

COURT OF APPEAL OF YUKON

Citation: *Sidhu v. CBC North*,
2014 YKCA 15

Date: 20141119
Docket: 14-YU737

Between:

Mandeep Singh Sidhu

Appellant

And

CBC North

Respondent

Before: The Honourable Mr. Justice Chiasson
The Honourable Madam Justice Schuler
The Honourable Mr. Justice Goepel

On appeal from: an order of the Supreme Court of Yukon dated
May 5, 2014 (*Sidhu v. CBC North*, 2014 YKSC 32,
Whitehorse Registry No. 13-A0141)

Oral Reasons for Judgment

Appellant appearing In Person:

Mandeep Singh Sidhu

Counsel for the Respondent:

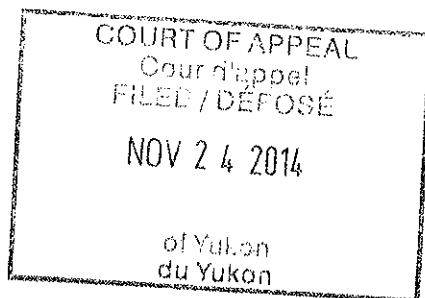
Matthew Woodley

Place and Date of Hearing:

Whitehorse, Yukon
November 19, 2014

Place and Date of Judgment:

Whitehorse, Yukon
November 19, 2014



Summary:

Appellant's defamation action was dismissed for failure to give the notice required by s. 14(1) of the Defamation Act, R.S.Y. 2002, c. 52. Appeal dismissed.

[1] **SCHULER J.A.:** This is an appeal from a chamber judge's decision granting summary judgment dismissing the appellant's defamation action due to failure to comply with s. 14(1) of the *Defamation Act* of the Yukon.

[2] That section provides that:

No action lies unless the plaintiff has, within three months after the publication of the defamatory matter has come to the plaintiff's notice or knowledge, given to the defendant 14 days notice in writing of the plaintiff's intention to bring an action.

[3] Subsection 2 of s. 14 requires that:

A notice under subsection (1) shall specify the language complained of and shall be served on the defendant in the same manner as a statement of claim. *S.Y. 2002, c. 52, s. 14*

[4] The purpose of the notice requirement in s. 14 is to enable a defendant to withdraw or correct the statements complained of, to apologize for having published them, and thus to mitigate damages if an action is commenced and the statements are found to be defamatory.

[5] As the notice required under s. 14, the appellant relies on an email message sent to the respondent, CBC North. There is no copy of that email before the Court, nor was it before the court appealed from. However, it is described by the appellant as clearly listing the parties involved and specifying the language complained of, and that the appellant was unhappy with it.

[6] The appellant acknowledges that in that email, he did not say that he intended to bring proceedings in court. He submits that the sending of the email is sufficient compliance with s. 14(1).

[7] Although we are not without sympathy for Mr. Sidhu for the position he has found himself in, in our view what s. 14(1) clearly requires is that notice be given that

the person complaining of defamation intends to bring a court action or court proceeding based on the alleged defamation. The word "action" refers to a court action or court proceeding and this is clear from the *Defamation Act* as a whole, notwithstanding that the word "action" is not specifically defined in that *Act*.

[8] Accordingly, we find that the chambers judge did not err in finding that the appellant did not fulfil the notice requirement and we must therefore dismiss the appeal.

[9] **CHIASSON J.A.:** I agree.

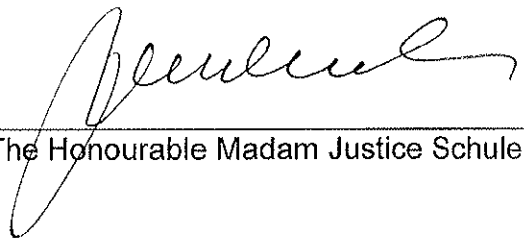
[10] **GOEPEL J.A.:** I agree.

[11] **CHIASSON J.A.:** The appeal is dismissed

[discussion re. costs]

[15] **CHIASSON J.A.:** We are all of the view that CBC is entitled to its regular costs in the circumstances of this case. We also are of the view that CBC has made an appropriate decision not to pursue the issue of increased costs in the circumstances of this case.

[16] Thank you very much.



The Honourable Madam Justice Schuler