

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: ***Byers et al v. The Cariboo College
Student Society,***
2006 BCSC 461

Date: 20060209
Docket: 38229
Registry: Kamloops

Between:

Nicholas Byers and Brent Foster

Petitioners

And:

**The Cariboo College Student Society
(Incorporation #S14199)**

Respondent

Before: The Honourable Mr. Justice R.M. Blair

Oral Reasons for Judgment

February 9, 2006

Appearing on his own behalf: N. Byers

Appearing on his own behalf: B. Foster

Counsel for the Defendant: D. Crane

Place of Trial/Hearing: Kamloops, B.C.

[1] **THE COURT:** The petitioners, Nicholas Byers and Brent Foster, seek an interlocutory injunction to halt a referendum presently under way for students at Thompson River University, formerly the University College of the Cariboo.

[2] The respondent, The Cariboo College Student Society, or Cariboo Society, is holding the referendum to determine whether the students at T.R.U. favour joining the Canadian Federation of Students, which I will refer to as the Federation.

[3] The petitioners submit that the referendum should be conducted pursuant to the rules of the Cariboo Society, not the rules of the Federation. The petitioners submit that the Federation rules are significantly different from those of the Cariboo Society rules with respect to the holding of a referendum and that those differences have worked an unfairness in the referendum process.

[4] The referendum has been conducted over February 7 and 8 and continues today, ending, I believe, at 6:30 this afternoon.

[5] The relief requested is succinct. Halt the referendum. I am not prepared to do so at this time with the referendum process nearly complete. An essential ingredient in granting such an injunction is that the judge hearing the application be satisfied that failure to grant the injunction will result in irreparable harm. I am not satisfied that the petitioners have shown irreparable harm will result with the continuation of the vote.

[6] By refusing to grant the application for the injunction, I am not precluding the petitioners from pursuing their action further against the Cariboo Society for what the

petitioners believe to have been breaches of the Cariboo Society's constitution and bylaws in the manner in which the Society permitted the referendum to be conducted.

[7] I have not heard from the parties with regard to costs. I am going to direct that there be no costs payable in this application. Each side will bear their own costs.

[8] I would also just like to add that the manner in which this application was brought by Messrs. Byers and Foster was commendable and I appreciate the submissions they made. I thank you both for that. Mr. Crane, you are a professional. You are expected to do it. Thank you.

“R.M. Blair, J.”
The Honourable Mr. Justice R.M. Blair