

CANADA / JUDGMENT

# Craig v. Langley Citizensâ€™™Coalition

2003 BCSC 124

## COURT

Supreme Court of British Columbia

## DECIDED

8 January 2003

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2003BCSC0124 Citation: Craig v. Langley Citizens' Coalition et al Date: 20030108 2003 BCSC 124  
Docket: S010234 Registry: Vancouver IN THE SUPREME COURT OF BRITISH COLUMBIA Oral  
Reasons for Judgment Mr. Justice Henderson January 8, 2003 BETWEEN: MURRAY CRAIG  
plaintiff AND: LANGLEY CITIZENS' COALITION, MARSHA STANLEY, KARL MOSER, PERRY S.  
HADDOCK, KEVIN WICKHAM, BOB RICHTER, DIANE PONA, WILLIAM A. SWINT, A.K.A. BILL  
SWINT, CHRIS PETIPAS, RICK MCMULLAN, GLEN TOMBLIN, STEVE BURTON, DORTHEY  
MCKIM, HEATHER MCMULLAN, KIM RICHTER, JOHN H. BEALES, SYLVIA ANDERSON, GAIL  
WOOL, JOHN DOE, JANE DOE, JOHN DOE 2, JANE DOE 2, JOHN DOE 3 AND JANE DOE 3  
defendants Counsel for the Plaintiff: L.W. Potter Counsel for Rick and Heather McMullan: W.K.  
Branch Appearing for Gail Wool: K. Wiebe A/S Appearing for Marsha Stanley: A. Prior A/S  
Appearing in Person: K. Richter

- [1] THE COURT: This is a defamation action. The defendants are 17 named people: three John Does, three Jane Does, and an unincorporated entity known as the Langley Citizens' Coalition. The named people are said to be members and, in some cases, directors of the Coalition.
- [2] The statement of claim was not filed promptly after the alleged publication of the defamation. It was held, and then served as it was about to expire. The defendants have now pleaded and the plaintiff has pleaded in reply.
- [3] The present applications ask for particulars. The plaintiff seeks particulars from each of the defendants. Some of the defendants, in turn, seek particulars of the statement of claim and particulars of the plaintiff's reply.
- [4] I should note at the outset that the fact that a defendant has pleaded does not operate as a bar to their seeking particulars after having done so: see *Nesbitt et al v. Wintemute*, [1978] 8 B.C.L.R. 286.
- [5] Logically, I must address the application for particulars of the statement of claim before turning my attention to the statements of defence or the reply.

- [6] The statement of claim begins in the usual manner by identifying each of the defendants, to the extent the plaintiff is able to do so. It then alleges, at paragraph 26, that all of the named defendants were members of the Coalition. The statement of claim goes on to allege that 12 named defendants were members of the Board of the Coalition at all material times.
- [7] The plaintiff says that a certain Information to Obtain a Search Warrant was sworn by a member of the RCMP in October 1998. Contained in that Information were references to the plaintiff of an alleged defamatory nature.
- [8] The plaintiff complains of two acts of publication.
- [9] The first was the posting for a certain period of time of the contents of the Search Warrant Information on a website which was available to any user of the internet. The second was the circulation in a flyer of all, or a portion of, an article which had appeared previously in the Vancouver Sun. It summarized some of the information found in the Search Warrant Information. The Vancouver Sun is not a defendant here.
- [10] At paragraph 28, the statement of claim alleges that the Information to Obtain a Search Warrant was sworn on October 14, 1998. The pleading then goes on to say this: Commencing on a date after October 14, 1998, unknown to the plaintiff, but continuing on or about February 11, 1999 and thereafter, the defendants and each of them falsely and maliciously printed and published or caused to be falsely and maliciously printed and published, and continued to falsely and maliciously print and publish or cause to continue to be falsely and maliciously printed and published, certain words in the Information of and concerning the plaintiff. The next paragraph alleges that each of the defendants "authorized, incited or encouraged the false and malicious printing and publication."
- [11] After setting out large portions of the material allegedly published by the defendants, the pleading goes on to say, in paragraph 30, that: Each of the defendants published the words and the innuendo meanings...[a defined term in the Statement of Claim]...amongst the members of the coalition.
- [12] Paragraph 36 contains an allegation that: The defendants and each of them published both the words and the innuendo meanings on the Coalition website.
- [13] At paragraph 41 and following, the statement of claim deals with what I have called the "flyer". There is an allegation that: On or about November 18, 1999, the defendants and each of them printed and published or caused to be printed and published the article and the words in the article by redistributing printed copies of the article to the Coalition members and to households in or about the Township of Langley.
- [14] Paragraph 43 alleges that: The defendants and each of them authorized, incited or encouraged the printing, publication and republication of the flyer.

- [15] It will be seen that the plaintiff alleges, in the broadest possible terms, that each of these 17 named defendants printed certain material, published certain material, authorized it, incited them and encouraged them. There is no particularization whatsoever as to who did what. To take one example, there is no particularization as to who controlled the website, in the sense of being the registered owner of the domain name and possessing, through the means of a password, the right to access that website. I think it highly unlikely that each of these 17 named defendants had that power.
- [16] In essence, the case as it is presently constituted amounts to a fishing expedition. The plaintiff in effect says that, through the discovery process, he will determine from the mouths of the individual named defendants who did what. In many circumstances that would be permissible. Conspiracy cases, for example, have been permitted by this court to proceed on precisely that basis.
- [17] However, in my view, defamation is different. The law and the Rules of Court require a greater degree of specificity in defamation pleadings than is required in most other causes of action.
- [18] The following lengthy quote from Professor Brown on the Law of Defamation in Canada, 2nd Ed., Vol. 1, at page 1309, captures the essence of the greater degree of particularization required in defamation pleadings. The extract is entitled "Particulars Relating to Publication," as follows: Since publication is an essential element of an action for libel or slander, the failure to allege it will be fatal and the pleading will be struck out. In addition, a defendant is entitled to the fullest particulars as to the place where, the time when, and the person to whom the words alleged to be defamatory were spoken. He or she is entitled to the names of the persons to whom the words were published. It is not sufficient for a plaintiff to allege that the publication was made to a particular person and persons unknown, or diverse persons, or made to many people at diverse times, or to use such expressions as "among others, or some of the persons," but the specific names must be given. The defendant is entitled to particulars of when and in what circumstances and by whom and to whom the allegedly defamatory words were published. In the absence of particulars in this regard, the court will strike the objectionable pleading. Thus, where it was alleged that the defamatory words were spoken to Clayton Hunter and other bystanders, the defendant was entitled to know who those bystanders were. Where it was alleged that the words were spoken of the plaintiff in the presence of a large number of persons at the race course, the defendant was entitled to the particulars of the names of persons known by the plaintiff to have been present on that occasion. Where it was alleged that the statements were published to some other persons whom he cannot at present specify, the defendant was entitled to particulars of such persons. When the plaintiff has alleged that the words have been repeated to others under circumstances where the defendant is liable, the defendant is entitled to the names of the persons who it is alleged repeated the slander, the words used, and the time and place they were published. If it is suggested that the defendant has authorized someone else to utter the defamatory remarks, he or she is entitled to particulars

of the persons to whom the words were spoken. Where the words were spoken to the plaintiff, the defendant must give particulars of the name of any person who was present and heard or might have heard the words spoken. It has been suggested that a court will not order particulars as to the persons to whom a slander has been uttered if it would be unreasonable or oppressive to do so; for example, if the slander is alleged to have been made in a public street or at a public meeting, nor will further particulars be ordered if the plaintiff has exhausted his recollection and can recall no other persons to whom the words were spoken, or if the defendant has already obtained sufficient information through discovery. On the other hand, the defendant will not be excused on the ground that the particulars may require that the names of witnesses be revealed. A defendant is also entitled to particulars of the dates, times and places of publication. However, if due to the infirmity of memory or if the plaintiff is able only to specify the week and not the exact day on which a defamatory statement is made, it may be considered unreasonable or oppressive to require him to particularize further before he has had an opportunity for discovery, and particulars will be refused until after discovery. The court may order that where there is want of particularity in the names disclosed, the plaintiff should be precluded from giving evidence as to such unnamed persons unless those names are disclosed to the defendant within a reasonable time before trial. Where the plaintiff is required to give particulars, he or she will not be permitted to interrogate the defendant by way of interrogatories or at discovery in order to obtain evidence of instances when or where the publication took place.

- [19] Some of what Professor Brown says in that extract would have to be modified in light of modern technologies such as the internet, but the essence of it remains good law. In my view, a substantial degree of particularization is required of a plaintiff in a defamation action. The plaintiff is not in this sort of action permitted to make vague allegations against a large group of people and then proceed to discover them so as to make out the real case on discovery. A substantially greater degree of particularization than that contained in this statement of claim must be provided.
- [20] I conclude that the plaintiff is required to particularize his claim in the way requested by the McMullan defendants. The defendants need not provide particulars at least until after the plaintiff has delivered a sufficiently detailed statement of claim. The question of the particularity of the plaintiff's reply must also be deferred.
- [21] I make this order: The plaintiff is to deliver to the defendants within 21 days the particulars requested in paragraph 1 of the notice of motion filed by the McMullan defendants. Failing that, each of the defendants is at liberty to apply to strike the statement of claim. The plaintiff is at liberty to renew his application for particulars of the statements of defence once the plaintiff has complied with this order. Finally, the defendants are at liberty to renew their application for particulars of the plaintiff's reply once there has been compliance with this order.
- [22] Costs? [SUBMISSIONS BY COUNSEL]

- [23] THE COURT: What the plaintiff has done is start a defamation action against 17 people without particularizing who did what or how each of those 17 was, in some specific way, involved. The plaintiff then sat on the writ for a considerable period of time and served it as it was about to expire. This ensured that the memories of the individual defendants had faded since the events in question.
- [24] I have found that the statement of claim is seriously deficient.
- [25] In my view, each of the defendants is entitled to costs. I award each of the defendants costs on Scale 3. In each case, the costs are to be payable forthwith in any event of the cause. "A.G. Henderson, J." The Honourable Mr. Justice A.G. Henderson
- 

### Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

**ORIGINAL SOURCE**      <https://www.bccourts.ca/jdb-txt/sc/03/01/2003bcsc0124.htm>

**CASE PAGE**              <https://chat.esheria.ai/case-law/canada/craig-v-langley-citizens-coalition-2003>

Prepared on 28 October 2026 · Esheria