



No. **C974704**
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

PLAINTIFFS

AND:

KWANTLEN UNIVERSITY COLLEGE STUDENT ASSOCIATION

DEFENDANT

WRIT OF SUMMONS

(Name and address of each Plaintiff):

Canadian Federation of Students
Canadian Federation of Students British Columbia Component
Canadian Federation of Students-Services
c/o Gowling, Strathy & Henderson
Barristers and Solicitors
2414 - 1055 Dunsmuir Street,
P.O. Box 49122
Vancouver, B.C. V7X 1J1

(Name and address of each Defendant):

Kwantlen University College Student Association
1266 72nd Avenue,
Surrey, B.C. V3W 2M8

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

TO the Defendant(s): Kwantlen University College Student Association

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

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

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

TIME FOR APPEARANCE

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

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

(1) The address of the registry is:

800 Smithe Street
Vancouver, British Columbia.
V6Z 2E1

(2) The address for delivery is:

2414 - 1055 Dunsmuir Street
P. O. Box 49122 - Bentall IV
Vancouver, British Columbia.
V7X 1J1

Fax number for delivery (if any): (604) 683-3558

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

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

The Plaintiff's claim is for unpaid membership fees for the fiscal years 1989 - 1990, 1990 - 1991, and 1991 - 1992, pre-judgment interest and costs.

Place of Trial: Vancouver, B.C.

Dated: this 28th day of August, 1997


Solicitor for Plaintiffs

NO.

VANCOUVER REGISTRY

BETWEEN:

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CANADIAN FEDERATION OF STUDENTS BRITISH
COLUMBIA COMPONENT and
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WRIT OF SUMMONS

GOWLING, STRATHY & HENDERSON

BARRISTERS & SOLICITORS • PATENT & TRADE MARK AGENTS

2414 - 1055 Dunsmuir St., Box 49122, Vancouver, B.C. V7X 1J1

Telephone (604) 683-6498

Facsimile (604) 683-3558

J. GEOFFREY HOWARD

FILE NO. 02947390



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DEFENDANT

STATEMENT OF CLAIM

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

Columbia.

5. The Defendant was, at all material times, and continues to be, a member of the Plaintiffs and as such was governed by the Constitution and By-laws of the Plaintiffs (the "By-Laws").
6. The Constitution and the By-Laws of CFS, BCCFS and Services constitute binding contracts as between the parties, which include the Defendant. These provide that once an application for membership is accepted by the Plaintiffs, it constitutes a binding contract to fulfill the responsibilities of membership, including remitting fees.
7. In 1983, the Defendant applied for membership in the Plaintiffs, which application was accepted and ratified by the Plaintiffs, in accordance with their By-Laws. The By-Laws provide that each voting member must ensure that fees are collected each year at its institution and remitted to the Plaintiffs.
8. Pursuant to the By-Laws, the Defendant held all money received on account of membership fees in the Plaintiffs in trust for the Plaintiffs.
9. Pursuant to the CFS and Services By-Law 1.6(a), and BCCFS By-Law 2.5(a), the Defendant was required to provide six months written notice by registered mail to the head office of the Plaintiffs of any referendum to withdraw from the Plaintiffs. Failure to adhere to the said notice provisions expressly invalidates the results of any referendum not held in compliance with such requirements.
10. For the Plaintiffs' fiscal years 1989 - 1990 through 1991 - 1992, the Defendant failed to remit membership fees in the total amount of \$78,344.78.

11. In addition, the Defendant failed to remit any membership fees whatsoever to the Plaintiffs for the Defendant's fiscal years commencing 1992 - 1993, notwithstanding that the Defendant continued to receive such membership fees from student members of the Defendant. While full particulars of such unremitted fees are not within the knowledge of the Plaintiffs, they are in excess of \$200,000.
12. In or about June 30, 1991, the Defendant purported to give notice to the Plaintiffs of a referendum to consider withdrawing from the Plaintiffs, to be held September 18, 1991.
13. Shortly thereafter, a representative of the Plaintiffs met with the Defendant's board of directors and at the conclusion of that meeting, it was agreed that the referendum would not proceed.
14. In view of the inadequate advance notice of the referendum and the said meeting, the Plaintiffs did not conduct any campaign with respect to the referendum which was in fact held by the Defendant on September 18, 1991.
15. After the referendum, the Defendant took the position was that it had withdrawn from membership in the Plaintiffs and refused to remit any further fees. The Plaintiffs state that the said referendum was invalid and of no effect and that the Defendant remains liable for all membership fees. The Plaintiffs claim payment of all unpaid fees to the date of the trial herein.
16. In the alternative, the Defendant is liable to the Plaintiffs for membership fees for a reasonable period.
17. In the further alternative, the constitution and By-Laws of the Plaintiffs provide that any member validly withdrawing from it is responsible for fees through to the

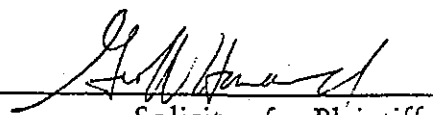
end of the Plaintiffs' fiscal year in which the referendum was held, and the Plaintiffs claim fees for the fiscal year 1991 - 1992.

18. The Defendant and its auditors have repeatedly expressly acknowledged liability to the Plaintiffs for unpaid membership fees.
19. The Defendant's conduct as described herein breached the Plaintiffs' constitution and By-Laws, the contract formed by the Defendant's membership in the Plaintiffs, and the Defendant's obligations as trustee of membership fees and the Plaintiffs claim damages for these breaches.

WHEREFORE the Plaintiffs claim:

- a. judgment for unpaid membership fees for the fiscal years 1989-1990 to 1991-1992, inclusive in the amount of \$78,344.78;
- b. judgment for unpaid membership fees for the fiscal years 1992-1993 and subsequent in an amount to be determined or, in the alternative, unpaid membership fees for a reasonable period;
- c. in the alternative, damages and an accounting for breach of trust;
- d. pre-judgment interest in accordance with the *Court Order Interest Act*, R.S.B.C. 1996, c. 79;
- e. costs;
- f. such further and other relief as to this Honourable Court may seem just.

DATED this 28th day of October, 1997.


Solicitor for Plaintiffs

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

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