

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

Katherine Thompson

Plaintiff

- and -

Canadian Union of Public Employees, Paul Moist, Lesley Swann

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT

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

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario 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 Ontario.

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

Instead of serving and filing a statement of defence, you may serve and file a notice of intent 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 WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$10,000.00 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 \$400.00 for costs and have the costs assessed by the court.

CLAIM

1. The plaintiff claims:
 - (a) \$100,000.00 in general damages resulting from the defendants' intentional breach of the plaintiff's right to privacy;
 - (b) \$100,000.00 in general damages for the publication of the libellous content and false innuendos;
 - (c) \$50,000 in aggravated and punitive damages;
 - (d) Pre-judgement interest in accordance with the *Courts of Justice Act*, R.S.O. 1990, c.C.43;
 - (e) Postjudgment interest in accordance with the *Courts of Justice Act*, R.S.O. 1990, c.C.43;
 - (f) Costs on a substantial indemnity basis; and
 - (g) Such further and other relief as this Honourable Court deems just and expedient.

2. The plaintiff is a resident of South Lancaster, Ontario. She is the elected Secretary-Treasurer for the Air Canada Component of the Canadian Union of Public Employees.

3. The defendant, the Canadian Union of Public Employees ("CUPE") is a certified bargaining agent for which the plaintiff serves the Membership in her capacity of elected Treasurer for the Air Canada Component. CUPE is headquartered in Ottawa, Ontario.

4. The defendant, Paul Moist, is the President of CUPE and he resides in Ottawa, Ontario.

5. The defendant, Lesley Swann, is the elected President of the Air Canada Component of CUPE and she resides in Georgetown, Ontario.

Invasion of Privacy

6. The plaintiff, in her capacity as the Secretary-Treasurer of the Air Canada Component of CUPE, was assigned an email account by CUPE.

7. There is no policy in place at CUPE that permits union officials to surreptitiously view the emails of its fellow members. There was no policy in place at CUPE that instructed its members that the email account was to be used only for union-related activities. Email accounts are therefore routinely used for both personal and union-related activities.

8. In October 2007, the defendants instructed the technical consultant retained by CUPE to have the plaintiff's email communications surreptitiously and remotely accessed by the defendant Lesley Swann.

9. Email correspondence was shortly thereafter copied for the defendant Lesley Swann without the knowledge of the plaintiff.

10. The plaintiff confronted the defendants about the invasion of privacy.

11. In January 2008, the defendant Lesley Swann attempted to claim that there was a policy applicable to the Air Canada Component of CUPE that would permit her to surreptitiously spy on fellow members by having email communications directed to her.

12. The plaintiff had a reasonable expectation of privacy that her email communications were private and that they would not be copied and read without her knowing.

13. At no time did the plaintiff ever use her email account in any manner other than in a reasonable manner. She did not use it to violate any laws or in any that would attract liability to CUPE.

14. The defendants invaded the plaintiff's reasonable expectation of privacy and caused her humiliation and embarrassment accompanied by feelings of insecurity and anxiety that all of her communications were subjected to review by the Defendants. The plaintiff suffered from shattered faith, disbelief, disgust, anger and disappointment in her union for which she dedicated a considerable amount of her personal time. These feelings manifested themselves in an inability to sleep, constant headaches and crippling physical pain. The plaintiff required medication and physical therapy to help her cope with these damages.

Defamation

15. The defendants published a "Special Report to the Membership" in January 2008. The publication was widely distributed to union members via the internet.

16. The publication contains a number of defamatory statements that were calculated to cause damage to the plaintiff's reputation.

17. Specifically, the defendants falsely and maliciously published the following defamatory words:

"[Ms. Thompson] "alerted the Company to scrutinize your crew expenses"

...

"She had unilaterally bargained a deal altering the terms of the Collective Agreement without the Union's authorization or knowledge"

...

"A further area where Ms. Thompson was remiss in her duties as Secretary-Treasurer involved the administration of payroll".

18. The plaintiff relies on the natural and ordinary meaning of the words which are *prima facie* defamatory and false.

19. The said words in their natural and ordinary meaning were meant and were understood to mean that the plaintiff was deceitful and was not representing her fellow union members. Further the words were meant to call into question the plaintiff's honesty and personal integrity. The plaintiff states that these defamatory and libellous statements go far beyond fair comment and are malicious and designed specifically to impugn her personal character.

20. There is no question that the statements refer to the plaintiff.

21. The plaintiff states that the defamatory words have brought her into hatred, ridicule and contempt and she has suffered damages as result. In particular, the plaintiff has received critical emails from her fellow union members and has been verbally threatened while at work that her fellow workers are to harass her. She has been told that some of her co-workers believe the defamatory words and resent the plaintiff as a result.

22. The defendants have refused to apologize for this conduct, despite the plaintiff's request for same.

23. The plaintiff pleads that the defendants have acted with malice and in a high-handed manner in breaching her privacy and in publishing the defamatory statements about the plaintiff, entitling her to punitive and aggravated damages.

24. The plaintiff therefore claims the relief as set out in paragraph 1 of the Statement of Claim.

25. The defendants are jointly and severally liable for the damages caused to the plaintiff. Further, the defendant CUPE is vicariously liable for the damages caused by its officers and employees.

26. The plaintiff proposes the Trial be held in the City of Ottawa.

May 8, 2008

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Solicitors for the Plaintiff

Katherine Thompson
Plaintiff and

Canadian Union of Public Employees,
Paul Moist, Lesley Swann
Defendants

Court File No: »

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at «place»

STATEMENT OF CLAIM

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