

CV 14 514942

Court File No.:

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:

JLAN GHOMESHI

Plaintiff

- and -

THE CANADIAN BROADCASTING CORPORATION

Defendant

INFORMATION FOR COURT USE

- 1. This proceeding is an: [X] action [ ] application
- 2. Has it been commenced under the *Class Proceedings Act, 1992*? [ ] yes [X] no

3. If the proceeding is an action, does Rule 76 (Simplified Procedure) apply? [ ] yes [X] no  
*NOTE: Subject to the exceptions found in subrule 76.01(1), it is MANDATORY to proceed under Rule 76 for all cases in which the money amount claimed or the value of real or personal property claimed is \$100,000 or less.*

4. The Claim in this proceeding (action or application) is in respect of:  
 (Select the one item that best describes the nature of the main claim in the proceeding.)

Bankruptcy or insolvency law	<input type="checkbox"/>	Motor vehicle accident	<input type="checkbox"/>
Collection of liquidated debt	<input type="checkbox"/>	Municipal law	<input type="checkbox"/>
Constitutional law	<input type="checkbox"/>	Partnership law	<input type="checkbox"/>
Construction law (other than construction lien)	<input type="checkbox"/>	Personal property security	<input type="checkbox"/>
Construction lien	<input type="checkbox"/>	Product liability	<input type="checkbox"/>
Contract law	<input type="checkbox"/>	Professional malpractice (other than medical)	<input type="checkbox"/>
Corporate law	<input type="checkbox"/>	Real property (including leases; excluding mortgage or charge)	<input type="checkbox"/>
Defamation	<input checked="" type="checkbox"/>	Tort: economic injury (other than from medical or professional malpractice)	<input type="checkbox"/>
Employment or labour law	<input type="checkbox"/>	Tort: personal injury (other than from motor vehicle accident)	<input type="checkbox"/>
Intellectual property law	<input type="checkbox"/>	Trusts, fiduciary duty	<input type="checkbox"/>
Judicial review	<input type="checkbox"/>	Wills, estates	<input type="checkbox"/>
Medical malpractice	<input type="checkbox"/>	Other: Breach of Confidence, Defamation	<input checked="" type="checkbox"/>
Mortgage or charge	<input type="checkbox"/>		

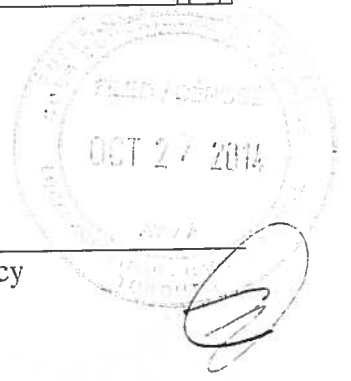
CERTIFICATION

I certify that the above information is correct, to the best of my knowledge.

Date: October 27, 2014

*Tiffany Soucy*

Tiffany Soucy



Court File No. CV 14514942

ONTARIO  
SUPERIOR COURT OF JUSTICE

B E T W E E N:

JIAN GHOMESHI

Plaintiff

- and -

THE CANADIAN BROADCASTING CORPORATION

Defendant

STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.


Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

SEAL

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: October 27, 2014

Issued by:



Local Registrar  
393 University Avenue  
Toronto, Ontario  
M5G 1E6

TO:

**THE CANADIAN BROADCASTING CORPORATION**  
205 Wellington Street West  
Toronto, Ontario  
M5V 3G7

*"There is no place for the state in the bedrooms of the nation"*

Pierre Trudeau in the Canadian House of Commons on the decriminalization of homosexuality, December 22, 1967, paraphrasing a Globe and Mail editorial, printed on December 12, 1967

### CLAIM

1. The Plaintiff, Jian Ghomeshi ("Mr. Ghomeshi"), claims:
  - (a) \$25,000,000.00 in damages for breach of confidence;
  - (b) \$25,000,000.00 in damages for defamation;
  - (c) \$5,000,000.00 in punitive, aggravated and exemplary damages;
  - (d) special damages in an amount to be determined prior to trial;
  - (e) pre-judgment interest and post judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
  - (f) his costs of this action on a substantial indemnity basis; and
  - (g) such further and other relief as this Honourable Court may deem just.

### The Parties

2. Mr. Ghomeshi is a well-known Canadian personality. He is an award-winning broadcaster, producer, writer and musician. For approximately the last 13 years, Mr. Ghomeshi has been employed at the Canadian Broadcasting Corporation (the "CBC") and, in 2007, Mr. Ghomeshi co-created and became the host of the CBC's broadcast "*Q with Jian Ghomeshi*".

3. *Q with Jian Ghomeshi*, or “*Q*”, has been vital to the CBC’s strategy to attract a new generation of listeners, and Mr. Ghomeshi was instrumental in revolutionizing the face of the CBC as the co-creator and host of *Q*. *Q* focuses on pop culture and high arts, as well as provocative cultural issues and trends. As host of *Q*, Mr. Ghomeshi has interviewed an array of prominent international figures from prime ministers to sports stars and cultural icons, including Sir Paul McCartney, Barbara Streisand, Salman Rushdie, Neil Young, Jon Stewart, Van Morrison, Woody Allen, Joni Mitchell, Lena Dunham, Jay-Z, Al Gore, Barbara Walters and, in a television world-exclusive, Leonard Cohen. *Q* has become the highest-rated morning show in its slot in CBC history and is now broadcast over 180 stations in the United States. The Washington Post recently described *Q with Jian Ghomeshi* as “the most popular new arts and culture radio show in North America”.

4. Mr. Ghomeshi is in the prime of his career. In addition to his role as host of *Q*, Mr. Ghomeshi is an established public personality. He is a number-one selling author and is in high demand for regular public speaking and television appearances. He has become known as one of, if not the, best in the business; his reputation and perception by the public are an integral part of his professional reputation and brand as a Canadian broadcaster, producer, writer and musician.

5. The Defendant, the CBC, is a well-established Canadian public broadcasting company. As noted, the CBC was Mr. Ghomeshi’s employer for approximately the last 13 years.

### **The Events Giving Rise to this Action**

6. This claim is the result of the CBC misusing personal and confidential information provided to it in confidence and under common interest privilege for the CBC’s own purposes

and to the detriment of Mr. Ghomeshi at a time when the CBC knew Mr. Ghomeshi was vulnerable. The misuse of Mr. Ghomeshi's personal and confidential information against him should be condemned by any informed member of the public. The CBC knew or ought to have known that Mr. Ghomeshi was vulnerable to the CBC misusing his personal and confidential information and that Mr. Ghomeshi was reposing a considerable amount of trust in the CBC in sharing it. The CBC's conduct was in bad faith and is unbecoming of a public broadcaster which should make decisions based on fact.

7. In the spring of 2014, Mr. Ghomeshi learned, through friends, that inquiries were being made by certain reporters about his personal life, and in particular his sexual practices. The allegation being made was that Mr. Ghomeshi engaged in non-consensual Bondage-discipline, Dominant-submissive, and Sadism-Machoism sexual practices ("BDSM"), which were physically abusive to his partners.

8. The allegations that Mr. Ghomeshi engaged in non-consensual sex and physically abused his partners are false.

9. The allegations against Mr. Ghomeshi are believed to have been started by a woman with whom he had a relationship for approximately one year. The relationship was a mutually non-monogamous and consensual relationship where, after much discussion around the issue, Mr. Ghomeshi and his partner engaged in role play and BDSM. The woman in question consented to the sex acts they performed together.

10. After more than a year, the relationship ended, primarily because she wanted to become monogamous and exclusive with Mr. Ghomeshi, and he did not. The woman is suspected to have approached a reporter and others to share a fabricated story about her relationship with Mr.

Ghomeshi, which recast their relationship as one where she did not consent to the sexual activity in which they repeatedly engaged.

#### **Mr. Ghomeshi Trusts the CBC with Information about his Private Life**

11. In good faith, and with concern for their common interest in refuting scurrilous allegations, Mr. Ghomeshi approached his employer, and specifically CBC executives Chris Boyce (“Boyce”) and Chuck Thompson (“Thompson”), to advise the CBC of the situation and the threat of the public release of a fabricated story about his private life.

12. Mr. Ghomeshi shared with Thompson and Boyce, in confidence, the history of the relationship with his ex-partner, including details of their sexual behavior which was at all times consensual. Mr. Ghomeshi shared this information with the CBC based on their common interest in ensuring that a story replete with unfounded allegations about his private life was not published, and with the reasonable expectation that the CBC would not use the information it was provided with against him.

13. Over several months, Mr. Ghomeshi provided representatives of the CBC with confidential and sensitive information about his private life, including details of his sexual relationships, and the CBC representatives were privy to the advice Mr. Ghomeshi was receiving from a team of advisors, including legal counsel, in terms of how to address the possible publication of the untrue allegations.

14. Specifically, the CBC was part of discussions and participated in confidential meetings and conference calls with Mr. Ghomeshi and his team, to address any inquiries that were made

surrounding Mr. Ghomeshi's personal life, and to devise a strategy of how Mr. Ghomeshi would respond in the event that these untrue allegations about his private life were made public.

15. As part of its participation in these discussions, and as a trusted ally and confidant, the CBC representatives commented on and assisted in drafting responses to media enquiries, as well as press releases to be issued on Mr. Ghomeshi's behalf, if it became necessary to do so.

16. Mr. Ghomeshi trusted the representatives of the CBC, based on their common interest in preventing publication of a false story about his private life; he included the CBC in these discussions to ensure that the CBC was kept aware of ongoing developments and the strategy devised by his team to respond to such a story – the subject of which was not the legitimate business of anyone, including journalists and media outlets – or his employer.

17. In the course of the meetings with Mr. Ghomeshi and his team, including in the days immediately before his termination, CBC representatives assured Mr. Ghomeshi and his team that when the allegations were first raised with them, they conducted their own internal investigation and were satisfied that the allegations of lack of consent were false. In fact, the CBC held several meetings with and conducted their own questioning of Mr. Ghomeshi about his private life and sexual practices, as part of that inquiry.

18. Consistent with his approach of transparency with CBC throughout, and at the request of the CBC, Mr. Ghomeshi directed his legal counsel to share with the CBC certain materials exchanged between himself and the woman believed to be behind the allegations, to demonstrate conclusively that the relationship they had was purely a consensual one and there was no basis for the allegations.



19. In a meeting with CBC representatives, when sensitive and private exchanges between Mr. Ghomeshi and the woman in question were reviewed, the CBC representative assured Mr. Ghomeshi's counsel that the CBC was satisfied that Mr. Ghomeshi had not engaged in non-consensual sex.

#### **CBC Violates Mr. Ghomeshi's Confidence and Abruptly Terminates Him**

20. Despite the assurances from the CBC, and without cause or warning, the CBC put Mr. Ghomeshi on "indefinite leave" on October 23, 2014; and subsequently terminated his employment for cause on October 26, 2014.

21. In meetings with the CBC between his "leave" and subsequent termination, the CBC advised that it was not concerned about whether Mr. Ghomeshi's sex practices were consensual; rather, his employment was being terminated because of the CBC's concern about the possible negative public perception, should the fact that Mr. Ghomeshi engaged in BDSM become public. In doing so, the CBC was making a moral judgment about the appropriateness of BDSM.

22. Engaging in BDSM is part of the normal continuum of human sexual behaviours, and it is increasingly common that engaging in BDSM would not be seen as either shocking or scandalous to informed North Americans.

23. Nevertheless, based on the CBC's antiquated perspective, the CBC terminated Mr. Ghomeshi's employment and made comments about Mr. Ghomeshi that contained damaging innuendo.

24. Despite its considerable knowledge about the surrounding events and background and their representations to the contrary, the CBC based Mr. Ghomeshi's termination solely on the

CBC's fear of how the public would react to his private sexual behaviour, and in particular, engaging in BDSM.

25. Immediately following Mr. Ghomeshi's termination, representatives of the CBC advised Mr. Ghomeshi and his counsel that a statement would be made advising of his termination, which would state: "The CBC is saddened to announce that its relationship with Jian Ghomeshi has come to an end. This decision was not made without serious deliberation and careful consideration. Jian has made an immense contribution to the CBC and we wish him well".

26. Despite that representation to Mr. Ghomeshi, and in a further act of bad faith, the statement later made by Thompson on behalf of the CBC, and published by the Globe and Mail online on October 26, 2014 was as follows: "Information came to our attention recently, that in CBC's judgement precludes us from continuing our relationship with Jian Ghomeshi" (the "CBC Statement").

27. The CBC Statement was reprinted by the Globe and Mail on the day of Mr. Ghomeshi's termination and confirmed that the basis of his termination was as a result of the confidential information that had been disclosed, voluntarily and in good faith, to the CBC by Mr. Ghomeshi.

### **Breach of Confidence and Bad Faith by the CBC**

28. As described above, due to their common interest in refuting any false allegations that he engaged in non-consensual sex, Mr. Ghomeshi confided in Thompson, Boyce and the CBC and continued to share, over the course of several months, the confidential information about his private life with the CBC, including the developments of a possible story defaming Mr. Ghomeshi and responses to related media inquiries.

29. Mr. Ghomeshi shared the confidential information about his personal life with the CBC on the understanding that he and the CBC were aligned in interests to prevent the publication of the false allegations, and on the basis that the information, which the CBC otherwise had no right or entitlement to have, would be kept confidential and not subsequently used against Mr. Ghomeshi.

30. The information shared with the CBC was of a deeply personal nature, and was shared with the CBC when Mr. Ghomeshi was concerned about avoiding the publication of false allegations against him, and managing the response to those allegations if they became public.

31. Notwithstanding the CBC's representations to Mr. Ghomeshi and his advisors, without notice or warning, it suspended and then subsequently terminated Mr. Ghomeshi in relation to the information that was provided respecting Mr. Ghomeshi's personal sex life. In bad faith and violation of the mutual understanding of a common interest between itself and Mr. Ghomeshi, the CBC violated the confidence that it had been entrusted with over several months respecting Mr. Ghomeshi's personal life, and wrongfully used the confidential information obtained by it under the guise of trusted confidant, as the basis to terminate his employment.

32. Mr. Ghomeshi was not aware, and at no point did the CBC give notice, that it was continuing to conduct an investigation into Mr. Ghomeshi's conduct or that the information disclosed to it would be used as the basis for his termination. Mr. Ghomeshi would not have shared information about his private life with the CBC, had he appreciated that the CBC would ultimately use the information provided to it to terminate his employment.

33. The CBC reached its own conclusions about the appropriateness of Mr. Ghomeshi's conduct, and specifically engaging in BDSM, and determined that the threat of possible negative public perception regarding such conduct was a sufficient basis for his termination.

34. The CBC's conduct was an egregious breach of Mr. Ghomeshi's confidence and, further, was done in bad faith on the part of the CBC.

#### **Defamation of Mr. Ghomeshi by the CBC**

35. As noted above, the CBC Statement was made on the day of Mr. Ghomeshi's termination and published by the Globe and Mail online on Sunday, October 26, 2014.

36. The CBC Statement is defamatory in that it is made about Mr. Ghomeshi, and it implies or creates the innuendo that Mr. Ghomeshi's termination was related to unacceptable conduct.

37. Further, given its relationship with Mr. Ghomeshi as his employer, the CBC Statement has created damaging speculation respecting Mr. Ghomeshi and has lowered Mr. Ghomeshi's reputation in the public.

#### **Damages Suffered by Mr. Ghomeshi**

38. As a result of the conduct of the CBC, Mr. Ghomeshi has suffered loss and damages including:

- (a) damages in relation to the breach of confidence and bad faith by the CBC relating to its egregious misuse of the highly sensitive and confidential information received by it from Mr. Ghomeshi;

- (b) defamation by the CBC, and loss to Mr. Ghomeshi's public and professional reputation, based on the CBC Statement made to the Globe and Mail, respecting the circumstances of Mr. Ghomeshi's termination; and
- (c) punitive, aggravated and exemplary damages in relation to the bad faith conduct of the CBC.

39. The conduct of the CBC has negatively impacted and will continue to impact Mr. Ghomeshi's public reputation and future employment and other opportunities.

40. The Plaintiff pleads and relies on the *Libel and Slander Act*, R.S.O 1990, c. L.12. The Plaintiff proposes that this action be tried in Toronto, Ontario.

October 27, 2014

DENTONS CANADA LLP  
Barristers and Solicitors  
400-77 King Street West  
Toronto ON M5K 0A1

Neil S. Rabinovitch  
LSUC No. 33442F

Tiffany D. Soucy  
LSUC No. 49436W

Telephone: 416-863-4656/4362

Facsimile: 416-863-4592

E-mail:

[neil.rabinovitch@dentons.com](mailto:neil.rabinovitch@dentons.com) /

[tiffany.soucy@dentons.com](mailto:tiffany.soucy@dentons.com)

Lawyers for the Plaintiff,  
Jian Ghomeshi





JIAN GHOMESHI and THE CANADIAN BROADCASTING CORPORATION  
Plaintiff and Defendant

ONTARIO  
SUPERIOR COURT OF JUSTICE

Proceeding commenced at  
TORONTO

STATEMENT OF CLAIM

DENTONS CANADA LLP  
400-77 King Street West, 11D Centre  
Toronto ON M5K 0A1

Neil Rabinovitch/ Tiffany Soucy  
neil.rabinovitch@dentons.com  
tiffany.soucy@dentons.com  
Tel: 416-863-4656/4362  
Fax: 416-863-4592

Lawyers for the Plaintiff,  
Jian Ghomeshi

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**JIAN GHOMESHI**

Plaintiff

and

**THE CANADIAN BROADCASTING CORPORATION**

Defendant

*ONTARIO*

**SUPERIOR COURT OF JUSTICE**

**PROCEEDING COMMENCED AT TORONTO**

**INFORMATION FOR COURT USE**

**DENTONS CANADA LLP**

400-77 King Street West, TD Centre  
Toronto, Ontario  
M5K 0A1

**Neil Rabinovitch/ Tiffany Soucy**

neil.rabinovitch@dentons.com

tiffany.soucy@dentons.com

Tel: (416) 863-4656/4362

Fax: (416) 863-4592

Lawyers for the Plaintiff, Jian Ghomeshi