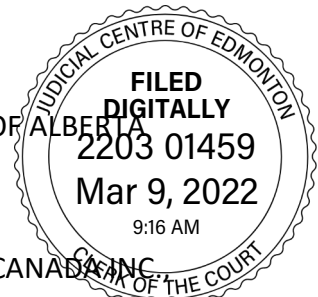


Clerk's stamp:

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| COURT FILE NUMBER   | 2203 01459   |
| COURT   | COURT OF QUEEN'S BENCH OF ALBERTA  |
| JUDICIAL CENTRE   | EDMONTON   |
| PLAINTIFFS  | ENVIRONMENTAL DEFENCE CANADA, CANADIAN 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   |
| PARTIES FILING THIS DOCUMENT  | JASON KENNEY and HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA   |
| DOCUMENT  | <b>STATEMENT OF DEFENCE</b>  |
| ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT | Attention: Matthew A. Woodley<br>Reynolds Mirth Richards & Farmer LLP<br>3200 Manulife Place<br>10180 - 101 Street<br>Edmonton, AB T5J 3W8<br>Telephone: (780) 425-9510<br>Fax: (780) 429-3044<br>File No: 101862-064-MAW                |



**Note: State below only facts and not evidence (Rule 13.6)**

**Statement of Facts Relied On:**

1. Except where expressly admitted herein, the Defendants Jason Kenney ("Premier Kenney") and Her Majesty the Queen in Right of Alberta ("Alberta") deny each and every allegation contained in the Plaintiffs' Statement of Claim.
2. The Defendants admit the allegations in paragraphs 7, 11, and 17-18 of the Statement of Claim.

### **The Parties**

3. The Defendant, Premier Kenney, is and was at all material times the Premier of the Province of Alberta.
4. The Plaintiff, Dogwood, is a self-described “citizen action network.” To the best of the Defendants’ knowledge it has no legal identity and no standing to bring an action in this Court.
5. The Plaintiff, Environmental Defence Canada Inc., is a not-for-profit corporation incorporated under the Ontario *Not-for-Profit Corporations Act*, with its head office in Toronto.
6. The Plaintiff, Stand Environmental Society, is a society incorporated under the British Columbia *Societies Act*, with its head office in Vancouver. It carries on business under the name “Stand.earth” and was formerly known as “ForestEthics.”
7. The Plaintiffs, West Coast Environmental Law Research Foundation, West Coast Environmental Law Association, and Western Canada Wilderness Committee are societies incorporated under the British Columbia *Societies Act*, with their head offices in Vancouver.

### **The Publications**

8. On October 21, 2021, the final Report of the Public Inquiry into Anti-Alberta Energy Campaigns (the “Allan Report”) was published on the Government of Alberta’s “Open Government” website, which provides public access to Government of Alberta publications.
9. That same day, a web page titled “Public inquiry into anti-Alberta energy campaigns” (the “Web Page”) was published on the Government of Alberta’s website, Alberta.ca.
10. The Web Page states that “reputational harm to the province’s energy sector has limited government and industry revenue, and cost Albertans and Canadians thousands of jobs.” It further states that the Allan Report details the investigation into the funding being used by foreign special interest groups to landlock Alberta’s natural resources, and “confirms the existence of well-funded, decade-long campaigns based on misinformation that have impacted the lives and livelihoods of Albertans.”
11. The Web Page does not, at any point, mention any of the Plaintiffs.
12. Also on October 21, 2021, a link to a PDF document titled “Public inquiry into anti-Alberta energy campaigns final report: Key findings” (the “Key Findings Document”) was published on the “Open Government” website.
13. The Key Findings Document states that “The report confirms the existence of well-funded foreign interests that have been waging a decade-long campaign of misinformation with

the goal of landlocking Alberta's oil and gas." It does not identify the Plaintiffs as having participated in this campaign of misinformation, directly or indirectly.

14. Later in the document, the Key Findings Document notes that three categories of organization were identified in the Allan Report as having participated in an anti-Alberta energy campaign: 21 "Participants", 13 "Funders", and 2 "Re-granters". The Key Findings Document does not allege that any of these organizations disseminated misinformation, or otherwise indicate that they participated in the decade-long campaign of misinformation mentioned above.
15. Listed among the "Participants" in the Key Findings Document are, among a total of 36 organizations:
  - ForestEthics (now Stand.Earth)
  - Western Canada Wilderness Committee
  - West Coast Environmental Law and Research Foundation
  - Environmental Defence Canada
  - Dogwood Initiative
16. On October 21, 2021, both the official Jason Kenney Facebook page and the official Jason Kenney Twitter account published an identical brief message (the "Facebook Post" and the "Tweet", respectively) which included the statement "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."
17. The Facebook Post and the Tweet do not mention any of the Plaintiffs, nor do they link to the Web Page or the Key Findings Document. The Facebook Post and Tweet provided a link to another Government of Alberta web page, the contents of which have not been alleged to be defamatory in this action.
18. In any event, the inclusion of a hyperlink to another website on the Internet is not publication of the information located behind such hyperlink in the absence of specific endorsement.
19. Premier Kenney is not a publisher of any of the words contained on the Web Page or Key Findings Document.

### **No Reference to the Plaintiffs**

20. The Web Page, the Facebook Post, and the Tweet do not and cannot reasonably be understood to refer to the Plaintiffs, as alleged or at all.
21. The Key Findings Document does not and cannot reasonably be understood to refer to the Plaintiff, West Coast Environmental Law Association, as alleged or at all.

22. The Key Findings Document does not and cannot reasonably be understood to refer to the Plaintiffs, Environmental Defence Canada Inc., Stand Environmental Society, West Coast Environmental Law Research Foundation, or Western Canada Wilderness Committee, as alleged or at all, except for the limited purpose of correctly stating that they were identified in the Allan Report as having been Participants in an anti-Alberta energy campaign.
23. The Plaintiff, Dogwood, is not a legal entity to whom any words can refer in a manner that constitutes defamation.

### **No Defamatory Meaning**

24. None of the words in the Web Page, Key Findings Document, Facebook Post, or Tweet (collectively, the "Publications") bear, in their natural and ordinary meaning, or by innuendo, a defamatory meaning.
25. Further, or in the alternative, the Plaintiffs have not identified the defamatory meaning that allegedly corresponds with the words complained of. The defamatory meaning of a publication must arise from the meaning of the publication as a whole. In this case, no defamatory meaning arises in relation to the Plaintiffs whatsoever.

### **Truth to Lesser Meaning**

26. If the Publications bear any defamatory meaning, which is denied, they meant and were understood to have meant that:
  - a. The Plaintiffs participated in campaigns opposing oil and gas development in Alberta; and
  - b. The information disseminated in these campaigns included information which was not accurate.
27. To the extent that the Publications bear the meanings set out in paragraph 26 above, those meanings are true in substance and in fact.
28. In the event that meanings set out in paragraph 26 above contain factual inaccuracies, which is denied, those inaccuracies do not materially impact the truth of the statements, and the Defendants rely on the defence of substantial truth.

### **Fair Comment**

29. Further, or in the alternative, to the extent the words in the Publications bear the defamatory meanings set out in the Statement of Claim, which is denied, the Defendants state that the words in the Publications complained of and the entirety of the Publications were fair comment on a matter of public interest, namely, the existence of coordinated campaigns opposing oil and gas development in Alberta, and the use of foreign funding in such campaigns.

30. The words in the Publications constitute opinions a person could honestly hold based on the facts presented in the Publications, or which are generally known by the public.

### **Responsible Communication on a Matter of Public Interest**

31. Further, or in the alternative, to the extent that the words particularized in the Statement of Claim bear any defamatory meaning, which is denied, the Publications were conducted responsibly and on a matter of public interest, and the action is without merit.

32. The Defendants acted responsibly in publishing the Publications.

33. The Publications (and the words contained therein) were published with an intention to inform the public about a matter of public interest that was also widely reported on by various news media. The Defendants deny publishing the Publications in bad faith.

### **No Malice**

34. The Defendants specifically deny the allegations of malice contained in the Statement of Claim and deny that the matters set out in the Statement of Claim are capable of constituting malice on the part of Premier Kenney.

35. As the Premier of Alberta, Premier Kenney has a responsibility to advocate for Albertans. This responsibility applies particularly where outside interests engage in coordinated campaigns that (intentionally or not) threaten the economic prosperity of Alberta and Albertans. This was the factual context for the Facebook Post and Tweet.

### **No Damages**

36. The Plaintiffs have suffered no damages, or alternatively, if the Plaintiffs have suffered damages, which is not admitted but denied, the damages claimed are excessive or were caused or contributed to by the actions of the Plaintiffs, or persons and entities other than the Defendants.

37. Subsequent to the Publications, the Plaintiffs posted excerpts and links to the Publications on their own websites, and issued press conferences in which they explicitly drew attention to the Publications both before and after commencing this Action, which further amplified the Publications' reach, including for the purpose of increasing monetary donations to the Plaintiffs. To the extent the Plaintiffs have suffered any damages as a result of a loss of reputation caused by the Publications, which is not admitted but denied, the Plaintiffs are wholly or partially responsible for those damages.

38. In the further alternative, to the extent the Plaintiffs have suffered any damages for which the Defendants can be held responsible, which is denied, the Plaintiffs have failed to mitigate their damages.

39. Further, by posting excerpts and links to the Publications on their own websites and issuing press conferences drawing attention to the Publications, the Plaintiffs' reputations

have increased among activists who oppose oil and gas development, throughout Canada and elsewhere. To the extent the Plaintiffs' reputations were reduced among some individuals who viewed the Publications (which is not admitted but denied), the Plaintiffs' reputations among other individuals increased. In these circumstances, the Plaintiffs cannot be said to have suffered any damage to their reputations, as alleged or at all.

**Remedy Sought:**

40. The Defendants request:

- a. Judgment dismissing the Plaintiffs' claim;
- b. Costs as determined appropriate by this Honourable Court; and
- c. Such further and other relief as the Court deems just.