

CANADA / JUDGMENT

Jones v. Ozdoba

2025 BCSC 653

COURT

Supreme Court of British Columbia

DECIDED

7 February 2025

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2025 BCSC 653 Jones v. Ozdoba IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Jones v. Ozdoba, 2025 BCSC 653 Date: 20250207 Docket: S40069 Registry: Chilliwack Between: Anthony David Jones Plaintiff And Kathy Dorothy Ozdoba Defendant Before: The Honourable Mr. Justice Milman Oral Reasons for Judgment In Chambers The Plaintiff, appearing in person: A.D. Jones Counsel for the Defendant: J. Parmar, as Agent for M. Magaril Place and Date of Hearing: Abbotsford, B.C. February 7, 2025 Place and Date of Judgment: Abbotsford, B.C. February 7, 2025

- [1] THE COURT: I will give you my decision now. It is, of course, an oral decision, so if a transcript is ordered I reserve the right to edit it but the substance of it will not change.
- [2] Before the Court are two applications. Both are brought by the defendant, Ms. Ozdoba, in this defamation action. The situation is unusual in the sense that the plaintiff, Mr. Jones, has filed a notice of discontinuance purporting to discontinue this action subject only to the issue of costs, which Mr. Jones has already agreed to pay at the ordinary tariff.
- [3] In the second of the two applications before the Court, Ms. Ozdoba seeks to set aside that notice of discontinuance, or at least temporarily suspend its operation, so that she can proceed with her first application, which seeks to have the claim dismissed under s. 4 of the Protection of Public Participation Act, S.B.C. 2019, c. 3 [PPPA]. She says that the s. 4 application should be allowed to proceed first so that she can avail herself of the indemnity costs relief available to her under that legislation and so that she can obtain a final dismissal of the claim on the merits rather than a mere discontinuance, which would allow Mr. Jones to resume the action in the future.
- [4] She says it was improper for Mr. Jones to file the notice of discontinuance after she had filed her s. 4 application. In particular, she says that the notice of discontinuance was filed in breach of s. 5 of the PPPA, which prohibits any steps being taken in the action once a s. 4 application is filed until the s. 4 application, including any appeals, has been fully resolved.

- [5] It is not necessary to deal with the application to set aside the notice of discontinuance or otherwise place it in abeyance pending the hearing of the PPPA application. That is because I have concluded that the PPPA application is itself without merit and cannot succeed. The reason I say this is that Ms. Ozdoba has failed to satisfy the threshold requirement in s. 4 of the PPPA that the expression giving rise to the action is expression that relates to a matter of public interest.
- [6] The parties to this action are also involved in separate matrimonial litigation that has been particularly acrimonious. The expression that is said to give rise to this action falls into two categories:
- a) an email sent by Ms. Ozdoba to Mr. Jones copied to two friends of theirs who are also serving as counsellors or mediators, in which Ms. Ozdoba complains of Mr. Jones' continual verbal, emotional, and physical abuse towards her; and
 - b) a statement of Ms. Ozdoba in an affidavit filed in that other proceeding asserting that Mr. Jones is behind in his support obligations.
- [7] In *Simpson v. Rebel News Network Ltd.*, 2022 BCSC 1160, I addressed the question of when an expression can fairly be said to "relate to a matter of public interest" under the PPPA. Ms. Ozdoba was unable, despite being referred to that decision, to identify a matter of public interest to which those impugned communications relate so as to engage the court's jurisdiction under s. 4 of the PPPA.
- [8] She asserts that because Mr. Jones is a businessman or entrepreneur, that somehow suffices to bring the impugned expressions into that category. I disagree. Rather, I have concluded that the expressions in issue have no connection to any matter of public interest under that test but are rather purely private matters of interest only narrowly to the parties themselves.
- [9] Having failed to satisfy that threshold requirement for relief under s. 4, I am dismissing the PPPA application. Having done so, I am also dismissing Ms. Ozdoba's second application to set aside the notice of discontinuance or otherwise suspend its operation. However, my order will take effect after 30 days, which is the period to bring an appeal. If an appeal is taken from my order, then my order will be stayed until any such appeal is finally resolved.
- [10] In the absence of any such appeal, it will be open to Ms. Ozdoba to apply for costs beyond the ordinary tariff costs that Mr. Jones has already agreed to pay. That matter is not presently before me today, however.
- [11] As for the costs of today's two applications, which is a matter that is before me today, I am ordering the parties to bear their own costs. Although I have dismissed the two applications, I agree with Ms. Ozdoba that it was improper for Mr. Jones to file his notice of discontinuance before the s. 4 application could be heard.
- [12] I also agree that the underlying action appears to have been of dubious merit, as is evidenced by the fact that it has now been discontinued in the face of the s. 4 application.

[13] That will be my order. "Milman J."

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