



C972032

No.
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

**CANADIAN FEDERATION OF STUDENTS,
CANADIAN FEDERATION OF STUDENTS BRITISH COLUMBIA COMPONENT and
CANADIAN FEDERATION OF STUDENTS-SERVICES**

PLAINTIFFS

AND:

CARIBOO COLLEGE STUDENT SOCIETY

DEFENDANTS

WRIT OF SUMMONS

(Name and address of each Plaintiff):

Canadian Federation of Students
Canadian Federation of Students British Columbia Component
Canadian Federation of Students-Services
2344 Spruce Street
Vancouver, British Columbia
V6H 2P4

(Name and address of each Defendant):

Cariboo College Student Society
900 College Drive
PO Box 3010
Kamloops, British Columbia
V2C 5N3

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom, Canada and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.
TO the Defendant(s): **Cariboo College Student Society**

TAKE NOTICE that this action has been commenced against you by the Plaintiff(s) for the claim(s) set out in this Writ.



IF YOU INTEND TO DEFEND this action, or you have a set-off or counterclaim which you wish to have taken into account at the trial, YOU MUST GIVE NOTICE of your intention by filing a form entitled "Appearance" in the above registry of this Court within the Time for Appearance endorsed hereon and YOU MUST ALSO DELIVER a copy of the "Appearance" to the Plaintiff's address for delivery, which is set out in this Writ.

YOU OR YOUR SOLICITOR may file the "Appearance". You may obtain a form of "Appearance" at the Registry.

IF YOU FAIL to file the "Appearance" within the proper Time for Appearance, JUDGMENT MAY BE TAKEN AGAINST YOU without further notice.

TIME FOR APPEARANCE

Where this Writ is served on a person in British Columbia, the time for appearance by that person is 7 days from the service (not including the day of service).

Where this Writ is served on a person outside British Columbia, the time for appearance by that person, after service, shall be 21 days in the case of a person residing anywhere within Canada, 28 days in the case of a person residing in the United States of America, and 42 days in the case of a person residing elsewhere. The Court may shorten the time for appearance on ex parte application.

(1) The address of the registry is:

800 Smithe Street
Vancouver, British Columbia.
V6Z 2E1

(2) The address for delivery is:


2414 - 1055 Dunsmuir Street
P. O. Box 49122 - Bentall IV
Vancouver, British Columbia.
V7X 1J1
Fax number for delivery (if any): (604) 683-3558

(3) The name and office address of the Plaintiff's solicitor is:

J. Geoffrey Howard
GOWLING, STRATHY & HENDERSON
Barristers and Solicitors
2414 - 1055 Dunsmuir Street
P. O. Box 49122 - Bentall IV
Vancouver, British Columbia
V7X 1J3 (604) 683-6498

The Plaintiff's claim is: (see attached Statement of Claim)

Dated: ~~March~~ ^{April 1,} 1997


Solicitor for Plaintiff(s)

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CANADIAN FEDERATION OF STUDENTS,
CANADIAN FEDERATION OF STUDENTS BRITISH COLUMBIA COMPONENT and
CANADIAN FEDERATION OF STUDENTS - SERVICES

PLAINTIFFS

AND:

CARIBOO COLLEGE STUDENT SOCIETY

DEFENDANT

STATEMENT OF CLAIM

1. The Plaintiff, Canadian Federation of Students ("CFS"), is a corporation incorporated under the *Canada Corporations Act*, with its head office in the City of Ottawa, in the Regional Municipality of Ottawa-Carleton, in the Province of Ontario.
2. The Plaintiff, Canadian Federation of Students British Columbia Component ("BCCFS"), is a society incorporated pursuant to the laws of British Columbia with its head office in the City of Vancouver.
3. The Plaintiff, Canadian Federation of Students - Services ("Services"), is a corporation incorporated under the *Canada Corporations Act* with its head office in the City of Toronto, in the Province of Ontario.



4. The Defendant is a society incorporated pursuant to the laws of British Columbia and carries on its activities at Cariboo College.

5. The Defendant was, until August 31, 1995, a member of the Plaintiffs and as such was governed by the Constitution and By-laws of the Plaintiff (the "By-Laws"). Under By-Law I, the Defendant was a voting member of the Plaintiffs.

6. The Constitution and the By-Laws of CFS and Services constitute binding contracts as between the parties, which include the Defendant. By-Law I(a) specifically states:

A written application for membership submitted by an eligible local student association will be considered as a binding contract to accept the rights and responsibilities of membership.

7. The Defendant applied for membership, which application was accepted and ratified by the Plaintiffs, in accordance with By-Law I(4)(a) through (d). By-Law I(3)(c)(ii) provides that each voting member must ensure that fees are collected each year at its institution and remitted to the Plaintiffs.

8. The Plaintiffs and the Defendant also entered into a Fee Agreement with the Plaintiffs dated October 26, 1987 (the "Fee Agreement") which provided inter alia:

- a. all fees for membership in Plaintiffs collected by Defendant shall be held in trust and paid to the Plaintiffs within 30 days of receipt by the Defendant;
- b. the Defendant agreed to be bound by the Plaintiffs' By-Laws;

- c. 10% interest or such other rate as may be set by the Plaintiffs (the "Default Rate") would be payable on fees not remitted in accordance with the Fee Agreement.

9. In or about October 17-20, 1994, the Defendant held a referendum on the Defendant's membership in the Plaintiffs. As a result of the referendum vote, the Defendant determined to withdraw from the Plaintiffs, and the Plaintiffs accepted that decision on the condition that all fees owing to the end of the current fiscal year be remitted.

10. Pursuant to the By-Laws, the Defendant was only entitled to withdraw from the Plaintiffs effective at the end of the then current fiscal years for CFS/Services and BCCFS, being June 30, 1995 and August 31, 1995 respectively.

11. Up until approximately November 1994, representatives of the Defendant continued to participate in the Plaintiff's activities. The Plaintiffs also made available to the Defendant and the Defendant's members used various resources and representational services of the Plaintiffs through and until August 31, 1995.

12. Notwithstanding the foregoing, the Defendant failed to remit its fees for the fiscal year ending August 31, 1995 in the amount of \$61,819.95, which fees were due and payable within 30 days of receipt, notwithstanding repeated demand therefor.

13. The Defendant's failure to remit the said fees is in breach of the By-Laws and the contract thereunder and the Fee Agreement described above and also constitute a breach of trust.

14. Subsequent to the Defendant's withdrawal from the Plaintiffs, the Plaintiffs discovered on reviewing the audited Financial Statements of the Defendant that it had failed to remit a portion of the fees payable to the Plaintiffs in the following other fiscal years:

1990 - 1991	\$ 1,930.12
1991 - 1992	8,748.14
1992 - 1993	1,102.21
1993 - 1994	<u>12,121.26</u>
Total:	\$23,901.73

which failures breached the By-Laws, the contract thereunder, the Fee Agreement and the Defendants obligations as trustee and the Plaintiffs claim judgment therefor.

15. The Defendant was required by the By-laws and express agreement with the Plaintiffs to pay delegate fees for its delegates who attended conferences held by the Plaintiffs. In 1992, the Defendant failed to pay \$700.00 in delegate fees for four delegates who attended such a conference and the Plaintiffs claim judgment therefor.

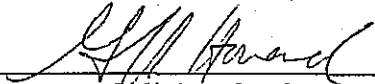
WHEREFORE the Plaintiffs claim:

- a. judgment for 1994-1995 for fees in the amount of \$61,819.95;
- b. judgment for other unpaid fees in the amount of \$23,901.73;
- c. judgment for unpaid delegate fees of \$700.00;
- d. in the alternative, damages and and accounting for breach of trust;
- e. Prejudgment interest at the Default Rate or, alternatively, thereon in accordance with the *Court Order Interest Act*;

f. Such further and other relief as to this Honourable Court may seem just.

Place of trial: Vancouver, British Columbia.

DATED: ~~March~~ ^{April} 1, 1997



Solicitor for the Plaintiffs

This Writ of Summons and Statement of Claim is issued by J. Geoffrey Howard, of the firm, **GOWLING, STRATHY & HENDERSON**, Barristers and Solicitors, whose place of business and address for delivery is 2414 - 1055 Dunsmuir Street, P.O. Box 49122, Vancouver, British Columbia, V7X 1J1 Telephone: 604-683-6498 Facsimile: 604-683-3558