

Media Statement on behalf of Richard Johnson, Bill Hogg & Elizabeth Bishenden

October 15, 2010

Richard Johnson, Bill Hogg, and Elizabeth Bishenden have filed a motion today before the Ontario Superior Court of Justice that seeks a dismissal of a \$6,000,000 lawsuit filed against them by Phyllis Morris, in her capacity as Mayor of the Town of Aurora. The lawsuit names Mr. Johnson, Mr. Hogg and Ms. Bishenden as defendants.

Mr. Hogg is a former Councillor of the Town of Aurora. Neither Mr. Johnson nor Ms Bishenden has ever held elected office. None of the three are running in the 2010 Municipal Election.

Also listed as defendants are three un-named bloggers, who allegedly defamed the Mayor in comments posted on the Aurora Citizen blog (www.AuroraCitizen.ca) between August 24, 2010 and October 2, 2010. Mr. Johnson, Mr. Hogg and Ms. Bishenden are not alleged to be the authors of the defamatory posts, but instead are alleged moderators of the blog with the ability to "publish, republish, encourage or delete [the] postings." The specific comments that allegedly defame the Mayor have not been particularized. Mr. Johnson, Mr. Hogg and Ms. Bishenden have retained Jordan Goldblatt of Sack Goldblatt Mitchell LLP to respond to the lawsuit, which was served over Thanksgiving weekend.

The dismissal motion argues that comments about government are entitled to constitutional protection under the Charter of Rights and Freedoms. A government (such as the Aurora Town Council or its Mayor) is not permitted to sue citizens for defamation. As the Ontario Superior Court of Justice has previously held, "everyone has a right to her opinion, whether sound or ill-advised, moderate or extreme, well-documented, or utterly baseless. And everyone has a right to voice her opinion, whether orally or in writing."

Town Council approved a motion at 1:11am the morning of September 15, 2010 which led to the litigation being commenced. Council confirmed a direction from a Closed Session regarding "a potential defamation action", and the Town Solicitor was directed to retain external legal counsel "to bring resolution to this matter". The \$6,000,000 lawsuit was the only action taken against Mr. Johnson, Mr. Hogg, and Ms. Bishenden.

At the September 28, 2010 Council meeting, one Councillor, Bob McRoberts, disavowed his approval of the motion. On RogersTV First Local News on October 14, 2010, Councillor McRoberts was quoted as saying, "*The arguments presented by town staff and council members didn't match my understanding of the Municipal Act. I do not agree with the rationale provided. I do not agree that the matter is a matter for Council.*"

Mr. Johnson, Mr. Hogg and Ms. Bishenden view the lawsuit as a tactic to silence critics of the Government in what is generally referred to as a **Strategic Litigation Against Public Participation (SLAPP)**. A SLAPP is a lawsuit that is intended to censor, intimidate and silence critics by burdening them with the cost of a legal defence until they abandon their criticism or opposition. A SLAPP also acts as a warning to other potential critics. The effect of SLAPP suits is to discourage public debate.

The Ontario Courts have commented that litigation by the government which stifles its critics cannot be permitted: “The government may not imprison, or fine, or sue, those who criticize it. The government may respond. This is fundamental. Litigation is a form of force, and the government must not silence its critics by force.”

SLAPPs are currently under review by Ontario Ministry of the Attorney General in the form of an Anti-SLAPP Advisory Panel (http://www.attorneygeneral.jus.gov.on.ca/english/anti_slapp/)

No date has yet been set for the hearing of the motion.

Requests for further information should be made to either:

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Bill Hogg at 905-841-3191 (bill@billhogg.ca)