

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *A.B. v. Bragg Communications Inc.*, 2011 NSCA 26

**Date:** 20110304

**Docket:** CA 330605

**Registry:** Halifax

**Between:**

A.B. by her Litigation Guardian, C.D.

Appellant

v.

Bragg Communications Incorporated, a  
body corporate, The Halifax Herald Limited,  
a body corporate, and Global Television

Respondents

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**Restriction on Publication:** pursuant to the decision of Oland, J.A. (2010 NSCA 57)

**Judge:** The Honourable Mr. Justice Jamie W.S. Saunders

**Appeal Heard:** December 7, 2010

**Subject:** **On-line bullying. Privacy. Facebook. Defamation. Freedom of the Press. Charter. Open-Court Principle. Public Interest. Interlocutory, Discretionary Order. Standard of Review.**

**Summary:** A teenager, victimized by on-line bullying appealed a Chambers judge's decision which rejected her request that she be permitted to pursue an action in defamation by concealing her identity through the use of a pseudonym, or that a publication ban be imposed such that the public would be denied access to the words posted on Facebook, which she claimed were defamatory.

**Held:** Appeal dismissed. Defamation is a claim that one's reputation has been lowered in the eyes of the public. To initiate an action

for defamation, one must present oneself and the alleged defamatory statements before a jury and in open court. To be able to proceed with a defamation claim under a cloak of secrecy is contrary to the quintessential features of defamation law. When injury to reputation is alleged, it is hardly surprising that personal and potentially embarrassing details will be disclosed. But that is the reality of pursuing litigation in Canadian courts, where the open-court principle is enshrined. It would be contrary to the public interest in a case of this kind to permit a plaintiff who had initiated such an action, to then pursue her claim anonymously, with her identity kept secret.

Obliging the appellant to bring her action in open court, with unrestricted publication of these proceedings will inform citizens that the appellant is taking legal action to obtain redress for the alleged lies that have been posted on Facebook. Should she be successful, one might expect that she will be lauded for her courage in defending her good name and rooting out on-line bullies who lurk in the bushes, behind a nameless IP address. The public will be much better informed as to what words constitute defamation, and alerted to the consequences of sharing information through social networking among “friends” on a 21st Century bulletin board with a proven global reach.

**This information sheet does not form part of the court’s judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 28 pages.**