



No. S 140603  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

LAURA ROBINSON

PLAINTIFF

AND:

JOHN FURLONG,  
TWENTYTEN GROUP STRATEGIC MARKETING  
COMMUNICATIONS INC. and  
TWENTYTEN GROUP HOLDINGS INC.

DEFENDANTS

**AMENDED REPLY**

FORM 7 (RULE 3-6(1))

FILED BY: The plaintiff

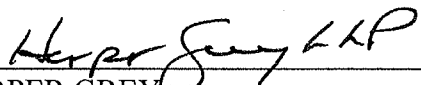
In reply to the amended response to civil claim (the "Amended Response to Civil Claim") filed by the defendant John Furlong (the "defendant Furlong") on April 21, 2015, the plaintiff says as follows:

1. Save in so far as the same consists of admissions, the plaintiff joins issue with the Defendant Furlong on the Amended Response to Civil Claim.
2. In answer to paragraph 1 of part 3 of the Amended Response to Civil Claim, the pleading that "the said words in so far as they consist of allegations of fact are true in substance and in fact, and in so far as they consist of expressions of opinion they are fair comments of matters of public interest" is bad at law and contrary to Rule 3-21(b) of the *Supreme Court Civil Rules*.
3. In answer to paragraphs 3 and 4 of part 3 of the Amended Response to Civil Claim, the plaintiff says the plea of justification gives rise to an award of aggravated damages against the defendant Furlong.

4. In answer to paragraphs 5 and 6 of part 3 of the Amended Response to Civil Claim, the defamatory words complained of and authored by the defendant Furlong are statements of fact, not comment or opinion, and as such do not give rise to the defence of fair comment.
5. In further answer to paragraphs 5 and 6 of part 3 of the Amended Response to Civil Claim, and in the alternative, the defendant Furlong spoke and published the words set out the Notice of Civil Claim with actual malice, or alternatively, with reckless indifference to the truth, and accordingly the defence of fair comment is not available.
6. In answer to paragraphs 50-53 and 61 of part 1 and paragraph 8 of part 3 of the Amended Response to Civil Claim, and in specific response to the particulars relating to responding to the plaintiff's "attacks", the defendant did not have knowledge of the particulars referred to at the time of the impugned statements set out in the notice of civil claim. The defence of qualified privilege arising out of "responding to an attack" is not available to the defendant, as the facts of the "attacks" as pleaded in the Amended Response to Civil Claim were not known to the defendant at the time of the libel.
7. In the alternative, and in further answer to paragraphs 50-53 and 61 of part 1 and paragraph 8 of part 3 of the Amended Response to Civil Claim, the defamatory statements set out in the Notice of Civil Claim were not a germane and reasonably appropriate response or answer to the allegations in the alleged "attacks" on the defendant. Rather, the defamatory statements by the plaintiff consist of false and defamatory statements attacking the character and reputation of the plaintiff. In the event the defamatory statements were made on an occasion of qualified privilege, which is denied, then the defamatory statements exceeded the occasion of privilege, and accordingly the defence of qualified privilege is not available.
8. In further answer to paragraphs 8 and 9 of part 3 of the Amended Response to Civil Claim, and in the alternative, the defendant did not take reasonable steps to confirm the allegations prior to publishing his defamatory statements. The defendant Furlong spoke and published the defamatory words set out the Notice of Civil Claim with actual malice, or alternatively, with reckless indifference to the truth, and accordingly the defence of qualified privilege is not available.

9. In answer to paragraphs ~~7 and 8~~ 11 and 12 of part 3 of the Amended Response to Civil Claim, the defence of responsible communication is only available to parties reporting on “matters of public interest”. It is not available to a party with a direct interest in a dispute advocating on his own behalf. Accordingly, this defence is not available on the facts of this case.
10. In further answer to paragraphs ~~7 and 8~~ 11 and 12 8 of part 3 of the Amended Response to Civil Claim, the defendant Furlong was not diligent in attempting to verify the defamatory allegations, as he, *inter alia*, never “sought and accurately reported” the plaintiff’s side of the story. Accordingly, the defence of responsible communication on matters of public interest is not made out.
11. On November 13, 2013 the defendant Furlong was specifically advised that the defamatory allegations set out in the Notice of Civil Claim were false. Despite having this knowledge, the defendant Furlong did not remove the defamatory allegations from his website or attach a suitable qualification. Accordingly, if the defence of responsible communication on matters of public interest is available to the defendant Furlong (which is denied), it ceased being available as of November 13, 2013.

Dated: 28 May 2015

  
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HARPER GREY LLP  
(Per Bryan G. Baynham, Q.C.)  
Lawyer for the plaintiff

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