**Statement of Claim Template**

SUPERIOR COURT OF JUSTICE

Between:

NAME

Plaintiff

- and -

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Defendant

TO THE DEFENDANT:

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 lawyers 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 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 FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN

AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Issued By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

To:

Name

Address

**Claim**

1. The Plaintiff claims against the Defendants the following relief :

(a) against the Defendant, Hotel-Dieu Grace Hospital (“the Hospital”) for the

amount of $1.3 million dollars for breach of contract;

(b) against all of the Defendants:

(i) damages of $1 million dollars for intentional interference with

contractual relations;

(ii) damages of $1 million dollars for inducing breach of contract;

(iii) damages of $1 million dollars for intentional infliction of emotional

distress;

(iv) damages of $1 million dollars for conspiracy to harm the Plaintiff;

(v) damages of $1 million dollars for punitive, aggravated and

exemplary damages for the callous and highhanded manner in

which they conducted dealings with the Plaintiff.

(c) interest and prejudgment interest on all damages assessed in favour of the

Plaintiff;

(d) the costs of this proceeding;

(e) such further and other relief as to this Honourable Court seems just.

2. The Plaintiff resides in Windsor, Ontario. She was employed, at all material times,

by the Hospital as its Vice President of Communications and Development.

3. The Defendant Hospital operates a medical facility in Windsor, Ontario. It, at all

material times, was the employer of the Plaintiff.

4. The Defendant, Warren Chant, is the Chief Executive Officer of the Hospital. He

is responsible for the conduct of its day to day affairs.

5. The Defendants, Barbara Sebben, Kim Winger, Christine Mitchell and Patricia

Velleau are all employees of the Hospital who worked under the Plaintiff’s direct

supervision.

6. The Defendant, Robert Turner, works as an independent contractor providing

advice and counsel to the Hospital with respect to various matters including employment

issues.

**Background**

7. The Plaintiff was hired by the Hospital in 2005 as the Vice President of

Communications and Development. Her primary responsibilities required her to act as

the Hospital’s spokesperson in dealing with the public and the media.

8. At the commencement of the Plaintiff’s employment, she was directed to begin to

perform responsibilities for Hotel Dieu Grace Hospital Foundation (“the Foundation”). It

is a charitable non-share capital corporation that performs fundraising for the Hospital.

9. The Plaintiff, even though performing responsibilities for the Foundation,

continued to remain a Hospital employee. By virtue of some arrangement, of which the

Plaintiff does not have full particulars, the Hospital charged the Foundation for the

Plaintiff’s services.

10. The Defendants, Barbara Sebben, Kim Winger, Christine Mitchell and Patricia

Velleau, are all Hospital employees who were also directed to perform work for the

benefit of the Foundation. All of the said Defendants worked under the direct supervision

of the Plaintiff.

11. Since 2005 the Plaintiff was required to work under stressful and challenging

conditions. The Hospital was faced with having to respond to a number of situations that

did not portray it in a favourable light in the eyes of the public or the Ministry of Health

who regulated and supervised the manner in which the Hospital’s affairs were

conducted. For example, the Plaintiff represented the Hospital before the public and in

the media with respect to the following incidents:

(i) the murder of Lori Dupont, a hospital employee, on hospital premises;

(ii) a Coroner’s inquest into the events resulting in the death of the said Lori

Dupont;

(iii) the release of the Coroner’s report into the death of Lori Dupont;

(iv) the appointment of a Facilitator to oversee the manner in which the

Hospital’s operations were being conducted;

(v) the suicides of various mental health patients who were receiving treatment

in the Hospital;

(vi) the largest tissue recall in Canada;

(vii) the Pathology Department crisis;

(viii) the Dr. Barbara Heartwell incident;

(ix) difficulties arising within the Cardio/Angioplasty program;

(x) the release of the Ministry’s Investigators’ Report into the Heartwell and

Pathology incidents;

(xi) the embezzlement of Hospital funds.

(xii) the conduct of a drunken Emergency Room Doctor who attended Hospital

premises.

(xiii) the suicide of a patient who escaped from the Hospital’s Mental Health

Ward;

(xiv) the “pay or leave” story that appeared in the Windsor Star.

12. Notwithstanding the stressful environment within which the Plaintiff was required

to work, the Plaintiff always performed her employment responsibilities in an exemplary

manner. Her contributions to the success of the Hospital and its Foundation were

recognized by her peers and her direct reports in an anonymous and confidential

performance evaluation completed in 2009. The Plaintiff also received numerous

National and International awards including being designated Communicator of the Year

by the Ontario Hospital Association in 2009.

The Foundation

13. The events in which the Hospital had been involved impaired the Foundation’s

ability to raise funds. In September, 2010 it was recognized that the Foundation’s

fundraising efforts would require the assistance of the Plaintiff to a greater extent that it

enjoyed in the past.

14. In September, 2010 an agreement was made amongst the Hospital, the

Foundation and the Plaintiff under the provisions of which the Plaintiff would begin to

perform employment responsibilities exclusively for the benefit of the Foundation as its

President and Chief Executive Officer. The agreement terms were incorporated into a

written contract dated September 10, 2010. It provided that the Plaintiff would continue

to be a Hospital employee but would be seconded to work exclusively for the Foundation

commencing November 15, 2010.

15. The contract contained the following terms relevant to this proceeding:

(a) the Plaintiff would work exclusively for the Foundation from whom alone the

Plaintiff was to take direction.

(b) the Plaintiff’s employment could only be terminated by the Hospital at the

the direction of the Foundation

16. By the beginning of November, 2010, the Hospital had hired the individual who

would replace the Plaintiff as the Hospital’s Vice President of Communications and

Development. That individual could not begin work until November 29, 2010. It was

agreed amongst the Hospital, the Foundation and the Plaintiff that the Plaintiff would be

permitted to continue to perform services for the Hospital from November 15 until

November 29, 2010.

17. The Plaintiff, when participating in discussions with the Hospital and the

Foundation that culminated in the September, 2010 contract, the Foundation expressed

the view that there was a need for the Foundation to reduce the administrative expenses

it was incurring so that its donors’ funds were used for the purposes intended and not to

pay excessive administrative expenses. The Plaintiff proposed that the number of staff

positions be reduced and various functions performed by multiple staff be consolidated.

The Plaintiff states that her views became known by Foundation staff members,

including the Defendants, Sebben, Winger, Mitchell and Velleau, who would be affected

by those measures since their continued employment was at risk.

Plaintiff’s Relationship with the Defendant, Warren Chant

18. The Plaintiff, in the performance of her employment responsibilities, was required

to deal on a regular basis with the Defendant, Warren Chant, who is the Hospital’s Chief

Executive Officer.

19. In many instances, the Plaintiff and the said Defendant, Warren Chant, did not

agree on the manner in which the Hospital should deal with the media or public

particularly within the context of the incidents described in paragraph 11. The Plaintiff

was of the view that the Defendant, Warren Chant, did not have the courage or foresight

to deal with crisis events in a proactive manner because he was afraid that he would be

criticized if the views he put forth were not shared by others in the Hospital

administration or on the Hospital Board. The Plaintiff also was critical of the lack of

leadership provided by the Defendant, Warren Chant, in dealing with serious medical

issues affecting Hospital programs and patient care.

20. The Plaintiff expressed her views of the lack of leadership the Defendant, Warren

Chant, provided to the Hospital directly to the said Defendant. The comments the

Plaintiff directed to the said Defendant were widely held perceptions of the shortcomings

in which the said Defendant was performing his Hospital responsibilities. The comments

were intended to be constructive suggestions to assist the Defendant, Chant, in

improving the level of his performance of Hospital responsibilities.

21. Further, the Plaintiff refused to comply with the said Defendant’s request to make

misleading statements or factually incorrect statements to the media. For example:

(i) the Defendant, Chant, asked the Plaintiff to deny that the Hospital hired

lobbyists. The Plaintiff refused to make a statement to the media that the

Hospital did not hire lobbyist;

(ii) the Defendant, Chant, instructed the Plaintiff to make a statement to the media

that the Hospital strictly complied with “RFQ” policies when the Plaintiff knew

the Hospital did not do so. The Plaintiff refused to make that statement.

(iii) The Defendant, Chant, did not want to divulge to police that an employee had

fraudulently embezzled funds from the Hospital. The Plaintiff refused to

suppress disclosure of the event to the police

Workplace Violence Prevention Program

22. After the death of Lori Dupont, the Hospital adopted a Workplace Violence

Prevention Program (the “Program”). Its provisions established a code of conduct to

which all Hospital staff was expected to adhere. Examples of prohibited conduct ranged

from speaking to someone in a condescending manner to physical abuse.

23. The Program specified the procedure by which complaints alleging Program

misconduct were to be investigated.

24. The Plaintiff states that Program provisions comprised part of the contractual

obligations to which the Plaintiff and the Hospital were subject.

Unlawful Suspension

25. On November 15, 2010, the date on which the Plaintiff began to work under the

direction of the Foundation, the Plaintiff was advised by the Hospital of a number of

complaints that had been directed against her by the Defendants, Sebben, Winger,

Mitchell and Velleau, relating to the manner in which the Plaintiff performed her

employment responsibilities and her conduct towards co-workers.

26. The Plaintiff states that the complaints raised against her dated back to 2005 and

related to conduct that had long been widely known and for which the Plaintiff had never

been reprimanded, chastised or cautioned. The complaints included incidents of

subordination resulting from criticism the Plaintiff had address directly to the Defendant,

Warren Chant, and other senior members of the Hospital’s administration resulting from

the Plaintiff’s past criticism of the manner in which those individuals were performing

their employment responsibilities.

27. Some of the complaints made by the said Defendants against the Plaintiff fell

within the character of conduct prohibited by the provisions of the Program.

28. On November 15, 2010 the Hospital and the Foundation purported to suspend the

Plaintiff from performance of her employment responsibilities while an investigation into

the allegations of misconduct were completed.

29. The investigation the Hospital conducted was not conducted in compliance with

the provisions of the Program. The Hospital did not adhere to the procedures by which

allegations of Program misconduct were to be investigated. It deprived the Plaintiff of

the benefit of the provisions of the Program the Plaintiff was contractually entitled to

enjoy.

**Hospital’s Unlawful Dismissal**

30. The Plaintiff states that the Hospital’s act in pursuing an unauthorized

investigation constitutes a repudiation of its contract obligations to the Plaintiff in

circumstances in which the Plaintiff was justified in electing to regard the contract as

being terminated.

31. The Plaintiff further states that the Hospital’s decision to suspend the Plaintiff

while it conducted an unlawful investigation into allegations of workplace misconduct

constituted a constructive dismissal of the Plaintiff.

32. The Plaintiff states that from and after November 15, 2010 the Hospital no longer

could exercise authority over the Plaintiff. From that date the Plaintiff was subject to the

exclusive direction and supervision of the Foundation. The Hospital’s suspension of the

Plaintiff was unlawful and made without authority. Its conduct constituted a repudiation

of its contract obligations in circumstances in which the Plaintiff was entitled to consider

the contract terminated.

33. The Foundation, by its Executive Committee, asked the Hospital to revoke the

Plaintiff’s suspension so the Plaintiff could begin performing responsibilities for the

Foundation. The Hospital refused to do so.

34. On December 6, 2010 the Hospital terminated the Plaintiff as its employee. It no

longer was entitled to do so. By that time, the Plaintiff worked under the exclusive

direction and supervision of the Foundation who alone could bring about the termination

of the Plaintiff’s employment. In the circumstances, the Hospital again repudiated its

contract with the Plaintiff in circumstances in which the Plaintiff was entitled to terminate

her contract.

35. The Plaintiff states that the Hospital’s unlawful conduct has denied the Plaintiff the

opportunity to earn the income she would have earned during the duration of the

September 10, 2010 contract.

**The Defendants’ Unlawful Conduct**

36. The Plaintiff states that it became well known that the Plaintiff would implement

significant cost cutting measures to reduce the Foundation’s growing administrative

expenses since its ability to raise funds was severely impaired by the Hospital’s

involvement in the events mentioned in paragraph 11 above. The cost cutting measures

considered by the Plaintiff put the continued employment of the Defendants, Sebben,

Winger, Mitchell and Velleau, at risk of termination. Those individuals were aware of that

risk.

37. The Plaintiff states that the Defendants, Sebben, Winger, Mitchell and Velleau,

agreed to prepare a catalogue of complaints directed against the Plaintiff from the date

of the commencement of her employment with the Hospital. The said Defendants acted

collectively or individually for the purpose of causing the Plaintiff emotional harm and

embarrassment and to secure the termination of the Plaintiff’s employment. The

Defendants did so to increase the chance of their continued employment.

38. The Defendants were encouraged by the Defendants, Chant and Turner, to bring

up every conceivable act of misconduct dating back to the commencement of Plaintiff’s

employment that they could recall. The invitation extended to the said Defendants by the

Defendants, Chant and Turner, were for the purpose of portraying the Plaintiff in as bad

a light as possible so that the termination of the Plaintiff’s employment could be justified.

39. The Plaintiff states that the agreement made amongst all or some of the individual

Defendants constituted an unlawful conspiracy the predominant object of which was to

cause the Plaintiff emotional harm, public embarrassment and humiliation, mental

suffering and to secure the termination of her employment.

40. In the alternative, the Plaintiff also states that the Defendants acted individually or

collectively, by agreement:

(i) to induce the Hospital to breach its contract with the Plaintiff;

(ii) to interfere with the Plaintiff’s contractual relations with the Hospital and the

Foundation;

(iii) to inflict emotional harm and mental suffering on the Plaintiff.

**Bad Faith**

41. The Plaintiff states that the Defendants knew or should have known that their

conduct would cause the Plaintiff harm and emotional distress. Their actions were

intended to bring about that result.

42. The Defendants, Chant and Turner, disclosed to numerous Hospital employees

that the Plaintiff had been suspended for allegations of workplace misconduct. The said

Defendants advised Hospital employees to have no contact or communication with the

Plaintiff pending completion of the said investigation. The said Defendants, by their

conduct, implied that the Plaintiff was untrustworthy and would resort to conduct to

subvert the quality of the investigation being undertaken if the Plaintiff was permitted to

engage Hospital employees in discussions.

43. The Plaintiff states that her suspension and the unlawful investigation into the

allegations of workplace misconduct were brought about by the Defendants, Chant and

Turner, when they knew the Plaintiff was no longer subject to the supervision or direction

17

of the Hospital and when they knew the investigation was being conducted outside the

investigative procedures prescribed by the Program.

44. The Plaintiff states that the Defendants have conducted themselves in a callous

and reprehensible manner in the circumstances by undertaking conduct intentionally.

intended to aggravate the extent of the harm the Plaintiff suffered as a result of their

conduct.

**Vicarious Liability of the Hospital**

45. The Plaintiff states that Hospital is liable for the unlawful conduct of the individual

defendants.

46. The Plaintiff proposes that this action be tried in the Southwest Region of Ontario.

Dated: January 25, 2023

MYRON W. SHULGAN, Q.C.

LSUC#\_\_\_\_\_\_\_\_F-1B

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