

**MUTTART TUFTS DEWOLFE & COYLE**

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August 27, 2007

The Honourable Justice Gregory M. Warner  
SUPREME COURT  
87 Cornwallis Street  
KENTVILLE, NS B4N 2E5**RECEIVED & FILED**  
21 8. [AU] 2007  
Court Administration Office  
Kentville Justice Centre

My Lord:

**RE: The Canadian Federation of Students and Acadia Students' Union  
S.K. No. 10,711**

This matter is currently scheduled for a four (4) day trial commencing on December 10, 2007 and continuing to December 13, 2007 (with the possibility of written as opposed to oral submissions at the end of the trial if it goes four days).

At the time of the Date Assignment Conference, Mr. Coyle was representing the Acadia Students' Union. Mr. Coyle is no longer with our office and I have assumed carriage of this matter. I will be representing the Acadia Students' Union at trial.

We are requesting that a pre-trial conference be arranged so that we can discuss issues related to the production of documents, the position of the Defendant, the length of the trial and the possibility of arranging a Settlement Conference.

With respect to these issues, we provide the following summaries:

**Production of Documents**

In reviewing the file and, in particular, in reviewing the List of Documents filed by the Plaintiffs, it became apparent that the disclosure of documents is not complete in that there are certain sections missing from certain relevant documents produced by the Plaintiffs. We have recently requested that the Plaintiffs provide the requested information and we expect that it will be

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produced in the near future. While we do not anticipate the need for making any applications for the disclosure of the requested information, these documents will be necessary for the trial.

**Position of the Defendant**

With the change of solicitors, there will also be a subtle change in the defence offered by the Acadia Students' Union. This 'change' in position may (with the leave of the Court) require an amendment to the Defence filed by the Acadia Students' Union.

With respect to its position respecting the claim advanced by the CFS, the Defendant maintains that, as a result of a referendum held in February 1996, it withdrew from the CFS and the Defendant further maintains that the method of withdrawing was in accordance with the ByLaws of the CFS in force at the time of the withdrawal.

The Plaintiffs argue that the relevant sections of the ByLaws (respecting de-federating) were amended at the May 1995 National General Meeting. The Plaintiffs maintain that the Defendant did not adhere to the amended ByLaws and, in particular, that the Defendant did not abide by the newly added clause establishing a 'minimum period between de-federating votes'.

The Constitution and ByLaws of the CFS contain certain provisions (By-Law XV) respecting the amendment of the Constitution and Bylaws. In response to the position advanced by the Plaintiffs, the Defendant submits that the Constitution and ByLaws of the CFS were not properly amended (as alleged by the Plaintiffs) and, as such, the amendments relied upon by the Plaintiffs are invalid and of no force and effect.

With respect to the defence, the Defendant continues to deny that it is a party to any contract of membership with the CFS (paragraph 4 of the Defence) and the Defendant also continues to state that it has not been a member of the CFS since 1996 (paragraph 5). The Defendant continues to deny that there is a valid and subsisting contract between itself and the CFS and the Defendant argues that the sections of the Constitution and ByLaws being relied upon by the Plaintiffs (to establish a valid and subsisting contract) are void.

The Defendant will not be advancing a position based upon section 2 of the *Charter* as outlined in paragraph 11 of the Defence.

The position being advanced by the Defendant may require an amendment to the Defence and, if so, the Defendant is seeking leave to amend the Defence.

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**Issue(s)**

The Plaintiffs maintain that, notwithstanding the referendum held on February 1, 1996, the Defendant is still a member of the CFS. The Plaintiffs assert that the referendum was not valid as the Defendant did not abide by the amended Constitution and Bylaws. The Defendant submits that the amendments being relied upon by the Plaintiffs are not valid.

We submit that the primary issue before the Court is whether the amendments to the Constitution and ByLaws of the CFS (as it related to the establishment of a minimum period between de-federating votes) were valid.

From the Defendant's perspective, if the amendments were not valid then the de-federating referendum held on February 1<sup>st</sup>, 1996 was binding on the CFS and the Defendant is not a member of the CFS.

If, on the other hand, the amendments were valid, then the Defendant did not abide by the de-federating provisions of the amended Constitution and ByLaws and the Plaintiffs are entitled to damages.

On the issue of damages, assuming that the Plaintiffs are able to establish a claim (which the Defendants deny), the Defendant does not agree that the damages represent those dues owed from 1995/1996 to the date of the action (December 21, 2001).

**Advance Motions**

With the exception of a possible application for leave to amend the Defence, we will not be making any advance motions and we can advise that we will not be making application pursuant to CPR 25.01 as suggested at the Date Assignment Conference.

**Length of Trial**

We estimate that the trial of this matter will take a maximum of two (2) days (1 day for the Plaintiffs and 1 day for the Defendant). In our view, the four (4) days currently set for this matter are excessive.

**MUTTART TUFTS DEWOLFE & COYLE****Ms. Lynn M. Connors**

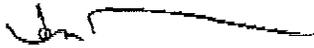
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**Settlement Conference**

We understand that, at the Date Assignment Conference, Ms. Connors submitted that a settlement conference would be helpful. We agree and, assuming that the Plaintiffs are still prepared to attend, we request that a settlement conference be scheduled.

All of which is respectfully submitted,

**MUTTART TUFTS DEWOLFE & COYLE**

Tom MacEwan

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