commenced against a member of council or an officer, employee or agent of a municipality or a person acting under the instructions of the officer, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this Act or a by-law passed under it or for any alleged neglect or default in the performance in good faith of the duty or authority. 2001, c. 25, s. 448 (1).

- [60] In the absence of any evidence that the May 23 Post was an act done in the performance or intended performance of a duty or authority granted under the *Municipal Act, 2001*, there is no genuine issue requiring a trial in relation to Mr. Dennis' defence of statutory immunity. Mr. Dennis admitted on discovery that, in publishing the May 23 Post, he was not exercising functions as a city councillor. The defence is not available.

(g) Reprisal Under the *Human Rights Code*

- [61] Section 8 of the *Human Rights Code* similarly has no application in this case. The provision protects persons from reprisal for asserting or enforcing rights under the *Code*. Section 8 provides:

Reprisals

8 Every person has a right to claim and enforce his or her rights under this Act, to institute and participate in proceedings under this Act and to refuse to infringe a right of another person under this Act, without reprisal or threat of reprisal for so doing. R.S.O. 1990, c. H.19, s. 8.

- [62] Mr. Dennis has not commenced or been a party to any proceeding under the *Code* at the material time. The provision has no application.
- [63] Because Mr. Dennis has failed to raise a genuine issue requiring a trial in relation to any defence to defamation, Ms. Flegel is entitled to summary judgment against him.

D. Remedy

Legal Framework

- [64] Damages in defamation are at large and are presumed once liability is established: *Rutman v. Rabinowitz*, 2018 ONCA 80 (CanLII), 420 D.L.R. (4th) 310, at para. 62. See also: *Hill*, at para. 164.
- [65] An award of damages in defamation serves three interconnected objectives: compensation of the plaintiff for injury to reputation and feelings; vindication of the plaintiff's good name through the court's declaration that the imputation was false and wrongful; and deterrence.

- [66] In *Hill*, at para. 187, the Supreme Court identified six factors relevant to the court’s assessment of general damages: (a) the plaintiff’s conduct; (b) the plaintiff’s position and standing; (c) the nature of the defamatory statement; (d) the mode and extent of publication; (e) the absence or refusal of retraction or apology; and (f) the conduct of the defendant from the time of publication to the finding of the court.
- [67] In *Rutman v. Rabinowitz*, 2018 ONCA 80, at para. 68, the Court of Appeal confirmed that the assessment of damages in each case must account for myriad idiosyncratic factors particular to the case, the misconduct at issue, and the conduct of the litigation.
- [68] One key consideration in this case is that the defamation happened online. The Court of Appeal has held that the pernicious effect of defamation on the Internet distinguishes it for the purpose of damages from defamation in other media because of the “instantaneous, seamless, inter-active, blunt, borderless and far-reaching” communication available online: *Barrick Gold Corp. v. Lopehandia*, 2004 CanLII 12938 (ON CA) at para. 31.
- [69] I have considered several cases in assessing Ms. Flegel’s claim for damages while remaining alert to the fact that comparators are of limited assistance in highly fact-specific defamation cases: *Hill*, at para. 187.
- [70] In *Carnegie v. Descalchuk*, 2022 ABKB 720 (CanLII), the defendant engaged in an online smear campaign alleging that the plaintiff was a drug user and/or dealer who was prostituting her young daughter. There were dozens of defamatory statements published on Facebook, YouTube, and Tiktok. The defendant’s posts included content described as highly offensive and misogynistic. He continued to publish in breach of multiple restraining orders and was arrested twice. The plaintiff had herself posted critical content about the defendant online, though she had ceased doing so following a mutual restraining order in 2018. Despite the serious and sustained nature of the defamatory campaign, the court awarded the plaintiff \$15,000 in general damages and \$15,000 in aggravated damages. No punitive damages were awarded, because the court was satisfied that the combined compensatory award was sufficient to deter future similar conduct. The plaintiff’s maintained high standing in the community, notwithstanding the publications, together with the absence of demonstrated financial harm, were among the moderating factors in the assessment.
- [71] *Carnegie* is helpful in two respects. First, it counsels judicial restraint in defamation cases where the plaintiff has maintained community or professional standing and there is no demonstrable financial harm, even where the defamatory publications are grave. Second, citing *Burstein v. Times Newspapers Ltd.*, [2000] EWCA Civ. 338, the court confirmed the principle that lower damages may be appropriate where defamatory material is published in retaliation to the plaintiff’s own conduct.
- [72] I have also considered three recent decisions of this court where the defamatory statements at issue were made on Facebook:

- a. In *Khan v. Bujold*, 2023 ONSC 6618, the plaintiff was a police officer who had long-standing conflict with his next-door neighbours. After several years of conflict, one of the defendants posted a comment to an online story about charges laid against the plaintiff describing the plaintiff as a “dirty cop” who had put her life “through hell.” The comment invited readers to Google the plaintiff’s name. The defendant posted a link to the news article and reproduced her comment on her Facebook page. The comment was shared fifty-nine times before it was eventually deleted by the defendant. The plaintiff was awarded \$10,000 in general damages for defamation.
- b. In *D’Alessio v. Chowdhury*, 2023 ONSC 6075 (CanLII), the plaintiffs were a law firm and its principals who represented the defendant in a motor vehicle accident case until the solicitor-and-client relationship broke down in late 2020. In January 2021, the defendant posted a negative Google review which described the plaintiffs as “incompetent”, “highly negligent”, “highly unprofessional”, “disorganized”, “not trustworthy” and described one of the plaintiffs as a “shady, pathetic and awful lawyer”. Following a motion for summary judgment, the plaintiffs were awarded general damages of \$20,000.00.
- c. In *Rainbow Alliance Dryden v. Webster*, 2025 ONSC 1161 (CanLII), the plaintiff was awarded general damages of \$75,000 and aggravated damages of \$20,000 following a summary judgment motion. In that case, the defendant waged a sustained multi-publication campaign targeting the plaintiffs, who were organizing a series of community events. Neither plaintiff had previously engaged in any public exchange with the defendant. The plaintiff claimed that the publications stated or implied that the plaintiffs were “pedophiles, were mentally ill, were a danger to society that should be “hunted,” and/or were grooming, sexually exploiting or otherwise abusing children.” The severity, duration, and relative vulnerability of the targets were central to the court’s assessment of damages.

General Damages

- [73] Ms. Flegel has served as Executive Director of the SLCAS since 2012 and is the public face of a statutory child welfare agency that serves, among others, three First Nations communities. Her professional standing is significant and her mandate requires that she be seen to possess, in the communities she serves, the qualities of honesty, integrity, and professional judgment.
- [74] As discussed above, the May 23 Post made three distinct imputations. The imputation of “Grifter,” connoting swindler or fraudster, is the most serious: it alleges dishonest personal gain at public expense and goes to the most fundamental qualities required of the chief executive of a publicly funded child welfare agency. The “race hustling / victim business” phrase charges her with mercenary exploitation of the First Nations and racialized communities her agency is mandated to serve, a characterization that is particularly damaging in the specific context of her professional relationships. The “bat shit crazy lunatics” characterization attacks her rationality and fitness for a role that

requires professional judgment about child welfare. Each imputation independently diminishes her standing; taken together, they compound the reputational harm.

- [75] The May 23 Post was published to a Facebook page with approximately 8,700 followers and attracted 641 engagements, 339 comments, and fifty-nine shares before it was removed. The online context is significant. The May 23 Post was shared fifty-nine times; Mr. Dennis has no way to meaningfully retract his statements. The demonstrated scale of engagement is a relevant factor in measuring the breadth of reputational harm.
- [76] Ms. Flegel suffered real consequences of the May 23 Post. While Ms. Flegel suffered no loss of employment, salary reduction, business opportunity, or formal reprimand, her unchallenged evidence was that she was so frightened by the fact that Mr. Dennis disclosed she had bought a house on St. Clair Parkway that she contacted the Ontario Provincial Police and created a safety plan with them. Ms. Flegel deposes that she had various uncomfortable exchanges with members of the public since the May 23 Post, and has suffered increased anxiety, modified her routines, and spent time at work managing harassment directed at SLCAS.
- [77] My assessment of Ms. Flegel’s damages is also informed by the broader circumstances surrounding the May 23 Post. The evidence is that Ms. Flegel and Mr. Dennis had publicly challenged one another on policy issues on several occasions, and that the May 23 Post was a culmination of an escalating conflict over a matter of public interest.
- [78] On May 23, 2024, the *Sarnia Journal* published Ms. Flegel’s Letter to the Editor in which she denounced Mr. Dennis’ statements about SLCAS hiring practices as “misguided” and suggested that they “dangerously undermin[ed]” the work of SLCAS. On the same day, Ms. Flegel gave an interview to a *Sarnia Journal* journalist in which she disclosed she had launched formal complaints against Mr. Dennis to the Integrity Commissioner and the Ontario Human Rights Tribunal in relation to Mr. Dennis’ criticisms of SLCAS’ hiring practices.
- [79] While provocation is not a defence to defamation, it is admissible in assessing damages: Brown, *The Law of Defamation in Canada*, 2d ed., at pp. 25-89 to 25-91; *Carnegie*, citing *Burstein*. I find Ms. Flegel’s Letter to the Editor and her decision to draw public attention to her complaints to the Integrity Commissioner and Human Rights Tribunal was highly provocative. The broader context to the May 23 Post is an important consideration in my assessment of Ms. Flegel’s general damages.
- [80] Having regard to Ms. Flegel’s professional standing, the gravity of the defamatory comments, the moderate online reach and potential for replication of the May 23 Post, the personal safety concern and other demonstrated consequences to Ms. Flegel, and the moderating considerations of retaliatory context, I fix general damages at \$25,000.

Aggravated Damages

- [81] Aggravated damages are compensatory in character. They are available where the defendant’s conduct, considered as a whole from publication through to judgment, has

been high-handed, malicious, or oppressive and has thereby aggravated the injury to the plaintiff's feelings and dignity beyond the harm flowing from the bare defamatory publication: *Hill*, at paras. 188–191; *Rutman*, at para. 74.

[82] Two features of Mr. Dennis' conduct warrant an award of aggravated damages.

[83] First, Mr. Dennis disclosed information about where Ms. Flegel once lived with her former husband and child. While Ms. Flegel no longer lived at the residence, her ex-husband and child did. The disclosure, in the context of a post characterizing her as a corrupt, dishonest, and politically motivated actor, published to a page with over 8,700 followers, exposed Ms. Flegel and her family to potential harassment and harm at their home. Ms. Flegel's concerns for her safety were serious enough that she contacted the Ontario Provincial Police, who created a safety plan for her. Ms. Flegel had to modify her daily routines. Ms. Flegel's fear for her safety and the safety of her loved ones materially aggravates the harm to her dignity, security, and peace of mind.

[84] Second, for the reasons set out below, Mr. Dennis prosecuted a meritless counterclaim against Ms. Flegel. The Supreme Court confirmed in *Hill*, at para. 189, that the assessment of aggravated damages "requires consideration by the jury of the entire conduct of the defendant prior to the publication of the libel and continuing through to the conclusion of the trial". A claim initiated with no evidentiary foundation and abandoned in all but formal assertion at the hearing is not *bona fide* litigation: it is an instrument of intimidation and financial pressure. Mr. Dennis led no evidence in support of the counterclaim, asked no questions about it on discovery, and did not address it in his factum. The counterclaim, maintained without basis as a sword against a plaintiff already subjected to a public defamation, was motivated by an unjustifiable intention to injure Ms. Flegel and attracts an award of aggravated damages.

[85] I fix aggravated damages at \$8,000 as a proportionate, compensatory award to compensate Ms. Flegel for the heightened injury to her dignity, security, and peace of mind. It also registers the court's denunciation of the use of the litigation process as an instrument of intimidation.

Punitive Damages

[86] Punitive damages are reserved for conduct that is so malicious, oppressive, or high-handed that it offends the court's sense of decency, and where the combined award of general and aggravated damages is insufficient to achieve the objectives of denunciation, deterrence, and retribution: *Hill*, at paras. 196–197; *Whiten v. Pilot Insurance Co.*, 2002 SCC 18 (CanLII), [2002] 1 SCR 595, at paras. 36, 123. They are intended to deter future similar conduct: *Walker v. CFTO Ltd.*, 1987 CanLII 126 (Ont. C.A.). They must be no greater than reasonably necessary to achieve their purpose.

[87] I decline to award punitive damages for two reasons.

[88] First, the combined compensatory award, together with the ancillary relief, is sufficient to achieve the objectives of denunciation and deterrence. The total compensatory award

of \$33,000, provides meaningful denunciation of Mr. Dennis' conduct and provides both specific and general deterrence.

- [89] Second, Mr. Dennis has been held accountable for the same conduct in another forum. The Integrity Commissioner found that the May 23 Post contravened the *Code of Conduct* and recommended a two-day suspension of remuneration. While the sanction arose specifically in relation to Mr. Dennis' actions as a municipal councillor, I find that the May 23 Post was denounced, and a further award of punitive damages is unnecessary.

Ancillary Relief

- [90] Ms. Flegel seeks an injunction restraining further defamatory publications and an order compelling a public apology and retraction.

- [91] The granting of a permanent injunction in a defamation action is an exceptional and extraordinary remedy, to be made where the plaintiff has established that the injunctive relief is necessary to prevent future harm. In *Astley v. Verdun*, 2011 ONSC 3651, 106 O.R. (3d) 792 (CanLII), Chapnik J. wrote, at para. 21:

[21] Permanent injunctions have consistently been ordered after findings of defamation where either: (1) there is a likelihood that the defendant will continue to publish defamatory statements despite the finding that he is liable to the plaintiff for defamation; or (2) there is a real possibility that the plaintiff will not receive any compensation, given that enforcement against the defendant of any damage award may not be possible... [Citations omitted.].

- [92] Ms. Flegel has failed to persuade me that permanent injunctive relief is necessary in this case. Mr. Dennis removed the May 23 Post in the weeks after receiving the libel notice and before this action began. There is no evidence that the defamation is ongoing. I apprehend insignificant risk of Mr. Dennis continuing to defame Ms. Flegel. In the circumstances, damages are an adequate remedy and will also discourage further publication or republication of defamatory statements.

E. The Counterclaim

- [93] Mr. Dennis' counterclaim alleges breach of *Charter* rights, malicious prosecution, misfeasance in public office, and reprisal under the *Human Rights Code*. It seeks a declaration that Ms. Flegel is a vexatious litigant and damages of \$375,000 (although Mr. Dennis waived any award over \$200,000 to keep the action in the Simplified Rules regime).

- [94] Mr. Dennis put no evidence forward on this motion in support of any of the allegations set out in his counterclaim. He did not ask Ms. Flegel a single question about it on discovery. He did not address it in his factum on the merits. Mr. Dennis submits only that summary judgment to dismiss the counterclaim is "premature."

- [95] On a motion for summary judgment, the parties are presumed to have put their best foot forward: *Sweda Farms Ltd. v. Egg Farmers of Ontario*, 2014 ONSC 1200, at para. 32, *aff'd* 2014 ONCA 878. See also: *Mazza v. Ornge Corporate Services Inc.*, 2016 ONCA 753 (CanLII). As the defendant by counterclaim, Ms. Flegel is entitled to assume that the record contains all the evidence Mr. Dennis would lead at trial. Mr. Dennis' failure to lead evidence does not render the motion for summary judgment premature; it makes the counterclaim ripe for summary dismissal. The counterclaim is dismissed.

CONCLUSION AND ORDER

- [96] For the foregoing reasons:

- a. THIS COURT ORDERS that the motion for summary judgment is allowed. Mr. Dennis is liable to Ms. Flegel for defamation in the amount of \$33,000.00 comprised of:
 - i. general damages in the amount of \$25,000; and
 - ii. aggravated damages in the amount of \$8,000.
- b. THIS COURT ORDERS that the defendant shall pay pre-judgment and post-judgment interest in accordance with the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
- c. THIS COURT ORDERS that the balance of the action and counterclaim is dismissed.

- [97] The plaintiff has been successful on the motion and action, and she is presumptively entitled to her costs. The parties are encouraged to resolve the issue of costs on consent but if they are unable to agree, the plaintiff may serve and file written submissions, not to exceed four pages, excluding her Bill of Costs and attachments, by July 7, 2026. The defendant may serve and file written submissions, not to exceed four pages, excluding his Bill of Costs and attachments, by July 14, 2026. If no submissions are received from the party seeking costs by the deadline, there shall be no order as to costs.

Justice M.A. Cook

Released: June 16, 2026

CITATION: Flegel v. Dennis, 2026 ONSC 3532

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Dawn Flegel

Plaintiff/Defendant by Counterclaim

– and –

William Dennis

Defendant/Plaintiff by Counterclaim

REASONS FOR JUDGMENT

Justice M.A. Cook

Released: June 16, 2026