

Court File No. CV-14-500766

ONTARIO
SUPERIOR COURT OF JUSTICE

KT/sp

B E T W E E N:

UNIVERSITY OF TORONTO GRADUATE STUDENTS' UNION
Plaintiff

- and -

CANADIAN FEDERATION OF STUDENTS and
CANADIAN FEDERATION OF STUDENTS - ONTARIO
Defendants

This is the Cross-Examination of BRAD EVOY on his
Affidavit affirmed the 5th day of May, 2014, held at the
Offices of VICTORY VERBATIM REPORTING SERVICES, Suite 900,
222 Bay Street, Ernst & Young Tower, Toronto-Dominion
Centre, Toronto, Ontario, on the 12th day of June, 2014.

APPEARANCES:

DANIEL DEL GOBBO

--- for the Plaintiff

TODD J. BURKE

--- for the Defendant,
Canadian Federation
of Students

TUDOR CARSTEN

--- for the Defendant,
Canadian Federation
of Students - Ontario

ANDREW MONKHOUSE

--- for Ashleigh Ingle

ALSO PRESENT:

Ashkan Hashemi

Walter Callaghan

Lucy Watson

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1 BRAD EVOY, affirmed

2 CROSS-EXAMINATION BY MR. BURKE:

3

4 1. Q. Good afternoon, Mr. Evoy.

5 A. Thank you. Good afternoon.

6 2. Q. Sir, you are the affiant in this
7 matter on behalf of the University of Toronto
8 Graduate Students' Union?

9 A. Yes, I am.

10 3. Q. And the answers you give today will
11 bind the Students' Union?

12 A. That is so.

13 4. Q. Right, and you swore your affidavit
14 or affirmed your affidavit on May 5th, 2014?

15 A. That is correct.

16 5. Q. And if you turn to page 28 of your
17 affidavit...

18 A. I certainly can.

19 6. Q. It's the last page, Mr. Evoy.

20 A. Yes, okay. Yes.

21 7. Q. That is your signature?

22 A. It is, and it is a short signature.

23 8. Q. Pardon, sir?

24 A. Oh, never mind.

25 9. Q. Okay, if you're going to make

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1 comments you have to make them audible and on the
2 record.

3 A. I certainly shall. My apologies.

4 10. Q. You have been affirmed today to tell
5 the truth?

6 A. I have.

7 11. Q. I understand, sir, that you were
8 elected in May of 2013 to serve as the USTGSU's
9 internal commissioner?

10 A. That is UTGSU, yes, that is correct.

11 12. Q. All right. At that time, Ms. Carr,
12 Veronica Carr, was elected as the external
13 commissioner?

14 A. She had been elected as external
15 commissioner, yes.

16 13. Q. And she resigned her position as
17 external commissioner effective October 1, 2013?

18 A. Correct.

19 14. Q. And as of November 1, 2013 you
20 assumed the responsibility as external commissioner?

21 A. As external commissioner, yes,
22 though I did some duties of the external
23 commissioner from October 1 to November 1, as per an
24 arrangement with the executive to redistribute
25 roles.

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- 1 15. Q. Yes. Did you maintain your position
2 as internal commissioner at that time?
3 A. During October 1 to November 1, is
4 that the question?
5 16. Q. Well, that's the first period.
6 A. Well, is that the question? Is the
7 question for the period?
8 17. Q. Yes, that's the question, Mr. Evoy.
9 A. Then yes.
10 18. Q. All right, and thereafter, as of
11 November 1, when you assumed the position as
12 external commissioner, were you also the internal
13 commissioner?
14 A. No.
15 19. Q. And who assumed those
16 responsibilities?
17 A. Those responsibilities were assumed
18 by our former executive at large, Jessica Gallinger.
19 20. Q. And as I understand your role as
20 external commissioner, it was to be the primary
21 liaison with organizations outside the university?
22 A. That is one of many roles, but yes,
23 that is one.
24 21. Q. All right, and that was a main role,
25 or a significant role of the external commissioner?

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- 1 I did not attend meetings of the CFS executive.
2 27. Q. No, you were never a member of the
3 CFS executive, were you?
4 A. No, I was not.
5 28. Q. Right, so therefore you would not
6 attend those meetings?
7 A. Correct.
8 29. Q. Right. You did attend annual
9 meetings of both the CFS and the CFSO?
10 A. I did.
11 30. Q. So you were familiar, when you
12 assumed the role as external commissioner, with the
13 bylaws of the CFS?
14 A. I have been familiar with the bylaws
15 for quite some time.
16 31. Q. So you have had an interest in the
17 CFS that predates your role as the external
18 commissioner?
19 A. I wouldn't so much call it an
20 interest. I definitely would say that I have been
21 academically engaged in questions around the...both
22 academic governance and in terms of student union
23 governance, and I have been engaged in previous
24 roles in student unions. Insofar as that, I would
25 perhaps say an interest, but more broadly...

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- 1 A. It is certainly one that I put a
2 great focus on.
3 22. Q. Yes, so it's a significant role?
4 A. I would say so.
5 23. Q. One of those organizations, sir, was
6 the CFS?
7 A. I maintained liaison with the CFS,
8 CFSO and...well, not really the CFS Services. I
9 didn't actually...I wasn't contacted formally on
10 Services matters, but otherwise.
11 24. Q. Part of your focus as external
12 commissioner was on the relationship between your
13 organization, UTGSU, and CFS?
14 A. That came about due to other
15 circumstances, but it was...I think more broadly my
16 focus was on wider external relations above and
17 beyond the CFS.
18 25. Q. But as part of that mandate, sir,
19 you focused on the CFS and the CFSO?
20 A. I think that is clear, yes.
21 26. Q. And I take it in that capacity as
22 external commissioner, you would have attended
23 meetings of the CFS and the CFSO?
24 A. In particular capacities, I did
25 attend meetings such as the annual general meeting.

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- 1 32. Q. Well, you had an interest to the
2 degree that you had familiarity with the bylaws
3 prior to becoming the external commissioner?
4 A. I think that is just a simple...you
5 know, one would need to have that level of clarity
6 if they're going to take on an executive position in
7 any of the student unions affiliated.
8 33. Q. Let me ask a simple question.
9 A. Yes.
10 34. Q. Maybe I'll get a simple answer, and
11 that is when did you first become aware of the CFS
12 bylaws?
13 A. As a construct, I would probably say
14 2008.
15 35. Q. 2008.
16 A. I would imagine.
17 36. Q. So you had familiarity from 2008 to
18 2013 with the CFS bylaws, prior to taking on the
19 role as external commissioner?
20 A. Yes.
21 37. Q. And you are aware that there are
22 individual members of the organization?
23 A. That is something that was
24 implemented later on in the federation's history,
25 but is currently the case, yes.

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- 1 38. Q. Yes, and was the case in 2013?
2 A. It is indeed.
3 39. Q. Yes, and was indeed?
4 A. Indeed.
5 40. Q. And there are voting members of the
6 organization?
7 A. That is correct.
8 41. Q. And the UTGSU was a voting member?
9 A. It was and is.
10 42. Q. And the bylaws set out the
11 responsibilities of the voting members?
12 A. They do.
13 43. Q. All right.
14 A. And they also assert the rights of
15 them as well.
16 44. Q. And if we turn, sir, to bylaw number
17 1...
18 A. Certainly so.
19 45. Q. ...which is found at tab B, and if
20 you turn to section 3 under "Membership Rights and
21 Responsibilities", and you turn to subsection C as
22 "Responsibilities of Voting Members", do you see
23 that?
24 A. Yes, I do indeed.
25 46. Q. And as part of the responsibilities

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- 1 A. I think I have already done so.
2 49. Q. All right. A simple yes will help
3 this process. Yes?
4 A. Yes.
5 50. Q. Thank you. It also requires each
6 voting member to abide by the provisions of the
7 bylaws as well?
8 A. This would be the general
9 presumption, yes.
10 51. Q. Yes, and you recognize that those
11 bylaws are contractually binding?
12 A. That is the general understanding of
13 the CFS bylaws and is something that the UTGSU has
14 upheld.
15 52. Q. All right. Now, you know of the
16 applicant, Ashleigh Ingle?
17 A. Yes, I know of her.
18 53. Q. And when did you first meet her?
19 A. I met her probably in...actually, I
20 can correct that in my head. I met her in September
21 of 2011.
22 54. Q. And do you have any personal or
23 social relationship with Ms. Ingle, or is it merely
24 a relationship through the UTGSU?
25 A. We served on the UTGSU executive

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- 1 of voting members it says:
2 "...Each voting member of the federation is
3 responsible for supporting the objectives
4 of the federation and will abide by all
5 provisions of these bylaws..."
6 Do you see that?
7 A. I do.
8 47. Q. Right, and you acknowledge that that
9 was an obligation of the UTGSU?
10 A. I would acknowledge that it is not
11 just an obligation, but it is a lived principle of
12 UTGSU. I think we carry out very actively the
13 objectives of the federation as defined in the early
14 sections of the bylaw in terms of the statement...in
15 terms of the general idea of...some of the notions
16 that are expressed particularly in the preamble
17 around the democratic organizing that we carry out,
18 the engagement in this common framework to
19 communicate and exchange ideas, and to
20 ultimately...I think the ultimate goal piece in
21 number 7 in the preamble is most certainly one of
22 the highest principles of the UTGSU, as it is with
23 the Canadian Federation of Students.
24 48. Q. All right. So you acknowledge, sir,
25 that 3(c)(i) is an obligation of the UTGSU?

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- 1 together, and became familiar with each other in
2 that fashion.
3 55. Q. And when was that?
4 A. That was in the previous year, so
5 2012 to 2013.
6 56. Q. And what position did Ms. Ingle
7 occupy?
8 A. She occupied the position of civics
9 and environment commissioner, while I
10 occupied...because I assume this will be a question,
11 the role of internal commissioner.
12 57. Q. And Ms. Ingle in 2013, the 2013/2014
13 academic year, did she hold any position within the
14 UTGSU?
15 A. She had briefly served as the chair
16 of our women in trans people caucus, but that role
17 was largely separate from our council and other
18 bodies. They are fairly independent, and they do
19 not regularly have contact with the executive unless
20 there is a matter of concern to the caucus.
21 58. Q. So she wasn't a member of the
22 executive?
23 A. No.
24 59. Q. And she wasn't elected to any office
25 within UTGSU?

1 A. No.

2 60. Q. Now, sir, if you go to your
3 affidavit...

4 A. Indeed.

5 61. Q. ...paragraph 15, you say:
6 "...On September 3rd, 2013 I became aware
7 that one of UTGSU's graduate student
8 members, Ashleigh Ingle, was leading a
9 student-run volunteer initiative to
10 circulate petitions calling for a
11 referendum on UTGSU's decertification from
12 CFS and CFSO to be held from March 24 to
13 March 28, 2014..."

14 Do you see that?

15 A. I do.

16 62. Q. All right, and was that the first
17 time you became aware?

18 A. That Ms. Ingle was leading a student
19 volunteer initiative to circulate petitions calling
20 for a referendum on UTGSU decertification from
21 CFSO and CFS to be held from March 24th to March
22 28th, 2014, yes.

23 63. Q. You had not had any information or
24 discussions with Ms. Ingle in advance of September
25 3rd, 2013 in relation to that particular issue?

1 70. Q. Okay, well, what was this purpose of
2 this meeting held out of the context of your regular
3 schedule?

4 A. Well, the meeting, itself, as you
5 can see, does move two motions in the later half.

6 71. Q. Yes.

7 A. And those motions came out of that
8 discussion, if that is what you're looking for.

9 72. Q. Well, no, I'm looking for why was
10 this meeting called?

11 A. We had in broad strokes heard rumour
12 that there may be concerns around...in the
13 membership around affiliation and disaffiliation
14 within the federation, but there was nothing really
15 concrete. We had decided that we would ask folks
16 who may have...who had spoken out with regards to
17 our membership in the federation in the past to see
18 if they were aware of any information. They did not
19 provide it, and we then allowed them to leave and
20 continued our discussion about other matters.

21 73. Q. Well, so why was that necessary to
22 have a meeting about that, at that time, outside the
23 regular schedule?

24 A. We had only heard of those rumours
25 around the period of the meeting. So we decided to

1 A. To that particular issue?

2 Q. The issue of her initiating a
3 petition for decertification from the CFS.

4 A. No, I had not.

5 64. Q. So this morning you were present
6 during Ms. Ingle's cross-examination?

7 A. Yes.

8 65. Q. And at that time I put to Ms. Ingle
9 an agenda.

10 A. Indeed.

11 66. Q. It's Exhibit 6, so your counsel will
12 put it before you, please?

13 A. Thank you.

14 67. Q. And this was a GSU executive meeting
15 highlights document. It says, "Date, Saturday, 31st
16 of August, 2013," its participants, the GSU
17 executive, and it lists those individuals, as well
18 as Ms. Ingle and Mr. Dumelie.

19 A. Yes.

20 68. Q. You were present?

21 A. I was.

22 69. Q. And this meeting was an emergency
23 meeting?

24 A. Emergency in as far as it was held
25 outside of our regular schedule.

1 take them seriously, as we strongly believe in our
2 overall responsibilities to our members and to the
3 federation.

4 So we wanted to make sure that we were
5 aware of how things were moving.

6 74. Q. All right. So do you have a policy
7 as to when you call an emergency meeting versus a
8 non, sort of, regularly scheduled meeting?

9 A. Not a policy per se. There
10 are...like, there are minor notice requirements, but
11 there is no directive as to what would...like, what
12 matters would constitute an emergency meeting. It
13 could be held at the will of the executive.

14 75. Q. All right, and this was held at the
15 will of an executive on a Saturday to talk about
16 rumours around the CFS. Is that what you're telling
17 me?

18 A. That is what I have said.

19 76. Q. All right, and Ms. Ingle attended?

20 A. The note says so.

21 77. Q. Well, what is your recollection,
22 sir?

23 A. I can't recall the exact specifics
24 of the meeting, but if the...beyond what I have
25 stated.

1 78. Q. You can't recall the exact specifics
2 of the meeting. You just told me what the meeting
3 was to discuss.

4 A. In terms of attendance. We had
5 wanted to canvass folks broadly. If the note says
6 they attended, then they attended.

7 79. Q. All right, and at that time, do you
8 have any recollection, sir, of what was discussed
9 with Ms. Ingle...

10 A. I have already given...

11 80. Q. ...around the CFS?

12 A. I have already broadly given that.

13 81. Q. Broadly given that. Do you have any
14 further recollection?

15 A. If I had, I would say so.

16 82. Q. All right, and sir, do you recall
17 her speaking about bringing a decertification
18 petition?

19 A. No.

20 83. Q. You have no recollection of that?

21 A. It was not discussed.

22 84. Q. Well, how can you be so certain
23 about that, sir, and you have a vague recollection
24 about everything else in generalities?

25 A. Well, I can be very...

1 barbecue. We felt they were kind of being a bit
2 aggressive, and I wanted...we wanted the ability to
3 speak about that in private.

4 87. Q. So it took two hours to...over two
5 hours, almost three hours, to reach these
6 referendums about barbecue and withdrawing your
7 representative? Is that what you're telling me?

8 A. To be clear, we hadn't actually
9 proposed the representative. We had approved that
10 potentially at the executive, but the executive
11 member was not comfortable to do so. That's why
12 that person was...

13 88. Q. Right, but you're telling me that
14 those two topics took two and a half hours, and you
15 can't remember anything else about the meeting?

16 A. I think that's simple due diligence
17 for the length of our meetings.

18 89. Q. All right.

19 A. We generally have long meetings.

20 90. Q. All right. So are you saying to me
21 that you have no recollection of the CFS
22 decertification petition being discussed?

23 A. I have already said clearly that
24 the...that a specific petition, as in the specific
25 petition that has been raised, was not. We did

1 MR. DEL GOBBO: Sorry, he has a vague
2 recollection as to who was in attendance at
3 the meeting. He didn't say he has a vague
4 recollection about everything else about
5 this meeting.

6 THE DEPONENT: We had heard rumour, as I
7 said, but there was no specific discussion
8 in the meeting about a petition being
9 served. We asked. We surveyed to see if
10 there was any information. We did not get
11 any specifics. We could not, therefore,
12 discuss specifics.

13 BY MR. BURKE :

14 85. Q. So if you wanted this to be so
15 transparent, why was it in camera?

16 A. We felt that we wanted to discuss
17 other matters following, and you know, allow the
18 executive to, you know, probe as much as we could.

19 86. Q. Well, what were the other matters
20 you were discussing following?

21 A. I believe you can see the two
22 motions that were put forward, and I think this
23 is...to be very clear about the first motion, we had
24 been contacted by the federation to attend our
25

1 hear, again, rumours that there was a potential
2 concern amongst the membership on these matters, and
3 we did not receive any specifics.

4 91. Q. Ms. Gallinger, is she still a member
5 of the UTGSU?

6 A. She is not.

7 92. Q. Is it Mr. Gebru? Is he still a
8 member?

9 A. He is.

10 93. Q. Mr. Matthew, Jaby Matthew?

11 A. I do not know actually if he is a
12 member.

13 94. Q. Akshita Kapila Vincent?

14 A. She is not.

15 95. Q. She is not. So Mr. Gebru remains a
16 member of the executive?

17 A. He is not a member of the executive,
18 no. He is a member of the UTGSU, which was the
19 question.

20 96. Q. All right. Is Ms. Gallinger a
21 member of the UTGSU?

22 A. I stated no.

23 97. Q. All right. Ms. Carr?

24 A. They have both finished their
25 studies.

- 1 98. Q. Ms. Carr has resigned from her
2 position as you already noted. So she would not be
3 a member of the UTGSU.
4 99. Q. Well, she resigned from her
5 executive position.
6 A. And she has...
7 100. Q. Does that necessarily mean that you
8 resign from your...all your membership?
9 A. No, not at all, but she has finished
10 her studies.
11 101. Q. She has finished her studies. So
12 the only person remaining as a member of UTGSU is
13 Mr. Gebru?
14 A. Correct.
15 102. Q. I would like you to speak to him
16 about his recollection as to what was discussed at
17 that particular meeting.
18 MR. DEL GOBBO: We'll make best efforts. U
19 103. MR. BURKE: Okay, and I would also like
20 the coordinates, last known address for Ms.
21 Carr, Ms. Gallinger, Mr. Gebru, Mr. Matthew
22 and Ms. Vincent.
23 MR. DEL GOBBO: To the extent that we
24 have that information, we'll undertake to
25 provide it. U

- 1
2 BY MR. BURKE :
3 104. Q. Now, why was Ms. Ingle chosen as a
4 guest and Mr. Dumelie chosen as a guest, versus
5 anyone else?
6 A. As former members of the executive,
7 they are well-connected to the overall student
8 population. We thought they may have information.
9 105. Q. All right. Were there any minutes
10 taken of that meeting?
11 A. You are looking at them.
12 106. Q. All right. Did you take any notes
13 of those...I see you have been scribbling diligently
14 away over the last two days. So you look like a
15 note-taker to me.
16 A. You would be incorrect.
17 107. Q. You have no notes in relation to
18 this meeting?
19 A. I don't.
20 108. Q. All right, and I would like you to
21 ask these other individuals whether they have any
22 notes in relation to this meeting?
23 MR. DEL GOBBO: We'll make best efforts. U
24
25 BY MR. BURKE :

- 1 109. Q. All right, sir, I would like you to
2 go to Ms. Ingle's affidavit, please.
3 A. Certainly.
4 110. Q. And there is in this affidavit at
5 Exhibit C an e-mail from Ms. Ingle to an undisclosed
6 group. Do you see that?
7 A. I do.
8 111. Q. All right, and it says:
9 "...Hey everyone. Thanks for attending
10 today's meeting..."
11 Do you see that?
12 A. Indeed.
13 112. Q. All right, and this seems to suggest
14 that there was a meeting on Thursday, September 5th,
15 2013.
16 A. I would need to read the document.
17 113. Q. Take your time and go ahead.
18
19 --- DISCUSSION OFF THE RECORD
20
21 BY MR. BURKE :
22 114. Q. So Mr. Evoy...
23 A. Yes.
24 115. Q. ...you have had an opportunity to
25 review the e-mail from Ms. Ingle to you, dated

- 1 September 5, 2013?
2 A. To me?
3 116. Q. To a number of undisclosed
4 recipients. My question is did you receive it.
5 A. No.
6 117. Q. And how are you so sure?
7 A. I just told you that I needed a
8 chance to read this. I have never seen this e-mail.
9 118. Q. All right, and do you keep your e-
10 mails? Would you have kept your e-mails from 2013?
11 A. My official correspondence at GSU.
12 Other than what...
13 119. Q. Your unofficial correspondence as
14 Brad Evoy, because you make that distinction.
15 A. Well, I'm uncertain. I would need
16 to check and see if I actually have those. I...
17 120. Q. I would like you to check to see if
18 you have this e-mail in your electronic repository.
19 A. Fine.
20 MR. DEL GOBBO: We'll do that. U
21
22 BY MR. BURKE :
23 121. Q. And sir, were you aware that there
24 was a meeting that Ms. Ingle was hosting on the 5th
25 of September, 2013?

MR. DEL GOBBO: Was he aware on
September 5th or...

BY MR. BURKE :

122. Q. Before September 5th.

A. Not that I can recall.

123. Q. Do you know, sir, whether there were
members of the GSU executive that were involved in
the collection of signatures for the petition?

A. Not as I'm aware.

124. Q. All right. Were you involved in the
collection of signatures or names for the petition
with respect to decertification?

A. I was not.

125. Q. You were not. Did you sit at any
petition collection table?

A. No.

126. Q. Did you make any presentation to any
class or group with respect to the decertification
process or CFS in general?

MR. DEL GOBBO: If we can break those
apart?

THE DEPONENT: Yes.

MR. DEL GOBBO: So first the
decertification process?

131. MR. BURKE: He said he was there on
behalf of the GSU.

MR. DEL GOBBO: Yes, but not that he was
part of an executive committee meeting.

132. MR. BURKE: No, I didn't say it was an
executive committee meeting. He said he
spoke to groups on behalf of GSU.

THE DEPONENT: I did not say that.

BY MR. BURKE :

133. Q. What did you say?

A. What I just said was that if
concerned members came to our office or had
questions, we would have answered it, and if people
had come to the office informally and asked
questions about those kinds of concerns, we
certainly would have addressed it.

134. Q. All right, so you have no
recollection of ever speaking to any group?

A. I mean, we may have spoken to
council or to councillors, but none that I...

MR. DEL GOBBO: I'm sorry. To clarify
again, are you talking about speaking to a
group about, in particular, the
decertification effort or CFS in general.

BY MR. BURKE :

127. Q. Yes.

A. I likely would have spoken on behalf
of GSU to concerned members about the process
broadly, in terms of how...like, what we knew of the
bylaw and other things of that nature, to give
clarity, if members were concerned and approached
the union office.

128. Q. Who did you speak to?

A. I can't recall that I did or not.
I'm just saying that if members came to the office,
we would have.

129. Q. And did you keep any notes of those
presentations?

A. As I have noted, I don't tend to
keep notes.

130. Q. Well, you say you do keep your
official correspondence. I take it you have
official records in your capacity as external
commissioner that you would leave behind. Would
you...did you do that?

MR. DEL GOBBO: Well, his answer was
that he met them informally in meetings,
not that it was either a presentation or
that it was part of the graduate...

BY MR. BURKE :

135. Q. Both.

A. I mean, what we provided in terms of
public correspondence, like, if these things came up
with council, we would have read them in September
or at other times when council met. That's the only
time that I can think of. I wouldn't want to say I
didn't speak to council.

136. Q. Well, do you have any recollection
of speaking to council about the decertification
process?

A. We spoke about it actually quite
regularly when it would come up in terms of where
our discussions with the CFS and CFSO in terms of
petition verification, in terms of, you know, what
matters would fall under the bylaw, things of that
nature, but nothing about the process that was
undergoing from Ms. Ingle.

137. Q. And that would be minuted, I take
it?

A. Indeed.

138. Q. All right. So can you produce the
minutes of the GSU in relation to any aspect of the
decertification process?

MR. DEL GOBBO: So in particular,

minutes of the executive committee of the GSU, is that what you're asking?

139. MR. BURKE: No, any body of the GSU in relation to decertification, whether it's the petition or whether it's the verification, any aspect of the process.
MR. DEL GOBBO: And in the academic year that this process was initiated by Ms. Ingle?

140. MR. BURKE: 2013/2014.

MR. DEL GOBBO: We can give that undertaking. U

BY MR. BURKE :

141. Q. Sir, there is also another e-mail at Exhibit D of Ms. Ingle's affidavit.

A. Yes.

142. Q. Are you familiar with this e-mail?

A. No.

143. Q. You never received this e-mail?

A. I do not believe so, no.

144. Q. All right. Now, paragraph 18 of your affidavit you indicate that the UTGSU published a set of frequently asked questions.

A. M'hm.

152. Q. I take it this had to be approved by the executive?

A. I can't recall if we motioned to approve it or if it was informally approved.

153. Q. Sorry, just speak up a bit, please.

A. Yes, I can't recall if it was motioned to be approved at an executive meeting or more informally done.

154. Q. Okay, but the executive would have approved the content before it would have been distributed to students, whether informally or formally?

A. Yes.

155. Q. And if you look at it in terms of the first paragraph, it says:

"...However, the University of Toronto Graduate Students' Union has no formal position that would answer the question of whether or not the union should remain as members of the Canadian Federation of Students, nationally or provincially..."

A. Yes.

156. Q. All right, but also, sir, if you look at the sentence that immediately precedes that, it says:

145. Q. Were you involved in the preparation of the frequently asked questions?

A. I was.

146. Q. And are you the author of the frequently asked questions excerpt that we see at paragraph 18?

A. I am one of the authors, yes.

147. Q. Are you the primary author?

A. We draft our statements collectively.

148. Q. Did you take the lead?

MR. DEL GOBBO: I believe he stated he wasn't the primary author.

149. MR. BURKE: Well, he said that they draft them collectively. I am now asking if he was the lead on it.

THE DEPONENT: I can't recall.

BY MR. BURKE :

150. Q. You can't recall, I see.

A. I hadn't been my portfolio until after this point, so...

151. Q. Well, you just simply can't recall whether you were the lead or not?

A. M'hm.

"...Given the issues the union has had with the federation over the last number of years, we understand the actions taken by some members, and view their concerns as legitimate..."

Do you see that?

A. I do, and I would state further that this is...

157. Q. I'm not asking you to state further. I'm asking if you see it.

A. I do.

158. Q. All right, and sir, in looking at it, what you're trying to say to members is that the union has had problems with the federation?

A. I think that is a little too simple in terms of describing what we actually were putting forward, if I can expand on that.

159. Q. Isn't it a...

A. If I can...

MR. DEL GOBBO: He is trying to provide his clarification to your question.

THE DEPONENT: Yes. So to expand on that, what we have stated here, I think, is that, firstly, that we recognize and respect our members enough to recognize

B. Evoy - 34

1 their concerns as legitimate. I think that
2 we also recognize that the union, in its
3 engagements with the federation, has
4 engaged in particular motions and other
5 things in annual general meetings as a
6 collective, that were seen by some
7 as...that were spoken out against quite
8 harshly by some in the federation, and that
9 we had been, you know, frankly, not
10 necessarily treated with the greatest
11 respect at times, and we have reported on
12 this to our council in the past.

13 So that would be the extent to
14 which we spoke about it, but it is as a
15 collective, not towards any, you
16 know...that the union, itself, had an
17 inherent problem, but speaking to problems
18 in these particular spaces.

19
20 BY MR. BURKE :

21 160. Q. Mr. Evoy, you'll agree with me that
22 that is not a neutral statement, is it? You are
23 saying, "There have been issues. There have been
24 problems, and we view the initiation of this
25 petition as being legitimate."

B. Evoy - 36

1 164. Q. "...The Graduate Students' Union was
2 one of the founding members of the
3 federation, yet our internal relationship
4 with them has shifted over the years, based
5 upon our often differing goals..."

6 So that you had a view that your goals or that UTGSU
7 had a view that their goals were not consistent with
8 the goals of the CFS. Isn't that right?

9 A. No.

10 165. Q. Well, why would you say that?

11 A. I think it's reflective of, frankly,
12 larger historical trends in organizational
13 development. It's not saying that...

14 166. Q. This is not about larger
15 organizational trends in development.

16 MR. DEL GOBBO: Excuse me. He is
17 describing what he believes that it has to
18 do with, and you asked him the meaning of
19 the sentence.

20 THE DEPONENT: I apologize.

21 MR. DEL GOBBO: Please allow the witness
22 to finish.

23 THE DEPONENT: I apologize. I am a
24 historian, and I tend to look at larger
25 trends. So this is, I think, reflective

B. Evoy - 35

1 MR. DEL GOBBO: Sorry, neutral in what
2 respect, Mr. Burke?

3
4 BY MR. BURKE :

5 161. Q. That the statement as it has been
6 prepared invites a conclusion that the GSU supports
7 the decertification?

8 A. That is certainly not the case. If
9 you read the entire paragraph, you would readily see
10 that that is not the case.

11 162. Q. I have read the entire paragraph,
12 Mr. Evoy.

13 A. Well, you may have an opinion as to
14 what that may state, but I mean, clearly it states
15 that we recognize their concerns as legitimate and
16 that we understand the actions, which I think is
17 understandable in that we can recognize concern. I
18 think that's respectable for us to do as an
19 organization, but I think we clearly state in the
20 preceding...or in the following sentence that we did
21 not take...that we would not and did not take a
22 formal position on decertification.

23 163. Q. Well, let's go to the second
24 paragraph.

25 A. Please do.

B. Evoy - 37

1 of, you know, the larger changing landscape
2 of organizational relations and development
3 over time. I mean, it's not that we
4 inherently differ with the objectives of
5 the federation, but rather that...because I
6 think that's...I don't think that's a fair
7 statement.

8 I think that, rather, this
9 represents an honest statement of any
10 organizational development and change
11 broadly.

12
13 BY MR. BURKE :

14 167. Q. Where does it state, sir, that this
15 is about broader organizational development in these
16 FAQs?

17 A. Well, if you notice, we talk about
18 shifting over the years.

19 168. Q. Yes, where does it talk about
20 broader organizational development trends?

21 A. If we are talking about trends, that
22 would be over the years.

23 169. Q. Well, sir, you say...you're quite
24 specific:

25 "...The Graduate Students' Union was one of

1 the founding members of the federation, yet
2 our internal relationship with them has
3 shifted over the years based upon our
4 differing goals..."

5 Isn't it a statement that the interests of the GSU,
6 in your view or the executive's view, are not
7 aligned with those of the CFS? Isn't that what it
8 is saying?

9 A. No.

10 170. Q. You reject that as a reasonable
11 interpretation?

12 A. I reject it as the interpretation
13 used in writing it.

14 171. Q. As the what?

15 A. When we wrote this, that it was not
16 our intention.

17 172. Q. So you agree with me that that is a
18 reasonable interpretation upon someone looking at it
19 and viewing it?

20 A. In reviewing our whole statement, I
21 don't think that is the interpretation one would
22 gain. As noted, that is only an excerpt.

23 173. Q. When was it written? It was...you
24 say September 6th it was published. When was it
25 written?

1 before that?

2 A. Quite so.

3 182. Q. Right, and as a member of the UTGSU,
4 if you believed...a member of the executive, you
5 believed it was important that there be a debate
6 amongst the individual members of the CFS in
7 relation to membership, correct?

8 A. That would be so.

9 183. Q. An open and fair debate?

10 A. Of course.

11 184. Q. That's what you wanted to see,
12 correct?

13 A. That is what we wanted to see.

14 185. Q. Right, and the UTGSU adopted no
15 formal position in relation to the decertification
16 issue, correct?

17 A. We did not.

18 186. Q. "We did not," you did not adopt a
19 formal position or you did adopt a formal position?

20 A. I think what I stated was clear. We
21 did not adopt a formal position of any kind. That I
22 stated previously.

23 187. Q. Right, and as elected members, you
24 agree with me it was important to remain neutral in
25 the debate?

1 A. Between September 3rd and 6th.

2 174. Q. Between September 3rd and 6th. Do
3 you have the drafts?

4 A. I do not.

5 175. Q. Would the UTGSU have the drafts?

6 A. Potentially.

7 176. Q. All right, I would like to see the
8 drafts, please.

9 MR. DEL GOBBO: We'll make best efforts
10 to find the drafts. U

11 177. MR. BURKE: Thank you, and also who was
12 involved.

13 MR. DEL GOBBO: In the drafting of
14 the...

15 178. MR. BURKE: Yes.

16 MR. DEL GOBBO: You mean the specific
17 names?

18 179. MR. BURKE: The specific names.

19 MR. DEL GOBBO: Okay. U

20 BY MR. BURKE :

21 180. Q. Now, sir, you were the...you became
22 the external commissioner in November?

23 A. Yes.

24 181. Q. You were the internal commissioner

1 A. As elected members...now...

2 MR. DEL GOBBO: Sorry, the debate
3 regarding what?

4 THE DEPONENT: Regarding...

5 BY MR. BURKE :

6 188. Q. Well, regarding the petition...I'm
7 sorry, not the debate, regarding the petition issue.

8 MR. DEL GOBBO: I'm sorry, what issue
9 about the petitions?

10 BY MR. BURKE :

11 189. Q. As to whether someone should sign it
12 or not sign it.

13 A. Well, I mean, I think that as an
14 executive, we were certainly allowing people to make
15 their own decision, yes.

16 190. Q. And as elected members, trying to
17 allow people to make their own decisions, it was
18 important that you not influence those decisions,
19 true?

20 A. I would say that generally we did
21 not engage in influencing opinions.

22 191. Q. Right, you generally did not, and it
23 was important that you not do so, to maintain that

openness around the issue?

A. We put forward both positions to folks quite clearly in the FAQ document.

192. Q. Right.

A. If you would like to refer to that, we can.

193. Q. No, I don't want to refer to that. I'm just asking you a question.

A. Well, that is the answer.

194. Q. All right. So it was important that the members of the UTGSU executive maintain neutrality in this process?

A. I think quite clearly that we certainly can have opinions about the organization. I'm not going...I don't think that we had any intention to control people's thoughts or their overall sense of the organizational...the organization's development.

I mean, that would be quite questionable for us to impose that, but we certainly did not communicate that either officially or in ways that would influence the membership. That would be inappropriate.

195. Q. Right, and you were elected by all of the members of UTGSU, correct?

development of the federation was going forward, and I was very clear, you know, like, where I was speaking from in doing so.

201. Q. And you agree with me that you weren't supportive of the CFS in many of those public statements?

A. I would actually disagree.

202. Q. You would?

A. I would.

203. Q. Okay.

A. Because in statements that I have made, even critical ones, they are supportive of the federation, because even criticism in this case, even attempts to develop the organization or speaking towards it, even concern, is, in and of itself, supportive.

204. Q. Sir...

A. I think those are about change and about positive development.

205. Q. So in your mind, criticism is supportive?

A. Yes.

206. Q. So any criticism that you make of CFS is supportive of CFS. That's your position?

MR. DEL GOBBO: Sorry, earlier I think

A. Well, I was elected by those who voted.

196. Q. By the cohort who voted. You represent all members of the UTGSU at that time?

A. That is my role, yes.

197. Q. Yes, and there may be some who may have wanted to sign the petition and some who would not want to sign the petition?

A. That is their choice.

198. Q. Right, and you're representative of all of those people?

A. I served as an executive member, if that is the question.

199. Q. Well, now, sir, isn't it true that you were far from neutral in this debate?

A. Well, I would say that I definitely had an academic interest in the overall organizational structure of the federation, and I did have suggestions about how those things could change and develop. That is certain.

200. Q. And you were freely distributing your views about the CFS, weren't you, in this period of time?

A. I definitely...I would say that I certainly stated in areas how I believe the

you were asking him about this decertification effort. So are you talking his about general comments in public about CFS?

207. MR. BURKE: Either his general comments about CFS inclusive of the decertification process.

MR. DEL GOBBO: And then those comments are supportive of what in particular?

208. MR. BURKE: They're not supportive of the CFS.

MR. DEL GOBBO: Its overall goals or its particular role?

BY MR. BURKE :

209. Q. Just generally not supportive of the CFS, its goals, its objectives.

A. I actually have...I have a bit of a problem with that assertion. I think that...and I can even refer back to recent statements at the last general meeting. Criticism...

210. Q. I'm not looking at the last general meeting because that's totally irrelevant to this proceeding.

A. But if you're speaking towards...

- 1 211. Q. Let's go to September.
 2 A. Sure.
 3 212. Q. Let's start at September of 2013,
 4 when the decertification process commenced.
 5 A. Mhm.
 6 213. Q. All right. At that time, you were
 7 making public statements that were not supportive of
 8 the CFS, yes or no?
 9 MR. DEL GOBBO: I'm sorry. If he needs
 10 to use more than yes or no, he is free to.
 11 214. MR. BURKE: He may, but I want yes or no
 12 to begin, and then he can amplify.
 13 MR. DEL GOBBO: He can answer it as he
 14 wishes.
 15 THE DEPONENT: So again, can you just
 16 reiterate the question?
 17
 18 BY MR. BURKE :
 19 215. Q. In September of 2013 you were making
 20 statements that were not supportive of the CFS?
 21 A. That's not a question.
 22 216. Q. That's an assertion that I'm asking
 23 you to either agree with or disagree with.
 24 A. I would disagree.
 25 217. Q. You disagree, okay.

- 1 September 7th.
 2 A. Indeed.
 3 226. Q. I take it this is September 7, 2013?
 4 A. Indeed.
 5 227. Q. And this is your tweet?
 6 A. It is.
 7 228. Q. And here you are addressing the "No
 8 Means No" campaign of the CFS?
 9 A. Correct.
 10 229. Q. You characterize it as an excellent
 11 campaign, correct?
 12 A. It is.
 13 230. Q. And you say:
 14 "...Too bad it's chained to CFS and its
 15 problems..."
 16 A. I can speak directly to that point.
 17 231. Q. No, I'm not...I'm just asking you is
 18 this your statement?
 19 A. That...
 20 232. Q. Is this your statement? Did you
 21 write this and broadcast it?
 22 A. I did.
 23 233. Q. All right. Let's go to the next
 24 one.
 25 A. I'm...

- 1 A. I think the statements made in
 2 September, even if they were critical, were towards
 3 the development of the organization. That is not
 4 non-supportive.
 5 218. Q. So in your view, any criticism you
 6 make is a message of support?
 7 A. It is...it may be a message of
 8 concern, but it would certainly not be a message of
 9 disaffiliation to be specific.
 10 219. Q. You use social media, sir?
 11 A. I certainly do.
 12 220. Q. You do, yes. All right, well, let's
 13 just look at some of your...
 14 A. Please do.
 15 221. Q. ...musings on social media.
 16 A. I do look forward to this.
 17 222. Q. Would you say you look forward to
 18 this, sir?
 19 A. Yes.
 20 223. Q. Okay.
 21 A. It should be quite entertaining.
 22 224. Q. All right. So Mr. Evoy, I'm showing
 23 you a tweet.
 24 A. Yes.
 25 225. Q. And this is from bradevoy@brad evoy,

- 1 234. Q. I have asked a question. This is
 2 not an opportunity for this witness to lecture. I'm
 3 just asking questions about...factual questions. So
 4 the second question. Go to the next page.
 5 A. Please.
 6 235. Q. bradevoy@bradevoy. This is
 7 September 17th, 2013, correct?
 8 A. That is so.
 9 236. Q. "...Word is out. The CFS, FCE
 10 petition for @UTGSU has well surpassed 20
 11 percent, among the first to do so ever.
 12 Holy moly everybody #cndpse..."
 13 Did you broadcast this on September 17, 2013?
 14 A. I did express my surprise, yes.
 15 237. Q. And you expressed that on September
 16 17, 2013?
 17 A. That is what it says.
 18 238. Q. All right, and if you look at the
 19 tweet at the bottom of the page @excaldksan@utgsu:
 20 "...Yes, the boat is to be considered
 21 rocked..."
 22 A. I think that is an accurate
 23 description of what this would mean generally, yes.
 24 239. Q. Right, and you were happy about
 25 that?

- 1 A. That is not an expression of
2 happiness. That is an expression of reality.
3 240. Q. But you were not unhappy that the
4 boat was being rocked?
5 A. It is not my position to be happy or
6 unhappy about this.
7 241. Q. Well, tell me, sir, were you unhappy
8 or were you not happy?
9 A. I simply was stating as it was.
10 242. Q. Well, were you happy or not happy?
11 Answer the question.
12 A. Again, I feel that what I express
13 here very clearly is what the reality of the
14 situation was. This was a large shift for us to
15 have to deal with, and I was simply stating it as it
16 was. I was being matter of fact.
17 243. Q. You were supportive of the
18 defederation petition.
19 A. No.
20 244. Q. You weren't?
21 A. I have no particular position as a
22 member of the executive.
23 245. Q. You didn't. Let's go to the next
24 one, bradevoy@bradevoy, November 23rd:
25 "...Nothing in there should surprise

- 1 defederation, the decertification process and the
2 petition process and the verification process,
3 anything that touches upon this litigation.
4 MR. DEL GOBBO: We'll give that
5 undertaking. U
6
7 BY MR. BURKE :
8 252. Q. All right, and I want you to confirm
9 for me, sir, that you wrote this e-mail...this tweet
10 on that particular day?
11 A. I will need...at this point, I will
12 need to check the context of my Twitter to
13 determine...
14 MR. DEL GOBBO: I think that will likely
15 be included in the previous undertaking.
16
17 BY MR. BURKE :
18 253. Q. I want you to...and then you say:
19 "...By the way [November 23rd] if anyone
20 disrespects UTGSU delegates as had occurred
21 today at budget again, expect some harsh
22 admonishment..."
23 Do you see that?
24 A. Yes.
25 254. Q. Right. So you were...that's a

- 1 anyone, including my support as an
2 individual of the defederation petition..."
3 You were supportive, sir, of the defederation
4 petition. Isn't that right?
5 A. Now, that's contextless.
6 246. Q. No, no, first of all...
7 A. That's contextless.
8 MR. DEL GOBBO: Excuse me.
9
10 BY MR. BURKE :
11 247. Q. This is your tweet?
12 A. I can't deny it's a tweet...
13 248. Q. Right.
14 A. ...but I need to know the context in
15 which it was stated.
16 249. Q. And you wrote it?
17 A. I can say that I wrote the tweet,
18 but I do not know the context.
19 250. Q. But sir, it's plain as day:
20 "...including my support as an individual
21 of the defederation petition..."
22 Did you write those words on that day?
23 A. I would need to check my Twitter.
24 251. Q. You check your Twitter. I would
25 like you full Twitter account in relation to the

- 1 perspective that is critical of the CFS?
2 A. It was critical of a particular
3 incident at the annual general meeting wherein the
4 members of UTGSU were told specifically that by
5 asking a question about the budget, that it was none
6 of their business.
7 255. MR. BURKE: Let's mark this as the next
8 exhibit, please.
9 MR. DEL GOBBO: This collection of
10 tweets?
11 256. MR. BURKE: Yes, Exhibit 7.
12
13 --- EXHIBIT NO. 7 : Tweets of Mr. Evoy printed from
14 Twitter, 2013
15
16 BY MR. BURKE :
17 257. Q. All right, sir, let me also show you
18 some additional materials.
19 A. Oh, yes, these. Excellent.
20 258. Q. All right. Now, sir, this is a
21 Facebook posting?
22 A. That is what it appears to be, yes.
23 259. Q. All right, so you're an active
24 Facebook participant?
25 A. As I have stated, I have used social

media, yes.

260. Q. All right, and from time to time you would have made comments on Facebook in relation to CFS and the decertification process and the verification process and issues that are alive in this litigation?

A. I make comments on many things on Facebook. So it is very likely that I did.

261. MR. BURKE: All right, and a similar undertaking to that in relation to the tweets. I want the full Facebook account in relation to anything that is relevant to this litigation.

MR. DEL GOBBO: We give the undertaking. U

BY MR. BURKE :

262. Q. Now, Mr. Evoy, this is a posting on 12th September at 7:34. I take it, it is your posting?

A. It seems to be.

263. Q. All right, and you made the statement that is indicated here:
"...So with UBCO and MUNSJ looking like they might hop on the #defederationbus13, U of M clearly revving the engines and stuff

MR. DEL GOBBO: Mr. Evoy has given evidence that he had no participation in the collection of signatures.

269. MR. BURKE: I'm just...on the basis of what he knows, this was distributed at the time that the petition was in circulation.

MR. DEL GOBBO: Which petition are you referring to?

270. MR. BURKE: The petition for decertification.

MR. DEL GOBBO: With respect to which organization?

271. MR. BURKE: Ms. Ingles'...both.

MR. DEL GOBBO: So Mr. Evoy has stated in his affidavit that his understanding is that the CFSO petition was received by CFSO on September 19th, 2013.

BY MR. BURKE :

272. Q. Yes. This is September 12th.

A. I can say that this was written. I can say that I was clearly speaking, though, towards the broader context of some other schools. There is nothing written here about the UTGSU petition, and I had no particulars on that.

happening in other parts near and far, I think the evacuation from the house fire that is the CFS is going well overall..."

Do you see that?

A. I see it.

264. Q. You wrote it?

A. I would...I think there is further context to be provided there.

265. Q. My question is you wrote this statement?

A. It seems to be, yes.

266. Q. Yes, and you wrote it on the 12th of September, 2013?

A. It seems that that is the date listed, yes.

267. Q. And you wrote it while the petition was being circulated for support amongst members of the UTGSU?

A. Though, if I ask, I am not sure that that is a public statement on Facebook, by any means.

268. Q. All right, but it is a statement that is made as the petition is being...as the signatures are being collected in relation to the petition?

273. Q. Well, sir, you knew that there was decertification petition being circulated as of September 3rd, 2013.

A. As noted, yes.

274. Q. Yes, and you knew that that process was ongoing at UTGSU while you wrote or when you wrote this on the 12th of September, didn't you?

A. Those dates do match up, yes.

275. Q. And you knew? I'm asking you did you know...

A. Know what specifically?

276. Q. ...that the decertification petition...they were out looking for signatures at that time?

A. Well, I would clarify again that I do not believe this to be a public statement.

277. Q. When you wrote it, sir, you knew that they were out gathering petitions...signatures on the petitions?

A. I don't think that's particularly relevant if this isn't a public statement.

278. Q. Mr. Evoy, I am asking the questions. It is for me to determine whether or not they're relevant. I am saying to you when you posted this, you knew that they were out gathering signatures on

1 the petitions? You knew that?

2 A. I'm certainly aware that parallel
3 processes were happening.

4 279. Q. And you knew they were out gathering
5 signatures on petitions for decertification
6 purposes. Isn't that true?

7 A. Those were occurring in parallel.

8 280. Q. And you knew?

9 A. As I have stated.

10 281. Q. Yes. So that's a yes? What do you
11 mean "h'm"? "H'm" is not acceptable.

12 A. I'm aware. I think...just because I
13 am pondering for a moment. I think that while I'm
14 aware that these statements by the timeline were
15 made during the defederation petition, I would not
16 state that they had any impact or relevance to it.

17 282. Q. I'm not asking you about your view
18 as to whether or not they had impact or not. I'm
19 asking you whether you knew when you published this
20 on your Facebook account...

21 A. I think I have just stated that I
22 did.

23 283. Q. You did, all right, finally. Thank
24 you. Now, you say it wasn't a public posting on
25 your Facebook account?

1 289. MR. BURKE: All right, and I also want
2 to know who the group was?

3 THE DEPONENT: Sure.

4 MR. DEL GOBBO: We can give that
5 undertaking. Is that in respect of all of
6 the...just this first page? U

7
8 BY MR. BURKE :

9 290. Q. Well, are the tweets restricted?

10 A. My Twitter has not been restricted,
11 no.

12 291. Q. So that's to the public, right?

13 A. To those who have Twitter.

14 292. Q. Yes, well, anybody who has Twitter
15 can access the views of Brad Evoy?

16 A. That is the basic notion of Twitter,
17 yes.

18 293. Q. Yes, that's what I thought. Even
19 though I'm older, that's what I thought. All right,
20 and on Facebook you have an ability to restrict?

21 A. That would be so.

22 294. Q. All right. So the comments that we
23 see at the next page...

24 A. Yes.

25 295. Q. ...that's another Facebook posting?

1 A. That doesn't seem like something I
2 would post broadly or publicly, no.

3 284. Q. I would like you to clarify for me
4 to whom it was available.

5 A. Well, that would have been available
6 to...I believe it might have been a statement made
7 to a group of folks who had been involved in other
8 student unions.

9 285. Q. Well, how do you know that when a
10 moment ago you said, "I don't know if it was public
11 or not public," and now you're telling me...

12 A. I'm not...

13 286. Q. Let me finish...you have knowledge
14 that it was to a certain group. So do you know or
15 don't you know here today?

16 MR. DEL GOBBO: Mr. Burke, he said that
17 he believes that it was sent to a specific
18 group.

19 287. MR. BURKE: All right.

20 THE DEPONENT: Indeed.

21 288. MR. BURKE: I want you to confirm
22 whether it was public or whether it was
23 sent to a specific group.

24 MR. DEL GOBBO: We'll give that
25 undertaking. U

1 A. M'h'm.

2 296. Q. In terms of that Facebook posting,
3 sir, was that available broadly to the public or was
4 that restricted?

5 A. Well, comparing both, just to take a
6 second, you'll notice the language that I use...

7 297. Q. No, no, answer...I don't want you to
8 compare both. I want you to answer my question.

9 MR. DEL GOBBO: He is trying to answer
10 your question, if you would just let him
11 finish.

12 THE DEPONENT: Yes, so I can clarify
13 this, and now that I'm seeing both
14 together, I can clarify this for certain.
15 They were both used in a closed Facebook
16 group. In noting the name, the group was a
17 group of folks who had been gathered
18 together for...just in general around
19 issues of student unions and student
20 unionism.

21 These were folks that had been, you
22 know, engaged in other unions across the
23 country, but it was restricted.

24 MR. DEL GOBBO: Mr. Burke, do you still
25 need your previous undertaking in light of

1 Mr. Evoy's answer?
 2 298. MR. BURKE: I do absolutely, because I
 3 want to test that.
 4
 5 BY MR. BURKE :
 6 299. Q. So let's look at this exchange you
 7 have here.
 8 A. M'hm.
 9 300. Q. At the bottom of the page
 10 "Ashleigh", do you see that?
 11 A. M'hm.
 12 301. Q. "...Our petition has also been
 13 received by CFSO..."
 14 A. Yes.
 15 302. Q. All right, this is 17th of
 16 September, 2013. I take it that that is Ashleigh
 17 Ingle?
 18 A. I believe.
 19 303. Q. It is, isn't it? Do you know, sir,
 20 today that that is Ashleigh Ingle?
 21 A. I need to check.
 22 304. Q. What do you need to check?
 23 A. Well, I'm not...
 24 MR. DEL GOBBO: You will notice that her
 25 full name isn't used in the posting.

1 another...
 2
 3 BY MR. BURKE :
 4 309. Q. Well, how many other people had a
 5 petition being received by the CFSO at that time, if
 6 it wasn't Ms. Ashleigh Ingle?
 7 MR. MONKHOUSE: Just to be clear, also
 8 we don't know, necessarily, when this was
 9 taken. So things on Facebook aren't
 10 contemporaneous. So it could be posted as
 11 one name, and that name would change later
 12 if you want to change the name.
 13 310. MR. BURKE: Guys, you know, I'm trying
 14 to cross-examine the witness. It says the
 15 19th of September. All I'm trying to get
 16 from this witness or whether or not, on the
 17 basis of his past dealings with Ms. Ingle,
 18 he recognizes this to be Ms. Ashleigh
 19 Ingle, simple point.
 20 MR. DEL GOBBO: Well, it isn't a simple
 21 point, simply because when he dealt with
 22 Ms. Ashleigh Ingle on Facebook her name
 23 might not have been Ashleigh Ingle.
 24 311. MR. BURKE: He hasn't said that, Mr. Del
 25 Gobbo.

1 THE DEPONENT: Yes.
 2
 3 BY MR. BURKE :
 4 305. Q. I see that, but Mr...did you have
 5 previous communication with Ms. Ingle on Facebook?
 6 A. I mean, that is a fairly broad
 7 question.
 8 306. Q. No, it is a very specific question.
 9 Did you previously have contact with Ms. Ingle on
 10 Facebook?
 11 MR. DEL GOBBO: In respect of any issue?
 12
 13 BY MR. BURKE :
 14 307. Q. Any issue.
 15 A. Well, I mean, we work together. I
 16 mean, that's likely, yes.
 17 308. Q. Likely, yes. So you would have
 18 familiarity as to what her...I probably am using the
 19 wrong word, but her moniker may be in relation to
 20 her communications via Facebook?
 21 MR. DEL GOBBO: Just to clarify,
 22 monikers on Facebook may change at the will
 23 of the owner of the Facebook account. So
 24 it's not clear from this whether it's
 25 someone named Ash or whether it's

1 THE DEPONENT: I have stated that I need
 2 to check.
 3 312. MR. BURKE: All right, will you check
 4 and tell me whether or not this is Ashley
 5 Ingle?
 6 THE DEPONENT: Okay. U
 7 MR. MONKHOUSE: If you wanted to know
 8 if it was Ashleigh Ingle, why didn't you
 9 ask her when she was under oath?
 10 313. MR. BURKE: I'm asking him.
 11
 12 BY MR. BURKE :
 13 314. Q. Now, it says:
 14 "...We got petitions signed faster than CFS
 15 can mix Koolaid. This is someone from CFS
 16 B.C..."
 17 Right, 18th of September, Theresa Grant.
 18 A. It seems so, yes.
 19 315. Q. And you know Ms. Grant?
 20 A. We have met, yes.
 21 316. Q. All right, Brad Evoy, this is 17th
 22 of September.
 23 A. Yes.
 24 317. Q. And this is after...this is the same
 25 day that you tweeted in Exhibit number 7:

1 "...Word is out the CFS FCEE petition for
2 UTGSU has well surpassed 20 percent..."
3 Right, that's the same day?

4 A. I would note on that, though, that I
5 believe there had been a tweet prior in that
6 selection from the Toronto Media Co-Op which alerted
7 me to that fact.

8 318. Q. All I'm saying to you, sir, it's the
9 same day. You learn on the 17th of September or at
10 least you are tweeting on the 17th of September:
11 "...UTGSU has well surpassed 20 percent..."

12 Correct?

13 A. That is...

14 319. Q. That is in the exhibit. That's
15 Exhibit 7.

16 A. Yes, and that tweet was based off
17 another.

18 320. Q. Okay, based off another, but you
19 have tweeted that on the 17th of September?

20 A. Expressing my surprise, correct.

21 321. Q. And in this document I now have
22 before you...

23 A. On the 17th.

24 322. Q. ...on the 17th, the same day, you
25 say:

1 it, you know, folks objectively and non-objectively,
2 were not really certain if votes could reach that or
3 were intending to, and in hearing it, I just
4 gathered surprise as to the overall situation.

5 I can't say that I was really positive
6 about it, but the numbers...I was taken aback by the
7 numbers we received.

8 326. Q. Let's look at this:

9 "...I legitimately have no idea what to do
10 with myself at this point. It's surreal.
11 They're at U of T too, but not as
12 concentratedly..."

13 A. M'h'm.

14 327. Q. The "They're" is CFS?

15 A. Let me just take a look. I suppose

16 so.

17 328. Q. "I suppose," you wrote it. You tell
18 me.

19 A. Well, I'm taking a look at the
20 context. It looks like so.

21 329. Q. Yes, so yes, it is CFS. The
22 "They're" in this tweet is CFS, or in this Facebook
23 posting is CFS, correct?

24 A. I think that would be an objective
25 note. I assumed that people were indeed at U of T.

1 "...I legitimately have no idea what to do
2 with myself at this point. It's
3 surreal..."
4 You are elated by this?

5 A. This isn't elation. This is
6 confusion. I am going to...I'm aware that the GSU
7 is going to have to work on this. It's something
8 that is quite interesting. As I have stated before,
9 it's certainly something that is going to be a large
10 undertaking for all involved.

11 So I simply am aware of it, and I'm
12 stating my general reaction, which is not elation.
13 I'm...

14 323. Q. You're happy. You're very happy.

15 A. If you say so.

16 324. Q. No, look at the top:
17 "...Oh, by the way, the UTGSU petition UMM
18 kind of crushed it..."

19 Isn't that positive?

20 A. No, I think it's objective.

21 325. Q. It's what?

22 A. I think that was an...my assessment
23 of the numbers that we received...that we were aware
24 of. Like, 20 percent is a large number. It is not
25 something that I was...you know, when we heard of

1 330. Q. All right. You say:

2 "...At this point, it's surreal..."

3 You don't say, "At this point, I'm confused." You
4 say, "It's surreal." That is your choice of words.

5 A. The expression is similar, though,
6 in my opinion.

7 331. Q. Surreal and confused are the same,
8 in your mind?

9 A. A feeling of surreality, it
10 certainly isn't...

11 332. Q. Is a feeling of confusion?
12 MR. DEL GOBBO: I believe he stated they
13 were similar.

14 333. MR. BURKE: I'm just trying to
15 understand what his...his lexicon.
16 THE DEPONENT: I have a very deep
17 lexicon. What can I say?

18
19 BY MR. BURKE :

20 334. Q. I don't what you can say, sir. What
21 can you say? It's hard to know.

22 MR. DEL GOBBO: Do you have a question,
23 Mr. Burke?

24
25 BY MR. BURKE :

- 1 335. Q. I do, I do. Then we look at the
2 posting ahead on 17th September at 23:45:
3 "...CFS staffers crawling at LU..."
4 What is the "LU"?
5 A. Well, I'm just the one who has made
6 that comment. It looks like it may be folks
7 at...someone at Laurentian who may have been aware
8 of the situation there.
- 9 336. Q. All right. Then it says:
10 "...but congrats are in order for you
11 guys..."
12 Right? This is Mark Mancini.
13 A. That may have been his opinion.
- 14 337. Q. No, that is...he said. He says:
15 "...But congrats are in order for you
16 guys..."
17 He makes that statement, correct?
18 MR. DEL GOBBO: Mr. Evoy stated it was
19 Mr. Mancini's opinion.
20
- 21 BY MR. BURKE :
22 338. Q. Okay, it is his statement. It is
23 Mr. Mancini's statement, and then you are responding
24 to that statement, are you not?
25 A. I'm responding to my own post.

- 1 339. Q. No, sir, in looking at this...
2 A. They may be in a particular order,
3 but you can't on Facebook, or at least at that time,
4 put things in separate lists and ranks. If I was
5 going to respond to my own post, then I would have
6 to do so in this fashion.
- 7 340. Q. Two minutes later at 23:47 you say:
8 "...I legitimately have no idea what to do
9 with myself at this point. It's surreal.
10 They're at U of T too, but not as
11 concentratedly..."
12 Are you telling me that that post has no
13 relationship to the post from Mr. Mancini?
14 A. I would say the first statement, the
15 "legitimately I have no idea...with myself", that
16 piece was just an expression of my own shock, as I
17 have stated, the surprise. The latter certainly
18 would have probably been a more...I think a lot more
19 objective statement towards the presence of
20 staffers. I wouldn't defame people in that fashion.
21 I didn't, at least, on this...
- 22 341. Q. Now, let me ask you the question
23 again and let me get your answer.
24 MR. DEL GOBBO: I believe he gave you
25 his answer that the first sentence was a

- 1 general statement, and the second sentence
2 was a response to Mr. Mancini's post.
- 3 342. MR. BURKE: No, he hasn't answered the
4 question I put, Mr. Del Gobbo.
5 MR. DEL GOBBO: Could you restate your
6 question?
7
- 8 BY MR. BURKE :
9 343. Q. And the question was are you telling
10 me that the statement at 23:47 is independent of the
11 statement at 23:45?
12 A. The initial statement, the:
13 "...Legitimately I have no idea what to do
14 with myself at this point. It's
15 surreal..."
16 Is clearly just a general expression of my own
17 feeling at the time, the surprise, as I have noted.
18 That is completely independent from the statement.
19 I would state, though, that by noting that folks are
20 at U of T, that is in relation, yes.
- 21 344. Q. Well, let me ask you another thing.
22 A. M'hmm.
- 23 345. Q. You read Mr. Mancini's statement
24 between 23:45 and 23:47?
25 A. Well, if they are posted in that

- 1 period, and there is partially a response, yes.
- 2 346. Q. And then at 23:47 you wrote the
3 statement that we see posted here in this particular
4 Facebook posting?
5 A. That seems clear.
- 6 347. MR. BURKE: All right. So let's mark
7 this as Exhibit 8, please.
8
- 9 --- EXHIBIT NO. 8 : Printouts of Mr. Evoy's Facebook
10 postings
11
- 12 348. MR. BURKE: Let's just go off the
13 record.
14
- 15 --- A BRIEF RECESS
16
- 17 BRAD EVOY , resumed
18 CONTINUED CROSS-EXAMINATION BY MR. BURKE:
19
- 20 349. Q. We marked it as Exhibit 8, I
21 believe, and there is a reference to filibuster. Do
22 you see that?
23 A. I do.
- 24 350. Q. And is this the name of a group?
25 A. Why, yes, it is.

1 351. Q. And what group is this the name of?

2 A. That is the group, and I can...I'll
3 go into the exact notion of the group. The group
4 would be, I believe, quite sarcastically titled
5 "Filibusters Anonymous" if there is a title.
6 Actually, yes, that would be the title.

7 352. Q. All right, and what is the
8 constituent makeup of the group?

9 A. That would be as noted previously
10 from my recalling, that it is a group of folks who
11 have been generally involved in student unions,
12 student unionism across the country. It primarily
13 began some time ago following a CFS AGM when folks
14 were taunted for raising particular questions about
15 the federation, or at least raising matters around
16 changing particular operational aspects of the
17 organization.

18 As a form of just general relief from
19 those sorts of treatments, folks formed the group to
20 discuss what had occurred.

21 353. Q. And it isn't true, sir, that the
22 members of the Filibuster group are those on
23 campuses where there have been decertification
24 processes?

25 A. That would be too limited to state.

1 MR. DEL GOBBO: The Filibuster group?
2 So assuming that the group is still active
3 or...

4 360. MR. BURKE: Historical record.

5 MR. DEL GOBBO: If it exists. Is that
6 the...

7 361. MR. BURKE: And I would like to see the
8 communication amongst the group as it
9 relates to the UTGSU matter.

10 MR. DEL GOBBO: Okay, we can give that
11 undertaking. U

12 BY MR. BURKE :

13 362. Q. All right, if you look at paragraph
14 19?

15 A. Yes.

16 363. Q. And it says that:

17 "...On September 17th, 2013 Ms. Ingle
18 informed UTGSU's executive committee that
19 her team had reached the required
20 threshold..."

21 Do you see that?

22 A. I would note there is a type there.
23 It should be the 18th.

24 364. Q. The 18th, all right, thank you. It

1 It actually...

2 354. Q. A significant portion of the members
3 of Filibuster are on campuses where there have been
4 decertification...

5 A. I would certainly say a portion.

6 355. Q. ...petitions and referenda?

7 A. I would certainly say a portion. I
8 think that you have to look at the group more
9 broadly, and it was certainly a larger number of
10 folks who were in engaged reform motions at the
11 Canadian Federation of Students.

12 356. Q. How many are in the group in total?

13 A. I couldn't tell you that.

14 357. Q. I would like a list of those who are
15 in the group, and I would like you to tell me those
16 who have been involved in decertification processes.

17 A. I wouldn't know.

18 358. Q. You wouldn't know?

19 MR. DEL GOBBO: Sorry, Mr. Burke, just
20 to clarify. Actually, you can ask that
21 question, but I don't know if you're asking
22 for the undertaking or not, so...

23 359. MR. BURKE: Well, I'm asking for at
24 least the members of the group. You would
25 know that.

1 says:

2 "...Specifically, Ms. Ingle explained that
3 her team had obtained over 3,000 signatures
4 from current graduate students at the
5 university who were in favour of holding a
6 referendum on decertification, representing
7 over 20 percent of UTGSU's membership..."

8 Do you see that?

9 A. I do.

10 365. Q. And as I read that paragraph, it
11 suggests that the e-mail that Ms. Ingle sent
12 contained that information that they had obtained
13 over 3,000 signatures?

14 A. I would need to look at the exhibit.

15 366. Q. Well, I guess this is my question
16 because the exhibit wasn't included in the original
17 material, but we asked Mr. Del Gobbo for it.

18 MR. DEL GOBBO: It's Exhibit E.

19 367. MR. BURKE: It's Exhibit E.

20 MR. DEL GOBBO: I believe that my
21 colleague, Ms. Krajewska, sent it to you.

22 368. MR. BURKE: She did, Ms. Krajewska, on
23 Friday, May 16th, 2014.

24 MR. DEL GOBBO: Yes.

25

1 BY MR. BURKE :

2 369. Q. And I see nowhere in that e-mail
3 where it talks about 3,000 people having been signed
4 up.

5 A. We were generally aware of our
6 membership size being, like, near 15,000. It was
7 actually below, apparently, according to records.
8 So when there was a statement of 20 percent, that
9 was the logical extrapolation.

10 370. Q. But you say specifically in
11 reference to the e-mail:

12 "...Ms. Ingle explained that her team had
13 obtained over 3,000 signatures from current
14 graduate students..."

15 You will agree with me that the e-mail doesn't
16 reference 3,000 students?

17 A. It references 20 percent, which
18 logically would be 3,000. That is what we had
19 extrapolated logically from the percentage.

20 371. Q. I guess my question is there is no
21 other e-mail...it seems incongruous, the e-mail and
22 the paragraph, and I'm asking is there another e-
23 mail that you're referring to?

24 A. There is not.

25 372. Q. Okay, and the...you say that this

1 378. Q. Now, sir, you're familiar with the
2 bylaws. You have told me that.

3 A. Yes.

4 379. Q. You have included as Exhibit B in
5 your materials bylaws?

6 A. That is correct.

7 380. Q. And the bylaws at bylaw 6...

8 A. Bylaw 6, yes...bylaw 6?

9 381. Q. Bylaw 1, subsection 6.

10 A. That would be so.

11 382. Q. And if you look at the portion of
12 that that begins:

13 "...The petition may not contain any
14 words..."

15 At the bottom of that section?

16 A. The bottom of 6?

17 383. Q. 6(a).

18 A. 6(a), thank you for the
19 clarification. The bottom of 6(a) is about the...

20 384. Q. Just look up a bit.

21 A. Look up a bit?

22 385. Q. It begins with:

23 "...The petition may not contain any
24 words..."

25 A. "...contain any words and images..."

1 was received by the executive, correct?

2 A. We were included on it, yes.

3 373. Q. Okay, and if I look at the to, it's
4 [REDACTED]. Do you see that?

5 A. I do.

6 374. Q. All right, and that's the same
7 structure as Exhibit C to her affidavit. Do you see
8 that?

9 A. Exhibit C to her affidavit, I would
10 need to look at it. That it is.

11 375. Q. And my question is does that assist
12 you in determining or remembering whether or not you
13 also received the document in Exhibit C...

14 A. It certainly does not.

15 376. Q. Just let me finish.

16 A. Yes.

17 377. Q. ...Exhibit C to Ms. Ingle's
18 affidavit?

19 A. It certainly does not. If you look
20 at the exhibit, so E, you'll see that while in this
21 e-mail it's structured from and to, it doesn't state
22 to whom it is sent. That does not state and show
23 anything more than that Ashleigh has sent an e-mail
24 to herself, and we did receive this one, but it does
25 not illustrate the supposed point you're making.

1 386. Q. Right, and the next paragraph says:
2 "...In order to be considered valid..."

3 A. That is what the bylaw states.

4 387. Q. Yes, and those, you knew, were the
5 requirements of the petition?

6 A. It was not my...like, I was not in
7 charge of the petition, but I am aware...like, I
8 have no connection to the petition's putting
9 together.

10 388. Q. But you acknowledge that those are
11 the requirements of the petition under the CFS
12 bylaws?

13 A. I would be generally aware of this.

14 389. Q. Yes, and you acknowledge that those
15 are the requirements?

16 A. I would, yes.

17 390. Q. All right. Now, sir, just a
18 question.

19 A. Yes.

20 391. Q. In Exhibit H...

21 A. H, you say?

22 392. Q. Yes.

23 A. Thank you.

24 393. Q. And if you go to the two pages from
25 the back?

1 A. Two pages from the back.
 2 394. Q. This is an e-mail from Mike LeSage
 3 to Brad Evoy.
 4 A. Yes.
 5 395. Q. It's in the middle.
 6 A. Yes.
 7 396. Q. And it says...it is dated 16th of
 8 October, 2013. Mr. LeSage is an employee of the
 9 University of Toronto?
 10 A. He most certainly is.
 11 397. Q. All right, and you have had previous
 12 dealings with him?
 13 A. I have, quite positive ones.
 14 398. Q. All right, and it says:
 15 "...Hi Brad. I am actually sick, and have
 16 been since Thursday. So the e-mail below
 17 might have to do. When is your
 18 meeting?..."
 19 Do you see that?
 20 A. I do, but I don't...I am not sure
 21 what he is referring to.
 22 399. Q. Well, that's my question.
 23 MR. DEL GOBBO: He is just asking you
 24 whether you have seen this or not.
 25 THE DEPONENT: This may have been a

1 MR. DEL GOBBO: Catherine McDonnell is
 2 my former assistant at Heenan Blaikie.
 3 406. MR. BURKE: Were you retained by UTGSU
 4 while at Heenan Blaikie?
 5 MR. DEL GOBBO: Heenan Blaikie was
 6 retained by UTGSU, yes.
 7 407. MR. BURKE: When were they retained in
 8 relation to these matters?
 9 MR. DEL GOBBO: What do you mean by
 10 "these matters"?
 11 408. MR. BURKE: The matters as they are
 12 raised by this Notice of Application,
 13 anything to do with the petition or the
 14 decertification.
 15 MR. DEL GOBBO: Heenan Blaikie was
 16 retained by UTGSU with regard to general
 17 matters. When Heenan Blaikie was retained,
 18 I don't think it was in the contemplation
 19 of UTGSU or Heenan Blaikie that many of the
 20 matters that arose in this litigation
 21 would, in fact, arise.
 22 409. MR. BURKE: So when did you...was there
 23 a separate file opened in relation to this
 24 matter?
 25 MR. DEL GOBBO: By "this matter" you

1 previous piece of correspondence with him.
 2
 3 BY MR. BURKE :
 4 400. Q. Well, has this chain been altered or
 5 redacted in any way?
 6 A. I don't believe.
 7 401. Q. Can you make an inquiry and
 8 determine whether it has been redacted and whether
 9 there is an additional e-mail as referred to by Mr.
 10 LeSage?
 11 MR. DEL GOBBO: Yes, we can do that.
 12 THE DEPONENT: Unless there is... U
 13
 14 BY MR. BURKE :
 15 402. Q. Just bear with me. I might be able
 16 to save some time here. Now, if we go to Exhibit P?
 17 MR. DEL GOBBO: Mr. Evoy's affidavit?
 18 403. MR. BURKE: Mr. Evoy's affidavit.
 19 THE DEPONENT: Thank you.
 20
 21 BY MR. BURKE :
 22 404. Q. It's written...or it's printed by
 23 Catherine McDonnell of Heenan Blaikie.
 24 A. Yes.
 25 405. Q. Who is Catherine McDonnell?

1 mean the litigation?
 2 410. MR. BURKE: Well, either the litigation
 3 or issues associated with the petition.
 4 MR. DEL GOBBO: I wasn't actually
 5 involved in the opening of the file at
 6 Heenan Blaikie.
 7 411. MR. BURKE: All right. Can you
 8 ascertain that for me? You must have the
 9 files.
 10 MR. DEL GOBBO: So you're asking whether
 11 there was a file that was opened with
 12 regard to separate issues from the issues
 13 that are now...
 14 412. MR. BURKE: About these issues, about
 15 anything associated with the petition.
 16 MR. DEL GOBBO: I can take that under
 17 advisement. U
 18
 19 BY MR. BURKE :
 20 413. Q. Now, sir, you indicate that you're
 21 familiar with the bylaws?
 22 A. I have several times.
 23 414. Q. And you'll agree with me that in the
 24 bylaws there is no role for an individual member in
 25 the verification process?

1 A. Could you be more specific as to
2 what you mean by "role"?
3 415. Q. Play a part, play a role, to
4 participate, to be involved.
5 A. As in to be involved in the actual
6 verification, the verifying of the numbers...
7 416. Q. Right.
8 A. ...as an individual?
9 417. Q. Yes. You'll agree with me that
10 there is nothing in the bylaws which allow for them
11 to be involved in that process.
12 MR. DEL GOBBO: Mr. Burke, this may be
13 an issue of contractual interpretation.
14 I'm not sure Mr. Evoy is equipped to
15 answer.
16 418. MR. BURKE: You asked many questions of
17 a similar nature to my clients. He has got
18 familiarity with the bylaws. I can ask for
19 his views as to whether there is anything
20 in the bylaws that is supportive of that
21 position.
22 MR. DEL GOBBO: And I'll just add that
23 you refused to answer questions with
24 respect to whether the bylaws included an
25 implied duty of good faith, whether they

1 423. Q. And sir, at paragraph 74...
2 MR. DEL GOBBO: Are you referring to the
3 bylaw once more?
4
5 BY MR. BURKE :
6 424. Q. I'm referring to the bylaw, yes.
7 I'm sorry, paragraph 74 of your affidavit.
8 A. Of my affidavit, thank you.
9 425. Q. Sorry, 75.
10 A. Thank you for the further clarity.
11 426. Q. As part of the Deloitte arrangement,
12 it had been agreed by UTGSU that it was going to pay
13 \$5,000 of those costs?
14 A. We had communicated to the
15 university that we would be willing to pay those
16 costs. We had not signed an agreement with the
17 federation to do so, and we have not received an
18 invoice from the federation to do so.
19 427. Q. Let's go to BB. You say...it says:
20 "...Following meetings with both our
21 executive and litigation committees, I can
22 formally confirm that we will pay the
23 balance of funds equivalent to \$5,000..."
24 Isn't that a commitment?
25 A. That is a commitment to the

1 included a duty of fairness...
2 419. MR. BURKE: Yes.
3 MR. DEL GOBBO: ...on account of the
4 fact that they were contractual
5 questions...
6 420. MR. BURKE: Right.
7 MR. DEL GOBBO: ...and that Ms. Watson
8 wasn't qualified to make that opinion, they
9 were issues in this litigation.
10 421. MR. BURKE: You didn't ask the further
11 question. So I'm asking whether or not, in
12 your view, there is anything in the bylaws
13 that allows an individual member to be
14 involved in the decertification process.
15 MR. DEL GOBBO: We'll take it under
16 advisement. U
17
18 BY MR. BURKE :
19 422. Q. Is there anything in the bylaws that
20 permit or allow the voting member to participate in
21 the verification process?
22 MR. DEL GOBBO: It's similar. We'll
23 take it under advisement. U
24
25 BY MR. BURKE :

1 university, and it is something that they would
2 express. However, we did not sign any further
3 documentation to that, nor have we actually received
4 the invoice.
5 428. Q. Well, I'm not asking...I'm just
6 saying you made a commitment on February 22nd, 2014
7 that the UTGSU would pay \$5,000 towards the Deloitte
8 process. Isn't that correct?
9 A. I think have been previously clear,
10 but...
11 429. Q. Isn't that correct, sir, that on
12 February 22, 2014 you made a commitment that UTGSU
13 would pay \$5,000 towards the Deloitte process?
14 A. What we confirmed was in relation to
15 what was raised by Meredith Strong, which is
16 specifically in relation to a verbal agreement that
17 we had, that if the university had been paying a
18 portion of that, we would pay a part of their
19 portion, but again, at this time, we're still
20 waiting for an invoice.
21 430. Q. And upon receipt of an invoice,
22 UTGSU will pay that?
23 A. I am no longer someone who can...I
24 am not a decision-maker of the GSU at this time.
25 431. Q. You're here to bind the UTGSU.

1 A. I can speak...

2 MR. DEL GOBBO: We will take it under
3 advisement. U

4 432. MR. BURKE: And is it your position,
5 Counsel, that this doesn't constitute a
6 confirmation to pay the amounts?
7 MR. DEL GOBBO: Mr. Evoy has stated our
8 position with respect to that question.

9 433. MR. BURKE: So his position is that
10 upon...it's difficult to understand what
11 Mr. Evoy's position is.
12

13 BY MR. BURKE :

14 434. Q. But in relation to the...in relation
15 to paragraph 76 it says:
16 "...UTGSU had no direct communication with
17 Deloitte at any time, nor was UTGSU
18 provided with the name of the appropriate
19 contact person at Deloitte to which it
20 should direct its inquiries..."

21 Do you see that?

22 A. I do.

23 435. Q. Yes, and did you ever direct to CFS
24 or CFSO inquiries that you wanted to have passed on
25 to Deloitte?

1 BY MR. BURKE :

2 437. Q. Well, it's just taking a long time
3 to get to a yes or no answer, but go ahead, Mr.
4 Evoy.

5 A. I speak at length. My apologies,
6 but I think that we...if we even wished to consider
7 this in any detail, any direct communication with
8 Deloitte or any concerns we wished to share with
9 Deloitte, we were simply, because of the manner of
10 the process, unable to fully consider those things.

11 The amount of time that we spent garnering
12 other matters prevented, like, full communications
13 that we would have wished.

14 438. Q. So the question was did you forward
15 to CFS or CFSO any inquiries to forward on to
16 Deloitte?

17 A. I think I have answered that.

18 439. Q. And the answer is no, as I
19 understand it? You have given me a broad
20 elaboration, but the answer is no, isn't it?

21 A. I have stated that we did not have
22 the time to do so.

23 440. Q. So you didn't do so, period?

24 A. That's fairly clear from what I had
25 stated, yes.

1 A. The concerns at that time were
2 primarily based around, like, concern towards
3 actually an understanding that Deloitte had been
4 contracted, a concern that the payment would take
5 place for the Deloitte audits, how that was to be
6 paid for.

7 We didn't have time, an appropriate amount
8 of time, to actually make any further inquiries or
9 really even consider them in any detail, because of
10 the overall situation we were in in February.

11 We are, in effect, as I think you would
12 note, a middleman in this process. We are not the
13 petitioner, and we are certainly not the CFS. We
14 are in between these matters and we are attempting
15 to...

16 436. Q. So the answer is no?

17 A. If you can let me finish.

18 MR. DEL GOBBO: Sorry, I think he
19 is...he might come to an answer that
20 satisfies you.

21 THE DEPONENT: Yes. I think that...

22 MR. DEL GOBBO: Since you seem
23 unsatisfied so far.

24 THE DEPONENT: Yes.
25

1 441. Q. Now, Mr. Evoy, when we started this
2 morning...or this afternoon, I asked you some
3 questions about your appointment to the position of
4 commissioner.

5 A. Yes.

6 442. Q. And you became...

7 MR. DEL GOBBO: External commissioner.
8

9 BY MR. BURKE :

10 443. Q. External commissioner.

11 A. Yes.

12 444. Q. You were internal commissioner and
13 then you became external commissioner.

14 A. I certainly was.

15 445. Q. And as I understand it, there is a
16 mechanism in the GSU bylaws for a petition.

17 A. There is if a member wishes to
18 present it, yes.

19 446. Q. Yes, and before you were appointed
20 there was a petition for the purposes of seeking a
21 by-election in relation to the position of
22 commissioner external.

23 A. There was a petition delivered 10
24 minutes before...not even 10 minutes before a
25 meeting, yes, which we considered.

1 447. Q. Nonetheless, a petition was put?
 2 A. It was.
 3 448. Q. And as I understand it, that
 4 petition was put on September 30th, 2013?
 5 A. Correct.
 6 449. Q. Around that date.
 7 A. Around that date, it sounds correct.
 8 450. Q. All right, and I'm showing to you,
 9 sir, minutes of a meeting...
 10 A. M'hm.
 11 MR. DEL GOBBO: Wait until we receive
 12 the copy to review it.
 13 THE DEPONENT: Of course.
 14
 15 BY MR. BURKE :
 16 451. Q. It is addressed at executive vacancy
 17 and transition, item 5, correct?
 18 A. Correct.
 19 452. Q. And these are the minutes of
 20 Graduate Student Union Council meeting of September
 21 30th, 2013, correct?
 22 A. The minutes before me are indeed
 23 September, yes, it appears. I would need to read
 24 the entire document to be certain.
 25 453. Q. All right. Will you take a moment?

1 458. Q. And then, sir, following that there
 2 was a chair's ruling regarding the petition
 3 delivered to the UTGSU executive on September 30th,
 4 2013?
 5 MR. DEL GOBBO: Sorry, where are you
 6 referring to in the minutes?
 7 459. MR. BURKE: I have now a separate
 8 document.
 9 MR. DEL GOBBO: This is a separate
 10 document.
 11
 12 BY MR. BURKE :
 13 460. Q. Do you see that?
 14 A. I see the document. I'll need to
 15 take a second to read it. Yes.
 16 461. Q. And if we look, sir, it says in the
 17 third paragraph from the bottom of the page:
 18 "...As chair of the general council, I have
 19 been asked by the executive to make a
 20 ruling on the validity of the petition.
 21 Given these issues, it is clear to me that
 22 the four UTSU members, as well as the
 23 illegible name, incorrect student number,
 24 cannot be counted towards this petition.
 25 This brings the number of names that can be

1 MR. DEL GOBBO: Would you like him to
 2 read the entire document?
 3 454. MR. BURKE: Well, he says he needs to
 4 read the entire document to confirm that
 5 they're the minutes.
 6 THE DEPONENT: It appears accurate. I
 7 cannot speak with 100 percent certainty.
 8 455. MR. BURKE: If it's any different you'll
 9 let me know?
 10 MR. DEL GOBBO: Sure. U
 11
 12 BY MR. BURKE :
 13 456. Q. And item 5 addresses the issues
 14 around executive vacancy and transition, correct?
 15 A. Yes, it does.
 16 457. MR. BURKE: And then following that
 17 there was a chair's ruling around the
 18 petition. Why don't we make this the
 19 next...why don't we make the September
 20 30th, 2013...that will be Exhibit 9.
 21
 22 --- EXHIBIT NO. 9 : September 30, 2013 minutes of UTGSU
 23 executive meeting
 24
 25 BY MR. BURKE :

1 considered in this petition down from 80 to
 2 75..."
 3 Then there is a further paragraph in terms of the
 4 ruling, and then finally in the last paragraph:
 5 "...I rule that the petition presented to
 6 the UTGSU executive on September 30th, 2013
 7 is valid..."
 8 And you're familiar with this, sir, as being the
 9 chair's ruling in relation to your position as
 10 rendered on October 24th, 2013?
 11 A. This would be the chair's ruling in
 12 relation to the petition that was served, yes.
 13 462. MR. BURKE: Yes, all right, let's mark
 14 that as Exhibit 10.
 15
 16 --- EXHIBIT NO. 10 : Chair's ruling regarding petition
 17 delivered to UTGSU executive on
 18 September 30, 2013, dated October
 19 24, 2013
 20
 21 BY MR. BURKE :
 22 463. Q. Then, sir, you also received a
 23 letter from the University of Toronto from Mr.
 24 LeSage.
 25 A. M'hm.

1 464. Q. It's the same Mr. LeSage who was
2 involved in the verification process of the CFS/CFSO
3 petition?

4 MR. DEL GOBBO: Sorry, one moment,
5 please.

6 THE DEPONENT: This appears to be
7 correct.

8 465. MR. BURKE: All right, so you'll tell me
9 if it's not?

10 MR. DEL GOBBO: Sure. U

11 BY MR. BURKE :

12 466. Q. And you received this on or about
13 October 25, 2013?

14 A. That would be the case.

15 467. MR. BURKE: So let's mark this as
16 Exhibit 11.

17 --- EXHIBIT NO. 11 : Letter dated October 25, 2013 from
18 Michael LeSage to Brad Evoy

19 BY MR. BURKE :

20 468. Q. And then finally, sir, on October
21 28th, 2013 there was another meeting. These are
22 minutes of the Graduate Students' Union council

1 similarly put together, be it elections documents or
2 the like, we would normally include such things, and
3 the challenge to the chair was that the overall
4 precedent being set by the chair's ruling was
5 incorrect.

6 472. Q. All right, but there was a challenge
7 to the chair, and then you were confirmed?

8 A. The challenge to the chair occurred,
9 and at this point in the meeting, it was carried.
10 The ruling of the chair was overturned appropriately
11 by council as its power, and the overall discussion
12 was tabled for that period of time for the item.

13 473. Q. Okay, and you were ultimately
14 confirmed?

15 A. We would have to go further into the
16 document at that point, but...

17 474. Q. Well, were you or were you not
18 ultimately confirmed or are you occupying this
19 position without authority and authorization?

20 A. If we can look to the minutes,
21 because if the...

22 475. Q. Section 5.

23 A. Indeed. So we then, essentially
24 the...since the chair's ruling was overturned, and
25 at that point, the petition was not to be

1 meeting. Do you see that?

2 MR. DEL GOBBO: Take a moment to read
3 it.

4 THE DEPONENT: M'hm.

5 BY MR. BURKE :

6 469. Q. You would have been in attendance at
7 that particular meeting?

8 A. I would need to check...I believe
9 so.

10 470. Q. All right, and sir, there was a by-
11 election update at item 4.

12 A. Item 4. I haven't actually read the
13 entire document. M'hm.

14 471. Q. Right, and there was a challenge to
15 the chair's ruling, and your appointment was
16 confirmed. Isn't that what happened?

17 A. Not exactly. What occurred, if you
18 read the document, on point 4, specifically a member
19 challenged the chair's ruling because there was no
20 precedent as to the overall construction of a
21 petition of this nature, and that without
22 signatures, this would state...create a dangerous
23 precedent.

24 In GSU and other documents that we have
25

1 considered, we then considered other options.
2 Members asked a number of questions about the
3 overall process, a number of comments as to the
4 decision they wished to take, and at that point,
5 there was a move to hold an election, which I and a
6 number of others abstained for, followed by
7 ultimately the adoption of the second option, which
8 was that I would be appointed to the external
9 position, and that the executive at large would be
10 appointed to internal.

11 I abstained from that vote, as did the
12 then executive at large, which I think is important
13 to note.

14 476. MR. BURKE: Let's mark that as Exhibit
15 12.

16 --- EXHIBIT NO. 12 : Minutes of UTGSU meeting of October
17 28, 2013

18 477. MR. BURKE: Subject to the undertakings,
19 those are my questions, Mr. Evoy.

20 MR. CARSTEN: Mr. Evoy, I have some
21 questions now.

22 THE DEPONENT: Thank you, Mr. Carsten.
23
24
25

1 --- A BRIEF RECESS

2
3 BRAD EVOY, resumed

4 CROSS-EXAMINATION BY MR. CARSTEN:

5
6 478. Q. Hello.

7 A. Hello.

8 479. Q. I would ask one thing at the start
9 of this cross-examination. I'm going to ask you
10 some questions which I would think some of them
11 could be answered in a yes or no fashion. I have no
12 problem with you providing an explanation of
13 whatever length you believe advisable, but it would
14 be helpful if you could start with a yes or no, and
15 not leave it at the end or leave it implied.

16 If the question has a yes or no answer
17 with an explanation, just start with the yes or no,
18 and then I promise to provide you full time to
19 provide the explanation, all right?

20 A. I will try my best to do so.

21 480. Q. Thank you so much.

22 MR. DEL GOBBO: Can I just add that you
23 can answer the questions however you would
24 like and you feel comfortable this.
25

1 said.

2 487. Q. Okay. I want to be clear, because
3 when you were answering some of my friend's earlier
4 questions, you were very specific that the petition
5 had to be the petition where the actual voting was
6 going to be held during the 24th to the 28th. I
7 want to know if Ms. Ingle discussed any petition
8 that she was planning to bring forward at that
9 meeting.

10 Never mind the specific one, but did she
11 talk at that meeting about bringing forward any kind
12 of petition for decertification?

13 A. I think as I stated earlier that the
14 reason that we had asked Jason and Ashleigh to that
15 meeting was specifically to ascertain if they knew
16 any specifics around any petition to be sent, and as
17 I stated earlier, that we really didn't get much
18 clarity from the meeting as to whether anything was
19 occurring.

20 This is to be...you know, to state what I
21 basically said the last time.

22 488. Q. See, the thing about your answer
23 here is it covers all manner of potential
24 happenstances at the meeting. For example, Ms.
25 Ingle could have said, "You know, I'm really

1 BY MR. CARSTEN :

2 481. Q. This is a request. I can't make you
3 do this. I'm just asking.

4 A. Of course.

5 482. Q. I have some questions about the
6 August 31st meeting at which Ms. Ingle and Mr.
7 Dumelie attended.

8 A. Certainly

9 483. Q. Now, I understood you to tell my
10 friend, Mr. Burke, that the specific petition that
11 Ms. Ingle was bringing forward was not discussed at
12 that meeting, correct?

13 MR. DEL GOBBO: Sorry, this is in
14 respect of Exhibit 6, I believe?

15 484. MR. CARSTEN: I believe it is Exhibit 6.

16 MR. DEL GOBBO: Okay, I would just like
17 to put it before the witness.

18 485. MR. CARSTEN: Sure, of course.

19 THE DEPONENT: Thank you.
20

21 BY MR. CARSTEN :

22 486. Q. I believe that is what you told my
23 friend.

24 A. From what I recall from what I said
25 a moment...from earlier, that sounds like what I

1 thinking about it, but I'm not sure," or, "I'm
2 probably going to do it, but I don't have an exact
3 date in mind."

4 That would be covered by what you just
5 said, or her saying, "I have no plan whatsoever," is
6 covered by what you just said. So I would like to
7 find out specifically whether she told you she had
8 any intention or any plan to bring forward a
9 petition.

10 A. I mean, as I said, I don't have any
11 notes from that meeting, and I don't have...there is
12 no minute. It's all in camera. So the most I can
13 give in specifics is what I have already stated.

14 489. Q. So can you answer my question?
15 Again, we are moving away from that yes or no. Do
16 you remember whether she said anything at that
17 meeting about any plan to bring forward a petition
18 for decertification?

19 MR. DEL GOBBO: I believe he has given
20 his answer as to his recollection.

21 490. MR. CARSTEN: I don't think he has, and
22 this is not a trick question.
23

24 BY MR. CARSTEN :

25 491. Q. If he could just answer it, that

1 would be swell.

2 A. I don't feel I can give any further
3 information or further clarity than the answer I
4 already have.

5 492. Q. Is there some reason you're not
6 answering this question, because it's really
7 straightforward and it avoids a lot of the mess from
8 before? So there is some reason you're avoiding
9 answering this question?

10 A. No.

11 MR. DEL GOBBO: Excuse me, I take
12 objection to that. He is not avoiding
13 answering the question. You have asked the
14 question many times in many different ways,
15 both you and your friend. He has tried to
16 answer to the best of his ability.

17 THE DEPONENT: If I could provide
18 further recollection, I would, but...

19
20 BY MR. CARSTEN :

21 493. Q. You can answer that direct question.

22 A. There is no further that I can...

23 494. Q. Now, Ms. Ingle and Mr. Dumelie, were
24 invited to that meeting, you said, because you
25 thought they might have information.

1 petition coming forward? Are people unhappy? Do
2 you know anything about this?" I would think that
3 that would be the preliminary conversation before
4 you invite them to the meeting. Am I right?

5 A. In this case, no. I mean, we are
6 already meeting. It was kind of really quickly put
7 together. It was, like, not something that we had
8 really planned how to...like, even how to address
9 this with them. It was fairly quickly done.

10 498. Q. Were they by invited by e-mail or by
11 phone or how?

12 A. I believe it was verbal. One of us
13 may have went to them. I can't recall there being
14 an e-mail or other conversation at that time.

15 499. Q. Okay. Will you undertake to make
16 inquiries, and if there was a written
17 correspondence, a written invitation, can you please
18 provide that correspondence, including any reply
19 obviously from these individuals?

20 R. DEL GOBBO: Yes.

U

21 500. MR. CARSTEN: Thank you.

22
23 BY MR. CARSTEN :

24 501. Q. Was there a conversation among the
25 members of the UTGSU exec, whether formal or

1 A. They are highly involved members in
2 graduate student life. If, you know, if anyone
3 would have general...a general sense of the
4 membership outside of our executive or outside of
5 those bodies, they are two that may.

6 495. Q. So whose idea was it to invite them?

7 A. I don't recall which executive
8 floated the idea of inviting which particular
9 individual.

10 496. Q. Did you talk to Ms. Ingle and Mr.
11 Dumelie prior to their attendance at this meeting in
12 relation to their attendance at this meeting?

13 A. We had asked them to attend, and I
14 think we had given...I can't recall the exact
15 invitation, like, how that was phrased or in what
16 fashion, but that was what...we have spoken about
17 what I have said, and that's...

18 497. Q. It seems to me someone could have
19 just asked them, "Hey, do you know anything about
20 this?" without needing to invite them to a meeting.
21 Again, this is not me giving evidence. I am just
22 putting the parameter for my question.

23 It seems to me that one would have asked
24 them ahead of time, "Hey, we're having this meeting.
25 We want to know what is happening with CFS. Is a

1 informal, about the appearance they should cultivate
2 or avoid with respect to this petition, more
3 specifically, whether it was important to avoid
4 seeming partial to this decertification petition?

5 A. What the executive discussed, I
6 think, is illustrated in the position that we took,
7 which is that we, as a collective, had no position,
8 and that the discussion to create that stance is the
9 discussion that was had in relation to any such
10 matter.

11 502. Q. So I want to be clear. So there was
12 a discussion that no official position be taken by
13 the exec?

14 A. There would have to be to have the
15 development of that statement, yes.

16 503. Q. Okay, and how was that discussion
17 had?

18 A. As I have already described, the
19 creation of the statement.

20 504. Q. You described the creation of the
21 statement. You didn't describe the discussion about
22 what the policy should be, unless I guess they were
23 one and the same. Were they one and the same?

24 A. As far as I'm aware, there was no
25 separate policy developed. I mean, policy of the

1 GSU takes a much longer time to develop. It
2 involves several committees, and not just the
3 executive.

4 505. Q. If I could take you to Exhibit 8,
5 which are the Facebook posts?

6 A. Mhm.

7 506. Q. This is Exhibit 8. Now, I haven't
8 used Facebook in over probably two years, but this
9 looks to me like a wall post. Am I correct?

10 A. No.

11 507. Q. No, okay, what kind of post was it?

12 A. I have stated what it was
13 previously, from like, I recall after seeing the
14 exhibit that this would have been a restricted post.

15 508. Q. A restricted post, okay.

16 A. This would not have been
17 something...I would not have posted something this
18 relatively flippant publicly in the sense of I
19 wouldn't...

20 509. Q. You wouldn't have posted something
21 this what?

22 A. I wouldn't have something of this
23 nature publicly.

24 510. Q. Why not?

25 A. I don't believe it was of my...I

1 manner in which I would speak to this group of
2 people. If I was to speak more broadly about the
3 petition, I would have probably written more at
4 length, and would have engaged a little bit more in
5 terms of, you know...I wouldn't have been...the
6 overall framing of it would have been a little bit
7 differently.

8 For me, I certainly would focus a little
9 more on, you know, on...

10 516. Q. I am not sure you have actually
11 answered the question in any way.

12 MR. DEL GOBBO: I don't know that he was
13 finished.

14
15 BY MR. CARSTEN :

16 517. Q. Okay, fair enough.

17 A. I think that the...what I mean by
18 "appropriate" here is that this is a discussion
19 amongst those in a fairly close setting, that it was
20 framed in that fashion. It is not something
21 that...like, I wouldn't stated something...even
22 like, for example, I wouldn't have used in all
23 likelihood the abbreviation of by the way. I tend
24 to not do that as much publicly sometimes, but...if
25 on Twitter or something, but if I have more room, I

1 don't believe it was for me to publish that
2 publicly. I mean, as discussed previously...

3 511. Q. Because it appears that you're
4 partial towards the decertification side?

5 A. No, no, I don't think...

6 512. Q. Then why?

7 A. I don't think it's about partiality
8 or appearance of partiality.

9 513. Q. Then tell me what it is about.

10 A. It's simply that, you know, this
11 particular post was meant for those folks in that
12 group. It was not meant for a public audience.

13 514. Q. You're not answering the question.

14 The question was why would it have been
15 inappropriate to post publicly. Stop a second
16 before you answer this question so I can clarify.
17 I don't want you to tell me who it was
18 meant for.

19 A. Yes.

20 515. Q. I want you to clarify your previous
21 statement that it would have been inappropriate to
22 post this publicly. What about this is
23 inappropriate for public consumption?

24 A. Excellent. I can clarify that quite
25 clearly. My language generally here is the tone and

1 would speak a little more clearly.

2 I wouldn't be...you know, it's a
3 little...what I'm saying it's a little colloquial
4 and not...it just doesn't feel like it is the way I
5 would have phrased it in another setting. That was
6 my intention. I apologize if I was unclear.

7 518. Q. And you feel that the phraseology in
8 your Facebook post is markedly different from your
9 tweets?

10 A. As I stated a moment ago, because
11 of, you know, the general increased character limit,
12 like, compared to Twitter...I mean Twitter is going
13 to come across fairly short and brief. So that's
14 the limitation of that medium.

15 519. Q. Who are the emergency personnel
16 petition teams?

17 MR. DEL GOBBO: Where are you seeing
18 that reference?

19 520. MR. CARSTEN: On this post:

20 "...Good work to our own crew of
21 emergency personnel petition teams
22 and then the filibusterers..."

23 THE DEPONENT: Well, I'm assuming they
24 were folks who were engaging...
25

1 BY MR. CARSTEN :

2 521. Q. Why assume? You wrote this?

3 A. Well, that was what that is. I am
4 not...I am simply acknowledging their work.

5 522. Q. Who are they?

6 A. Who are they? I wasn't...I clearly
7 didn't know, or I would have said specifics. It was
8 a much more informal group.

9 523. Q. So what does an emergency personnel
10 petition team do? What is the character and nature
11 of these individuals?

12 A. I believe I was being flippant...or
13 not flippant, but I was being slightly...the overall
14 tone is a little informal, and I wasn't...it's not
15 like...

16 524. Q. Mr. Evoy, instead of telling me what
17 it isn't, can you tell me what it is?

18 A. Could you be a little clearer about
19 what you're asking?

20 525. Q. Yes, you're referring to emergency
21 personnel petition teams. Who are you referring to?
22 You are clearly not referring probably to your mom
23 and dad or your dentist or your doctor. You're
24 referring to some people that have a function. Who
25 are these people and what function do they serve?

1 530. Q. Involved in what way?

2 A. I don't know. I was speaking
3 broadly.

4 531. Q. You said emergency...

5 MR. DEL GOBBO: I think that he has
6 given his understanding of what he meant by
7 "emergency personnel".

8 532. MR. CARSTEN: I don't think he has given
9 anything close to his understanding of what
10 he meant by it. I think he has danced
11 around it for a while, with respect.

12 MR. DEL GOBBO: I object to that
13 characterization. I think he has tried to
14 answer your question to the best of his
15 ability with respect to what he meant by
16 those words.

17 THE DEPONENT: Indeed, yes.

18
19 BY MR. CARSTEN :

20 533. Q. He hasn't said...let me be clear.

21 He has described who are emergency people or
22 petition team, but he hasn't used one word, unless I
23 have missed...and you can help me. You can tell me
24 what this was. Telling me anything that these
25 people would have done, I haven't heard anything

1 A. Who are these...okay. So I'm
2 acknowledging that amongst the group there are
3 probably folks engaging in that.

4 526. Q. Probably?

5 A. I'm not...you know, I'm
6 acknowledging their work. If there were folks
7 engaged...

8 527. Q. What work?

9 A. If there were folks engaged in the
10 petition, I am acknowledging that they had done so
11 and that is an undertaking. I am not stating, I
12 don't believe, anything more than that here. That
13 is what I am trying to say.

14 528. Q. I don't see anything there saying,
15 "If any of you are among the emergency personnel
16 petition teams, rock on." I see, "Good work to our
17 own crew." So it seems like we, whoever "we" are,
18 have a crew of emergency personnel petition team.
19 That's what I read.

20 A. That is...I do not believe that is a
21 correct reading in my view of what I intended.

22 529. Q. Did I miss a word?

23 A. No. I mean, I think the "our own"
24 would refer to those in the group, and I am speaking
25 broadly to those in the group who may be involved.

1 about that. Did I miss something? You let me know
2 right now.

3 MR. DEL GOBBO: Mr. Evoy stated that he
4 wasn't sure the extent of their
5 responsibilities. I believe that was his
6 statement.

7 THE DEPONENT: That is correct.

8 MR. DEL GOBBO: Who are they? It's a
9 simple question.

10
11 BY MR. CARSTEN :

12 534. Q. You wrote this statement. You say
13 you don't even know if there were such people. You
14 don't know who you're referring to. You don't know
15 what function they served.

16 A. No, I did not say that.

17 535. Q. Actually, I think you did.

18 A. I did not.

19 536. Q. Well, your record is the record.

20 MR. DEL GOBBO: You can ask your
21 question one more time. It is better than
22 us talking over each right now.

23
24 BY MR. CARSTEN :

25 537. Q. Okay, instead of telling me what you

1 don't know...

2 A. Okay.

3 538. Q. ...please tell me everything that
4 you know about what you meant when you were
5 referring to "our own crew of emergency personnel
6 petition team", including...let me be clear, the
7 identity of these people, what responsibilities they
8 may have had, and what their connection was to CFS
9 in this case. Please provide me all the information
10 you have about that.

11 A. I think the most...like, what I can
12 say with certainty on this is that there were
13 certainly amongst the group of either...of the
14 overall relatively reformers block within the
15 federation, that...

16 539. Q. Within the what? I'm sorry, I
17 missed that.

18 A. The folks who had engaged within
19 federation in reforms and some of those things, as I
20 described the group earlier, had been...but there
21 were a number of folks who were present...

22 MR. DEL GOBBO: And by "the group" you
23 mean the Filibusters Anonymous?

24 THE DEPONENT: Yes, yes. There were
25 those folks present, and among that group,

1 THE DEPONENT: I think I did say
2 surprised as well.

3 MR. DEL GOBBO: My apologies.

4
5 BY MR. CARSTEN :

6 542. Q. Certainly, you, I guess, rejected
7 any notion that any happiness came to you as a
8 result this?

9 A. Elation.

10 543. Q. Elation, that's...

11 A. Yes.

12 544. Q. So let me read that second line
13 there:

14 "...Oh, by the way, the UTGSU petition,
15 umm, kind of crushed it. What?..."

16 That's the only way I know how to read that. Is
17 there a different way to read that?

18 MR. DEL GOBBO: Mr. Carsten, your
19 colleague, Mr. Burke, asked almost this
20 same exact question.

21 545. MR. CARSTEN: He never asked that
22 question. He actually did not.

23 MR. DEL GOBBO: He specifically put the
24 words "kind of crushed them" to Mr. Evoy.

25 546. MR. CARSTEN: You're right, but he

1 some of those folks were engaged in the
2 petition. I can't recall exact names. I
3 would need to see the list of folks in the
4 group again, and get a sense of that, but I
5 am certain that there had been folks
6 involved in that group that were at least
7 named in some media or other things on the
8 petition, and I was aware of that. That is
9 the context in which I have spoken here,
10 from what I recall.

11 MR. DEL GOBBO: He has given you his
12 best recollection now.

13
14 BY MR. CARSTEN :

15 540. Q. The other page...I think it's the
16 other Facebook post:

17 "...So how is every filibusterer doing
18 today? Good? Good..."

19 Now, you had a discussion with my friend where he
20 asked you if you were happy about this.

21 A. Correct.

22 541. Q. You said no, you were surprised.
23 You weren't exuberant you were surprised.

24 MR. DEL GOBBO: I believe he said
25 confused. I might be thinking of...

1 didn't include the "what". See, I'm
2 younger than Mr. Burke over here, as he has
3 acknowledged, and I know how that phrase is
4 said, and it is actually said, in my
5 experience, only a "wooh hoo" kind of way.

6
7 BY MR. CARSTEN :

8 547. Q. So I am putting it to you, which he
9 didn't, that there is no other real way to read
10 that. Tell me that I'm wrong.

11 A. I actually would.

12 548. Q. How would you mean that? Use tone.
13 A. Use tone. I don't know if that...

14 MR. DEL GOBBO: Sorry, tone is hard to
15 convey in a written transcript.

16 549. MR. CARSTEN: I know, but I can hear it.
17 So I would like him to say it.

18 MR. DEL GOBBO: I would rather you not
19 espousing on the record how you perceive
20 his tone. I would rather he just give his
21 answer.

22
23 BY MR. CARSTEN :

24 550. Q. Okay, please, read that...

25 MR. BURKE: We could get an audio file.

1 551. MR. CARSTEN: We totally could.
 2
 3 BY MR. CARSTEN :
 4 552. Q. Read that second sentence the way
 5 you meant it to be said. Read that second sentence
 6 the way you meant it to be said.
 7 A. Okay, so the second sentence?
 8 553. Q. Starting with, "Oh, by the way..."
 9 A. "...Oh, by the way, the UTGSU
 10 petition, kind of crushed it..."
 11 554. Q. You missed the "umm".
 12 A. Oh.
 13 MR. DEL GOBBO: Could you restate it,
 14 including the "umm"?
 15 THE DEPONENT: I can restate it
 16 including the "umm". So:
 17 "...Oh, by the way, the petition,
 18 umm..."
 19
 20 BY MR. CARSTEN :
 21 555. Q. You missed the "UTGSU" this time.
 22 A. Okay.
 23 MR. DEL GOBBO: He is making best
 24 efforts.
 25 THE DEPONENT: I'm trying my best.

1 BY MR. CARSTEN :
 2 556. Q. And I'm helping him. I don't want
 3 to waste time by going to the end and having to
 4 restart.
 5 A. Well, thank you. I appreciate those
 6 efforts. So it would be:
 7 "...Oh, by the way, the UTGSU petition,
 8 umm, kind of crushed it. What?..."
 9 It would be, like...and to be clear, like...or,
 10 "What?" It would be deadpan. It wouldn't be some
 11 sort of...like, I'm confused by this discussion of
 12 tone in and of itself.
 13 557. Q. Well, let me be clear, in case
 14 you're confused. It's my, I guess, theory that you
 15 are trying very hard to mask the fact that you were
 16 absolutely in favour of decertification. You are
 17 binding over backward to offer explanations for what
 18 you wrote, to say, "No, no, I wasn't in favour. I
 19 meant this. I meant that." That's the purpose of
 20 these questions.
 21 MR. DEL GOBBO: That's an argument that
 22 you could put forward at...
 23 558. MR. CARSTEN: He asked me. I was trying
 24 to clarify. He wanted to know where I was
 25 going with this.

1 BY MR. CARSTEN :
 2 559. Q. What about the:
 3 "...IT HAS BEGUN..."
 4 A. That is, I think, to be honest, a
 5 fairly accurate statement, but also, if you look at
 6 the emoticon...if we're going to, like, get into
 7 this, like, level of granularity, I want you to look
 8 at the emoticon, and I want to be very clear about
 9 it. It is not a smiley face. It is a colon with an
 10 S. A colon with an S generally is a face of
 11 uncertainty, a face of...I wouldn't say
 12 necessarily...
 13 560. Q. We'll have experts on this at the
 14 application.
 15 A. I'm sure, I'm sure, but it is by no
 16 means an expression of joy. Rather, the:
 17 "...IT HAS BEGUN..."
 18 Is representative of the undertaking that this
 19 begins. It begins this process, and it creates, I
 20 think, for me personally, a sense of the realization
 21 of the level of work that I would have to be
 22 involved in as per the documents that are before
 23 you.
 24 The processes that this opens are heavy
 25 undertakings, and to note that, "IT HAS BEGUN,"

1 would be the case.
 2 561. Q. Okay.
 3 A. It is...that is how I read my
 4 writing there, and it is how to read...
 5 562. Q. Perhaps your counsel can answer this
 6 next question. Is it your legal position that UTGSU
 7 was entitled to participate in the verification
 8 process?
 9 MR. DEL GOBBO: Is it our legal position
 10 that they are entitled to participate in
 11 the verification process?
 12 563. MR. CARSTEN: That they were. It's
 13 over, but that...
 14 MR. DEL GOBBO: What do you mean by
 15 "participate in the verification process"?
 16 564. MR. CARSTEN: Well, I think you used
 17 the...
 18 MR. DEL GOBBO: Getting involved.
 19 565. MR. CARSTEN: Sorry, let me rephrase,
 20 thank you. What is your legal position as
 21 to the level of involvement to which UTGSU
 22 was entitled in the verification process?
 23 MR. DEL GOBBO: It's a position that we
 24 get to articulate fully. I don't know that
 25 I can articulate it fully now. It's

1 something that will likely be developed
2 over time as we review these transcripts,
3 and as we mentioned before with
4 submissions.

5 566. MR. CARSTEN: But at this point, you're
6 not prepared to say the level of
7 involvement the UTGSU was entitled to?
8 MR. DEL GOBBO: I don't think I should
9 be obliged to say right now. I think that
10 our position has been clear in the Notice
11 of Application.

12 567. MR. CARSTEN: Does it say anywhere in
13 the Notice of Application what level of
14 entitlement UTGSU was entitled to? If it
15 does, if I have missed it, and I apologize.

16 Certainly, much fuss is
17 made... "fuss" I used, but I don't really
18 mean pejoratively. Mention is made
19 certainly in the application materials upon
20 which you rely about the level of
21 involvement that UTGSU did or did not have.
22 So this is where it arises.

23 I'm not sure in the actual
24 application, itself, you say what level of
25 entitlement you believe UTGSU was entitled

1 568. MR. CARSTEN: Okay. Thank you. I need
2 one minute.

3 --- DISCUSSION OFF THE RECORD

4 RE-EXAMINATION BY MR. DEL GOBBO:

5
6
7
8 569. Q. Mr. Evoy, I just have very brief
9 questions in redirect examination.

10 MR. CARSTEN: I should say, by the
11 way... I put on the record, thank you.
12 Those are all my questions.

13
14 BY MR. DEL GOBBO :

15 570. Q. A few very brief questions in
16 redirect questions.

17 MR. CARSTEN: To be clear, I apologize.
18 Subject to all undertakings, those are all
19 my questions, of course. Thank you. I
20 will probably stop interrupting at this
21 point.

22
23 BY MR. DEL GOBBO :

24 571. Q. Thank you. I think you know by now
25 that I just have a few very brief questions in

1 to. So that is my question, because you
2 mention it in the affidavit materials, but
3 make no mention of it in the actual, I
4 think, application.

5 MR. DEL GOBBO: We have... I think that
6 all parties agree that the bylaws are a
7 contract binding on the CFS and the UTGSU
8 in this matter. If not all parties are in
9 agreement to that, then please correct me,
10 but there are several issues that are
11 raised in the Notice of Application in
12 respect of the correct interpretation of
13 that contract, the exercise of discretion,
14 good faith, uncertainty.

15 I think that the involvement of
16 UTGSU, their participation, information
17 that they received at various stages, how
18 often information was communicated to them,
19 how CFS and CFSO responded to UTGSU's
20 requests and involvement at various stages
21 is relevant to all of those issues, whether
22 discretion was exercised reasonably by the
23 CFS and CFSO under the bylaws and the other
24 arguments I mentioned earlier. As I said,
25 it is something that will evolve, but...

1 redirect examination.

2 A. Well, yes, I do know that.

3 572. Q. So both Mr. Burke and Mr. Carsten
4 put a number of... I'll put the exhibits in front of
5 you. They are social media messages...

6 A. Yes.

7 573. Q. ...before you. There is Exhibit 7,
8 which I believe it has been stated are Twitter
9 messages that you sent.

10 A. Yes.

11 574. Q. And Exhibit 8, which are a number of
12 Facebook posts.

13 A. That would be true.

14 575. Q. In what capacity did you make these
15 statements in Exhibits 7 and 8? All of my social
16 media completely and entirely is my own personal
17 statements, or are my own personal statements, to be
18 proper in tense.

19 576. MR. DEL GOBBO: That's all my questions.

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REPORTER'S NOTE:

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I hereby certify the foregoing to be a true and accurate transcript of the above noted proceedings held before me on the 12th DAY OF JUNE, 2014 and taken to the best of my skill, ability and understanding.

}
} Certified Correct:

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} _____
} Ksenja Thellimi
} Verbatim Reporter
}