

CANADA  
PROVINCE OF SASKATCHEWAN

IN THE QUEEN'S BENCH  
JUDICIAL CENTRE OF SASKATOON

BETWEEN:

**Robin Mowat**

PLAINTIFF

AND:

**University of Saskatchewan Students' Union**

DEFENDANT

**AMENDED NOTICE OF MOTION**

TAKE NOTICE THAT you are required to attend before the presiding judge in chambers at the Court House, 520 Spadina Crescent East, Saskatoon, Saskatchewan, on ~~Tuesday, the 6th day of June~~, Tuesday the 11<sup>th</sup> day of July, 2006, at 10:00 o'clock in the forenoon or so soon thereafter as there may be a judge in chambers and the application can be heard, on the hearing of an application on the part of the plaintiff for the following relief:

1. An order pursuant to s. 135 (2)(b) of **The Non-Profit Corporations Act, 1995** declaring the referendum deciding the question, "Are you in favour of membership in the Canadian Federation of Students?" held at the University of Saskatchewan between October 4 and 6, 2005 invalid.
2. An order pursuant to s. 135(2)(a) of **The Non-Profit Corporations Act, 1995** restraining the University of Saskatchewan Student's Union from joining the Canadian Federation of Students until the above noted issue is determined.
3. Or in the alternative, an order pursuant to s. 135 (2)(c) of **The Non-Profit Corporations Act, 1995** requiring a new referendum be held in compliance with the University of

Saskatchewan Student's Union Election Protocol and further declaring that any ceding of referendum organizing authority or oversight to an external third party with a direct, material financial interest in the outcome of the referendum is in violation of the University of Saskatchewan Students' Union Constitution and Election and Refenda Policy.

4. Or further in the alternative, an order pursuant to s.225 (2) (a) of The Non-Profit Corporations Act, 1995 restraining the University of Saskatchewan's Student Union from joining and/or participating as a member of the Canadian Federation of Students until the validity of the referendum is determined.
5. The costs of this motion.

On the following grounds:

6. Section 135(1) of The Non-Profit Corporations Act, 1995 allows a member of a Non-Profit Organization to apply to the court to determine any controversy respecting an election. Robin Mowat, as an undergraduate student of the University of Saskatchewan, is a member of the University of Saskatchewan's Students' Union ("USSU").
7. Section 225 (1) of The Non-Profit Corporations Act, 1995 allows a member of a non-profit organization to apply to the Court where the act or omission of the corporation is oppressive, unfairly prejudicial to any member or unfairly disregards the interests of any member.
8. In the fall of 2005, a referendum was held by the USSU to determine whether or not it should join the Canadian Federation of Students ("CFS") and, as required, to authorize a compulsory Canadian Federation of Students membership fee payable by each of the members of the University of Saskatchewan Student Union (the "Referendum") in perpetuity. Voting for the Referendum took place at various sites on the University of Saskatchewan campus between October 4 and 6, 2005. The referendum question read:

Are you in favour of joining the Canadian Federation of Students?

9. In order to administer the Referendum, the University of Saskatchewan Students' Council ("USC") constituted a CFS Referendum Oversight Committee ("ROC"), at a meeting held on September 29, 2005. The USC is the legislative body of the USSU.
10. The ROC was made up of two representatives from CFS and 2 representatives from the USSU. Representatives from a "no campaign" were not invited to be part of the Committee. The authorization of the CFS Oversight Committee empowered a Referendum Protocol at that time.
11. Prior to September 29, 2005 the legal framework for the operation of the referendum was the USSU's Election and Referenda Policy. Multiple violations of Part IV of the USSU Election and Referenda Policy took place prior to and after September 29, 2005 including specific violations of or failure to comply with each of the following sections of the Policy:

(a) Notice

1. Notice of the referendum must be received by the Chair or acting Chair of the USC no later than four (4) weeks prior to the expected vote of the referendum issue. This date shall be included in the Elections Schedule.
2. To ensure clarity and legal status, prior to the vote, the USSU solicitor must examine the wording of each referendum question. The solicitor has the right to alter the wording of referendum questions to ensure clarity and legal status, but must not alter the spirit and intent.
3. The CRO shall receive the referendum question, as approved by the USSU solicitor, no less than two weeks prior to the general voting.
4. The USSU must provide information to its membership about the subject of referenda in an unbiased manner.

(b) Campaigning

1. There shall be no advertising by or on behalf of any registered campaign prior to the information meeting, held in according to the Election Schedule.
2. Campaigning shall begin immediately following the information meeting and shall end at 4:00 on the final day of voting.

3. The campaign period shall be as outlined in the Election Schedule. Campaigning may begin upon the registration of a campaign, which may occur at any time after the notice of referendum is given.

...

8. Under no circumstances shall a registered campaign committee, or its representatives, deliver campaign speeches in regularly scheduled classes or labs.

...

10. Campaign limits will follow the attached schedule of Fair Market Value (FMV) campaign materials. In no case shall the total cost of campaigning for any one registered campaign committee in any one referendum exceed one thousand dollars (\$1,000.00) not including taxes, according to either the FMV schedule or actual costs. If a registered campaign committee's campaign material falls outside of the schedule, the material must be submitted to EB so that a FMV can be assessed.

12. The CFS Referendum Oversight Committee failed to comply with key regulations of its own Referendum Protocol, including the requirement of at least two weeks notice to voters of the referendum question and a minimum of 10 days of campaigning.
13. The referendum question, "Are you in favour of membership in the Canadian Federation of Students?" did not specify the creation of a dedicated student fee and failed to specify the amount of the fee, in violation of Article 11 of the USSU Constitution.
14. Citing multiple violations of USSU Referendum Policy, the CFS' Constitution and Bylaws, and the ROC's Referendum Protocol the USSU Elections Board declined to ratify the Referendum results on January 28, 2006.
15. On March 30, 2006 USC proceeded to itself ratify and accept the results of the Referendum as valid and therefore binding on the body of undergraduate students at the University of Saskatchewan.
16. In disregarding the decision of the Elections Board, and attempting, after the fact, to rewrite the Policy governing the referendum to no longer require ratification by the Elections Board, the University of Saskatchewan Council violated the Elections and Referendum

Policy of the USSU, the USSU Constitution and any reasonable interpretation of democratic standards.

17. As such, the University of Saskatchewan Students' Union has acted in a manner that is oppressive, and has unfairly prejudiced and disregarded the interests of its members by disregarding its own referendum policy, to join an organization that imposes a compulsory fee for membership.

AND FURTHER TAKE NOTICE that in support of the said application will be read:

- (a) Notice of Motion with proof of service thereof;
- (b) Affidavit of Robin Mowat;
- (c) Supplementary Affidavit of Robin Mowat;
- (d) ~~Affidavit of Evan Cole;~~
- (e) Affidavit of Victoria Coffin;
- (f) Affidavit of Trent Evanisky;
- (g) Affidavit of Jeremy Ring;
- (h) Affidavit of Dr. Lea Pennock;
- (i) Draft order; and
- (j) Argument in Brief.

DATED at the City of Saskatoon, Saskatchewan, this 19<sup>th</sup> day of May, 2006.

ROBERTSON STROMBERG PEDERSEN LLP

Per: "Jennifer D. Pereira"  
Solicitor for the Plaintiff, Robin Mowat

AMENDED at the City of Saskatoon, in the Province of Saskatchewan, this 19<sup>th</sup> day of June, 2006.

ROBERTSON STROMBERG PEDERSEN LLP

Per: 

Jennifer D. Pereira

Solicitors for the Plaintiff, Robin Mowat

If you do not attend either in person or by your solicitor at the time and place above mentioned, such order will be made in your absence as may seem just and expedient.

DATED at Saskatoon, Saskatchewan, this 18<sup>th</sup> day of May, 2006.

"BY LOCAL REGISTRAR (seal)

ILLA M. KNUDSEN"

Local Registrar

TO: University of Saskatchewan Student's Union  
Room 65, Place Riel Student Centre  
U of S Campus, Saskatoon SK, S7N 5A3

This Notice was issued by:

ROBERTSON STROMBERG PEDERSEN LLP  
Barristers & Solicitors  
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