



British Columbia
Human Rights
Tribunal

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August 31, 2022

Clea Parfitt
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Michael Wagner
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Jennifer Devins
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Dear Parties,

**Re: Glynnis Kirchmeier and Glynnis Kirchmeier obo others v. University of British Columbia; Case Number: CS-001093 / 14965;
CASE MANAGEMENT DIRECTION**

I am the member now assigned to the hearing of this case. As such, I write to give this Direction on the concerns raised in Ms. Devins' August 26, 2022 letter.

I have **bolded** new party deadlines that flow from this Direction.

Specifically, Ms. Devins' concerns are that the Complainant has not:

- (1) listed the names of all witnesses in the Form 9.3;
- (2) set out the amount sought, by members of the class, for injury to dignity, expenses, lost wages or any other heads of damages in the Form 9.4;
- (3) filed a Form 9.5, listing the documents related to the remedies sought or provided disclosure of any such documents.

Direction

In response to the concerns raised by Ms. Devins, I direct that the Complainant take the following steps by **September 30, 2022**:

- (1) File and disclose the names of all of the witnesses she intends to call at the hearing: Rule 20.1(1)(a), Tribunal's Rules of Practice and Procedure [Rules];
- (2) File and disclose the amounts sought by members of the class for any monetary remedies sought: Rule 20.1(1)(a)(ii); s. 37 of the *Human Rights Code* [Code]; and
- (3) File a Form 9.5 and disclose all documents listed in the Form 9.5 to the Respondent: Rule 20.1(1)(a)(iii) and (b).

As a matter of fairness, the Respondent will be at liberty to amend its Forms 9.3, 9.6, and 9.7 **within 14 days** of receiving the Complainant's updated witness list, remedies sought, and disclosure related to remedy: Rule 20.1(2)(3) and (4).

The other deadlines set out in Member Cousineau's June 23, 2022 letter **continue to apply**.

Basis for Direction

This Direction is based on the Tribunal's responsibility to facilitate the just and timely resolution of complaints, while taking into account the specific circumstances of the parties: Rules 1(1) and 2; *Code*, s. 27.3. Indeed, the Tribunal's rules, practices, and forms are designed to meet the goals of fairness and efficiency.

In order to meet these goals, it is essential that parties obtain sufficient information in advance of a hearing about the case that they have to meet. This means that the Tribunal requires parties to engage in early, full pre-hearing disclosure of relevant documents, witness lists and remedy particulars: *Doratty v. Fording Coal Limited and others*, 2004 BCHRT 49 [*Doratty*] at para. 11; Rule 20.1.

The Tribunal seeks to prevent a trial by ambush so that the parties: know the case they have to meet; have the information needed to consider settlement before hearing; use hearing time effectively and efficiently; and avoid unfairness, unnecessary delays and adjournments caused by late disclosure: *Doratty* at para.14. Where the Tribunal has been unable to prevent trial by ambush, related to a participant's failure to provide early, pre-hearing disclosure, it may impose consequences: Rule 22.

In giving this Direction I have also considered the specific circumstances of the parties. This is a case where the parties are represented by counsel experienced in appearing before the Tribunal. The Tribunal has also put the parties on notice that their advance preparation, including full pre-hearing disclosure, is integral to a fair and efficient hearing: Member Cousineau's June 9 and 23, 2022 letters.

Questions or concerns?

If either party has concerns about this Direction, they should notify the Case Manager, Daniel Varnals, by **September 15, 2022**, and advise of their availability for a case conference in September 2022 to address those concerns. Mr. Varnals can be reached at: 604-660-0931 or bchumanrightstribunal@gov.bc.ca

Sincerely,

Amber Prince
Tribunal Member