

**COURT FINDS THAT A SUPERVISOR'S DEFAMATORY DISMISSAL LETTER ASSERTING
ULTIMATELY UNSUBSTANTIATED THEFT ALLEGATIONS IS ENTITLED TO THE
DEFENCE OF QUALIFIED PRIVILEGE**

Litster v. B.C. Ferry Corp. and Taylor, 2003 BCSC 557

B.C. Ferry Corp. terminated the employment of an employee with 20 years' service, arguing that it had just cause to dismiss her for taking paint and related products. The employee's Supervisor provided her with a dismissal letter which set out the Company's case and then circulated the letter to six senior staff representatives. The dismissal letter stated in part:

[The employee] admitted to taking paint and you gave the explanation that the paint was still in your possession after approximately six to eight months because you had not yet taken it to a recycling depot. Your explanations are not acceptable to the Corporation. It is the Corporation's view that you had no authorization to take the materials in your possession, and that those materials had a value to the Corporation. You hold a position of trust as terminal manager and that trust has been irreparably damaged by your actions. The Corporation therefore cannot continue the employee and employer relationship and as a result you are terminated.

The employee commenced an action for damages for wrongful dismissal from the Company and for defamation as against her Supervisor.

At trial, the Judge determined that based on the employee's explanation of her intention to remove the paint, as well as the credibility and reasonableness of her testimony, the Company had not established just cause and therefore owed damages for the failure to provide reasonable notice (15 months).

However, the Judge denied the employee's defamation claim against her Supervisor. The Judge found that while the dismissal letter had defamed the employee, the employee's Supervisor was entitled to the defence of qualified privilege. The Judge held that the employee was unable to defeat the defence because **(a)** the publication of the dismissal letter was not broader than necessary (the Supervisor had a legitimate interest in the course of his employment duties in advising the recipients and each recipient had a corresponding interest in receiving the information in discharging their employment duties) and **(b)** the Supervisor was not reckless in making the statements he did in the dismissal letter and he had not acted maliciously.