



Court File No.: S1GS-

22959

SUPREME COURT OF PRINCE EDWARD ISLAND  
(TRIAL DIVISION)

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

Plaintiffs

AND:

UNIVERSITY OF PRINCE EDWARD ISLAND STUDENT UNION

Defendant

### STATEMENT OF CLAIM

#### TO THE DEFENDANT:

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU** by the plaintiffs.  
The claim made against you is set out in the following pages.

**IF YOU WISH TO DEFEND THIS PROCEEDING**, you or a lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Prince Edward Island.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing a statement of defence is forty days. If you are served outside Canada and the United States of America, this period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intend to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

**IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.**

**IF YOU PAY THE PLAINTIFF'S CLAIM**, and \$2,500.00 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$100.00 for costs and have the costs assessed by the court.

Date: November 14, 2008

(SGD.) MARJORIE MacDONALD  
Deputy Registrar

Issued by \_\_\_\_\_  
D. Registrar  
Law Courts  
42 Water Street  
Charlottetown, P.E.I.

**TO: UNIVERSITY OF PRINCE EDWARD ISLAND STUDENT UNION**  
550 University Avenue  
Charlottetown, PE C1A 4P3

## CLAIM

1. The Plaintiffs claim as against the Defendant:
  - (a) Damages for unpaid membership fees to be calculated and provided to the Defendant prior to trial;
  - (b) Pre-judgment and post-judgment interest pursuant to the **Supreme Court Act**, R.S.P.E.I 1988, Cap. S-10;
  - (c) Costs in this action on a substantial indemnity basis plus goods and services tax thereon; and
  - (d) Such further and other relief as this Honourable Court deems just.

### A. Parties

2. The Plaintiff, the Canadian Fédération of Students/Fédération canadienne des étudiants et étudiantes ("CFS"), is a not-for-profit corporation incorporated under the laws of Canada with its head office located in the City of Ottawa in the Province of Ontario. CFS carries on business as the provincial and national representative of over 500,000 post-secondary students in Canada.
3. The Plaintiff, the Canadian Fédération of Students Services ("CFS-S"), is a not-for-profit corporation incorporated under the laws of Canada with its head office located in the City of Ottawa in the Province of Ontario. CFS-S offers discounted programs and services to post-secondary students in Canada.
4. The Defendant, University of Prince Edward Island Student Union ("UPEISU"), is a not-for-profit corporation incorporated under the laws of Prince Edward Island with its head office located in the City of Charlottetown in the Province of Prince Edward Island.

## **B. Conception of CFS and CFS-S**

5. On or about September 9, 1981, a group of post-secondary student organisations, of which UPEISU was one, founded the CFS for the purpose of providing students with an effective and united voice, provincially and nationally. In 1982, CFS-S was incorporated to provide discounted programs and services to post-secondary students.
6. On or about May 19, 1982 CFS/CFS-S held its annual conference in the City of Charlottetown in the Province of Prince Edward Island.
7. In order to become a member of CFS/CFS-S, the students of a local association must approve the application and fees for membership in the CFS by a majority of those voting in a referendum for that purpose. Once the students of an association have approved the application and fees for membership in a referendum, CFS will consider the application which must be ratified by a majority of at least two-thirds (2/3) of the votes cast at a general meeting of CFS members.
8. The main source of funding for CFS/CFS-S are the membership fees collected and remitted by each member. The fees are calculated on the basis of enrolment at each post-secondary institution. The fees are to be collected by the members and forwarded to CFS/CFS-S in accordance with section 3(c)(ii) of CFS/CFS-S' By-Laws:  
  

3(c)(ii) Each voting member will ensure that C.F.S. fees are collected each year at its institution and forwarded to C.F.S. according to the contract of membership signed when the member joined.
9. CFS/CFS-S' By-Laws are binding contractual terms between CFS/CFS-S and its members. CFS/CFS-S relies on these By-Laws to govern its relationship with its members.

### **C. UPEISU's Membership to CFS/CFS-S**

10. In 1984, UPEISU applied for and was accepted as a full member of CFS/CFS-S. The decision to join CFS/CFS-S was put to a referendum of the UPEI undergraduate students who voted 182-140 in favour of joining.
11. Since its membership in CFS/CFS-S, UPEISU has been an active member of the CFS/CFS-S, participating in most of the Annual General Meetings and Semi-Annual Meetings of CFS/CFS-S and had a member on the board of directors of CFS/CFS-S up until 2004.
12. UPEISU has represented itself as a member of CFS/CFS-S to the public and internally to its members and student body. UPEI undergraduate students have benefited from the programs and services offered by CFS-S throughout UPEISU's membership in CFS/CFS-S.

### **D. UPEISU's Failure to Pay Membership Fees**

13. From 1982 to 2003, UPEISU collected and remitted CFS/CFS-S fees in accordance with section 3(c)(ii) of CFS/CFS-S' By-Laws. In exchange, UPEISU enjoyed the rights and privileges of a member in good standing of CFS and its member students benefited from the discounted programs and services offered by CFS-S.
14. In 2004, UPEISU unilaterally decided to stop remitting membership fees to CFS/CFS-S. This decision was in breach of CFS/CFS-S' By-Laws. CFS/CFS-S made numerous demands to UPEISU to pay the membership fees for the 2004-2005 academic year but to no avail.

15. UPEISU also failed to remit the membership fees for the 2005-2006 academic year. This was a further breach of CFS/CFS-S' By-Laws. CFS/CFS-S again made demands that UPEISU pay the membership fees for the 2004-2005 and 2005-2006 academic year but to no avail.
16. Despite the non-payment of membership fees for the 2004-2005 and 2005-2006 academic years, UPEISU remained a member of CFS/CFS-S and enjoyed all the benefits and privileges of that membership. The UPEI students also received the same benefits and privileges as if they were members in good standing.
17. On or about October 12, 2007, the solicitors for CFS/CFS-S wrote to UPEISU and formally demanded payment of the outstanding membership fees for the 2004-2005 and 2005-2006 academic years. UPEISU refused to pay the said fees. UPEISU has not paid the membership fees for the 2004-2005 and 2005-2006 academic years and remains in breach of CFS/CFS-S' By-Laws.

#### **E. Damages**

18. The membership fees of CFS/CFS-S are calculated on the basis of enrolment at UPEI, the particulars of which are in the knowledge and control of UPEISU. Since this information is solely within the sole knowledge of UPEISU, the Plaintiffs cannot ascertain at this time the outstanding membership fees which are owing for the 2004-2005 and 2005-2006 academic years. This claim will be particularized prior to trial.
19. CFS/CFS-S' By-Laws have contained provisions to allow a member to withdraw from CFS/CFS-S. UPEISU has had numerous opportunities to invoke the said By-Laws and proceed with a properly conducted vote to withdraw from membership. UPEISU has failed to do so and, as such, has remained a member of CFS/CFS-S.

20. Wherefore, the Plaintiffs seek the relief outlined at paragraph one (1) above.
21. The Plaintiffs propose that this action be tried in the City of Charlottetown, in the Province of Prince Edward Island.

DATED at Charlottetown this <sup>17<sup>th</sup></sup> day of November, 2008.



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**John W. Hennessey**

whose address for service is  
McInnes Cooper  
BDC Place, Suite 620  
119 Kent Street  
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Telephone: (902) 368-8473  
Solicitor for the Plaintiffs

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

v.

UNIVERSITY OF PRINCE EDWARD ISLAND  
STUDENT UNION

SUPREME COURT OF  
PRINCE EDWARD ISLAND

(TRIAL DIVISION)

PROCEEDING COMMENCED AT  
CHARLOTTETOWN

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**STATEMENT OF CLAIM**

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John W. Hennessey, Q.C.  
McINNES COOPER  
Barristers & Solicitors  
119 Kent Street Suite 620  
Charlottetown PEI  
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