

February 25, 2026

ONLINE CRITICISM AND DEFAMATION: AN ONTARIO ANTI-SLAPP DECISION

by [Kaley Pulfer](#), [Michael Robson](#) and [Larissa Zhong](#)

On November 25, 2025, the Ontario Superior Court of Justice dismissed a \$2,000,000 defamation action brought by Theralase Technologies Inc. and two of its executives as an “archetypical example of ‘SLAPP’” (strategic litigation against public participation). The judge also awarded the defendant, a retail investor in the company who had published a single post in a chatroom urging changes to the Board of Directors, \$25,000 in damages and costs of the motion.¹

Factual Background

Theralase Technologies Inc., a publicly traded clinical stage pharmaceutical company, conducts research and development related to light activated photo dynamic compounds, including laser technology. Between 2006 and 2020, Theralase experienced numerous and repeated failures to meet publicly projected milestones, including in relation to one of its lead products, the TLC-2000 Therapeutic Laser.

In 2018, Theralase and its then-CEO, president, and founder, Roger Dumoulin-White, were sanctioned by the Ontario Securities Commission for failing to provide complete and accurate public disclosure regarding the TLC-2000. The OSC found that between 2006 and 2017, Theralase and Mr. Dumoulin-White had issued disclosure in a manner contrary to National Instrument 51-102 and the public interest.

Pursuant to a settlement agreement, the OSC ordered Mr. Dumoulin-White to pay a \$250,000 administrative penalty, required him to immediately resign as a director and officer of Theralase, banned him from holding those positions at any reporting issuer for 5 years, and barred him from engaging in investor communications and disclosure activities.

As part of the settlement, Theralase and Mr. DuMoulin-White admitted that certain of Theralase’s disclosure may have misled investors regarding the regulatory approvals obtained with respect to the TLC-2000.

¹ [*Theralase Technologies Inc. v John Doe No. 1, 2025 ONSC 6524.*](#)

Following his resignation, Mr. Dumoulin-White remained involved with Theralase as Director of Business Development. In 2019, Theralase's CFO and Mr. Dumoulin-White's spouse, Kristina Hachey, was appointed to Theralase's Board of Directors. Once the 5-year ban expired, Mr. Dumoulin-White was reappointed as CEO and Chair of the Board.

The defendant, James Bryson, a retired video store owner living on a fixed income, had invested in Theralase in 2014. In addition to following Theralase's public disclosures, news releases, scientific reports, interviews and other materials, Mr. Bryson often engaged in a stock-specific forum for Theralase on CEO.CA, an online platform for investor discussions about the company.

On the morning of September 24, 2020, hours prior to Theralase's Annual General Meeting to elect its Board of Directors, Theralase announced the FDA had rejected its latest application for fast-track approval of one of its treatments. Theralase also announced the protocol for voting at the upcoming AGM. The press releases were posted in the CEO.CA forum.

In response, Mr. Bryson made a single post sharing his opinion regarding Theralase's management and urging other investors to vote against re-electing Theralase's Board of Directors at the upcoming AGM.

The Claim

Theralase, Mr. Dumoulin-White and Ms. Hachey sued Mr. Bryson and 35 other individuals for defamation, complaining of 350 posts about Theralase made on two different online investor forums. With respect to Mr. Bryson's single post, the plaintiffs sought \$2,000,000 in general, aggravated and punitive damages.

When Theralase sought to move the matter forward in January 2025, Mr. Bryson brought a motion to dismiss the action against him as a SLAPP suit pursuant to s. 137.1 of the *Courts of Justice Act*.

The Anti-SLAPP Motion

The test under s. 137.1 requires a defendant to establish that the proceeding arises from an expression that relates to a matter of public interest. There was no dispute that Mr. Bryson's post, which commented on the management of a publicly traded company, met this threshold.

Accordingly, the burden then shifted to the plaintiffs to establish grounds to believe that the proceeding had substantial merit, that Mr. Bryson had no valid defences, and that the public interest in allowing the claim to proceed outweighed the public interest in Mr.

Bryson's expression. The Honourable Justice Leiper held that the plaintiffs had failed to meet their burden.

First, Justice Leiper held that Theralase and Ms. Hachey had not established that their claim in defamation had substantial merit, since the words of Mr. Bryson's post were not defamatory of them on their face and they had failed to specifically plead alleged inferential meanings behind the words.

While Mr. Bryson's post contained a comment about Mr. Dumoulin-White having been "sanctioned by the OSC for extensive falsehoods", which could be defamatory, Justice Leiper held that the defence of honest comment applied. In particular, the comment related to a matter of public interest, was recognizable as a comment, was grounded in the factual foundation of Mr. Dumoulin-White's publicly reported OSC sanctions, and was an opinion that a person could hold based on that factual foundation. Finally, there was no evidence of malice; rather, Mr. Bryson was an engaged investor whose interests were aligned with those of the company.

Second, Justice Leiper held that the plaintiffs failed to establish that the harm they suffered or would suffer as a result of the post outweighed the harm to Mr. Bryson's free expression. In particular, other than bald statements of alleged impacts on their reputations, the plaintiffs did not tender any actual evidence of harm, let alone evidence warranting damages in the realm of \$2,000,000. Given that Mr. Bryson's post was only one of more than 350 posts by 35 other defendants, Justice Leiper found that the plaintiffs had not established that the claim against him, for which there was a viable defence, would warrant anything beyond nominal damages.

Justice Leiper also considered the presence of two indicia of a SLAPP: the imbalance of power between the parties and evidence that the plaintiffs had demonstrated a pattern of litigation to suppress public comment.

Accordingly, Justice Leiper granted Mr. Bryson's motion and dismissed the defamation action against him. Justice Leiper awarded Mr. Bryson full indemnity costs by virtue of s. 137.1(7) of the *CJA* as well as \$25,000 in damages in accordance with s. 137.1(9), which permits an award of damages where the proceeding was brought in bad faith or for an improper purpose.

Conclusion

In a time of increasing uncertainty around Ontario's anti-SLAPP legislation, this decision marks a straightforward application of the law to the precise type of proceeding that the legislation was intended to redress.

The decision also suggests that plaintiffs in multi-defendant defamation actions ought to take care in particularizing the claims against each defendant, especially in cases where the words complained of for each defendant arise from different publications.

Theralase is appealing.