PART I - STATEMENT OF FACTS

Respondents' Pre-trial Admissions of Truth and Authenticated Records on the Live Issues

1. At trial, the applicant led the respondents' pre-trial admissions of primary and material facts and authenticated records on the live Issues. (**Vol. III, Tab 21)**. The applicant appealed the trial Judge's dismissal of her case on a no evidence motion on the basis that the trial Judge had erred by "rejecting direct key evidence of admissions, interrogatories, examination for discovery, authenticated documents". **(Vol. III, Tab 25)** At the Court of Appeal, the applicant again led the primary, material fact evidence and records appealing that the trial Judge had not referred to them in his *Reasons for Decision*. **(Vol. III, Tab 22).** The applicant's primary and material fact evidence at trial and on appeal were:
   a. formal "Admissions of Truth" **(Vol. III, Tab 22, page 512-522)** which were before the lower courts according to Supreme Court Rule 31 (**Vol. II, Tab 18, page 410**); and
   b. authenticated documents, all of which were admitted as exhibits on the live issues, and are found in **Volume III**. In particular:
      i. a written academic assessment based on religion ("The Assessment") which began the matter **(Tab 21, page 465 and Tab 22, pages 504-505);**
      ii. a research paper proving the use of a misquotation of the Bible in a class assigned essay. ("The Derrida-Holy Eucharist Paper") **(Tab 21, pages 478-489 and Tab 22, 523-525).**
      iii. relevant policies of The University of British Columbia. (**Tab 18, page 399-403)**;
      iv. exhibits of her efforts to "resolve the matter as close to the source as possible" and communications seeking intervention from The University's administration (**Vol. III, Tab 21 beginning pages 470 and Tab 22, p. 530**); and,
   c. an interrogatory answer by all of the respondents ("The Collective or Group Interrogatory"). It was ruled into evidence by the trial Judge's "Oral Reasons on Group Interrogatory." (**Vol. I, Tab 8)**.
   d. The applicant is not seeking leave to appeal based on the other evidence she also advanced, such as examination for discovery questions and answers. This appeal is focused and limited to: the issue of admissions of truth, which are not open to discretionary exclusion by a trial Judge; the authenticated records; and, The Collective Interrogatory which the trial Judge explicitly accepted into evidence.

April, 2001: The Originating Event: The Academic Assessment:

Key *Charter* Claims: Statement of Claim: Vol. III, Tab 21, p. 441, and Reply: p. 453-454

2. At trial and on appeal the applicant, Cynthia Maughan ("The Student") advanced her claim against the respondent, Dr. Lorraine Weir ("The Faculty Instructor") and The University for The Assessment because it violated her civil right to religious freedom, and was negligent under The *University Act*. The concluding paragraph of the Assessment is re-produced at **Vol. III, Tab 22, p. 504.** The Student claimed that The Faculty Instructor had assessed her:
   a. "overall performance" as an
   b. "agenda of resistance" for:
      i. her "refusal to contribute" to a Sunday Class; ("The Sunday Class"); and for,
      ii. "stay[ing] in the seminar" and researching The Derrida-Holy Eucharist Paper.
3. The applicant went to trial with the formal "admissions of truth" by the Faculty Instructor (**Vol. III, Tab 22**, **p. 512-522**) regarding The Assessment. The applicant led those admissions as primary and material fact evidence to prove The Faculty Instructor's state of mind when she wrote The Assessment:
   a. The Faculty Instructor knew The Student was a "practicing Christian." **Vol. III, Tab 22**, **Admission No. 83, page 513.**
   b. The Faculty Instructor was an adjunct professor in the Faculty of Law at The University. **Admission No. 70 on page 522.**
   c. After the seminar began, The Faculty Instructor had announced a special and important class would be held on a Sunday. ("The Sunday Class"). **Admission No. 122, page 513.**
   d. The Faculty Instructor had twice refused The Student's requests to ask the other students if they would change the day from Sunday so that she could attend. **Admissions: 158, 160, p. 515.**
   e. The Student's requests to try and change the day from Sunday were made within (3) business days of the Faculty Instructor's formal announcement of The Sunday Class, and almost two months in advance of The Sunday Class. **Admissions: No.122, page 513; No. 126, page 514; No. 241, page 516.**
   f. There were only (12) students in the class at the time that The Student asked The Faculty Instructor if she would ask the other students if they would agree to change the day from Sunday. **Admission No.131, page 514**

g. The Student did not object to the location of The Sunday Class at the home of another student. **Admissions No.: 121, page 513 and No.s: 137, 147 b., 149. 155, page 514**.

h. The Faculty Instructor "inadvertently" failed to fulfill her part of the accommodation agreement that she had given The Student as an accommodation agreement in substitution for the Sunday Class. **Admissions No. 254, 274, 275, 267, 255, 271, 272, 276, 279, pages 517- 518.**

i. The Faculty Instructor asserted in writing to The Student that "it was unfortunate" that The Student had not had the benefits of The Sunday Class, but The Faculty Instructor had inadvertently overlooked fulfilling her part of the accommodation agreement to accommodate this loss of benefit. (**Vol. III, Tab 22 Exhibit, page 505)**

j. The Faculty Instructor rated The Student's linguistic research in The Student's Derrida-Holy Eucharist Paper as an "A" which is "outstanding." **Vol. IIII, Tab Exhibit, p. 478, and 523-524)**

The Trial Judge and Court of Appeal's *Reasons for Decision*

4. Neither the trial Judge nor The Court of Appeal's *Reasons* refer to the above claims and evidence. They do not:

   a. refer to The Faculty Instructor's statements in The Assessment for "overall performance" as an "agenda of resistance" as claimed. The trial Judge did refer generally to "comments" on The Student's final paper.

   b. refer to any of the above "Admissions of Truth", with the exception that the trial Judge made reference to Admission No. 83, page 513. However, that admission was modified from an admission of The Faculty Instructor knowing The Student as a "practicing Christian" to knowing The Student was a "Christian".[1]

   c. refer to the claims nor the evidence of the Derrida-Holy Eucharist Paper and Collective Interrogatory.

5. In dismissing the appeal, The Court of Appeal stated that:

> [W]e are not persuaded that the trial judge erred in any significant manner and [the Applicant's basis' of appeal are] not sufficiently meritorious to warrant a discussion[2].

[1] *Reasons* para 54, page 129
[2] Court of Appeal, *Reasons for Decision*, para 69

The Trial Judge and Court of Appeal's Justifications For The Assessment as "Comments"

6. The trial Judge's *Reasons*, in a paragraph quoted in its entirety by the Court of Appeal[3], drew inferences from the circumstantial evidence to justify The Faculty Instructor's state of mind in writing "comments" i.e. The Assessment of The Student's "overall performance."

7. He justified the Faculty Instructor's "comments" based on The Student's religion by drawing inferences about The Student's religious beliefs and practices. He found that The Student did not have "religion" but rather "religiosity[4]" and "religious scruples[5]" for which The Faculty Instructor had grounds for finding The Student's "religious beliefs impaired her academic analysis and judgment".[6] The trial Judge's *Reasons* were stated as follows:

> During the course of this seminar and, particularly in her comments on [The Student]'s final paper [The Assessment for "overall performance" as an "agenda of resistance], [The Faculty Instructor] did refer to [The Student]'s religiosity in effect asserting that [The Student] allowed matters of faith to impair her academic analysis and judgment. It could not be said that there was no basis in the evidence justifying that conclusion**.** [7]
>
> [T]he effect of [The Faculty Instructor's] refusal to change the colloquium [and fulfill the Sunday Class Accommodation Agreement] affected [The Student because of] her religious scruples[8]
>
> [W]hile [The Assessment] may reflect [The Faculty Instructor]'s view (right or wrong) that [The Student]'s religious convictions impaired her willingness to fully participate in the seminar, that view does not equate to evidence of an intention… [9]

8. The trial Judge went on to draw the following inferences from the circumstantial evidence as to *The Student's* state of mind and conduct during the seminar. Again, the inferences were drawn to justify The Faculty Instructor's "comments". The trial Judge did so without referring to the primary, material fact evidence at Para 3 a-j above, referenced in the bold brackets.

> There is no evidence that [The Faculty Instructor's] refusal to change the colloquium or failure to provide feedback [fulfill the accommodation agreement]…were malicious or morally oblique actions. There is no clear evidence of what [The Faculty Instructor] knew the basis of [The Student's] objection to the [Sunday] colloquium to be **(Admission No. 83, page 513 re: "practicing Christian")**, given that she did not initially object to it being held on a Sunday, was indirect in raising the prospect of changing it in her two emails to [The Faculty Instructor], (**Admissions No. 122, 126, 131, 155, 158, 160 page 513- 515),** and was unclear in her evidence as to what she told [The Faculty Instructor] on February 8, 2001 concerning her previous interaction with Mildon. **(Admissions No.137,**

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[3] Court of Appeal, *Reasons for Decision*, para 74-75
[4] Reasons, para 370
[5] Reasons, para 422
[6] Reasons para 354-355;[6] Reasons para 370
[7] *Reasons* of the trial Judge, para 370
[8] Reasons, para 352
[9] Reasons, para 354

147b and 149, page 514). It would in my view be impossible to conclude on the state of the evidence before me that [The Faculty Instructor]'s refusal to change the colloquium had "ill will" or "furtive design" towards [The Student] based on her religion as its animating force as opposed to the difficulty of rearranging the colloquium to another date, given the difficulty with which the first date was settled on.[10] (**Admission 131, page 514).**

…the only evidence of the foundation of [The Faculty Instructor]'s state of mind in making these comments was **(Admission No. 83, page 513 re: "practicing Christian")** [The Student]'s conduct in the seminar in relation to Derrida's portrayal of the holy Eucharist as cannibalism, **(Exhibit. p.523, and last page 524)** her withdrawal from further participation in the seminar, and the disparaging tone of her final paper (**appended to *Reasons*, page 288-293**) towards both [The Faculty Instructor] and the seminar. In those circumstances, there is no evidentiary basis to infer that [The Faculty Instructor]'s comments were a product of an intent to interfere with [The Student]'s civil rights.[11]

As to [The Faculty Instructor]'s [Assessment of her "overall performance" as an Agenda of Resistance"] comments on [The Student]'s final paper, they must of course be judged in light of the content of the paper itself, which could quite reasonably be interpreted by [The Faculty Instructor] as disparaging of her and of the quality of the seminar.[12]**(appended to *Reasons*, p.288-293)**

9. The trial Judge also found that The Student was properly advised by Faculty to not pursue research of The Derrida Holy Eucharist Paper because: the Derrida essay had also made a joke about the Holy Eucharist and cannibalism; and, Faculty speculated or knew The Student was originally inspired to do the research because of the "feelings that text invoked"[13]**;** and, therefore was "fueled" by "religious scruples" in writing The Derrida-Holy Eucharist Paper.[14]

May-June 2001: The Grade Appeal to The Faculty of Graduate Studies for The Assessment

10. The Faculty Instructor heard The Student was consulting about a grade appeal because of The Assessment**. (Tab 21, p.468)** The Faculty Instructor sent a series of emails to a key decision maker on The Student's academic future ("The June Emails"), and made an allegation that The Student was "anti-homosexual". The Student claimed these communications promoted her inferiority and contempt on the basis of religion. The University and The Faculty Instructor argued that the communications were justified on the basis that. The Student had made a serious "complaint" to which The Faculty Instructor was entitled to respond.
11. In response to the Faculty Instructor's argument, The Student led University policy evidence that she did not file a "complaint" to which The Faculty Instructor was a party. Rather, she

[10] Reasons, para 423
[11] Reasons, para 355
[12] Reasons, para 426
[13] Reasons, para 448-9
[14] Reasons para 373-374

had taken steps toward a "grade appeal" following University grade appeal procedures: she confidentially sought the support of the department graduate student advisor, (**Tab 21, p. 468)** in taking steps toward an appeal to her Faculty of Graduate Studies. **(Tab 18, p. 401)**

12. The department did divert the matter to a departmental equity committee, but the trial Judge, citing the Department Handbook, found it was "an attempt through consultation to resolve the issue without the necessity of engaging the appeal process function."[15] It was not a committee at which parties appeared in a complaint hearing. It exists for students to consult.
13. The Student also led evidence that:
    a. "complaints" of "discrimination or bias" can only be made at The UBC Equity Office, and are distinct from grade appeal procedures. **(Vol. II, Tab 18, Page 401-405)**
    b. the only places that she sought counsel were either forums for confidential consultations **(Vol. III, Tab 21, p. 468);** or, were the proper procedure for a grade appeal that are in place for students to seek relief and consultation. **(Vol. II. p. 402, 468-469C; *Reasons*, para 461**)

The Trial Judge and Court of Appeal's *Reasons for Decision*

14. The trial Judge drew inferences from the circumstantial evidence, without referring to the above direct University policy evidence, and his finding at para 461 above, that The Student's consultation on the grade appeal was an unfounded "complaint" of "discrimination or bias". This inference was the basis on which all of the allegations against the respondents were dismissed.
15. Specifically, the trial judge inferred that The Student had framed an "adversarial relationship" in a "vigorous pursuit" of a "complaint" of "serious allegations" of "serious misconduct" and "discrimination or bias."[16] The trial Judge found that, therefore:

> [W]hatever duty and standard of care may have governed [The Faculty Instructor]'s relationship with [The Student] before [The Student] launched her allegations of religious bias did not prevail thereafter, as a person in the position of [The Faculty Instructor] has the right and the duty to address allegations made against her in a way quite different from addressing issues arising in a non-adversarial professor/student relationship.[17]

16. The trial Judge further justified the June Email and Anti-Homosexual allegations based on findings that the "practicing Christian" Student's religious beliefs and practices, were not

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[15] *Reasons*, para 461
[16] *Reasons* para 367 and Para 358-359 and para 372 and para 434-437 and p.357, para 482 and para 437
[17] *Reasons* para 438

protected on the ground of religion. The trial Judge did so without referring to the above Admissions of Truth[18]:

> None of the flashpoints in the June emails evidences bias against [The Student] as a Christian. Rather, the flashpoints relate to [The Student]'s conduct in the seminar (abstaining from the Sunday Class) **(Admissions No. 122, 126, 131, 155, 158, 160 page 513-515)**, her attitudes towards Derrida and his writing (The Derrida-Holy Eucharist Paper, **page 478-484**) her views on the early experience of Christians with First Nations people, **(*Reasons*, para 364, last line)** her relations with her classmates (***Reasons*, para 73-74)** and her undiplomatic assessment of [The Faculty Instructor]'s course and [The Faculty Instructor] in her final paper. (**appended to *Reasons*, p.288-293).**There is no evidence that [The Faculty Instructor] regarded the shortcomings she ascribed to [The Student] as intrinsic to her Christian religion. [19]

17. The Court of Appeal upheld the trial Judge's finding that the Faculty Instructor's duty of care was vitiated because of the trial Judge's inference that The Student had made a "complaint" of "discrimination or bias," distinguishing the facts from *Young v. Bella.* [20] It did so without referring to the applicant's basis of appeal that the trial Judge had failed to refer to the above direct evidence <u>in deciding</u> what the trial Judge found to be the "core of the lawsuit" (**Tab 22, p. 494)**.

<u>November, 2001-April, 2002: The Student's Grade Appeal to the Senate Committee for Appeals on Academic Standing</u>

18. Both at trial and on appeal The Student led direct evidence <u>to support her claims of on-going civil rights violations and negligence</u> that after The University, Faculty Instructor and the respondent Dr. Egan ("The Department Administrator") had refused her efforts to "resolve the matter as close to the source as possible"(**Tab 21, p. 470;Tab 22 p. 530),** and she was losing: the "heart to even go on in academia", and time from her M.A. thesis and part-time work, she made her appeal to The University's Senate Committee for Appeals on Academic Standing.
19. The Student appealed on the principal of "Holy Day Observance without Penalty". She appealed that the accommodation agreement was not fulfilled by The Faculty Instructor who had advised her that she had suffered a loss of benefit as a result. The Student appealed that this was contrary to Policy #65.**(Vol. 1 Tab 3, p. 5 and Vol. III, Tab 22, page 533)**
20. The Student led evidence that The Senate Committee, based on published University policy:

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[18] The Applicant relies on the trial Judge's failure to refer to the primary facts of the admissions. The Applicant does not refer to the other evidence advanced at trial in this appeal which is based on the primary fact evidence of admissions of truth.
[19] *Reasons*, para 365
[20] *Reasons for Decision*, Court of Appeal , paras 96-98

a. only hears student appeals **(Tab 18, page 406 and Oral Reasons, Tab 6, para 36-38).**

b. The Senate Committee for Student Grade Appeals found The Student's Appeal for "Holy Day Observance without Penalty" was a narrow appeal that:

> The relief [The Student] sought might not seem significant, as [The Student] only sought to raise your mark from 73% to 79%, but [The Student] felt [she] w[as] bringing forward a test case on a point of principle regarding Sunday observance. **(Vol. I, Tab 3, p. 5).**

c. The Senate Committee has no jurisdiction to remedy harm. It can only return the matter of a grade for reconsideration to the Faculty of Graduate Studies ("The F.G.S."). **(Tab 6, p. 408, Sec. 2.03).**

d. Its procedures do not require confidentiality for anyone other than the Committee Members **(Vol. II, Tab 18, page 409, Sec. 206).**

"Officious Bystander" Faculty

21. The Student led evidence through exhibits and testimony at trial, and on appeal to the Court of Appeal, that two other faculty members, Dr Segal and Dr. Scott ("The Other Faculty") wrote unsolicited letters to Associate Dean Rose of The F.G.S. on department letterhead when they heard about The Student's grade appeal to the Senate Committee from The Faculty Instructor. In those letters they made unsworn statements of opinion about The Student.

22. Associate Dean Rose was a decision maker on the student's academic future and the person responsible for preparing the response to the Student's Appeal. Dr. Rose rejected the two unsolicited letters sent to her by the Other Faculty by not including them in her submission. **(Tab 22, Page 551).** The Other Faculty were never considered potential witnesses by Dr. Rose, nor were they witnesses at the hearing. **(Vol. III, Tab 22, Page 535 and 542).**

23. In response to a question asked by Dr. Rose on behalf of The Faculty Instructor, The Senate Office advised Dr. Rose that only witnesses who can speak directly to the specific issues on The Student's appeal should be called. **(Vol. III, Tab 22, Page 535)**

24. Dr. Rose did not call The Other Faculty as witnesses and advised The Faculty Instructor she would not be calling them. (Vol. III, page 535). She did call The Faculty Instructor as a witness. Dr. Rose did also attach to her submission The Faculty Instructor's written report. The Faculty Instructor's report attached The Other Faculty Member's Letters **(Vol. III, Tab 22, Page 548),** all of which was circulated to the Senate Committee, and The Student.

25. Dr. Segal had taught The Student in one course two years previously. She did not know The Faculty Instructor at all. She stated various opinions about the "mental and emotional stability"

of The Student in a two page letter. She made no comments about The Faculty Instructor, either generally or specifically. **(Vol. III, Tab 22, beginning page 540)**

26. Dr. Scott is from the French Department and did not know The Student at all except for one brief phone call on the translation of the Bible in The Student's research for the Derrida Holy-Eucharist Paper. Dr. Scott had known The Faculty Instructor for 25 years. Except for one paragraph, Dr. Scott's 2.5 page letter states her opinions about The Student's religion as legitimately characterized as "liturgical cannibalism" and "grotesque in its imagery"; and, that The Student and/or her appeal are "threats and terrorism" to academia. **(Page 537)**
27. The Senate Committee "unanimously concluded" that "The Department" (i.e. The Faculty Instructor, Other Faculty and The Faculty Administrator)

> in responding to (The Student's) appeal, mounted an irrelevant and unseemly attack upon (The Student's) character for mental and emotional stability and for religious tolerance. You had ample grounds for your objections at the hearing to the admissibility of the passages in various documents. The Senate Committee felt that such an attack upon (The Student's) character embarrassed the university and descended well beneath the current standards of *Charter* values. **(Volume I, Tab 3, page 15)**

The trial Judge and Court of Appeal's *Reasons for Decision*

28. The trial Judge inferred, <u>without referring to the above primary fact evidence at para 20, a-d:</u>
    a. The Student Senate Appeals Committee is a forum for resolving "dispute[s] and issues" at which a "defendant" defends their rights (**Vol. I, Oral Reasons, Tab 6, para 48 last line).** The trial Judge found the facts consistent with those of the *Cimolai* case which was a faculty-faculty dispute before a Committee for Discrimination and Harassment.[21]
    b. The trial Judge found that:

> It is evident that the underlying facts [The Student] was asserting and relying on were significant in scope and controversy and in context likely to engage a substantial and vigorous response **(Vol. I, Oral Reasons, Tab 6, para 48).**

    c. As to remedy for harm, the trial Judge found that "The Senate Committee [could have] fufill[ed] its mandate by acting judicially in dealing with overly vigorous or inappropriate responsive evidence" **(Vol. I, Tab 6, para 48)**
    d. in the absence of any proof, the trial Judge inferred that confidentiality was not and would not have been broken**. (Vol. I, Tab 6, Para 46)**

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[21] Vol. 1, Tab 6, p. 149, para 33

29. The Court of Appeal upheld the trial Judge's decision that the Other Faculty were protected by absolute immunity because:

> It was Dr. Rose [as a University employee] who put forward the materials in answer to [The Student's] appeal and she was entitled to respond as representative of the body whose decision was being appealed. It was up to the Senate Committee to determine what materials were necessary to their disposition of the case, and the trial judge was not sitting in judicial review of their decision.[22]

The Application of *Charter* Rights and/or Values at Trial and on Appeal

30. The applicant "raised" the *Charter* extensively at trial and on appeal that the *Charter* applied to her claims against the respondents. The Court of Appeal rules informed the appellant to file a Notice of Constitutional Questions Act if applicable, which she did. **(Vol. III, Tab 19; Vol. III, Tab 24, p. 579-583, and Tab. 25, beginning page 604)**
31. Just prior to the Court of Appeal hearing, the respondents reversed the position they had advanced at trial, and which they continued to hold up to the pre-hearing stage on appeal, that the *Charter* must inform the *Civil Rights Protection Act*. They further took the position that the applicant had not "raised" the *Charter* at trial. The BC Attorney General adopted the position of The University.
32. The applicant responded that she, the respondents, and the trial Judge had indeed advanced or "raised" the *Charter* at the trial from the outset. At the appeal hearing, the Court agreed she had "relied on" and "referred to" the *Charter* at trial. **(Vol.III, Tab 23, beginning p. 557-568).**
33. However, in the *Reasons for Decision*, The Court of Appeal found that she had not technically "raised" the *Charter*, and found that, "in any event, the *Charter* had no application in these circumstances", nor were the "claims based on the *Charter* or on *Charter* values."[23]
34. The Court of Appeal's *Reasons* also state that the appellant had not advanced The University's own arguments in another proceeding that the *Charter* applied to The *University Act*[24] **(Book of Authorities, Tab 10).** However, in the transcripts of The Court of Appeal beginning **p. 567 line 2-5**, the appellant specifically argues that she is relying on, and argues, the Universities own arguments in support of her appeal that the *Charter* applies to The *University Act*.

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[22] Court of Appeal, *Reasons*, para 38
[23] *Reasons*, para 53 and 58
[24] Court of Appeal, Reasons for Decision para 120

35. Neither did The Court of Appeal address the applicant's seeking constitutional relief, for which she advanced evidence that the University and Faculty's false reports based on religion in national and international publications will continue[25]. (Vol.III, p.571-574) Vol. II, p..419)

Regarding Costs

36. The applicant led evidence that the trial Judge had failed to permit submissions on costs. **(Vol. III, Tab 23, p. 569).** The applicant led evidence that she was not given the opportunity to advance the direct evidence that:
    a. in 2004 she made a pre-trial offer to resolve the case in favour of a 350 word rebuttal to the false reports being published about her at a ^ national academic conference co-hosted by The University and co-organized by The Faulty Instructor. She also wrote a letter to the respondents confirming her understanding that they were going to trial on the basis that the defendants had refused to publish her rebuttal**. (Vol. II, Tab 20)**
    b. in 2005 The Student sought an early settlement meeting with the respondents at the BC Human Rights Tribunal. The respondents refused the early settlement meeting, and instead filed applications deferring her BC HRT complaint until the outcome of the trial in the Supreme Court. **(Vol. II, Tab 20, beginning page 431)**
37. The Court of Appeal found, without referring to the above evidence, with ~~qualified privilege~~ without prejudice waived by the appellant on her letters to the respondents, that:

> The respondents...have been forced to participate in this litigation, not of their choosing, for seven years. We can see no basis for finding that any of them should be required to fund the litigation by compelling them to pay their own costs. [26]

The New Evidence of the respondents' post-trial, internet and print publications

38. The Court of Appeal did not refer to the new and/or fresh evidence before it that after the trial The University and Faculty Respondents' each published articles which the appellant claimed continued their civil rights violations and bad faith (**Tab 24, beginning pages 584 and 600).**

[25] Court of Appeal, Reasons para 50
[26] Court of Appeal, Reasons for Decision, para 126