

CANADA / JUDGMENT

Hudson v. Myong

2020 BCSC 517

COURT

Supreme Court of British Columbia

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2020 BCSC 517 Hudson v. Myong IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Hudson v. Myong, 2020 BCSC 517 Date: 20200402 Docket: S1710845 Registry: Vancouver Between: Mitchell Hudson and Try Events Ltd. Plaintiffs And Mina Myong Defendant Before: The Honourable Madam Justice Douglas Reasons for Judgment Counsel for the Plaintiffs: G. Allen Counsel for the Defendant: R.A. McConchie Place and Dates of Trial: Vancouver, B.C. August 26-30, and September 3-6, 9, 2019 Place and Date of Judgment: Vancouver, B.C. April 2, 2020 Table of Contents I. INTRODUCTION. 4 II. THE PARTIES. 4 III. PROCEDURAL HISTORY. 5 IV. FACTUAL BACKGROUND. 5 Parties' Initial Contact and Text Messages. 5 March 18, 2017: Trail Run. 8 March 18, 2017: Casino Trip. 9 March - April 2017: Parties' Text Messages. 9 April 14, 2017: Parties' Second Meeting. 11 April - July 2017: Subsequent Communications. 11 May - October 2017: Defendant's Information Gathering. 12 Kerry Mittleman, Running Room Manager 12 July 2017. 13 Michael Campbell Burns. 14 Jeff Strickland. 14 August 2017 Contact with Try. 15 November - December 2017: The Campaign. 16 November 2, 2017: Cease and Desist Letter 19 November 22, 2017: Commencement of Litigation. 19 November 30, 2017: Injunction Application. 19 V. THE ISSUES. 20 VI. CREDIBILITY AND RELIABILITY OF THE EVIDENCE. 21 Credibility of Mr. Hudson. 22 Credibility of the Defendant 26 VII. FINDINGS OF FACT. 28 VIII. THE LAW.. 30 Defamation. 30 Publication. 32 Onus. 32 IX. ANALYSIS. 33 Defamatory Meaning. 33 Authorship. 37 Publication. 37 Facebook Messages. 38 Public Facebook Posts. 39 Emails. 39 Public Forum Comments. 39 Defences. 40 Justification. 40 Fair Comment 41 Malice. 42 X. DAMAGES. 42 Preliminary Evidentiary Issue. 42 General Damages. 43 Mitigation of Damages. 46 Partial Justification. 47 Provocation. 48 Evidence Re: Impact of the Campaign. 49 Mitchell Hudson. 49 Try Events Ltd. 50 Conclusion: General Damages. 52 Aggravated Damages. 53 Special Damages. 56 Gatorade. 57 Advertising and Promotion Costs. 57 Lost Volunteers. 58 Lost Branding Opportunities. 58 Punitive Damages. 59 XI. Permanent Injunction. 60 XII. SUMMARY. 60 APPENDIX. 62 I. INTRODUCTION

- [1] This case is a graphic example of how the internet can be used to harm reputations. This claim arises from multiple allegedly defamatory electronic communications posted by the defendant about the plaintiffs on Facebook and sent by email and Facebook messenger in 2017. The plaintiffs say the defendant launched an extensive 5-week public internet campaign designed to discredit them and to destroy their personal and professional

reputations in November and December 2017, after her platonic friendship with Mitchell Hudson ended.

- [2] The defendant says Mr. Hudson deceived her into entering a sexual relationship, which she would not have agreed to had she known he was then in a committed monogamous relationship. She defends some of her statements on the basis of truth or fair comment and relies on partial justification and provocation to mitigate damages. II. THE PARTIES
- [3] The personal plaintiff, Mitchell Hudson, is the father of two children and is currently in a common-law relationship with the mother of his youngest son. He is the sole director, owner, and operator of the corporate plaintiff, Try Events Ltd. ("Try").
- [4] Try is a for-profit business that hosts walking and running events in the Vancouver area. It is also involved in fundraising for its charity partners through registration fees and event sponsorship. Sponsorship partners pay for branding and promotion rights during Try events.
- [5] The defendant is a divorced single mother. She obtained a psychology degree from the University of British Columbia in 2002 and then worked part-time doing bookkeeping and payroll for her ex-husband, for various other companies, and for the Pacific National Exhibition (the "PNE"). She has not worked since the fall of 2017 when her ex-husband sold his professional practice. III. PROCEDURAL HISTORY
- [6] This claim was commenced by notice of civil claim filed November 22, 2017, and amended July 24, 2019.
- [7] On December 18, 2017, Justice Murray granted an interlocutory injunction restraining the defendant from publishing, or directing anyone to publish, any of the statements alleged to constitute defamation and injurious falsehood in the notice of civil claim or any statements to similar effect. IV. FACTUAL BACKGROUND
- [8] The parties agree on many of the events which precipitated the statements giving rise to this action. They disagree about whether they had a sexual relationship. The parties' evidence regarding key events is set out below, followed by my assessment of credibility and findings of fact on contentious matters. Parties' Initial Contact and Text Messages
- [9] The parties first met in February 2017 at a Try event where the defendant was working as a volunteer. The meeting was unremarkable.
- [10] On February 18, 2017, Mr. Hudson texted the defendant and thanked her for her volunteer assistance. On February 28, 2017, he texted her again to ask about her willingness to volunteer further. He thinks he obtained her cell number from the Try Volunteer Coordinator.
- [11] In March 2017, the defendant attended another Try event where she recalls speaking to Mr. Hudson. He gave her some free socks, called her a super star volunteer, and offered to take her picture on the podium with her placement medal. She admits she was attracted to him.

The defendant volunteered at three Try events in February and March 2017. Over the next several weeks, the parties exchanged 262 pages of text messages which were initially friendly, subsequently flirtatious, and then explicitly sexual. The defendant thought Mr. Hudson was interested in her.

- [12] On March 12, 2017, Mr. Hudson offered to take the defendant on some running trails in North Vancouver. He admitted it is not typical for him to ask Try volunteers to join him on trail runs. He did so because he thought he was beginning to form a friendship with the defendant, who responded with an expression of interest.
- [13] On March 14, 2017, Mr. Hudson texted the defendant to say she looked cute in her race day photo; she replied she could not believe she was telling him so much about herself, that he was easy to text to, very thorough in getting to know his volunteers, and that she felt special. Mr. Hudson responded with "I hope new friend". The defendant disclosed personal details about her separation and related stress; Mr. Hudson asked her if she was married, noting that he went through a separation and divorce when his son was five months old. The defendant suggested they commiserate together.
- [14] Mr. Hudson later texted the defendant and asked her if she liked to swim. Her response signalled a change in the tenor of their text messages. She made reference to finding the right bathing suit and coming to terms with cellulite, underarm shaving, and Brazilian waxing. Mr. Hudson said this response shocked him. He replied with "lol eww" and "so you like to be hairy hippie girl".
- [15] In a subsequent message, the defendant said she was embarrassed by her earlier text (referencing Brazilian waxing). She asked Mr. Hudson to delete it but then mentioned that she liked "70s porn". Mr. Hudson said the sexual tone of this text shocked him. When the defendant sent him a picture of Julia Roberts with underarm hair, he claims he was again shocked and changed the subject. The defendant later referred to her teeth as no longer "virginal" as they had all been "drilled and filled". Mr. Hudson said this message also shocked him. He texted "oh man you are bad!!" in reply before asking the defendant about what she had made for dinner, he says in an attempt to change the subject.
- [16] On March 16, 2017, the defendant disclosed to Mr. Hudson that it had always been a fantasy of hers to qualify for the Boston Marathon. In response, he said he could forge some results but that it would "cost" her. The defendant wrote "ha ha" in reply. At trial, Mr. Hudson explained that runners must complete a marathon and finish with a qualifying time for their age category to be eligible to run the Boston Marathon. Try hosts one Boston Marathon qualifying event. He said it would be impossible to forge qualifying race times and that he was not serious when he sent the defendant his March 16, 2017 text. He understood from her reaction that she knew he had been joking. They did not discuss this topic again.

- [17] On March 16, 2017, the defendant texted Mr. Hudson and offered to take him for a drink on his birthday the next day. He replied he would be with family. He did not say he had a common-law partner who was the mother of his youngest son and with whom he was living.
- [18] Later the same day, the defendant again asked Mr. Hudson if he would go out with her sometime. He responded with "maybe", followed by a "winky face" emoji. The defendant then texted that she had not dated recently and had not initially considered Mr. Hudson as someone she could go out with, noting that was not why she had volunteered for Try. According to the defendant, if she had known Mr. Hudson was then in a committed relationship, she would not have engaged in this kind of texting with him. She did not understand from his messages that he just wanted to be friends or that he was uncomfortable exchanging sexualized text messages with her.
- [19] Mr. Hudson did not tell his common-law partner about his exchange of text messages, which were becoming increasingly sexual in tone and content, with the defendant. He said he was just building a friendship and that he does not tell his partner everything.
- [20] On March 17, 2017, Mr. Hudson texted the defendant to ask if she would be sending him a birthday picture. Further to a previous text exchange, he suggested she send him a picture of her race medals so he could see which ones she slept with. The defendant replied by suggesting she might wear them for him one day, with nothing else. Mr. Hudson said he ignored this suggestion and claimed he was shocked when the defendant continued to send him sexual messages. When she sent him a partially nude photograph, he said he was shocked she had done so. After receiving it, he replied by saying he would "drive to the Valley" where the defendant lived for those photos. Mr. Hudson maintains that statement was intended as a joke. March 18, 2017: Trail Run
- [21] Ultimately, the parties agreed to meet for a trail run on March 18, 2017. Mr. Hudson testified he considered the defendant to be a friend and that he did not intend for any sexual activity to occur. The parties agree they met at a restaurant and that Mr. Hudson drove them in his truck to the park where they went for a run. The defendant gave contradictory evidence about what occurred in the truck on the drive to and from the park. She maintained she touched Mr. Hudson in a sexual manner on the drive and in the truck after their arrival at the park; he disputes that evidence. Mr. Hudson conceded he did not wear his wedding ring on this occasion and said he removes it when doing strenuous physical activity.
- [22] Based on their exchanges, the defendant was aware Mr. Hudson had two children; she assumed they had the same mother and understood he was a single father. Mr. Hudson did not say he was in a committed monogamous relationship or that his children have two different mothers.
- [23] The parties agree a variety of topics were broached on their run, including sexual ones. It is common ground the defendant offered to perform oral sex on their run and Mr. Hudson declined. Mr. Hudson says he ignored this offer. According to the defendant, he told her there would be lots of time for that later and she was flattered he wanted to take things

slowly. She testified Mr. Hudson never used the word "platonic" or told her he wanted to be just friends. They subsequently texted about friendships with benefits (i.e., sexual benefits). The defendant noted Mr. Hudson had not tried "to make a move"; he replied that he had been restraining himself and "a bj would have been nice".

- [24] After the March 18, 2017 trail run, Mr. Hudson drove to Abbotsford alone to help a friend build a chicken coop. The defendant offered to join him. He declined her offer, saying his friend had teenage children and this would not be appropriate. She understood she was not welcome. Mr. Hudson did not tell his friend he had spent the morning with the defendant or that they had been exchanging sexually explicit text messages. March 18, 2017: Casino Trip
- [25] The parties agreed to meet later that night. They initially planned to go to a movie; the defendant emailed Mr. Hudson her address so he could pick her up. It was approaching 10 p.m. by the time he did so. Given the hour, they went to a casino instead of a movie. They agree they had a drink and listened to some live music. They disagree about whether any sexual contact occurred there; the defendant says they engaged in sexual touching under the table and that he kissed her goodnight after driving her home. Mr. Hudson disputes that evidence. The parties agree Mr. Hudson said nothing at the time about being in a committed monogamous relationship.
- [26] When he got home that night, Mr. Hudson did not tell his common-law partner he had gone for a run with the defendant that day or taken her to a casino that night. He did not share with her the parties' text messages or the partially nude photo the defendant had sent him. In cross-examination, he admitted he did not intend to tell his partner about his relationship with the defendant until she began to publicize it. March - April 2017: Parties' Text Messages
- [27] The sexual tone and content of the parties' text messages increased after March 18, 2017. The defendant's March 19, 2017 text message to Mr. Hudson suggested they have more than a platonic relationship. Mr. Hudson never sent the defendant a text message telling her there was no possibility of them ever having a romantic relationship. Instead, he responded to her March 19, 2017 message with a sexual reference and complemented her on her body.
- [28] On March 19, 2017, Mr. Hudson texted the defendant to say he thought being friends with her would be fun. She asked if he wanted to go for another run with her, "or something more?". She said she did not want to start something and end up hurting him, asked if he needed her to be discrete, and noted she was "not looking to be anyone's gf or anything" and was "happy to be [his] friend". She said she regretted not inviting him into her home on March 18, 2017, that she liked him, and he made her laugh.

- [29] On March 20, 2017, Mr. Hudson texted the defendant about his oldest son, saying the situation with his younger son was more complicated and he "wanted to share". The defendant asked him if he was married, noting she got the sense he was unhappy and wanted more information about that. In response, he said he wanted to tell her about things in person. At trial, Mr. Hudson testified he wanted to explain to the defendant why his relationship with his partner was complicated in person. He never did so.
- [30] In reply, the defendant wrote that what Mr. Hudson suggested was "okay" and that she was still married, at least until August 2017. Mr. Hudson then texted "because I like you and feel we can become good friends, at least ;) - like real friends, caring, have fun and stuff . . . do you feel that? Or no?" The defendant confirmed she did, noting that Mr. Hudson was "different".
- [31] On March 24, 2017, Mr. Hudson texted the defendant to say he had not slept beside a partner all night in many years. He did not say "his" partner. When taken to his discovery evidence, he admitted he had not told the defendant about his current partner.
- [32] At trial, Mr. Hudson repeatedly denied he was pursuing a sexual relationship with the defendant in the spring 2017. He knew she was making sexual advances towards him and testified he was initially shocked by them but later adapted to her sexually aggressive communications. He admitted he never conveyed his shock to the defendant, put a stop to their sexual exchanges, or told her he was in a committed monogamous relationship. April 14, 2017: Parties' Second Meeting
- [33] On April 11, 2017, Mr. Hudson suggested the parties go for a second run.
- [34] They met on April 14, 2017. While they describe the events of that day differently, they agree they ended up at the defendant's house where she gave him a tour. They disagree about who initiated it or whether Mr. Hudson insisted on seeing every room. They agree that, at some point, the defendant's shirt came off. According to the defendant, she ended up mostly naked while Mr. Hudson remained fully clothed. They disagree about what, if any, sexual contact occurred. Mr. Hudson admitted he might have hugged the defendant when she was wearing only her bra but denied any sexual contact; the defendant provided a detailed account of the sexual touching she alleges occurred. At some point, the encounter ended and the defendant sped off in her car. Both agree she was angry. It is clear on all the evidence she felt she had been rejected by Mr. Hudson. April - July 2017: Subsequent Communications
- [35] Following the parties' April 2017 meeting, the defendant said they had a heated telephone conversation. She told him she was prepared to take 50% of the blame for what had occurred and that he said they had not cheated because they had not had sexual intercourse. Mr. Hudson says no sexual contact took place.

- [36] On April 25, 2017, the defendant texted Mr. Hudson, saying she had asked him why he was single and that he had not corrected her. After she cooled down, she began searching on Facebook for information. She found what appeared to be a wedding photograph of Mr. Hudson and his current partner, which made her angry. She said she had trusted Mr. Hudson and felt violated, used, and humiliated. She thought he had duped, manipulated, and betrayed her. She sent him the photograph she had found online and an angry text describing him in disparaging terms and telling him not to contact her again. Thereafter, he blocked her telephone number. The parties had no further direct communication until this litigation. May - October 2017: Defendant's Information Gathering
- [37] From May to October 2017, the defendant spoke to various individuals about Mr. Hudson and began to collect information about him. She sent several private communications about Mr. Hudson via Facebook messenger to individuals in the running community, Try sponsors, and local journalists. Kerry Mittleman, Running Room Manager
- [38] In May 2017, the defendant went to the Langley Running Room and spoke to its manager, Kerry Mittleman, after sending him a Facebook friend request. Mr. Mittleman is Mr. Hudson's friend and attended his first wedding. Mr. Hudson hired Mr. Mittleman in 2005.
- [39] The defendant introduced herself and asked Mr. Mittleman if he knew Mr. Hudson, with whom she thought she had had a relationship. She wanted to know if Mr. Hudson was married. She asked a variety of questions about Mr. Hudson's history with the Running Room. Mr. Mittleman told her Mr. Hudson was divorced but had another wife. They spoke briefly about the defendant's situation. She made a purchase, told him about some of her races, and left the store. Mr. Mittleman said he felt the defendant had used him. He deleted her as a Facebook friend when he got home that night and they had no further interactions.
- [40] The defendant alleges Mr. Mittleman told her Mr. Hudson was not consistently trustworthy, engaged in womanising behaviour around female volunteers, and was not surprised his first marriage had ended. She said he told her Mr. Hudson had been "let go" from the Running Room due to trust issues related to his personal use of gift cards intended for race participants. She denied asking Mr. Mittleman how she could hurt Try. She said her intention was to warn others about her negative experience with Mr. Hudson. She testified Mr. Mittleman advised her not to say anything as doing so would make her look vengeful and vindictive.
- [41] When asked at trial if he told the defendant Mr. Hudson had been let go from the Running Room for making personal use of gift cards intended for race participants, Mr. Mittleman qualified his answer. He said he never used that exact sentence but admitted he might have told her Mr. Hudson had been using gift cards for his personal benefit. He claimed he was unsure if Mr. Hudson had left the Running Room on good terms and did not think he told the defendant that is why his store stopped sponsoring Try events.

- [42] A few months after his discussion with the defendant, Mr. Hudson asked Mr. Mittleman to send him an email, summarising his recollection of his encounter with the defendant. Mr. Mittleman agreed he drafted his email from memory a few months after his discussions with the defendant. The Langley Running Room has not sponsored any Try events for about five years. Mr. Mittleman could not recall why it stopped doing so. July 2017
- [43] On July 1, 2017, the defendant attended Try's Canada Day race. She had previously registered for this event and decided she would confront Mr. Hudson there. She saw him and told him he owed her an apology. She said he turned his back on her and "scurried off". Mr. Hudson agreed they did not speak that day.
- [44] In July 2017, the defendant began sending emails and posting comments on Facebook about the plaintiffs. She said she wanted to ensure that what had happened to her did not happen to anyone else. She said it was not her intention for Try to lose sponsors or charity partners and that she never told anyone to boycott Try events. She thought that, if she did nothing, her negative experience would "eat away at her" and that she had to escalate matters so Mr. Hudson would acknowledge her. In her mind, he had initiated a relationship and pursued her first. She said matters would not have progressed if she had known he was in a relationship. Michael Campbell Burns
- [45] At some point, the defendant spoke to Michael Campbell Burns, someone she knew from her attendance at Try events. Mr. Campbell Burns did not testify at trial. She sent him a Facebook message on July 3, 2017.
- [46] According to the defendant, Mr. Campbell Burns did not know if Mr. Hudson was married but said he had a child whose mother was not his first wife. Based on her discussions with Mr. Campbell Burns, the defendant concluded he shared Mr. Mittleman's view that Mr. Hudson was untrustworthy. Jeff Strickland
- [47] Jeff Strickland has been VP of the PNE since 2002. He said the Donut Dash was a fun 5K event held at the PNE for three years from 2015 to 2017. Try was the PNE's partner on this event. The Try logo was on the PNE website and at the PNE and the PNE had the benefit of some cross-promotion via Try.
- [48] Mr. Strickland said the Donut Dash ended for many reasons, none of which was related to the defendant's allegations in this action. He testified the PNE decided to move away from this event once it had served its purpose as a promotional initiative, participation was dwindling, and it required significant resources to execute. After 2017, the PNE put the Donut Dash "in the vault" as there was no compelling business case to continue it.
- [49] Mr. Strickland admitted he spoke to the defendant in August 2017 about Mr. Hudson; he did not recall describing Mr. Hudson as a sociopath. Mr. Strickland admitted he might have told her the PNE would be renegotiating its three-year contract with Try the following year. She told him about her history with Mr. Hudson and said he had lied to her and cheated on his wife with her. He recalls she was concerned about other Try volunteers having the same

experience. Mr. Strickland and the defendant were former PNE colleagues but he did not know her well. He said he had no reason to disbelieve her allegations. He agreed he likely told her the PNE was going to end its relationship with Try as he then had a sense of the final numbers for the year. In cross-examination, he maintained the defendant's allegations did not influence the PNE's decision to discontinue the Donut Dash. He said the PNE's main concern with this event was the staff effort required to run it.

- [50] By email dated March 2, 2018, Mr. Strickland wrote Mr. Hudson to confirm the PNE had made a corporate decision to discontinue the Donut Dash. August 2017 Contact with Try
- [51] On August 13 and 18, 2017, the defendant sent emails to Try requesting documentation of her volunteer hours. She said she wanted an apology or a charitable donation in the amount she had spent on Try races. She conceded she was unable to let the matter go. She thought she needed an apology or an acknowledgement to put it behind her. She spoke to a counsellor and her family lawyer who told her an apology was unlikely but suggested she request a charitable donation. Mr. Hudson understood the defendant wanted an apology because he had rejected her and had not told her he was married. He did not apologise.
- [52] On August 24, 2017, the defendant wrote to the Try Volunteer Coordinator seeking reimbursement for her volunteer hours in the form of a charitable donation, failing which she said she planned to weigh her options with her lawyer, contacts in the running community, and the media. Mr. Hudson said he was surprised and shocked that she was threatening him. He did not respond.
- [53] On August 29, 2017, the defendant wrote to two journalists about her experience with Mr. Hudson. She said she did so to help her process what had occurred but that she did not know if she wanted them to write a story. When confronted with her discovery evidence, she admitted she wanted them to investigate and potentially to write a story. She testified she was in a state of conflicting emotions, did not know what she wanted, and was always being pulled in different directions. She said she mostly wanted to be heard.
- [54] On October 30, 2017, a Try volunteer sent Mr. Hudson an email, advising that the defendant had contacted him. According to Mr. Hudson, this was start of many people doing so.
November - December 2017: The Campaign
- [55] In November 2017, the defendant launched her public internet campaign against the plaintiffs (the "Campaign"). The Campaign lasted five weeks and ended when the plaintiffs obtained an interlocutory injunction. The defendant's extensive statements made during the Campaign, as referenced in the plaintiffs' amended notice of civil claim, are set out in an appendix to these reasons, together with a summary of my findings regarding the applicable pleaded defamatory meaning/s of each statement.
- [56] The plaintiffs allege the defamatory sting of the defendant's statements communicated that Mr. Hudson was a sexual predator, preyed on vulnerable women, abused his position of trust and power, was a coward, thief, and adulterer, copied race names and logos,

piggybacked race certifications and scheduled events near rival events out of spite, was dishonest, a con artist and a sociopath, offered to forge race results in exchange for sexual favours, had sexually transmitted diseases, changed his name to hide from former girlfriends, was "sick" for statements he made regarding the defendant's daughter, was a bully, uttered threats, was a misogynist, adopted the strategy of a known rapist and serial abuser, laundered money, and had uncontrollable sexual urges.

- [57] The plaintiffs claim the natural and ordinary meaning of the defendant's statements indicated that Try provided and promoted an unsafe environment for women, falsified or condoned the falsification of race times, condoned sexual impropriety, and operated as a vehicle for predatory behaviour, theft, and money laundering.
- [58] At trial, the defendant accepted some responsibility for what had occurred between the parties and admitted she might not have emphasized her own role during the Campaign. She agreed she went public with the parties' personal dispute because she did not get the resolution she wanted and that part of her goal was to pressure Mr. Hudson to apologize.
- [59] The defendant said she believed what she wrote during the Campaign was true. It is clear on the face of her statements that she presented them as if they were factual. She later conceded she described a one-sided version of events which might have been sensationalised and that the Campaign presented a skewed view. She admitted regretting some of her word choices and said she has acknowledged any errors she made, including a mistaken reference to having security footage of Mr. Hudson in her home (which she later discovered was incorrect). She denied that running up the plaintiffs' legal bills was part of her strategy and said she used the fear of costs to get Mr. Hudson's attention. She later conceded that increasing the plaintiffs' legal costs might have been one of her goals, although it was not her main goal. Despite suggesting during the Campaign that she did not want to incur more legal costs herself, she admitted she did not actually retain a lawyer before the December 2017 injunction hearing in this action.
- [60] The defendant hoped the Campaign might provide her with some catharsis. While she felt some immediate gratification during the Campaign, she admitted it was temporary. She wrote about how much fun the Campaign was for her but testified she was trying to make light of the situation to cover her embarrassment and that she used humour as a means of coping. She suggested some of her messages involved her typing quickly on Instant Messenger and that she did not have enough time to provide all relevant details. Ultimately, she agreed some of her statements could have been more objective.
- [61] By email dated October 29, 2017, Richard Hortness wrote Mr. Hudson to advise him the November Project, a community-based fitness organization, had decided to distance itself from Try until the defendant's allegations were resolved. Mr. Hortness is a leader of the November Project. In 2016, the November Project performed pre-race warm-ups for Try and promoted Try events through its network. November Project members volunteered their time in exchange for free registration for Try races. There was a cross-promotional aspect to

this arrangement. The November Project posted information about Try events on its website and the November Project name was on the Try website.

- [62] Mr. Hortness said he considered allegations of sexual misconduct to be serious and was concerned the defendant's statement she had the support of many runners in the community was a threat to the November Project. He did not know whether the defendant's allegations were true. He asked Mr. Hudson to remove the November Project logo, and any reference to its association with Try, from Try's website. Mr. Hudson confirmed he would do so, noting in his response that, "[f]or the record, [he] did not hold [the defendant's] hand, did not kiss her, and did not have sex with [her]". He admitted he had hugged the defendant but said he had rejected her "strong sexual advancements". He did not mention their protracted exchange of sexually explicit text messages.
- [63] On November 1, 2017, the defendant posted her first public Facebook post referring to the plaintiffs. On or about November 2, 2017, she posted an open letter to Mr. Hudson on Facebook. In it, she aired various grievances, referenced his alleged deception, and said he had taken advantage of her as a struggling single mother and left her hurt and humiliated. Mr. Hudson said the contents of this letter shocked him. He identified one elite runner who responded to it by telling people to boycott Try events. He admitted he did not know if anyone actually boycotted Try events because of the defendant's open letter.
- [64] Mr. Hudson testified the defendant's posts scared him. He felt she was taunting and threatening him, his business, and his supporters and concluded it was her intention to cause him to incur as much cost as possible. She tagged some of her Facebook posts to notify individuals and organisations she had used their names in a post. He confirmed the tagged organisations were part of the close-knit Vancouver running community and important to Try's business. November 2, 2017: Cease and Desist Letter
- [65] On November 2, 2017, plaintiffs' counsel sent the defendant a cease and desist letter. It prompted the defendant to escalate the Campaign.
- [66] On November 21, 2017, a representative of Nuun, an athletic hydration company, approached Mr. Hudson to inform him the defendant had contacted Nuun and that Nuun had concerns about blow back on its brand. Nuun informed Mr. Hudson that it intended to suspend its association with Try. Thereafter, Nuun terminated its relationship with Try. Try removed Nuun logos from its website and used Gatorade at Try events. Try did not obtain a Gatorade sponsorship. November 22, 2017: Commencement of Litigation
- [67] On November 22, 2017, the plaintiffs commenced this action. The same day, Try distributed a public press release denying the defendant's allegations. Mr. Hudson approved it. By posting it, he agreed he was publicly denying all of her allegations and effectively calling her a liar by refuting her assertion they had been in a sexual relationship.

- [68] On November 27, 2017, the defendant looked up Try's charitable partners on Try's website and sent them messages via Facebook Messenger alleging Mr. Hudson had cheated on his wife with volunteers and shoe store employees and been let go from the Running Room due to trust issues, including theft. November 30, 2017: Injunction Application
- [69] On November 30, 2017, the plaintiffs filed application materials in support of an interlocutory injunction.
- [70] On December 1, 2017, the defendant was served with the plaintiffs' injunction application materials. She said she was upset and stressed when she received them. She thought Mr. Hudson was trying to suppress her, that this was part of his pattern of exploiting vulnerable individuals, and that she had to speak up to defend herself. In response, she wrote to as many Facebook friends of Mr. Hudson's partner, Ms. Yeom, as she could find, advising them someone needed to inform her she needed to get tested for STDs/STIs as Mr. Hudson had been cheating on her with multiple women. The defendant believes she sent this message to 10 or 20 of Ms. Yeom's Facebook friends.
- [71] On December 6, 2017, the defendant wrote to the Executive Director of the preschool where Ms. Yeom works, making essentially the same statements as in her Facebook post of that date. This prompted a response from the Executive Director, advising the defendant that her actions were highly inappropriate and asking her to cease contact.
- [72] On December 10 and 12, 2017, the defendant emailed plaintiffs' counsel directly. Her tone was not conciliatory. She testified she was poking fun at Mr. Hudson for having to incur legal costs she thought could have been avoided. She initially said she did not intend her statement about her mother being able to spread information within the insular Korean community as a threat, but later admitted she could see how it could be interpreted that way. When confronted with her discovery evidence, in which she admitted she probably intended that statement as a threat, she accepted her answer as true. She then said it was not her main intention to threaten.
- [73] On December 12, 2017, Ms. Yeom sent Mr. Hudson an email she had received from a friend, forwarding a message from the defendant, stating, in part, that he had been cheating on Ms. Yeom with multiple women. Ms. Yeom's employer told her not to mix her personal life with work and that these attacks had to stop or they would ruin the school's reputation.
- [74] On December 18, 2017, Justice Murray granted the interlocutory injunction which ended the Campaign. V. THE ISSUES
- [75] The following issues arise in this action:
- Were the defendant's statements defamatory?
 - Are the defences of truth or fair comment available to the defendant?
 - Did the defendant act with malice?

- d) What, if any, damages have the plaintiffs suffered?
- e) Does partial justification or provocation reduce the plaintiffs' damages? VI. CREDIBILITY AND RELIABILITY OF THE EVIDENCE
- [76] The parties gave irreconcilable evidence about the nature of their relationship including, in particular, whether it involved any sexual contact. The discrepancies in their evidence make it necessary for me to assess credibility.
- [77] *Faryna v. Chorny*, [1952] 2 D.L.R. 354 (B.C.C.A.) is instructive when assessing the credibility of interested witnesses. The Court in that case held as follows at 357: The credibility of interested witness, particularly in cases of conflict of evidence, cannot be gauged solely by the test of whether the personal demeanour of the particular witness carried conviction of the truth. The test must reasonably subject his story to an examination of its consistency with the probabilities that surround the currently existing conditions. In short, the real test of the truth of the story of a witness in such a case must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions. Only thus can a Court satisfactorily appraise the testimony of quick-minded, experienced and confident witnesses, and of those shrewd persons adept in the half-lie and of long and successful experience in combining skilful exaggeration with partial suppression of the truth. Again a witness may testify what he sincerely believes to be true, but he may be quite honestly mistaken. For a trial Judge to say "I believe him because I judge him to be telling the truth", is to come to a conclusion on consideration of only half the problem. In truth it may easily be self-direction of a dangerous kind.
- [78] I am also mindful of Justice Dillon's comments in *Bradshaw v. Stenner*, 2010 BCSC 1398, aff'd 2012 BCCA 296 at para. 186: Credibility involves an assessment of the trustworthiness of a witness' testimony based upon the veracity or sincerity of a witness and the accuracy of the evidence that the witness provides. The art of assessment involves examination of various factors such as the ability and opportunity to observe events, the firmness of his memory, the ability to resist the influence of interest to modify his recollection, whether the witness' evidence harmonizes with independent evidence that has been accepted, whether the witness changes his testimony during direct and cross-examination, whether the witness' testimony seems unreasonable, impossible, or unlikely, whether a witness has a motive to lie, and the demeanour of a witness generally. [Citations omitted.]
- [79] I have concerns about the credibility and reliability of both parties, neither of whom I found to be overly impressive or sympathetic witnesses. It was my general impression both attempted to minimize and deflect responsibility for their respective roles in the events that culminated in this lawsuit. Neither was consistently forthright. Both adjusted their answers at trial, making admissions once confronted with their evidence given on discovery. In cross-examination, both qualified answers they had given in direct. Mr. Hudson trivialized the parties' sexual exchanges; the defendant sensationalized them. Both periodically portrayed

their texts as earnest or in jest, as convenient, to suit their narrative. I found their memories to be somewhat selective and some of the evidence of both to be improbable when taken in context. Credibility of Mr. Hudson

- [80] Mr. Hudson maintained the defendant's introduction of sexual topics into their conversations shocked him. I find that evidence difficult to accept. It is inconsistent with his conduct at the time and the tone and content of his texted responses, which indicate he quickly became a willing, active, and engaged participant. For example, he said he was shocked to receive a partially nude photograph of the defendant after he asked her for a "birthday picture". That answer strains credulity, particularly when his texted response indicated he would "drive to the Valley" for those photographs. In cross-examination, he suggested he was shocked to receive a sexual message from the defendant after agreeing he had used a wink emoji to ramp up the sexiness of their exchange. Mr. Hudson denied his texted compliments to the defendant about her being pretty, looking great, and having a nice fit body meant he was telling her she was attractive. He suggested he was simply being friendly. Those answers were not credible.
- [81] Having reviewed the parties' text messages in their entirety, I find that none of them suggested that Mr. Hudson was ever uncomfortable, reluctant, or unwilling to engage in sexually explicit communications with the defendant. He admitted he found her texts entertaining and described one lewd exchange as "super funny". I find that evidence to be inconsistent with his suggestion the defendant's sexual texts shocked him, despite his stated decision to adapt to them over time.
- [82] At trial, Mr. Hudson suggested that by texting "you are so bad" to the defendant, in response to a sexual text from her, he was expressing genuine disapproval rather than being flirtatious. I find that implausible. In my view, his texted responses belie any suggestion he was ever shocked by the defendant's sexual texts. At a minimum, I conclude he adapted to them readily.
- [83] Mr. Hudson maintained he made it clear to the defendant he was only interested in a platonic friendship and not a sexual relationship. In cross-examination, he conceded he could assume the defendant was referring to more than a platonic relationship in her March 19, 2017 text when she stated she did not want to start something and end up hurting him.
- [84] When referred to his March 24, 2017 late night text to the defendant asking her whether she planned to study sex if she returned to university, Mr. Hudson insisted this was an earnest discussion given what he perceived to be her great interest in sex. I found that answer implausible. Mr. Hudson refused to admit his text to the defendant later the same day inviting her to "know me, feel me, touch me, run with me" was either flirtatious or an invitation to engage in sexual contact. In my view, his unwillingness to do so undermined his credibility.

- [85] I find Mr. Hudson's delayed and limited disclosure to Ms. Yeom about the nature of his contact with the defendant to be significant. At trial, he said he could not recall when he told Ms. Yeom about the defendant, noting he is not great with dates or numbers. When taken to his discovery evidence, he agreed it would have been "closer to August 2017" when he did so. Despite that admission, he later said he was not certain when he told Ms. Yeom about the defendant.
- [86] Mr. Hudson admitted he said nothing to Ms. Yeom about the defendant until it became apparent to him she would find out because of the defendant's publications. On his own evidence, he provided Ms. Yeom with an edited and sanitized account in about August 2017. He described the parties' graphic sexual exchanges as flirtatious. He said he was not sure if he told Ms. Yeom about the parties' casino trip or the partially nude photograph the defendant had sent him. He did not produce the text messages between the parties, saying he had destroyed them. I conclude he only showed them to Ms. Yeom once he knew she would become aware of them. In my view, this lack of candour is inconsistent with his assertion that his relationship with the defendant was an innocuous platonic friendship.
- [87] Significantly, Mr. Hudson also did not tell his Abbotsford friend he had spent the morning of March 18, 2017 running with the defendant. He initially said he had insufficient time to do so that day, an explanation I find improbable. In cross-examination, he conceded he found time to send a selfie to the defendant and could have spoken to his friend about her if he had wished to. I infer from this non-disclosure that Mr. Hudson concluded his friend might not have approved of him spending the day alone with a single woman and that he did not want his friend to share this information with Ms. Yeom.
- [88] Some of Mr. Hudson's answers seemed contrived and were difficult to understand. On April 8, 2017, immediately following his suggestion the defendant may have forgotten what he looked like, he texted her to ask if she could "remember by taste?". When invited to explain that statement at trial, he said he was not referring to himself but rather, to "anything", including, for example, strawberries or apples. That response made no sense. In cross-examination, he suggested that reference to masturbation in one of his texts to the defendant was not about sex. When pressed, he maintained he did not know if masturbation was a sexual topic. While he ultimately conceded it was, that exchange diminished his credibility.
- [89] In November 2017, after the commencement of this action, Mr. Hudson swore an affidavit in support of his injunction application. He deposed that the defendant made a series of advances towards him which he rejected, that he had told her he was married and it was, therefore, a surprise to him when she claimed she did not know that. Those statements are inconsistent with admissions he made in cross-examination, at which time he said he was not married in 2017 and never told the defendant he was in a committed monogamous relationship. He deposed further that, after he rejected the defendant, she broke off contact with him. In fact, he blocked her text messages after April 2017. He did not mention in his affidavit the defendant's offer of oral sex on their March 2017 run, their late night trip to a

casino, or his April 2017 visit to her home. When cross-examined about those omissions, he deflected responsibility for his own sworn affidavit, stating the matter was "beyond his scope". I am troubled by Mr. Hudson's misstatements in his sworn affidavit.

- [90] At a certain point during cross-examination, Mr. Hudson became somewhat defensive and argumentative, requesting documentary references from counsel for the defendant whom he suggested was more clever than he was and trying to trick him. That suggestion was unfounded and this exchange undermined Mr. Hudson's credibility.
- [91] Given my concerns about the inconsistencies in his evidence, his lack of candour, and the lack of harmony between his evidence and the preponderance of probabilities, I have approached Mr. Hudson's evidence with considerable caution.
- [92] Ms. Yeom's interests are closely aligned to Mr. Hudson's. My review of her evidence as a whole suggests she accepted his description of events without question. In assessing the evidence of Mr. Mittleman, I have considered the fact he is Mr. Hudson's friend and they work in the same business. His answers were not consistently clear or forthright and on balance, I did not find him to be an overly credible or reliable witness.
- [93] For the reasons outlined herein, I prefer the evidence of Mr. Strickland where it conflicts with that of Mr. Hudson. Mr. Strickland has no interest in the outcome of this litigation. Despite vigorous cross-examination, his evidence that the PNE terminated the Donut Dash for business reasons unrelated to the defendant's actions did not change. Credibility of the Defendant
- [94] I am troubled by much of the defendant's evidence. It was frequently characterised by lengthy, rambling, unresponsive answers, many of which were so circuitous that the questions she was asked had to be repeated. She amended and qualified many of her answers and, at times, appeared to be making no concerted attempt to be truthful.
- [95] Much of the defendant's evidence changed following discovery and at trial. Some of her answers seemed contrived and were difficult to understand. In closing submissions, defence counsel described her as an emotional individual. Accepting that to be true, it does not adequately explain the multiple discrepancies in her evidence which I found to be largely unreliable.
- [96] The defendant's story evolved. In cross-examination, she agreed she introduced sexual topics into the parties' conversation, an admission which is inconsistent with her discovery evidence and statements made during the Campaign. She conceded she never told anyone she initiated the parties' sexual exchanges. At trial, she admitted she may have been more of the pursuer in the beginning of her relationship with Mr. Hudson and ultimately agreed she probably did not emphasize that fact during the Campaign. She later maintained Mr. Hudson had pursued her first because he invited her on a trail run and, accordingly, she blamed him for how things started.

- [97] The defendant maintained she was a vulnerable struggling single mother whom Mr. Hudson pursued, a prominent theme during the Campaign. Her evidence on this point was not persuasive. In cross-examination, she admitted she chose to send Mr. Hudson a partially nude photo of herself and that he did not pressure her to do so. She later attempted to retreat from this admission by saying that, while he did not coerce her, she felt pressured. She described herself as camera shy but admitted to sending nude photos of herself to other men, stating that once she has pictures, she is not shy about sharing them. In cross-examination, she admitted no one coerced her into having sexual contact with Mr. Hudson.
- [98] The defendant adjusted her evidence after discovery and during trial. At trial, she initially testified she did not intend her statement in her December 12, 2017 email to plaintiffs' counsel about her mother being able to spread information within the insular Korean community as a threat; she later admitted she could see how it could be interpreted in that way. When confronted with her discovery evidence, she agreed she probably intended that statement as a threat at the time she made it. She then said part of her intention was to threaten, but that was not her main intention.
- [99] In direct examination, when asked about the November Project, she said it was never her intention to cause the plaintiffs to lose charity partners and sponsors. In cross-examination, she revised this answer and said that was never her primary intention. She admitted that is not what she said but maintained that is what she meant. She ultimately conceded it might have been her intention to cause the plaintiffs to lose sponsors. The fluid nature of the defendant's evidence undermined her credibility.
- [100] On August 29, 2017, the defendant wrote to two journalists about her negative experience with Mr. Hudson. At trial, she suggested she did so to get his attention and to be heard but she did not know if she wanted them to write a story. I find it improbable that she would write to two journalists only to have them listen to her describe a failed relationship. When confronted with her evidence on discovery, she admitted she wanted these individuals to investigate and potentially to write a story.
- [101] Like Mr. Hudson, I find the defendant periodically construed the parties' text messages to suit her narrative. She suggested some were serious although, when read in context, it is clear they were intended in jest. On occasion, she did the opposite, suggesting she meant certain statements, which appear as threats, to be jokes and that she used humour to deal with difficult situations.
- [102] The defendant has a psychology degree and is clearly an intelligent woman. Given that, many of her answers were difficult to accept. For example, she refused to concede that by referring to Mr. Hudson as a "sick fuck" (in the context of him wanting to see her daughter's bedroom and closet), she was suggesting he was a pedophile. In my view, that is the obvious inference she was inviting readers to make during the Campaign. I found her refusal to concede that interpretation ever crossed her mind to be implausible.

[103] For the reasons set out herein, I have approached the evidence of both parties with considerable caution and skepticism. I conclude I am unable to accept all the evidence of either party. I have made findings of fact based on my assessment of the evidence as a whole and a determination of what I consider most probable in all the circumstances, as set out in these reasons. VII. FINDINGS OF FACT

[104] I have resolved the key discrepancies in the parties' evidence as set out below and make the following findings of fact in the context of the above-noted factual background:

- a) Mr. Hudson initiated a personal relationship with the defendant by texting and inviting her to join him alone on a trail run in March 2017.
- b) The defendant introduced sexual topics early in the parties' relationship. Mr. Hudson quickly became an active, willing, and enthusiastic participant in their sexually explicit exchanges.
- c) Mr. Hudson never told the defendant he was in a committed monogamous relationship. She never insisted he disclose this information. Rather, she chose to trust him. I conclude Mr. Hudson was not forthright with the defendant about his relationship status.
- d) I am unable to find on the evidence before me that the parties engaged in any sexual contact on March 18, 2017. There were multiple inconsistencies in the defendant's evidence on this point. On discovery, she gave a detailed description of touching Mr. Hudson's leg, groin, and arm. In cross-examination, she admitted she did not touch his groin on the drive to the park. She said it was hot that day and Mr. Hudson changed into shorts in the back of his truck where she joined him and they engaged in sexual touching. At trial, she initially denied it had been raining that day but changed her answer when confronted with the parties' text messages to the contrary. Mr. Hudson's version of events is partially corroborated by his text messages of that morning, indicating he had to take his son to his mother's house, which he said meant there would be child car seats in the back of his truck. On discovery, the defendant admitted Mr. Hudson did not make a move to have sex in his vehicle on March 18, 2017. On all the evidence, I am unable to conclude the parties engaged in sexual touching in Mr. Hudson's vehicle that day.
- e) Given my concerns regarding the reliability of the defendant's evidence generally, I am unable to accept her uncorroborated evidence that the parties engaged in sexual contact at a casino the night of March 18, 2017.
- f) I accept the defendant's evidence that Mr. Hudson kissed her after taking her home from the casino the night of March 18, 2017. In my view, that is the most plausible interpretation of Mr. Hudson's April 8, 2017 text message to her, asking if she could "remember by taste". I reject his suggestion this message refers to him asking the defendant if she could remember anything by taste including, for example, fruit.

- g) I conclude the parties probably did engage in some kind of sexual contact on April 14, 2017 at the defendant's home. I found Mr. Hudson's evidence regarding this encounter to be vague and unconvincing. In my view, on all the evidence, it is probable he either encouraged or failed to discourage the defendant from disrobing and that the parties likely engaged in some sexual touching which the parties agree did not include sexual intercourse. I conclude Mr. Hudson experienced a degree of remorse at some point, halted matters, and replaced his wedding ring while the defendant was upstairs getting dressed. In my view, that series of events is the most probable explanation for the defendant's angry response and abrupt departure, which both parties agree occurred.
- h) I accept the defendant's evidence that she felt used and betrayed when she learned Mr. Hudson was not single and had not been forthright with her about his relationship status. I conclude April 14, 2017 was the first time Mr. Hudson unequivocally rejected the defendant's sexual advances.
- VIII. THE LAW Defamation

- [105] The law of defamation applies to electronic communications, which the courts have recognised can effectively harm reputations: *Rook v. Halcrow*, 2019 BCSC 2253 at para. 1. For a statement to be defamatory, it must lower the reputation of the plaintiff in the estimation of right-thinking members of society generally, or expose the plaintiff to hatred, contempt, or ridicule. A court must assess the allegedly defamatory words from the perspective of a person who is reasonably thoughtful and informed but not excessively sensitive or fragile: *Weaver v. Corcoran*, 2017 BCCA 160 at paras. 68-69.
- [106] In *Weaver*, Dickson J.A. set out the test for whether an impugned statement is defamatory:
- [71] Words may convey a defamatory meaning literally, inferentially or by legal innuendo. Literal meaning is conveyed directly; inferential meaning, indirectly; and legal innuendo, by extension based on extrinsic facts. These alternate means of proof were summarised by Hinkson J.A., as he then was, in [*Lawson v. Baines*, 2012 BCCA 117]:
- [13] There are three alternate means by which defamation can be proven:
- a) If the literal meaning of the words complained of are defamatory;
 - b) If the words complained of are not defamatory in their natural and ordinary meaning, but their meaning based upon extrinsic circumstances unique to certain readers (the "legal" or "true" innuendo meaning) is defamatory; or
 - c) If the inferential meaning or impression left by the words complained of is defamatory (the "false" or "popular" innuendo meaning).
- [72] Where the literal meaning of words is in issue, it is unnecessary to go beyond the words themselves to prove that they are defamatory. Where a claim is based on the inferential meaning of words, the question is one of impression: what would the ordinary person infer from the words in the context in which they were used? Both literal and inferential defamatory meaning reside within the words, as part of their natural and ordinary meaning.

In contrast, where legal innuendo is pleaded the impugned words take on defamatory meaning from outside circumstances beyond general knowledge but known to the recipient.

- [73] In [Botiuk v. Toronto Free Press Publications Ltd., [1995] 3 S.C.R. 3], Mr. Justice Cory explained how defamatory meaning is to be determined:
- [62] What is defamatory may be determined from the ordinary meaning of the published words themselves or from the surrounding circumstances. In *The Law of Defamation in Canada* (2nd ed. 1994), R.E. Brown stated the following at p. 1-15: [A publication] may be defamatory in its plain and ordinary meaning or by virtue of extrinsic facts or circumstances, known to the listener or reader, which give it a defamatory meaning by way of innuendo different from that in which it ordinarily would be understood. In determining its meaning, the court may take into consideration all the circumstances of the case, including any reasonable implications the words may bear, the context in which the words are used, the audience to whom they were published and the manner in which they were presented.
- [107] The plaintiff bears the onus of proving alleged inferential meanings: *Lawson v. Baines*, 2011 BCSC 326 at paras. 35-36, aff'd 2012 BCCA 117.
- [108] As Justice Abella wrote in *Color Your World Corp. v. Canadian Broadcasting Corp.* (1998), 38 O.R. (3d) 97 (C.A.) at 106: The standard of what constitutes a reasonable or ordinary member of the public is difficult to articulate. It should not be so low as to stifle free expression unduly, nor so high as to imperil the ability to protect the integrity of a person's reputation. The impressions about the content of any broadcast - or written statement - should be assessed from the perspective of someone reasonable, that is, a person who is reasonably thoughtful and informed, rather than someone with an overly fragile sensibility. A degree of common sense must be attributed to viewers.
- [109] Generally speaking, mere words of abuse which injure a person's feelings, insult his or her pride, or cause annoyance or embarrassment are not actionable. The law does not redress solely for wounded sensibilities. Nor is there an action for insults which do not diminish a person's standing in the community; the law regards as innocuous language which is merely offensive and vituperative: *567893 B.C. Ltd. v. Aasen*, 2007 BCSC 663 at para. 24 [Aasen].
- [110] In the absence of an inextricable link between publications, the meaning of each publication complained of must be determined on an individual basis: *Weaver* at para. 83. *Publication*
- [111] To prove publication, a plaintiff must establish the defendant has conveyed a defamatory meaning to a single third party who has received it: *Crookes v. Newton*, 2011 SCC 47 at para. 16. It is insufficient merely to show that the defendant disseminated defamatory information; there must be evidence someone read it. It is the publication, and not its composition, which is the actionable wrong. Publication is an indispensable element in an action for defamation and there can be no liability without it: *Raymond E. Brown*, *Brown on*

Defamation, (Toronto: Thompson Reuters, 1999) (e-looseleaf updated 2019), at 7.2.

- [112] There is no presumption of publication in relation to material published on the internet: Crookes, at para. 14. Courts have, however, recognized the realities of modern internet communications and inferred publication: Bernstein v. Poon, 2015 ONSC 155 at para. 94; Hee Creations Group Ltd. v. Chow, 2018 BCSC 260 at paras. 74-85 [Hee]; Holden v. Hanlon, 2019 BCSC 622, at paras. 59-66 [Holden]. Onus
- [113] In a defamation claim, the plaintiff has the onus of proving, on a balance of probabilities, that (a) the impugned words are defamatory, (b) the impugned words referred to the plaintiff, and (c) the words were published to at least one other person. Defamation is a strict liability tort and it is unnecessary to prove that the defendant intended to cause harm or was otherwise careless: Weaver at para. 70; Grant v. Torstar Corp., 2009 SCC 61 at para. 28.
- [114] If the plaintiff is successful in meeting this onus, the falsity of the impugned statements is presumed, and the onus shifts to the defendant to establish any applicable affirmative defences to avoid liability: Weaver at para 103; Grant at para. 29. IX. ANALYSIS Defamatory Meaning
- [115] The defendant's allegedly defamatory statements, as summarized in the plaintiffs' amended notice of civil claim, are set out in an appendix to these reasons. They are extensive and I do not intend to repeat them here. I conclude the overwhelming majority of them are literally or inferentially defamatory; namely: they are false and harmful, and tend to lower the reputation of one or both of the plaintiffs in the estimation of right-thinking members of society generally, or expose them to hatred, contempt, or ridicule.
- [116] The plaintiffs plead the impugned statements, in their natural and ordinary meaning, and by innuendo, meant and were understood to mean that:
- a) Mr. Hudson:
 - i. Committed acts of sexual impropriety; ii. Repeatedly engaged in sexual impropriety as a pattern of conduct; iii. Committed adultery; iv. Violated the implicit rules governing the running community;
 - v. Engaged in conduct that ordinary and reasonable persons would regard as immoral; vi. Stole from race sponsors; vii. Repeatedly lied to his spouse and others; viii. Offered to fabricate race results in exchange for sexual favours; ix. Preyed on vulnerable women;
 - x. Manifested uncontrollable sexual urges; xi. Was terminated from a position of employment with the Running Room for theft; xii. Laundered money; xiii. Had improper or inappropriate intentions towards the defendant's daughter; and xiv. Contracted and/or carried sexually transmitted infectious and/or diseases and spread them to others; and
 - b) Try:

- i. Provides and promotes an unsafe environment for women; ii. Falsifies or condones falsification of race times; iii. Condones sexual impropriety; and iv. Operates as a vehicle for predatory behaviour, theft and money laundering.
- [117] I conclude it is this sting which the defendant must establish as either true or the subject of a fair comment defence: *Mainstream Canada v. Staniford*, 2012 BCSC 1691 at para. 6. When the statements make reference to other statements including, for example, the defendant's November 2, 2017 open letter posted publicly on Facebook, I have read the statements in this context, including those contained in attached or referenced posts.
- [118] The impugned statements fall into three broad categories; in essence, they assert Mr. Hudson committed acts of sexual impropriety and was a liar and a thief. I have assessed them on that basis.
- [119] Sexual impropriety was the predominant theme during the Campaign. There was no evidence at trial to support the conclusion that Mr. Hudson is a sexual predator or pedophile. I conclude the defendant fabricated the statements which suggested he was in an effort to cause harm. It is patently obvious they are defamatory. These are the kind of salacious allegations which are quickly disseminated and, even if wholly unfounded, may never be completely dispelled. Similarly, the defendant admitted she had no evidence on which to base her statements that Mr. Hudson had spread STDs or STIs to multiple women. At trial, she said she regretted making those statements which I find are defamatory on their face.
- [120] I have found that Mr. Hudson and the defendant probably engaged in some kind of sexual touching, without coitus, on April 14, 2017, without his partner's knowledge. While a reasonable person might conclude that constitutes "cheating" (to borrow language from the defendant), it is unclear whether that makes him an adulterer. This issue was not addressed directly by the parties. The Merriam-Webster dictionary defines adultery as "voluntary sexual intercourse between a married person and someone other than that person's current spouse or partner". Ultimately, I conclude that is what a reasonably thoughtful and informed member of society would probably understand adultery to mean. In my view, a statement that someone is an adulterer is defamatory on its face.
- [121] During the Campaign, the defendant portrayed herself as a vulnerable single mother. One of her consistent themes was that Mr. Hudson preyed on vulnerable women in order to exploit them sexually. I conclude those statements are literally defamatory and unsupported by the evidence.
- [122] The defendant's assertions that Mr. Hudson committed acts of sexual impropriety, repeatedly engaged in sexual impropriety as a pattern of conduct, engaged in conduct that ordinary and reasonable persons would regard as immoral, and repeatedly lied to his spouse and others, are defamatory on their face. I have found that Mr. Hudson was not consistently forthright with the defendant and that he misled her about his relationship status. On the evidence, the parties exchanged extensive sexually explicit text messages,

without the knowledge of Mr. Hudson's partner. I have also found they likely had some sexual contact, without coitus, on at least one occasion. Given these evidentiary findings, I conclude the sting of these statements, while not proven, to be partially justified, a factor I have considered in my assessment of damages.

[123] The defendant offered only rumour, assumption, and innuendo to support her statements that Mr. Hudson had committed theft. There was no substance to her suggestion he had laundered money. I find those statements to be clearly defamatory.

[124] Mr. Hudson is the sole owner and the public face of Try, a small local business. For that reason, I conclude that statements which defame him, in turn, defame Try. The defendant's statements impugning the integrity of Try race results, indicating Try copied race names from others, "piggybacked" Try events on other route certifications, and deliberately scheduled Try events near those of competitors out of spite are defamatory on their face. Those are the kind of statements which, if believed and widely circulated within the running community, could have a significant negative impact on Try's business and, potentially, result in Try losing its status to offer a sanctioned Boston Marathon qualifying event.

[125] Of all the statements referenced in the amended notice of civil claim, the only two I find not to be defamatory are:

- a) The defendant's November 2, 2017 Facebook message to Mr. Campbell-Burns calling Mr. Hudson a "nut job" and stating the "VP at the PNE called him a sociopath"; and
- b) Her November 23, 2017 Facebook message to Mr. Hsiao describing Mr. Hudson as a "dimwit".

[126] In my view, those statements are akin to the non-actionable "mere words of abuse" intended to injure feelings, insult pride, or cause annoyance or embarrassment contemplated in Aasen. Given the volume of statements made by the defendant and the egregious nature of many of them, this finding has no measurable impact on my assessment of damages. Authorship

[127] The defendant admits authorship of most of the impugned statements.

[128] The only exceptions are the:

- a) November 1, 2017 Facebook post;
- b) November 19, 2017 Facebook message to "Leanne";
- c) December 6, 2017 Facebook messages to Yenny Ballesteros, My Me, and Esther Sheu; and
- d) December 7, 2017 Emails to the Registrar and Director of Highlands Preschool, sent from the defendant's email account.

- [129] The above-noted posts are not subject to the parties' agreed statement of facts admitting authorship. They are, however, comparable in tone and content to many others the defendant has admitted authoring. I am satisfied on the evidence it is open to me to infer the defendant authored them: *Griffin v. Sullivan*, 2008 BCSC 827, at paras. 27-30. However, even if I were not inclined to do so, excluding them from my analysis would have no appreciable impact on my assessment of damages.
- [130] I infer the defendant authored the December 7, 2017 emails which were sent from her account. There was no evidence to suggest anyone else had access to this email account or any motive to send these messages. The defendant admitted authoring a similar email to the Registrar and Director of Highlands Preschool on December 6, 2017. Publication
- [131] The impugned statements fall into four broad categories: Facebook messages directed to specific individuals, public Facebook posts, email communications, and public forum comments posted online. I will address each separately. Facebook Messages
- [132] Most of the defendant's Facebook messages were met with a response which permits me to conclude they were read by at least one person and therefore published. It is unclear on the evidence whether 10 of the 39 Facebook messages sent between July and December 2017 were published as they were met with no response.
- [133] The defendant said she embarked on the Campaign, in part, to warn others about her negative experience with Mr. Hudson so they could take steps to protect themselves. Her professed intention to safeguard other vulnerable women permeated the Campaign. On the evidence, I find she clearly intended her electronic communications to be read by the individuals she targeted within the local running community. The question I must ask is whether these Facebook messages were read (which is unclear on the evidence) or whether I can infer that they were.
- [134] Although there may be no direct evidence of how many people have viewed an individual post on a specific social media platform that is not a bar to drawing an inference that the postings were in fact viewed: *Holden* at para. 64. As noted by Justice G.C. Weatherill in *Hee* at para. 78: "[w]hile the court cannot presume that the Publications were read in British Columbia, it is open to the court to draw an inference from the other available evidence that they were".
- [135] On the evidence before me, I infer the defendant's Facebook messages, which were met with no reply (identified in the Appendix to these reasons), were probably read and therefore published. However, I note that a failure to draw such an inference would have no material impact on my assessment of damages given the number of comparable defamatory statements made by the defendant during the Campaign which clearly were published.

- [136] As noted by Justice Saunders in *Pritchard v. Van Nes*, 2016 BCSC 686 at paras. 80-84 [Pritchard], social media platforms and applications like Facebook are so ubiquitous that the Court is able to take judicial notice of some aspects of their nature and operation, including the fact that distribution of information amongst users is fundamental to the use of Facebook. On a similar basis, I conclude the defendant must be taken to have implicitly authorised the republication of her posts which was the natural and probable result of her posting of defamatory statements. Public Facebook Posts
- [137] From November 1, 2017 until November 22, 2017, the defendant posted eight public Facebook posts, including her November 2, 2017 "Open Letter to Mitchell Hudson". Five were posted following delivery of plaintiffs' counsel's November 2, 2017 cease and desist letter. The tone and content of them is consistently egregious.
- [138] I find the defendant went public with the Campaign in November 2017 when she received neither an apology nor the response she wanted from Mr. Hudson and that, in doing so, she intended to spread her message as widely as possible via the internet. The defendant's public posts precipitated multiple responses. On that basis, I am satisfied they were published. Emails
- [139] In August 2017, the defendant emailed two journalists about her experience with Mr. Hudson. On December 6 and 7, 2017, after the November 30, 2017 filing of the plaintiffs' injunction materials, the defendant emailed the preschool where Ms. Yeom works, alleging Mr. Hudson preyed on vulnerable women, had been cheating on her, and had likely contracted STDs/STIs. These emails prompted replies and were therefore clearly published. Public Forum Comments
- [140] Two of the defendant's public forum comments regarding online news articles were flagged as "awaiting moderation". I infer from this notation these comments were not posted but rather withheld by Facebook's content moderating system and thus were not published. Defences Justification
- [141] In order to establish justification, a defendant must prove the truth of the substance of the allegation or the sting of the charge, but not the literal truth of every word of the statement. If the gist or sting of the charge is proven true, minor inaccuracies do not defeat the defence: *Cimolai v. Hall*, 2005 BCSC 31 at paras. 171-173, *aff'd* 2007 BCCA 225; *Canuck Security Services Ltd. v. Gill*, 2013 BCSC 893 at paras. 132-133. Justification is unavailable as a defence if the overall impression of a statement is false, even if some or all of the literal words are proven to be true. Half-truths can be equally or more damaging than falsehoods as they can be more difficult to explain: *Cimolai* at para. 173.
- [142] Malice is irrelevant to the defence of justification: *Wisner v. Maclean-Hunter Publishing Co. Ltd. and Fraser* (No. 1), [1954] 1 D.L.R. 481 (B.C.C.A.) at para. 12.

- [143] As set out above, in my discussion of defamatory meanings, I am not satisfied the defendant has proved the truth of the substance, sting, or main charge of any of the statements I have found to be defamatory. Accordingly, I find the defence of justification fails.
- [144] The defendant was an intelligent, competent adult who chose to initiate a sexual relationship with Mr. Hudson and to exchange sexually explicit text messages with him. Although she repeatedly referred to herself during the Campaign as a vulnerable and struggling single mother, I find the evidence insufficient to support that conclusion.
- [145] I also find the defendant was selective in her choice of language, attachments to her posts, and statements made during the Campaign. The skewed view she admitted presenting undermines the defences she advanced at trial. She consistently described herself as an innocent victim while describing Mr. Hudson as blameworthy, predatory, and contemptible. On all the evidence, I find that portrayal, which she presented as factual in her statements, represented a significant distortion of the truth.
- [146] However, I have found Mr. Hudson was not forthright with the defendant and allowed her to be deceived about his personal relationship status. I have also found the evidence supports the conclusion the parties likely engaged in some physical contact of a sexual nature on at least one occasion, although not adultery as that term would commonly be understood. I consider those findings as potentially mitigating factors in the context of partial justification and provocation when assessing damages. Fair Comment
- [147] Justice Binnie in *WIC Radio Ltd. v. Simpson*, 2008 SCC 40 at para. 1 set out the elements of the defence of fair comment 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 man 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 actuated by express malice.
- [148] In order to establish fair comment, the underlying facts must be true, or at least substantially true. The fair comment defence does not apply if there has been a misstatement or patent distortion of material facts, or the facts stated are incomplete so as to lead to a material alteration of the truth: *Creative Salmon Company Ltd. v. Staniford*, 2009 BCCA 61, at para. 58.
- [149] The facts must be sufficiently stated or otherwise be known to readers so they are able to make up their own minds regarding the merits of the comment: *WIC Radio* at para. 59.

- [150] I conclude the defence of fair comment fails in this case because the statements I have found to be defamatory were neither based on fact nor recognizable as comment. Malice
- [151] As the defendant failed to establish the defences she raised in response to the claims against her, it is unnecessary for me to consider whether her statements were actuated by malice in order to determine liability. I revisit malice in my assessment of aggravated damages. X.
DAMAGES Preliminary Evidentiary Issue
- [152] In closing, defence counsel objected to the admissibility of Try's financial statements, which he argued constitute inadmissible hearsay evidence. The author of those statements did not testify. It was apparent Mr. Hudson had a limited understanding of the information in these statements or how they were prepared. By his own admission, he is "not a numbers guy" and did not compile the numbers contained in these financial statements.
- [153] I conclude the definition of "business" and "document" in s. 42 of the Evidence Act, R.S.B.C. 1996, c. 124, which provides a statutory exception to the hearsay rule, is sufficiently broad to include financial statements like those the plaintiffs sought to introduce at trial. However, these documents do not meet the criteria for the business records exception set out in *McTavish v. McGillivray* (1997), 38 B.C.L.R. (3d) 306 (S.C.) at para. 10. They were not created contemporaneously and given that authorship of the documents is unknown, it cannot be said they were created by someone with personal knowledge of the information contained therein.
- [154] As noted by the trial judge in *Bottrell v. Bottrell* (1994), 91 B.C.L.R. (2d) 300 (S.C.) at para. 29, complicated financial statements usually require additional viva voce evidence in order to prove the truth of the statements contained therein. I am not satisfied Mr. Hudson was sufficiently knowledgeable about Try's financial statements to explain the information contained in them accurately. As noted, I have approached his evidence with caution and skepticism. In the result, I conclude Try's financial statements are inadmissible and have not considered them in my analysis of the plaintiffs' damages. General Damages
- [155] Damages are difficult to assess in a defamation case, but the court must strive to achieve *restitutio in integrum*: *Pritchard* at paras. 120-21. In *Hill v. Church of Scientology of Toronto*, [1995] 2 S.C.R. 1130 [Hill], Justice Cory identified the following factors in determining an award of general damages at para. 182:
- (a) The plaintiff's conduct, position and standing;
 - (b) The nature of the defamation;
 - (c) The mode and extent of publication;
 - (d) The absence or refusal of any retraction or apology; and
 - (e) The whole of the defendant's conduct from the time of publication to the end of trial.

- [156] In *Brown v. Cole* (1998), 61 B.C.L.R. (3d) 1 (C.A.) at para. 107, Southin J.A. outlined the relevant considerations applicable to a general damages award in defamation cases: Compensatory damages - I put aside for the moment aggravating circumstances - in actions for defamation have many aspects:
- i. the compensation for "insult offered and pain given", to borrow the words of Lord Devlin in *Rookes v. Barnard* [citation omitted]; ii. vindication of reputation; iii. injury to pride and self-confidence - this may just be another way of saying "insult offered and pain given"; iv. social damage and possible economic damages which may result but which cannot be expressly proven - this is particularly important, in my opinion, in defamation in the mass media.
- [157] The economic loss aspect of a general damages award can include a loss of opportunity to obtain business and future goodwill that will carry forward into the future as a result of the impugned statements: *WeGo Kayaking Ltd. v Sewid*, 2007 BCSC 49 at paras. 117-118.
- [158] In *Hill*, at para. 187, the Supreme Court of Canada noted that each defamation case is unique on its facts and previous cases may not serve as useful guides on the issue of damages: I agree completely with the Court of Appeal that each libel case is unique and that this particular case is in a "class by itself". The assessment of damages in a libel case flows from a particular confluence of the following elements: the nature and circumstances of the publication of the libel, the nature and position of the victim of the libel, the possible effects of the libel statement upon the life of the plaintiff, and the actions and motivations of the defendants. It follows that there is little to be gained from a detailed comparison of libel awards.
- [159] This approach echoes the general approach in civil cases that even if damages are difficult to estimate or assess to the point where a damages assessment may be little more than guess work, a wrongdoer is not relieved from paying damages. A court must do its best on the available evidence to reach an appropriate quantum of damages, even if the exercise is difficult: *0867740 B.C. Ltd. v. Quails View Farm Inc.*, 2014 BCCA 252 at para. 40; *Fraser v. Canerector Inc.*, 2015 ONSC 7519, at paras. 33-34.
- [160] The plaintiffs in this case argue the following factors have been found to increase a general damages award in defamation cases; I agree all are present here:
- i. Allegations of criminal conduct: *John v. Kim*, 2007 BCSC 1224 at para. 100; ii. Extensive circulation of the defamatory statements within the particular chosen audience: *John* at para. 99; iii. Reporting of defamatory allegations made by third parties with no investigation as to the truth of the underlying allegations: *John* at para. 100; iv. Continuing to make defamatory statements after receiving a cease and desist letter warning that previous statements were false and defamatory: *Taubenfligel v. Mansfield*, 2008 BCSC 1553 at para. 8;
 - v. The credence given to the defamatory statements by those who heard or read it: *Raymond E. Brown*, *The Law of Defamation*, 2nd ed. (Toronto: Carswell, 1994) at 1491; vi. The repetition of defamatory statements during the trial: *Brown* at para. 86; vii. The pleading and

maintaining of ultimately unsuccessful defences of justification and fair comment: *Elkow v. Sana*, 2018 ABQB 1001 at para. 25; *John* at para. 98; viii. A plea of justification which the defendant knew was bound to fail: *Hill* at para. 191; ix. The nature and motive of the defendant's defamatory statements: *Focus Graphite Inc. v. Douglas*, 2015 ONSC 1104 at para. 54;

- x. Conduct calculated to deter the plaintiff from proceeding with a libel action: *Hill* at para. 191; xi. The presence of malice: *Focus Graphite* at para. 54; xii. The speed, scope and pervasiveness of internet-based publication: *Barrick Gold Corp. v. Lopehandia* (2004), 71 O.R. (3d) 416 (C.A.) at paras. 30-34; and xiii. The absence of an apology: *Hill* at para. 182.

[161] Justice Morgan discussed the pervasive harm of internet-based defamation in *Sagman v. Politi*, 2014 ONSC 4183 at para. 23:

[23] The defamatory statements in the instant case were published in a medium notorious for its ability to spread falsehoods far and wide. Scholars and courts alike have noted that not only are web postings "communicated through a medium more pervasive than print, and for this reason they have tremendous power to harm reputation [but] [t]he extraordinary capacity of the Internet to replicate almost endlessly any defamatory message lends credence to the notion that 'the truth rarely catches up with a lie'": *Lyrissa Barnett Lidsky, "Silencing John Doe: Defamation and Discourse in Cyberspace"*, (2000) 49 *Duke LJ* 855, at 862-865, quoted in *Barrick [Gold Corp. v. Lopehandia (2004), 71 O.R. (3d) 416 (C.A.)]* at para 32.

[162] In *Barrick Gold Corp.* at para. 34, the Ontario Court of Appeal described internet-based defamation in the following terms: Internet defamation is distinguished from its less pervasive cousins, in terms of its potential to damage the reputation of individuals and corporations, by the features described above, especially its interactive nature, its potential for being taken at face value, and its absolute and immediate worldwide ubiquity and accessibility. The mode and extent of publication is therefore a particularly significant consideration in assessing damages in Internet defamation cases.

[163] The trier of fact is entitled to take into consideration the defendant's conduct throughout the period of publication of the defamatory words and the verdict at trial. Damages should allow for the reality that no apology, retraction, or withdrawal can ever be guaranteed to completely undo the harm the defamation has done: *Hee* at para. 113. The defendant raised no defence to many of the pleaded defamatory meanings. I conclude her undefended statements alone are sufficient to warrant an award of damages in defamation.

[164] I conclude the defendant exploited the advantages offered by instant electronic communications to spread misinformation to a wide audience and to maximize the impact of her defamatory statements during the Campaign. Her statements were egregious, extensive, and relentless. In my view, she consistently demonstrated a reckless disregard for the truth or consequences of making them. I conclude she embarked on the Campaign with deliberation and determination. On the evidence, her statements were disseminated to a carefully selected target audience for the purpose of causing maximum damage to the

plaintiffs' reputation.

- [165] As noted by G.C. Weatherill J. in *Hee*, the internet is an extremely powerful medium which provides widespread, instantaneous and permanent dissemination of information, whether true or not. I conclude the defendant harnessed the internet to launch a smear campaign and that her conduct is deserving of censure. Mitigation of Damages
- [166] Any directly relevant background context to a publication which puts the plaintiff generally in a bad light may be taken into account in mitigation of damages: *Casses v. Canadian Broadcasting Corp.*, 2013 BCCA 200, at paras. 47-48. The damage to the plaintiff may not be significant when the remark was published to someone who did not believe it. In *Spong v. Westpres Publications Ltd.*, [1982] B.C.J. No. 1066 (S.C.), Justice Berger noted with concern at para. 17: Defamation should not be encouraged, but neither should defamation actions be encouraged. Exaggerated awards of damages will only be an incentive to litigation. Mr. Spong's reputation will be vindicated by this judgment. The accusations, especially that alleging that the plaintiff had an affair with Mrs. Allen, were serious. But each, as I have said, was published to one person only. The fact that neither Mr. Hird-Rutter nor Mr. Allen believed what was said to him is not an answer to Mr. Spong's claim, but it does show that the damage to the plaintiff's reputation was less than it might otherwise have been Partial Justification
- [167] While partial justification has traditionally been invoked to reduce damages in cases where a plaintiff has suffered no damage to their reputation because they previously enjoyed a notorious one, this concept has also been applied to reduce damages for defamation when a defence of justification almost succeeds and the statements are partially justified: *Makow v. Winnipeg Sun*, 2003 MBQB 56 at paras. 138, 145, *aff'd* 2004 MBCA 41.
- [168] A defendant may rely on any evidence, properly before the court, including that which has been primarily directed to a plea of justification or fair comment, in support of a reduction in the plaintiff's damages. There may be cases where a defendant who puts forward a defence of justification is unable to prove sufficient facts to establish the defence. Nevertheless, the defendant may be able to rely on proven facts to reduce damages, perhaps almost to a vanishing point. Thus, a defence of partial justification, though it may not prevent the plaintiff from succeeding on the issue of liability, may be of great importance on the issue of damages: *Pamplin v. Express Newspapers Ltd.* (No. 2), [1988] 1 All ER 282 (C.A.), at 287.
- [169] In the impugned statements, the defendant asserted that Mr. Hudson lied to his wife and to others and engaged in sexual impropriety, which included cheating on his wife. Based on my evidentiary findings, as set out herein, I conclude the sting of the defendant's allegations that Mr. Hudson committed acts of sexual impropriety, engaged in conduct that ordinary and reasonable persons would regard as immoral, and repeatedly lied to his spouse and others, to be partially proven as true. I consider this finding of partial justification as a mitigating factor in my assessment of damages. Provocation

- [170] Where the plaintiff has provoked the defamatory publication by the defendant, the defendant may lead evidence of provocation in mitigation of damages: Brown on Defamation para. at 25.4(6). Brown writes: There are three principal reasons for this rule. When a person provokes another, they invite a prompt retort and should not be permitted to recover in full for an injury their knowledge of human nature should have led them to expect and that their own act brought upon them. Secondly, when someone acts in "hot blood", in response to a recent injury, the publication is more likely to be discounted by the listeners because of the emotional condition of the publisher and, therefore, the remarks will be less damaging to the plaintiff's reputation. Finally, when the words are published in response to a provocation, it is less likely the defendant is acting maliciously or with deliberation, and the publication is more likely to be the product of sudden anger and emotion. Provocation, therefore, is part of the context in which the words were written or spoken and it is only just that the court consider evidence of the fact that the defendant's publication was provoked by the plaintiff.
- [171] In *Burstein v. Times Newspapers Ltd.*, [2000] EWCA Civ 338, the court held:
- [25] It seems to me that it is intrinsically just that a court assessing libel damages should receive evidence to the effect that the claimant's conduct has directly provoked the publication of which he complains. Typically, if there were a heated slanging match between claimant and defendant, and the publication complained of was in retaliation to a publication by the claimant defamatory of the defendant, there would be no sense or justice in excluding evidence of the claimant's publication. It would be part of the context in which the publication complained of was made and should normally, depending on the facts, be admitted whether or not it would be likely to reduce the claimant's award of damages. It may be supposed that a claimant who brings a defamatory publication on himself will normally receive a lower award of damages than a claimant who has been defamed without provocation. There is ample support in decided cases for admitting evidence of this kind of direct provocation - see for example *Cassell and Co Ltd v. Broome*, [1972] AC 1027 at 1071.
- [172] It is common ground the defendant reacted in anger to the parties' April 14, 2017 encounter and her subsequent discovery of an online wedding picture of Mr. Hudson and Ms. Yeom. I have found Mr. Hudson was neither honest nor forthright with the defendant and that he gave little or no thought to who might be hurt as a consequence of his actions. In my view, that undermines his claim for damages.
- [173] However, I do not accept the Campaign was the result of the defendant reacting in "hot blood" in the heat of the moment. On the evidence, the parties' April 2017 altercation was followed by several months of planned and deliberate information gathering by the defendant before her November 2017 launch of the Campaign.
- [174] Ultimately, I am not satisfied the defendant has established her defamatory statements were provoked in the manner contemplated by the relevant authorities so as to reduce the plaintiffs' damages. Evidence Re: Impact of the Campaign Mitchell Hudson

- [175] Mr. Hudson testified that the Campaign affected him significantly and caused him to suffer various physical ailments, stress, impaired sleep, and weight gain. He said it resulted in fights with Ms. Yeom and added stress to his co-parenting relationship with his ex-wife. He testified he now watches his finances more closely, worries about the effect the increased stress at home has on his children, feels he is constantly being judged, and has suffered a loss of confidence and self-esteem. He said Ms. Yeom hopes to start a home-based daycare some day and he worries the defendant's actions may adversely affect those plans.
- [176] Mr. Hudson appeared genuinely emotional when describing the impact of the defendant's decision to contact his son's preschool. I accept the defendant's wholly unfounded allegation he had contracted and potentially spread STDs to multiple women had a profoundly negative impact on him. In my view, that is the kind of sensational allegation which quickly attracts attention and is difficult to dispel. I infer that is precisely why the defendant chose to make those statements.
- [177] Ms. Yeom gave evidence on Mr. Hudson's behalf at trial. They have lived together for about five years but are not legally married and have a four-year-old son. She said the emails she received from the defendant stressed her relationship with Mr. Hudson and their children. She corroborated Mr. Hudson's evidence regarding his various physical complaints and said he was emotional, stressed, worried about the safety of his family, concerned everyone was talking about him, and afraid to attend Try events after the Campaign. Ms. Yeom said she was afraid to go to work and was worried parents might not want to send their kids to her school because of the defendant's posts. She testified Mr. Hudson spent a lot of time working to regain sponsors instead of spending time with his children after the Campaign. Try Events Ltd.
- [178] The plaintiffs allege the inferential meanings of some of the defendant's defamatory statements indicate Try operated as a vehicle for theft and predatory behaviour. The defendant did not defend those statements, which I conclude are literally defamatory. Accordingly, Try is entitled to general damages in some amount.
- [179] Mr. Hudson admitted in cross-examination that Try's revenue fluctuated over the years due to extraneous events outside his control. He conceded he does not tabulate financial numbers for Try. He was unable to identify the precise reason Try's revenue dropped between 2017 and 2018. While Mr. Hudson paid himself a lower dividend in 2018, he admitted he did so because of increased costs that year and not due to a decline in Try's revenue. A significant portion of those increased costs paid for his legal fees incurred in advancing this claim.
- [180] Mr. Hudson said that he could have been doing other things for Try in 2018 if it had not been necessary for him to spend so much time repairing the damage done to Try's relationships with its partners and sponsors. He testified he invested time to build and maintain Try's relationships, advertised more, and took on additional work to reduce race day costs in order to keep Try afloat following the Campaign. He said Try also spent money

investing in social media artwork to build its brand, upgraded the look of its placement medals, and created more course markers. He said his decision to invest more in advertising and promotion expenses between 2017 and 2018 to counter the effects of the Campaign and to minimise its damage on Try explains Try's increased operating costs in that interval. I am satisfied Mr. Hudson made reasonable efforts to mitigate Try's damages, to the extent there were any.

- [181] I recognize the law protects the reputations of corporations as well as individuals: *St. Elizabeth Home Society v. Hamilton (City)*, [2005] O.T.C. 1074 (S.C.J.). Statements defaming an individual plaintiff may extend to a company which can only act through its directors and employees. On the evidence, Mr. Hudson was and is effectively the public face of Try.
- [182] It is clear a corporation can maintain an action for defamation if its trading reputation has been defamed: *Johnson v. Jolliffe* (1981), 26 B.C.L.R. 176 at para. 188 (S.C.), citing *Price v. Chicoutimi Pulp Co.* (1915), 51 S.C.R. 179 at 198 [Johnson]. In an operation where the corporation's trading reputation is integrally related to the personal plaintiff's business or trading reputation, to slander one may be to slander the other: *Johnson* at 49. Small private companies may, in effect, be vehicles for their principals to earn a living: *M.D.A. Marine Design Associates Ltd. v. British Columbia Ferry Services Inc.*, 2008 BCSC 1432 at para. 21. In that case, Justice Fenlon found the marine design community in British Columbia would associate any defamatory statements concerning the two plaintiff companies with their principals.
- [183] Mr. Hudson testified the Campaign adversely affected Try. He said Try lost business opportunities, including sponsorships and partnerships, primarily with the PNE, Nuun Hydration, and the November Project as a result of the defendant's statements. He also said Try lost volunteers, which are critical to the success of its events. Some of the defendant's statements (including, for example, her statement Mr. Hudson offered to forge race results in exchange for sexual favours) were clearly intended to cause runners to question the integrity of Try race results.
- [184] The Try event registration numbers in evidence indicate registration for some Try races was higher in 2017 than in 2016. Mr. Hudson suggested that, while Try event registration may not have dropped significantly after 2017, the number of participants who actually showed up for races declined. That evidence was not corroborated by any other witness. It was unclear on the evidence how a drop in attendance would translate into a loss of revenue, as those individuals would presumably have paid to register for Try events regardless of whether they attended.
- [185] The impugned statements focus predominantly on Mr. Hudson and make reference to a failed personal relationship. However, Mr. Hudson is, in effect, the public face of Try. While I am not persuaded on the evidence before me that Try suffered significant actual economic loss, I conclude the defendant's statements called into question Try's reputation and Mr. Hudson's actions and, in turn, would thereby tend to lower Try in the estimation of right

thinking members of society: *Monument Mining Limited v. Balendran Chong & Bodi*, 2012 BCSC 1769 at para. 78. I have considered the close relationship between Mr. Hudson and Try in my assessment of damages. Conclusion: General Damages

- [186] The plaintiffs seek a total of \$175,000 in general damages (with \$125,000 allocated to Mr. Hudson and \$50,000 to Try) and suggest the following cases (none of which involve a claim by a corporate plaintiff) provide a useful guide for the assessment of general damages: · *Elkow v. Sana*, 2018 ABQB 1001 [\$150,000]; · *Griffin v. Sullivan*, 2008 BCSC 827 [\$100,000]; and · *Austin v. Lynch*, 2016 BCSC 1344 [\$75,000].
- [187] The defendant says that, at most, nominal damages are appropriate and relies on the following cases (of which the former is a claim by a corporate plaintiff while the latter is not) in assessing general damages in this case: · *G.(H.R.) v. L.(M.S.)*, 2007 BCSC 930 [\$2,000]; and · *Canuck Security Services Ltd. v. Gill*, 2013 BCSC 893 [\$1,000].
- [188] I find the cases cited by the plaintiffs to be more comparable to the one before me than those cited by the defendant. I have also considered *Pritchard*, *Hee*, *Holden*, and the recent decision of *Rook*, none of which involved the reduction of damages due to a finding of partial justification. On all the evidence, having regard to the relevant authorities, recognizing that each case must be decided on its unique facts, and factoring in my finding of partial justification, I assess general damages as follows:
- a) Mr. Hudson: \$50,000
 - b) Try: \$25,000 Aggravated Damages
- [189] Aggravated damages are awarded in defamation when the defendant's conduct has been high handed or oppressive, with the result of increasing the plaintiff's humiliation and anxiety arising out of the defamatory statements. In order to assess damages, a court must consider the entire conduct of the defendant from before publication of the defamatory statement to the conclusion of trial: *Focus Graphite* at para. 58.
- [190] In *Hill*, at para. 183, the Supreme Court of Canada quoted from Philip Lewis, *Gatley on Libel and Slander*, 8th ed. (London: Sweet & Maxwell, 1981) regarding the test for aggravated damages in the context of a defamation claim:
1452. Aggravated damages. The conduct of the defendant, his conduct of the case, and his state of mind are thus all matters which the plaintiff may rely on as aggravating the damages. "Moreover, it is very well established that in cases where the damages are at large the jury (or the judge if the award is left to him) can take into account the motives and conduct of the defendant where they aggravate the injury done to the plaintiff. There may be malevolence or spite or the manner of committing the wrong may be such as to injure the plaintiff's proper feelings of dignity and pride. These are matters which the jury can take into account in assessing the appropriate compensation." "In awarding 'aggravated damages' the natural indignation of the court at the injury inflicted on the plaintiff is a perfectly legitimate motive in making a generous, rather than a more moderate award to

provide an adequate solatium. . . that is because the injury to the plaintiff is actually greater, and, as the result of the conduct exciting the indignation, demands a more generous solatium."

[191] If aggravated damages are to be awarded, there must be a finding that the defendant was motivated by actual malice, which increased the injury to the plaintiff, either by spreading further afield the damage to the reputation of the plaintiff, or by increasing the mental distress and humiliation of the plaintiff: Hill at para. 190.

[192] A corporation is not entitled to compensation by way of aggravated damages because a company has no feelings and therefore cannot be injured in its feelings. It can only be injured in its pocket: Walker v. CFTO Ltd., (1987), 59 O.R. (2d) 104 (C.A.).

[193] I conclude there is ample evidence to support a finding of aggravated damages, as set out in paragraph 160 herein and highlight the following:

- a) The defendant admitted she intended some of her messages to hurt the plaintiffs.
- b) The defendant has not apologized to Mr. Hudson for her actions.
- c) On discovery, the defendant admitted part of her strategy was to cause the plaintiffs to incur legal costs in order to stop the Campaign.
- d) The defendant continued the Campaign after the plaintiffs started this action, following service of the notice of civil claim, a cease and desist letter, and an injunction application. She made some of her most egregious statements, including those directed to Highlands Preschool, in that timeframe. She posted a letter on Facebook, mocked Mr. Hudson for lying to his lawyers, and posted his lawyer's name, photograph, and phone number online. On December 14, 2017, she wrote to plaintiffs' counsel, following her receipt of his cease and desist letter, wishing him good luck garnishing her wages or getting a court order to seize her assets. She admitted her conduct became worse after she received the plaintiffs' cease and desist letter.
- e) In cross-examination, the defendant admitted she was not going to stop the Campaign without an apology or a court order.
- f) The defendant maintained her belief in the truth of some of her defamatory statements at trial.

[194] By her own admission, the defendant frequently distorted the truth during the Campaign. She attempted to excuse some of her conduct by suggesting she might have "misremembered" certain details before conceding she knew what she was saying was untrue. She attempted to portray her exchanges with Mr. Hudson about saving tax by becoming a Try sponsor as "money laundering". She made many other similarly outrageous and unfounded allegations. She selectively posted extracts from the parties' most salacious text messages, out of context, without checking them for accuracy. She chose some words intentionally in an effort to embarrass and ridicule Mr. Hudson. She presented a

consistently skewed view of what actually transpired between the parties.

- [195] The defendant lavished praise and complements on those who supported the Campaign and disparaged those who did not, describing one individual as physically unattractive, one sponsor as spineless, and suggesting another "grow a backbone". She suggested Ms. Yeom's employer might need to retain counsel and agreed in cross-examination she wanted readers to think they might get sued if they were involved with Try. She attempted to justify some of her actions at trial by saying she was upset, admitting she "got carried away" when she approached Ms. Yeom's employer and regretted taking matters that far.
- [196] On all the evidence, I conclude the defendant consistently demonstrated a reckless disregard for the truth and acted with malice in an effort to cause harm. She distorted the truth in order to portray herself as an innocent victim and Mr. Hudson as a predator. She presented assumption, innuendo, unverified hearsay, and half-truths as fact. Many of her statements bore no resemblance to the truth. Much of her conduct was spiteful and vindictive. She admitted that by December 2017, she was upset she was not getting the response she wanted, was acting out of anger, and trying to hurt people.
- [197] I conclude the defendant's actions are deserving of rebuke and award aggravated damages to the plaintiff, Mr. Hudson, of \$25,000. Special Damages
- [198] A plaintiff may claim special damages for specific economic loss caused by the defamation. Special damages, unlike general damages, are not presumed. The plaintiff must allege and prove special damages at trial: *Botiuk v. Toronto Free Press Publications Ltd.*, [1995] 3 S.C.R. 3 per Justice Cory, at para. 111.
- [199] Justice Beames reviewed the law on special damages in defamation cases in *Lapointe v. Summach*, 2001 BCSC 805 as follows:
- [153] Special damages are dealt with by Brown, *The Law of Defamation in Canada* [2nd ed. (Scarborough: Carswell, 1994)] as follows: The plaintiff must prove any special damages. They will not be implied but must be specially shown. ... It generally is not sufficient to put into evidence the volume of business both before and after the publication to prove special damages, since there are too many extraneous factors that might cause a fluctuation of business. It must be shown that specific customers ceased to do business with the plaintiff because of the alleged slanders. In attempting to show the loss of customers as a result of the defamatory remark, the proper procedure is not to have the plaintiff testify as to whether customers have discontinued doing business with him as a result of the defamation, since this necessarily would be hearsay, but to call as witnesses the customers themselves, and have them testify that they had refused to deal with the plaintiff as a result of the charge. (pp. 1389-90) Special damages must be established with reasonable certainty. General allegations as to the dollar amount are not sufficient. Where there is a claim of loss of custom, the plaintiff must supply the names of customers who have been lost, otherwise special damages will not have been shown. (p. 1555)

- [154] That special damages must be pleaded and proved has been confirmed by the Supreme Court of Canada in *Botiuk v. Toronto Free Press Publications Ltd.*, [1995] 3 S.C.R. 3 at 21, recently relied upon by this court in the case of *Ward v. Clark*, [(June 22, 2000), Victoria Registry 90-1046 (S.C.)]. In that case, the plaintiff was unsuccessful in his special damages claim, on the basis that he had not adequately adduced evidence in support of such a claim.
- [200] Try seeks to recover special damages in the amount of \$22,265.50, particularised as follows:
a) Gatorade purchases following Try's loss of sponsorship by Nuun: \$500 b) increased advertising and promotion costs incurred in the fiscal year ending October 31, 2018: \$7,430 c) costs incurred in 2017 and 2018 to secure volunteers to host Try events: \$1,500 d) the amount of lost branding opportunities donated in exchange for volunteers required to host Try events: \$6,500 e) wages paid to two individuals to work at Try registration package pickup and race day events after November 2017: \$6,335.50 Gatorade
- [201] After the loss of Nuun's sponsorship, which I find resulted from the defendant's defamatory statements, Try used Gatorade at its events. Mr. Hudson purchased this product himself and did not receive a sponsorship from Gatorade to replace the Nuun sponsorship. I am satisfied this cost is an appropriate special damage claim. Advertising and Promotion Costs
- [202] Mr. Hudson testified in direct that it would be unusual for Try to spend \$13,000 on promotion in a fiscal year and that \$5,000 was a typical amount. However, he conceded in cross-examination that it would be inaccurate to suggest Try consistently spent only \$5,000/year on annual promotions. It was apparent he did not know the precise amount spent annually by Try for advertising/promotion. On the evidence, the amount Try spent on advertising and promotion fluctuated significantly over the years. Mr. Hudson conceded a company must incur such costs if it is to remain a current and viable business. I am not satisfied the evidence establishes this cost resulted from the defendant's defamatory statements. I therefore decline to award the difference in advertising costs incurred by Try between 2017 and 2018. Lost Volunteers
- [203] Mr. Hudson testified Try is unable to host events without volunteers, and that Try had difficulty attracting volunteers in November 2017. He admitted he has no evidence apart from his own belief that Try volunteer participation declined after 2017 because of the defendant's actions. No one testified at trial to say they had stopped volunteering for Try because of the defendant's actions. Mr. Hudson admitted in cross-examination that some individuals may have decided to stop volunteering for Try based solely on the defendant's statements he had deceived her and cheated on his wife. I found the defamatory sting of those allegations to be partially true.
- [204] Much of Mr. Hudson's evidence about Try's alleged losses was based on his own conjecture, unsupported by other corroborative evidence. On all the evidence, I am not satisfied the plaintiffs have proved the costs Try incurred to secure volunteers in 2017 and 2018 resulted from the defendant's defamatory statements. Lost Branding Opportunities

- [205] Try seeks to recover \$6,500, the amount of donated branding opportunities paid in exchange for volunteers. Mr. Hudson testified that Try and the Coal Harbour Community Policing Centre ("CHCPC") entered into an agreement whereby the CHCPC would provide volunteers in exchange for branding rights for the 2018 and 2019 Try Vancouver Historic Half. Mr. Hudson said these rights have a value of \$6,500 per year.
- [206] For the reasons set out in paragraphs 205 - 206, I am not satisfied the evidence supports the conclusion Try incurred these costs as a result of the defendant's defamatory statements. I therefore decline to award special damages for lost branding opportunities or costs incurred to hire employees for Try's race package and event activities. Punitive Damages
- [207] Mr. Hudson seeks to recover punitive damages of \$25,000. Punitive damages will be awarded where the conduct of a litigant is so malicious, high-handed, and contemptuous that the court sees fit to punish the litigant: *Vorvis v. Insurance Corporation of British Columbia*, [1989] 1 S.C.R. 1085 at 1107-1108.
- [208] Punitive damages are to be awarded with restraint in exceptional cases. A court is to relate the facts of the particular case to the underlying purposes of punitive damages and ask itself how an award would further one or other of the objectives of the law, and what is the lowest award that would serve the purpose: *Whiten v. Pilot Insurance Co.*, 2002 SCC 18, at paras. 69 and 71.
- [209] The proper application of the test for punitive damages in the context of libel can be found in the reasons of Justice Burnyeat in *John*:
- [105] In deciding whether to award punitive damages, there must be a consideration of the conduct, motive and intent of the Defendants including evidence of malicious conduct, deliberate intention to injure, a deliberate act consciously directed against the reputation of the plaintiff, or conscious, contumelious and calculated wrongdoing. The Defendants must show some form of egregious behaviour, being conduct that is contemptuous, flagrant, gross, highhanded, irresponsible, oppressive, outrageous, reckless, reprehensible, spiteful, vicious, wanton or wilful. In *Allan v. Bushnell T.V. Co.*, [1969] 2 O.R. 6 (Ont.C.A.), Schroeder J.A. stated that the type of behaviour warranting an award of punitive damages can be characterized as "high-handed, insolent, vindictive or consciously contemptuous" of the rights of the plaintiff (at pp. 17-8). Per Cory J. in *Hill*, *supra*, the misconduct should be "so malicious, oppressive and high-handed that it offends the court's sense of decency" (at p. 102).
- [106] In *Church of Scientology of Toronto*, *supra*, it was said that punitive damages are only to be awarded in those circumstances where: the combined award of general and aggravated damages would be insufficient to achieve the goal of punishment and deterrence . was the misconduct of the defendants so outrageous that punitive damages were rationally required to act as deterrents. (at paras. 197-8)

[210] I am not persuaded the combined award of general and aggravated damages will be insufficient to achieve the goal of punishment and deterrence in this case. Accordingly, I decline to award punitive damages. XI. Permanent Injunction

[211] Injunctive relief is an extraordinary remedy in a defamation claim which will only be imposed in the clearest of cases. Injunctive relief must be carefully considered when there is a likelihood that further defamatory statements will be made and a real possibility the plaintiffs will not be compensated by the payment of damages: *Newman v. Halstead*, 2006 BCSC 65 at para. 298.

[212] A permanent injunction may be ordered after findings of defamation where either:

- (1) there is a likelihood the defendant will continue to publish defamatory statements despite the finding he is liable to the plaintiff for defamation; or
- (2) there is a real possibility the plaintiff will not receive any compensation as enforcement against the defendant of any damage award may not be possible: *122164 Canada Ltd. (c.o.b. New York Fries) v. C.M. Takacs Holdings Corp.*, 2012 ONSC 6338, at para. 32.

[213] I am satisfied the facts of this case justify a permanent injunction, particularly given that the defendant boasted during the Campaign about being judgement proof, thereby calling into question the likelihood the plaintiffs will be able to enforce this judgment. XII.

SUMMARY

[214] In summary, I award damages as follows:

- a) General Damages:
 - i. Mitchel Hudson \$50,000
 - ii. Try Events Ltd. \$25,000
- b) Aggravated Damages: \$25,000
- c) Special Damages: \$500 Total: \$100,500

[215] I grant the plaintiffs a permanent injunction on the same terms as the interlocutory injunction granted by Murray J. in her December 18, 2017 order.

[216] In light of the result, in which the plaintiffs have been mostly successful, I am currently of the view they are entitled to their costs. There may be circumstances unknown to me which would alter this view. If the parties are unable to agree on costs, they may apply to speak to the issue within 30 days. "Douglas J." APPENDIX Date: July 3, 2017 Format: Facebook message to Mr. Michael Campbell-Burns Text: ..And guess what you-know-who (Mitchell Hudson) does, he turns around and scurries away. What a coward. ...one time [Evan Moore of Ladysport] said he was sure he gave the correct amount to Mitchell and then Mitchell came back and said he was shorted by 2 participants (\$80) even though Mitchell had said it was the right amount before. Anyways, more evidence of shiftiness by a bad jerk. ...like [his mom] knows about his "type" of girl, and like she knows about his cheating ways... Evan said Mitchell also went out with one of the employees at Ladysport...Evan didn't realize

Mitchell was married again...However, it was during the time his now-wife was pregnant... Evan said this is just another way Mitchell assumes power over someone. That these other girls were immigrants and dependent somewhat. Authorship: Admitted Publication: Yes. Recipient responded to the messages. Reference to Plaintiff/s: Yes. Statements refer to individual plaintiff. Applicable Pleaded Defamatory Meanings: Mr. Hudson preyed on vulnerable women Mr. Hudson stole from race sponsors Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson repeatedly engaged in conduct that ordinary and reasonable persons would regard as immoral Mr. Hudson committed adultery Try condones sexual impropriety Try provides and promotes an unsafe environment for women Try operates as a vehicle for theft and predatory behaviour Defamatory in Fact: Yes Justification: No Fair Comment: No Date: August 16, 2017 Format: Facebook message to Mr. Michael Campbell-Burns Text: I found out from Evan Moore that Mitchell "dated" one of their employees at Ladysport a couple of years ago. We did the math and it was when his wife was pregnant or just gave birth This confirms to me that Mr Hudson will continue to engage in these predatory actions using his position to gain the trust of unsuspecting volunteers (and Ladysport employees!) ... Authorship: Admitted. Publication: Yes. Recipient responded to the messages Reference to Plaintiff/s: Yes. Statements refer to the individual plaintiff. Applicable Pleaded Defamatory Meanings: Mr. Hudson preyed on vulnerable women Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson repeatedly engaged in conduct that ordinary and reasonable persons would regard as immoral Try operates as a vehicle for predatory behaviour Try provides and promotes an unsafe environment for women Defamatory in Fact: Yes Justification: No Fair Comment: No Date: August 29, 2017 Format: Email to J.J. Adams, the acting sports editor at the Sun/Province, and Val Casselton, the deputy editor of the Sun/Province Text: Without going into too much detail, I started running in September 2016 and participating in races in November 2016. I started volunteering around that time for a race series (Try Events) and the race owner-director (Mr. Mitchell Hudson) took a "special" interest and even offered me a paid position at \$15/hr for being such a "superstar" volunteer. He initiated and pursued a sexual relationship with me which progressed quickly because I trusted him as he held a position of authority and respect, or so I thought. Eventually there were hints that I was being lied to and that he was not the "single dad" he claimed to be. I started investigating online and I asked him if he was married, at which point he replied "It's complicated", and to this day, he never even confirmed to me that he is indeed married with no intention of leaving his second wife (as this is his second marriage already). I asked my contacts in the running world about him and I discovered a very sketchy past, as he has burned bridges with many others in the racing world. I can provide names of my contacts and sources as well as details of what transpired, concerning "copying" race names ("Chilly Chase" vs "Chilly Half" and logos from "Hot Chocolate Seattle"), and piggybacking on other route certifications, or deliberately scheduling events near rival competitors out of spite. Behaviour that is not illegal, but clearly unethical, and in the case of adultery, immoral. This past week, I replied to an email

that was sent to me by Mr Hudson's volunteer coordinator, Emma (who I never met as Mr Hudson always dealt with me personally) where she confirmed my volunteer hours. In my reply, I advised Emma that I hoped she would work closely with each volunteer and protect them from the kind of negative experiences I endured. I won't get into all the details, but this email alarmed Mr. Hudson and he called the cops on me -- to my amusement and later to the constable's as well, because after I explained the situation it was clear to him that this was a civil matter, not a criminal one. Mr. Hudson also promptly updated his "About Us" page on his Try Events website to include that he is a "husband and father" - which was never posted there before (as a cached web search will show)! He also made other changes online so that volunteers like me cannot get confirmation of our hours as easily in the future. This kind of sneaky, underhanded behaviour by race owners, is what can deter people from participating, and who knows how many other volunteers simply just stop as a result. Authorship: Admitted. Publication: Yes. Recipient replied to email. Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleading Defamatory Meanings: Mr. Hudson committed acts of sexual impropriety Mr. Hudson committed adultery Mr. Hudson violated the implicit rules governing the running community Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try provides and promotes an unsafe environment for women Defamatory in Fact: Yes Justification: No Fair Comment: No Date: August 30, 2017 Format: Facebook message to Mr. Mark Arnott Text: ...Are you the race director for Chilly Half marathon? This race came up in a conversation I had about Mitchell Hudson from Try Events and how he ripped off the name and copied it for his "Chilly chase" race...I had a negative experience with Mr Hudson and I'm trying to obtain more information about him... Authorship: Admitted. Publication: It is not clear whether the recipient read the message, but publication is inferred (see para. 135 of the Reasons for Judgment). Reference to Plaintiff/s: Yes. Statement refers to the individual and corporate plaintiff. Applicable Pleading Defamatory Meanings: Mr. Hudson violated the implicit rules governing the running community Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Defamatory in Fact: Yes Justification: No Fair Comment: No Date: August 30, 2017 Format: Facebook message to Startline Timing Text: ...I used to volunteer for TRY EVENTS and that I trusted Mr Hudson and he pursued a relationship with me he lied to me... What a jerk Authorship: Admitted. Publication: Yes. Recipient responded to the message. Reference to Plaintiff/s: Yes. Statement refers to the individual and corporate plaintiff. Applicable Pleading Defamatory Meaning: Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Defamatory in Fact: Yes Justification: No Fair Comment: No Date: August 31, 2017 Format: Facebook message to Mr. Evan Moore Text: ...Mitchell Hudson is a coward. I wasn't the only one conned by Mitchell... I also witnessed first hand a lot of shifty behaviour. (The sponsor donated sports goods to be given out as prizes to participants, and only some of these prizes showed up at the events.) I am trying to figure out now how to inform key people about the unethical behaviour of Mr Hudson... For example, you and Phil donated 2 boxes of socks for one of his events, correct?... Are you sure they all ended up as prizes to the participants? I can't say for sure,

but I did personally witness how the prizes (foam rollers) that Flaman Fitness in Langley donated to Try Events, did NOT all end up getting handed out to the participants at the race... When they started handing out the prizes, I saw that a significant number of foam rollers were missing... I spoke to Kerry Mittleman (manager at Langley Running Room)...he states that when the Running Room used to sponsor Mr Hudson's events, they discovered that some of the gift cards they gave him to give out as prizes to the participants never made it to them. Mr Hudson took them for himself and was caught red handed using them. These were some of the issues that led to the Running Room terminating - sorry, "letting go" Mr Hudson from their employment. All of this was relayed to me by Kerry Mittleman. So I do not have first hand knowledge of this. Authorship: Admitted. Publication: Yes. Recipient responded to the message. Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleadings: Defamatory Meanings: Mr. Hudson stole from race sponsors Mr. Hudson had been terminated from a position of employment from Running Room for theft Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try operates as a vehicle for theft Defamatory in Fact: Yes Justification: No Fair Comment: No Date: September 26, 2017 Format: Facebook message to Fit First Footwear Text: I am really disappointed in your decision to continue supporting Try Events as a sponsor, knowing what you know about Mr Mitchell Hudson and his unethical behaviour. Authorship: Admitted Publication: It is not clear whether the recipient read the message, but publication is inferred (see para. 135 of the Reasons for Judgment). Reference to Plaintiff/s: Yes. Statement refers to the individual and corporate plaintiff. Applicable Pleadings: Defamatory Meaning: Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Defamatory in Fact: Yes Justification: No Fair Comment: No Date: October 9, 2017 Format: Facebook message to Ms. Margaret Buttner Text: ...I've spoken to some select people about my negative experiences with a Race Director who deceived me terribly (Mitchell Hudson of Try Events)... ...what an a-hole! Authorship: Admitted. Publication: Yes. Recipient responded to the message. Reference to Plaintiff/s: Yes. Statements refer to the individual and corporate plaintiff. Applicable Pleadings: Defamatory Meaning: Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Defamatory in Fact: Yes Justification: No Fair Comment: No Date: October 28, 2017 Format: Facebook message to Ms. Melissa Garner Text: I wanted to inform you about my negative experiences with the owner of Try Events, Mitchell Hudson. He is a liar who has cheated on his wife with multiple women now and uses his position and power to gain trust and sexually prey upon women. I used to volunteer for his events and I trusted him as he pursued a relationship of a sexual nature with me. I have hundreds and hundreds of text messages of an explicit sexual nature as proof, and evidence of him lying to me as he manipulated his way into my bedroom.... ...I want to warn you that things will be coming out in a very public way about the unethical behaviour of Mitchell Hudson...I am aware of at least one other woman (a former employee at the shoe store Ladysport in Kitsilano who was also lied to by Mitchell....Mitchell Hudson is a sexual predator who lies to women, and uses his position as a race director to live his way into their bedrooms... ...I also sent Mitchell Hudson nude pictures of myself [sic] (this

is how much I trusted him), which I now regret, so I am in a vulnerable position...

Authorship: Admitted. Publication: Yes. Recipient responded to the message. Reference to

Plaintiff/s: Yes. Statements refer to the individual and corporate plaintiff. Applicable

Pleaded Defamatory Meanings: Mr. Hudson preyed on vulnerable women Mr. Hudson

committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual

impropriety as a pattern of conduct Mr. Hudson committed adultery Mr. Hudson engaged

in conduct that ordinary and reasonable persons would regard as immoral Try condones

sexual impropriety Try provides and promotes an unsafe environment for women Try

operates as a vehicle for predatory behaviour Defamatory in Fact: Yes Justification: No Fair

Comment: No Date: October 28, 2017 Format: Facebook message to Ms. Debra Kato Text:

Mitchell pursued a relationship with me...He pursued a relationship of a sexual nature with

me, and I trusted him, in part because he was a race director and I had been a loyal

volunteer... I had confirmation he was married and had cheated on his wife with at least 2

women now...he turns away and scurries away like a coward. ... What a douche

bag. ...Mitchell lied his way into my bedroom...I also spoke with the VP at the Pacific

National Exhibition...Jeff Strickland about my negative experiences with Mitchell and he

called Mitchell a sociopath. ...Mitchell was the one who pursued a sexual relationship with

me, lied to me, and used me... I know he was terminated or "let go" from the Running

Room, who used to sponsor his events but then the gift cards they gave him to give to the

winners of his races didn't end up getting them at all. Mitchell was caught red handed using

a gift card for himself. Idiot. It got all sexual between us so I was like, it would be weird to

be your employee now. he said he never cheated because we never had sexual intercourse.

(But he penetrated me with his fingers and he saw me naked.) Again, he used his position of

power to gain trust Flaman Fitness...owners donated...a big box of foam rollers...I believe

Mitchell took some of those foam rollers for himself. But I don't have proof of this. ...he's an

adulterer and a liar. Mitchell would call [his first wife, Melina] a bitch...What an asshole.

Authorship: Admitted. Publication: Yes. Recipient responded to the messages. Reference to

Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleaded

Defamatory Meanings: Mr. Hudson had been terminated from a position of employment

with Running Room for theft Mr. Hudson committed acts of sexual impropriety Mr. Hudson

repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson repeatedly

engaged in conduct that ordinary and reasonable persons would regard as immoral Mr.

Hudson committed adultery Try condones sexual impropriety Try provides and promotes

an unsafe environment for women Defamatory in Fact: Yes Justification: No Fair Comment:

No Date: October 30, 2017 Format: Facebook message to Ms. Margaret Buttner

Text: ...Mitchell uses his position to meet women). He would apparently cheat with women

from running clinics that Mitchell led at the Running Room when he was a manager. He is a

serial womanizer... Mitchell seems to have a pattern of seeking vulnerable women who are

more likely to trust him because of his position as an owner-race director He uses his

position to gain trust...he must have some kind of power issues. Authorship: Admitted.

Publication: Yes. Recipient responded to the message. Reference to Plaintiff/s: Yes.

Statements refer to individual and corporate plaintiff. Applicable Pleaded Defamatory

Meanings: Mr. Hudson preyed on vulnerable women Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson repeatedly engaged in conduct that ordinary and reasonable persons would regard as immoral Mr. Hudson committed adultery Try condones sexual impropriety Try provides and promotes an unsafe environment for women Try operates as a vehicle for predatory behaviour Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 1, 2017 Format: Facebook post Text: I am planning to speak out in detail about my negative experience with the owner/race-director of TryEvents... ...that Hudson guy lied to me then tried to threaten me when I told his volunteer coordinator to watch out for the other volunteers... Authorship: Inferred (see paras. 128 - 129 of the Reasons for Judgment) Publication: Yes. Several reactions and responses to the post. Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleadings: Defamatory Meaning: Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 1, 2017 Format: Facebook post Text: ...the owner-race director of Try Events, Mitchell Hudson, lied to me and pursued a relationship of a sexual nature with me under the guise, of being a "single dad". I used to volunteer for his events and he used his position to win my trust Authorship: Admitted. Publication: Yes. Several reactions and responses to the post. Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleadings: Defamatory Meanings: Mr. Hudson committed acts of sexual impropriety Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try provides and promotes an unsafe environment for women Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 1, 2017 Format: Facebook message to Mr. Mike Hsiao, Canada Running Series West Employee Text: ...I want to share what happened because Mitchell did this to another girl too... Authorship: Admitted. Publication: Yes. Recipient responded to the message. Reference to Plaintiff/s: Yes. Statement refers to individual plaintiff. Applicable Pleadings: Defamatory Meaning: Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 2, 2017 Format: Facebook post; Open Letter to Mitchell Hudson Text: You lied to me, disrespected me, cheated on your wife with me. You never told me you were married. I did nothing wrong but I was left hurt and humiliated. You saw that I was a struggling single mom and you took advantage. You robbed me of my self-worth, and I will always have trust issues now. I used to be one of your "superstar" volunteers, and you offered me a paid position. You initiated and pursued a relationship with me, which progressed quickly since you used your position as owner of TRY EVENTS to impress me and win my trust. You wanted something "long term" and I believed you. You had me save all my weekends for you but often something would come, up and you were stuck "doing daddy duty." It's hard being a single dad, especially when dealing with an ex-wife who travels all the time. When I caught you in lies, you brushed it off with your favourite line: "It's complicated." I got suspicious so I started asking around and I found out you've burned a lot of bridges. You conned another girl who worked at LadySport, where you held some of your race package

pick-ups. When I told the manager that I suspected you were married, he was shocked because he said you had "dated" one of their employees. Poor shoe store girl thought she was in a relationship with you. Now this made me mad. I am floored by your level of deception. You never wanted to meet at your place in North Van, even though I was there every weekend. You said "Let's play in your neighbourhood." When I resisted letting you inside my house because I don't invite people over, you made it your mission to get inside the next time. When you succeeded, I laughed when you wanted to see every room -- I thought it was part of your childish charm but now I realize it was a power game. I dare you to deny it because I have security footage of you walking through my house. You said you wanted to see everything, including my basement, each of my 6 bathrooms, and even my daughter's pink closet -- you sick fuck. In my last communication, I told you to go on Ashley Madison for an extramarital affair. You don't go around asking your volunteers or shoe store employees out on dates! This kind of unethical behaviour by a Race Director is unacceptable. That's why in my email reply to your volunteer coordinator, Emma (who I never met as I got personal attention from you, lucky me), I told her to protect the other volunteers from the kind of negative experiences I endured. It has taken me a long time to speak out about the impact that your deception has had on my life. All I ever wanted was an apology and I even gave you the chance to make amends. You ignored my lawyer's suggestion to make a donation to a charity of my choice in the amount of money I spent on participating and volunteering in your crappy races. A simple "I'm sorry" would have gone a long way. Instead, you tried to silence me by threatening to sue me, you bully. For what? Because it isn't defamation IF IT'S TRUE (and I can back up everything with the hundreds of texts you yourself sent to me), and I have the right to share privileged information so that others can protect themselves. I should sue you for all of my therapy costs, so go lawyer up, you asshole. You fucked with the wrong girl, you coward. Authorship: Admitted. Publication: Yes. Several reactions and responses to the post. Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleadings: Defamatory Meanings: Mr. Hudson preyed on vulnerable women Mr. Hudson had improper or inappropriate intentions towards the defendant's daughter Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson committed adultery Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try provides and promotes an unsafe environment for women Try operates as a vehicle for predatory behaviour Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 2, 2017 Format: Facebook message to Mr. Ezaki of Morgan Crossing Sports Medicine Clinic Text: ...Please read my Facebook post concerning my negative experience with the owner, Mitchell Hudson. Please ensure you warn your employees or volunteers to be on guard when interacting with him and make sure you protect yourselves... Authorship: Admitted Publication: It is not clear whether the recipient read the message, but publication is inferred (see para. 135 of the Reasons for Judgment). Reference to Plaintiff/s: Yes. Statement refers to both plaintiffs. Applicable Pleadings: Defamatory Meanings: Mr. Hudson preyed on vulnerable women Mr. Hudson had improper or inappropriate intentions towards the defendant's daughter Mr.

Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson committed adultery Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try provides and promotes an unsafe environment for women Try operates as a vehicle for predatory behaviour Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 2, 2017 Format: Facebook message to Mr. Richard Lee Text: ... Please see my Facebook post. I don't know how long I will keep this post online, but I will be contacting running clubs and relevant businesses describing my negative experience with TRY EVENTS race director... <https://www.facebook.com/mina.elizabeth79> Authorship: Admitted. Publication: Yes. Recipient responded to message. Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleaded Defamatory Meanings: Mr. Hudson had improper or inappropriate intentions towards Ms. Myong's daughter Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson committed adultery Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try provides and promotes an unsafe environment for women Try operates as a vehicle for predatory behaviour Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 2, 2017 Format: Facebook message to Canadian Running Magazine Text: Please see my Facebook post from this morning. I don't know how long I will keep this post online, but I will be sending letters to running clubs and relevant businesses in Vancouver describing my negative experience with TRY EVENTS race director... <https://www.facebook.com/mina.elizabeth79> Authorship: Admitted. Publication: It is not clear whether the recipient read the message, but publication is inferred (see para. 135 of the Reasons for Judgment). Reference to Plaintiff/s: Yes. Statement refers to individual and corporate plaintiff. Applicable Pleaded Defamatory Meanings: Mr. Hudson preyed on vulnerable women Mr. Hudson had improper or inappropriate intentions towards Ms. Myong's daughter Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson committed adultery Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try provides and promotes an unsafe environment for women Try operates as a vehicle for predatory behaviour Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 2, 2017 Format: Facebook message to Mr. Rob Watson, Mile 2 Marathon Coaching Text: Since you are one of the leaders of M2M, I am asking you to please see my Facebook post from this morning. I don't know how long I will keep this post online, but I will be contacting running clubs and relevant businesses describing my negative experience with the TRY EVENTS race director <https://www.facebook.com/mina.elizabeth79> Authorship: Admitted. Publication: Yes. Recipient responded to the message. Reference to Plaintiff/s: Yes. Statement refers to individual and corporate plaintiff. Applicable Pleaded Defamatory Meanings: Mr. Hudson preyed on vulnerable women Mr. Hudson had improper or inappropriate intentions towards Ms. Myong's daughter Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson committed adultery Mr. Hudson engaged in conduct that ordinary and

reasonable persons would regard as immoral Try provides and promotes an unsafe environment for women Try operates as a vehicle for predatory behaviour Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 2, 2017 Format: Facebook message to Mr. Michael Campbell-Burns Text: Mitchell is a nut job. The VP at the PNE called him a sociopath... Authorship: Admitted. Publication: Yes. Recipient responded to the messages. Reference to Plaintiff: Yes. Statement refers to individual plaintiff. Applicable Pled Defamatory Meaning: N/A Defamatory in Fact: No Justification: N/A Fair Comment: N/A Date: November 4, 2017 Format: Facebook post Text: ...I guess my "Open Letter to Mitchell Hudson" got someone's attention... ...Still no apology from the cowardly Mr. Hudson... ...when Mitchell and I would send each other late night text messages, I once told him about my "little fantasy" of qualifying for Boston when I turn 40. He messaged back that he "could forge some results for you" but "it would cost you though ;p"... You see, the Boundary Bay marathon this November 5th is on a Boston marathon certified course, and Mr. Hudson forwards the results to the Boston Athletic Association. So indeed, he does have the power to forge a BQ result if he is so inclined... Note to the BAA: Please do not accept future results from a race director with a history of unethical behaviour like Mr. Hudson. He cannot be trusted. He lies! I wonder what type of "cost" this race director had in mind when he was considering to forge a Boston qualifying result for me.... Authorship: Admitted. Publication: Yes. Several reactions and responses to the post. Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pled Defamatory Meanings: Mr. Hudson offered to fabricate information in exchange for sexual favours Mr. Hudson violated the implicit rules governing the running community Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try falsifies or condones falsification of race times Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 4, 2017 Format: Facebook message to Mr. Mike Hsiao, Canada Running Series West Employee Text: ...He denies having a "romantic" relationship with me. Even though he's felt my naked body, inserted his fingers inside of me, and kissed me everywhere, etc. No we did not have sexual intercourse with penis-vagina penetration, but I think most people would agree we had some "romantic" relationship, god he is such an a-hole... what an idiot. Authorship: Admitted. Publication: Yes. Recipient responded to the message. Reference to Plaintiff/s: Yes. Statement refers to individual plaintiff. Applicable Pled Defamatory Meaning: Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 5, 2017 Format: Facebook message to Ms. May Lee Text: It's just so outrageous how MH lies about things that I find it laughable. Authorship: Admitted. Publication: Yes. Recipient responded to message. Reference to Plaintiff: Yes. Statement refers to individual plaintiff. Applicable Pled Defamatory Meaning: Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 6, 2017 Format: Facebook post Text: I think I will report him to the Boston Athletic Association as well as MarathonInvestigation.com about his insinuations that he was willing to forge a Boston Marathon Qualifying result for me in exchange for potential sexual, favours. Sending this

picture should seal the deal. So slimy. Yuck! He is clearly a pathological liar. I suppose it's not the lawyers' fault that they have a morally deficient dumbass of a client. The long list of lies and unethical behaviour by this Race Director is just unacceptable. I cannot wait to reveal all the X-rated stuff from my archives... What a wonderful day. :) Authorship: Admitted. Publication: Yes. Several reactions and responses to the post. Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleading Defamatory Meanings: Mr. Hudson offered to fabricate information in exchange for sexual favours Mr. Hudson violated the implicit rules governing the running community Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try falsifies or condones falsification of race times Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 6, 2017 Format: Facebook message to Mr. Ben Hanke Text: ...he's running scared and he's an idiot ...prizes [Running Room] were donating for the participants never went to them (like gift cards) but instead Mitchell took some of them for himself... ...Things like sleeping with the members of the running clinic he led... ...What makes me mad is all the stuff he did in my daughter's room when he was over (fortunately she wasn't there but he had wanted to meet her eventually that sicko). ...I had finished running and was there with the volunteers when they handed out all of the prizes and I swear there was like less than half of what I tagged for gifts...I'm pretty sure Mitchell kept them or sold them. he cheated on [Melina Tai] with a Ladysport employee... I heard he is having money problems... He's such an idiot to deny things with me. I don't think he knows what he texted me, lol. what an idiot.. .what an idiot. Authorship: Admitted. Publication: Yes. Recipient responded to messages. Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleading Defamatory Meanings: Mr. Hudson stole from race sponsors Mr. Hudson had improper or inappropriate intentions towards Ms. Myong's daughter Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Try operates as a vehicle for theft Try provides and promotes an unsafe environment for women Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 9, 2017 Format: Facebook post Text: I am working to create a website so that I can continue posting my rants with the supporting evidence without being censored. My posts will be preserved for posterity, ha! I will share the nasty bits and unethical bullshit behaviour I have witnessed as a former "superstar" volunteer working behind the scenes. This includes rampant theft from unsuspecting sponsors by unscrupulous Race Directors. Yes, not only did that dunce Mitchell Hudson make an offer of forged BQ results in exchange for possible sexual favours, but also he steals! I have seen it personally and I will testify to it in court. There is a lesson to be learned here: Thou shalt not steal. Thou shalt not commit adultery. Well, duh. Repent! Apologize to me, your family, your employees, your volunteers, and your sponsors. Make a public declaration that you will be a better person and try to live up to it. Man up, you pussy. Mitchell, a dunce like you should not be a race director. You told me so many lies. Were you ever a runner? I hope you are running scared now! Authorship: Admitted. Publication: Yes. Several reactions and responses to the post. Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleading Defamatory

Meanings: Mr. Hudson stole from race sponsors Mr. Hudson offered to fabricate information in exchange for sexual favours Mr. Hudson violated the implicit rules governing the running community Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Mr. Hudson committed adultery Try operates as a vehicle for theft Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 11, 2017 Format: Facebook message to Ms. Yvonee Tso Text: He apparently also cheated on his first wife, Melina Tai. This guy is a piece of shit. He used to cheat on his wife with members of the running clinic that he would lead (and not tell them he was married with a pregnant wife at home) He is running scared. Apparently he is having money issues too so having to shell out lawyer bills won't help. Authorship: Admitted. Publication: Yes. Recipient responded to the message. Reference to Plaintiff/s: Yes. Statements refer to individual plaintiff. Applicable Pleadings: Defamatory Meanings: Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson committed adultery Engaged in conduct that ordinary and reasonable persons would regard as immoral Try condones sexual impropriety Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 14, 2017 Format: Facebook message to Mr. Michael Campbell-Burns Text: ... 2 women directly tied to their store, Ladysport, has now been victimized by MH... Authorship: Admitted. Publication: Yes. Recipient responded to message. Reference to Plaintiff/s: Yes. Statement refers to individual plaintiff. Applicable Pleadings: Defamatory Meanings: Mr. Hudson committed acts of sexual impropriety Try condones sexual impropriety Try provides and promotes an unsafe environment for women Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 16, 2017 Format: Facebook post Text: Think of all the free publicity for TRY EVENTS... A married Race Director who pretends to be single and has a penchant for cheating on his wife with unassuming volunteers, women from running clinics, and shoe store employees from his race package pick-ups. Oh what fun. People are coming out of the woodwork to share their own indignant stories about you. People hate you with vengeance, venom, vitriol. My friend's husband knows you from school and he said "Mitchell Hudson" isn't even your original name! You so thoroughly pissed off your ex-girlfriends with your lies and womanizing ways that you resorted to a name change to try to hide away and thwart their attempts to hunt you down! Others from your past business dealings are willing to write affidavits attesting to your "untrustworthy" and "poor character" -- and presumably your overall sleaziness as well. One executive even called you a "sociopath." Way to go, Mitch. It seems that fumbling into fights is your forte and threatening to sue is your specialty. Well hell, I call your bluff, so whenever you're ready, serve me and I will schedule a court date with you. Aw, like a dress-up and go-out kind of date, only it's at the courthouse and not a heated make-out session in the backseat of your beloved pickup truck. So where's my apology? Time's a-ticking ... until my next post when I reveal what I've found out about what you did to your ex-girlfriends, your (ex) wife #1 and wife #2. ...I contacted the PNE and told them to keep a close eye on everyone at the Donut Dash... Now, I don't know what happened between Mitchell and the PNE/Playland (no details were provided), but they were already not happy with him. The executive there called the degenerate in the middle of this

picture a "sociopath" and said the PNE will not be renewing their contract with TRY EVENTS. Authorship: Admitted. Publication: Yes. Several reactions and responses to the post. Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleadings: Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson committed adultery Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try condones sexual impropriety Try operates provides and promotes an unsafe environment for women Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 18, 2017 Format: Facebook message to Nuun Hydration Text: I am asking you to reconsider your sponsorship of the owner-race director, Mitchell Hudson, as he engages in unethical business practices (he steals) and immoral behaviour (he lies and cheats on his wife with his volunteers and shoe store employees from his race package pick-ups). Word is now getting out about him and it would be a shame for a great product like nuun to be associated with a scandal involving a misogynistic low-life like Mr Hudson and his embarrassing races by TRY EVENTS. I used to be one of his "superstar" volunteers but now I am speaking out against him and TRY EVENTS in order to help others avoid the misfortune of being misled and duped by this con man. He even lies to his own lawyers and they have gone silent since I started posting my evidence of his lies on my Facebook page. Eventually I will be creating a website and also detailing the good and bad ways that business associates and sponsors of his have responded to my request for them to investigate this guy. Please check out my Facebook page at <https://www.facebook.com/mina.elizabeth79> I also posted an "Open Letter" to Mr Hudson on my "About" page at the bottom, which provides a background Please re-consider your sponsorship of Mr. Hudson, as I believe your future association with TRY EVENTS can only harm nuun. Authorship: Admitted. Publication: Yes. Recipient responded to the messages. Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleadings: Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson committed adultery Mr. Hudson repeatedly lied to his spouse and others Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try condones sexual impropriety Try operates as a vehicle for theft Try provides and promotes an unsafe environment for women Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 19, 2017 Format Facebook message to "Leanne" Text: ...I had a terrible experience with the race director, Mitchell Hudson, who lied to me and cheated on his wife with me (I was a former volunteer). Please read my posts about Mr Hudson on my Facebook wall and my "Open Letter" (on the bottom of the About page). I am sounding the alarm about his unethical behaviour so that others can protect themselves... Authorship: Inferred (see paras. 128 - 129 of the Reasons for Judgment) Publication: Yes. Recipient received the message and forwarded it to the plaintiff. Reference to Plaintiff/s: Yes. Statement refer to individual and corporate plaintiff. Applicable Pleadings: Mr. Hudson committed acts of sexual impropriety Mr. Hudson committed adultery Try provides and promotes an unsafe environment for women Defamatory in Fact:

Yes Justification: No Fair Comment: No Date: November 19, 2017 Format: Facebook message to Ms. Diana Welvaert Text: ... I'm trying to spread the word about the unethical behaviour of the TRY EVENTS race director, Mitchell Hudson, who lies, steals, cheats on his wife with unsuspecting volunteers (like me). Yeah, the race director, Mitchell Hudson, lied about being a single dad and pursued a relationship with me... Very shady character with a history of deceiving people and a known womanizer. He cheated on his first wife as well...he started with the threats when I tried to warn others...He's the liar, and I think he's scared now... Authorship: Admitted. Publication: Yes. Recipient responded to the message. Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleaded Defamatory Meanings: Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson committed adultery Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try condones sexual impropriety Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 19, 2017 Format: Facebook message to Mr. Cole Grant Text: ..I had a terrible experience with the owner, Mitchell Hudson, who lied to me and cheated on his wife with me (a former volunteer). Before you dismiss me, perhaps try reading some of my posts about Mr Hudson on my Facebook wall. Authorship: Admitted. Publication: Yes. Recipient responded to message. Reference to Plaintiff/s: Yes. Statement refers to individual and corporate plaintiff. Applicable Pleaded Defamatory Meanings: Mr. Hudson committed acts of sexual impropriety Mr. Hudson committed adultery Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try condones sexual impropriety Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 19, 2017 Format: Facebook message to Ms. Jeanne MacDonald Text: ..I had a terrible experience with the race director. Mitchell Hudson, who lied to me and cheated on his wife with me (I was a former volunteer). Please read my posts about Mr Hudson on my Facebook wall and my "Open Letter" (on the bottom of the About page). I am sounding the alarm about his unethical behaviour... Authorship: Admitted. Publication: Yes. Recipient responded to message. Reference to Plaintiff/s: Yes. Statement refers to individual and corporate plaintiff. Applicable Pleaded Defamatory Meanings: Mr. Hudson committed acts of sexual impropriety Mr. Hudson committed adultery Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 19, 2017 Format: Facebook message to Ms. Kelsey Rae Text: I had a terrible experience with the race director, Mitchell Hudson, who lied to me and cheated on his wife with me (I was a former volunteer). Please read some of my posts about Mr Hudson on my Facebook wall and my "Open Letter" (on the bottom of the About page). I am sounding the alarm about his unethical behaviour so that others can protect themselves... Authorship: Admitted. Publication: Yes. Recipient responded to message. Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleaded Defamatory Meanings: Mr. Hudson committed acts of sexual impropriety Mr. Hudson committed adultery Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try condones sexual impropriety Try provides and promotes an unsafe

environment for women Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 20, 2017 Format: Facebook message to Ms. Kelsey Rae Text: What happened to me was directly tied to my involvement in his races. This race director saw me at his race and initiated a relationship. He has done this to other female runners, not just me.

Authorship: Admitted. Publication: It is not clear whether the recipient read the message, but publication is inferred (see para. 135 of the Reasons for Judgment). Reference to

Plaintiff/s: Yes. Statement refers to individual and corporate plaintiff. Applicable Pled

Defamatory Meanings: Mr. Hudson committed acts of sexual impropriety Mr. Hudson

repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson committed

adultery Mr. Hudson repeatedly lied to his spouse and others Mr. Hudson engaged in

conduct that ordinary and reasonable persons would regard as immoral Try condones

sexual impropriety Try provides and promotes an unsafe environment for women

Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 20, 2017

Format: Facebook message to Ms. Sarah Brown-Samis Text: I've had a terrible experience

with the owner of TRY EVENTS, Mitchell Hudson, and I am trying to sound the alarm about his repeated unethical behaviour, especially with female runners. He lies and cheats on his

wife with unsuspecting volunteers (like me), shoe store employees, and women from

running clinics Just be aware that not all Race Directors are honest or the single dads they

claim to be!... Authorship: Admitted. Publication: Yes. Recipient responded to message.

Reference to Plaintiff/s: Yes. Statement refers to individual and corporate plaintiff.

Applicable Pled Defamatory Meanings: Mr. Hudson committed acts of sexual

impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct

Mr. Hudson committed adultery Mr. Hudson repeatedly lied to his spouse and others Mr.

Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral

Try condones sexual impropriety Try provides and promotes an unsafe environment for

women Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 20,

2017 Format: Facebook messages to Ms. Michelle Edwards, Ms. Wendy Halliwell, and Ms.

Wendy Swain Text: I've had a terrible experience with the owner of TRY EVENTS, Mitchell

Hudson, and I am trying to sound the alarm about his repeated unethical behaviour. He lies

and cheats on his wife with unsuspecting volunteers (like me), shoe store employees, and

women from running clinics. Then he threatens to take them to court if they don't keep

quiet Just be aware that not all Race Directors are honest... Authorship: Admitted.

Publication: It is not clear whether the recipient read the message, but publication is

inferred (see para. 135 of the Reasons for Judgment). Reference to Plaintiff/s: Yes.

Statements refer to individual and corporate plaintiff. Applicable Pled Defamatory

Meanings: Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly

engaged in sexual impropriety as a pattern of conduct Mr. Hudson committed adultery Mr.

Hudson repeatedly lied to his spouse and others Mr. Hudson engaged in conduct that

ordinary and reasonable persons would regard as immoral Try condones sexual

impropriety Try provides and promotes an unsafe environment for women Defamatory in

Fact: Yes Justification: No Fair Comment: No Date: November 20, 2017 Format: Facebook

messages to Ms. Sarah Brown-Samis and Ms. Jodi Card Text: I've had a terrible experience

with the owner of TRY EVENTS. Mitchell Hudson, and I am trying to sound the alarm about his repeated unethical behaviour, especially with female runners. He lies and cheats on his wife with unsuspecting volunteers (like me), shoe store employees, and women from running clinics. Then he threatens to take them to court if they don't keep quiet... Just be aware that not all Race Directors are honest or the single dads they claim to be! Authorship: Admitted. Publication: Yes. Ms. Brown-Samis responded to message. While it is unclear whether Ms. Card read the message, publication is inferred (see para. 135 of the Reasons for Judgment). Reference to Plaintiff/s: Yes. Statement refers to individual and corporate plaintiff. Applicable Pleadings: Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson committed adultery Mr. Hudson repeatedly lied to his spouse and others Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try condones sexual impropriety Try provides and promotes an unsafe environment for women Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 22, 2017 Format: Facebook post Text: This is how another runner described this newsletter or mass mail-out: "Straight out of the Cosby / CK playbook." Lolz. Joking aside, I think the sponsors, partners and participants of TRY EVENTS should know about Mr. Hudson's lying, thieving, cheating, womanizing ways, so that everyone can protect themselves... This is the risk that unlucky sponsors and business associates take when they work with TRY EVENTS - future court dates, subpoenas, affidavits and gossip galore. Good times. Here is Mr. Greg J. Allen, an associate lawyer at Hunter Litigation Chambers Law Corp. who has a difficult job ahead as his client Mr. Hudson has a propensity to lie (in a manner almost as uncontrollable as his sexual urges, apparently). Maria, why do you say you think he is financially better off and can afford better lawyers than me? Because he steals and launders money? (Yes, he actually wrote me texts advising me how to launder money as a business owner - what a dumbass. Authorship: Admitted. Publication: Yes. Several reactions and responses to the post. Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleadings: Mr. Hudson manifested uncontrollable sexual urges Mr. Hudson laundered money Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson committed adultery Mr. Hudson repeatedly lied to his spouse and others Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try provides and promotes an unsafe environment for women Try operates as a vehicle for predatory behaviour, theft and money laundering Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 23, 2017 Format: Public forum comment on online news article Text: Great article Megan, but you should know that Mitchell Hudson uses his position as owner and race director of Try Events to impress and deceive women into "romantic" relationships (of a sexual nature) even though he is married! He lies...He also conned a shoe store employee at Ladysport, to the mortification of the manager. Langara should try to distance themselves from Mr Hudson, a lying cheater who preys on his volunteers and female runners. How shameful and utterly unacceptable behavior by a Race Director. I am prepared and more than willing to face him in civil court

and I have posted a small inkling of the evidence I have of his many lies on my facebook page: <https://www.facebook.com/mina.elizabeth79> Authorship: Admitted. Publication: No (see para. 140 of the Reasons for Judgment). Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleadings: Defamatory Meaning: N/A Defamatory in Fact: N/A Justification: N/A Fair Comment: N/A Date: November 23, 2017 Format: Facebook message to Ms. Karen McCullough Text: ...I have so much more evidence showing how he lies and now other people are coming out to tell me about what they went through with this guy. What I am upset about is his continued denial about his improper behaviour. I hope he takes me to court so that I can show what kind of a sociopath this guy truly is. Authorship: Admitted. Publication: It is not clear whether the recipient read the message, but publication is inferred (see para. 135 of the Reasons for Judgment). Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleadings: Defamatory Meaning: Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Defamatory in Fact: Yes Justification: No Fair Comment: No Date: November 23, 2017 Format: Forum comment on online news article Text: ...I participated in this year's Hot Chocolate run but after the Race Director lied (he never told me he was married) and took advantage of me sexually, my medal is now tainted with bad memories. I am going to fight back against this pathetic race director. Authorship: Admitted. Publication: No (see para. 140 of the Reasons for Judgment) Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff. Applicable Pleadings: Defamatory Meaning: N/A Defamatory in Fact: N/A Justification: N/A Fair Comment: N/A Date: November 23, 2017 Format: Facebook messages to Mr. Mike Hsiao, Canada Running Series West Employee Text: ...So he continues to deny, huh. What a dimwit Authorship: Admitted. Publication: Yes. Recipient responded to message. Reference to Plaintiff/s: Yes. Statement refers to individual and corporate plaintiff. Applicable Pleadings: Defamatory Meaning: N/A Defamatory in Fact: No Justification: N/A Fair Comment: N/A Date: November 27, 2017 Format: Facebook messages to Denise Station of Langley Hospice Society, Lookout Housing & Health Society, Peace Arch Hospice Society, Ronald McDonald House BC and Yukon, YMCA of Greater Vancouver, and the BC Centre for Accessibility Text: Please take a look at my Facebook page and arm yourself with information about TRY EVENTS and the owner, Mr. Mitchell Hudson. We are currently in civil litigation and I am sharing my negative experiences about this unethical race director, who cheats on his wife with volunteers and shoe store employees from his race-package pickups under the false pretenses of being a single dad. This is absolutely unacceptable behaviour and cannot be tolerated. He was also let go from his former position as area manager [sic] of the Running Room for his "untrustworthy" behaviour, including theft. Please ensure your donations from his business are all accounted for and supervised. Finally, ask around about him, ensure you protect yourselves with important information. Authorship: Admitted. Publication: It is not clear whether the recipient read the message, but publication is inferred (see para. 135 of the Reasons for Judgment). Reference to Plaintiff/s: Yes. Statements refer to the individual and corporate plaintiff. Applicable Pleadings: Defamatory Meaning: Mr. Hudson had been terminated from a position of employment at the Running

Room for theft Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson committed adultery Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try condones sexual impropriety Try provides and promotes an unsafe environment for women Try operates as a vehicle for theft Defamatory in Fact: Yes Justification: No Fair Comment: No Date: December 2, 2017 Format: Facebook message to Mr. Allan Schroeder Text: I don't think he ever planned to be faithful to her at all when they got married. He never even told the business owners that he was married. Yeah, what a guy. Authorship: Admitted. Publication: It is not clear whether the recipient read the message, but publication is inferred (see para. 135 of the Reasons for Judgment). Reference to Plaintiff/s: Yes. Statement refers to individual plaintiff. Applicable Pleadings: Mr. Hudson committed adultery Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Defamatory in Fact: Yes Justification: No Fair Comment: No Date: December 6, 2017 Format: Facebook messages to Yenny Ballesteros, My Me, and Esther Sheu Text: Do you know MiYeom? Her husband, Mitchell Hudson, has been cheating on her with multiple women, including myself and a shoe store employee from Ladysport. Someone needs to tell MiYeom to go to her doctor and get tested for STDs/STIs. He preys on vulnerable women (I am a single mom). Authorship: Inferred (see paras. 128 - 129 of the Reasons for Judgment) Publication: Yes. Recipient read messages and forwarded them. Reference to Plaintiff/s: Yes. Statements refer to individual plaintiff. Applicable Pleadings: Mr. Hudson preyed on vulnerable women Mr. Hudson contracted and/or carried sexually transmitted infections and/or diseases and spread those infections and/or diseases to others. Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson engaged in conduct that ordinary and reasonable people would regard as immoral Mr. Hudson committed adultery Try provides and promotes an unsafe environment for women Try condones sexual impropriety Try operates as a vehicle for predatory behaviour Defamatory in Fact: Yes Justification: No Fair Comment: No Date: December 6, 2017 Format: Emails to Registrar and Director of Highlands Preschool Text: My name is Mina Myong and I am a runner and former volunteer of TRY EVENTS who had the unfortunate experience of getting to know a manipulator named Mitchell Hudson. He is the husband of MiYeom, who I heard works at Highlands Preschool. Someone needs to inform her that she needs to get tested for STDs/STIs as her husband has been cheating on her with multiple women, including myself and a shoe store employee from Ladysport. He preys on vulnerable women (I am a single mom). Mr. Hudson is well known within the running scene for his lying and deceiving ways - everyone has a negative story about him. Interested members of the public need to be warned about his unethical behaviour. I have posted evidence of Mr. Hudson's cheating behaviour on my Facebook at: <https://www.facebook.com/mina.elizabeth79> Authorship: Admitted. Publication: Yes. Recipient responded to email. Reference to Plaintiff/s: Yes. Statements refer to individual plaintiff. Applicable Pleadings: Mr. Hudson preyed on vulnerable women Mr. Hudson contracted and/or carried sexually transmitted infections and/or diseases and spread those infections

and/or diseases to others Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson committed adultery Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try provides and promotes and unsafe environment for women Try condones sexual impropriety Try operates as a vehicle for predatory behaviour Defamatory in Fact: Yes Justification: No Fair Comment: No Date: December 6, 2017 Format: Facebook message to Highlands Preschool Text: I had the unfortunate experience of getting to know a manipulator named Mitchell Hudson Someone needs to inform her that she needs to get tested for STIS as her husband has been cheating on her with multiple women, including myself and a shoe store employee from Ladysport. He preys on vulnerable women (I am a single mom). Mr. Hudson is well known in the running community for his lying and deceiving ways the public needs to be warned about his unethical behaviour, as not only a race director of TRY EVENTS, but also as a man who pretends to be a single dad Authorship: Admitted. Publication: Yes. Recipient responded to message Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff Applicable Pleded Defamatory Meanings: Mr. Hudson preyed on vulnerable women Mr. Hudson contracted and/or carried sexually transmitted infections and/or diseases and spread those infections and/or diseases to others Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson committed adultery Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try provides and promotes and unsafe environment for women Try condones sexual impropriety Try operates as a vehicle for predatory behaviour Defamatory in Fact: Yes Justification: No Fair Comment: No Date: December 6, 2017 Format: Facebook message to Ms. Chrissy Marie Text: Do you known Mi Yeom? Her husband, Mitchell Hudson, has been cheating on her with multiple women, including myself and a shoe store employee from Ladysport...He never told me he was married! I have posted evidence of his lies on my Facebook wall. He preys on vulnerable women (I am a single mom) and he only recently updated his TRY EVENTS website to state that he is a "husband" after I raised the alarm in the running community...I feel that someone needs to tell MiYeom of her lying, cheating husband. Authorship: Admitted. Publication: Yes. Recipient responded to message Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff Applicable Pleded Defamatory Meanings: Mr. Hudson preyed on vulnerable women Mr. Hudson committed acts of sexual impropriety Mr. Hudson repeatedly engaged in sexual impropriety as a pattern of conduct Mr. Hudson committed adultery Mr. Hudson repeatedly lied to his spouse and others Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try condones sexual impropriety Try provides and promotes an unsafe environment for women Try operates as a vehicle for predatory behaviour Defamatory in Fact: Yes Justification: No Fair Comment: No Date: December 7, 2017 Format: Facebook message to Highlands Preschool Text: Mr. Hudson has sent me text messages where he discusses how to find "young pussy" and I have evidence of other highly inappropriate behaviour Authorship: Admitted. Publication: It is not clear whether the recipient read the message, but publication is inferred (see para. 135 of the Reasons for

Judgment). Reference to Plaintiff/s: Yes. Statements refer to individual Applicable Pleded Defamatory Meanings: Mr. Hudson committed acts of sexual impropriety Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try condones sexual impropriety Defamatory in Fact: Yes Justification: No Fair Comment: No Date: December 7, 2017 Format: Emails to Registrar and Director of Highlands Preschool Text: Mr. Hudson has also sent me text messages where he discusses how to find "young pussy" on campus at SFU and I have evidence of other highly inappropriate behaviour... Authorship: Inferred (see para. 139 of the Reasons for Judgment) Publication: Yes. Recipients received the messages and forwarded them to Ms. Yeom. Reference to Plaintiff/s: Yes. Statements refer to individual and corporate plaintiff Applicable Pleded Defamatory Meanings: Mr. Hudson committed acts of sexual impropriety Mr. Hudson engaged in conduct that ordinary and reasonable persons would regard as immoral Try condones sexual impropriety Defamatory in Fact: Yes Justification: No Fair Comment: No

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