Delay

There has been no explanation of how a matter commenced in 2006 was not decided until 2012. There used to be a principle of "laches" and a court of equity had an inherent power to refuse relief to a Plaintiff who had been guilty of unreasonable delay in seeking it. Presumably the delay here is the responsibility not of Froese, but of the Plaintiff, although Froese states that he never mentioned it. When asked whether a motion to strike the Claim or dismiss it for want of prosecution was ever contemplated, he answered:

> "I was not involved with the file until...August 2011.
> I would not have been involved in any decision
> with respect to an application to strike the claim."

The delay is cause for concern, particularly as the matter proceeded without trial and was decided under summary procedure based on the Plaintiff's Affidavit alone, and no evidence from the Defendant. In other words, an Application for summary judgment could have been brought years earlier. The facts hadn't changed. It was not as if various interim or interlocutory procedures of the sort that usually prolong an action were causing the delay. Nothing was happening.

One result of the delay was that Laliberte understandably assumed that the matter had ended years earlier.

> "When I was seconded to attend the mediation in 2007, I assumed that was the end of [the Plaintiff's] pursuit to address his grievance, because I received no correspondence from McKercher for four-and-a-half years".

The Plaintiff in his press release of February 10, 2012 implying that it was entirely his choice as to how to proceed stated that he;

> "... made a decision to apply for summary judgment. ...[He] favored a summary judgment procedure precisely because a trial only guarantees significantly increased costs with no corresponding guarantee of recovering anything....In this summary judgment case, the judge decided not to take any judicial notices..."[sic]

Yet by the time summary procedure was requested 5 years after the fact, it is reasonable to expect that the Plaintiff's indignation must have been less and his wounds somewhat healed. He had won two federal elections since the incident complained of, and accordingly he prospered and was successful, with all that that implies. If there were political consequences, they did not harm his ability to win. Granted no elected official, no matter how thick-skinned, should have to take personal abuse and "black art politics" is to be discouraged. The Chief Justice recognized that there must be a deterrent in such cases.