

COURT FILE NUMBER

COURT

COURT OF QUEEN'S BENCH
OF ALBERTA

JUDICIAL CENTRE

EDMONTON

PLAINTIFFS

ENVIRONMENTAL DEFENCE CANADA
INC., DOGWOOD, STAND
ENVIRONMENTAL SOCIETY (c.o.b. as
STAND.EARTH),
WEST COAST ENVIRONMENTAL LAW
ASSOCIATION, WEST COAST
ENVIRONMENTAL LAW RESEARCH
FOUNDATION, and
WESTERN CANADA WILDERNESS
COMMITTEE

DEFENDANTS

JASON KENNEY and HER MAJESTY
THE QUEEN IN RIGHT OF ALBERTA

DOCUMENT

STATEMENT OF CLAIM

ADDRESS FOR SERVICE
AND CONTACT INFORMATION
OF PARTY FILING THIS
DOCUMENT

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NOTICE TO DEFENDANTS

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

Statement of facts relied on:

The Parties

1. The Plaintiff, Dogwood (formerly “Dogwood Initiative”), is an independent, non-partisan, non-profit organization working in the unceded Indigenous territories known as British Columbia. The organization commenced operations in 1999 (as Dogwood Initiative) and has offices in Victoria and Vancouver, British Columbia. Dogwood’s mandate is to increase the power of British Columbians over government decision-making, including through advocacy and organizing around environmental issues.
2. The Plaintiff, Environmental Defence Canada, is a leading Canadian environmental advocacy organization. It is an incorporated registered charity that was founded in 1984 (as the Canadian Environmental Defence Fund) and is headquartered in Toronto, Ontario. The work of Environmental Defence Canada is focused on: encouraging government to enact policies to protect Canadians’ health and environment; working with industry to build a clean, prosperous economy; and empowering Canadians to take action in their own daily lives.
3. The Plaintiff, Stand Environmental Society, carrying on operations as “Stand.Earth” and formerly known as “ForestEthics”, is a grassroots environmental organization founded in 2000. It is a non-profit organization with offices in Vancouver, British Columbia and in the United States. Stand.Earth works to challenge the fossil fuel industry, protect healthy forests, and reduce global climate emissions through consumer campaigns and a wide range of advocacy initiatives.
4. The Plaintiffs, West Coast Environmental Law Association and West Coast Environmental Law Research Foundation are non-profit, public interest environmental law organizations incorporated in the province of British Columbia.

5. The Plaintiff, Western Canada Wilderness Committee, is a non-profit environmental education organization that aims to protect Canada's wild spaces and species. It is a registered charity that was founded in British Columbia in 1980. It is headquartered in Vancouver, British Columbia.
6. The Plaintiffs have all built reputations in Canada for their work in advancing environmental issues, through research, advocacy, education and/or organizing. The reputations of these Plaintiffs are significantly affected by the public's view of the credibility of the reports and information they disseminate.
7. The Defendant, Jason Kenney ("Kenney"), resides in Edmonton, Alberta. At all material times, Kenney was the Premier of Alberta and leader of the United Conservative Party.
8. Kenney controls and operates the Twitter account @jkenney. His Twitter account has more than 270,000 followers.
9. Kenney controls and operates the Facebook account @kenneyjasont. His Facebook account has more than 270,000 followers.
10. The Defendant, Her Majesty the Queen in Right of Alberta ("the Defendant Alberta"), is the representative of the Government of Alberta and all departments and agencies that constitute part of the Government of Alberta. All actions of the Defendant Alberta that are the subject of the instant action were carried out by its officers or agents and for which the Defendant is liable pursuant to subsection 5(1)(a) of the *Proceedings Against the Crown Act*, RSA 2000, c. P-25.

Background to the Claim

11. In April 2019, Kenney was elected Premier of Alberta as the leader of the United Conservative Party.

12. During his campaign to become Premier of Alberta, Kenney made frequent statements accusing environmental groups, including the Plaintiffs, of spreading misinformation about the oil and gas industry. He campaigned on the promise that, if elected, he would pursue an investigation into alleged foreign-funded efforts to undermine the oil and gas industry.

13. In July 2019, the Defendant Alberta launched a public inquiry under the *Public Inquiries Act*, RSA 1980 c P-29, with a mandate to investigate the role of foreign funding, if any, in “anti-Alberta” energy campaigns. The government appointed Steve Allan (“Allan”), a forensic accountant, as Commissioner to lead the Public Inquiry into Anti-Alberta Energy Campaigns (the “Inquiry”).

14. At a press conference launching the inquiry, the Defendant Kenney named the Plaintiff Environmental Defence Canada “amongst many others” as involved in sophisticated campaigns of “disinformation and defamation”.

15. Some of the Plaintiffs received threatening and intimidating messages from members of the public following the announcement of the Inquiry.

16. On or about September 14, 2020, Commissioner Allan issued a Ruling on Interpretation of the Terms of Reference of his Inquiry that addressed the issue of whether his inquiry would examine the allegation that certain groups disseminated misleading and false information. In the Ruling, Commissioner Allan determined that he did not need to inquire into these questions to fulfill the mandate of the inquiry.

17. On July 30, 2021, Commissioner Allan submitted his final Inquiry report to Alberta’s Minister of Energy, the Honourable Sonya Savage.

18. On October 21, 2021, Commissioner Allan’s 657-page final Inquiry report (the “Allan Report”) was released by the Defendant Alberta to the public.

19. The Plaintiffs were all investigated as part of the Inquiry and are among the limited group of organizations named and discussed in the Allan Report.

20. While the Allan Report determined that the Plaintiffs participated in “anti-Alberta energy campaigns”, Commissioner Allan found in the Report that, according to his definition of the phrase, this did not constitute improper conduct or conduct that should in any way be impugned, and he did not indicate that any group was “pro” or “anti” Alberta in the vernacular sense.

21. Commissioner Allan states repeatedly and clearly in the Report that he was unable to make, and was not making, any finding or suggestion that any information disseminated by the Plaintiffs was false or misleading.

22. Nowhere in the Allan Report does it state that any of the Plaintiffs engaged in any campaigns of misinformation or campaigns based on alleged misinformation, or that such misinformation campaigns cost Albertans and Canadians thousands of jobs. No such findings were made in the Allan Report.

The Defamatory Words

23. On October 21, 2021, the Defendant Alberta published a document to its public website titled, “Public inquiry into anti-Alberta energy campaigns final report: key findings” (the “Key Findings” document). This document lists each of the Plaintiffs and contains the false and defamatory statement that the Allan Report concluded that the Plaintiffs have been “waging a decade-long campaign of misinformation”.

24. On or about October 21, 2021, the Defendant Alberta government published defamatory statements on Alberta’s new Inquiry website. This website falsely states that the Allan Report confirmed the Plaintiffs engaged in “campaigns based on misinformation” that have “impacted the lives and livelihoods of Albertans” and “cost Albertans and Canadians thousands of jobs”.

25. On or about October 21, 2021 at approximately 1:32PM, Kenney published the following false and defamatory statement to his Facebook page (@kenneyjasont):

Foreign-funded misinformation campaigns to landlock Alberta's resources caused untold hardship for thousands of energy workers and their families.

Today, we released a report that shines a light on these coordinated efforts to harm our province.

Read more: <https://www.alberta.ca/release.cfm?xID=8019064C7337D-DDD5-7D67-3D2E18398CE12DFE>

26. On or about October 21, 2021 at approximately 1:46PM, Premier Kenney published the following false and defamatory statement ("tweet") to his Twitter account (@jkenney):

Foreign-funded misinformation campaigns to landlock Alberta's resources caused untold hardship for thousands of energy workers & their families.

Today, we released a report that shines a light on these coordinated efforts to harm our province.

Read more: [alberta.ca/release.cfm?xID=8019064C7337D-DDD5-7D67-3D2E18398CE12DFE](https://www.alberta.ca/release.cfm?xID=8019064C7337D-DDD5-7D67-3D2E18398CE12DFE)

27. The @Jkenney tweet was then retweeted by the Defendant, the Government of Alberta, on the same day or shortly thereafter, from its energy-focused Twitter Account, @Alberta_Energy.

28. The above-noted tweet and Facebook post published by the Defendant Kenney repeated and amplified the false and defamatory statements published by the Defendant Alberta on its website and in its Key Findings document, by providing a link that leads to those publications. Copies of the defamatory social media postings and copies of the linked defamatory publications on the Alberta Government website are annexed as Schedule "A" hereto.

29. The words complained of refer to the Plaintiffs and are false and defamatory in their natural and ordinary meaning, including their implied meanings.

30. The words complained of, in their natural and ordinary meaning and by innuendo, meant and were understood to mean that Commissioner Allan, through a quasi-judicial public inquiry, had determined that:

- a. the Plaintiffs have deliberately spread misleading or false information;
- b. the Plaintiffs have deliberately stated falsehoods or lies;
- c. the Plaintiffs have engaged in improper or illegal conduct; and
- d. the Plaintiffs have engaged in coordinated efforts based on misinformation to deliberately harm Alberta energy workers and their families.

31. The words complained of would tend to lower the Plaintiffs' reputations in the eyes of a reasonable person.

32. The words complained of were intended to refer to and were capable of referring to the Plaintiffs, and further or in the alternative would be reasonably understood, given the context of the Allan Report, to refer to the Plaintiffs.

Damages

33. The words complained of were published to the broad public via the Internet, through Twitter and Facebook and by publication on the Alberta Government's public website.

34. As a result of the publication of the defamatory words, and all repetitions, republications, interpretations, and commentaries of or concerning them through

commercial and social media platforms, the Plaintiffs have suffered, and will in the future suffer, damage to their respective reputations.

35. At all material times, the Defendant Kenney was the Premier of Alberta. As such, he occupied an important and highly visible public office and knew that his public comments would reach a wide audience through publication or broadcast via various commercial media and social media platforms.

36. Consequently, while holding public office, the Defendant Kenney had a duty to conduct himself with utmost honesty and in good faith when communicating with the press and public and to exercise the care and diligence in such communications that a reasonably prudent person would exercise in comparable circumstances.

37. During his election campaign and after becoming Premier, the Defendant Kenney was vocal in his opposition to environmental groups such as the Plaintiffs. He accused these environmental groups of engaging in illegal and improper conduct that included spreading misleading or false information meant to undermine Alberta's oil and gas industry.

38. The Plaintiffs plead that the Defendant Kenney had an ulterior or improper purpose in communicating the words complained of to the general public. The Plaintiffs plead that the Defendant Kenney published these words with malice and for his own political gain, knowing that they would cause damage and harm to the Plaintiffs.

39. The Defendant Kenney has aggravated the damages caused to the Plaintiffs by:

- a. publishing the words complained of maliciously and in bad faith, with knowledge that they were false, or with reckless disregard for their truth or falsity;
- b. publishing the words complained of with the intention of discrediting the Plaintiffs and harming their reputations; and,

- c. publishing the words complained of to further the political interests of the Defendant at the expense of the Plaintiffs.

40. The Plaintiffs state that the malicious, high-handed, arrogant, and reckless conduct of the Defendant warrants an award of punitive or exemplary damages to ensure that the Defendant is appropriately punished for his conduct and deterred from such conduct in future.

41. The Plaintiffs wrote the Defendants on November 22, 2021, pointing out the contradiction between the impugned defamatory words and the contents of the Allan Report, and asking for a correction and an apology. To date, the Defendants have not communicated or written any corrections or apology.

42. The Plaintiffs plead and rely upon the provisions of the *Defamation Act*, RSA 2000, c.D-7, and the *Judgment Interest Act*, RSA 2000, c J-1.

43. The Plaintiffs propose that the trial of this Action be held at the Law Courts Building in the City of Edmonton, in the Province of Alberta, and estimate that this Action will not take longer than twenty-five (25) days to try.

Remedy sought:

44. The Plaintiffs seek as against the Defendants Kenney and Alberta, jointly and severally, the following:

- a. Damages in the amount of \$15,000 to each of the Plaintiffs, for a total amount of \$75,000, or such other amount to be proven at trial;
- b. Additional punitive, aggravated and exemplary damages in the amount of \$500,000 or such other amount to be proven at trial;

- c. Prejudgment and post judgment interest pursuant to the *Judgment Interest Act*, RSA 2000, c. J-1 or such other rate and for such time as deemed appropriate by this Honourable Court; and
- d. Costs of this action on a full indemnity basis, or alternatively, party-party costs as determined appropriate by this Honourable Court;
- e. Such other relief as this Honourable Court may consider appropriate in the circumstances of this case.

45. In addition, the Plaintiffs seek as against the Defendant Kenney punitive damages in the amount of \$500,000 or such other amount to be proven at trial.

NOTICE TO DEFENDANT

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at Edmonton, Alberta, AND serving your statement of defence or a demand for notice on the plaintiffs' address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give judgment to the plaintiffs against you.