

ONTARIO
SUPERIOR COURT OF JUSTICE

Court file no.

CV-16-550599

BETWEEN:

KEVIN ARRIOLA AND ALEXANDRA GODLEWSKI

Applicants

and

RYERSON STUDENTS' UNION

Respondent



APPLICATION UNDER section 97 of the *Court of Justice Act* and rule 14.05 of the *Rules of Civil Procedure*.

NOTICE OF APPLICATION

TO THE RESPONDENT

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicants. The claim made by the applicants appears on the following page.

THIS APPLICATION will come on for a hearing, on April 25, 2016, at the Superior Court of Justice, 330 University Avenue, Toronto, Ontario, M5G 1R7.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicants' lawyer or, where the applicants do not have a lawyer, serve it on the applicants, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicants' lawyer or, where the applicants do not have a lawyer, serve it on the applicants, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date April 8, 2016 Issued by

Local registrar

Address of
court office:

393 University Avenue
Toronto, ON M5G 1E6

S. Chandradet
Registrar

10th Floor

TO Ryerson Students' Union
55 Gould Street, Student Centre SCC311
Toronto, Ontario M5B 1E9

APPLICATION

The Applicants make application for:

1. A Declaration that the decision of the Ryerson Students' Union ("RSU") to deny the application of The Men's Issues Awareness Society at Ryerson ("MIAS") for student group recognition (the "Decision") (i) was contrary to the principles of natural justice and procedural fairness, (ii) was tainted by a closed mind and bias, and (iii) was not made in good faith;
2. A Declaration that the Decision is *ultra vires* because it exceeds RSU's jurisdiction and is contrary to RSU's own policies and rules;
3. A Declaration that the Decision is unreasonable, discriminatory and contrary to fundamental common law values and the values of the *Canadian Charter of Rights and Freedoms*, by failing to respect Ryerson University students' freedom of expression and freedom of association;
4. A Declaration that the Decision is void;
5. An Order prohibiting RSU from limiting access to its services and other resources on account of the thoughts, beliefs, opinions, expressions or associations of students or student groups;
6. An Order directing RSU to give MIAS student group recognition;
7. Alternatively, an Order referring MIAS' application for club recognition back to RSU for reconsideration in accordance with the principles of procedural fairness, natural justice and good faith, and in accordance with any further directions from this Honourable Court;
8. Costs of this application; and
9. Such further and other relief as this Honourable Court may deem just.

The grounds for the application are:

The Applicants

1. Kevin Arriola is a full-time student at Ryerson University currently in his fourth year of Politics and Governance (BA). Mr. Arriola serves as the President of MIAS.
2. Alexandra Godlewski is a full-time student at Ryerson University, currently in her fourth year of Journalism (BA). Ms. Godlewski serves as an executive of MIAS in the role of Social Media Executive.
3. MIAS is a student group established by students at Ryerson University to host discussions and bring social awareness to issues that disproportionately affect men and boys, such as higher rates of suicide, homelessness, workplace injuries and failure in school.

The Respondent

4. RSU is a corporation pursuant to the *Corporations Act*, R.S.O. 1990, c. C.38. RSU is a student government organization representing all full-time undergraduate and graduates students enrolled in Ryerson University. RSU is funded by mandatory fees collected from students by Ryerson University and then transferred to RSU.
5. In its *Policy Manual*, RSU recognizes freedom of speech and peaceful assembly as fundamental human rights and states that “the university campus should be a place where students can access these rights....” The *Policy Manual* also states that RSU supports and recognizes students’ fundamental rights of freedom of conscience and religion, freedom of thought, belief, opinion and expression, freedom of assembly, and freedom of association.
6. RSU recognizes over 80 student groups which promote a broad range of diverse religions, cultures, activities, ideologies and views. In its *Student Group Policy*, RSU requires that a student group’s “actions must not be contrary to the *Ontario Human Rights Code*, RSU or the University’s policies.”

Neither RSU nor Ryerson University policies place any ideological requirements on student groups which seek to be recognized by RSU. Further, Ryerson University policies specifically protect students' freedom of expression.

7. RSU provides recognized student groups with funding along with numerous other the benefits including advertising, facility booking and event approval.

The Decision to Reject MIAS' Application for Student Group Recognition

8. On October 19, 2015, MIAS applied to RSU for recognition as a student group.
9. On October 26, 2015, Mr. Arriola and Ms. Godlewski met with the RSU Student Group Committee (the "Committee"). Mr. Arriola provided the Committee with information about the nature of MIAS and the activities and events it planned to conduct.
10. The Committee displayed bad faith and obvious bias against MIAS. The Committee denied that there was any need for a men's issues group, stating that other groups like the Women and Trans Collective were already addressing many of the issues MIAS sought to focus on. The Committee questioned a need for such a group, claiming that men already had "systemic privilege". Further, the Committee attacked MIAS based on the Committee's disapproval of two external non-student organizations: the Canadian Association for Equality ("CAFE") and A Voice for Men ("AVFM"). MIAS is not controlled by CAFE and has no association with AVFM. Mr. Arriola explained this to the Committee. Despite this, the Committee questioned Mr. Arriola and Ms. Godlewski for over an hour on its unfounded suspicions and concerns.
11. On October 27, 2015, RSU sent Mr. Arriola an email informing him that MIAS' application had been rejected.
12. On October 30, 2015, Mr. Arriola met with RSU President Andrea Bartlett, RSU Vice-President Equity Rabia Idrees and another RSU representative. At this meeting, the RSU executives provided Mr Arriola with a document listing five "Committee Concerns": 1) that MIAS wasn't taking "all the

proper safety measures” to keep it from “spinning out of control”; 2) that MIAS was associated with CAFE; 3) that MIAS did not properly “acknowledge the systemic privilege that men have”; 4) that MIAS’ constitution did not sufficiently address safety concerns, limit associations with external groups, or commit it to equality; and 5) that MIAS violated RSU requirements that students groups’ actions not violate RSU policies, on account of MIAS’s association with CAFE, which allegedly violated RSU’s *Women’s Issues* policy.

13. RSU then directed MIAS to contact the Equity Service Centres at RSU for help in altering MIAS’ constitution in order to satisfy RSU’s concerns. MIAS pursued this possibility of receiving student group recognition and attempted to communicate with the Centres as directed by RSU. The only group which responded to MIAS’ request was the Centre for Women and Trans People, which informed MIAS that it would not be able to help MIAS.
14. On November 17, 2015, MIAS submitted an amended constitution to RSU, in which MIAS addressed RSU’s concerns, adding provisions which expressly state MIAS’ pre-existing commitments to remain independent of any external control, to reject all forms of violence and hate speech, to take all precautions for safety at any group functions, and to provide a safe place for discussions free of fear for personal safety.
15. Despite these amendments, RSU disapproved of MIAS’ amended constitution. RSU requested that MIAS further change its constitution to state that it would not program activities involving members of CAFE or AVFM. When Mr. Arriola sought clarification, the Campus Groups Administrator responded by stating that since an appeal of the Decision was underway, she could not comment further.
16. On December 1, 2015, MIAS met with the RSU Executive Committee. Mr. Arriola explained the changes MIAS had made to its constitution and addressed the “Committee Concerns” that had been previously raised, attempting to clear up the misunderstandings and errors on which they were based.

However, the Executive Committee reiterated the unfounded concerns expressed by the Student Group Committee, displaying continued bad faith and bias against MIAS.

17. MIAS' appeal was then sent to the RSU Board of Directors (the "Board"). On January 25, 2016, Mr. Arriola gave a presentation to the Board on behalf of MIAS, and was questioned. The Board however, voted against a motion to grant MIAS student group status, with 12 votes against, 0 votes in favour, 7 votes abstaining and 1 vote spoiled.

18. On February 29, 2015, RSU provided a written summary of its decision to reject MIAS' application for student group status.

Legal Basis for the Application

19. The Decision violated the principles of fundamental justice and procedural fairness, being marked by a closed mind, bias and bad faith, as follows:

- i) the Decision was based on irrelevant and extraneous considerations, including RSU executives' opinions about CAFE and AVFM, and RSU executives' disagreement with MIAS' views, beliefs and opinions;
- ii) without any evidence, RSU unreasonably ascribed to MIAS members a proclivity to "spin[] out of control", become "violent" and cause an "unsafe learning environment for women-identified students";
- iii) RSU executives criticized MIAS for not sharing their beliefs about "the systemic privilege that men have", which criticism is irrelevant to RSU's adjudication of an application for recognition as a student group; and,
- iv) RSU believed that MIAS was in violation of the *Student Group Policies*, not on account of any of MIAS' actions, but on account of its "association with CAFE and similar groups."

20. The Decision exceeded RSU's jurisdiction and is *ultra vires* for the following reasons:

- i) the Decision directly contradicts RSU's own commitments in its *Policy Manual* to support students' rights, including freedom of thought, belief, opinion, expression and association, and RSU's recognition that those rights exist on campus; and
- ii) the Decision was based on the imposition by RSU of non-existent requirements on MIAS in order for it to receive student group recognition.

21. RSU's Decision is unreasonable, discriminatory, and fails to respect Ryerson University students' fundamental freedoms of expression and association.

22. In addition to the above grounds, this application is based on such further and other grounds as counsel may advise and as this Honourable Court may allow.

23. The *Corporations Act*, R.S.O. 1990, c. C.38.

24. The *Courts of Justice Act*, R.S.O. 1990, c. C.43.

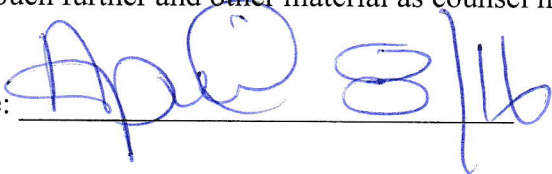
25. The *Rules of Civil Procedure*, Rule 14.05

26. The *Charter* sections 2(b) and (d).

The following documentary evidence will be used at the hearing of the application:

1. Affidavit of Kevin Arriola;
2. Such further and other material as counsel may advise and this Honourable Court will permit.

Date: _____

A handwritten signature in blue ink, appearing to read 'APW 8/16', is written over a horizontal line.

Justice Centre for Constitutional Freedoms

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KEVIN ARRIOLA AND ALEXANDRA GODLEWSKI
v.
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ONTARIO SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

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