Date : 2014 09 03
Docket : S-1-CV-2012 000088

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

WANDA McDONALD

Plaintiff

-and-

DIANE KOE, VICTOR STEWART, LAWRENCE NORBERT AND MARJORIE BAETZ

Defendants

MEMORANDUM OF JUDGMENT

[1] This is an application by the Defendant Marjorie Baetz for an order setting aside default judgment.

BACKGROUND

[2] This matter arises out of a defamation suit brought by the Plaintiff. The suit was based on a letter dated March 13, 2012, co-authored by the Defendants. The Defendants are all former employees of the Gwich'in Tribal Council (the "GTC"). The Plaintiff was Chief Operating Officer of the GTC when the letter was written. The letter contained a number of allegations about the Plaintiff's conduct in the workplace. Among other things, the Defendants stated that the Plaintiff was a bully, that she harassed and victimized GTC staff and subjected them to unwarranted and deliberate criticism, and that she poisoned the work environment.

[3] The Defendants sent the letter directly to eight individuals who were identified as presidents or councilors of related Gwich'in organizations. Copies were also sent to another twenty-four individuals,

including current and former GTC staff members, elders, the President of the Workers' Safety and Compensation Commission, the Director of Human Rights for the Northwest Territories, the federal Minister of Aboriginal Affairs and Northern Development and the Auditor General of Canada. The letter was transmitted by both ordinary and electronic mail.

[4] The Plaintiff filed a Statement of Claim seeking damages for defamation and related relief against the Defendants on July 17, 2012. It was served personally on each of the Defendants. Ms. Baetz was served on July 31, 2012. Ms. Baetz admits she was aware that she had twenty-five days from the date she was served with the Statement of Claim to file a Statement of Defence or Notice of Appearance.

[5] Within a few days of being served, Ms. Baetz initiated a conference call with the other Defendants at which time the Defendant Lawrence Norbert said he would take the lead in finding a lawyer to represent all of them. Ms. Baetz was confident that he would and, accordingly, she did not feel it was necessary to find a lawyer on her own.

[6] None of the Defendants filed Statements of Defence or Notices of Appearance. All four were noted in default on November 28, 2012. Ms. Baetz says she was not aware of having been noted in default at that time, although she became aware of it in when she was served on June 18, 2013 with the Plaintiff's application to enter default judgment, some two months before that application was heard, and several months before default judgment was ultimately entered.

[7] After she and the other Defendants were served with the Statement of Claim and decided to let Mr. Norbert take the lead in finding a lawyer, Ms. Baetz received emails from Mr. Norbert from time to time about his search. These were exhibited in her affidavit material in support of this application and include an email from Mr. Norbert on January 21, 2013 in which he reproduced correspondence from Mr. Tony Merchant of Merchant Law Group. Mr. Merchant asked for information about the state of the litigation and documents, but he confirmed the Merchant Law Group had not yet agreed to take on the case because there was no one at the firm who was licensed to practice in the Northwest Territories.

[8] Ms. Baetz received an email from Mr. Norbert on April 3, 2013 in which he reproduced correspondence from Mr. Merchant indicating the Merchant Law Group was prepared to "try" and represent the Defendants but that it would take some time for a member of the firm to become licensed to represent them in the Northwest Territories. In the same email, Mr. Norbert told the Defendants he had advised Mr. Merchant the four Defendants had yet to respond to the Statement of Claim. He also indicated he had told Mr. Merchant the Defendants wanted the place of trial to be Inuvik and he outlined the nature of the defence they wished to advance. Finally, he asked the other Defendants "So what do we tell Mr. Merchant?"

[9] Ms. Baetz admits that as of April 3, 2013 she was aware Mr. Norbert still had not retained a lawyer to represent the Defendants.

[10] The Plaintiff filed an application to obtain default judgment on June 10, 2013. The Notice of Motion and the Plaintiff's affidavit in support were served on all of the Defendants on June 18, 2013. The procedural grounds upon which the Plaintiff sought judgment were set out in the Notice of Motion and included a statement that the Defendants were noted in default on November 28, 2012.

[11] In cross-examination on her affidavit, Ms. Baetz confirmed she received the Notice of Motion and affidavit for the application to enter default judgment.

[12] The application for default judgment was scheduled for July 5, 2013. On July 3, 2013 Mr. Norbert, acting on behalf of all of the Defendants, contacted the Plaintiff's solicitor and asked for a 10-week adjournment. His correspondence to the Plaintiff's solicitor explained the Defendants were in discussions with the Merchant Law Group to act on their behalf and they required the adjournment to allow a member of that firm to become licensed to practice in the Northwest Territories.

[13] The Plaintiff's solicitor would not agree to a 10-week adjournment, but agreed to put the matter over for one week. In subsequent correspondence to Mr. Norbert, the Plaintiff's solicitor directed him to the Law Society of the Northwest Territories to obtain a list of lawyers qualified to practice here.

[14] Also on July 3, 2013, Mr. Norbert wrote to the Clerk of the Supreme Court of the Northwest Territories and advised that the Defendants had retained a member of the Merchant Law Group to represent them but that a 10-week

adjournment was required to allow him to become licensed. He attached a letter from the Merchant Law Group addressed to the Plaintiff's solicitor, to this effect.

[15] Mr. Norbert also says that in July of 2013 he drafted a Statement of Defence for himself and sent it to the other Defendants to use as a guide. He states he sent a copy of his Statement of Defence to the Manager of the Supreme Court by email, requesting it be filed and that he may have sent a letter to the Manager of Supreme Court by email on the same date. There is no Court record of either of these documents having been received.[1]

[16] The matter came before Smallwood, J. in Chambers the following week, on July 12, 2013. None of the Defendants appeared and no one appeared on their behalf. The application did not proceed on that day. Rather, Smallwood, J. directed the matter be set over to a Special Chambers hearing because of the time it was expected to take and also to provide the Defendants with a further opportunity to respond. *McDonald v Koe et al.* 2013 NWTSC 45 at para.7.

[17] There was consultation between Mr. Norbert and the Merchant Law Group following the July 12, 2013 appearance. Mr. Merchant followed up with a letter dated July 25, 2013, which Mr. Norbert distributed to Ms. Baetz and the other Defendants on July 26, 2013. Mr. Merchant stated the following in the letter:

> *Each of you needs to make an application to open up the noting for default*. The Court did not accept the statements of defence that you filed because *you had already been noted for default.* [Emphasis mine]
>
> This is a complicated application where I really think you need a lawyer.

[18] The Special Chambers hearing for default judgment was scheduled for August 21, 2013. On August 1, 2013, the Plaintiff's solicitor served each of the Defendants with a copy of the docket setting out the time and place of the hearing as well as a copy of the Plaintiff's pre-hearing brief. Ms. Baetz received these materials.

[1] Given the Defendants had been noted in default, however, the Clerk would have been unable to file Statements of Defence for any of the Defendants without leave of the Court.

[19] According to Ms. Baetz, Mr. Norbert contacted her by email in August of 2013 and indicated the Merchant Law Group required a $2000.00 retainer. She says she thought Mr. Norbert was still negotiating, but she knew he had not retained a lawyer. Ms. Baetz took no steps to retain counsel on her own.

[20] The application proceeded as scheduled on August 21, 2013. The Plaintiff appeared through counsel. Each of the Defendants was paged. None appeared.

[21] Judgment was reserved and subsequently rendered on October 28, 2013.

[22] Ms. Baetz became aware of the Judgment on November 1, 2013 through a radio news report. Her husband immediately contacted the law firm of Ahlstrom, Wright, Oliver and Cooper LLP. The firm was retained first to provide an opinion and then to bring this application to set aside the Judgment. The retainer was perfected by December 5, 2013. This application was filed on and was heard on July 8, 2014.

LEGAL FRAMEWORK

[23] This application is brought under Rule 171 of the *Rules of the Supreme Court of the Northwest Territories*, which provides as follows:

> 171. The Court may, on such terms as it considers just, set aside or vary a judgment entered on default of defence or pursuant to an order obtained *ex parte* or permit a defence to be filed by a party who has been noted in default.

[24] The decision is a discretionary one, and the overarching aim of the Court must be to do what is fair and just: *Don Reid Upholsterly Ltd. v Patrie*, (1995) CanLii 9147 (ABQB). In exercising its discretion, however, the Court is guided by the following considerations:

a. whether the Defendant has demonstrated there was an intention to defend the action;
b. the Defendant's excuse for allowing the matter to proceed by default;
c. whether the Defendant moved promptly to set aside the noting in default or default judgment; and
d. whether the Defendant has an arguable defence.

Bungay v Bungay, 2008 NWTSC 19 at para 4;
J.S.L. Mechanical Installations Ltd. v James et al., 1996 CanLii 3630 (NWTSC) at para 12

[25] These considerations apply to both applications to set aside a noting in default and, as here, applications to set aside default judgment; however, they are applied more stringently to the latter. The rationale was explained in *Bungay*:

> [5] Rule 171 speaks to both setting aside a noting in default and setting aside a judgment entered on default. Generally speaking, the same principles apply to both applications. But I think it can be fairly said that the application of those principles is more lenient when it comes to setting aside a noting in default as opposed to a default judgment. The noting in default is an automatic administrative act whereas there is still an exercise of discretion, whether by the clerk of the court or a judge, in signing judgment. Entering default judgment is a far more significant step than the mere noting in default, thereby justifying a more robust application of the principles in that instance.

[26] Delay will not by itself bar the application unless the Plaintiff will suffer irreparable harm or the delay has been willful: *Cook v Howling*, [1986] NWTR 108 (SC) at 110.

[27] Ms. Baetz also argues that the amount of the judgment in this case raises a genuine issue for trial. I will address this as a separate issue.

ANALYSIS

Did Ms. Baetz Intend to Defend the Action?

[28] Ms. Baetz has not demonstrated that she intended to defend the action.

[29] As noted, the Defendants decided that Mr. Norbert would take the lead in finding a lawyer to defend them within a few days of being served with the Statement of Claim and Notice to Defendants. There was a meeting followed by electronic communications in which the case was discussed and in which Mr. Norbert reported on his efforts to retain a lawyer. As time went on, however, it was clear Mr. Norbert's efforts were unsuccessful.

[30] Ms. Baetz knew this. She also knew she was in legal jeopardy and, specifically, that if she did not take steps to put her position before the Court, through a lawyer or personally, judgment could be entered against her.

[31] The nature of the legal jeopardy – and the need to take steps to deal with it - was brought to Ms. Baetz' attention once again when the Plaintiff filed and served her application to enter judgment. Following that, Ms. Baetz received more notice of the pending application. She had notice of the initial return date (July 5, 2013) and notice of date to which it was ultimately set (August 21, 2013). Further, she knew she had been noted in default and in his letter of July 25, 2013, Mr. Merchant told her and the other Defendants they had to take steps to set that aside. Through the Plaintiff's affidavit, she was made aware of the amount of the judgment the Plaintiff was seeking.

[32] Unfortunately, even in the face of all of these things, Ms. Baetz took no steps on her own to find a lawyer or otherwise protect her interests. She continued to delegate her responsibilities as a litigant to Mr. Norbert, despite it being plain and obvious, on any standard, that his efforts were not effective and that her legal interests remained unaddressed. She appears to have ignored the notices from the Plaintiff's counsel about the application to enter default judgment and Mr. Merchant's warning about the need to set aside the noting in default. This does not manifest an intention to defend the action or otherwise take steps to protect her legal interests. In my view, Ms. Baetz deliberately ignored what was going on in the suit or alternatively, was willfully blind to it.

Is there an Excuse for Letting the Matter Proceed by Default?

[33] As noted, Ms. Baetz says she relied on Mr. Norbert to find a lawyer and so she made no efforts on her own.

[34] Court proceedings are serious matters. Litigants have a responsibility to take steps to respond to and deal with actions they file or those brought against them. There are consequences for failing to do what is required under the *Rules* and the consequences are, frequently, spelled out plainly for litigants in court documents filed by other parties.

[35] It was obvious that Mr. Norbert had been unable to retain counsel. It was also obvious that Ms. Baetz and the other defendants were facing the possibility of judgment being entered against them. As noted, Ms. Baetz had several notices and opportunities to respond, but nevertheless did nothing to respond to the application. In the circumstances, relying on Mr. Norbert's unsuccessful efforts to find legal representation as an excuse for letting the matter go by default is not reasonable.

[36] Ms. Baetz also argues finding lawyers in the Northwest Territories is difficult because there is a small number of resident lawyers who often have conflicts and that further difficulties arise because the Law Society of the Northwest Territories is not a full signatory to mobility agreements that would make it easier for lawyers from other jurisdictions to take cases here.

[37] No evidence was tendered in support of the argument about lawyer mobility or what agreements the Law Society has or has not entered into on behalf of its members, and that is not something about which I may take judicial notice.

[38] With respect to the issue of conflict of interest amongst lawyers entitled to practice here, Ms. Baetz's evidence is that she did not contact any lawyers prior to learning of the judgment in November of 2013, so she would have no way of knowing if lawyers resident in the Northwest Territories would have had to decline her case for any reason. Moreover, what evidence there is militates against her argument: she was able to secure the services of her current lawyer very quickly after finding out about the default judgment.

[39] As for Mr. Norbert's experience in trying to retain counsel, his evidence is that he "attempted to contact two southern law firms, which took considerable time before Merchant Law Group agreed to look at the facts of the case". He makes no mention of any attempts to retain a lawyer licensed to practice in the Northwest Territories and there is no evidence of conflict of interest preventing lawyers from acting for the Defendants.

[40] During argument Ms. Baetz' counsel suggested that the Court ought to have heard the application for default judgment in Inuvik, the reasoning being if it had, there is a greater chance Ms. Baetz could have attended and made argument. There is no merit to this argument.

[41] It is for the parties to make their positions known to the Court, on both procedural and substantive matters, and to make the appropriate court applications. In this case, the Plaintiff set down the application for default judgment to be heard in Yellowknife. Ms. Baetz and the other Defendants were given notice of this on June 18, 2013. If Ms. Baetz wanted to have the application heard in Inuvik, it was up to her to make that request of the Court. She did not.

[42] Rule 389 of the *Rules of the Supreme Court of the Northwest Territories* provides for applications to be made by telephone. If Ms. Baetz wished to appear from Inuvik by telephone, it was up to her to make that application. She did not.

[43] Ms. Baetz has not demonstrated she has a reasonable excuse for allowing the matter to proceed by default.

Did Ms. Baetz Act Promptly to Set Aside the Default Judgment?

[44] It is true that once she learned of the judgment in November of 2013, Ms. Baetz acted quickly to find a lawyer to bring this application. Her husband contacted her solicitor's firm within a day of finding out about the judgment and approximately two weeks later the firm was retained to provide an opinion. The firm was retained to bring this application approximately one month after Ms. Baetz learned of the judgment.

[45] Because of the anticipated length of the hearing for the application, counsel sought a special chambers date. It appears from the correspondence to the Clerk in early February that the lawyers were limited to dates in either April or July when both would be available to argue the matter. The matter was set for July which was, presumably, the first available court date. In all, there was approximately eight months between the time when the judgment was entered and this application was heard.

[46] If the time between when she learned of the default judgment and when this application was scheduled was the only delay, it might be reasonable to conclude Ms. Baetz acted promptly in moving to set aside the default judgment. This portion of the overall delay was largely a matter of

scheduling, something often outside a party's control. This is not, however, the only time period the Court must take into account in these circumstances.

[47] The Court must also consider Ms. Baetz' inaction from the time she was noted in default to when she learned the judgment was entered. When that is considered, it becomes apparent that she did not act promptly.

[48] Ms. Baetz had an abundance of notice about the growing legal jeopardy and she had a number of opportunities to take steps to protect herself – including taking steps to set aside the noting in default - prior to learning of the judgment in November of 2013. Specifically, she had notice of the Plaintiff's intention to apply for default judgment on June 18, 2013. She had notice of the date for which the matter was ultimately scheduled. Mr. Merchant told the Defendants they had been noted in default in his letter of July 25, 2013 and emphasized it was important to deal with this. Nevertheless, Ms. Baetz did took no steps to set aside the noting in default until after she learned the Plaintiff had taken the next step and obtained the actual judgment.

[49] Considering all of the circumstances, I find Ms. Baetz did not act promptly to set aside the default judgment.

Is there an Arguable Defence?

[50] Attached as an exhibit to Ms. Baetz' affidavit is the draft Statement of Defence she intends to file should this application be granted. In it, she advances, in very general terms and without particulars, the defences of justification, fair comment and qualified privilege. She has provided some evidence in support of these defences in her affidavit.

[51] An applicant need not prove the defence will ultimately succeed, but must demonstrate that there is a genuine issue for trial: *Southwest Territorial Business Development Corporation Ltd. v Robertson,* (1995) NWTSC (unreported) at para 20; *Duval v Pickering,* [2002] NWTJ No. 40 (SC) at para 7. This necessarily requires an applicant to show the nature of the defence and present affidavit evidence sufficient to allow the Court to determine if "there was matter which would afford a defence to the action": *Cook v Howling, supra,* at 110.

[52] For reasons set out below, I find Ms. Baetz has not established that any of the defences put forward give rise to a genuine issue for trial.

i. The Defence of Justification

[53] Justification, also referred to as truth, is a complete defence to defamation. It is an affirmative defence and therefore it is up to a defendant to prove that the words are true on a balance of probabilities.

[54] Ms. Baetz provided some evidence in support of this defence in paragraphs 2 through 5 of her affidavit, but it falls short of demonstrating there is any realistic possibility that this defence raises a genuine issue for trial.

[55] In summary, Ms. Baetz says she started working under the Plaintiff's supervision as an assistant in 2009. The Plaintiff made certain comments to her during an Annual General Assembly held that year, which Ms. Baetz found unprofessional and which made her feel embarrassed and ashamed. Ms. Baetz goes on to say the Plaintiff continued to make comments to her following the Assembly, both privately and in front of others, which made her feel threatened and by reason of which she ultimately left her position.

[56] A further concern Ms. Baetz had was what was on her Record of Employment. When she received it following her departure from the GTC, she discovered it reflected she had been dismissed from her position, rather than leaving voluntarily.

[57] The nature of the Plaintiff's conduct as described in the letter is quite different than what is contained in Ms. Baetz' affidavit. The affidavit describes conduct directed at Ms. Baetz, which she found objectionable. The letter, by contrast, describes conduct that is far more serious and which was allegedly directed to a broad range of people. In the letter the Defendants describe on ongoing pattern of bullying, harassment, victimization and unjustified criticism, directed at current and former employees, the aim of which was to make them submissive. There is also a description of the circumstances under which one employee, unidentified in the letter, was terminated from his or her position in a summary and humiliating manner. The letter says nothing about Ms. Baetz' Record of

Employment.[2] In fact, the letter does not describe any specific conduct by the Plaintiff towards Ms. Baetz.

[58] What is set out in Ms. Baetz affidavit is insufficient to demonstrate she has a meritorious defence of justification.

ii. Qualified Privilege

[59] Qualified privilege is available as a defence where the person who makes the communication has an interest, or duty - legal, social, or moral - to communicate it to the person to whom it is made, and the person to whom it is so made has a corresponding interest or duty to receive it. It attaches to the occasion on which it is made. *Hill v Church of Scientology of Toronto*, [1995] 2 SCR 1130, 126 DLR (4th) 129 (S.C.C.) at para 143.

[60] Reciprocity is at the heart of the defence of qualified privilege. "The circumstances must be such as to create a special relationship between the defendant and those to whom he or she communicates the statement, which relationship does not exist between the person to whom the statement is made and the other members of the community." *Bureau v Campbell* (1928), 23 Sask LR at 104 (CA); 1928 CarswellSask 83, para 65; aff'd [1928] SCR 576.

[61] In addition to the addressees, the letter was copied to twenty-four other individuals, specifically: three chairpersons of various Gwich'in elder's committees, four former staff members (including a former summer student), seven individuals who worked for the GTC at the time the letter was circulated, a former president of the GTC, an elder, the Chair of the Izhii K'aiik'it Tat Gwich'in in Yellowknife, a representative of the Yukon Gwich'in Participants in Whitehorse, the President of the Workers' Safety and Compensation Commission of the Northwest Territories and Nunavut, the Northwest Territories Director of Human Rights, the Registrar of Appeals for Employment Standards in the Northwest Territories, the federal Minister of Aboriginal Affairs and Northern Development, the federal

[2] That complaint is instead contained in a separate letter written to the then president of the GTC by Ms. Baetz' husband, which is attached as an exhibit to her affidavit.

Auditor General and a Regional Vice-President of the Union of the Northern Workers.

[62] The interest that any of the individuals to whom the letter was directly addressed as well as those to whom it was copied would have had in receiving the information is not at all apparent and Ms. Baetz has offered no explanation as to what their respective interest would be. In the absence of that explanation, there is nothing to connect them to Ms. Baetz' relationship with the Plaintiff and the letter, on its face, exceeds the privilege. Accordingly, I find Ms. Baetz has not established that the defence of qualified privilege creates a genuine issue for trial.

iii. Fair Comment

[63] There are several components to the defence of fair comment, one of which is that the matter be one of "public interest". *WIC Radio Ltd. v Simpson*, 2008 SCC 40; [2008] 2 SCR 420 at para 1; *Cherneskey v Armadale Publishers Ltd*., [1979] 1 SCR 1067 at 1099-1100.

[64] There is no definitive list of things that constitute "public interest", but a key element of those things that do is that they are of interest to the public generally. This was discussed by McLaughlin, C.J., in *Grant v Torstar Corp*., 2009 SCC 61, [2009] 3 SCR 640:

> [105] To be of public interest, the subject matter "must be shown to be one inviting public attention, or about which the public has some substantial concern because it affects the welfare of citizens, or one to which considerable public notoriety or controversy has attached": Brown, vol. 2, at pp. 15-137 and 15-138. The case law on fair comment "is replete with successful fair comment defences on matters ranging from politics to restaurant and book reviews": *Simpson v. Mair*, 2004 BCSC 754, 31 B.C.L.R. (4th) 285, at para. 63, *per* Koenigsberg J. Public interest may be a function of the prominence of the person referred to in the communication, but mere curiosity or prurient interest is not enough. Some segment of the public must have a genuine stake in knowing about the matter published.

[65] The comments in the letter are, by definition, not matters of public interest. Ms. Baetz' evidence about why she participated in writing the letter relates solely to her status as a former employee of the GTC and her interactions

with the Plaintiff as her supervisor. It pertained to her employment contract. That is an occasion of personal and private interest which does not engage the interest of the public at large. Accordingly, I find there is no air of reality to this defence.

Do the Amount of the Judgment and the Nature of the Damages Raise a Genuine Issue for Trial?

[66] Ms. Baetz contests the quantum and nature of damages awarded in this case and argues they are issues which should lead the Court to set aside the default judgment.

[67] I reject the proposition that the quantum and nature of damages is a basis for setting aside a default judgment. It may form the basis of an appeal, but that is a different process with different considerations. In any event, I find Ms. Baetz' specific arguments on this issue are without merit.

[68] Ms. Baetz argues (1) that the letter was not prepared with malice and thus punitive damages are unwarranted; (2) that determination of malice requires the Court to hear *viva voce* evidence so it can assess credibility; and (3) that the amount awarded is inconsistent with other defamation awards from this Court.

[69] The first two arguments are based on the mistaken premise that aggravated or punitive damages were awarded. Only general and specified damages were awarded, however. Thus, the issue of malice is irrelevant as it relates to these two heads of damage.

[70] With respect to the quantum of damages being greater than those awarded in other cases from this Court, each defamation case is different and will necessarily attract different amounts of damages. This was noted by Cory, J. in *Hill*, at para 187:

> . . .The assessment of damages in a libel case flows from a particular confluence of the following elements: the nature and circumstances of the publication of the libel, the nature and position of the victim of the libel, the possible effects of the libel statement upon the life of the plaintiff, and the actions and motivations of the defendants. It follows that there is little to be gained from a detailed comparison of libel awards.

Would there be Prejudice to the Plaintiff if the Judgment was Set Aside?

[71] At the hearing it was argued that setting aside the judgment would not result in irreparable harm or prejudice to the Plaintiff. Given my finding that Ms. Baetz acted deliberately in neither defending the action, nor responding to the application to enter default judgment, this is not a relevant consideration in deciding if the judgment should be set aside.

CONCLUSION

[72] Ms. Baetz has not demonstrated it would be fair and just to set aside the default judgment. Accordingly, her application is dismissed.

[73] The Plaintiff is entitled to costs on a party-and-party basis.

K. Shaner
J.S.C.

Dated in Yellowknife, NT this
3rd day of September, 2014

Counsel for the Plaintiff: K. Colleen Verville
Counsel for the Respondent: Steven L. Cooper

S 1 CR 2012 000098

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BETWEEN:

WANDA McDONALD

Plaintiff

-and-

DIANE KOE, VICTOR STEWART, LAWRENCE NORBERT AND MARJORIE BAETZ

Defendants

MEMORANDUM OF JUDGMENT OF
THE HONOURABLE JUSTICE K. SHANER
