



S/28358
No. ~~8146979~~
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

JOHN FURLONG

PLAINTIFF

AND:

LAURA ROBINSON, DANIEL MCLEOD, CHARLIE SMITH,
AND VANCOUVER FREE PRESS PUBLISHING CORP.

DEFENDANTS

RESPONSE TO CIVIL CLAIM

Filed by: Laura Robinson

Part 1: RESPONSE TO NOTICE OF CIVIL CLAIM FACTS

Division 1 - Defendant's Response to Facts

1. The defendant Laura Robinson ("defendant Robinson") admits the facts alleged in paragraphs 2 to 7 inclusive, 13 to 15 inclusive, 17, 23 and 37 of Part 1 of the notice of civil claim (the "NOCC"), with the following additional facts added:
 - (a) In addition to the facts set out in paragraph 2, the defendant Robinson is a freelance journalist and author. She has twenty-two years of experience covering the Olympic sports of cycling and cross-country skiing, but is best known for her critical analysis of the safety and well-being of athletes, and equality issues as they apply to women and Aboriginal athletes in sport. Her work is used in university sport sociology and sport history classes nationally and internationally. She has contributed many chapters and articles for sport sociology and other textbooks, and is the author of six books on sport. She is a regular guest lecturer and visiting scholar in universities throughout Canada and Europe. In June 2012 she was awarded an Honorary Doctorate of Laws, conferred by York University's Health Faculty;
 - (b) In addition to the facts set out in paragraph 6, the plaintiff was at all material times the Chair of the Board of Directors of Own The Podium;
 - (c) In addition to the facts set out in paragraph 7, the plaintiff and his wife, Margaret Furlong, were supervisors of Hostel 2 at Prince George College. The plaintiff and

his wife lived in the hostel which provided boarding facilities for female Aboriginal and non-Aboriginal high school students.

2. The defendant Robinson also admits the following specific facts which are alleged in Part 1 of the NOCC:
- (a) The book entitled "*Patriot Hearts*" was published in February, 2011, as alleged in paragraph 10.
 - (b) The defendant Vancouver Free Press Publishing Corporation ("VFPPC") publishes *The Georgia Straight*, a weekly newspaper, as alleged in paragraph 12.
 - (c) In or around May 2012, the defendant Robinson obtained statutory declarations signed by eight people, which contained allegations that the plaintiff had physically abused students and bullied and engaged in racial taunting of students, as alleged in paragraph 28.
 - (d) On or about July 20, 2012, the plaintiff's solicitor wrote to the defendant Robinson. The writing contained, *inter alia*, the words alleged in paragraph 32.
 - (e) On or about September 26, 2012, the plaintiff's solicitor wrote to the defendant Smith. The writing contained, *inter alia*, the words alleged in paragraph 36.
 - (f) The plaintiff gave a purported account of his personal history in *Patriot Hearts*, including the circumstances of the death of his cousin, Siobhan Roice, the death of his father, and his family's decision to immigrate to Canada, as alleged in paragraph 39.
 - (g) The Article Words were published in the Georgia Straight, as alleged in paragraph 43.
 - (h) The defendant Robinson published an article entitled *The Vancouver Olympics and John Furlong's Sins of Omission* on the website PlaytheGame.org on April 13, 2011 as alleged in paragraph 22 of the NOCC. The content of the article speaks for itself.
 - (i) The words set out in paragraph 24 are found in the PlaytheGame Article but are quoted out of context.
 - (j) The defendant Robinson emailed the Plaintiff's publisher on April 7, 2012 as alleged in paragraph 26 for the purpose of obtaining the Plaintiff's response to matters raised in that email. The email speaks for itself. The Plaintiff's publisher was requested to forward the inquiry to the Plaintiff.
 - (k) On April 10, 2012 the defendant Robinson received a letter from Marvin Storrow as alleged in paragraph 27. He was responding to the defendant Robinson's email of April 7, 2012. The letter from Mr. Storrow speaks for itself. The plaintiff did not respond directly or through Mr. Storrow to the questions raised in the email of April 7, 2012 and has consistently refused to respond to questions directed to him

directly and/or indirectly aside from making a bare denial and threatening litigation.

- (l) The defendant Robinson provided copies of statutory declarations to Mr. Storrow as alleged in paragraph 31 pursuant to his request that the Plaintiff be provided with full disclosure of the information in the possession of the defendant Robinson. The statutory declarations were sent to Mr. Storrow in the expectation that the Plaintiff would then respond to the questions posed by the defendant Robinson to the Plaintiff. The Plaintiff, neither directly nor through Mr. Storrow has responded to the defendant Robinson's questions of him.
 - (m) The Further Defamatory Words were published, as alleged in paragraphs 49 and 50.
3. The facts alleged in paragraphs 11, 21, 25, 29, 30, 33, 38, 40, 41, 42, 44, 45, 46, 47, 48, 51, 52 and 54 of Part 1 of the NOCC are denied. The facts alleged in paragraphs 10, 12, 22, 24, 26, 27, 28, 31, 32, 36, 39, 43, 49 and 50 are also denied, except to the extent admitted in paragraph 2 above.

In specific response to paragraph 33 the facts alleged are specifically denied. The allegation that the defendant Robinson filed a report with the Royal Canadian Mounted Police is not true and as such is vexatious. An allegation of sexual abuse was made against the Plaintiff by a former student in July 2012. The student had previously signed a statutory declaration alleging sexual abuse by the Plaintiff, which document was provided to the Plaintiff, through his solicitor, Marvin Storrow. The defendants made a conscious decision not to include the allegation of sexual abuse in the Georgia Straight Article. It was the Plaintiff, at the press conference on September 27, 2012, who first publicly disclosed the allegation of sexual abuse.

- 4. The facts alleged in paragraphs 1, 8, 9, 18, 19, 20, 34, 35, and 53 of Part 1 of the NOCC are outside the knowledge of the defendant Laura Robinson.
- 5. Paragraph 16 of the NOCC describes the purported legal basis of the plaintiff's claim. It is not a statement of fact which requires a response from the defendant Robinson in Division 1.

Division 2 – Defendant Robinson's Version of Facts

Context of Publication

- 1. The expression "Georgia Straight *Article*" in this response to civil claim ("RTCC") means both: (a) the article referred to in paragraph 17 of the NOCC; and (b) the words in the article referred to in paragraph 41 of the NOCC and described by the plaintiff as the "Article Words."
- 2. The publication of *Patriot Hearts: Inside the Olympics that Changed a Country*, by "John Furlong with Gary Mason" ("*Patriot Hearts*") on February 11, 2011 was given considerable publicity in part due to promotional activities by the plaintiff and his publisher, Douglas & McIntyre.

3. The dust jacket of *Patriot Hearts* contains, *inter alia*, the following statements approved by the plaintiff:

When John Furlong emigrated from Ireland in 1974, the customs officer greeted him with "Welcome to Canada. Make us better" – an imperative that has defined his life ever since.

...Furlong recounts ... how he and his team smashed records for everything from sponsorship to merchandise. He is frank about how they handled seemingly insurmountable setbacks – a global recession, antagonistic British media, washed-out snow at Cypress Mountain, and the tragic death of Georgian luger Nodar Kumaritashvili – to achieve runaway success and, ultimately, a pivotal moment of nationhood.

...Patriot Hearts is an extra-ordinary story of visionary leadership, deep integrity, love of country and the ability to dream boldly.

4. The first reference in *Patriot Hearts* to a visit to Canada by the plaintiff reads as follows (at page 20):

Not long after my father's death I was enticed by an unexpected offer. A recruiter from a high school in Prince George, British Columbia, had come to Dublin in search of someone to set up an athletic program. I was a young teacher with just two years' experience. The job intrigued me. My cousin's death, followed so closely by my father's, had left me feeling a little empty, and open to new adventures. I was definitely receptive to the idea of leaving Ireland after what had happened a couple of months earlier.

...

IT WAS A FALL DAY in 1974 when my wife and I bundled up our son and daughter and boarded a plane to Canada.

...I spent part of the flight second-guessing my decision. At one point, I pretty much convinced myself that I had made a colossal error—and I had dragged three other people along with me on this misadventure.

But it was too late to obsess about that. Our plane touched down in Edmonton, and we approached a customs agent with our passports and a letter of introduction from the school I would be working at. I will never forget the parting words of the man who interviewed us. "Welcome to Canada, he said as he handed me back our documents. "Make us better."

Soon I was in Prince George starting a new life. ...

5. *Patriot Hearts* does not reveal any of the following facts:
- (a) In or about March, 1969, the plaintiff arrived in the Diocese of Prince George, British Columbia, Canada, as a Frontier Apostle missionary.
 - (b) In his missionary role during the 1969/1970 school year, the plaintiff taught physical education ("PE") at Immaculata Elementary School ("Immaculata"), a Roman Catholic non-residential institution in Burns Lake, within the Diocese of Prince George.
 - (c) Many students at Immaculata were First Nations.
 - (d) In or about May, 1970, the plaintiff was married in Burns Lake to Margaret Cook, who was a fellow Frontier Apostle missionary and a kindergarten teacher at Immaculata.
 - (e) In or about 1970, the plaintiff and his new bride moved to Prince George where they volunteered, as part of their service as Frontier Apostles, as resident supervisors of Prince George College, a high school within the Diocese of Prince George, in the years 1970 to sometime in 1972.
6. *Patriot Hearts* is promoted on the plaintiff's Internet website at www.johnfurlong.ca (the "Furlong Website"). The Furlong Website contains many statements concerning the plaintiff, including, *inter alia*, the following:
- (a) On the home page:
 - Vision. Values. Leadership*
 - John Furlong created the vision and led the team that bid for, organized and staged the highly successful Vancouver 2010 Olympic and Paralympic Winter Games.*
 - Inspiring Keynote Speeches*
 - John Furlong has been described as a Sports Hero, Nation Builder and the Ultimate Crisis Manager. Known for his masterful storytelling and innovative leadership style, he continues to inspire ...*
 - Furlong ... went on to deliver, what have now been recognized by the IOC as the most successful Winter Games ever.*
 - (b) On a page partially-captioned "Speaking – Short Copy for Brochures – March 2011":
 - ...Furlong ... went on to deliver ... the most successful Winter Games ever.*

John Furlong, has been described as a Sports Hero, Nation Builder and the Ultimate Crisis Manager. ...

Known for his ...innovative leadership style,... he has been voted as one of the top 25 most transformational Canadians alive.

- (c) A page containing an article entitled "John Furlong welcomed the world to Vancouver":

... Furlong silenced his critics by putting on an impressive Winter Olympics that saw Canada finish first in gold medals. ... Mr. Furlong stickhandled VANOC through lousy weather and the worst global financial crisis since the Great Depression. He says he went about his work with humility – and a refusal to settle for mediocre results.

- (d) A page containing an article entitled "Olympic organizer John Furlong encourages leaders at CCA [Canadian Construction Association] to have a strong vision"

"No matter what, remember that the world is watching you. People expect the best from you," Furlong told the CCA members in attendance.

"Give your best, live up to that promise and be the best human being you could possibly be and it will take your organization anywhere they want to go."

A core set of values, teamwork and trust were driving factors for the 2010 Winter Games success.

...

"Live your life like a leader, as if your entire story will be read out at your own funeral," he said.

7. The statements made by the plaintiff in *Patriot Hearts*, on the Furlong Website, and in public speeches, are calculated to lead readers to believe that the plaintiff's success in making the 2010 Winter Olympics a pivotal moment in Canadian nationhood is explained by his personal life story.
8. (i) In the fall of 2009, while conducting an interview for another news story, the defendant Robinson received a "tip" that the Plaintiff had taught at a residential school in northern British Columbia. The defendant Robinson conducted an online search which did not reveal anything further. She did not look into the Plaintiff's past until February 2011 when she was requested to review *Patriot Hearts* for the Anishinabek News. On reading the description in *Patriot Hearts* of how the Plaintiff was recruited to come to Prince George the defendant Robinson

recalled the "tip". It was difficult to imagine why a Canadian school went to Dublin to find a gym teacher. This caused the defendant Robinson to conduct an in-depth internet search into the Plaintiff's past. That research revealed that the Plaintiff was a Frontier Apostle who apparently had taught school in Burns Lake and/or Prince George. This, in turn, led the defendant Robinson to contact the Plaintiff through his publisher Douglas & McIntyre. The Plaintiff refused to answer any questions beyond identifying the school as Prince George College or make himself available for an interview preferring, on all occasions, to deal with the defendant Robinson through an intermediary.

- (ii) In April 2011 the defendant Robinson published an op-ed piece for the online newsletter/magazine Play the Game entitled *The Vancouver Olympics and John Furlong's Sins of Omission* ("*Sins of Omission*").
 - (iii) On or around April 29, 2011 the Defendant attended the "Ink and Beyond" luncheon of the Newspapers Canada Conference at River Rock Casino, Richmond. The Plaintiff was the keynote speaker at the luncheon. In advance of the luncheon, and intentionally not in an area or in front of people where the plaintiff would be embarrassed, the defendant Robinson attempted to ask the Plaintiff about his past as a Frontier Apostle missionary. The Plaintiff screamed "Stop it! Stop it!" turned his back on the defendant Robinson and walked away. When the defendant Robinson followed him, but did not repeat the question, he said, "I'm not going into that. That's what we were all called." The Plaintiff then completely walked away.
 - (iv) In March of 2012, an individual who had read *Sins of Omission* online contacted the defendant Robinson and provided information that there were "native people" in Northern British Columbia that recalled being abused by the Plaintiff. As she had done in April 2011, the defendant Robinson attempted to obtain the Plaintiff's version of what happened by sending an email to Douglas & McIntyre with a request that they forward the inquiry to the Plaintiff. Instead of responding, the Plaintiff caused Marvin Storrow to write to the defendant Robinson by letter dated April 10, 2012 denying any wrongdoing on the part of the Plaintiff and threatening litigation.
 - (v) In the ensuing weeks the defendant Robinson was able to locate and speak to individuals who alleged abuse by the Plaintiff, following which she travelled from Ontario to Burns Lake where she interviewed former students who had the Plaintiff as a PE teacher and/or a coach. As a result of her interviews and investigations the eight statutory declarations referred to in paragraph 2. c. of this RTCC were produced.
9. The defendant Robinson provided copies of the eight statutory declarations to the plaintiff's lawyer and sought the plaintiff's answers to specific questions concerning his life story before the publication of the Georgia Straight Article.
10. The plaintiff refused to respond to specific questions concerning his life story and simply responded, through his lawyer Marvin Storrow, with a blanket denial of the allegations

made in the eight statutory declarations. The plaintiff refused to confirm or deny, before publication of the Georgia Straight Article, the facts set out in paragraph 5 of this RTCC.

The Plaintiff's Press Conference

11. On September 27, 2012, after publication of the Georgia Straight Article, at approximately 2:30 pm, the plaintiff and his lawyer held a press conference (the "Press Conference") in Vancouver, British Columbia concerning the Georgia Straight Article.
12. The plaintiff's press conference attracted the attention of the print and broadcast news media, which widely republished, *inter alia*, the following statements made by the plaintiff:

"...I have been accused of physical abuse and – apparently, within the past hour – sexual abuse. I want you to know I categorically deny absolutely any wrongdoing."

Liability Defences

Not Defamatory

13. The Georgia Straight Article is not capable of being defamatory of the plaintiff, and is not in fact defamatory of the plaintiff, as alleged in the first sentence of paragraph 38 of the NOCC and the first two lines of paragraph 40 of the NOCC, or at all.
14. The Georgia Straight Article is not capable of bearing, and does not in fact bear, the meanings alleged in paragraph 38 (second sentence), paragraph 40 (first sentence) and paragraph 41 of the NOCC. Alternatively, those meanings are not defamatory of the plaintiff as alleged or at all.

Responsible Communication

15. Alternatively, the Georgia Straight Article constitutes responsible communication on matters of public interest, namely:
 - (a) Whether children of First Nations communities who were educated in day schools operated by the Catholic church in British Columbia in the 1960's and 1970's suffered any of the abuses now generally acknowledged to have been suffered by First Nations children who were sent to residential schools in the same period.
 - (b) Whether the plaintiff, a prominent public figure who was showered with awards, honours and accolades in connection with his role in the 2010 Winter Olympics, is uniquely qualified by his own life story to provide spiritual and moral guidance to other Canadians about the importance of values, honesty and integrity.
 - (c) Whether the story told by the plaintiff in his instant best-seller, *Patriot Hearts*, is a reliable and complete account which explains the plaintiff's alleged passion and pride, capacity to overcome adversity, visionary leadership and courage, deep

integrity, and genuine humility, which enabled him to unite Canada like never before and bring new confidence to Canadians.

The defendant Robinson was diligent in trying to verify the contents of the Georgia Straight Article before publication, having regard to all relevant circumstances.

Fair Comment

16. Alternatively, and in further answer to paragraphs 40 and 41.iii of the NOCC, if the Georgia Straight Article meant that the plaintiff was not honestly recounting (or was dishonest in recounting) his personal history in *Patriot Hearts*, the defendant Robinson is protected by the defence of fair comment. In the context of the Georgia Straight Article as a whole, that alleged meaning constitutes comment on matters of public interest, based on facts, which a person could honestly express on the proved facts. The facts supporting the comment are set out in the underlined words in Schedule "A" to this RTCC. The matters of public interest are identified in paragraph 15 of this Division.
17. Alternatively, and in further answer to paragraph 41.i of the NOCC, if the Georgia Straight Article meant that the plaintiff physically abused students, bullied students and engaged in racial taunting of students, the defendant Robinson is protected by the defence of fair comment. In the context of the Georgia Straight Article as a whole, that alleged meaning constitutes comment on matters of public interest, based on facts, which a person could honestly express on the proved facts. The facts supporting the comment are set out in the double-underlined words in Schedule "A" to this RTCC. The matters of public interest are identified in paragraph 15 of this Division.
18. Alternatively, and in further answer to paragraph 41.iv of the NOCC, if the Georgia Straight Article meant that the plaintiff intentionally omitted reference in *Patriot Hearts* to his volunteer service at Immaculata School, and that he did so for the dishonest purpose of avoiding discovery of his abuse of students there, the defendant Robinson is protected by the defence of fair comment. In the context of the Georgia Straight Article as a whole, that alleged meaning constitutes comment on matters of public interest, based on facts, which a person could honestly express on the proved facts. The facts supporting the comment are set out in the underlined words and the double-underlined words in Schedule "A". The matters of public interest are identified in paragraph 15 of this Division.

Justification

19. Alternatively, and in answer to paragraphs 40 and 41(iii) of the NOCC, an allegation that the plaintiff did not honestly recount his personal history in *Patriot Hearts* and/or was dishonest in recounting his personal history in *Patriot Hearts* is true in substance and in fact. Particulars:
 - (a) The facts alleged in the underlined words in Schedule "A" to this RTCC.
 - (b) On Friday, May 17, 1974 a bomb went off in Dublin, Ireland, resulting in the death of 26 people, including Siobhan Roice, a cousin of the plaintiff, who was 19 years of age at the time. When Ms. Roice failed to return home after work that

day to her family in Wexford, Ireland, or phone home, her family tried to determine her whereabouts and whether she was a victim of the bombing.

- (c) Early the next morning of Saturday, May 18, 1974; Ms. Roice's father Edward Roice, accompanied by his son-in-law Sean Beale, and Ms. Roice's younger sister Liz, travelled to Dublin to look for Ms. Roice. After failing to locate her in the city's hospitals, they went to the City Morgue in Store Street. Edward Roice entered the City Morgue where after giving a description of his missing daughter, was led to an area where the bomb victims were kept. He identified Ms. Roice immediately, her body intact.

20. Alternatively, and in answer to paragraphs 38 and 41.1 of the NOCC, an allegation that the plaintiff physically abused students, bullied students and engaged in racial taunting of students, is true in substance and in fact. Particulars:

- (a) The facts alleged in the **bolded** and underlined words of Schedule "A" to this RTCC.
- (b) During the 1969/1970 school year, the plaintiff physically abused, bullied and made racist statements towards First Nations students as follows:
 - (i) The plaintiff screamed "*Lazy Indians!*" at First Nations students while teaching PE at Immaculata.
 - (ii) The plaintiff taught PE to Beverly Mary Abraham née West ("Abraham"), who is First Nations and who was eleven (11) years old at the time. The plaintiff regularly made racist statements during Abraham's PE class, including the following:

"You good for nothin' Indians."

"Dirty Indians. Why don't you wash your clothes?"

- (iii) The plaintiff regularly made Abraham's PE class do push-ups in Immaculata's gymnasium after running laps of the school or running up nearby Boer Mountain. The plaintiff stood over the students while they completed their push-ups. On more than one occasion while Abraham was performing push-ups, the plaintiff slammed her to the ground by stomping on her back with one of his feet. The plaintiff did this to other first nations students in Abraham's PE class on many other occasions as well, including Rosemary Wright ("Wright"), Margaret Adam ("Adam"), Margaret Tom, and Jane Tom, who are all first nations.
 - (iv) On various occasions Furlong strapped First Nations students in Abraham's PE class on the palms of their hands with a leather strap as a form of discipline, including for arriving late to class. These students include Abraham, Wright, Adam, Margaret Tom, Marlina Nooski, and Shirley Hall.

- (v) On one occasion the plaintiff strapped student Mildred West, Abraham's older sister, on the palms of her hands leaving them blistered and red for days. The strapping occurred in Immaculata's foyer. After the strapping the plaintiff yelled at Mildred West "*Get the hell out of here!*"
- (vi) The plaintiff taught PE to Ronnie Patrick Alec ("Alec"), who is first nations and who was approximately eleven (11) years old at the time. When basketball was played by the PE class, the plaintiff yelled at students he judged played poorly or took their time playing, and if they didn't improve, Furlong would give them a hard slap to the back of their heads or kick them in the behind. In addition to Alec, the students include Steven Donald and Patrick Williams, who were also First Nations. One time the plaintiff's treatment of Steven Donald led to a physical altercation between the two of them in Immaculata's gymnasium.
- (vii) The plaintiff also taught PE to Richard Perry ("Perry"), who is First Nations and who was approximately eleven (11) years old at the time. The plaintiff called First Nations students in Perry's PE class "*Demons*" if he heard them speaking a First Nations language. On one occasion when the plaintiff heard Perry speaking a First Nations language he slapped Perry from behind on the neck. The plaintiff also slapped and kicked other students in Perry's PE class. He also hit Perry and other students with a metre stick as a form of discipline, including for arriving late to class. The plaintiff struck Perry on the head with his hand during PE class on multiple different occasions as a form of discipline.
- (viii) The plaintiff also taught PE to Maurice Patrick Joseph ("Maurice Joseph"), who is First Nations and who was approximately twelve (12) years old at the time. The plaintiff also slapped and kicked students in Maurice Joseph's PE class. When Maurice Joseph's PE class was playing hockey at Immaculata's hockey rink, the plaintiff disciplined students by hitting them in the back with a hockey stick.
- (ix) The plaintiff taught PE to Pius Samuel Charlie ("Charlie"), who is First Nations and who was approximately seven (7) years old at the time. The plaintiff disciplined students in Charlie's PE class by throwing basketballs at them and by hitting them with a metre stick. During runs in class the plaintiff would hit the slowest student with a metre stick.
- (x) The plaintiff taught PE to Ronnie Mathew West, who is First Nations and who was approximately nine (9) years old at the time. The plaintiff physically struck students in Ronnie West's PE class, including Danny Morris and Verna Joseph, and threw basketballs at the students, sometimes hard enough to knock a student who was standing down to the ground.
- (xi) The plaintiff taught PE to Catherine Dora Woodgate née West ("Woodgate"), who is First Nations and who was approximately seven (7) years old at the time. The plaintiff singled out students who were slouching or fat and made jokes about them in front of Woodgate's PE

class. Woodgate's PE class often started with the plaintiff making the students run laps around Immaculata's gymnasium. The plaintiff would throw a metre stick at, or hit in the calves with a metre stick, those students who ran the slowest, including Woodgate. When the class played basketball, the plaintiff threw a basketball at students, including Woodgate, who were less proficient at catching or throwing the ball during class, often hard enough to knock them down to the ground.

- (xii) The plaintiff taught PE to Paul Joseph, who is First Nations. On two separate occasions during PE class the plaintiff hit Paul Joseph on the back of the head while he was playing basketball, knocking him unconsciousness one of the times. The plaintiff also hit Paul Joseph on the back of his head with a hockey stick while the PE class was playing hockey at Immaculata's hockey rink.
- (xiii) The plaintiff substituted at Immaculata for absent teachers in classes other than PE, including Alec's class. While substituting, the plaintiff disciplined students, including First Nations students, by throwing chalkboard erasers at them.
- (xiv) The plaintiff taught PE to Dorothy Williams, who is First Nations and who was approximately seven (7) years old at the time. The plaintiff regularly made racist statements during Dorothy Williams' PE class, including the following:
 - A. *"You dirty little thieving Indians."*
 - B. *"Go home and eat some moose meat and fish."*
- (xv) The plaintiff disciplined students in Dorothy Williams' PE class, including Dorothy Williams, by throwing a basketball at them hard enough to knock them to the ground, including for arriving late to class.
- (xvi) On numerous occasions the plaintiff took Dorothy Williams to nun Sister Marcelle's office for discipline, grabbing Dorothy Williams' arm so hard while dragging her to the office that he left finger marks. The plaintiff forced Dorothy Williams to keep the palms of her hands open, often prying open her fingers when they were clenched in a fist, which permitted Sister Marcelle to strike Dorothy Williams' palms with a leather strap.
- (xvii) The plaintiff taught PE to Emma Williams, Ann Tom and Molly Charlie who are First Nations and who were approximately seven (7) years old at the time. The plaintiff regularly made racist statements during their PE class, and during his supervisory duties at recess and lunchtime, including the following:
 - A. *"Devil's children."*

B. "Ugly Indians."

- (xviii) During PE class the plaintiff would strike the slower runners, including Emma Williams, Ann Tom, and Molly Charlie, in their calves with a metre stick or with a gym whistle which hung from his neck on a string.
 - (xix) The plaintiff disciplined students in PE class, including Emma Williams, Ann Tom, Molly Charlie, St. John Perry, Gary Alec and Terry West, by throwing a basketball at them, slapping them on the back of the head or kicking them in their posterior.
 - (xx) The plaintiff would lock students who were late returning to class from recess or lunch hour (including Ann Tom) out of the school building even in the middle of winter.
 - (xxi) On one occasion when Emma Williams and Ann Tom were hiding behind the stage curtain in the gymnasium, the plaintiff grabbed each of them by the ear and pulled them off the stage to Sister Marcelle's office to be disciplined, where Sister Marcelle struck Emma Williams and Ann Tom on the palms of their hands with a leather strap.
- (c) The plaintiff taught PE to Roddy Joseph at Prince George College during the school year 1970-1971. Roddy Joseph is First Nations and was approximately eighteen (18) years old at the time. On one occasion during PE class, while Roddy Joseph was talking to a classmate and not paying attention to the plaintiff, who was standing approximately 15-20 feet away, the plaintiff threw a large medicine ball at Roddy Joseph, hitting him in the face. Roddy Joseph was knocked to the ground and lost one of his teeth.

Consent

21. The defendant Robinson reiterates paragraphs 11 and 12 of this Division.

Damages

22. The plaintiff has not incurred the damages pleaded in paragraphs 46, 47 and 48 of the NOCC as alleged or at all.
23. Further, in answer to paragraph 48 of the NOCC:
- (a) Any loss of income related to *Patriot Hearts* is caused by the insolvency of the publisher, Douglas & McIntyre, which filed for creditor protection in October, 2012, owing more than \$6 million to 143 creditors, including many authors.
 - (b) Any cancellation of paid speaking agreements was caused, or alternatively contributed to, by the controversy resulting from the plaintiff's highly-publicized press conference on September 27, 2012.

The alleged "Further Defamatory Words"

24. The press conference referred to paragraphs 11 and 12 of the RTCC and the press release issued by the Plaintiff was widely reported by the major media outlets in British Columbia and throughout Canada. The media also reported on statements of support for the Plaintiff from, amongst others, Premier Clark, Own The Podium, Canadian Tire, Whistler Blackcomb Holdings Inc. and Rocky Mountain Railtours.
25. At the press conference the Plaintiff made a personal and defamatory attack on the professionalism, competence, and integrity of the defendant Robinson by alleging that she had mounted "a personal vendetta against" the Plaintiff. He supported this attack, in part, by asserting that he and the defendant Robinson were in contact with one another on "many occasions" in the past when, in fact, the Plaintiff and the defendant Robinson have only spoken to one another on three occasions, namely March 2009, August 2010 and April 2011.
26. The response of the Plaintiff to the Georgia Straight Article had a profound effect on many people in many ways. Those abused by the Plaintiff were retraumatized by the statements and actions of the Plaintiff and were further traumatized by those in authority implicitly dismissing their sworn statements by rallying to support the Plaintiff. Other individuals who had been physically and psychologically abused by the Plaintiff came forward and contacted the defendant Robinson as a result of the Plaintiff denying any wrongdoing and threatening to sue. In addition, his former common law spouse contacted the defendant Robinson and told her that she had been physically, emotionally and sexually abused by the Plaintiff during her common law relationship with the Plaintiff. A former resident of Hostel No. 2 at Prince George College also contacted the defendant Robinson and told her that she had witnessed the Plaintiff's wife being physically assaulted by the Plaintiff when the Plaintiff and his wife were resident supervisors at Hostel No. 2.
27. The defendant Robinson decided to write two further stories as a result of the events set out in paragraph 26 of the RTCC. The focus of the first story would be retraumatization and the focus of the second story would be the Plaintiff's physical and emotional violence against women in general, and his physical and psychological violence against his former wife and his former common law spouse, in particular.
28. In September, October and November 2012, the defendant Robinson interviewed witnesses in Northern British Columbia and in Ontario to obtain written statements from the additional witnesses that came forward. The written statements confirmed the information provided to the defendants and amplified on that information.
29. The unquestioning support for the Plaintiff from Own The Podium was a large part of the retraumatization. The victims of abuse were now adults reporting abuse and, once again, the powers that be would not believe them. The statement from Own The Podium read as follows:

Own The Podium considers John a man with the utmost integrity and ethical behavior. He is a leader of our organization and has

Own The Podium's complete and full support throughout this difficult time.

30. As part of her due diligence before writing either story, the defendant Robinson sent an email to Own The Podium's Chris Dornan on November 8, 2012 asking a series of questions concerning the reasons why Own The Podium issued the statement set out in paragraph 29 and what, if any, research or investigation they conducted to determine the veracity of the statements of the former students quoted in the Georgia Straight Article and the veracity of the Plaintiff's denial.
31. Instead of responding on behalf of Own The Podium, Mr. Dornan responded by saying that all questions had to go through the Plaintiff's lawyer, Mr. Storrow.
32. The defendant Robinson thereafter emailed Mr. Storrow seeking clarification of his position. Was he counsel for the Plaintiff or was he now counsel for Own The Podium? No response was received from Mr. Storrow other than an auto-reply.
33. By email dated November 25, 2012 the defendant Robinson wrote to Anne Merklinger, CEO of Own The Podium. The email was sent to her with a request that it be forwarded to the Plaintiff to provide him with an opportunity to respond to the allegations of violence against women and children that had been raised and, particularly whether he had been violent towards his first wife, Margaret Furlong or his common law spouse, Dawn Furlong (sic). Neither Ms. Merklinger nor Mr. Furlong responded to the email.

Liability Defences

Not Defamatory

34. The Further Defamatory Words are not capable of being defamatory of the Plaintiff, and are not in fact defamatory of the Plaintiff as alleged in paragraphs 51 and 52 of the NOCC, or at all.

Responsible Communication

35. Alternatively, the Further Defamatory Words were published as part of the due diligence of the defendant Robinson to verify the contents of two stories she was intending to write as set out in paragraph 27 of the RTCC.
36. The email referred to in paragraph 49 of the NOCC was sent to Chris Dornan, in his capacity as media spokesperson for Own The Podium for the express purpose of obtaining a response from Own The Podium to the new allegations that had been made against the Plaintiff following the publication of the Georgia Straight Article and the Plaintiff's press conference.
37. The email of November 25, 2012 was sent to Anne Merklinger in her capacity as Chief Executive Officer of Own The Podium for the express purpose of sending it to the Plaintiff to provide him an opportunity to respond to the new allegations. The email was sent to Ms. Merklinger since Mr. Storrow had not responded to the email sent to him at the request of Mr. Dornan.

38. Alternatively, the further defamatory words constitute responsible communication on matters of public interest, namely:
- (a) Whether the Plaintiff, a prominent public figure, who was showered with the words, honours and accolades in connection with his role in the 2010 Winter Olympics is uniquely qualified by his own life story to provide spiritual and moral guidance to other Canadians about the importance of values, honesty and integrity.

The defendant Robinson was diligent in trying to verify the contents of the Further Defamatory Words before the limited publication to Mr. Dorman and Ms. Merklinger, having regard to all of the relevant circumstances.

Justification

39. Alternatively, and in answer to paragraph 49 of the NOCC, the allegation that the Plaintiff was "violent and a racist" is true in substance and in fact. Particulars:
- (a) As identified in paragraph 20 b and c of this RTCC.
 - (b) During the 1969/1970 school year at Immaculata Catholic School in Burns Lake, the plaintiff physically abused, bullied, and made racist statements towards First Nation students, as follows:
 - (i) The plaintiff taught PE to Anne Tom, who is First Nations, who was approximately seven years of age at the time. When she did not listen to the plaintiff, he threw basketballs at her head or used a ruler to hit her. He also kicked her bottom. The plaintiff strapped both Anne Tom and her friend, Molly, for no apparent reason. He would laugh while he beat them. He would leave them outside for as long as an hour in cold weather if they were not on time at recess and lunch.
 - (ii) The plaintiff taught PE to Grace Jessie West, who is First Nations, and who was approximately nine years of age at the time. He scared her and yelled at her. He hit her with a stick for no reason. If the children spoke their native language, he would become angry and yell, "Don't talk Indian! Ya hear me!" He also kicked her bottom.
 - (iii) The plaintiff taught PE to Matilda Mary Sam, who is First Nations, and who was eleven years of age at the time. He scared her and yelled at her. He would say, "stupid, stupid". If she was late for gym, he would use a pointer stick or a thick strap and he would strap her and other students. He took students to the boiler room and strapped them there.
 - (c) During the school years 1970 to 1972 and in the 1975/1976 school year, the plaintiff physically abused, bullied and made racist statements towards First Nation students at Prince George College as follows.

- (i) The plaintiff taught PE to Peter Mueller, who was approximately 15 years of age at the time. He was small and the plaintiff liked to pick on him. The plaintiff would grab him and throw him around if he was late for class. On one occasion, he banged his head against the door and threw him down a flight of metal stairs. Approximately 20 minutes later, he found Peter Mueller in the shower room and threw him against the wall and then grabbed him by the throat and lifted him at least two feet off the ground. The plaintiff would yell at him and scream until he became red in the face. He called Peter Mueller "you little bastard". The plaintiff picked on small guys, the nerds, the weak guys. He intimidated them and made them feel bad.
 - (ii) The plaintiff taught PE to Andrew Joseph, who is First Nations, and was approximately sixteen years of age. The plaintiff regularly made racist statements and specifically said to Andrew Joseph "you're just an Indian"; "you're a nobody". The plaintiff was physically violent with him and the violence on one occasion turned into a fight between the plaintiff and Andrew Joseph.
 - (iii) In the school year 1975/1976, the plaintiff taught PE to Joanne Pierre, who is First Nations and who was approximately fourteen years of age at the time. In addition to being a PE teacher, the plaintiff was also a hall disciplinarian. He called her and other female aboriginal students "stupid squaws", "stupid Indians" and "no good dumb Indian, you'll never add up to anything". This made them feel very small. As a hall disciplinarian, he would grab and push students if they were late. He would grab them by the arm and swing them. If anyone said anything back, he would shove them against their lockers.
40. Alternatively, and in answer to the allegation contained in paragraph 50 of the NOCC that the Plaintiff committed "violence against women and children" is true in substance and in fact. Particulars:
- (a) As identified in paragraph 20 b and c of this RTCC.
 - (b) During the 1969/1970 school year, the plaintiff said to Beverly Mary Abraham, "You're my favourite princess" and then he would grab her breasts. At the end of PE classes, he would ask her to stay by herself and would caress her face and say, "You're my prodigy, you're my favourite out of all of the girls". After putting her hands on her cheek, he would then put his hands down to her breasts. The plaintiff also regularly stood outside the girls' changing room door. On numerous times, he grabbed her "butt".
 - (c) During the years 1970 to 1972 when the plaintiff and his wife were living in Hostel 2 at Prince George College, the plaintiff physically and psychologically assaulted and abused his wife as follows:
 - (i) One evening the plaintiff yelled and screamed extremely loudly at his wife and physically assaulted her, such that the fighting and his wife crying

could be heard outside the plaintiff's living quarters by several student residents of Hostel 2. The following morning, Margaret Furlong had a huge bruise on her face and her eyes were red and swollen.

- (ii) After a peaceful period, the assaults by the plaintiff on his wife resumed and occurred frequently. The plaintiff and his wife argued regularly and, as the arguments escalated, the student residents could hear the plaintiff slap and hit his wife, who could be heard crying apologetically.
 - (iii) On one occasion, the plaintiff grabbed his wife's arm, twisted it tightly, and pushed her into their living quarters.
 - (iv) On another occasion, he intimidated his wife while she was cooking at the stove by angrily speaking to her and then hitting the handle of the hot frying pan, sending the frying pan and its contents onto the floor of the kitchen.
- (d) The plaintiff taught PE to Audrey George, who is First Nations, and who was approximately thirteen years of age at the time. The plaintiff would not allow her to take physical education unless she wore her gym outfit, which included shorts. There was an equipment room down a narrow hall near the gym. One day, the plaintiff told her to go into the equipment room to put the basketballs back on the shelf. He followed her into the dark small room and blocked her way out. When she asked the plaintiff, "What are you doing?", he reached down and tried to grope her by her crotch. She slapped him and tried to push past him. He held her for a minute. As she pushed passed him and was running out the door, he grabbed her "butt" and ripped her nylon shorts.
- (e) During the years 1979 to 1982, the plaintiff and his common law wife were living in Nanaimo. During this period of time, the plaintiff physically assaulted, bullied, psychologically abused, and raped her as follows:
- (i) The plaintiff routinely spoke to her in a derogatory manner, calling her "an egit", "fatso", and "damaged goods", and called her a "bitch" and/or a "cunt", when he could not rationally win an argument.
 - (ii) The plaintiff was extremely controlling of her, telling her what to wear, how to do her make-up, and how long she could stay out with friends. He went so far as to prevent her from socializing with certain girlfriends or drinking coffee, because he did not like the smell of it on her breath.
 - (iii) One night when she returned home after being out for more than 24 hours covering a sporting event as part of her job as a reporter for the local newspaper, the plaintiff woke her up at least a dozen times throughout the night, against her will, until she became delirious.
 - (iv) At one point, in a fit of anger, the plaintiff threatened to throw her cat over the balcony. This threat to her cat caused her to feel her life was in danger.

