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SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

JUL - 6 2010



BETWEEN:

IN THE SUPREME COURT OF BRITISH COLUMBIA

No.
Vancouver Registry

BRITISH COLUMBIA TEACHERS' FEDERATION

PLAINTIFF

AND:

RICHARD WALKER

DEFENDANT

NOTICE OF CIVIL CLAIM

Plaintiff's Address: British Columbia Teachers' Federation, c/o Suite 100, 550 West 6th Avenue,
in the City of Vancouver, in the Province of British Columbia.

Defendant's Address: Richard Walker, c/o Holmes & King, 1300-1111 West Georgia Street,
Vancouver, British Columbia, V6E 4M3.

This action has been started by the plaintiff(s) for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,

- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

Part 1: STATEMENT OF FACTS

1. The Plaintiff, British Columbia Teachers' Federation ("BCTF") is a society with a registered office at Suite 100, 550 West 6th Avenue, in the City of Vancouver, in the Province of British Columbia.
2. The Defendant, Richard Walker ("Walker") is a teacher with the Comox Valley School District; a member of the Comox Valley Teachers' Association; a member of the BCTF; and, the current Chair of the BC College of Teachers (the "College"); and, has an address for delivery of Holmes & King, 1300-1111 West Georgia Street, Vancouver, British Columbia, V6E 4M3.
3. The BCTF represents approximately 41,000 teachers in British Columbia, which representation includes collective bargaining; professional development; and, the administration of health, disability, and other benefits for its members.

Defamatory Article

4. On May 6, 2010, on page A15 in the "Issues and Ideas" section of the Vancouver Sun newspaper, Richard Walker authored an article (the "Article") under the title "BCTF's control of college of teachers is unacceptable". The relevant portions of the Article are set forth below:

THE VANCOUVER SUN

BCTF's control of college of teachers is unacceptable

Since 2003, 270 complaints have been made by parents and other members of the public against teachers. Not one of these complaints has resulted in the discipline of a teacher. This "person complaint" process was one that was introduced in 2003 and was fiercely opposed by the B.C. Teachers' Federation.

The fact that the college has not taken disciplinary action on even one of those complaints in seven years raises serious questions about how the BCTF uses its influence on the college council to protect individual teachers, rather than protect the public interest.

This sobering state of affairs is important for the public to consider as government delays in responding to the unprecedented April 6 request to appoint an independent investigator into the operation of the college, the body charged with regulating the teaching profession in the public interest. The call for an inquiry was made by 11 of the 20 members of council and comes from their long-standing concern that the college functions less in the public interest than in the interest of the British Columbia Teachers' Federation.

...

...

They [the BCTF] also continue to assert that only the most serious offences by teachers (serious is undefined) should be reported to the college by school boards. This could prevent the college from acting at the first sign of conduct called "grooming," which is behaviour designed to pave the way for an inappropriate and often sexual relationship with a student. Tom Ellison is but one example that everyone can look back on to understand how critical it is that we are vigilant in watching for grooming behaviours.

The college must have councillors who are, and are seen to be, independent. Councillors can't accept union endorsement – it comes with expectations and strings-attached. Instead of attending meetings limited to BCTF members and designed to promote member interests, college councillors must advocate for open meetings where all partner groups are represented.

Council members must recognize that they work for the safety of students in the public interest and are not representatives of their members. The BCTF must understand that their extensive policy framework, intended to guide its endorsed members of the college and limit the college's function, is completely unacceptable.

Children are put at risk and public confidence in schools eroded when interest groups and advocacy bodies unduly influence the college.

Regulatory bodies such as the college, that serve and protect the public, are one of the critical pillars of our society. The control the BCTF currently exercises over the college is unacceptable. Continuing with the status quo is not an option.

What is the minister waiting for?

Part 2: RELIEF SOUGHT

1. A Declaration that the Vancouver Sun Article entitled "BCTF's control of college of teachers is unacceptable" dated May 6, 2010 defames the Plaintiff;
2. A Declaration that, in authoring the Article, Richard Walker was motivated by malice and acted in bad faith;
3. General damages;
4. Special damages;
5. Aggravated damages;
6. Punitive and exemplary damages;
7. Interest pursuant to the *Court Order Interest Act*;
8. Special costs, or in the alternative, costs; and,
9. Such further and other relief as this Honourable Court may deem just.

Part 3: LEGAL BASIS

1. The matters alleged in the Article are false and untrue, and in particular:
 - (a) the BCTF does not interfere in the discipline process of the College in order to protect its interests, or those of its members. Further, 65% of the 270 "person complaints" referred to by Walker in the Article were not pursued by the Registrar of the College (rather than any Councillor of the College); and, the balance of the "person complaints" were either dismissed or otherwise resolved pursuant to the regular disciplinary proceedings of the College;
 - (b) the BCTF does not exert undue influence upon the disciplinary processes of the College;
 - (c) the BCTF does not put its interests, or those of its members, before the interests of students, including the safety of students; and,

- (d) the BCTF bears no responsibility for the acts or omissions of Tom Ellison, a convicted sex offender,
2. In their natural and ordinary meaning, the words contained in the Article are defamatory of the BCTF and were intended to, or in the alternative, were likely to and did produce injury and loss to the reputation of the BCTF. Particulars of the defamation set forth in the Article are:
- a. that the BCTF puts its own interests, and the interests of its members, ahead of the interests of students, including their safety;
 - b. that the BCTF exerts undue influence upon the College generally, and the Council of the College particularly, to protect its members;
 - c. that the BCTF has unduly influenced the workings of the Council and/or the College to benefit the BCTF and its members, rather than the "public interest", or students;
 - d. that the BCTF knowingly and improperly interferes in the College's discipline process concerning its members in order to protect those members; and,
 - e. that the undue influence exerted by the BCTF upon the College contributed to or enabled the acts and omissions of Tom Ellison, a convicted sex offender, or could contribute to similar acts in the future.

Innuendo

3. Further, or in the alternative, by way of innuendo, the Article was meant and was understood to mean:
- (a) the BCTF places its interests, and those of its Members, before students and disregards the interests of students, including their safety;
 - (b) the BCTF exerts undue influence upon Councillors of the College;
 - (c) the BCTF interferes in the discipline process of the College to protect its own interests, and those of its Members; and

- (d) due to the foregoing, Tom Ellison, a convicted sex offender, was able to commit criminal acts, or alternatively, the BCTF contributed to his criminal acts.

Malice

4. Further, Walker was motivated by and acted with actual or express malice in authoring the Article. Particulars of malice presently within the knowledge of the BCTF are:
- (a) the BCTF repeats and relies upon the facts and matters set forth in paragraphs 5, 6 and 7 herein;
- (b) Walker desired that the Provincial Government, and in particular, the Minister of Education, intervene in the affairs of the College with an aim to remove the recognized and legitimate involvement of the BCTF as a stakeholder in the affairs of the College; and,
- (c) Walker bears personal animus toward the BCTF and its aims and objectives. His agenda is to minimize and, if possible, extinguish the recognized and legitimate role of the BCTF as a stakeholder in the affairs of the College.
5. In the premises, Walker authored the Article knowing that contents of the Article were false; reckless as to their falsity; or, not caring whether they were true or false, in order to achieve his personal agenda.
6. The conduct of Walker described herein also amounts to bad faith.
7. By reason of the facts and matters aforesaid, the BCTF has suffered loss and damage and will continue to do so.

Plaintiff's' address for service:

Taylor Veinotte Sullivan
Barristers
Suite 300 – 1168 Hamilton Street
Vancouver, B.C. V6B 2S2
Attention: Carey D. Veinotte

Fax number address for service (if any):

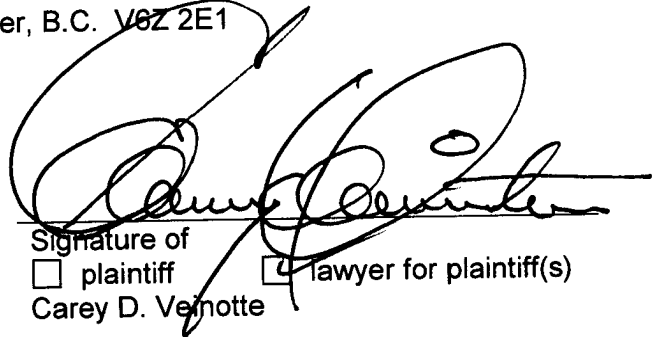
604-687-7384

E-mail address for service (if any): cv@tvsbarristers.com

Place of trial: Vancouver, British Columbia

The address of the registry is: 800 Smithe Street
Vancouver, B.C. V6Z 2E1

Date: 06/Jul/2010


Signature of
☐ plaintiff ☒ lawyer for plaintiff(s)
Carey D. Veinotte

This **NOTICE OF CIVIL CLAIM** was prepared by the law firm of Taylor Veinotte Sullivan, Barristers (Attention: Carey D. Veinotte), Suite 300 – 1168 Hamilton Street, Vancouver, British Columbia, V6B 2S2, Telephone: (604) 687-7007.

Rule 7-1(1) of the Supreme Court Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
 - (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.

APPENDIX

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

Defamation Action.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

- ☐ a motor vehicle accident
- ☐ personal injury, other than one arising from a motor vehicle accident
- ☐ a dispute about real property (real estate)
- ☐ the lending of money
- ☐ the provision of goods or services or other general commercial matters
- ☐ an employment relationship
- ☐ a dispute about a will or other issues concerning the probate of an estate
- ☒ a matter not listed here