

Court File No.: CV-08-368821

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

SHIRLEY BROWNE

Plaintiff

-and-

**TORONTO STAR NEWSPAPERS LIMITED, JAGODA PIKE, DALE BRAZAO
DON BABICK, and CATHERINE MANUEL**

Defendants

AMENDED TRIAL RECORD

July 27, 2012

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Lawyer for the Defendants, Toronto Star Newspaper Limited,
Jagoda Pike, Dale Brazao and Don Babick

Court File No.: CV-08-368821

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

SHIRLEY BROWNE

Plaintiff

-and-

**TORONTO STAR NEWSPAPERS LIMITED, JAGODA PIKE, DALE BRAZAO
DON BABICK, and CATHERINE MANUEL**

Defendants

AMENDED TRIAL RECORD

Tab	Date	Description
1.	December 17, 2008	Statement of Claim
2.	February 3, 2009	Jury Notice
3.	June 28, 2012	Amended Statement of Defence of Toronto Star Newspapers Limited, Jagoda Pike, Dale Brazao and Don Babick
4.	July 18, 2012	Amended Amended Reply
5.	July 27, 2012	Certificate of Charles Campbell

Court File No.: CV-08-368821

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

SHIRLEY BROWNE

Plaintiff

-and-

TORONTO STAR NEWSPAPERS LIMITED, JAGODA PIKE, DALE BRAZAO
DON BABICK, and CATHERINE MANUEL

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.

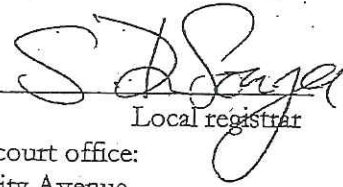
If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 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.

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 Dec. 17, 2008

Issued by


Local registrar

Address of court office:
393 University Avenue
10th Floor
Toronto, Ontario M5G 1E6

TO: TORONTO STAR NEWSPAPERS LIMITED
One Yonge Street, 6th Floor
Toronto, Ontario M5E 1P9

AND TO: JAGODA PIKE, PUBLISHER
c/o Toronto Star Newspapers Limited
One Yonge Street, 6th Floor
Toronto, Ontario M5E 1P9

AND TO: DON BABICK, INTERIM PUBLISHER
c/o Toronto Star Newspapers Limited
One Yonge Street, 6th Floor
Toronto, Ontario M5E 1P9

AND TO: DALE BRAZAO, STAFF REPORTER
c/o Toronto Star Newspapers Limited
One Yonge Street, 6th Floor
Toronto, Ontario M5E 1P9

AND TO: CATHERINE MANUEL
10 Maplewood Avenue
Sutton West, Ontario L0E 1R0

CLAIM

1. The plaintiff claims:
 - (a) General damages against all Defendants jointly and severally in the amount of \$500,000;
 - (b) Aggravated damages against all Defendants jointly and severally in the amount of \$500,000;
 - (c) Special damages jointly and severally against all Defendants in the amount of \$200,000;
 - (d) Punitive damages in the amount of \$1,000,000 against the Defendants, Dale Brazao, The Toronto Star, and the Defendants Jagoda Pike, Don Babick and Catherine Manuel
2. The Plaintiff, Shirley Browne ("Browne") is the proprietor of Whispering Pines Bed and Breakfast ("Whispering Pines") in Jackson's Point, Ontario.
3. The Defendant, Dale Brazao ("Brazao"), is the writer of an article about the Plaintiff published on September 22 2008 in the Toronto Star.
4. The Toronto Star is a daily newspaper owned by the Defendant, The Toronto Star Newspapers Limited ("Toronto Star"), published by Jagoda Pike and Don Babick. The Defendants are responsible for defamations complained of as publishers and as the employer of the writer, Brazao.

(d) "When the innkeeper suggested she would eventually have to crawl into the attic to insulate the century-old 11-bedroom inn in Jackson's Point, Manuel had had enough."

(e) "I just couldn't take it anymore ... I never wanted this. I did not come here to work illegally."

(f) "What Manuel endured happens all too regularly, according to critics and social workers. With more than 34,000 nannies and caregivers entering the country each year, mostly settling in the GTA, there is plenty of room for abuse."

(g) "Manuel said she was turned over the innkeeper Shirley Bollers who worked her 'morning, noon and night, and then some.'"

(h) "Bollers would arbitrarily change her days off without notice."

(i) "On two occasions she was brought to Toronto on her days off to clean a townhouse belonging to Bollers' boyfriend, Peter Flaherty, for which he paid her \$60.00 each time."

(j) "Manuel was underpaid at the inn compared to the Jinkholm contract that brought her to Canada. Her nanny contract (based on 45 hours at 9.25 an hour) reveals that she would have been paid about \$420 a week, minus roughly \$90 for room and board at Holman's home. She would have netted \$330 a week. At Whispering Pines, she received about \$250 a week after room and board, but worked many more hours with no overtime."

5. The Toronto Star is distributed widely throughout southern Ontario and published on the Internet.

6. The story, entitled "Nanny sent to Work as underpaid servant" was printed on Monday, September 22, 2008 with prominent placement, the first portion of the story appearing immediately below the fold on the front cover page A1, and the remainder covering the entirety of page A10.

7. The story features a photo on the front cover A1 of Catherine Manuel apparently crying; and photos on page A10, prominently placed, of the Plaintiff and a very large photograph of Whispering Pines, the bed and breakfast inn operated by the Plaintiff and a grossly inflammatory picture of the Plaintiff. The photographs contribute to the defamatory effect of the story.

8. The following words in the story are defamatory individually and collectively:

(a) Headline of the story: "Nanny sent to work as underpaid servant" and "caregiver was shipped off to illegal job at inn".

(b) "Manuel was promised about \$420 a week... Instead she was underpaid and worked 'morning, noon and night' as a cleaner, servant and handy woman."

(c) "On her days off, the skilled caregiver was driven to Toronto to clean the townhouse belonging to the boyfriend, a part-time lecturer at York University."

(k) "Manuel said that when Bollers went on vacation for eight days in early August she left no food. They even took all the fruit from the fruit bowl with them."

(l) "When she complained to Tait about the heavy workload and not being paid, Manuel said he told her to keep quiet because she was working illegally."

(m) "During the four months at the inn, Bollers never issued her a proper pay slip showing mandatory deductions for Employment Insurance or Canada Pension Plan. Neither did she issue a record of employment or separation slip when she left."

(n) "Although he knew Manuel was working illegally at Whispering Pines, Tait did not alter Citizenship and Immigration Canada, nor did he apply for a new LMO ^{about} that would allow her to work legally."

(o) "When Manuel complained about being overworked and not being paid for six weeks, Tait said he offered to place her with another family but she refused to move."

(p) "The *Star* interviewed innkeeper Bollers, also known as Shirley Browne. She first explained that Terra Holman was her sister and was out of the country on contract work and had asked her to look after Manuel until she returned. In the span of a three-minute interview, Bollers went from referring to Holman as her sister, to 'half sister' to 'we may not be blood relatives but we call each other sisters.' Then she ushered the reporter out the door saying: 'I don't have time for this nonsense.'"

9. The online version of the story posted on the Toronto Star website, at thestar.com/News/GTA/article/503452, includes the defamatory statements referenced in paragraph 8 above.

10. Where the words complained of quote the Defendant, Catherine Manuel, the other Defendants, as writer and publishers of her words, are jointly and severally responsible with her for her defamation.

11. The words complained of are defamatory of the plaintiff in their plain and ordinary meaning and further, and in the alternative, they convey the innuendo that the Plaintiff behaved illegally or abusively to the Defendant, Catherine Manuel, and that she was underpaid.

12. The words complained of have caused grievous damage to the Plaintiff's good name and reputation, have caused her deep personal suffering and have caused a loss of business at Whispering Pines.

13. The Plaintiff asserts that the damage referred to in paragraph 12 was specifically and deliberately intended by the Defendants Brazao and The Toronto Star and its proprietor and Publisher.

14. The Plaintiff asserts that the Defendants published the story in question, in a grossly unprofessional fashion in that:

- (a) they intended to persuade readers not to do business with the Plaintiff;
- (b) they intended to damage the Plaintiff's reputation;

- (c) they acted to punish the Plaintiff for allegedly treating Manuel illegally and unfairly;
- (d) they gave predominant publicity by front page coverage and large photographs to Whispering Pines as opposed to the real culprits in the story they were writing about the abuse of contract employees and those who take fees to bring them from abroad;
- (e) they did not check the facts in the story contrary to their own ethical standards and the standards of responsible journalism;
- (f) they ignored the Plaintiff's protest that the story had false information and did no follow up investigation notwithstanding the information she provided;
- (g) they failed to publish any correction or retraction;
- (h) they deliberately published an unflattering picture of the Plaintiff in order to demonize her with their readers;
- (i) they failed to publish correcting letters to the editor;
- (j) they allowed commentary containing incorrect and defamatory comments to be posted on their website with the online version of the story;
- (k) they failed to remove commentary containing incorrect and defamatory comments posted on their website with the online version of the story;
- (l) they subjected the Plaintiff to an abusive, attack interview;
- (m) they abused the overwhelming power of the largest newspaper organization in the country to take advantage of an ordinary citizen who has virtually no resources to respond; and
- (n) they sensationalized a story in an irresponsible fashion.

15. The Plaintiff asserts this is a case for aggravated and exemplary damages.

16. The Plaintiff seeks that this case be heard in Toronto.

gm

⁻¹⁷⁻
December ~~10~~ 2008

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Charles Campbell - LSUC#13440W
Barbara Warner - LSUC #44685N

Solicitors for the Plaintiff

SHIRLEY BROWNE
(Plaintiff)

- and -

TORONTO STAR NEWSPAPERS LIMITED et al
(Defendants)

Court File No. *CV-08-368821*

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

STATEMENT OF CLAIM

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Charles Campbell - LSUC#13440W
Barbara Warner - LSUC #44685N

Solicitors for the Plaintiff

TAB 2

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

SHIRLEY BROWNE

Plaintiff

-and-

TORONTO STAR NEWSPAPERS LIMITED, JAGODA PIKE, DALE BRAZAO
DON BABICK, and CATHERINE MANUEL

Defendants

JURY NOTICE

THE PLAINTIFF REQUIRES that this action be tried by a jury.

February 3, 2009

ILER CAMPBELL LLP
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Solicitors for the Defendants, Toronto Star Newspaper Limited,
Jagoda Pike, Dale Brazao and Don Babick

AND TO: CATHERINE MANUEL
10 Maplewood Avenue
Sutton West, Ontario L0E 1R0

SHIRLEY BROWNE
(Plaintiff)

- and -

TORONTO STAR NEWSPAPERS LIMITED et al
(Defendants)

Court File No. cv-08-368821

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

JURY NOTICE

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Charles Campbell - LSUC#13440W
Barbara Warner - LSUC #44685N

Solicitors for the Plaintiff

TAB 3

AMENDED THIS June 28 2012 PURSUANT TO
MODIFIED BY CONFORMÉMENT À

RULE/LA RÉGLE 25.02 (B)

THE ORDER OF
L'ORDONNANCE DU

DATED / FAIT LE

Court File No. CV-08-368821

REGISTRAR
SUPERIOR COURT OF JUSTICE

GREFFIER
COUR SUPÉRIEURE DE JUSTICE

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

SHIRLEY BROWNE

Plaintiff

- and -

TORONTO STAR NEWSPAPERS LIMITED, JAGODA PIKE,
DALE BRAZAO, DON BABICK, and CATHERINE MANUEL

Defendants

AMENDED STATEMENT OF DEFENCE OF THE DEFENDANTS
TORONTO STAR NEWSPAPERS LIMITED,
JAGODA PIKE, DALE BRAZAO AND DON BABICK

1. The defendants, Toronto Star Newspapers Limited, Jagoda Pike, Dale Brazao and Don Babick (the "Star Defendants"), admit the allegations contained in paragraphs 1 ~~(and state that the plaintiff is also known as Shirley Brown and Shirley Bollers)~~ and 2 of the statement of claim (and state that the plaintiff is also known as Shirley Brown and Shirley Bollers).

2. Except as expressly admitted herein, the Star Defendants deny all other allegations contained in the statement of claim, and deny that the plaintiff is entitled to the relief claimed in paragraph 1 of the statement of claim.

2.1 As to paragraph 3 of the statement of claim, the defendants admit that Dale Brazao is the author of an article published on September 22, 2008 in the Toronto Star (the "Star"), headlined "Nanny sent to work as underpaid servant" (the "Article").

3. As to paragraph ~~3~~ 4 of the statement of claim, Toronto Star Newspapers Limited publishes the ~~Toronto Star newspaper (the "Star")~~. At the time of publication of the ~~article complained of, headlined "Nanny sent to work as underpaid servant" (the "Article")~~, Jagoda Pike held the position of Publisher of the Star, not Don Babick.

4. As to paragraph 5 of the statement of claim, the Star is distributed primarily in the Greater Toronto Area. The Star is also published on its website, www.thestar.com (the "Star's website").

5. As to paragraphs 5 and 6 of the statement of claim, the Star Defendants admit that the Article appeared below the fold on the front page of the Star on Monday, September 22, 2008 and continued on page A10, and that it was published on the Star's website.

6. Published along with the Article in the print edition of the Star were photographs of the defendant Catherine Manuel ("Ms. Manuel"), the plaintiff, Heron Lloyd Tait (the recruiter who brought Ms. Manuel to Canada) and the Whispering Pines inn operated by the plaintiff. These photographs were included to illustrate the Article and were not inflammatory or defamatory of the plaintiff. There were no photographs of the plaintiff published on the Star's website.

7. As to paragraphs 8 and 11 of the statement of claim, the Star Defendants deny that the words complained of are defamatory of the plaintiff.

8. In the alternative, in their plain and ordinary meaning, the words complained of are substantially true.

9. As to the allegations in paragraph 11 of the statement of claim that the words complained of also mean that the plaintiff behaved illegally or abusively to Ms. Manuel, the Star Defendants deny that the words bear, were intended to bear or are capable of bearing those meanings. To the extent that the words do bear those meanings, and the meaning that Ms. Manuel was underpaid, and to the extent that they are statements of fact, they are substantially true (particulars of which are set out below at paragraphs 9.1, 9.2 and 9.3), and to the extent that they are expressions of opinion, they are opinions that a person could honestly hold based on the facts set out in the Article, and are fair comment on matters of public interest, including the vulnerability of women that come to Canada to be caregivers under the federal Live-In Caregiver Program.

9.1 Particulars of the defence of justification in relation to the meaning that the plaintiff behaved illegally to Ms. Manuel or, in the alternative, that she behaved illegally in employing

Ms. Manuel, including the facts contained in the Article and any other facts that may be discovered before or at trial, including the following:

- (a) Ms. Manuel did not have a Labour Market Opinion or a work permit allowing her to work for the plaintiff at Whispering Pines;
- (b) Under the terms of her work permit, Ms. Manuel was permitted to work only for Terra Holman;
- (c) Under the federal Live-In Caregiver Program, Ms. Manuel was permitted to work only as a nanny caring for children, the elderly or the infirm, and not as an employee or domestic servant at an inn or bed and breakfast;
- (d) Ms. Manuel had a contract to work for Terra Holman and came to Canada on the understanding that she was going to work for Terra Holman, caring for Terra's son Brent;
- (e) When Ms. Manuel arrived in Canada, Terra Holman was nowhere to be found, and has never surfaced;
- (f) Ms. Manuel was taken to Whispering Pines by a woman named Danya Scott, who is a friend of the plaintiff's daughter and a convicted criminal;
- (g) At Whispering Pines, Ms. Manuel was asked to perform and did perform numerous different tasks, none of which involved acting as a nanny; and
- (h) The plaintiff made a mistake in employing Ms. Manuel without asking any questions and could have looked into whether she was legally employing Ms. Manuel.

9.2 Particulars of the defence of justification in relation to the meaning that the plaintiff behaved abusively to Ms. Manuel including the facts contained in the Article and any other facts that may be discovered before or at trial, including the following:

- (a) The plaintiff abused the laws of Canada which permit foreign nationals to come to Canada to work as live-in caregivers and she abused her own authority over Ms. Manuel, a vulnerable individual, by having Ms. Manuel work for her for four months doing a type of work she was not permitted to do;
- (b) Ms. Manuel did not have a Labour Market Opinion or a work permit allowing her to work for the plaintiff at Whispering Pines;
- (c) Under the terms of her work permit, Ms. Manuel was permitted to work only for Terra Holman;
- (d) Under the federal Live-In Caregiver Program, Ms. Manuel was permitted to work only as a nanny caring for children, the elderly or the infirm, and not as an employee or domestic servant at an inn or bed and breakfast;
- (e) Ms. Manuel had a contract to work for Terra Holman and came to Canada on the understanding that she was going to work for Terra Holman, caring for Terra's son Brent;
- (f) When Ms. Manuel arrived in Canada, Terra Holman was nowhere to be found, and has never surfaced;
- (g) Ms. Manuel was taken to Whispering Pines by a woman named Danya Scott, who is a friend of the plaintiff's daughter and a convicted criminal;
- (h) At Whispering Pines, Ms. Manuel was asked to perform and did perform numerous different tasks, none of which involved acting as a nanny; and
- (i) During an interview with the Defendant Brazao, the plaintiff told Mr. Brazao that "Terra is my sister. She's my half sister...we may not be blood relatives, but we say we're sisters".

9.3 Particulars of the defence of justification in relation to the meaning that the plaintiff underpaid Ms. Manuel include the facts contained in the Article and any other facts that may be discovered before or at trial, including that Ms. Manuel was underpaid in comparison to

the nanny contract with Terra Holmån that brought her to Canada. Based on that contract, for a 45 hour work week she would have received approximately \$330 per week (net). While working for the plaintiff, Ms. Manuel received approximately \$250 per week (net), but worked many more hours with no overtime.

10. In addition, the Article is a piece of responsible journalism on matters of public interest. Among other things:

- (a) As in paragraph 9, above, the matters of public interest include the vulnerability of women that come to Canada to be caregivers under the federal Live-In Caregiver Program, including that these women may end up performing work in Canada that they did not come to Canada expecting to perform and that is not permitted, and that they may be subject to working long hours and to being underpaid;
- (b) The Star Defendants took all reasonable steps to verify the information published in the Article, including obtaining relevant documents and interviewing available sources;
- (c) The Star Defendants made several attempts to interview the plaintiff and her boyfriend, Peter Flaherty. Neither was willing to respond to the allegations in the Article. Mr. Flaherty refused to speak to the Star at all and the plaintiff abruptly terminated an interview after only a few minutes;
- (d) Contrary to the allegations in paragraph 14(n), the Article fairly reported on the circumstances of Ms. Manuel's employment at Whispering Pines. The tone of the Article was one appropriate to investigative reporting and was not sensational; and
- (e) The inclusion of matters relating to the plaintiff and the pictures of the plaintiff and her inn were appropriately included as part of the story and based on editorial judgment; and

(f) The Star Defendants had a reasonable belief in the truth of the statements of fact contained in the Article.

11. The Star Defendants deny that the plaintiff has suffered any damage as a result of the Article, or at all.

12. If the plaintiff has suffered any damage to her reputation or otherwise, which is not admitted but denied, the Star Defendants plead that the damages claimed are excessive, exaggerated, remote, unavailable at law, unmitigated, and unconnected with any alleged act or omission on their part, and put the plaintiff to strict proof thereof.

13. The Star Defendants deny the allegations in paragraph 14 of the statement of claim. In particular, the Star Defendants deny that the plaintiff ever provided any information to the Star. Contrary to the allegation in paragraph 14(i) of the statement of claim, the Star published a letter to the editor about the Article from Mr. Flaherty.

14. As to the allegations in paragraph 14(j) and (k) of the statement of claim, the plaintiff has not complained of user comments posted on the Star's website. The time for commencing an action in relation to any such comments has passed.

15. Contrary to the allegations in paragraph 14(l) of the statement of claim, the Star Defendants specifically deny that they subjected the plaintiff to "an abusive, attack interview".

16. Contrary to the allegations in paragraph 15 of the statement of claim, the Star Defendants specifically deny that the plaintiff is entitled to an award of aggravated, punitive or exemplary damages.

17. The Star Defendants plead and rely upon the provisions of the *Libel and Slander Act*, R.S.O. 1990, Chapter L.12 and s. 2(b) of the *Canadian Charter of Rights and Freedoms*.

18. The Star Defendants ask that the plaintiff's claim be dismissed with costs on a substantial indemnity scale.

~~January 21, 2009~~ May , 2011

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Shirley Browne
Plaintiff

Toronto Star Newspapers Limited, et al
Defendants

Court File No: CV-08-368821

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**AMENDED STATEMENT OF DEFENCE OF
THE DEFENDANTS
TORONTO STAR NEWSPAPERS LIMITED,
JAGODA PIKE, DALE BRAZAO AND DON
BABICK**

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Lawyers for the Defendants,
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Dale Brazao, and Don Babick

TAB 4

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

SHIRLEY BROWNE.

Plaintiff

-and-

TORONTO STAR NEWSPAPERS LIMITED, JAGODA PIKE, DALE BRAZAO
DON BABICK and CATHERINE MANUEL

Defendants

AMENDED AMENDED REPLY

1. The Plaintiff admits the allegations contained in paragraphs 3, 4 and 5 of the statement of defence of Toronto Star Newspapers Limited, Jagoda Pike, Dale Brazao and Don Babick (the "Star Defendants").
2. The plaintiff denies the allegations contained in paragraphs 6-18 of the statement of defence.

a.

- i. The Plaintiff admits the facts contained in paragraph 9.1 sub-paragraphs (a) (b) (c) (d) and (e) and denies the facts set out in sub-paragraphs (e) and (h).
- ii. Further the Plaintiff denies that any of these facts, or any combination of these facts, prove that the Plaintiff behaved illegally toward Ms. Manuel.
- iii. Further and in the alternative, the Plaintiff asserts that she knew of no offence committed by herself, nor did she commit any offence and further and specifically she took reasonable steps in the circumstances regarding the temporary and then the new employment situation for Ms. Manuel that evolved.

- i. The Plaintiff admits the facts contained in paragraph 9.2 sub-paragraphs (b) (c) (d) (e) (g) and (h) and denies the assertions in sub-paragraphs (a) and (f).
- ii. The Plaintiff admits that sub-paragraph (i) is true but denies that it has any relevance to the justification defence.
- iii. The Plaintiff asserts that in all respects she assisted rather than abused Katherine Manuel whose predicament was dire when she arrived in Canada.

AMENDED THIS 2012
MODIFIÉ CE
P PURSUANT TO
CONFORMÉMENT A
RÈGLE/RÈGLE 26.02 ()
THE ORDER OF
L'ORDONNANCE DU
DATED / FAIT LE
REGISTRAR
SUPERIOR COURT OF JUSTICE
GREVILLE
COUR SUPÉRIEURE DE JUSTICE

- iv. The Plaintiff asserts she had no authority over Ms. Manuel when she arrived and that Ms. Manuel voluntarily entered into the employment relationship with the Plaintiff and that she liked the job;
 - v. Ms. Browne's actions did not constitute an abuse of the laws of Canada. Leaving Ms. Manuel penniless at the airport would have been abusive. The Regulations which limited the ability of immigrant contract workers to change employment where their employer proved unsatisfactory, are themselves abusive to those workers. If the Defendants' pleading is taken to assert that Ms. Browne acted illegally the Plaintiff denies this and puts the Star Defendants to the strict proof of this.
 - c. The Plaintiff denied the facts set out in paragraph 9.3 and puts the Defendants to the strict proof thereof.
 - d. Further the Plaintiff denies that the Particulars set out in the Amended Statement of Defence paragraph 9.1 and 9.2 and 9.3 can justify the words complained regarding the Plaintiff and even if proved are not substantial justification of the defamations complained of.
3. The Plaintiff asserts that the Star Defendants acted with malice and relies on the following facts in support of same:
- a. The Star Defendants were reckless with respect to the truth of the assertions in the story regarding the pay and conditions of employment;
 - b. That recklessness is further supported by cavalier treatment of the Plaintiff's efforts to get the Star to correct the story;
 - c. That recklessness is further supported by the manner of investigation and interviewing the Plaintiff;
 - d. The Star Defendants purpose was not a proper purpose for a newspaper but rather sensationalism for its own sake;
 - e. The Star Defendants were motivated by spite to the Plaintiff indicated by their crusading presumption she was in the wrong, the photograph used, the attack interview methodology and the indifference to their errors;
 - f. The Plaintiff asserts that the article in question was not a piece of responsible journalism and relies on the facts set out in paragraph 14 of the Statement of Claim and further denies the factual assertions set out in paragraph 10 of the Statement of Defence.
 - g. With respect to paragraph 14 of the Statement of Defence, the Plaintiff asserts that the Reader's Comments noted in Paragraph 14 (j) and (k) of the Statement of Claim, are not put forward as an originating basis of liability, but as evidence of malice.
4. The Plaintiff asserts that the publication was not an act of responsible journalism. The Plaintiff relies on the following:
- a. Responsible journalism is not indifferent to the facts;

- b. Investigative journalism is not indifferent to the facts;
- c. Responsible journalism corrects misstated facts;
- d. The Star Defendants ignored a lengthy synopsis of the facts provided to it;
- e. The Star Defendant deleted from a letter to the editor from Peter Flaherty any reference that such a rebuttal existed;
- f. The Plaintiff further relies on the assertions in paragraph 14 of the Statement of Claim.

The Plaintiff proposes that the trial be in Toronto.

June 11, 2012

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Solicitors for the Defendants, Toronto Star
Newspaper Limited,
Jagoda Pike, Dale Brazao and Don Babick

AND TO: CATHERINE MANUEL
40 Maplewood Avenue
Sutton West, Ontario L0E 1R0

SHIRLEY BROWNE
(Plaintiff)

- and -

TORONTO STAR NEWSPAPERS LIMITED et al
(Defendants)

Court File No. cv-08-368821

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

AMENDED AMENDED REPLY

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TAB 5

Court File No.: CV-08-368821

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

SHIRLEY BROWNE

Plaintiff

-and-

TORONTO STAR NEWSPAPERS LIMITED, JAGODA PIKE, DALE BRAZAO
DON BABICK, and CATHERINE MANUEL

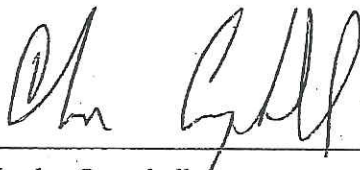
Defendants

CERTIFICATE

I, Charles Campbell, lawyer for the Plaintiff, certify that:

- a. the Trial Record contains the documents required as per rule 48.03 (1) (a) to (g) of the *Rules of Civil Procedure*; and
- b. the time for delivery of pleadings has expired.

July 27, 2012



Charles Campbell

SHIRLEY BROWNE
(Plaintiff)

- and -

TORONTO STAR NEWSPAPERS LIMITED et al
(Defendants)

Court File No. cv-08-368821

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

CERTIFICATE

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Lawyers for the Plaintiff

SHIRLEY BROWNE
(Plaintiff)

- and -

TORONTO STAR NEWSPAPERS LIMITED et al
(Defendants)

Court File No. cv-08-368821

ONTARIO
SUPERIOR COURT OF JUSTICE

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AMENDED TRIAL RECORD

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