

C.A. No.

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

GEORGE FOULIDIS

Plaintiff/Appellant

- and -

BRUCE BAKER

Defendant/Respondent

NOTICE OF APPEAL

THE PLAINTIFF/APPELLANT APPEALS to the Court of Appeal from the judgment of the Honourable Mr. Justice MacDonald dated December 27, 2012 made at Toronto.

THE APPELLANT ASKS that the judgment be set aside and that judgment be granted to the plaintiff for the relief sought in the statement of claim and for amounts to be determined by this court, with costs both in this court and in the court below.

THE GROUNDS FOR THE APPEAL are as follows:

- a) The trial judge erred in failing to find actual or constructive malice;
- b) The trial judge erred in finding that the publication of the defamatory communication was an occasion of qualified privilege;
- c) The trial judge failed to find that the defendant exceeded the occasion of qualified privilege;
- d) The trial judge erred in failing to find that the defendant's failure to verify the contents of the Malamas letter before publishing it was evidence of malice;

- e) The trial judge ignored post-publication evidence that demonstrated malice and exceedance of qualified privilege;
- f) The trial judge erred in finding that some of the contents of the defamatory letter constituted fair comment;
- g) The trial judge misdirected himself on the law of qualified privilege and malice;
- h) Such further or other grounds as counsel may advise.

THE BASIS OF THE APPELLATE COURT'S JURISDICTION IS:

- (a) Section 6(1)(b) of the *Courts of Justice Act, R.S.O. 1990, c. C.43.*
- (b) The order appealed from is a final order.
- (c) Leave to appeal is not required for this appeal.

Date: January 16, 2013

McCAGUE BORLACK LLP
Barristes & Solicitors
Suite 2700, P.O. Box 136
The Exchange Tower
130 King Street West
Toronto, ON M5X 1C7

Gary M. Caplan
LSUC #19805G
Tel: 416-860-8096
Fax: 416-860-0003

Lawyers for the Plaintiff/Appellant

TO: GARDINER ROBERTS LLP
Lawyers
Suite 3100, Scotia Plaza
40 King Street West
Toronto, ON M5H 3Y2

Gavin J. Tighe/Bryan Skolnik

Tel: (416) 593-9189

Fax: (416) 352-6173

Lawyers for the Defendant/Respondent

GEORGE FOULIDIS
Plaintiff

-and-

BRUCE BAKER
Defendant

ONTARIO

SUPERIOR COURT OF JUSTICE
PROCEEDINGS COMMENCED AT
TORONTO

NOTICE OF APPEAL

McCAGUE BORLACK LLP
Barristers and Solicitors
The Exchange Tower
130 King Street West, Suite 2700
Toronto, ON M5X 1C7

Gary M. Caplan
LSUC No.: 19805G
Tel: 416-860-0001
Fax: 416-860-0003

Lawyers for the Appellant