

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

SHEIK FAISAL RAZAK

Plaintiff

and

SUN MEDIA CORP. also known as SUNCORP
also known as THE TORONTO SUN and SIMON KENT

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

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 I SB 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.

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.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$5,000 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court.

If you believe the amount claimed for costs is excessive, you may pay the plaintiffs claim and \$400.00 for costs and have the costs assessed by the court.

Date: **November 28, 2013**

Issued by _____

Local registrar

Address of court office: 7755 Hurontario Street
Brampton, Ontario
L6W 4T6.

TO: SUN MEDIA CORP. Also Known as SUNCORP also known as THE TORONTO SUN

Sun Media Corp.,
333 King Street East,
Toronto, Ontario
M5A 3X5

AND TO: SIMON KENT

C/O: Sun Media Corp.,
333 King Street East,
Toronto, Ontario
M5A 3X5

CLAIM

1. The Plaintiff claims against the Defendants:
 - i. Damages for intentional and or negligent infliction of mental suffering, and defamation in the amount of \$500,000.00;
 - ii. Special damages in an amount to be determined with particulars provided prior to trial;
 - iii. Punitive, exemplary and or aggravated damages in the amount of \$500,000.00;
 - iv. Costs of this action on a substantial indemnity basis; and
 - v. Such further and other relief as this Honourable Court deems just.

THE PARTIES

2. The plaintiff Sheik Faisal Razak, (hereinafter, “Sheik Faisal”), is an individual.
3. The defendant, Sun Media Corp is also known as Suncorp and is also known as The Toronto Sun (Herein Referred to as the “Sun”) publishes the print newspaper known as the “Toronto Sun,” with circulation of approximately 200,000 print newspapers on Sundays. The Sun is based out of offices located at 333 King Street East, Toronto, Ontario M5A 3X5.
4. The Sun also owns, and publishes content on the website www.torontosun.com.
5. The Defendant Simon Kent (hereinafter, “Mr. Kent”) is an employee of the Sun that authors original content for the print media including the print version of The Toronto Sun, and is an author of content published on the website www.torontosun.com.

6. Sheik Faisal, pleads the within claim on the basis of the Defendants maliciously and recklessly publishing knowingly false libellous content, false statements of fact, and false innuendo.

THE FACTS

First Online Article

7. On August 28, 2013, the Sun and Mr. Kent published on their publically accessible website statements with respect to Sheik Faisal at:

<http://www.torontosun.com/2013/08/28/brampton-muslim-cleric-preaches-adulterers-gays-can-benefit-from-being-stoned-to-death>, under the title:

“Brampton Muslim cleric preaches adulterers, gays can benefit from being stoned to death”; weeks later this caption was changed to “Stoning is good for your soul, says Canadian cleric.”

8. The publication of August 28, 2013, referred to above, was republished with updates on the same date at 5:00PM, with the same headline and caption.

9. The above-noted publication further stated that:

“A YouTube video featuring an insightful look at the ideas of the Brampton preacher who stated that “sinners”, as defined by his own interpretation of Islamic Law, can benefit from a jolly good stoning...”

10. Within the same publication there is a discussion and juxtaposition regarding "execution", "Al-Qaida", "Al-Shabaab" and "beheadings" all of which have no connection to Sheik Faisal or his sermon.

Second Online Article

11. On August 29, 2013, the Sun and Mr. Kent published on their publically accessible website statements with respect to Sheik Faisal at:

<http://www.torontosun.com/2013/08/29/brampton-sheikhs-stoning-targets-react>, under the title:

“Brampton sheikh's stoning targets react”

12. The publication of August 29, 2013, referred to above, was republished with updates on the same date at 7:02PM, with the same headline and caption.

13. The above-noted publication further stated that:

"They took exception to the comments Wednesday of Sheik Faisal Hamid Abdur- Razak who went on YouTube to share his observations about the merits of stoning for certain sinners including homosexuals and adulterers."

““That’s easy for him to say,” responded Abdullah Daayiee, the Imam and Director of Islamic Education at The Light and Reform Mosque in Washington, D.C.

He disputes that any discussion of the legitimacy of stoning, even under Sharia law, should be a part of religious discourse in the 21st century.

“Why are we even having this conversation? If stoning is a valid form of punishment in a society, then I suggest the good sheikh from Brampton

should go first and then he can tell us all what it is like to be on the receiving end,” Daayiee said.

“As for the adulterers mentioned in the original video posted by Sheikh Faisal Hamid Abdur-Razak, they are answering back as well.

Those that are married are the “adulterers” nominated by Sheikh Faisal Hamid Abdur-Razak. Unsurprisingly, Ashley Madison founder and CEO Noel Biderman was quick to stand up for his clientele.

14. The publication clearly states that Sheikh Faisal in his YouTube video spoke about homosexuals and adulterers. This is a false and libelous statement.
15. The publication further states: "as for the adulterers mentioned". This is a further false and libelous statement.

Newspaper Publication of Libellous Statements

16. In the print edition of the Sun dated August 28, 2012, multiple pictures of Sheik Faisal from a YouTube video were printed on the front-page under the headline and caption:

“Sewer of hate a click away”

17. This statement is intended to incite a reaction from the reader and encourage further promotion of the libelous publication.
18. The Sun and Mr. Kent further publish:

A YouTube video featuring insightful look at the ideas of the Brampton preacher who stated that "sinners," as defined by his own interpretation of Islamic law, can benefit from a jolly good stoning was running all day...

19. The above statement is again false and libellous statement.

NOTICE OF DEFAMATION

20. The Sun and Mr. Kent were provided with a notice of defamation on October 9, 2013.

"CLARIFICATION"

21. The Sun and Mr. Kent printed a "clarification" regarding the false and defamatory statements regarding Sheik Faisal in the Newspaper Publications on November 16, 2013.

22. The "clarification" is woefully inadequate.

23. The "clarification" is not a full and fair retraction.

24. The "clarification" was not published in as conspicuous a place and type as was the libel.

DEFAMATION

25. Sheik Faisal pleads and relies on the natural and ordinary meaning of the words used in the Online Publications and the News Paper Publications which are prima facie defamatory and false.

26. Sheik Faisal by express terms and innuendo was depicted as a Muslim cleric who is a homophobe and hatemonger who preached adulterers and homosexuals can benefit from being stoned to death.

27. The above are defamatory statements which were knowingly false and or made with reckless disregard for the truth and or with malicious intent, which has and continues to diminish the reputation of Sheik Faisal in the mind of a right-thinking member of the community.

28. All the Online Publications and the Newspaper Publication were authored by Mr. Kent acting in his capacity as an employee of the Sun.
29. The Sun and Mr. Kent are jointly and severally liable for the damages caused to the Sheik Faisal. Furthermore the Sun is vicariously liable for the damages caused by its employee, Mr. Kent.
30. None of the defamatory statements made by the Sun and Mr. Kent as described in this pleading were made with any privilege nor were any made as fair comment with respect to Sheik Faisal.

CAUSES OF ACTION

Intentional and or Negligent Infliction of Mental Suffering

31. The acts of the Sun and Mr. Kent described above were calculated to intentionally cause harm to the Plaintiff.
32. The Sun and Mr. Kent acted with reckless disregard as to whether or not Sheik Faisal would be harmed by their actions and with regards to the truth of the statements made about Sheik Faisal.
33. Sheik Faisal pleads and relies upon the facts stated in the paragraphs above to provide further particulars to ground his causes of action in Intentional and or Negligent Infliction of Mental Suffering.

Defamation

34. At all material times it was within the knowledge of the Sun and Mr. Kent that the Online Publications and the Newspaper Publications were not substantiated by the facts or evidence available to the Sun and Mr. Kent and they were reckless and or acted with

malicious intent as to whether the words used with respect to Sheik Faisal were true or false when they published them to numerous third parties including the public.

35. The words used by the Sun and Mr. Kent with respect to the Plaintiff were defamatory in their natural and ordinary meaning. Further, the innuendo arising from such words is that Sheik Faisal is a Muslim cleric who is a homophobe and hatemonger who *preached* adulterers and homosexuals can benefit from being stoned to death. This is a false and defamatory statement.

Harm Inflicted

36. These labels have harmed Sheik Faisal's reputation and caused him to suffer severe mental distress, particulars of which include but are not limited to:

- i. cost him many of his former friends;
- ii. cost him many of his former associations;
- iii. subjected him to suspicion;
- iv. subjected him to ridicule;
- v. have isolated him;
- vi. mental distress and humiliation;
- vii. the loss of status and standing in his community;
- viii. loss in the general Canadian community;
- ix. suffered and continues to suffer severe psychological impairment;
- x. suffered and continues to suffer severe emotional impairment.

37. The damages suffered by Sheik Faisal are all consequences which the Sun and Mr. Kent intended, knew, or ought to have known, would result from their wrongful conduct.

Punitive Damages

38. Sheik Faisal claims that the Sun and Mr. Kent acted with bad faith, in a high-handed, malicious, oppressive, outrageous, wanton and reckless manner, as described herein this claim, which constitutes a marked departure from the ordinary standards of decent behaviour and a reckless disregard for the truth.

39. Accordingly, Sheik Faisal pleads that this is an appropriate case for punitive, aggravated and or exemplary damages. In particular, and without limiting the generality of the foregoing, these actions include the following:

- (i) there is a persistent, wilful and repeated pattern of publishing known falsehood;
- (ii) a continued attempt at character assassination;
- (iii) a systematic dissemination of the false publications;
- (iv) publishing statements with reckless indifference to whether they are true or not;
- (v) knowingly misleading the public by failing to fairly present inaccuracies and contradictions in the evidence collected about Sheik Faisal;
- (vi) knowingly misleading the public by failing to make representations based on all the information collected including information that was known to the Defendants to be false at the time of publication;
- (vii) knowingly arriving at unreasonable conclusions about Sheik Faisal and publishing statements of fact to third parties, based upon speculation, unreasonable inferences, and relying on inaccurate information from unreliable sources instead of evidence;

- (viii) knowingly arriving at unreasonable conclusions about Sheik Faisal without making any reasonable effort to confirm that the facts of their publications were accurate with respect to Sheik Faisal;
- (ix) In committing the acts of intentional and or negligent infliction of mental suffering, and defamation, as alleged herein, the Sun and Mr. Kent knew that they were acting unlawfully. They at all times acted with the predominate purposes of gaining monetary profit and for injuring Sheik Faisal.
- (x) Refusing to properly correct, retract or discontinue publication of the false and defamatory statements plead herein.

40. Sheik Faisal pleads and relies upon the *Negligence Act*, R.S.O. 1990, c. N.1. as amended; the *Libel and Slander Act* R.S.O. 1990, Chapter L.12 as amended; and the *Courts of Justice Act*, R.S.O. 1990, e. C.43, as amended.

VENUE

41. Sheik Faisal proposes that this action be tried in Brampton, Ontario.

November 28, 2013

Anser Farooq
Barrister & Solicitor
LSUC No.: 46183B

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Lawyer for the Plaintiff

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PROCEEDING COMMENCED AT BRAMPTON

JURY NOTICE

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