

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION

PLAINTIFF

AND:

SHARYN SIGURDUR, KELSEY SIGURDUR,  
JOHN DOE AND JANE DOE, carrying on business under the firm name and style of  
MEMBERS FOR DEMOCRACY, AND THE SAID MEMBERS FOR DEMOCRACY

DEFENDANTS

**STATEMENT OF DEFENCE**

1. Save and except as may be expressly admitted herein, the Defendant Kelsey Sigurdur denies each and every allegation set out in the Statement of Claim herein and put the Plaintiff to strict proof thereof.
2. In answer to the allegations of fact set out in Paragraph 1 of the Statement of Claim, the Defendant Kelsey Sigurdur disputes that United Food And Commercial Workers' International Union (UFCW International) is a trade union as defined by the *British Columbia Labour Code*. That code defines a trade union as follows:  
  
**"trade union"** means a local or Provincial organization or association of employees, or a local or Provincial branch of a national or international organization or association of employees in British Columbia, that has as one of its purposes the regulation in British Columbia of relations between employers and employees through collective bargaining, and includes an association or council of trade unions, but not an organization or association of employees that is dominated or influenced by an employer;
3. Further in answer to the allegations of fact set out in Paragraph 1 of the Statement of Claim, the Defendant Kelsey Sigurdur claims that the United Food And Commercial Workers' International Union Canada (UFCW Canada), a body chartered to and affiliated with the UFCW International, rather than the UFCW International has as its registered office 61 International Boulevard, Suite 300, Rexdale Ontario and the UFCW.

4. Further in answer to the allegations of fact set out in Paragraph 1 of the Statement of Claim, the Defendant Kelsey Sigurdur asserts that both UFCW Canada and UFCW International may be a unions within the province of Ontario where that province provides that a “trade union includes a provincial, national or international organization as well as a certified council of trade unions.”

5. Further, in answer to the allegations of fact set out in Paragraph 1 of the Statement of Claim, the Defendant Kelsey Sigurdur claims that the UFCW International’s ordinary place of business is 1775 K Street N.W., Washington D.C. The Constitution of the United Food and Commercial Workers International Unions stipulates in Article 1:

Name and Headquarters

(A) This International Union shall be known as the United Food and Commercial Workers International Union and shall be comprised of all persons who are members and consist of an unlimited number of Local Unions and other chartered bodies, all of which shall bear the name United Food and Commercial Workers or Travailleurs et Travailleuses Unis de l'Alimentation et du Commerce and shall be subject to this Constitution and any laws enacted pursuant to it. The International Union shall not be dissolved while there are three dissenting Local Unions.

(B) The International Headquarters of the United Food and Commercial Workers International Union shall be located in the metropolitan Washington, D.C. area unless otherwise determined by the International Executive Board.

3. In answer to the allegations of fact set out in Paragraph 3 of the Statement of Claim, the Defendant Kelsey Sigurdur disputes that he is a businessman inasmuch as he denies that he is a person engaged in a commercial or industrial business.

4. In answer to the allegations of fact set out in Paragraph 5 of the Statement of Claim, the Defendant Kelsey Sigurdur disputes that he carries on business under the firm name and style of the Defendant Members for Democracy (“MFD”)

5. In answer to the allegations of fact set out in Paragraph 6 of the Statement of Claim, the Defendant disputes that the Plaintiff UFCW International carries on business throughout the United States of America, and in particular in the Province of British Columbia. The defendant Kelsey Sigurdur claims that while the UFCW International has chartered and affiliated organizations known as Local Unions registered in Canada and in particular British Columbia, the UFCW International does not carry on business in the Province of British Columbia.

6. In answer to the allegations of fact set out in Paragraph 7 of the Statement of Claim, the Defendant Kelsey Sigurdur admits that the Plaintiff UFCW International has

approximately 738 affiliated local unions throughout North America, which represent approximately 1,400,000 workers. However, the Defendant Kelsey Sigurdur disputes the Plaintiff's list of local unions, which it claims are certified to represent workers in BC. The Defendant Kelsey Sigurdur claims that UFCW locals, 1518, 247, 120-8 and 190G are certified to represent workers in the Province of British Columbia.

7. In answer to the allegations of fact set out in Paragraph 8 of the Statement of Claim, the Defendant Kelsey Sigurdur disputes that the UFCW International both directly and through its affiliated locals, provides numerous services and benefits to its members, listed (a), (b) and (c) in the Plaintiff's Statement of Claim. The Defendant Kelsey Sigurdur claims that in Canada, UFCW Canada rather than the Plaintiff UFCW International and local unions affiliated with the Plaintiff UFCW International provide said numerous services and benefits to UFCW local union members in Canada.

8. The Defendant Kelsey Sigurdur admits the allegations set out in Paragraph 9 of the Statement of Claim.

9. The Defendant Kelsey Sigurdur admits the allegations set out in Paragraph 10 of the Statement of Claim.

10. The Defendant Kelsey Sigurdur admits the allegations set out in Paragraph 11 of the Statement of Claim excepting that the Defendant acknowledges that in addition the Plaintiff also utilizes, among others, the following URLs:

- (a) [www.ufcwsucks.org](http://www.ufcwsucks.org)
- (b) [www.ufcwsucks.com](http://www.ufcwsucks.com)
- (c) [www.walmartyrs.com](http://www.walmartyrs.com)
- (d) [www.walmartwatch.org](http://www.walmartwatch.org)

11. The Defendant Kelsey Sigurdur admits the allegations set out in Paragraph 12 of the Statement of Claim.

12. The Defendant Kelsey Sigurdur denies the allegations of fact set out in Paragraph 13 of the Statement of Claim. The Defendant Kelsey Sigurdur denies that [www.ufcw.net](http://www.ufcw.net) began operations in November 1999, as alleged by the Plaintiff. The Defendant Kelsey Sigurdur admits that [www.ufcw.net](http://www.ufcw.net) began operations in March 2000. The Defendant Kelsey Sigurdur denies that the META Tags for [www.ufcw.net](http://www.ufcw.net) have ever contained the phrase "UFCW Local 1518 Members for Democracy" as is alleged by the Plaintiff. The Defendant Kelsey Sigurdur admits that the META Tags for [www.ufcw.net](http://www.ufcw.net) have at all material times, contained the following "keywords":

CONTENT="UFCW,MFD,Democracy,activism,1518,Local,Overwaitea,Save-On , IGA,Union,777,Safeway,Members,Collective Agreement, IWA,Contract,Negotiations,Grass,Roots,Reform,Issues,News,Collective Bargaining,Labour,Labor,United Food & Commercial Workers Union,Canada,Organizing,Contracts,Pension,IGA,Job Security,Labor movement,Health Care,Social Justice,Women's Equality,Strike,Lock-Out,Retail

Clerks,Membership,Corporate Greed,Wages,Union Shop,Workers  
Rights,Benefits,WCB,Sexual Harassment,Legal  
Assistance,Counselling,Business Agents,Shop  
Steward,Arbitration,Grievances,Education,"

The MFD web site META tags contain a variety of keywords of which "UFCW" is but one. The acronym of at least one other union is included in the META TAG. The Defendant Kelsey Sigurdur further states that Meta tags are not indicative of the affiliation of a web site and are not understood in law or otherwise to be such.

13. The Defendant Kelsey Sigurdur denies the allegations of fact set out in Paragraph 14 of the Statement of Claim, inasmuch as the Defendant Kelsey Sigurdur denies that the META Tags for [www.ufcw.net](http://www.ufcw.net) have ever contained the phrase "UFCW Local 1518 Members for Democracy" as is alleged by the Plaintiff. Furthermore, the Defendant Kelsey Sigurdur asserts that in July 2001 the web site at [www.ufcw.net](http://www.ufcw.net) adopted a broader and more expansive focus. References to the UFCW and Local 1518 were removed to reflect this. The acronym "UFCW" now appears in the URL only. The current web site at [www.ufcw.net](http://www.ufcw.net) is now titled simply "Members for Democracy" (MFD).

14. The Defendant Kelsey Sigurdur admits the allegations set out in Paragraph 15 of the Statement of Claim.

15. The Defendant Kelsey Sigurdur admits the allegations set out in Paragraph 16 of the Statement of Claim excepting as follows. The Defendant Kelsey Sigurdur asserts that the Plaintiff and its Agent Attorney Nick Clark of Washington DC have engaged in negotiations with the Defendant Kelsey Sigurdur regarding the transfer of ownership for the URL [www.ufcw.net](http://www.ufcw.net) from the Defendant Kelsey Sigurdur to the Plaintiff.

16. The Defendant Kelsey Sigurdur admits that he has not obtained the consent or authorization of the UFCW, or any local of the UFCW, to use the UFCW's name or acronym in connection with the MFD Web site. It is the Defendant Kelsey Sigurdur's position that such consent or authorization is unnecessary. Similarly, The Defendant Kelsey Sigurdur has not sought the Plaintiff's permission for the use of the acronym UFCW in it URL as is the Defendant Kelsey Sigurdur's position that such permission is unnecessary.

17. The Defendant Kelsey Sigurdur maintains that he is the registered owner of the URL [ufcw.net](http://www.ufcw.net) and as such is entitled to use it for such purposes as he sees fit provided only that they are not activities prohibited by law. The Defendant Kelsey Sigurdur's motivation in retaining the URL [www.ufcw.net](http://www.ufcw.net) flows from the origins of the web site in a protest movement within a UFCW local union. Further, he maintains that the use of an organization's name or acronym in the URL of a web site that takes issue with its activities is not uncommon. The Plaintiff itself engages in this practice in a number of web sites, which it operates to protest the actions of certain other organizations (i.e., [www.walmartyrs.com](http://www.walmartyrs.com), [www.walmartyrs.net](http://www.walmartyrs.net), [www.walmartyrs.org](http://www.walmartyrs.org), URLs for a site

concerned solely with the criticism of Wal-Mart, an employer which is an organizing target for the Plaintiff.

18. The Defendant Kelsey Sigurdur claims that the Plaintiff has not filed any complaint pursuant to the UFCW Constitution and have not availed themselves of the Dispute Resolution provisions of Internet URL registration regulatory agencies in either Canada or the U.S.

19. The Defendant Kelsey Sigurdur denies the allegations of fact set out in Paragraph 17 of the Statement of Claim. The Defendant Kelsey Sigurdur asserts that the MFD Website is pro-union, pro-democracy in its content and purpose. The Defendant Kelsey Sigurdur admits that the MFD Website contains content critical of union officials from a variety of unions who are viewed as participants in undemocratic or corrupt practices and activities. For example, the MFD Website has criticized union officials found guilty in the courts for activities such as embezzlement or sexual assault.

20. The Defendant Kelsey Sigurdur denies the allegations of fact set out in Paragraph 18 of the Statement of Claim.

21. The Defendant Kelsey Sigurdur admits the allegations set out in Paragraph 19 of the Statement of Claim.

22. The Defendant Kelsey Sigurdur denies the allegations of fact set out in Paragraph 20 of the Statement of Claim excepting that the URL for the MFD Website remains [www.ufcw.net](http://www.ufcw.net). The Defendant Kelsey Sigurdur asserts that he responded in writing to the August 1, 2002 letter mentioned in Paragraph 19 of the Statement of Claim as follows:

August 7, 2001

Walsh & Company  
Barristers  
1000 – 885 West Georgia Street,  
Vancouver, British Columbia  
V6C 3E8

Attention: Robert W. Taylor

**Without Prejudice**

Dear Sirs:

Your letter of August 1, 2001 addressed to Sharyn Sigurdur has been forwarded to me for reply. Take note that I am the administrator of the Web pages located at [www.ufcw.net](http://www.ufcw.net) (a fact of which your clients have been

aware for some two years now) and, in addition, I am also the registered owner of the trademark "ufcw.net".

Firstly, be advised that I am unable to meet your arbitrary deadline of August 7, 2001 for a response. I received your letter on August 4, (through Ms. Sigurdur) and given the nature and complexity of the issues you have raised, I cannot reasonably formulate a thorough and complete response over a weekend. I will, however, respond fully in due course.

In addition, so that I am able to respond fully, I will need particulars and clarification with respect to a number of matters raised in your August 1, 2001 letter.

You advise that Walsh and Company acts on behalf of the United Food and Commercial Workers International Union. As issues regarding the "ufcw.net" trademark and [www.ufcw.net](http://www.ufcw.net) domain address have been the subject of negotiations with UFCW attorney Nick Clark for several months and up to the present and that I have had no indication from Mr. Clark that he has withdrawn from this matter, I am somewhat confused by your sudden appearance in connection with this issue. This is especially so as the position that you appear to be taking is somewhat contradictory to that which has been conveyed on behalf of your client by Mr. Clark. I request confirmation that Attorney Clark has withdrawn from this case, including issues relating to the sale and transfer of the aforementioned trademark and domain address. Likewise, I require confirmation of the status of any offers made by Mr. Clark in regard to the trademark and domain address issues.

In the fifth paragraph of your August 1, 2001 letter, you appear to speak on behalf of the law firm Farris Vaughn Wills and Murphy. You claim that representatives of UFCW locals, including Locals 777, 2000 and 1518 are disturbed by the MFD Web site's "misuse" of the name United Food and Commercial Workers Union and its well-known acronym UFCW. Your blending of client protests confuses the issues at hand. If Farris Vaughn Wills and Murphy's clients are indeed "disturbed" would it not be more appropriate for that law firm to speak on behalf of its own clients? Furthermore, I would suggest that your clients and Mr. Macintosh's clients are no more disturbed than Wal-Mart Corporation is about the UFCW-owned domain addresses [www.walmartyrs.org](http://www.walmartyrs.org) or [www.walmartyrs.com](http://www.walmartyrs.com) or <http://www.walmartyrs.net>. If I am incorrect in this assumption, I would ask that you respond to the following question: In the event that the Wal-Mart Corporation demanded that the UFCW relinquish its ownership of these domains, cease its use of the term "WAL-MARTyrs" and cease any publication of materials critical of the Wal-Mart Corporation, would the UFCW immediately comply with such request? Why or why not?

You allege that statements by Mr. Finnamore made on a February 11, 2001 Peter Warren radio show are a prime example of defamation of your client. You will have to be more specific as to exactly which of his words or phrases have defamed your client (over six months ago). Further, I request that you advise me if you have protested to Corus Entertainment Inc., CKNW, or Peter Warren about the Finnamore interview which you state defamed your clients over six months ago? Further, please advise whether you have protested to Workplace Strategies Inc. in regard to Mr. Finnamore's words of six months ago? I would hope that you haven't singled out a small group of union reformers to bully, while leaving those with greater resources in peace. Furthermore, it is presumptuous to assume that just because you and your clients can't access materials on the MFD site that such materials are "no longer on the site."

In the 10th paragraph of your letter, you again speak on behalf of the law firm Farris Vaughn Wills and Murphy inasmuch as you write "on behalf of our client, the UFCW, and Mr. Macintosh's clients, and specifically Locals 777, 2000 and 1518...." Again, the matter is confused because your statement seems to imply that the law firm Farris Vaughn Wills and Murphy may have more clients than Locals 777, 2000 and 1518 relating to the matters which you have outlined in your August 1, 2001 letter. If there are more clients, I request that they be identified along with any specific protests that they have in regard to the [www.ufcw.net](http://www.ufcw.net) site.

As well, I understand that UFCW Local 777 has retained the services of Edgar & Shore, Barristers & Solicitors to deal with matters similar to what you claim Farris Vaughn Wills and Murphy is retained to pursue. Likewise, your protests are similar to those put forth in a threatening letter written by Victory Square Law Office, which claims to represent your client as well, in May of this year. Evans Law Firm, claiming to represent your clients sent letters to this effect as well, in the fall of last year. The numbers of Barristers, Solicitors and Attorneys employed by the UFCW to threaten legal action against union activists who oppose wasteful and corrupt practices is beginning to take on the specter of a SLAP lawsuit, a legal maneuver to intimidate and silence free speech.

Certainly, one could easily come to this conclusion considering that your blanket instructions, if followed, would infringe on rights provided under the Charter of Rights and Freedoms, available to all Canadians. Your instructions would have the effect of prohibiting any person or organization from publishing any material whatsoever containing "United Food and Commercial Workers International Union" or UFCW in the text. Your instructions and threats of legal action are, in my view, an attempt to infringe upon my right to Freedom of Expression as provided under the Charter.

In order to give full consideration to your client's concerns, I will need detailed particulars of how the words and phrases contained in material published at [www.ufcw.net](http://www.ufcw.net), which when taken in their ordinary sense, would defame your client. Likewise, I request that Farris Vaughn Wills and Murphy detail their protests, if indeed they have any to make, as well. Your prompt response to these questions would be appreciated. I stress that your letter is quite confusing and that answers to these questions are essential to my preparing a full and complete reply.

Sincerely,

Kelsey Sigurdur

Cc: Corus Entertainment  
Peter Warren  
CKNW  
Workplace Strategies Inc.  
BC Civil Liberties Association  
Farris Vaughn Wills and Murphy  
Douglas Dority  
Canadian Labour Congress

23. The Defendant Kelsey Sigurdur denies the allegations of fact set out in Paragraph 21 of the Statement of Claim, inasmuch as the Defendant denies that the use of the URL [www.ufcw.net](http://www.ufcw.net) is calculated to cause and is likely to cause confusion between the MFD Web site and the web sites operated by the UFCW and its affiliated locals and that the Defendant is passing off on the goodwill of the UFCW and its affiliated locals, and is passing off the MFD Web site as and for a web site operated by the UFCW and its affiliated locals.

24. The Defendant Kelsey Sigurdur claims that the MFD web site could not reasonably be confused with official web sites of the UFCW. The MFD web site bears no resemblance to any official UFCW site in appearance, content or concept. There is nothing in the appearance, content or concept of the MFD site that could reasonably be construed as an attempt by the Defendant to imitate an official UFCW web site or to imply that the MFD web site is affiliated with or approved by the UFCW International union.



25. Further, the Defendant Kelsey Sigurdur denies any allegation that he has acted in bad faith in his use of the URL [www.ufcw.net](http://www.ufcw.net). The Defendant has not registered the domain for purposes of selling or transferring it to the Plaintiff or to a competitor of the Plaintiff. The Defendant Kelsey Sigurdur has not registered the domain to prevent the complainant from doing so. The Defendant Kelsey Sigurdur claims that he has not registered the domain primarily for the purpose of gaining a competitive advantage over the Plaintiff. The Defendant Kelsey Sigurdur and the Plaintiff are not engaged in competing commercial enterprise, therefore, the Defendant Kelsey Sigurdur claims that there is no “goodwill” to pass off.

26. The Defendant Kelsey Sigurdur denies the allegations of fact set out in Paragraph 22 of the Statement of Claim.

WHEREFORE THE DEFENDANT SUBMITS that the Plaintiff’s claims be dismissed with costs.

DATED at the City of Vancouver, in the Province of British Columbia, the 27<sup>th</sup> day of August, 2001

---

Kelsey Sigurdur, Defendant

THIS STATEMENT OF DEFENCE is filed by Kelsey Sigurdur

No. S021009  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

UNITED FOOD AND COMMERCIAL WORKERS  
INTERNATIONAL UNION

PLAINTIFF

AND:

KELSEY SIGURDUR

DEFENDANT

---

**STATEMENT OF DEFENCE**

---