

Form 4.05A

2010

Hfx No. 330823

Supreme Court of Nova Scotia



Between:

WILLIAM MOSHER and STEPHEN THURBER

Plaintiffs

and

BLAIR CROMWELL, WAYNE CHAPDELAINÉ, WILLIAM MURPHY, DONALD SNIDER, JENNIFER WILLIAMSON, BETTY RAYMOND and ARMANDO RAYMOND

Defendants

Notice of Defence

To: William Mosher
Stephen Thurber

Your action is defended

The Defendants, Blair Cromwell, Jennifer Williamson, Betty Raymond and Armando Raymond, defend your action.

The grounds for the defence are described in the statement of defence.

Contact information

The Defendants designate the following address:

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Documents delivered to this address are considered received by the defendant on delivery.

Further contact information is available to each party from the prothonotary.

Signature

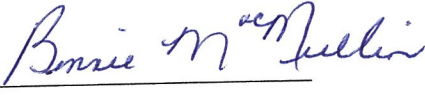
Signed November 3, 2010



Patrick J. Eagan, counsel for
the Defendants, Blair Cromwell,
Jennifer Williamson, Betty Raymond
and Armando Raymond

Prothonotary's certificate

I certify that this notice of defence, including the attached statement of defence was filed with the court on *November 3*, 2010.



~~Prothonotary~~ BONNIE MACMULLIN
Deputy Prothonotary

Statement of Defence

1. This Statement of Defence is made by the Defendants, Blair Cromwell (“Cromwell”), Jennifer Williamson (“Williamson”), Betty Raymond (“B. Raymond”) and the Estate of Armando Raymond (“A. Raymond”), all of whom are collectively referred to as “these Defendants”.
2. Cromwell admits the facts stated in the Statement of Claim as follows:
 - (i) Cromwell admits that he is the author of and the person responsible for posting the comments on the *Coast* newspaper’s website, which are set out in paragraphs 16, 18, 21, 24, 27, 33, 36, 39, 77 and 84 of the Statement of Claim.
 - (ii) Cromwell admits that he is the author of the statements at paragraphs 33, 36 and 39 of the Statement of Claim, which were attributed to A. Raymond.
 - (iii) Cromwell admits that he is the author of the statements at paragraph 77 of the Statement of Claim, which were attributed to Williamson;
 - (iv) Cromwell admits that he is the author of the statements at paragraph 84 of the Statement of Claim which were attributed to A. Raymond and B. Raymond.
3. Paragraphs 45 to 53 and 54 to 76 inclusive do not apply to these Defendants and they do not address those paragraphs in this Statement of Defence.
4. These Defendants neither admit nor deny allegations of fact about which they have insufficient knowledge to make an admission or a denial, and those allegations are set out in the following paragraphs of the statement of claim: 1, 2, 4, 5, 6, 10, 11, 12, 13 and 14.
5. These Defendants deny all other allegations of fact in the Statement of Claim.
6. With respect to the words set out in paragraph 16 of the Statement of Claim, these Defendants deny that those words have the meanings set out in paragraph 17 of the Statement of Claim.

7. With respect to the words set out in paragraph 18 of the Statement of Claim, these Defendants deny that those words have the meanings set out in paragraphs 19 and 20 of the Statement of Claim.
8. With respect to the words set out in paragraph 21 of the Statement of Claim, these Defendants deny that those words have the meaning set out in paragraphs 22 and 23 of the Statement of Claim.
9. With respect to the words set out in paragraph 24 of the Statement of Claim, these Defendants deny that those words have the meanings set out in paragraphs 25 and 26 of the Statement of Claim.
10. With respect to the words set out in paragraph 27 of the Statement of Claim, these Defendants deny that those words have the meanings set out in paragraphs 28 and 29 of the Statement of Claim.
11. With respect to the words set out in paragraph 33 of the Statement of Claim, these Defendants deny that those words have the meanings set out in paragraphs 34 and 35 of the Statement of Claim.
12. With respect to the words set out in paragraph 36 of the Statement of Claim, these Defendants deny that those words have the meanings set out in paragraph 37 and 38 of the Statement of Claim.
13. With respect to the words set out in paragraph 39 of the Statement of Claim, these Defendants deny that those words have the meanings set out in paragraph 40 and 41 of the Statement of Claim.
14. With respect to the words set out in paragraph 77 of the Statement of Claim, these Defendants deny that those words have the meanings set out in paragraphs 78 and 79 of the Statement of Claim.
15. With respect to the words set out in paragraph 84 of the Statement of Claim, these Defendants deny that those words have the meanings set out in paragraphs 85-88 of the Statement of Claim.
16. With respect to the words set out in paragraphs 16, 18, 21, 24, 27, 33, 36, 39, 77, and 84 of the Statement of Claim and, in the alternative, should it be found that the words set out in the above paragraphs have the meanings set out in paragraphs 17, 19, 20, 25, 26, 34, 35, 37, 38, 78, 79, and 85-88 of the Statement of Claim, with respect to those meanings, these

Defendants plead and rely upon the defence of fair comment on a matter of public interest, namely, the conduct and operations of the fire department (“Fire Services”) of the Halifax Regional Municipality. All of the facts in defence pleaded below, with which Cromwell was not directly involved, were made known to Cromwell prior to his authoring any postings on the *Coast* website. Particulars of the facts upon which the comments were based include, but are not limited to:

a.

Bullying

- i. Sept 10, 2008: During a meeting to discuss an Action Plan for the Maureen Shebib Report and a Nova Scotia Human Rights Commission (“HRC”) complaint by HRM Firefighters, the Plaintiff Thurber (hereafter “Thurber”) threatened to blackmail Firefighters Jermaine Momborquette and Ray Adekayode by stating that “[Firefighter] Eddy [Parsons] needs to be reined in” or, if Parsons was not so “reined in”, the 2004 designated black hiring group (the “2004 black class”) would not receive their back pay. Parsons wrote a rebuttal letter to the HRC on behalf of the International Association of Firefighters (IAFF). This comment by Thurber is a part of an ongoing investigation by the HRC as a threat by Thurber to bully Parsons and the entire 2004 black class. This statement by Thurber evidences his lack of leadership skills, his incompetency and the extent to which he will go to harass, bully, intimidate and humiliate his subordinates at Fire Services.
- ii. Feb 6, 2008: While discussing the ongoing probe by Maureen Shebib, Thurber told Parsons at Station #8 that he was opposed to hiring a "Black Block", i.e. the 2004 black class, and that he knew "a group of Blacks would be trouble". In these discussions, Thurber called former Chief Mike Eddy a "Resume Padder" and made disparaging remarks about Cromwell and Firefighter Rob Gray.
- iii. During this same conversation between Parsons and Thurber, Thurber asked Parsons what he would like to see done with Maureen Shebib's investigation into discrimination / intimidation at Fire Services. When Parsons told Thurber that he would like to see the issues addressed at a Public Inquiry conducted by the HRC, Parsons says that Thurber’s posture changed, Thurber stuck out his chest and his tone became combative. Thurber then told Parsons that the HRC is “very anti-management” and he stated to Parsons several times that he was "not afraid of the Human Rights Commission" or “lawyers”. Shortly after this conversation, Fire Services

told Parsons that the HRC is “very anti-management” and he stated to Parsons several times that he was “not afraid of the Human Rights Commission” or “lawyers”. Shortly after this conversation, Fire Services Captain Len McNab told Parsons that he was ordered by Thurber to lift up Parsons’ Fire Services sweater to check to see if Parsons had his uniform shirt underneath. Parsons says this was an attempt by Thurber to bully and intimidate him. This February 6, 2008, discussion between Thurber and Parsons is also a part of an ongoing investigation by the HRC.

- iv. During a discussion with Firefighter Kevin Reade (“Reade”), Thurber pulled out a picture of Reade and Firefighter Frank McDow sleeping in the rehab bus. Thurber made a negative comment to Reade that, when he was depressed, he would look at the picture to cheer him up. This is a part of an ongoing investigation by the HRC.
- v. June 12, 2001: Reade was disciplined for an incident at the scene of a fire. A photograph of Reade was placed on his personnel file which showed him sleeping at the scene of a structure fire along with other members of his crew. However, in an issue of the *Feedline* magazine another crew are being praised for their efforts while being photographed sleeping at the scene of another fire.
- vi. In an incident in and around 2002, Thurber went to Station #5 and took Cromwell outside of the station on the tarmac. Thurber attempted to have Cromwell sign a letter of complaint against Captain Jim Benoit regarding an incident that took place on Engine #14. During this discussion, Thurber made disparaging remarks about Firefighter Jeff Paris.
- vii. In an incident on August 11, 2009, Mosher and Thurber display bullying tactics by having sick time manager, Administrative Chief Donald Strachan (“Strachan”) send a letter to the offices of Cromwell’s counselors at the firm Roth and Associates, attempting to intervene in the counseling that Cromwell was receiving. On the advice of Roth and Associates, Cromwell’s family physician had put him on a three month medical leave from employment with Fire Services. Cromwell had previously sought employee assistance through HRM’s EAP provider, which felt that Cromwell should stay on the job despite being in a hostile work environment.

- viii. In an incident on December 18, 2008, Mosher and Thurber display bullying and incompetence in the context of a sick time review conducted by Strachan. Cromwell received a letter on December 19, 2008, from Strachan stating: "Your absenteeism is not acceptable". This letter was sent notwithstanding a meeting held the same day wherein Strachan stated, on three occasions in the presence of shop steward Firefighter Gray, that Cromwell was not an abuser of sick time. Cromwell had also provided to Fire Services previous personal and private medical details that indicated that Cromwell was living with a chronic medical condition that was in reoccurrence, that he was under the care of a medical specialist and about to undergo a medical procedure.
- ix. Feb. 24, 2006: In an incident alleging the use of unauthorized clothing, Platoon Chief Phil McNulty ("McNulty") called Firefighter Parsons about his wearing an unauthorized hat. Parsons was later told by McNulty that he was the only person whom Thurber told him to call, notwithstanding the fact that other Firefighters were present wearing unauthorized clothing. At a meeting on July 26, 2007, between the Union and management, Thurber admitted to Parsons, in front of others, that he ordered McNulty to call only Parsons about the clothing.
- x. On another occasion, McNulty called Cromwell and told him that he was ordered by Thurber to come to the station and inspect his helmet to determine whether it was approved for use. This incident occurred after the publication of a local newspaper story and photo showing a group of Black Firefighters standing in front of a fire engine with a traditional style helmet. This newspaper story appeared before the "Wall of Flame" ceremony held at the Black Cultural Center in HRM.
- xi. March 20, 2009: Firefighter Parsons was subjected to harassment by Fire Services' manager Bryson Wilson with respect to a jacket that was allegedly issued to him on a day he was not working. Parsons' gear records show him being issued items in 2003 despite not being hired by Fire Services until 2004. When Parsons became upset with Wilson over this heavy handed approach, Wilson told Parsons that Thurber and Bryan Clarke were making him turn a simple request for a jacket into an issue because of Parsons' leadership role in the Black Firefighter's human rights complaint. Thurber used his position to bully, harass and intimidate Parsons. This is a part of HRC investigation into retaliation by Thurber.
- xii. In an incident at a grievance meeting attended by Firefighters John Bowser and Gray, Thurber told Gray that: "The worst thing you could have done for this fire department was to sign that human rights complaint." Thurber continued to say that "because of [Gray] I have my back up against the wall."

- xiii. In an incident where a firefighter's union notice was circulated to the membership indicating that, at a union meeting held on June 2, 2010, a motion was passed by a 97% vote in favor of the union taking action against Fire Services management by holding a march on City Hall to protest, explicitly, the "lack of respect" toward Firefighters and "bullying" of Firefighters by Thurber.
- xiv. Mosher and Thurber display bullying by keeping Firefighter Brian Rix suspended without pay despite criminal charges being dismissed by the court system.
- xv. In an incident on June 2, 2010, Thurber made unflattering comments to certain Firefighters about the Firefighter's union executive while visiting Station #6.
- xvi. Thurber displays bullying by telling Firefighter Reade that Black firefighters were mounting a "feeble attempt to stay in the core."
- xvii. Thurber displays bullying in an incident where Platoon Chief Tim Bookholt acknowledges a hostile work environment for Cromwell and attempted to resolve the matter to assist Cromwell. Thurber undermined Bookholt's authority and humiliated him by ordering him to approach Cromwell and tell him why he will have to work with Captain Benoit in a hostile environment if presented with a similar situation in the future.
- xviii. Mosher and Thurber display bullying by targeting those whom they perceive as the leaders of the Human Rights Complaint by Black Firefighters for retaliation and intimidation.
- xix. Thurber displays bullying by handpicking Firefighters to sit on an outreach committee that the Firefighter's union does not recognize.
- xx. Mosher and Thurber display bullying by allegedly issuing an order to Bryson Wilson to "separate the Blacks" on A Platoon.
- xxi. Thurber displays bullying by openly criticizing HRM policies that support employee wellness, e.g. mocking the existence and role of the Critical Incident Stress (CIS) Team.
- xxii. Mosher and Thurber display bullying by allegedly forcing ex-fire investigator Wayne Chapdelaine into a conflict of interest by having him investigate a car fire involving a former Firefighter.

b. Incompetence:

- i. Mosher and Thurber display incompetence by not addressing or attempting to address the spreading of rumors in an attempt to divide and to take focus off of the important topics, as reported in a union notice dated June 3, 2010, entitled “Information notice as requested at the monthly meeting”. In and around 2002, retired Platoon Chief Gary Nepean (“Nepean”) purposely spread a false rumor at numerous fire stations in regards to Cromwell bringing pornography into Station #5. This matter was reported to retired Deputy Chief Sandi Vidito by a Fire Services Captain, without any consequences for Nepean.
- ii. In an incident that occurred in and around 2000 at station #12, Cromwell was exposed to a hostile work environment under the supervision of Fire Services Captain Barry McKenzie (“McKenzie”). McKenzie falsely told Mosher that Cromwell was insubordinate and that his Fire Services crew refused to work with him. Mosher, Thurber and other members of management displayed incompetence and a lack of leadership in their inability to address what was ultimately determined to be a failure on the part of management. This situation became part of Cromwell’s 2001 Human Rights Complaint over his treatment with Fire Services. Fire Services’ incompetence in dealing with MacKenzie’s behaviour led to Cromwell being forced off the job for a three month period and McKenzie not being disciplined for the false accusations he made against Cromwell and the hostile work environment he created.
- iii. Thurber displays incompetence in an incident where, in Thurber’s office, ex-fire investigator, the Defendant Murphy, picked up one of Thurber’s business cards and questioned Thurber why his card does not have the HRM core values and mission statements printed on the back. Thurber responded to Murphy: “I told them not to put that shit on my card.”
- iv. In an incident in or about May 2003, a firefighter was alleged to have reported finding racist graffiti on the walls of the training tower at Station #58. The graffiti included the words, “KKK, Kill all Niggers, numerous Nazi Swastikas, and white power symbols.” These events were eventually reported to Mosher and no action was taken by him. That complainant is said to have eventually bought his own paint and covered up the writings.

- v. Mosher displays incompetence and cronyism in promoting a volunteer captain to the rank of Deputy Chief who reportedly said, “I think everyone should have a nigger tied up out back to a tree...” and “I hope the nigger doesn’t get hired”, referring to firefighter candidate, Chris Cromwell. This same Deputy Chief said of a female Firefighter that: “this bitch is as useless as tits on a bull” and “if any of these bitches goes down in a fire, I will leave their asses behind....”
- vi. Thurber displays incompetence by not attending the "Wall of Flame" ceremony at the Black Cultural Center because, he said, he was "getting his roof done", despite having been expressly invited.
- vii. Mosher and Thurber display incompetence by failing to act or seriously act on any of the Shebib Report's recommendations.
- viii. Mosher and Thurber display incompetence by keeping Firefighter Brian Rix suspended without pay despite criminal charges being dismissed by the court system.
- ix. Mosher and Thurber display incompetence and bullying by trying to break a commitment made to the HRM Black community by seeking to re-deploy Black firefighters from core to rural stations.
- x. Mosher and Thurber display incompetence, bullying and compromise public safety by taking an entire station out of service in order that Cromwell could be interrogated (over legitimate sick time usage) by bringing an engine crew from their districts to Fire Services HQ at Alderney Landing in Dartmouth, thus leaving areas of the city unprotected.
- xi. Mosher and Thurber display incompetence by not addressing low morale at Fire Services.
- xii. Mosher and Thurber display incompetence and a lack of leadership by not addressing many ongoing issues at Fire Services up to and, including those that have reached the attention of local media.
- xiii. Mosher and Thurber display incompetence by failing to act on former Chief Eddy’s initiative to increase the number of aboriginals through a designated recruitment among First Nations communities.

- xiv. Mosher and Thurber display incompetence by not addressing disputes between the union and management, e.g. the Black Firefighters Human Rights Complaints, labour / management relations, Brian Rix and Darren Casey, among others.
- xv. Mosher and Thurber display a lack of leadership by trying to re-deploy Black firefighters hired in 2004 to rural stations despite being told they would work in the core.
- xvi. Thurber displays a lack of leadership by making demeaning remarks and comments to the 2004 Black class about how "ashamed" he was of the way his officers, subordinates and commanders handled the Gottingen Street block fire.
- xvii. Mosher displays incompetence by not quickly addressing inappropriate comments found at Station #50 by Richard Fong and his crew. Mosher did not send out a memo until Thurber was pressured to by Gray a week later.
- xviii. Mosher displays incompetence by assigning Thurber to investigate inappropriate racist comments written at Station #50, knowing Thurber's animus towards Cromwell, whom Thurber believed, wrongly, was the perpetrator of the inappropriate comments posted in the Station #9 incident.
- xix. During a meeting held on July 26, 2007, Mosher and Thurber display incompetence by allowing Fire Services manager Roy Hollett to nod off and be inattentive during a meeting with Black Firefighters, the Firefighters union and HRM officials.
- xx. Mosher and Thurber display incompetence by purchasing a fire boat for Fire Services made in California, while ignoring the expert advice of local shipbuilders who publicly stated that this particular boat design was unsafe for local use.
- xxi. Mosher displays incompetence and weak leadership by not stopping Thurber from bullying, harassing, and abusing his rank to intimidate members of HFD, including Black Firefighters.
- xxii. In the incident involving the bunker gear list, Thurber responded on behalf of Mosher and Fire Services to the HRC making reference to the bunker gear list

- that, if it came down to a safety issue, the list of previous gear disbursed would not be relied upon to deny gear. This statement was contrary to what Thurber knew his subordinates had done in denying Cromwell gear on the basis of allegedly receiving his allotted gear, based on a faulty master list.
- xxiii. Mosher displays incompetence by insisting that the Black Firefighters' HRC complaint was the result of the complaints of only two dissatisfied and disgruntled Firefighters.
- xxiv. Mosher displays incompetence by suggesting that some of the racial incidents complained of by Black Firefighters may have been meant by the perpetrators as jokes.
- xxv. December 10, 2008: Maureen Shebib met with Black Firefighters to discuss the start of her investigation and gave assurances to the group that the Firefighter's Union and Black Firefighters would be given copies of her completed report at the same time as Fire Services management. However, once her report was completed, the Union and Black Firefighters were only allowed to read it on May 21, 2008, at the North Branch Library in Halifax, but all copies had to be given back to Maureen Shebib before anyone left the room. No one was allowed to keep a copy on the advice of Mosher and Thurber. Neither the Union nor Black Firefighters received a copy of her completed report at the same time as Fire Services management. Eventually, the union and Black Firefighters received a censored and edited copy of the Shebib report.
- xxvi. Mosher displays incompetence on or about July 19, 2007, when, acting at the behest of Mosher, Fire Services manager Larry Williams told Firefighters Paul Boyle and Brad Connors that Mosher will not meet with Black Firefighters or the Black community because they are a "special interest group". Mosher therefore failed to acknowledge that members of the HRM Black community were stakeholders in the issues pertaining to the 2004 Black class. Mosher failed to display the leadership to deal with ongoing issues of racism and intimidation in HFD.
- xxvii. According to the Shebib Report, Mosher, Thurber and other senior management at Fire Services do not understand basic record keeping, e.g. members of the 2004 black class are shown as being issued gear in 2003, even though they were not hired until 2004.

- xxviii. July 25, 2007: Black Firefighter Ali Duale (“Duale”) visited Gray at Station #5 and Parsons and Cromwell at station #6. Duale told Parsons and Cromwell that Thurber asked him to collect information to provide to Thurber with respect to an upcoming meeting between Fire Services management, the union and the Black Firefighters Association. Duale told Parsons and Cromwell that he was sent by Thurber to collect information to give Thurber a "heads up" as to union and Black Firefighter activities.
- xxix. Aug 10, 2006: During a meeting between former Chief Eddy and Thurber, with 17 of 20 members of the Black Firefighters Association attending, Thurber gave assurances that he would look into concerns voiced by the Black Firefighters Association. Thurber did nothing to address the concerns and his failure to act on the issues raised led to a group human rights complaint being filed by Local 268 of the IAFF and members of the Black Firefighters Association. Thurber failed to take issues of discrimination and intimidation among Black Firefighters seriously.
- xxx. In an incident on Aug 11, 2009, while responding to an emergency call, the crew of #9 Engine was involved in a serious accident when a young woman ran out of the woods and jumped in front of their fire truck in an attempt to commit suicide. The scene was very bloody and traumatic. The call required the Fire Services’ Critical Incident Stress (CIS) Team to be activated. On August 19, 2009, Firefighter Miller told Thurber during a discussion that he was happy that the CIS team was there to help him and Parsons deal with this very traumatic event. Thurber told Miller and Parsons that "CIS is a waste of time and money" and, if it was up to Thurber, he would "get rid of CIS". Thurber thus failed to display the leadership and sensitivity required and failed to openly support the CIS policy of Fire Services.
- xxxi. Thurber displays incompetence by openly criticizing HRM policies that support employee wellness.
- xxxii. On or about Oct 27, 2004, during a meeting with Fire Services’ Human Resources department and the 2004 Black class to discuss racism, harassment, intimidation and unprofessional conduct at the fire school, reassurance was given by Fire Services that Firefighter candidates Danny Cain and Shane Ross would not suffer the same discrimination as had members of the 2004 Black class. Mosher and Thurber, being members of the senior management team, did not take proper measures to attempt to

ensure that Shane Ross and Danny Cain would not suffer the same fate as the 2004 Black class.

- xxxiii. Feb 6, 2008: Thurber made disparaging remarks to Firefighter Parsons about HRM citizens' building semi-detached homes in his neighborhood and that "those people" would lower his property value.
- xxxiv. In meetings with Thurber and Mosher before and after the issuance of the Shebib Report, Mosher and Thurber were not prepared and did not know that specific meetings on the issues had taken place despite being the ones who called for the meetings.
- xxxv. Mosher displays incompetence at a meeting attended by Firefighters Reade, Adekayode and Boyle, where Adekayode had to explain to Mosher why the word "Nigger" was offensive to Black people. Mosher displayed no sensitivity to the impact the word had on Black people and the history of violence surrounding the racial slur.
- xxxvi. Thurber and Mosher told Adekayode and other Black Firefighters that race-based incidents directed against Firefighter Danny Cain were being investigated by Administrative Chief Lloyd Currie, a friend of Mosher's. No report, follow up or conclusions were given to Danny Cain or other Black Firefighters or the Firefighter's Union.
- xxxvii. April 29, 2009: Mosher and Thurber display incompetence in jeopardizing the public safety in an incident known as the "Spryfield fire". During the course of this major forest fire, a call came from Platoon Chief Bryson Wilson, under the direction of Mosher and Thurber, to evacuate the fire ground because of impending nightfall. The order was also given to pull all fire hose and gear from the fire scene. The next day, Firefighters were not directed to return to the fire scene at first light to check for flare ups, notwithstanding the fact that, when the previous shift had left the fire scene the night before, there were tree tops still burning and many hot spots burning on the ground. It was not until approx. 9:30 am the next day that the next platoon would enter the fire scene to do an assessment.
- xxxviii. Mosher and Thurber display incompetence by jeopardizing career firefighter safety, public safety and property loss by failing to direct that volunteer firefighters and volunteer officers assume offensive fire attack positions. Their incompetence permitted extended fire spread to areas where career

firefighters were operating offensively, inside a structure fire and volunteer firefighters were operating defensively outside the building, using a 2 ½" hand line to spray water inside the structure, jeopardizing the lives of firefighters and any trapped victims, who were said to be inside by the volunteer chief at Herring Cove. A post-fire critique was called for by career firefighters, including Cromwell, but senior Fire Services management, to the knowledge of Thurber and Mosher, only invited the career Captain to attend the fire critique meeting and career firefighters were excluded.

xxxix. Mosher and Thurber display incompetence in an incident where two career members were operating inside an actively burning structure, their hose line was disconnected from the pumper with no notice or warning given to them by the volunteer pump operator. As a result, the two career Firefighters were forced to immediately evacuate the structure. Career Firefighters were not invited or informed of any post-fire critique.

xi. Mosher and Thurber display incompetence in their failure to recognize or acknowledge the harm caused by a sexist and racist newsletter distributed throughout the fire service called "The Blaze"

xli. Mosher and Thurber display incompetence by not expanding Maureen Shebib's mandate to include matters of concern brought forward by female Firefighters.

xlii. Mosher and Thurber display incompetence in failing to acknowledge and follow the policies and guidelines and workplace anti-harassment policies and regulations created by the Halifax Regional Municipality to protect the "dignity and human rights of its employees".

c. Sexism

i. Thurber made sexist comments to Firefighter Gray by stating "I already have three [female firefighters] off pregnant with nothing to do, what am I gonna do with more", referring to the hiring of more female firefighters.

ii. Mosher and Thurber display sexism in their failure to recognize or acknowledge the harm caused by a sexist newsletter distributed throughout Fire Service called "The Blaze".

d. Racism

- i. In a conversation between Thurber and Firefighter Parsons at Station #8, Thurber said he was opposed to the hiring of a “Black Block”, “a group of Blacks would be trouble”. In a conversation between former Chief Eddy, Gray, Parsons and Cromwell, Thurber expressed his objections to hiring a group of Blacks.
- ii. Thurber was against hiring of a “Black Block” of firefighters according to Eddy who said: "I heard that they won the day on [rural posting], and that's good, because Steve Thurber lost one there, because I know that was his baby---trying to push all the Black firefighters out to the rural areas."
- iii. Thurber blames the filing of the Black Firefighter's HRC complaint for “messaging up his investigation of “The Blaze”.
- iv. Mosher and Thurber display racism in their failure to recognize or acknowledge the harm caused by a racist newsletter distributed throughout Fire Service called “The Blaze”.
- v. Thurber displays racism by placing Firefighter Danny Cain with Captain Jim Benoit (“Benoit”) for his on-the-job training placement. Former Chief Eddy had mentored Danny Cain as a designated Black recruit. When members of the 2004 black class met with Thurber, other management team members and the Firefighter's union to express their concerns about the racism that occurred at the Waverly Fire School, it was hoped that Fire Services would follow through on their commitment to ensure that what occurred to the 11 Black recruits would not happen to Danny Cain and Shane Ross, but Thurber failed to act. Thurber is known to dislike former Chief Eddy and Thurber's dislike of Eddy was the reason why Danny Cain was placed with Benoit, knowing Benoit's history of racist attitudes, further reinforced by Thurber's admission that it was he who forced retired Platoon Chief Bookholt to inform Cromwell that he would have no choice but to work with Benoit. Thurber has control of most or all aspects of the day to day running of Fire Services. The person who claimed responsibility for placing Danny Cain with Benoit was manager Dave Burnet, under the direction of Thurber. In all other aspects of station postings, it is Thurber who essentially has the final say.

e. Cronyism

- i. The Blaze: A racist newsletter called “The Blaze” was circulated around Fire Service. Instead of using legal means to ascertain the author and origins, Mosher and Thurber employ HRM police officers to track the newsletter back to Benoit’s computer. Instead of pursuing legal channels, a favor was asked of an HRP officer by Mosher and Thurber to use his contacts at Eastlink to track it to the IP address of Benoit. This incident is also a part of an HRC investigation.
- ii. A volunteer training coordinator, a friend of Thurber’s, was hired by Fire Services without following proper tender procedures, at Thurber’s insistence. This same person, who has assisted Thurber with the construction of his patio deck at his home, refers to Thurber as “Big Daddy”.
- iii. The same HRP police officer that investigated the Blaze’s racist writings, who had been on contract to Fire Services providing lie detector services, was called in by Thurber to investigate racist writings on Station #9, in RCMP jurisdiction. The investigation put the officer in a conflict of interest in that he was a friend of Thurber’s and Thurber had stated that he felt Cromwell had written the racist comments.
- iv. Thurber’s brother obtained untendered work from Fire Services contrary to Regulations.
- v. Mosher displays cronyism in an incident where he conducted an investigation of his friend, then-chief of logistics Chris Charron. In Mosher’s investigation, Charron was found innocent of allegations that an invoice had been submitted to Fire Services by a company that Charron had an interest in, for work performed by on-duty firefighters.

f. Corruption

- i. The Blaze: A racist newsletter called “The Blaze” was circulated around Fire Services. Instead of using legal means to ascertain the author and origins, Mosher and Thurber employ HRM police officers to track the newsletter back to Benoit’s computer. Instead of pursuing legal channels, a favor was asked of an HRP officer by Mosher and Thurber to use his contacts at Eastlink to track it to the IP address of Benoit. This incident is also a part of an HRC investigation.
- ii. Thurber giving untendered Fire Services contracts to his brother.

- v. Thurber displays corruption by misleading Fire Services members into thinking he is conducting a legitimate investigation into racial writings found at Station #9, when he is on record saying Cromwell was responsible for them.

g. Dictatorship

- i. Thurber has consistently, under the authority of the rank structure of Fire Services, bullied his subordinates and others.
- ii. Platoon Chief Bookholt acknowledged the presence of a hostile work environment for Cromwell, and acts to resolve the matter. Thurber undermines the Platoon Chief's authority and humiliates him by ordering him to approach Cromwell and tell him why he will have to work with Benoit in a hostile environment if presented with a similar situation in the future.

h. Wasteful Spending

- i. Mosher and Thurber display wasteful spending by purchasing an unsustainable fireboat instead of investigating local builders.
- ii. Mosher displays wasteful spending by creating and maintaining management positions that are not operationally required thereby creating an organization that is "top heavy" with management.
- iii. Mosher and Thurber display wasteful spending by refusing an offer of informal mediation by the HRC, and instead spend \$40,000.00 in an attempt to cover up issues brought forward by Black Firefighters.

17. These Defendants rely on the provisions of section 10 of the *Defamation Act*, R.S. 1989, c.122 as amended.

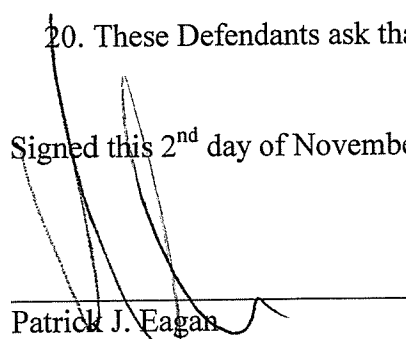
18. In the alternative, should the statements referred to in paragraphs 16, 18, 21, 24, 27, 33, 36, 39, 77 and 84 of the Statement of Claim be found to be statements of fact or should

the meanings set out in paragraphs 17, 19, 20, 22, 23, 25, 26, 28, 29, 34, 35, 37, 38, 40, 41, 78, 79, 85, 86, 87 and 88 be found to be meanings conveyed by the words set out at paragraphs 16, 18, 21, 24, 27, 33, 36, 39, 77 and 84 of the Statement of Claim, these Defendants plead justification and that the said words are true in substance and in fact. Particulars are as stated at paragraph 16 above, and which will be further described at trial.

19. In the further alternative, these Defendants plead that, if the truth of every charge is not proved, then the words not proved do not materially injure the Plaintiffs' reputations having regard to the truth of the remaining charges and they rely on the provisions of section 9 of the *Defamation Act*.

20. These Defendants ask that this action be dismissed with Costs.

Signed this 2nd day of November 2010.



Patrick J. Eagan

Landry, McGillivray

Solicitor for the Defendants, Blair Cromwell,

Jennifer Williamson, Betty Raymond and Armando Raymond (Estate of)