

ONTARIO
SUPERIOR COURT OF JUSTICE
(Divisional Court)

BETWEEN:

**DR. CHRIS BART, DR. DEVASHISH PUJARI, DR. WILLIAM RICHARDSON,
DR. JOE ROSE, DR. SOURAV RAY, DR. GEORGE STEINER AND
DR. WAYNE TAYLOR**

Applicants

-and-

**MCMASTER UNIVERSITY, THE BOARD SENATE HEARING PANEL FOR
SEXUAL HARASSMENT/ANTI-DISCRIMINATION UNDER THE
MCMASTER UNIVERSITY ANTI-DISCRIMINATION POLICY, THE SENIOR
ADMINISTRATOR AT MCMASTER UNIVERSITY AND CERTAIN
UNNAMED INDIVIDUALS AT MCMASTER UNIVERSITY**

Respondents

AFFIDAVIT OF DR. A. WILLIAM RICHARDSON
(sworn February 2, 2015)

**I, DR. WILLIAM RICHARDSON, of the CITY OF HAMILTON, MAKE
OATH AND SAY:**

1. I am an Applicant in this application for judicial review and one of the complainants in Complaint "A" (the "002 Complaint") in the proceedings below before the Board Senate Hearing Panel for Sexual Harassment/Anti-Discrimination under the McMaster University Anti-Discrimination Policy (the "Tribunal"), and as such, have personal knowledge of the matters to which I hereinafter depose.
2. Where I do not have personal knowledge, I state the source of my information and belief and verily believe the contents to be true.

Personal Background

3. I am a graduate of McMaster University, holding a B.Sc. (Honours) in Chemistry, a Ph.D. in Physical Chemistry and an M.B.A. with a specialization in accounting.
4. I taught in a university setting almost continually from 1966 to 2011
5. After completing my Ph.D, I was a research associate at Vanderbilt University in Nashville, Tennessee for two years, following which I was an Assistant Professor of Chemistry at Bishop's University in Lennoxville, Quebec. In addition to teaching and conducting research at Bishop's, I served on a number of University Committees and in various administrative positions, including Chair of the Chemistry Department and Director of the Computer Centre.
6. Between 1974 and 1988, I was an Assistant and then Associate Professor of Accounting at the Degroote School of Business (the "DSB"), having been promoted to Associate Professor in 1979.
7. During my tenure at McMaster University, I held a variety of administrative and governance positions at the Area, Faculty and University levels. These positions are too lengthy to list in total, but they include being Area Chair for the Accounting Area, a term as Associate Dean (Academic Programmes), membership on the Faculty Council and numerous Committees, including Tenure and Promotion, and membership on University Faculty Committees and Councils.
8. In 1989, I moved to Brock University where I became Professor of Accounting and Finance, and Dean of the Faculty of Business for a five year period. I remained as a

Professor until my retirement from Brock University in 2004 upon reaching legislatively mandated retirement age. I am currently Professor Emeritus of Accounting at Brock University.

9. While at Brock, and thereafter, I was a visiting professor at a number of Business, Accountancy and Commerce programmes at universities in six different countries, with multiple visiting appointments at some institutions.

10. I returned to the DSB in July 2004 as Full Professor of Accounting on a contractually limited appointment in order to teach both introductory and senior-level accounting courses. My contract expired on June 30, 2006 and was not renewed by Mr. Bates.

11. I was not a respondent to any complaints, formal or otherwise, during the U/SHAD 002 & 003 proceedings, nor at any other time in my career.

12. I have not accumulated any disciplinary history or record during the course of my nearly fifty year academic career.

Background to the Proceedings Below

13. My affidavit in the proceedings below is contained at DSB 2135, at page 11601 of the Tribunal's Record filed with the Divisional Court (the "Record").

14. Broadly speaking, my initial complaint against Dean Bates alleged harassment and discrimination for his unwillingness to accept the Accounting Area's unanimous recommendation that I continue to teach at the DSB, not for documented performance

issues, but rather because he simply did not like me and felt that I was, in his words, “too old” and “should retire”. Subsequent recommendations for me to teach on a sessional basis to meet immediate needs of the Accounting Area were also rejected. These allegations can be found at paragraphs 19-28 of my affidavit in the proceedings below.

HRES Investigation

15. I first spoke to Milé Komlen, Director of Human Rights and Equity Services (“HRES”) in late November 2010 when I met with him on campus.

16. Before meeting with him I had never had any contact with Mr. Komlen or the HRES office, and as well, I had never even heard of nor received any training whatsoever on the McMaster Anti-Discrimination Policy (the “Policy”).

17. Following our meeting, on November 28, 2010 Mr. Komlen e-mailed me and suggested that I meet with the investigator Ms. Catherine Milne, who had been retained by HRES to investigate potential complaints against Mr. Bates and the DSB.

18. I subsequently met with Ms. Milne and she included my concerns about my experience in her initial investigation report.

The “Group Complaint”

19. After completing her investigation, Ms. Milne submitted her report to Mr. Komlen, who e-mailed the Applicants, excluding Dr. Ray, on January 4, 2011 about Ms. Milne’s Report. Until this e-mail releasing Ms. Milne’s report, the identity of my fellow complainants in 002 had been largely unknown to me. The e-mail can be found at DSB-2181, which is at page 11775 of the Record and stated:

“the purpose of this document is simply to persuade the President that the allegations should be brought forward as a ‘group complaint’ to the University’s Human Rights Tribunal... At this stage we simply need to persuade the President that there is sufficient evidence to justify the complaint being brought forward as a group complaint. While anyone may bring an individual complaint to the Tribunal at any time, a benefit of framing this as a group complaint is that the University would likely be required to retain counsel on your behalf and prosecute the case before the Tribunal”

20. The January 4, 2011 e-mail from Mr. Komlen also went on to state, in regards to Ms. Milne’s report, that:

“This step is simply to get the ball rolling and bring the matter to the Tribunal as a group complaint. In making such a determination, the President may also review the allegations with Mr. Bates (although he would not be required to respond formally at this time). The relevant provisions of the Anti-Discrimination Policy in this regard can be found at the bottom of this e-mail.”

21. I understood from my communication with Mr. Komlen, as well as from this e-mail, that if the President authorized the “group complaint”, then our complaints would be supported by the University, which would act on our behalf in presenting our complaints to the Tribunal.

22. The e-mail concluded with a request for our input within the next two days, as well as a listing of the “relevant provisions” for a “group complaint”, which Mr. Komlen had listed as paragraphs 33-36 of the Policy.

23. Between January-March 2011, Mr. Komlen kept urging the other Applicants and me to finalize our complaint against Bates and the University.

24. On or about March 24, 2011, Dr. Steiner, Dr. Bart, Dr. Pujari, Dr. Rose and I met with Ms. Milne and Mr. Komlen to finalize our complaint. Dr. Taylor attended by phone, and Dr. Ray was not yet a part of the proceeding.

25. At the meeting I recall Dr. Steiner saying that it seemed senseless to push forward with our complaint now that Mr. Bates had stepped down as Dean, following the PACDSB Report recommending his removal, and that complaining against the University was likely to do more harm than good for the DSB. Dr. Steiner urged us to reconsider filing a complaint.

26. I recall Mr. Komlen nevertheless pushed us to file our complaint.

27. I was never asked about my interest in, nor offered a chance at mediation or any other form of “informal resolution” in respect of the 002 Complaint.

The 002 and 003 Complaints

28. As outlined above, my complaint in 002 concerned alleged harassment and discrimination from senior University administrators, including Dean Bates.

29. My fellow Applicants’ 002 affidavits contained similar allegations.

30. In addition to having never heard of the Policy prior to my involvement with Mr. Komlen, I know of no instance of the Policy having been used to address disagreements between faculty members.

The Hearing

The Evidence of Ms. Cossa

31. I was generally present throughout the U/SHAD 002 & 003 proceedings. On April 12, 2012, which was after Ms. Milne had finished presenting the 002 Complaint to the Tribunal and the 003 Complaint was now being presented, Ms. Rita Cossa was called to give evidence as a complainant in the 003 Complaint. I was present on April 12, 2012 for part of the hearing day.

32. Because the 003 Complaint was now under way, I was under the impression that there was no further evidence concerning my complaint, under 002, to be presented that day, so I left part-way through the day and before Ms. Cossa gave her testimony. Had I known Ms. Cossa was going to provide testimony against me, I would not have left.

33. Although Ms. Cossa filed an affidavit in her 003 Complaint, she did not file an affidavit in regards to the 002 Complaint as she was not connected to the 002 Complaint in any way.

34. Mr. Avraam provided no notice that he would be eliciting evidence regarding me and my 002 Complaint.

35. Nevertheless, I am aware from the record that Mr. Avraam proceeded to question Ms. Cossa regarding the details of my complaint, and as I had left the hearing for the day believing that there was no further evidence relevant to my complaint, I was not present to receive the evidence against me nor assist my counsel in dealing with the receipt of that evidence.

36. Had I known Ms. Cossa was going to provide testimony against me, I would not have left.

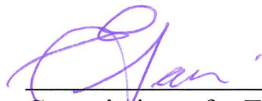
Post Hearing

37. On July 4, 2012 Tribunal panel member Dr. Bonny Ibhawoh was appointed Associate Dean (Graduate and Research). A copy of the announcement of Dr. Ibhawoh's appointment was posted to McMaster University's website.

38. Had I known that he was going to be appointed to the University Administration prior to the release of the Decisions, I would have opposed Dr. Ibhawoh's involvement in the proceedings because it appears to be improper for a member of the University administration to also sit as a Tribunal member receiving submissions from the University (itself a respondent) on liability and remedy and then be recommending remedies back to the University to carry-out.

39. I make this affidavit in support of the Applicants' Notice of Application for Judicial Review and for no other or improper purpose

SWORN BEFORE ME at the City of Hamilton, on February 2nd, 2015.



Commissioner for Taking Affidavits

ELLIOT SACCUCCI



DR WILLIAM RICHARDSON

DR. CHRIS BART et al.
Applicants

McMASTER UNIVERSITY et al.
Respondents

Court File No. 210/14

ONTARIO
SUPERIOR COURT OF JUSTICE
(Divisional Court)

Proceeding commenced at TORONTO

AFFIDAVIT OF DR WILLIAM RICHARDSON
(SWORN FEBRUARY ____, 2015)

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