

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

KARLHEINZ SCHREIBER

Plaintiff

- and -

LUC LAVOIE

Defendant

STATEMENT OF DEFENCE

1. The defendant admits paragraphs 3, 5, 6, 7 and 11 of the Statement of Claim.
2. The defendant specifically denies paragraphs 1, 9 and 10 of the Statement of Claim alleging damages to the plaintiff's reputation.
3. The defendant was at all material times a press agent for Brian Mulroney and as such had a duty to protect Mr. Mulroney's reputation. Mr. Cashore, a producer of the television show in issue indicated that he was producing a television show about the plaintiff and that there were allegations of misconduct which could concern Mr. Mulroney and his relations with the plaintiff. The defendant had a duty to respond to the allegations and Mr. Cashore an interest in law in receiving them, creating an occasion of qualified privilege.
4. The defendant admits saying the words in issue but pleads in the circumstances that the words were said in the heat of an express off-the-record interview conducted by Harvey Cashore during which the defendant perceived Cashore to be saying that Mr. Schreiber's bank accounts

somehow implicated Mulronev and in response to this mistaken assumption the defendant made his reply. The defendant will rely on the entire tape of his interview when he gains access to it.

5. The defendant pleads that Cashore expressly agreed his words were off-the-record and would not be republished and hence is only responsible in law for a publication to one person on an occasion of qualified privilege and so as to this defendant, damages, if any, are mitigated accordingly.

6. In the alternative, the words in issue do not convey the meaning pleaded in paragraph 8 of the Statement of Claim as it is evident to a viewer they were vulgar abuse of the plaintiff, spoken in anger and were so understood by all those persons to whom they were published and the defendant formally denies the allegation of libel.

7. The words said by the plaintiff were meant and understood to mean "... if Mr. Schreiber said such a thing then he's lying" and hence, the plaintiff's comment was in response to the wrongly perceived allegation, not a comment in respect of the plaintiff personally.

8. The defendant had no control or knowledge as to the framework of the television show in issue and was responding to an attack without sufficient knowledge of the information collected by the CBC or the means of presentation and so his words in a private conversation have been taken out of context by Cashore and the CBC.

9. In mitigation of damages the plaintiff has, as is indicated in the show in issue in a part not complained of by the plaintiff, a reputation such that the former Premier of Alberta instructed civil servants not to deal with the plaintiff due to his reputation of dishonesty and such reputation was lowered even more by the German allegation. The defendant will be compelled because of this court proceeding, in mitigation of damages, to lead evidence-in-chief at the trial that the plaintiff has a bad public reputation in Germany as a man publically charged in Germany for offences of notoriety

which have led to extradition proceedings in Canada and which have created a general reputation of being a tax evader and participating in shady deals.

10. In the alternative, the plaintiff is not entitled to claim for alleged damages to his reputation in Germany as such is a separate tort and his claim is therefore limited to his reputation in Canada.

12. The defendant submits that this action be dismissed with costs on a solicitor and client basis.

DATE: December 19, 2000

JULIAN PORTER, Q.C.
Suite 4900
Commerce Court West
Toronto, Ontario
M5L 1J3

LSUC #10104E
Telephone: 416-862-4297
Facsimile: 416-862-7661

Solicitor for the Defendant

TO: GREENSPAN, HENEIN AND WHITE
144 King Street East
Toronto, Ontario
M5C 1G8

Edward L. Greenspan, Q.C.
Telephone: 416-366-3961
Facsimile: 416-366-7994

- AND -



HICKS MORLEY HAMILTON
STEWART STORIE LLP

Toronto-Dominion Centre

P.O. Box 371

Toronto, Ontario

M5K 1K8

David Stratas

Telephone: 416-864-7280

Facsimile: 416-362-9680

Solicitors for the Plaintiffs

KARLHEINZ SCHREIBER
Plaintiff

v. LUC LAVOIE
Defendant

Court File No. 00-CV-197082

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding Commenced at Toronto

STATEMENT OF DEFENCE

JULIAN PORTER, Q.C.
Suite 4900
Commerce Court West
Toronto, Ontario
M5L 1J3

LSUC #10104E
Telephone: 416-862-4297
Facsimile: 416-862-7661

Solicitor for the Defendant

