

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:

**CHRISTIAN NAGGAR, EMILIE HIBBS, JOSHUA HAVILAND, CHRISTIAN BROWN,
KATHLEEN HEPWORTH, ALEXANDRA BROWN and KASSIA ALMEIDA,**

Applicants

and

THE STUDENT ASSOCIATION AT DURHAM COLLEGE AND UOIT

Respondent

AFFIDAVIT OF CHRISTIAN NAGGAR

I, Christian Naggar, of the Town of Ajax, in the Regional Municipality of Durham, MAKE OATH AND SAY:

1. I have personal knowledge of the matters and facts hereinafter deposed to by me, except where same are stated to be based upon information and belief, in which cases I believe them to be true.

2. I am currently a full-time student at UOIT in my first year of a Bachelor of Science program majoring in Biological Science. I was a student at Durham College in the 2014-15 academic year.

3. I am the President of Speak for the Weak (“SFTW”), a student group established by students at Durham College and the University of Ontario Institute of Technology (“UOIT”) who seek to advocate for the equal value and protection of all human life from fertilization to natural death, to support students facing crisis pregnancies, and to raise fellow students’ awareness and understanding of life issues.

4. Emilie Hibbs is a full-time student at Durham College currently in the second year of the 911 Emergency Call Centre and Communications program. Ms. Hibbs is a member of SFTW.

5. Joshua Haviland is a full-time student at UOIT in his fourth year of the Automotive Engineering Undergraduate Program. Mr. Haviland is a member of SFTW.

6. Christian Brown is a full-time student at UOIT currently in his first year of mechanical engineering. Mr. Brown is a member of SFTW.

7. Kathleen Hepworth is a full-time student at UOIT currently in her third year of the nursing program. Ms. Hepworth is a member of SFTW.

8. Alexandra Brown is a full-time student at UOIT in her third year of a Bachelor of Science program majoring in Life Sciences. Ms. Brown is a member of SFTW.

9. Kassia Almeida is a full-time student at UOIT in her first year of the forensic psychology program. Ms. Almeida is a member of SFTW.

10. On August 19, 2015, SFTW applied to The Student Association at Durham College and UOIT (the “SA”) for ratification as a Campus Club. SFTW’s application for ratification is attached as **Exhibit “A”** to this Affidavit.

11. On August 25, 2015, SFTW received an email from Amy Blais, Administrative Assistant for Clubs and Societies with the SA. This email stated in part:

The SA Executive Team would like to schedule an in person meeting next week to sit down and review the package in more detail with you due to the sensitive nature of the subject matter being addressed.

A true copy of the email correspondence between Amy Blais and SFTW on August 25-26, 2015, is attached as **Exhibit “B”** to this affidavit.

12. On September 3, 2015, members of SFTW, William Kelly, Honoline Francis, and myself, met with members of the SA Executive, including Jesse Cullen, President; Siraj Syed, Vice President of University Affairs; Mike Guerard, Vice President of College Affairs; Vianney Nengue, Assistance Vice President of College Affairs – Whitby Campus; Kaitlyn Teller, Students Rights and Advocacy Coordinator; Darshika Selvasivan, Manager of Outreach Services; and Amy Blais, Clubs and Societies Administrative Assistant.

13. Mr. Cullen proceeded to inform us that a decision not to ratify Speak for the Weak had been reached because doing so would be “contrary to the SA’s letters patent which maintain that abortion is a woman’s right.” A copy of the SA’s current and previous Letters Patent is attached as **Exhibit “C”** to this affidavit, and the SA’s Letters Patent do not maintain that “abortion is a woman’s right.”

14. Surprised that a decision had already been reached, I responded to Mr. Cullen’s statement by explaining that it was my understanding that this meeting was being held in order to clear any confusion regarding our club and review the application in further detail, as promised in the email we received from Ms. Blais on August 25, 2015. Mr. Cullen then said that “no clarification is needed. Everyone here has thoroughly reviewed the application several times and we’ve decided that the SA cannot support a club like Speak for the Weak.”

15. Other members of the SA Executive also supported Mr. Cullen’s position to deny SFTW club status. Ms. Selvasivan indicated that a club like SFTW was not needed because Outreach Services on campus already provided pregnancy resources to students “while also ensuring that young women don’t have to undergo a coat hanger abortion.” Mr. Cullen shared a personal story to explain his personal beliefs in support of abortion.

16. It was clear that the SA had already made up its mind not to ratify SFTW as a Campus Club and that we could not convince them otherwise.

17. On September 28, 2015, SFTW requested that the SA provide us with a written decision with reasons for the denial of SFTW’s application for ratification.

18. On October 6, 2015, the SA Executive provided SFTW with a letter explaining their decision, which is attached as **Exhibit “D”** to this affidavit. The letter justified the decision by relying on a statement in the SA’s bylaws that commits the SA to “work toward building an environment free of systemic societal oppression and decolonization.” The letter states: “As the democratically elected leaders, it is our responsibility to uphold the mandate of the SA to embrace the freedom of women and

uphold a woman's legal right to reproductive freedom. Ultimately, we support a woman's right and freedom to choose her own path.”

19. In their letter, the SA Executives also took issue with an event SFTW had proposed to attend in Ottawa called the National March for Life. The SA Executives took issue with this proposal because they believe that the entity which organizes the National March for Life, the Campaign Life Coalition, “discredits the LGBTQ+ community”.

20. The SA's *General Bylaw* is attached as **Exhibit “E”** to this affidavit. The SA's *Governance Policies* are attached as **Exhibit “F”** to this affidavit.

21. Object (b) of the SA's Letters Patent is “to provide a common framework within which students can communicate, exchange information and share experience, skills and ideas.” The SA's *Campus Clubs Policy*, attached as **Exhibit “G”** to this affidavit, states that “Campus Clubs act as a forum where students can gather for information, philanthropy, religious, cultural and social purposes. The SA recognizes and supports the formation of Campus Clubs as an integral part of student life.”

22. Likewise, the SA's *Campus Clubs Procedure*, attached as **Exhibit “H”** to this affidavit, recognizes “Campus Clubs as an integral part of student life.” This *Procedure* does not prohibit pro-life clubs or any other clubs based on the club's beliefs, but simply requires that a club's purpose “not contain any endorsement or support for activities or events that break SA policies, campus policies, or any applicable laws.” The *Procedure* indicates that ratified Campus Clubs receive special benefits and services from the SA, including promotion, event space booking, event equipment and advice and support.

23. The SA's *Campus Clubs Financial Procedure*, attached as **Exhibit “I”** to this affidavit explains the rights a ratified Campus Club has to funding from the SA, including base funding of up to \$750 per fiscal year, access to club Grant Funding and Petty Cash.

24. Durham College recognizes the SA as the official representative of its students and recognizes its responsibility over numerous important functions on campus. See Durham College webpage regarding the SA, attached as **Exhibit “J”** to this affidavit. The Durham College Policy entitled *Recognition of Student Organizations*, attached as **Exhibit “K”** to this affidavit, states that “the college will not attempt to censor, control or interfere with any RSO [Registered Student Organization] on the basis of its philosophy, beliefs, interests or opinions expressed unless and until these activities violate this policy.” However, this same *Recognition Policy* states that “[n]o organization has the right to exist or to continue to exist as a Durham College Recognized Student organization without the expression recognition granted by the SA.” Durham College’s *Recognition Policy* treats organizations without official recognition of the SA as “community groups for the purposes of room bookings and review of activities.”

25. UOIT’s *Policy on the Recognition of Student Organizations*, attached as **Exhibit “L”** to this affidavit, recognizes that “student organizations play an important role in the life of the University and enrich its intellectual, social and cultural diversity. Recognized Student Organizations are able to pursue social, cultural and other interests, and to organize and hold various activities for the benefit of their members.” The Policy further states that UOIT “is respectful of the autonomy of student organizations and will not attempt to censor, control or interfere with any Recognized Student Organization on the basis of its philosophy, beliefs, interests or opinions expressed unless and until these lead to activities which are illegal, discriminatory, infringe the rights and freedoms of others within the University community, or are in violation of UOIT policies and procedures.”

26. UOIT requires that the SA have a policy for “[t]he recognition of Student Groups and the governance and operations of those Groups.” See UOIT’s *Student Association Accountability Policy*, attached as **Exhibit “M”** to this affidavit.

27. UOIT was created by the Ontario government in 2002 as part of its initiative to create more spaces in post-secondary institutions. See Transcript Excerpt of Legislative Assembly of Ontario, Monday, June 17, 2002, attached as **Exhibit “N”** to this affidavit.

28. In 2013, both Durham College and UOIT halted payment to the SA on account of their concerns about internal strife within the SA and its failure to exercise good governance. See *Toronto Star* article dated September 27, 2013, attached as **Exhibit “O”** to this affidavit. The article stated the intention of both Durham College and UOIT to distribute funding to student clubs and other necessary student services normally overseen by the SA until the institutions had confidence in the ability of the SA to properly govern its affairs.

29. On October 29, 2015, counsel for SFTW, Marty Moore, sent a letter to the Board of Directors of SA setting out the relevant facts, explaining how the SA Executive’s decision violated the rights of members of SFTW, and requesting that the Board exercise its authority to correct the decision. The letter from Mr. Moore to the SA Board of Directors is attached as **Exhibit “P”** to this affidavit.

30. On November 6, 2015, counsel for the SA, Andrea Sanche, sent a letter to Mr. Moore indicating that she would meet with the SA, review the relevant documents and respond to Mr. Moore’s letter. Ms. Sanche’s November 6, 2015 letter is attached as **Exhibit “Q”** to this affidavit.

31. On November 23, 2015, Ms. Sanche sent a letter on behalf of the SA stating that the SA maintains its decision to deny SFTW’s application for ratification as a Campus Club for the reasons it stated orally on September 3, 2015, and for the reasons it stated in its letter dated October 6, 2015. Ms. Sanche’s November 23, 2015 letter is attached as **Exhibit “R”** to this affidavit.

32. To the best of my knowledge, there is no appeals process in place or available, by which SFTW can appeal this denial of its application for ratification as a Campus Club. Accordingly, our only recourse for asserting our freedom of expression, our freedom of association, our right to be treated fairly under the SA’s policies and procedures, and our right to be treated equally with other student clubs

that espouse different opinions on various topics, is to commence a court application to secure our legal rights.

Sworn before me at the City of Oshawa in the
County of Durham on January _____, 2016.

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