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## PRESS ADVISORY

### Court of Appeal Dismisses Blair Appeal

**November 25, 2021**

The Court of Appeal dismissed Brad Blair's appeal on the basis of Anti-SLAPP legislation and allowed Premier Ford's appeal on costs in part.

The Court dismissed the appeal despite the following findings made by Justice Belobaba in the court below:

[4] As I explain below, the plaintiff's defamation action is not, strictly speaking, a SLAPP suit. The plaintiff is not a large and powerful entity that is using litigation to intimidate a smaller and more vulnerable opponent and silence their public expression. Nonetheless, because the impugned public statements relate to a matter of public interest, the analysis in s. 137.1 of the *CJA* is engaged.

[20] So it is that Mr. Blair's defamation action falls within the reach of s. 137.1 of the *CJA*. Mr. Blair is **not a powerful entity that is suing the Premier to gag his public expression but a genuinely aggrieved individual trying to vindicate what he reasonably believes is a bona fide defamation claim**. Nonetheless, because the impugned public statements made by the defendant relate to a matter of public interest, the s. 137.1 analysis is engaged. [emphasis added]

Brad Blair commented:

"My family and I are disappointed with today's decision. I don't understand how any court could find that I could gag the most powerful person in the province. It's even more baffling in circumstances where Premier Ford or his surrogates continued to speak on the issues outlined in my complaint to the Ombudsman after he received notice of my lawsuit. This decision is a warning to any future whistleblowers- don't bother to stick your head out of the trenches and do the right thing because you will get punished, have your reputation tarnished, and when you try to protect it, you could be subject to half a million dollars in costs. It feels to me like the Anti-SLAPP legislation has been made an effective tool to silence any criticism of public officials."

Julian Falconer, counsel for Brad Blair, stated:

"Unfortunately Brad Blair now faces a \$160,000 costs award for doing the right thing, for doing the courageous thing, and for holding a corrupt appointment process to account. We are



studying the judgment and expect instructions shortly on the question of seeking leave to the Supreme Court of Canada.”

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