



Court File No. **VLC-S-S-178564**
No. _____
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

JENNIFER REILLY

PLAINTIFF

AND:

THE UNIVERSITY OF BRITISH COLUMBIA and ELIZABETH CROFT

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.

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 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 defendant University of British Columbia ("UBC") is a public university that operates under the authority of the *University Act*, R.S.B.C. 1996, c. 468, with an address for service at 6328 Memorial Road, Vancouver, B.C., Canada V6T 1Z2.
2. The defendant Elizabeth Croft ("Croft") is a professor with an office located at #5000 – 2332 Main Mall, Vancouver, B.C. Croft is currently the Senior Associate Dean for the Faculty of Applied Science at UBC. At all material times, Croft was employed by UBC.
3. The plaintiff Jennifer Reilly ("Reilly") is an administrative professional who resides at 5710 Athlone Street, in the city of Vancouver, in the province of British Columbia. Prior to April 25, 2017, Reilly was employed by UBC as the Director, Applied Sciences Co-op and Professional Development in the Faculty of Applied Sciences at UBC. At all material times, Reilly's direct supervisor was Croft.
4. On or about May 4, 1998, Reilly was hired by UBC. Between May 4, 1998 and April 25, 2017, Reilly adequately performed all aspects of her duties under her contract of employment with UBC.
5. In or about December 2015, Reilly was the subject of allegations that she bullied and harassed other UBC employees (the "Allegations"). Between December 2015 and May 17, 2016, UBC performed an internal investigation into the Allegations (the "Investigation"). On or about May 18, 2016, UBC presented Reilly with the findings of the Investigation. The investigators concluded that Reilly did not bully or harass the

complainants. All aspects of the Allegations and Investigation arose in circumstances that gave rise to a reasonable expectation of privacy on the part of Reilly.

6. On or about May 18, 2016, UBC disciplined Reilly for failing to follow directions given to her in the course of the Investigation, and for inappropriately disclosing confidential documents (the “Discipline”). Reilly grieved the Discipline. As a result of a settlement between UBC and the Association of Administrative Professional Staff at UBC, the Discipline was removed from Reilly’s employee file. All aspects of the Discipline arose in circumstances that gave rise to a reasonable expectation of privacy on the part of Reilly.

7. On or about April 25, 2017, UBC terminated Reilly’s employment (the “Termination”). The reason given to Reilly for the Termination was a restructuring within the Applied Science Co-op and Professional Development Unit. All aspects of the Termination arose in circumstances that gave rise to a reasonable expectation of privacy on the part of Reilly.

8. In or about April of 2017, meetings were held between all the Department Heads and Directors of the Faculty of Applied Sciences (the “DHD Meetings”), as well as other meetings with individual Department Heads and Directors (the “Private Meetings”). At one or more of the DHD and Private Meetings, Croft expressly stated or implied to the attendees that while UBC had informed Reilly that the reason for her Termination was restructuring, the actual reasons for Reilly’s termination were, *inter alia*:

- (a) Reilly had bullied and harassed other employees;
- (b) Reilly had not adequately performed the tasks of her employment; and
- (c) Reilly had not improved her behaviour and performance in response to coaching and support from UBC.

(together, the “Statements”)

9. The Statements implicitly or explicitly disclosed aspects of the Allegations, Investigation, Discipline and Termination.
10. The Statements publically disclosed embarrassing facts about Reilly.
11. Further, and in the alternative, the Statements placed Reilly in a false light in the public eye.
12. Croft obtained the information expressed in the Statements in circumstances that required her to keep the information in the Statements confidential.
13. Croft knew or ought to have known the Statements would disclose private information about Reilly, and disclosed the information wilfully.
14. Croft made the Statements in the course of her employment at UBC. UBC placed Croft in a position of power in relation to Reilly, and provided her with an opportunity to abuse that power by making the Statements. The Statements furthered the objectives of UBC, and Reilly was vulnerable to the wrongful exercise of UBC's power by Croft.
15. As a result of the Statements, Reilly has suffered, *inter alia*, loss of reputation and loss of employment opportunities.

Part 2: RELIEF SOUGHT

1. The plaintiff seeks:
 - (a) Judgment against the defendants;
 - (b) Damages;
 - (c) Costs of this action; and
 - (d) Such further and other relief as the plaintiff will advise and this honourable Court may deem just.

Part 3: LEGAL BASIS

1. The plaintiff pleads and relies on, *inter alia*, the *Privacy Act*, R.S.B.C. 1996, c. 373, and the law of vicarious liability.
2. Reilly was reasonably entitled to privacy with respect to the Allegations, Investigation, Discipline and Termination.
3. The Statements violated Reilly's right to privacy in connection with the Allegations, Investigation, Discipline and Termination.
4. Croft violated Reilly's right to privacy in connection with the Allegations, Investigation, Discipline and Termination willfully and without claim of right.
5. UBC is vicariously liable for Croft's breach of Reilly's privacy.
6. The breach of privacy by Croft and UBC caused Reilly injury, loss, damage and expense.

Plaintiff's address for service: Underhill, Boies Parker, Gage & Latimer LLP
 1710 – 401 West Georgia St.
 Vancouver BC V6B 5A1

Fax number address for service (if any): 1.888.575.3281

E-mail address for service (if any): munderhill@ulit.ca and assistant@ulit.ca

Place of trial: Vancouver, British Columbia

The address of registry is: 800 Smithe Street, Vancouver, BC, V6Z 2C5

Dated: 13/Sep/2017

Signature of lawyer for plaintiff
 Mark G. Underhill

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

- 1. (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

[The following information is provided for data collection purposes only and is of no legal effect.]

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

[Check one box below for the case type that best describes this case.]

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:

[Check all boxes below that apply to this case]

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws

- none of the above
- do not know

Part 4:

[If an enactment is being relied on, specify. Do not list more than 3 enactments.]

**ENDORSEMENT ON ORIGINATING PLEADING OR PETITION FOR
SERVICE OUTSIDE BRITISH COLUMBIA**

SEE ENDORSEMENT – FORM 11