

Affidavit # 1 of Jennifer  
Cocke Sworn June 5, 2019

BC Human Rights  
Tribunal  
Case Number: 14965

IN THE MATTER OF THE *HUMAN RIGHTS CODE*,  
RSBC 1996, c. 210 (as amended)

AND IN THE MATTER of a complaint before  
the British Columbia Human Rights Tribunal

BETWEEN:

**GLYNNIS KIRCHMEIER – and – GLYNNIS KIRMEIER obo OTHERS**

COMPLAINANT

AND:

**UNIVERSITY OF BRITISH COLUMBIA**

RESPONDENT

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**AFFIDAVIT**

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I, JENNIFER COCKE, of the City of Vancouver, in the Province of British Columbia, MAKE OATH AND SAY AS FOLLOWS:

1. At all material times I was the Legal Assistant for Clea Parfitt, and as such I have personal knowledge of the facts hereinafter deposed to, save and except where the same are stated to be upon information and belief, in which case I verily believe them to be true.

1. I am advised and verily believe that on May 1, 2018, the Respondent provided document disclosure in 12 volumes amounting to over 5,000 pages. The volumes of documents disclosed by the University are as follows:

a.	Policy Drafts from other Universities	249 pages
b.	Various Research Materials	912 pages
c.	University Steering Committee Material	189 pages
d.	University Panel Material/Feedback	287 pages
e.	Job Descriptions/Development/Drafts	52 pages
f.	Policy Drafts/Versions	722 pages
g.	Feedback on Policy #131	692 pages
h.	Presentation/Training Materials	562 pages
i.	Client Cases	678 pages
j.	FOI Request – Personal Information of G. Kirchmeier	419 pages
k.	FOI Requests – UBC Sexual Assault Policies	309 pages
l.	Miscellaneous	216 pages

2. Many of the documents were disclosed in heavily redacted form. For example, now shown to me and attached to this Affidavit as **Exhibit A** is a redacted copy of an email exchange between Steve Bohnen and Clark Lundeen that was included on page 598/678 of the Respondent's document disclosure. I am advised and I verily believe that similar heavy redactions are present throughout the disclosure.

3. I am advised and verily believe that the University's formal disclosure includes two volumes of documents which were previously provided to Ms. Kirchmeier in response to her FOI requests. When originally produced in response to the FOI requests, the documents were heavily redacted. The documents were sent again with the *same* and in some instances *more* redactions than they had come with in the FOI process.

4. I am advised and verily believe that the redactions in the University's disclosure are inconsistent. Where documents are provided more than once or also included in an affidavit, the redactions may vary from document to document. Documents provided are also incomplete for other reasons. For example, not all pages of some email strings have been provided.

5. I am advised and verily believe that many sources or locations of documents do not seem to have been canvassed at all in that no documents from that source or location have been received, even though documents must exist in those locations. Even where a location was canvassed, the documents produced are incomplete as can be seen from the fact that documents reference other documents, for example prior email correspondence, that have not been disclosed.

6. I am advised that Ms. Kirchmeier travelled to Vancouver for a week from May 1 to 8, 2018 to review the documents in order to assist with preparation for the response to the application to dismiss. Her effort to do so was substantially frustrated by the incomplete state of the documents which made it impossible to develop a proper narrative of events. Instead, she spent her time cataloguing missing documents. She was here working on the documents for 7 full days, and spent a number of further days reviewing them once she returned home. I am advised and verily believe that Ms. Kirchmeier incurred travelling expenses and lost time. She delayed the start of a new job to come to Vancouver and lost wages and a month of health insurance coverage as a consequence. I am further advised and verily believe that the Respondent was aware that Ms. Kirchmeier would be travelling here to review the documents as soon as they were disclosed.

7. I am advised and verily believe that since May 2018 counsel have also reviewed the documents to attempt to generate an accurate time line. This work was substantially frustrated by the redacted stated of the documents and

will need to be repeated when unredacted documents are provided by the University.

8. On May 22, 2018, the Complainant sent the Respondent's counsel a letter setting out the Complainant's concerns about the state of the disclosure. Now shown to me and attached to this Affidavit as **Exhibit B** is a letter from Ms. Parfitt to Roper Greyell LLP dated May 22, 2018.

9. On May 22, 2018, the Complainant sent a letter to the Human Rights Tribunal attaching the letter to Respondent's counsel of that date. Now shown to me and attached to this Affidavit as **Exhibit C** is a letter from Ms. Parfitt to the Human Rights Tribunal dated May 22, 2018.

10. On May 23, 2018, the Complainant received a letter from the Human Rights Tribunal suspending submissions on the ATD and advising the Complainant that she was required to give the Respondent a reasonable chance to respond to address her disclosure concerns. Now shown to me and attached to this Affidavit as **Exhibit D** is a letter from the Human Rights Tribunal addressed to Ms. Parfitt and dated May 23, 2018.

11. I am advised and verily believe that by email dated June 27, 2018, the Respondent suggested a one-day case-management conference with the Tribunal to discuss the disclosure issue. The Respondent provided no substantive response to the requests in the Complainant's letter of May 22, 2018.

12. By email dated October 15, 2018, the Complainant advised the Respondent that she had been expecting a substantive response, and would agree to a case-management conference provided the University provided an outline of its position first. By email dated October 16, 2018 the University agreed to provide an outline of its position. Now shown to me and attached to this Affidavit as **Exhibit E** is an email from Ms. Devins to Ms. Parfitt.

13. I am advised and verily believe that a one-day case-management conference was scheduled for January 17, 2019, the first mutually available date. On January 9, 2019, the Complainant wrote a letter to the Respondent to request an outline of their position. Now shown to me and attached to this Affidavit as **Exhibit F** is a letter from Ms. Parfitt to Roper Greyell LLP dated January 9, 2019.

14. On January 11, 2019, the Respondent responded briefly that it was appropriate to redact the documents, that it had complied with its disclosure obligations, and that further disclosure should not happen until after the ATD was argued. The Respondent did not provide a detailed response to the Complainant's letter of May 22, 2018. Now shown to me and attached to this Affidavit as **Exhibit G** is a letter from Mr. Wagner to Ms. Parfitt dated January 11, 2019.

15. I am advised and verily believe that on January 17, 2019, the Tribunal convened a case-management conference during which the document disclosure issues were canvassed in some detail. On the same day, the Tribunal sent a letter to the parties. Now shown to me and attached to this Affidavit as **Exhibit H** is a letter from the Human Rights Tribunal to Ms. Parfitt and Mr. Wagner dated January 17, 2019.

16. On January 18, 2019, the Complainant wrote to the Respondent to provide a revised version of the detailed list of the documents that the Complainant was continuing to seek. Now shown to me and attached to this Affidavit as **Exhibit I** is a letter from Ms. Parfitt to Roper Greyell LLP dated January 18, 2019.

17. On February 21, 2019, the Complainant wrote a letter to the Respondent to follow-up for a response. Now shown to me and attached to this Affidavit as **Exhibit J** is a letter from Ms. Parfitt to Roper Greyell LLP dated February 21, 2019.

18. I am advised and verily believe that by email dated February 22, 2019, the Respondent advised the Complainant that they were working through the documents issue, and asked the Complainant to wait until after March 12, 2019 to move forward with an application for disclosure. Since then, the Respondent has not responded further on the document disclosure issue. To date, the Respondent has not provided a substantive reply to the Complainant's letter of January 18, 2019.

19. I am advised and verily believe that the Complainant disclosed as its Complainant Document 72 the Executive Summary of the UBC Equity and Inclusion Office 2014-2015 Annual Report. Now shown to me and attached to this Affidavit as **Exhibit K** is the Executive Summary of the UBC Equity and Inclusion Office 2014-2015 Annual Report.

20. I am advised and verily believe that the University of British Columbia disclosed as document 260-263/678 a heavily redacted list of the complaints handled by its Equity Office in 2014-2015. Now shown to me and attached to this Affidavit as **Exhibit L** is a heavy redacted list of complaints.

21. On November 21, 2015, Martha Piper issued a "Response to *Fifth Estate* Program". Now shown to me and attached to this Affidavit as **Exhibit M** is a printed version of the website where Ms. Piper's apology appears.

22. On December 16, 2015, Sara-Jane Finlay of the Equity Office published an online statement about the hiring of Ms. Butler. Shown to me now and attached to this Affidavit as **Exhibit N** is Ms. Finlay's statement dated December 16, 2015.

23. On December 16, 2015, the *Globe and Mail* published an article that quotes statements made by UBC. Shown to me now and attached to this Affidavit as **Exhibit O** is a printed copy of the article titled "UBC to probe its response to sexual-harassment, assault complaints."

24. On December 30, 2015, Paula Butler wrote to Ms. Kirchmeier to advise that she had been hired by UBC to conduct a review into UBC's response to sexual harassment and sexual assault concerns which had been brought forward by some UBC students. Shown to me now and attached to this Affidavit as **Exhibit P** is a copy of Ms. Butler's email to Ms. Kirchmeier of December 30, 2015.

25. On January 24, 2016, Ms. Butler sent an email to Ms. Kirchmeier about her report. Shown to me now and attached to this Affidavit as **Exhibit Q** is a copy of an email exchange between Ms. Butler and Ms. Kirchmeier dated January 24, 2016.

26. On February 15, 2016, Martha Piper and Sara-Jane Finlay published a statement on the release of the Executive Summary of the Butler Report. Shown to me now and attached to this Affidavit as **Exhibit R** is a printed version of the website where Ms. Piper and Ms. Finlay's statement appears.

27. On February 15, 2016, *The Ubyyssey* published an article that includes quotes from Ms. Finlay. Shown to me now and attached to this Affidavit as **Exhibit S** is a copy of the article titled "Report released on UBC's following of sexual assault policies and procedures."

28. I am advised and verily believe that on pages 82-83/678 of its disclosure documents, UBC provided a redacted version of an email exchange involving Tina Loo and dated July 22-23, 2015. Shown to me now and attached to this Affidavit as **Exhibit T** is a copy of the email exchange produced by UBC on pages 82-83/678.

29. I am advised and verily believe that on page 244/678 of its disclosure documents, UBC provided a redacted version of an email exchange involving Tina Loo and dated July 22, 2015. Shown to me now and attached to this Affidavit as **Exhibit U** is a copy of the email exchange produced by UBC on page 244/678.

30. I am advised and verily believe that on pages 237-239/678 of its disclosure documents, UBC provided a redacted version of an email exchange involving Tina Loo and dated July 22-29, 2015. Shown to me now and attached to this Affidavit as **Exhibit V** is a copy of the email exchange produced by UBC on pages 237-239/678.

31. I am advised and verily believe that on pages 221-227/678 of its disclosure documents, UBC provided a redacted version of an email exchange involving Tina Loo and dated July 22, 2015 to August 2015. Shown to me now and attached to this Affidavit as **Exhibit W** is a copy of the email exchange produced by UBC on pages 221-227/678.

32. I am advised and verily believe that UBC disclosed redacted versions of Monica Kay's notes dated December 17, 2014 (72-74/678). Shown to me know and attached to this Affidavit as **Exhibit X** is Monica Kay's notes dated December 17, 2014.

33. I am advised and verily believe that UBC disclosed redacted versions of Monica Kay's undated notes at page 108-109/678. Shown to me now and attached to this Affidavit as **Exhibit Y** are Monica Kay's undated notes as produced by UBC at 108-109/678.

34. I am advised and verily believe that UBC disclosed a redacted version of Monica Kay's undated timeline regarding DM (551-557/678). Shown to me now and attached to this Affidavit as **Exhibit Z** is Monica Kay's undated timeline as produced by UBC at 551-557/678.

35. I am advised and verily believe that UBC disclosed a redacted version of Monica Kay's email exchange with Ms. Finlay dated April 16, 2015 at pages 38-40/678. Shown to me now and attached to this Affidavit as **Exhibit AA** is Monica Kay's email exchange with Ms. Finlay produced by UBC at 38-40/678.

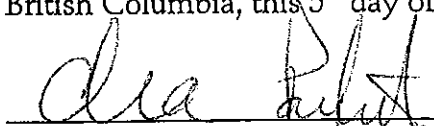


36. I am advised and verily believe that UBC disclosed a redacted version of Monica Kay's undated timeline regarding DM at pages 2-8/419. Shown to me now and attached to this Affidavit as **Exhibit BB** is Monica Kay's undated timeline disclosed by UBC at 2-8/419.

37. I am advised and verily believe that UBC produced an email chain between Chad Hyson and an unidentified person occurring between June and August 2015. Shown to me now and attached to this Affidavit as **Exhibit CC** is an email chain between Chad Hyson and another occurring between June and August 2015 and produced by UBC on pages 625-629/678.

38. I am making this affidavit in support of the Complainant's application for document disclosure.

SWORN BEFORE ME at the City of  
Vancouver, in the Province of  
British Columbia, this 5<sup>th</sup> day of June, 2019

  
A Commissioner for taking Affidavits  
for the Province of British Columbia

  
JENNIFER COCKE