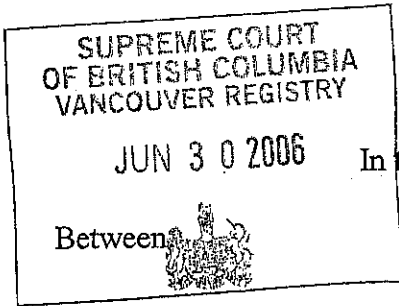


Form 1 (Rule 8 (3))

S-064241

No.  
Vancouver Registry



In the Supreme Court of British Columbia

Between

Joey Hansen

Plaintiff

and

Kevin Tilley, Derrick Harder  
and Peak Publications Society (c.o.b. "The Peak")

Defendants

**WRIT OF SUMMONS**

(Name and address of each plaintiff)

Joey Hansen  
604-21 Avenue East  
Vancouver, British Columbia  
V5V 1R7

(Name and address of each defendant)

Kevin Tilley  
2186 East Pender Street  
Vancouver, British Columbia  
V5L 1X2

Derrick Harder  
#209-2075 East 12<sup>th</sup> Avenue  
Vancouver, British Columbia  
V5N 2A9

30 JUN 06 6:30:12  
214422 5064241  
R155  
208.00

Peak Publications Society  
(c.o.b. "The Peak")  
Maggie Benston Centre 2901  
Simon Fraser University  
8888 University Drive  
Burnaby, British Columbia  
V5A 1S6

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom, Canada and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

*To the defendants:* Kevin Tilley, Derrick Harder and Peak Publications Society

TAKE NOTICE that this action has been commenced against you by the plaintiffs for the claims set out in this writ.

IF YOU INTEND TO DEFEND this action, or if you have a set off or counterclaim that you wish to have taken into account at the trial, YOU MUST

- (a) GIVE NOTICE of your intention by filing a form entitled "Appearance" in the above registry of this court, at the address shown below, within the Time for Appearance provided for below and YOU MUST ALSO DELIVER a copy of the Appearance to the plaintiffs' address for delivery, which is set out in this writ, and
- (b) if a statement of claim is provided with this writ of summons or is later served on or delivered to you, FILE a Statement of Defence in the above registry of this court within the Time for Defence provided for below and DELIVER a copy of the Statement of Defence to the plaintiffs' address for delivery.

YOU OR YOUR SOLICITOR may file the Appearance and the Statement of Defence. You may obtain a form of Appearance at the registry.

JUDGMENT MAY BE TAKEN AGAINST YOU IF

- (a) YOU FAIL to file the Appearance within the Time for Appearance provided for below, or
- (b) YOU FAIL to file the Statement of Defence within the Time for Defence provided for below.

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

If this writ is served on a person outside British Columbia, the time for appearance by that person after service, is 21 days in the case of a person residing anywhere within Canada, 28 days in the case of a person residing in the United States of America, and 42 days in the case of a person residing elsewhere.

[or, if the time for appearance has been set by order of the court, within that time.]

### TIME FOR DEFENCE

A Statement of Defence must be filed and delivered to the plaintiffs within 14 days after the later of

- (a) the time that the Statement of Claim is served on you (whether with this writ of summons or otherwise) or is delivered to you in accordance with the Rules of Court, and
- (b) the end of the Time for Appearance provided for above.

[or, if the time for defence has been set by order of the court, within that time.]

(1)	The address of the registry is: The Law Courts 800 Smithe Street Vancouver, British Columbia V6Z 2E1
(2)	The plaintiffs' ADDRESS FOR DELIVERY is: McConchie Law Corporation 701-100 Park Royal West Vancouver, B.C. V7A 1A2 Attention: Roger D. McConchie Fax number for delivery: None
(3)	The name and office address of the plaintiffs' solicitor is: Roger D. McConchie McConchie Law Corporation 701-100 Park Royal West Vancouver, B.C. V7A 1A2

### Endorsement

The plaintiff claims against the defendants Kevin Tilley, Derrick Harder and Peak Publications Society, jointly and severally, for general, aggravated, special and punitive damages for false and defamatory expression, of and concerning the plaintiff which the said defendants and each of them published or caused to be published in *The Peak* newspaper and on the Internet at <http://www.peak.sfu.ca/>, and which they continue to republish or cause to be republished on the Internet on the website at <http://www.peak.sfu.ca/>, and more specifically the plaintiff claims in relation to the following stories and/or other expression:

- a) "Local: Police investigate DSU" in issue 8, volume 123, June 26, 2006 in hardcopy and on the Internet at

[http://www.peak.sfu.ca/the-peak/2006-2/issue8/Peak0602\\_08.pdf](http://www.peak.sfu.ca/the-peak/2006-2/issue8/Peak0602_08.pdf)

- b) "Local: Controversy swirls at Douglas Student's Union" in issue 3, volume 123, May 23, 2006 in hardcopy and on the Internet at

<http://www.peak.sfu.ca/the-peak/2006-2/issue3/ne-dsu.html>

- c) "'Student News: Douglas students attempt to recover from financial crisis" in issue 1, volume 123, May 8, 2006 in hardcopy and on the Internet at

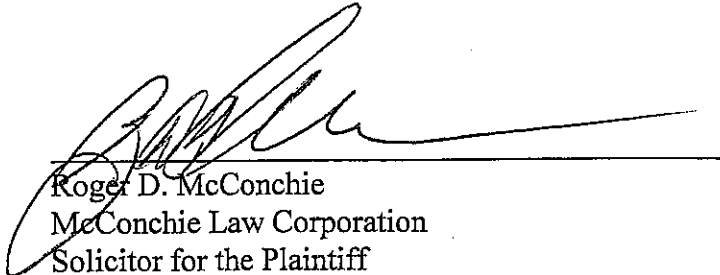
<http://www.peak.sfu.ca/the-peak/2006-2/issue1/ne-dsu.html>

The plaintiff further claims for an interim and permanent injunction to restrain further publication of the above-mentioned defamatory statements, and a mandatory injunction requiring the defendants to publish a full retraction and apology to the plaintiff for the defamatory expression.

The plaintiff further claims interest pursuant to the Court Order Interest Act, special costs, and such further and other relief as to this Honourable Court may appear just.

Full particulars of the allegations contained in this endorsement will be provided in the Statement of Claim which is to be filed separately by the plaintiff in accordance with the Rules of Court.

DATED: June 30, 2006

  
\_\_\_\_\_  
Roger D. McConchie  
McConchie Law Corporation  
Solicitor for the Plaintiff



No. S064241  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between:

JOEY HANSEN

Plaintiff

And:

KEVIN TILLEY, DERRICK HARDER AND PEAK  
PUBLICATIONS SOCIETY (c.o.b. "The Peak")

Defendants

APPEARANCE

Enter an appearance on behalf of:

DERRICK HARDER  
PEAK PUBLICATIONS SOCIETY (c.o.b.  
"The Peak")

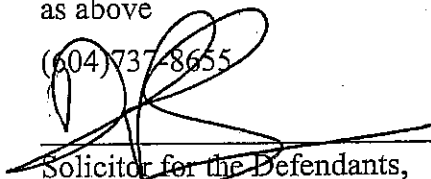
Address:

c/o David F. Sutherland & Associates  
1710 Dunbar Street  
Vancouver, BC V6R 3L8

Address for Delivery:

as above

Fax number for delivery (if any):

(604)737-8655  


DATED: July 7, 2006

Solicitor for the Defendants,  
Derrick Harder and Peak Publications  
Society (c.o.b. "The Peak")

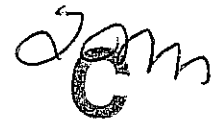
NOTICE TO DEFENDANT ENTERING THE APPEARANCE

Rule 21(5) provides that where a defendant has entered an Appearance he shall file and deliver his Statement of Defence within 14 days from the time limited for Appearance or from the delivery of the Statement of Claim, whichever is the later.

If you fail to file and deliver the Statement of Defence within the time allowed, JUDGMENT MAY BE TAKEN AGAINST YOU without further notice.

Name and address of solicitor:

David F. Sutherland  
David F. Sutherland & Associates  
Law Office  
1710 Dunbar Street  
Vancouver, BC V6R 3L8  
Telephone: (604)737-8711





In the Supreme Court of British Columbia

Between

Joey Hansen

Plaintiff

and

Kevin Tilley, Derrick Harder  
and Peak Publications Society (c.o.b. "The Peak")

Defendants

**STATEMENT OF CLAIM**

**THE PARTIES**

1. The Plaintiff Joey Hansen resides at 309-10<sup>th</sup> Street, in the City of New Westminster, in the Province of British Columbia. He is employed as Finance & Service Co-ordinator by the Society of the Douglas Students' Union at its office premises in the City of New Westminster, British Columbia.

2. The Defendant Peak Publications Society (c.o.b. "the Peak") [the "PPS"] is a society duly incorporated under the *Society Act* of British Columbia. At all material times the Defendant PPS was the owner and publisher of *The Peak* newspaper and carried on business from its offices at Simon Fraser University, 2901 Maggie Benson Building, 8888 University Drive, in the City of Burnaby, British Columbia.

3. The Defendant Kevin Tilley at all material times resided at 2186 East Pender Street, in the City of Vancouver, in the Province of British Columbia. At all material times, he was employed by the Defendant PPS as the News Editor of *The Peak* newspaper at its offices at Simon Fraser University, 2901 Maggie Benson Building, 8888 University Drive, in the City of Burnaby, British Columbia. His current whereabouts is not known to the Plaintiff. The

Defendant Tilley wrote each of the articles referred to in paragraphs 6, 8 and 10 of this Statement of Claim.

4. The Defendant Derek Harder at all material times resided at #209-2075 East 12<sup>th</sup> Avenue, in the City of Vancouver, in the Province of British Columbia. At all material times, he was employed by the Defendant PPS as the Copy Editor of *The Peak* newspaper at its offices at Simon Fraser University, 2901 Maggie Benson Building, 8888 University Drive, in the City of Burnaby, British Columbia. The Defendant Harder edited, approved and authorized for publication each of the articles referred to at paragraphs 6, 8 and 10 of this Statement of Claim.

5. *The Peak* newspaper is published and distributed by the Defendant PPS every Monday during all three Simon Fraser University semesters with an average circulation of 10,000 hard copies with over 15,000 readers per copy. *The Peak* newspaper is directed to SFU students, faculty, staff, and visitors and is distributed at the SFU Burnaby campus and residence, the SFU downtown campus and surrounding areas, Translink Skytrain Stations and Bus Loops, and at local student hangouts, libraries and community centres. Each copy of *The Peak* newspaper is also published in its entirety on the Internet at <http://www.peak.sfu.ca/> which is a website owned, controlled and/or operated by and for the Defendant PPS. The electronic copies of the newspapers are archived indefinitely in the "Archives" section of the aforesaid website.

#### **THE DEFAMATORY EXPRESSION**

6. On or about the 8<sup>th</sup> day of May, 2006, the Defendants and each of them libelled the Plaintiff in an article that they published of and concerning the Plaintiff in both the printed hard copy and Internet versions of issue 1, volume 123 of *The Peak* newspaper. The article was entitled "*Student News: Douglas students attempt to recover from financial crisis.*" Particulars of the libelous words in the aforesaid article are as follows:

*...the results of a forensic audit showed serious discrepancies in the way money was handled within the organization...*

*The forensic audit revealed over 100 unapproved cheques payable to Mr. Hansen, which have yet to be documented or accounted for. Additionally, the auditor found a cheque to Christa Peters, Hansen's partner, for \$20,000 allegedly for a down payment on a house. The amount was repaid to the DSU two weeks later.*

[hereinafter the "May 8 Defamatory Words"]

7. The May 8 Defamatory Words bear, were understood to bear, and were intended by each of the Defendants to bear, certain false malicious and defamatory meanings, which are the natural and ordinary meanings to the ordinary, reasonable person, are as follows:

1. the plaintiff misappropriated funds of the Douglas Student's Union by issuing, without any approval from his employer, over 100 cheques made payable to himself, none of which could be documented or accounted for despite the professional efforts of a forensic auditor; and/or
2. the plaintiff misappropriated \$20,000 from the Douglas Student's Union by issuing under his signature an unapproved cheque to his partner Christa Peters and he only repaid the money two weeks after the auditor discovered this discrepancy.

Each of these meanings is false.

8. On or about May 23, 2006, the Defendants and each of them libelled the Plaintiff in an article that they published of and concerning the Plaintiff in both the printed hard copy and the Internet versions of issue 3, volume 123 of *The Peak* newspaper. The article was entitled "Local: Controversy swirls at Douglas Student's Union." Particulars of the libelous words in the aforesaid article are as follows:

*The College Board of Douglas College has been withholding the DSU's funds since last fall following a scathing financial audit which showed ...possible fraud and misappropriation of funds by the DSU's Financial Coordinator.*

[hereinafter the "May 23 Defamatory Words"]

9. The May 23 Defamatory Words, in the context of the article as a whole, bear, were understood to bear, and were intended by each of the Defendants to bear, the following



false, malicious and defamatory inferential meanings, which are the natural and ordinary meanings to the ordinary, reasonable reader:

1. that the plaintiff is guilty of fraud and misappropriation of funds from the Douglas Student's Union; and or;
2. Alternatively, there are reasonable and probable grounds to believe that the plaintiff is guilty of fraud and misappropriation of funds from the Douglas Student's Union.

Each of these meanings is false.

10. On or about the 26<sup>th</sup> day of June, 2006 the Defendants and each of them libelled the Plaintiff in an article that they published of and concerning the Plaintiff in both the printed hard copy and Internet versions of issue 8, volume 123 of *The Peak* newspaper. The article was entitled "Local: Police investigate DSU." Particulars of the defamatory words in the aforesaid article are as follows:

[On the cover page]

*Busted! police launch investigation on Douglas (College) Students' Union*

[The article]

*Police investigate DSU*

*Police probe launched after financial mishandlings at Douglas Student's Union*

*The New Westminster Police have launched an investigation at the Douglas Students' Union into crimes related to the organization's finances, the DSU has recently confirmed.*

*The investigation was initiated after an anonymous Douglas College student contacted the police following a forensic auditor's report showing potential fraud and misappropriation of funds.*

*The DSU wouldn't say whether any specific individuals are under investigation, but Joey Hansen, the finance and services*

*coordinator responsible for the union's finances, remains on leave since the auditor's report.*

*Hansen was unavailable for comment.*

*The report notes a number of specific issues that draw attention to Hansen. In particular, a \$20,000 cheque signed by Hansen was made out to Hansen's partner for the purpose of making a down payment on a house. The money, although paid back to the DSU several weeks later, was never approved by the organization.*

*This would not be the first time a high-ranking CFS official has been in the police spotlight.*

[hereinafter the June 26 Defamatory Words]

11.. The May 23 Defamatory Words, in the context of the article as a whole, bear, were understood to bear, and were intended by each of the Defendants to bear, the following false, malicious and defamatory inferential meanings, which are the natural and ordinary meanings to the ordinary, reasonable reader:

1. the plaintiff committed crimes by misappropriating funds of the Douglas Student's Union by issuing under his signature, without ever obtaining any approval from his employer, a cheque in the amount of payable to his partner; and/or
2. Alternatively, there are reasonable and probable grounds to believe that the plaintiff is guilty of fraud and misappropriation of funds from the Douglas Student's Union.

Each of these meanings is false.

12. On or about the 23<sup>rd</sup> day of June, 2006, Plaintiff notified the Defendants and each of them in writing about the false, malicious and defamatory May 23 Defamatory Words and requested a retraction and apology, but the said Defendants refused or neglected to publish anything in the nature of a retraction or apology. In the same notice, the Plaintiff cautioned the Defendants and each of them against publication of further defamatory statements concerning the

Plaintiff and requested that the Defendants contact him in order to obtain correct information before publishing anything further about him. This request was ignored by the Defendants.

13. The Defendants and each of them were actuated by actual malice when they published as alleged above, the June 26 Defamatory words. Each of them acted with knowledge that their defamatory publications of and concerning the Plaintiff were false, or alternatively, each of them acted with reckless indifference whether they were true or false.

#### **DAMAGES AND INJUNCTIVE RELIEF**

14.. The words complained of in paragraphs 6, 8 and 10 of this Statement of Claim were calculated to cause injury, loss and damage to the Plaintiff, to cause persons to shun the Plaintiff and to refrain from dealing with him, all of which has in fact occurred.

15. The words complained of in paragraphs 6, 8 and 10 of this Statement of Claim have exposed the Plaintiff to contempt, ridicule and hatred, and have lowered the Plaintiff in the estimation of right thinking persons generally, and have thereby severely damaged the Plaintiff's reputation, and have caused and will in future continue to cause such injury to the Plaintiff.

16.. In connection with the publication of the June 26 Defamatory Words, the Defendants and each of them have been guilty of reprehensible, insulting, high-handed, spiteful, malicious and oppressive conduct and such conduct by the Defendants justifies the court in imposing a substantial penalty of exemplary damages on the Defendants and an award of special costs in favour of the Defendant, in addition to the award of general damages for injury to reputation. The Plaintiff will rely upon the entire conduct of the Defendants before and after the commencement of this action to the date of judgment.

17. None of the Defendants has published a retraction or apology for any of the defamatory expression complained of in this Statement of Claim.

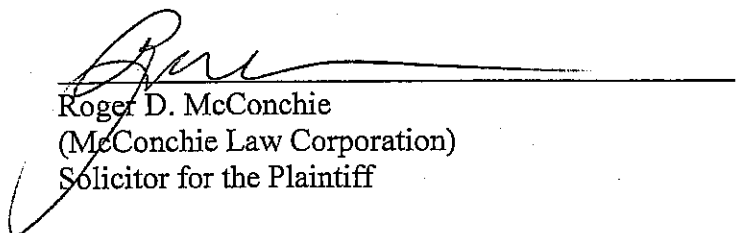
The Plaintiff therefore claims against the Defendants, jointly and severally, as follows:

- (a) general damages;

- (b) aggravated damages;
- (c) exemplary damages;
- (d) an interlocutory and permanent injunction to restrain the Defendants, by themselves or by their agents, servants, employees, directors, or otherwise, directly or indirectly, from any further publication of the defamatory expression complained of in this Statement of Claim, or expression to the same effect;
- (e) interest pursuant to the Court Order Interest Act;
- (g) special costs plus disbursements; and
- (h) such further and other relief as to this Honourable Court may seem just.

Place of trial: Vancouver, British Columbia

DATED: September 15, 2006

  
\_\_\_\_\_  
Roger D. McConchie  
(McConchie Law Corporation)  
Solicitor for the Plaintiff



No. S064241  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between:

JOEY HANSEN

Plaintiff

And:

KEVIN TILLEY, DERRICK HARDER AND PEAK  
PUBLICATIONS SOCIETY (c.o.b. "The Peak")

Defendants

**STATEMENT OF DEFENCE OF  
DERRICK HARDER AND PEAK PUBLICATIONS SOCIETY (c.o.b. "The Peak")**

1. Except as hereinafter specifically admitted, these Defendants deny each and every allegation of fact in the Statement of Claim and deny liability in the premises.
2. These Defendants admit paragraph 2 and the first sentence of paragraph 4 of the Statement of Claim.
3. The words quoted in paragraphs 6, 8 and 10 of the Statement of Claim were published by the Defendant, Peak Publications Society, in the May 8, 2006, May 23, 2006 and June 26, 2006 issues of the "The Peak" newspaper, respectively, but the words were, in each case, part of longer news articles and the Society will prove the context of the words quoted.

**Qualified Privilege**

4. In the alternative, and in answer to the whole of the Statement of Claim, the Defendants say that the words quoted in paragraphs 6, 8 and 10 of the Statement of Claim were published without malice by the Peak Publications Society on an occasion of qualified privilege under s. 4 of the *Libel and Slander Act*, [RSBC 1996] c. 263 and under common law.
5. Particulars of the occasion of qualified privilege are as follows:

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21422 5064241  
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26.01

- (a) at all material times, Douglas College was a public body incorporated under the *College and Institute Act*, [RSBC 1996] c.52 and was part of the fabric of government, i.e. the Provincial Government of British Columbia;
- (b) at all material times, Douglas College administered public funds;
- (c) at all material times, Douglas Students' Union ("DSU") was a public body;
- (d) at all material times, DSU administered public funds under section 21 of the *College and Institute Act*;
- (e) at all material times, New Westminster Police ("NWP") was a public body created under the *Police Act* [RSBC 1996] c. 367;
- (f) Douglas College and/or DSU commissioned a forensic audit respecting the administration of public funds by DSU and released the audit report for the information of the public in circumstances that explicitly, or in the alternative implicitly amounted to a request that a fair and accurate report of the audit report be published in a public newspaper or other periodical;
- (g) DSU and/or NWP publicly disclosed the existence of a police investigation into DSU's administration of public funds in circumstances that explicitly, or in the alternative, implicitly amounted to a request that a fair and accurate report of the existence of a police investigation be published in a public newspaper or other periodical;
- (h) in the alternative (to paragraphs (f) and (g) above), the audit report and the fact of a police investigation were disclosed by Douglas College or DSU or NWP at public meetings, or in press conferences, or in press releases;
- (i) "The Peak" was, at all material times, a "public newspaper or other periodical" within the meaning of that phrase under section 4 *Libel and Slander Act*, [RSBC 1996] c 263;

- (j) The content of a forensic audit of the administration of public funds and the fact of a police investigation in respect of the administration of public funds are matters of public concern and a reasonably accurate report in a public newspaper of the content of the audit and the fact of the police investigation are for the public benefit.

### Meanings

6. These Defendants deny the meanings pleaded in paragraph 7 of the Statement of Claim and claim the right to plead and prove a lesser included meaning as follows:

- (a) there are grounds for suspicion that the Plaintiff misappropriated the funds of DSU, in multiple transactions without the approval of DSU, which transactions, at the time of the audit report were not yet documented or accounted for;
- (b) DSU funds in the amount of \$20,000 were arranged by the Plaintiff to be paid to his partner, Christa Peters on account of a planned housing purchase but the money was repaid two weeks after it was first paid to Christa Peters.

7. These Defendants deny the meanings pleaded in paragraph 9 of the Statement of Claim and claim the right to plead and prove a lesser included meaning as follows:

- (a) there are reasonable grounds for suspicion that the Plaintiff misappropriated funds from DSU.

8. These Defendants deny the meanings pleaded in paragraph 11 of the Statement of Claim and claim the right to plead and prove a lesser included meaning as follows:

- (a) there are reasonable grounds for suspicion that the Plaintiff misappropriated funds from, and without the approval of, DSU.

### Damages

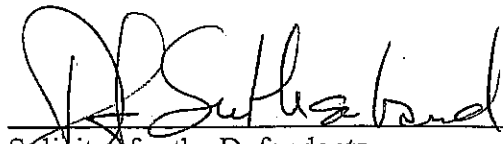
9. These Defendants deny that the words complained of damaged the Plaintiff's reputation.

**Mitigation**

10. If these Defendants, or either of them, are liable in libel for damage caused by the words complained of, which is not admitted but specifically denied, then these Defendants say, as the fact is, that the Plaintiff has contributed significantly to the damage by failing to mitigate by identifying specific inaccuracies and communicating them to the forensic accountant and/or The Peak and these Defendants submit that the Plaintiff's damages be reduced for failure to mitigate.

WHEREFORE these Defendants submit that this action be dismissed with costs.

DATED at the City of Vancouver, Province of British Columbia, this 7<sup>th</sup> day of February, 2007.

  
\_\_\_\_\_  
Solicitor for the Defendants  
Derrick Harder and Peak Publications  
Society

This STATEMENT OF DEFENCE is filed by David F. Sutherland of the law firm of David F. Sutherland & Associates, Solicitors for the above-named Defendants, whose place of business and address for delivery is 1710 Dunbar Street, Vancouver, BC, V6R 3L8, 604/737-8711.





No. S064241

Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between:

04APR07 711229 RDSN 21422 9064241

288,00

JOEY HANSEN

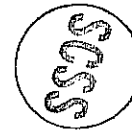
Plaintiff

And:

KEVIN TILLEY, DERRICK HARDER AND PEAK PUBLICATIONS SOCIETY (c.o.b. "The Peak")

Defendants

NOTICE OF TRIAL



TAKE NOTICE that the trial of this proceeding has been set down for hearing at the courthouse at 800 Smithe Street, Vancouver

on October 27, 2008

at the hour of 10:00 a.m.

SUE SMOLEN  
DEPUTY DISTRICT REGISTRAR

\_\_\_\_\_  
Registrar

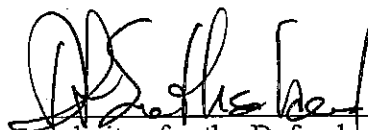
Nature of Action: defamation

The place of trial set out above is the place of trial set out in the Statement of Claim.

All solicitors of record and unrepresented parties of record in this action agree that not more than 10 days is a reasonable time for the hearing of all evidence and argument in this action.

I undertake to pay all hearing fees payable under Appendix C, Schedule 1, Item 14.

April 2, 2007



Solicitor for the Defendants,

DERRICK HARDER

PEAK PUBLICATIONS SOCIETY (c.o.b. "The Peak")

Full name, address and telephone  
number of party or solicitor  
having conduct of action:

David F. Sutherland  
David F. Sutherland & Associates  
1710 Dunbar Street  
Vancouver, BC V6R 3L8  
(604)737-8711

[Full names, addresses and telephone numbers of all solicitors having conduct of action and unrepresented parties of record for contact by the Registry]

Roger D. McConchie  
McConchie Law Corporation  
Suite 290 - 889 Harbourside Drive  
North Vancouver, B.C. V7P 3S1  
Telephone: (604) 988-1621

Counsel for the Plaintiff