



FORM 1 (RULE 3-1 (1))

Court File No. **VLC-S-S-231466**  
No.  
Vancouver Registry

*In the Supreme Court of British Columbia*

Between

BRAD CRAN

Plaintiff

and

THE GEIST FOUNDATION and ANNMARIE MACKINNON

Defendants

**NOTICE OF CIVIL CLAIM**

**This action has been started by the plaintiff(s) for the relief set out in Part 2 below.**

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff(s).

If you intend to make a Counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff(s) and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the Response to Civil Claim within the time for Response to Civil Claim described below.

**Time for Response to Civil Claim**

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,

- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

## CLAIM OF THE PLAINTIFF

### Part 1: STATEMENT OF FACTS

1. The plaintiff, Brad Cran, is an award-winning writer and the former Poet Laureate of the City of Vancouver, currently 50 years of age, and has an address for service in this action care of 4840 Delta St. Suite 209, Delta, BC, V4K 2T6.
2. The defendant The Geist Foundation (“**Geist**”) is a publicly funded non-profit organization that publishes *Geist* Magazine (the “**Magazine**”) four times a year, maintains offices in Vancouver and has an address for service in these proceedings c/o 1055 West Hastings Street, Suite 1700, The Guinness Tower, Vancouver, BC, V6E 2E9.
3. The defendant AnnMarie MacKinnon is a writer and editor with an address currently unknown to the plaintiff. Ms. MacKinnon was at all material times the Publisher of the Magazine.

### Other Related Parties

4. Stephen Osborne and Mary Schendlinger are the co-founders of the Magazine and Geist.
5. Steven Galloway is a writer and the former UBC Chair of Creative Writing who is the plaintiff in an ongoing defamation action against persons who falsely accused him of rape and sexual assault. The plaintiff swore an affidavit in support of Mr. Galloway’s successful dismissal of an application brought against him pursuant to the *Protection of Public Participation Act*.

## THE LEGACY AGREEMENT

6. In or around late 1997 or early 1998 the plaintiff entered into an agreement with Geist (the “**Legacy Agreement**”), which was agreed partly in writing, partly orally, and partly by convention, as a contributing editor. The Legacy Agreement spanned over two decades in which the plaintiff made significant and unprecedented contributions to the magazine and the Geist Foundation as a whole.
7. The nature and terms of The Legacy Agreement evolved over time with the agreement of the parties.
8. At the times material to this action, the express or implied terms of the Legacy Agreement included the following:
  - a) The plaintiff would:
    - i) Bring new writers and writing to the magazine;
    - ii) Write promotional copy for posters, events, direct mail and other forms of promotion; consult on the same;
    - iii) Provide *ad hoc* media consulting;
    - iv) Work to promote readership, ad sale revenues and subscriptions; consult on the same;
    - v) Develop publishing models for the web and social media in the earliest days of social media; consult on the same;
    - vi) Write grant proposals; consult on the same;
    - vii) Foster partnerships with other publications and associations;
    - viii) Spearheaded special projects; and
  - b) The Magazine would:

- i) Provide the plaintiff with an immediate path to have his work considered for publication in the Magazine;
  - ii) assist the plaintiff in acquiring other work as a consultant and promoting him to other organizations for this purpose;
  - iii) publicly acknowledge the plaintiff's contributions and foundational role at the Magazine by listing him on the Masthead as a contributing editor;
  - iv) at all times treat the plaintiff fairly, honestly, and in good faith including timely and accurate acknowledgment of the plaintiff's contributions to the Magazine commensurate with his achievements and consistent with the treatment of other contributing editors listed in the Masthead;
9. Between approximately January 1998 and August 2019, as provided for in the Legacy Agreement, the Magazine recognized the plaintiff's contributions to the Magazine with a lasting presence on the Masthead.
10. In or about 2015 The Legacy Agreement was further amended to include an express or implied agreement that the departure of Mr. Osborne as publisher of the Magazine would not impact the plaintiff's relationship or standing with the Magazine.
11. Over the course of The Legacy Agreement the plaintiff:
  - a) Made significant editorial contributions as a contributing editor leading to some of the most important works published in the Magazine;
  - b) Assisted Geist to expand and consolidate a large readership;
  - c) Increased subscriptions to the Magazine through direct mail campaigns;

- d) Increased newsstand sales of the Magazine as distribution manager in roughly 1997-2000.
  - e) Developed publishing models for the web and social media in the earliest days of social media;
  - f) Raised hundreds of thousands of dollars through grant writing;
  - g) Increased ad-sales revenue;
  - h) Created partnerships with other publications and associations;
  - i) Spearheaded numerous special projects including “Geist in the Schools” flagship program;
  - j) Provided Ad Hoc Media consulting;
  - k) Brought extensive media attention to Geist through appearance on television, radio and in print media;
  - l) Regularly spoke on behalf of Geist and at their request including as a speaker on their 10<sup>th</sup> and 20<sup>th</sup> Anniversaries; and
  - m) Was an integral part of the team that grew Geist into the largest-circulation literary periodical in Canada’s history.
12. On June 17, 2015, Michal Kozlowski, who succeeded Mr. Osborne as publisher of Geist, contacted the plaintiff offering him an ongoing multi-year seat on the board of directors to provide Mr. Kozlowski marketing expertise and mentorship on a volunteer basis.
13. The plaintiff declined the seat on the board and instead offered to continue providing expertise and volunteer consulting on an “ad hoc basis” as he had been doing for nearly two decades as per The Legacy Agreement. Mr. Kozlowski responded in the affirmative thereby reaffirming The Legacy Agreement as of June 17, 2015.

14. In April 2016, the plaintiff's good standing at Geist was again established by Mr. Osborne who remained on as "Brain Trust," to provide publishing expertise and editorial support to the Magazine. Mr. Osborne introduced the plaintiff to Mr. Kozlowski and encouraged both to work together for the ongoing benefit of the Magazine.

## **PUBLISHING AGREEMENTS 1 THROUGH 12**

15. The plaintiff's publications in Geist include but are not limited to 11 pieces of writing and one photograph ("**The Works**") that Geist published to geist.com ("**The Website**"). The Works were edited by Geist who secured first serial rights for publication in the print magazine and separated electronic rights for publication to The Website.
16. Each of the 12 pieces in The Works constitutes a separate agreement ("**The Publishing Agreements 1-12**") entered into between Geist and the plaintiff, agreed partly in writing, partly orally, and partly by convention. The material terms of these 12 contracts are:
  - i) To publish the work of the plaintiff in perpetuity, or as long as Geist remains a going concern and/or while the works of all other Geist contributors remain published;
  - ii) To treat the plaintiff's work in a manner equivalent to the treatment of the work of all other Geist contributors;
  - iii) Continued and uninterrupted promotion of the plaintiff's work;
  - iv) To allow the plaintiff's long-time Geist readership continued access to his work which has helped defined the magazine; and
  - v) Good faith and honesty.
17. The terms of the agreement between the plaintiff and Geist are inclusive of the terms set out as a matter of policy in Geist's *Editing Best Practices*.

18. The “Administration” section of Geist’s *Editing Best Practices* sets out a directive for Geist staff to secure letters of agreement for all published works, stated as follows:

Agree to publish a work by writing an informal letter of agreement, in hard copy or by email, in which general terms are spelled out

19. Due to the plaintiff’s close relationship with the organization, Geist chose to enter into agreements for The Works without establishing terms in a letter of agreement, despite this being the magazine’s standard protocol. The plaintiff provided invoices and was paid for publication of the Works.

20. The “Administration” section of Geist’s *Editing Best Practices* sets out terms for the egalitarian treatment of writers:

Pay the same rates to all contributors, including *Geist* staff, volunteers, interns and contractors.

21. The Administration section of Geist’s *Editing Best Practices* states that separate rights must be secured before publishing any writing to The Website:

“Secure separate rights, and stipulate which rights are being secured, before using *Geist*-published writing or artwork in any other way, such as on the web site”

22. As a matter of policy, practice and convention, Geist publishes the works of its contributors to The Website in perpetuity. No other writer in the history of the magazine has had material purged from the Geist website.

### **Publishing Agreement 1**

23. On or about November 19, 2009, Geist entered into a contract to publish the plaintiff’s work, “In Praise of Female Athletes Who Were Told No,” a feature article.

### **Publishing Agreement 2**

24. On or about February 9, 2010 Geist entered into a contract to publish the plaintiff's work, "2010 Handbook for Entering Canada," a satirical poem reprinted in *The Globe and Mail*.

**Publishing Agreement 3**

25. On or about April 28, 2018 Geist entered into a contract to publish the plaintiff's work, "Science Fiction," a feature article.

**Publishing Agreement 4**

26. On or about December 20, 2005 Geist entered into a contract to publish the plaintiff's work, "Empires of Film," a feature article.

**Publishing Agreement 5**

27. In 2004 Geist entered into a contract to publish the plaintiff's work, "Leading Men," a feature article.

**Publishing Agreement 6**

28. In or around October 2008 Geist entered into a contract to publish the plaintiff's work, "Potluck Café," a feature article.

**Publishing Agreement 7**

29. In or about November 2003 Geist entered into a contract to publish the plaintiff's work, "Fur Coat," a photography editorial.

**Publishing Agreement 8**

30. In or about September 2007 Geist entered into a contract to publish the plaintiff's work, "Secrets and Souvenirs," a photography editorial.

**Publishing Agreement 9**



31. In or about August 2003 Geist entered into a contract to publish the plaintiff's work, "Le Métro," a photograph.

#### **Publishing Agreement 10**

32. On or about April 2011 Geist entered into a contract to publish the plaintiff's work, "Thirteen Ways of Looking at a Gray Whale," a poem commissioned by The City of Vancouver and published by Geist and optioned by the National Film Board of Canada.

#### **Publishing Agreement 11**

33. In or about November 2006 Geist entered into a contract to publish the plaintiff's work, "Reading Wittgenstein," poetry.

#### **Publishing Agreement 12**

34. In or about April 2002 Geist entered into a contract to publish the plaintiff's work, "Today After Rain," poetry.

#### **BREACH OF THE LEGACY AGREEMENT**

35. The terms of The Legacy Agreement were breached sometime after August 1, 2019 when Ms. MacKinnon removed the plaintiff as a contributing editor from the Magazine's masthead.
36. The plaintiff says Ms. MacKinnon's actions were motivated by malice and retribution for the plaintiff's public defense of due process and the presumption of innocence related to sexual assault allegations levelled at the novelist Steven Galloway.
37. On August 1, 2019, Ms. MacKinnon received a complaint (the "**Complaint**") from andrea bennett (capitalization omitted in accordance with how they spell their name) making false and defamatory comments about the plaintiff in regard to an

article he wrote outlining the facts regarding false allegations of rape levelled against Mr. Galloway.

38. andrea bennett has also made public accusations against Mr. Galloway.
39. Ms. MacKinnon responded to the Complaint and promised to immediately remove the plaintiff from the Masthead.
40. The removal of the plaintiff from the Masthead was a breach of the material terms of The Legacy Agreement. The plaintiff did not learn that Ms. MacKinnon removed him from the masthead/list of contributing editors for false and improper reasons until February 15, 2023 and had therefore lied to him earlier about her reasoning and at no time has attempted to correct the record.
41. When the plaintiff contacted Ms. MacKinnon about his removal from the editorial board, she denied the existence of the Complaint.
42. On November 17, 2020 Mr. Osborne had a meeting with Ms. MacKinnon in which it was agreed:
  - a) Mr. Osborne would act as “ameliorator” between the plaintiff and Ms. MacKinnon;
  - b) Ms. MacKinnon would answer all of the plaintiff’s questions;
  - c) Geist would develop clear policy around the issues at hand; and
  - d) There was no rancour between Geist and the plaintiff from Geist’s end.
43. Despite the meeting in which the above issues were established, Ms. MacKinnon continued to lie and deny the existence of The Complaint.
44. Ms. MacKinnon’s continued denial of having received the Complaint was an outright lie and a breach of the terms of The Legacy Agreement as per the plaintiff’s right to good faith and honesty, as well as these terms that had been established and renewed by Mr. Osborne.

45. Ms. MacKinnon then repeatedly gaslit the plaintiff causing him emotional distress. Gas-lighting is an extreme form of manipulation, where the manipulator convinces the target that they cannot trust their own perceptions of reality.
46. Over a series of emails, Ms. MacKinnon made the following statements specifically designed to cause the plaintiff harm by having him question his own sanity, good judgment, and entitlement to fairness:
  - a) I made the decision some time ago to reserve that spot for people who are currently active within the organization to some extent.
  - b) having one's name appear on the Geist masthead is not a lifetime appointment unless your last name is Schendlinger or Osborne.
  - c) I don't know what to tell you about the masthead, but I would ask that you not take personally the removal of your name.
  - d) I would not say there's any kind of process to it (so looking at before and after versions won't tell you much). It's more a "haven't heard from that guy in a while" and "we really should add this person" kind of affair.
  - e) I'm a bit taken aback! This is the first time someone whose name no longer appears on the masthead has ever gotten in touch about it--let alone with such fervor!
  - f) Now, unless I'm mistaken, a single, brief in-person meeting and our email exchanges from this week comprise the entirety of our relationship.
  - g) [after listing people who had previously been removed from the Masthead] I sincerely doubt any of them were notified about being removed.
  - h) Your inquiries have taken up a great deal of my time, and I would ask that you please leave me to focus on what I need to do, which is make the magazine.
  - i) I'll put it as plainly as I can. My only experience of what it might be like to work with you is from this series of emails, which began with the implication that you are entitled to a spot on the masthead of a magazine with which you've had no contact for several years
47. Ms. MacKinnon knew that her own accusations against the plaintiff, that he was vexatious, were based on falsehoods, yet she persisted in these lies to conceal

her own wrongful conduct and malice towards the plaintiff, while intentionally and knowingly causing him emotional distress.

48. Ms. MacKinnon directly acknowledged that she understood that her actions caused the plaintiff emotional distress:

I regret it's caused you distress.

49. Ms. MacKinnon's actions against the plaintiff were calculated, premediated, and intentional in their aim of causing mental distress.

50. The breach of The Legacy Contract caused the following damage to the plaintiff:

- a) Reputational harm. The particulars of which include:

- i) Separating the plaintiff from his readership;
- ii) Portraying the plaintiff as unworthy of publication;
- iii) Disappearing the plaintiff's work
- iv) An inference that the plaintiff brings shame to any publication which he is associated with

- b) Emotional distress including:

- i) Depression;
- ii) Anxiety;
- iii) A loss of sleep that required medication;
- iv) Anguish;
- v) Paranoia related to the belief other people close to him would be targeted.

- c) Isolation from the Geist community that was the plaintiff's literary family for over two decades.

## **BREACH OF THE PUBLISHING AGREEMENTS 1-12**

- 51. Publishing Agreements 1-12 were breached by Geist when Ms. MacKinnon (and possibly others) deleted each of The Works in January 2021 without the plaintiff's consent, and following his filing of a complaint against Geist with the OIPC.
- 52. Ms. MacKinnon deleted the plaintiff's work in deliberate retribution for the plaintiff having defended the terms of The Legacy Contract and for having filed a complaint against Geist with the OIPC.
- 53. At the time of the deletion of The Works Ms. MacKinnon was still denying the existence of The Complaint which was discoverable by an OIPC investigation.
- 54. Geist's claim that the plaintiff requested that his work be deleted is patently false and another instance of Geist gas-lighting the plaintiff.
- 55. The "Editing web site" section of Geist's *Editing Best Practices* establishes the care and attention staff are expected to pay in regard to using links on The Website:
  - Add relevant and interesting links judiciously, and when called for, secure permission to post links.
- 56. At no time did the plaintiff request that his work be deleted, nor did he consent to the deletion of his work, nor was he given any warning, nor was he even notified that Geist took this action.
- 57. The plaintiff only became aware of the deletion of his writing on March 15, 2021, when Will Sutton, a Geist reader and self-described "fan" of the plaintiff's writing, who was unknown to the plaintiff at the time, sent the plaintiff a message through the social media platform LinkedIn expressing concern for the plaintiff's wellbeing after discovering Geist had deleted all of the plaintiff's writing from the Geist Website.

58. The plaintiff was shocked and mentally distressed by the deletion of his writing. At no time did he expect or predict that Geist would breach any of the Publishing Agreements.
59. On March 15, 2021 the plaintiff forwarded Mr. Sutton's note to Mr. Osborne who told the plaintiff the deletion of his work was "nuts."
60. The deletion of the plaintiff's work was an extreme act that caused harm. This breach of The Legacy Contract caused the following damage to the plaintiff:
  - a) Reputational harm:
    - i) Loss of prestige
    - ii) Damage to profile
    - iii) The erasure of the bulk of the plaintiff's publicly available work
    - iv) Portraying the plaintiff as unworthy of membership in the Canadian Literary community
  - b) Emotional distress including:
    - i) Depression
    - ii) Anxiety
    - iii) A loss of sleep that required medication
    - iv) Anguish
    - v) Paranoia related to the belief other people close to him would be targeted
  - c) Further isolation from the Geist community that was the plaintiff's literary family for over two decades.

- d) Depression and anxiety that led the plaintiff to seek counseling.

## **OIPC INVESTIGATION**

- 61. Geist breached its duty to the plaintiff under Section (28) of PIPA.
- 62. Geist lied to the Commissioner of the OIPC, filed false information with the OIPC and knowingly and deliberately mislead the Commissioner, who acted on the falsehoods provided, and thus determined that Geist had met their duty to the plaintiff under Section 28 of PIPA.
- 63. On February 21, 2023 the plaintiff filed a request for the OIPC to reopen his complaint against Geist. The reasons for the plaintiff's request included but were not limited to:
  - a) Conflict of interest arising from Ms. MacKinnon's sister-in-law who is defence counsel on *Galloway v. A.B.* participating in the investigation on Geist's behalf without the plaintiff's knowledge.
  - b) The investigator acted as an advocate for Geist by sharing the plaintiff's evidence with Geist so they could tailor their own responses to it.
  - c) The plaintiff is in possession of new information that proves that Geist did not conduct a search for records as Geist claimed.
  - d) Numerous instances of Geist providing false information and knowingly misleading the Commissioner.
  - e) The findings ignore all concerns the plaintiff raised during the investigation.
  - f) Geist was able to leverage the defamatory content in the information sought, using it to portray the plaintiff as vexatious.
  - g) Geist engaged in spoliation, or alternatively lied about deleting records.
  - h) The Commissioner allowed Geist unjustified redactions of andrea bennett and Ms. MacKinnon's emails.
  - i) The Commissioner's finding that Geist fulfilled its duty under Section 28 of *PIPA*, constitutes a misapprehension of evidence that is palpable and overriding, thus amounting to an error of law.
  - j) The findings of the Commissioner are:

- i) Incorrect.
- ii) Unreasonable.

64. During the course of the investigation, on April 24, 2021, another long-time contributing editor at Geist named Michael Hayward contacted the plaintiff to pressure him to drop his OIPC complaint against Geist in order to protect Ms. MacKinnon. In doing so Mr. Hayward inadvertently confirmed the existence of The Complaint for the first time.
65. Mr. Hayward's attempts to have the plaintiff withdraw his complaint were a further act of gas-lighting the plaintiff, causing him further emotional distress.
66. Geist submitted to the Commissioner that Ms. MacKinnon did not know of the existence of The Complaint, spent 30 hours searching for it and could not find it. After Mr. Hayward's inadvertent confirmation of the Complaints existence, Ms. MacKinnon claimed it was then discovered as part of a "second search."
67. In their totality Geist's submissions to the OIPC functioned as a series of interconnected falsehoods that undermine the plaintiff's role at Geist while unjustly portraying him as vexatious for his reactions to a conflict that was created by Ms. MacKinnon and fueled by her duplicity and gaslighting of the plaintiff.
68. Geist's submissions to the OIPC were not made in the best interest of Geist but in the best interest of Ms. MacKinnon, exposing Geist to the possibility of fines of up to \$100,000 by knowingly misleading the Commissioner.
69. On February 23, 2023, the OIPC confirmed that they had assigned an investigator to investigate the commissioner's findings and make a determination on reopening the file.

#### **SUMMARY OF MS. MACKINNON'S ACTIONS**

70. In their totality, Ms. MacKinnon's actions against the plaintiff were extreme and outrageous, including:



- a) Lying to the plaintiff about the existence of The Complaint.
- b) Removing the plaintiff from the Masthead without justification or mind to fairness.
- c) Deleting the plaintiff's work from the Geist website in a retaliatory manner.
- d) Gaslighting the plaintiff to make him feel as though he were imagining the harms done to him.
- e) Isolating the plaintiff from the board of directors.
- f) Isolating the plaintiff from his longtime mentor and other members of Geist.
- g) Encouraging a board member to pressure the plaintiff to withdraw his complaint with the OIPC.
- h) Submitting knowingly false and misleading information to the OIPC thereby exposing Geist to fines of up to \$100,000.
- i) Leveraging the defamatory content in The Complaint against the plaintiff with the OIPC.
- j) Infringing on the plaintiff's freedom of expression as protected by the Charter of Rights and Freedoms
- k) Punishing the plaintiff for filing an affidavit in support of someone falsely accused of sexual assault.

**Part 2: RELIEF SOUGHT**

Wherefore the plaintiff claims against the defendants and each of them, jointly and severally:

1. General and special damages;
2. Damages for breach of contract;
3. Damages for loss of reputation;
4. Damages as mandated by *PIPA*.
5. Aggravated and punitive damages;
6. Interest;
7. Costs; and

8. Such further relief as this Honourable Court considers just.

### **Part 3: LEGAL BASIS**

#### **BREACH OF AGREEMENTS**

1. The plaintiff pleads and relies on the law of contract.
2. Geist wrongfully terminated its Publishing Agreements, and breached the Legacy Agreement, causing the plaintiff harm.
3. Geist breached its ethical duties to the plaintiff as a publicly funded cultural organization.
4. The conduct of Geist and Ms. MacKinnon was a material and fundamental breach of their obligations of good faith and fair dealing owed to the Plaintiff and has caused the Plaintiff to suffer damages and loss. The facts establish a claim against the Board for compensatory damages flowing from Geist's breach of its obligations of good faith and fair dealing.
5. The harms related to Publishing Agreements 1 through 12 are devastating to a writer. The deletion of a writer's work is equivalent to emptying a banker's bank account. This is an attack on the life's work of the plaintiff.
6. The Plaintiff will rely, in part, on the judgment of the Supreme Court of Canada in the following case:

*Bhasin v Hrynew*, 2014 SCC 71;

#### **INTENTIONAL INFLICTION OF EMOTIONAL SUFFERING**

7. The tort of intentional infliction of mental distress has three elements:
  - (a) the defendant's conduct must have been calculated to harm the plaintiff;
  - (b) the conduct must have been flagrant and outrageous; and
  - (c) the conduct caused the plaintiff to suffer a visible and provable illness.
8. The conduct of the defendants was calculated to harm the plaintiff, did so harm him, and caused him mental and emotional distress, stress, anxiety, loss and damage.
9. The Plaintiff will rely, in part, on the judgments in the following cases:
  - i) *Bazley v Curry*, [1999] 2 SCR 534
  - ii) *Boucher v Wal-Mart Canada Corp.*, 2014 ONCA 419

## **BREACH OF RIGHTS UNDER *PIPA***

10. The plaintiff relies on *PIPA* and the *PIPA Regulations*.

11. *PIPA* states:

57 (1) If the commissioner has made an order under this Act against an organization and the order has become final as a result of there being no further right of appeal, an individual affected by the order has a cause of action against the organization for damages for actual harm that the individual has suffered as a result of the breach by the organization of obligations under this Act.

(2) If an organization has been convicted of an offence under this Act and the conviction has become final as a result of there being no further right of appeal, a person affected by the conduct that gave rise to the offence has a cause of action against the organization convicted of the offence for damages for actual harm that the person has suffered as a result of the conduct.

12. Geist failed to uphold their obligation to the plaintiff under Section 28 of *PIPA* and the plaintiff seeks a declaration confirming the same.

13. Barring a reopening of the plaintiff's OIPC complaint, or if required a subsequent application for Judicial Review, this court should not rely on the October 20, 2021 findings of the commissioner in OIPC File P20-85014.

14. The plaintiff disputes the current findings of the Commissioner as they currently stand and requests that the findings are not accepted due to breach of the Commissioners duty to procedural fairness. Geist knowingly mislead the Commissioner to avoid penalty and denying the plaintiff a cause of action and the disclosure owed to him under Section 28 of *PIPA*.

## **Retaliation under *PIPA* Section 54**

15. Geist deleted all of the plaintiff's work in retaliation for filing a complaint with the IOPC. The plaintiff seeks a declaration to this effect.

16. The malice that governed Geist's participation in the OIPC investigation makes it clear that their actions against the plaintiff were retaliatory. The plaintiff deserves protection under s. 54 of *PIPA*, as he meets the definition of "employee" as defined in Section 1 of the act.

17. As well as constituting a breach of Publishing Agreements 1 through 12, the deletion of the plaintiff's writing crystalized a second cause of action under Section 54 of *PIPA*.

18. This attack on the plaintiff is also an attack on the authority of the OIPC which threatens the commissioner's ability and duty to enforce *PIPA*. Punitive damages are thereby warranted in regard to these retaliatory measures by Geist.

### **PUNITIVE DAMAGES**

19. Geist's conduct constitutes blacklisting. Ideological blacklists are an affront to freedom of expression, a direct attack on the Canadian Charter of Rights and Freedoms and a barrier to public participation on matters of public interest.
20. The malicious actions of Geist have happened in tandem with other acts of blacklisting, including writers being blacklisted from universities and other publicly funded publishers.
21. The defendants' misconduct, as described above in all sections, was malicious, oppressive, and high-handed, and departed to a marked degree from ordinary standards of decent behaviour. The defendants' actions are part of a pattern of willful disregard for freedom of speech in the Canadian arts. The defendants' actions offend the moral standards of our country and warrant the condemnation of the Court such that an award of punitive damages should be made against Geist.
22. It is in the public interest for this court to award punitive damages to send a message to all publicly funded arts organizations that ideological blacklists will not be tolerated in this country.
23. The plaintiff will rely, in part, on the judgment of the Supreme Court of Canada in the following cases:
- i) *Whiten v Pilot Insurance Co*, 2002 SCC 18, [2002] 1 S.C.R. 595
  - ii) *Hill v. Church of Scientology of Toronto* (1995), 1995 CanLII 59 (SCC)
24. The Plaintiff pleads and relies on the inherent jurisdiction of the court, the *Supreme Court Civil Rules*, B.C. Reg 168-2009, the *Freedom of Information and Protection of Privacy Act* [RSBC 1996] c.165 and the *Court Order Interest Act*, R.S.B.C. 1996, c. 79.

Plaintiff's address for service:

Brad Cran  
Suite #209  
4840 Delta St  
Delta, BC V4K 2T6

Fax number address for service (if any):

N/A


E-mail address for service (if any):

bradcran@hotmail.com

Place of trial: Vancouver, BC

The address of the registry is: Law Courts,  
800 Smithe Street,  
Vancouver, BC V6Z 2E1

Date: March 14, 2023



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Signature of plaintiff  
Brad Cran.

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
  - (a) prepare a list of documents in Form 22 that lists
    - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
    - (ii) all other documents to which the party intends to refer at trial, and
  - (b) serve the list on all parties of record.

## APPENDIX

### Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

Defamation

### Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

### Part 3: THIS CLAIM INVOLVES:

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

### Part 4:

*Libel and Slander Act*, R.S.B.C. 1999, c. 263.