

No. S1GS-22959

**SUPREME COURT OF PRINCE EDWARD ISLAND
(GENERAL SECTION)**

**CANADIAN FEDERATION OF STUDENTS/FÉDÉRATION CANADIENNE DES
ETUDIANT(E)S and CANADIAN FEDERATION OF STUDENTS-SERVICES**

PLAINTIFFS

AND:

UNIVERSITY OF PRINCE EDWARD ISLAND STUDENT UNION

DEFENDANT

AND BETWEEN:

UNIVERSITY OF PRINCE EDWARD ISLAND STUDENT UNION

PLAINTIFF BY COUNTERCLAIM

AND:

**CANADIAN FEDERATION OF STUDENTS/FÉDÉRATION CANADIENNE DES
ETUDIANT(E)S and CANADIAN FEDERATION OF STUDENTS-SERVICES**

DEFENDANTS BY COUNTERCLAIM

REPLY AND DEFENCE TO COUNTERCLAIM

REPLY

1. The Plaintiffs admit the allegations contained in paragraphs 5, 6, 10 and 12 of the Statement of Defence.
2. The Plaintiffs deny the allegations contained in paragraphs 11, 15, 17, 19, 21, 22 and 23 of the Statement of Defence.

3. The Plaintiffs have no knowledge of the allegations contained in paragraphs 7, 8 and 9 of the Statement of Defence.
4. Regarding paragraph 11 of the Statement of Defence, the Plaintiffs state that, in any event, the Defendant is estopped from denying the authority of the UPEISU in conducting the referendum and is also estopped from stating that Council of UPEISU never resolved to enter into membership with the Plaintiffs by reason of the fact that the Defendant has conducted itself as though it were a member of the Plaintiffs and has received, on its own behalf and on behalf of its members, benefits of membership in the Plaintiffs.
5. Regarding paragraph 13 of the Statement of Defence, the Plaintiffs deny that the referendum referred to was conducted in accordance with the by-laws of the Plaintiffs or the Defendant, and the Plaintiffs in any event deny that any such referendum could, or did, have the effect of severing the ties between the Plaintiffs and the Defendant.
6. Regarding paragraph 14 of the Statement of Defence, the Plaintiffs have no knowledge of Council of the Defendant confirming any referendum as alleged, but the Plaintiffs in any event deny that any such resolution could, or did, have the effect of terminating the legal relationship between the Plaintiffs and the Defendant.
7. As to the whole of the Statement of Defence, the Plaintiffs state the Defendant is, by reason of its conducting itself as a member of the Plaintiffs and by reason of its having accepted benefits of membership in the Plaintiffs, estopped from denying its membership in the Plaintiffs' and from denying its obligations to the Plaintiffs arising from membership.

DEFENCE TO COUNTERCLAIM

8. The Plaintiffs (Defendants by Counterclaim) repeat the allegations contained in the Statement of Claim and Reply above.
9. The Plaintiffs (Defendants by Counterclaim) request that the Counterclaim be dismissed with costs to the Plaintiffs (Defendants by Counterclaim).

DATED at Charlottetown, Prince Edward Island, this 14th day of April, 2009.



JOHN W. HENNESSEY, Q.C.

McInnes Cooper
119 Kent Street, Suite 620
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Tel: (902) 368-8473

Solicitor for the Plaintiffs/
Defendants by Counterclaim.

TO: J. Gordon MacKay, Q.C.
Carr, Stevenson & MacKay
50 Water Street, Box 522
Charlottetown PE C1A 7L1

Solicitor for the Defendant/
Plaintiff by Counterclaim.

UPEISU

No. S1GS-22959

v.

CFS/CFS-S

IN THE SUPREME COURT OF
PRINCE EDWARD ISLAND

(GENERAL SECTION)

PROCEEDING COMMENCED AT
CHARLOTTETOWN

REPLY AND DEFENCE TO COUNTERCLAIM

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FAX COVER SHEET

F A X E D
Apr. 14/09 JWH

DATE: 4/14/2009 9:26:27 AM

SUBJECT:

TO: J. Gordon MacKay, Q.C. - Carr, Stevenson & MacKay

FAX # 566-1377

FROM: John W. Hennessey, Q.C.

COMMENTS:


RE: Canadian Federation of Students et al v. University of Prince Edward Island Student Union, S1GS-22959

Attached for service in this matter please find Reply and Defence to Counterclaim on behalf of the Plaintiffs (Defendants by Counterclaim).

JWH

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Graham, Barbara

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