



Via Email and Canada Post

May 24, 2006

Pier-Bernard Tremblay,
President,
Association étudiante du Collège Glendon,
Glendon College Students Union
2275 Bayview Ave.
York Hall 175
Toronto, Ontario M2N 3M6

Dear Monsieur Tremblay:

**RE: Heydary Hamilton LLP and Jonathon (Yoani Kuiper) Glendon
College Students' Union**

Further to our telephone discussion on May 16, 2006 and my earlier discussions with Yoani Kuiper, I am writing to you to provide an opinion on whether the Glendon College Students' Union (the "GCSU") should settle the above noted matter or alternatively should retain legal counsel and prepare a Statement of Defence to the claim made by the law firm of Heydary Hamilton LLP for legal fees that were expended on behalf of Ron Fiedtkou, the former president of the GCSU in 2004-2005.

As a we discussed in our telephone conversation it is my opinion that while the GCSU is likely to be successful in defending the entire claim by Heydary Hamilton LLP, it is probable that some of the legal fees that are owed to Heydary Hamilton LLP would be ordered by a Court to be paid by the GCSU. In addition I advise that in order to defend against this claim for legal fees, the GCSU would be required to spend at least \$20,000.00 and likely more, in legal fees for a lawyer to represent them in this action.

In late March 2006 I received instructions from Yoani Kuiper, the most recent former president of the GCSU, to initiate settlement discussions with Heydary Hamilton LLP. On March 24, 2006 I met with Xavier Navarrette who acted on behalf of Ron Fiedtkou. At that time Mr. Navarrette indicated that if the GCSU provided to Heydary Hamilton LLP a payment of \$20,000.00 then this matter could be settled.

On this same day I learned that an article had previously been published in the York student newspaper, Excalibur, which attributed certain comments to me, in my capacity as counsel to the GCSU, which were not accurate and which Heydary Hamilton LLP took exception to. This article also compromised a portion of the solicitor client discussions

that Mr. Kuiper and I had previously had. Based on this article, a copy of which is attached, and my meeting with Mr. Navarette on March 24, 2006, I advised Mr. Kuiper that if the GCSU could make a payment of \$20,000.00 to Heydary Hamilton LLP, then they should settle this matter as soon as possible. I informed Mr. Kuiper that to defend against the claim the GCSU would likely spend more than \$20,000.00 on legal fees and that they might not be 100% successful in defending the claim for previous legal fees from Heydary Hamilton LLP. Therefore the risk of fighting the claim meant spending at least \$20,000.00 plus a possible further cost of paying some or all of the legal fees claimed by Heydary Hamilton LLP, plus having to pay the costs of the action that were incurred by Heydary Hamilton LLP.

In the civil courts in Canada, the party to an action, (in this case the parties are the GCSU and Heydary Hamilton LLP) that is successful/wins the case, can make a claim against the other party for the costs of winning. In the event that Heydary Hamilton LLP was even partially successful in this action against the CGSU, then the GCSU would face paying their own lawyer at least \$20,000.00 in fees, plus whatever money was ordered to be paid to Heydary Hamilton LLP for past legal fees, plus a further payment on account of costs to Heydary Hamilton LLP for being the successful party.

Mr. Kuiper requested that I explain this to the GCSU Executive/Council and arranged for a meeting to occur on April 20, 2006 at 5:00 pm. Unfortunately due to professional obligations that arose on an emergency basis that day, with another client, I was unable to attend that meeting. However the opinion given to Mr. Kuiper in late March is, on my assessment, still accurate.

On a strictly cost benefit outcome for the GCSU, it is my opinion that this matter should be settled as quickly as possible, in order to ensure that Heydary Hamilton LLP does not move this matter forward to trial.

In providing this opinion I want to emphasize that I am not providing an opinion of the merits of the claim by Heydary Hamilton LLP but only the possible risk of costs to the GCSU in defending this action.

Yours truly,

A handwritten signature in black ink, appearing to read "Eric Comartin", written in a cursive style.

Eric Comartin



Written by Colleen Hale-Hodgson, Assistant Arts Editor

Wednesday, 08 March 2006

Lawyer asking for almost \$52,000

Glendon College Student Union (GCSU) president, Yoani Kuiper, has been served with a lawsuit totalling nearly \$52,000 by their former legal council, Xavier Navarrete.

Navarrete, who works for the firm Heydary Garfin Hamilton LLP, was hired by the GCSU executives last January to handle their \$2.7 million lawsuit against York University. When Kuiper took over the position of GCSU president from Ron Fiedtkou, the lawsuit was reviewed and dropped in November of the same year, citing that the lawsuit did not reflect what the students wanted. As the representative of the GCSU, Kuiper is now facing a lawsuit totalling \$51,952.28 for unpaid legal fees.

"Because we're an unincorporated association, then that holds the individual liable, as I am right now," said Kuiper. "I'm being sued in my personal capacity, so that's kind of difficult for me to understand, as I've never signed any contracts."

Listed on the statement of claims is an e-mail correspondence between Kuiper and Navarrete, where Kuiper identifies Navarrete as "As our legal council". This appears to be the basis from which Navarrete is claiming his continued billing of the GCSU for legal fees.

"Mr. Kuiper implicitly recognized the work that had been performed and noted that the plaintiff [Navarrete] was counsel to the GCSU," reads the statement of claim.

Kuiper was uncertain if Navarrete was still in communication with the former executives. Therefore, the e-mail Kuiper sent to him was to clarify that he should not be communicating GCSU legal matters with Fiedtkou and Samiian.

However, a retainer regarding the GCSU's lawsuit against York University signed in March 2004 by Fiedtkou and the vice-president of the GCSU at the time, Hosseim Samiian, claims that both signatures bind the GCSU to the agreement and states that Fiedtkou and Samiian cannot be held liable in their personal capacity for legal fees.

"When they sued York for \$2.7 million, there was no council meeting. There was no motion passed to support that," said Kuiper. "They weren't ever able to hold a meeting to execute that retainer."

According to Kuiper, last July, Navarrete had originally told Kuiper that the motion to approve that retainer had occurred, but referred him to Fiedtkou for documentation, who in turn referred him back to Navarrete.

"I've come to the conclusion that that motion does not exist," said Kuiper. Upon presenting the documentation provided to him by Navarrete to Eric Comartin, the lawyer for the York Federation of Students (YFS), Kuiper was told that Navarrete was never legitimately retained by the GCSU, and that the council cannot be held liable for fees actually incurred by Fiedtkou.

"According to the contracts, and by revision of a lawyer, (Navarrete) is the sole solicitor of Ron Fiedtkou, the former president," explains Kuiper. "The only person that's ever signed anything in his personal capacity is Ron Fiedtkou and Hosseim Samiian."

In an interview with Navarrete last October, he argues, "the actions of the previous council are binding with the current council." Excalibur were unable to reach Mr. Navarrete for comment regarding the current lawsuit.

Kuiper filed his letter of intent to defend the lawsuit yesterday (Mar. 7). He is optimistic that he and the GCSU will receive assistance from the Glendon community.

"The CFS [Canadian Federation of Students], YFS have already stated that they will be willing to help us with legal fees back in November, so that time has come obviously. And the York University [administration] as well; we're going to be asking them if they can financially support us," said Kuiper. "Until we get our other levy we're not going to have money to cover legal fees."

Though Rob Tiffin, vice-president students, was unable to comment on York's role in assisting the GCSU, Ontario chairperson of the CFS, Jesse Greener, promises that the CFS will stand behind the union.

"We certainly stand behind any student union that's being levied high bills, and conditions that appear to be somewhat devious, such as this," said Greener. "If this lawyer actually had the interests of students at heart, it's hard to believe that he'd go after them [the GCSU] for significant fees."