

**DATE: 20050111**  
**DOCKET: C42157**

**COURT OF APPEAL FOR ONTARIO**

**RE:                   CHRIS PORTER (Plaintiff/Appellant) v. ROBINSON SHEPPARD  
SHAPIRO AND MARIELLA DE STEFANO  
(Defendants/Respondents)**

**BEFORE:           McMURTRY C.J.O., CATZMAN AND LANG J.J.A.**

**COUNSEL:       Christopher Ashby  
for the appellant**

**D. Bruce MacDougall  
for the respondents**

**HEARD &       January 11, 2005  
ENDORSED:**

**On appeal from the order of Justice R. Pitt dated June 29, 2004.**

**APPEAL BOOK ENDORSEMENT**

[1]       We are of the view that the words complained of by the appellant in both statements of claim are capable of a defamatory meaning and therefore the appellant is entitled to have a trial of that issue.

[2]       With respect to the defence of qualified privilege, we are of the opinion that the evidentiary basis before the motions judge was not sufficient to resolve that question at this early stage of the litigation.

[3]       The appeal is therefore allowed and the decision of the motions judge is set aside. The appellant is entitled to his costs before the motions judge fixed in the amount of \$6,792.97 and of the appeal in the amount of \$4,727.06.