August 23, 2016

TO:    Law Reform Commission of Saskatchewan

University of Saskatchewan Room 184, College of Law 15 Campus Drive Saskatoon, SK S7N 5A6 Phone – (306) 966-1625; Fax – (306) 966-5900

Dear Leah Howie,

In follow-up to our phone conversation, please consider the following for submission to the September 2016 meeting of the Law Reform Commission of Saskatchewan.

I hope that the LRCS will help to establish legislation that is effective in thwarting the use of the threat of the legal system to coerce, intimidate and silence criticism.

Yours truly,

Sandra Finley

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**THE NEED FOR ANTI-SLAPP TYPE LEGISLATION IN SASKATCHEWAN**

A strategic lawsuit against public participation (**SLAPP**) is a lawsuit that is

***intended to censor, intimidate, and silence critics by burdening them with the cost of a legal defense until they abandon their criticism or opposition.***

Note:  SLAPP is the original, commonly-used term.  However, the use of SLAPP has evolved beyond the “Public Participation” aspect.  SLAPP is not the name under which Law Reform would be done.

Note:  Under-lined text is a clickable link.

The following documentation follows a path:

1. **EXAMPLES OF SLAPP SUITS** Large corporations use the threat of a lawsuit to silence critics.

Which leads to

1. **ANTI-SLAPP LEGISLATION   (Ontario, Quebec, USA)**

Which transitions into today’s world of social media (cyber-bullying and SLAPP):

*costly lawsuits are being used to silence people who are posting negative reviews. We need to make it cheaper, easier and quicker to get rid of these lawsuits so that people are talking about matters of interest to the public and are expressing their opinion or are saying something that’s true, which is what the anti-SLAPP legislation does.*

Which leads to "But this is Saskatchewan.  It's not an issue here."  . . . ?

1. **SASKATCHEWAN - FEDERAL GOVERNMENT SCIENTIST USE OF SLAPP**
2. **UNIVERSITY OF SASKATCHEWAN USE OF SLAPP**
3. **SASKATCHEWAN - INDIVIDUAL’S USE OF SLAPP (ARISING OUT OF CYBER-BULLYING OF YOUNG WOMEN)**
4. **ISSUE: FREE SPEECH**
5. **ISSUE: THE TRAGEDY OF THE COMMONS**
6. **RELATIONSHIP BETWEEN SLAPP AND CYBER-BULLYING. SHOULD THEY BE ADDRESSED TOGETHER?**

A.  THE SIZE OF THE PROBLEM WITH CYBER-VIOLENCE, then to

B.  CYBER-VIOLENCE WITH IMPUNITY, THE POLICE AND COURT SYSTEM WON’T OR CAN’T DO ANYTHING, AS THINGS STAND.  *There are currently no avenues for redress.*

1. ***WHO* HAS AN INTEREST IN ANTI-SLAPP LEGISLATION?** (later)
2. **REMEDY:   ANTI-SLAPP TYPE LEGISLATION** (later)

Now, the details.

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1. **EXAMPLES OF SLAPP SUITS   Large corporations use the threat of a lawsuit to silence critics.**

[***Libel Suits are Meant to Slapp Free Speech***](http://sandrafinley.ca/?p=17323)   is an early documentation (1998) of the problem.

*. . .   Canada’s two huge logging companies, MacMillan Bloedel and Fletcher Challenge have sued hundreds of citizens, communities and environmental groups for saying bad things about clearcutting.  Monsanto, maker of genetically engineered bovine growth hormone (BGH), sued several small Midwest dairies for advertising that their milk is BGH-free.  . . .* (BGH = bovine growth hormone)

People may have forgotten that ***bovine growth hormone*** was rejected for registration in Canada.   The science did not support its use – there were very serious problems with it. Monsanto's response was attempted bribery of Health Canada scientists to get it registered.   The scientists blew the whistle.   There was a Senate hearing; BGH was stopped in Canada. The lawsuits brought by Monsanto in the US were against dairy farmers who labelled their milk as being BGH-free.

Saskatchewanians may remember Monsanto’s lawsuit against Percy Schmeiser, or the dispatch of the RCMP to the homes of organic farmers at the behest of Monsanto for the same purpose of intimidation.   Percy could not have defended himself, except through community-based benefits and fund-raising on his behalf.

Monsanto’s use of the legal system to send a warning to farmers about its roundup-resistant, genetically-altered, patented seed was thwarted, but only because people rallied to pay the costs.

The corporations have millions to pay lawyers.   Huge amounts of citizen’s donated time and money go into defending the public interest against the SLAPP.

1. **ANTI-SLAPP LEGISLATION   (Ontario, Quebec, USA)**

[**https://en.wikipedia.org/wiki/Strategic\_lawsuit\_against\_public\_participation**](https://en.wikipedia.org/wiki/Strategic_lawsuit_against_public_participation)

***Ontario***

*In Ontario, the decision in Daishowa v. Friends of the Lubicon (see [1996] O.J. No. 3855 Ont. Ct. Gen. Div.) (QL) was also instructive on SLAPPs.  A motion brought by the corporate plaintiff Daishowa to impose conditions on the defendant Friends of the Lubicon Indian Band that they would not represent Daishowa’s action as a SLAPP was dismissed.*

*By 2010, the Ontario Attorney-General issued a major report which identified SLAPP as a major problem[[11]](https://en.wikipedia.org/wiki/Strategic_lawsuit_against_public_participation" \l "cite_note-11) but initially little or nothing was done.*[*[12]*](https://en.wikipedia.org/wiki/Strategic_lawsuit_against_public_participation#cite_note-12)

*. . . In October 2015, Ontario passed the Protection of Public Participation Act, 2015.*[*[15]*](https://en.wikipedia.org/wiki/Strategic_lawsuit_against_public_participation#cite_note-15)

*. . . The Ontario Civil Liberties Association has called upon the Attorney General to go further, as Bill 83 does not correct fundamental flaws with Ontario's defamation law which impose a one-sided* [*burden of proof*](https://en.wikipedia.org/wiki/Reverse_onus) *to force defendants to disprove falsity, malice, and damage within a very limited framework where “truth”, “privilege”, “fair comment”, and “responsible reporting” are their only recognised defences.*[*[22]*](https://en.wikipedia.org/wiki/Strategic_lawsuit_against_public_participation#cite_note-22)

***Quebec***

Québec's then Justice Minister, Jacques Dupuis, proposed an anti-SLAPP bill on June 13, 2008. [[23]](https://en.wikipedia.org/wiki/Strategic_lawsuit_against_public_participation#cite_note-ulcc_slapp_01-23) The bill was adopted by the [National Assembly of Quebec](https://en.wikipedia.org/wiki/National_Assembly_of_Quebec) on June 3, 2009.

. . . .   The Quebec law is substantially different in structure than that of California[[26]](https://en.wikipedia.org/wiki/Strategic_lawsuit_against_public_participation#cite_note-26) or other jurisdictions, however as Quebec's Constitution generally subordinates itself to [international law](https://en.wikipedia.org/wiki/International_law), the [International Covenant on Civil and Political Rights](https://en.wikipedia.org/wiki/International_Covenant_on_Civil_and_Political_Rights) applies.

(Aside: the Wikipedia information on SLAPP does not mention Monsanto, a Godfather of SLAPP suits. An edit should be sent to Wikipedia.)

***USA***

From   Public Participation Project, Fighting for Free Speech[***http://www.anti-slapp.org/slappdash-faqs-about-slapps/***](http://www.anti-slapp.org/slappdash-faqs-about-slapps/)

*It Might Get Harder for Someone to Silence You with a Lawsuit*

*By Michael Arria / AlterNet*

*May 18, 2016*

***Currently 28 states have some kind of anti-SLAPP statutory protection****. SLAPP stands for Strategic Lawsuits Against Public Participation, which refers to litigation intended to silence critics by sticking them with the need for an exorbitant legal defense. Think of the Church of Scientology’s*[*attempts*](http://www.cinemablend.com/television/How-HBO-Shielding-Itself-From-Scientology-Lawsuits-68623.html) *to intimidate whistleblowers with threats of legal action. It’s also used by corporations, like McDonald’s* [*suing*](https://www.youtube.com/watch?v=V58kK4r26yk)*environmental activists for distributing pamphlets that were critical of the company’s policies.*

***Lawmakers have been pushing for federal SLAPP legislation*** *for years, but it finally looks as if a substantial bipartisan effort is underway. The ideal model for federal rules is California, the state with the most expansive anti-SLAPP protections. A recent Los Angeles Times editorial explains the existing system:*

*When someone is hit with a lawsuit that feels like a SLAPP, he or she can quickly file a motion to strike. The court then puts the original lawsuit on hold while determining whether the person was, in fact, being sued for exercising free-speech rights, petitioning the government or speaking in a public forum on ‘an issue of public interest.’ If so, the court will toss out the lawsuit unless the plaintiff can show that the claims are legitimate and likely to succeed at trial. To guard against abusive anti-SLAPP motions, the side that loses such a case has to pay the other side’s legal fees.*

*The federal proposal,* [*H.R. 2304*](https://www.congress.gov/bill/114th-congress/house-bill/2304?q=%7b%22search%22%3A%5b%22SPEAK+FREE+Act%22%5d%7d&resultIndex=1)*, is sponsored by Rep. Blake Farenthold, a Texas Republican. Farenthold’s political affiliation may confuse those who only associate anti-SLAPP efforts with corporate critics, but there’s potentially a libertarian, even conservative, appeal to such legislation. When asked about the importance of the bill, Farenthold* [*explained*](http://www.cta.tech/Blog/Articles/2016/April/INTERVIEW-U-S-Rep-Blake-Farenthold-on-Patent-Refor.aspx)*:*

*If someone posts something negative, whether it’s true or their opinion, both of which are protected speech under the First Amendment, costly lawsuits are being used to silence people who are posting negative reviews. We need to make it cheaper, easier and quicker to get rid of these lawsuits so that people are talking about matters of interest to the public and are expressing their opinion or are saying something that’s true, which is what the anti-SLAPP legislation does.*

1. **SASKATCHEWAN - FEDERAL GOVERNMENT SCIENTIST USE OF SLAPP**

2004-04-10    [***Tom Wolf, Health Canada scientist threatens to sue me.   Response***](http://sandrafinley.ca/?p=3364) [**– the mafia uses threat of broken bones.**](http://sandrafinley.ca/?p=3364)

(Note: CropLife Canada is the lobby machine for the chemical industry.   And it’s actually Dr. Wolf, not Mr. Wolf as I refer to him.)

EXCERPT:

**MY RESPONSE TO LAWYER   (**Woloshyn & Company, LLP)

Dear Stephen Nicholson:

I am in receipt of your registered letter, October 4th and email copy of same.

The email I sent to City Council contains information provided verbally by Mr. Wolf himself at the September 23rd meeting of the Saskatoon Environmental Advisory Committee (SEAC), in response to the written question handed to him (approximate wording), “Is this the same Tom Wolf as whose work appears in the communications of CropLife? If so, he is in a serious conflict-of-interest”.

In his response, Mr. Wolf said that he was seconded from Agricultrue Canada to work at the Pest Management Regulatory Agency (PMRA).  Mr. Wolf  specifically stated that he has been paid by CropLife and that he seeks funding from them. He specifically stated that he has written a manual for CropLife.  I gather that he provided the amount of one payment ($10,000.00) to the reporter from the Star Phoenix, as I interpret the newspaper article regarding the conflict-of-interest.

INSERT:   Copies of all the related documents are at   [*Tom Wolf, Health Canada scientist threatens to sue me. Response* *– the mafia uses threat of broken bones.*](http://sandrafinley.ca/?p=3364)    The newspaper article (Wolf told the reporter that he had been doing work for the industry for 8 years and that for one project, as an example, he received $10,000. He declined to say how much in total he had been paid by the industry.  I only came to know of his involvement with the industry (that the PMRA is supposed to regulate) because he jumped on me at an open meeting, said what I was saying was wrong when I knew I was right and supplied the info to prove it.   I didn’t know him; it seemed a funny reaction by him - - until a friend nosed around and found him in the industry publication. There’s also a copy of the letter from the lawyer threatening to sue me, notes re my trip to Ottawa, meeting with the head-haunchos of the PMRA to find out what in hell they’re doing, the written reply from them, and so on.)

Continuing with my letter to the lawyer:

If “Mr. Wolf does not personally receive payments from the chemical industry”, as stated in your letter, (INSERT: the letter that threatens to sue me) then he should not state that such is the case. Whether one calls the payor CropLife or the chemical industry is a matter of semantics.

I question the intent of your statement “We further understand that you may be speaking to City Council this evening (etc.)”. Presumably you, in your experience as a lawyer would know better than I, that sensitive matters involving individuals will be dealt with in camera. That would be routine.

If intended for me, the statement “Any dissemination, distribution or copying of this message is strictly prohibited.”, I respond that you sent the communication to me. I am free to do with it as I wish, except to alter it.

In light of the preceding points and other statements in your letter, I view your letter to me as an intimidation tactic. Gangsters bully people through threat of broken bones. The chemical industry has an established history (I will be happy to provide specific examples should you desire them) of attempting to intimidate through the threat of harm to the person’s finances and well-being, utilizing the legal system as the weapon.

For the record:

I did not send my complaint to “various media outlets”. I did send it to the other affected parties you named – the City, SEAC and the Auditor General (who issued an extremely critical report on the PMRA in October 2003 and who therefore has an interest). I also sent it to my personal email network.

The matter reached the Star Phoenix because a City reporter saw the vaporooter item on the Sept 23rd meeting agenda for SEAC. He knew of my interest in the subject from an earlier meeting of SEAC which he had attended. It was quite natural for him to phone me.

Yours truly,

Sandra Finley

(INSERT:   in 2006 I was in Ottawa and met with the then-Head of the PMRA, Karen Dodds,  to challenge the conflict-of-interest.  (And I wanted to see what kind of people these Government employees are – they must know the disease outcomes associated with pesticide poisoning.  Certainly, they have received lots of documentation.  How can they side with the industry and ignore the consequences, especially for children?  Incredibly cold-hearted.

The reply from Karen Dodds (an email) explaining that it is okay for a full-time Govt scientist to be simultaneously working for the industry because  the PMRA signed a “memorandum of  understanding” with Tom Wolf is item #1 in the posting.  Note that Tom Wolf was working on the mandated buffer zone for sprayed crops,  something that the industry wanted reduced.  The buffer zones were reduced very significantly.

Tom Wolf attended a presentation by David Suzuki at a National Farmers Union Convention.  He (whiningly)  asked Suzuki what University employees were supposed to do, they need to raise money.  Suzuki didn’t bite.   In his inimitable forthright form, he said simply, “*The University has sold its soul to the devil*.”)

1. **UNIVERSITY OF SASKATCHEWAN USE OF SLAPP**

2011-10-15   [***My response to Letter from Lawyer, University threatens legal action***](http://sandrafinley.ca/?p=3366)***.***

This threat of legal action was also sent to Jordan Miller.

EXCERPT:

**RE:  Your file reference 30000.455    USSWORD Infringing Use of Registered Marks   (USSWORD = *University of Saskatchewan Senators WOrking to Revive Democracy)***

A copy of your letter is posted at  ***[2011-10-06](http://sandrafinley.ca/?p=3368)***   Letter from University’s Lawyer threatens legal action

*“  . . .  cease and desist  . . . If you do not comply, we have instructions to pursue all available legal remedies.”*

. . . .  Let me say, regarding your letter and prior to addressing the legal issue you raise:

the justice system is a well-known tool of intimidation and coercion used by large corporate interests and the Government with seemingly unlimited financial resources, compared to the ordinary, well-intentioned private citizen.

I am acquainted with the practice.   It is a disturbing trend, along with the use of the police (RCMP) to protect unregulated corporate interests (Encana pipeline incidents bring out the RCMP anti-terrorist squad when unregulated, very poisonous sour gas is causing still-births and miscarriages in women and in livestock.  People are trying to defend the health and lives of their family and environment.  They exhaust legal remedies, are left to their wits and then characterized as terrorists.)

It is my job as an elected Senator of the University of Saskatchewan to represent the voice of the owners of the University, the citizens of Saskatchewan.   The role of “the loyal opposition” in democratic institutions is to ask the hard questions, to hold officials accountable to citizens.

The University of Saskatchewan has been, and continues, using the legal system to silence and intimidate:

a.  The research project spreadsheet of approximately FIFTY cases of harassment at the University, shows

–              twenty cases going to the Court of Queen’s Bench

–              at least seven going to the Court of Appeal, and

–              others going to quasi-judiciary bodies.

–              at least three of the cases are “exit with a confidentiality agreement”, commonly known as a gag order bought with a pay-out.  The pay-outs are known to be large, some VERY large.

As a Senator representing the community interest, I see reflected in the spreadsheet literally millions of dollars in lawyers’ fees,  financial settlements to aggrieved victims, and salaries paid to administrators who are dealing with the disputes.  There are serious questions to be answered concerning conflict resolution at the U of S.

b.  An issue raised by USSWORD is the unacceptable conflicts-of-interest at the University.   Nancy Hopkins is the Chair of the Board of Governors.  She has been on the Cameco Board since 1992 and as at the end of December 2009 had $1.8 million in Cameco shares.    She chairs the Search Committee for the next President of the University;  persons with connections to the industry are in contention for the position.

The President, Peter MacKinnon responds in Senate by proclaiming that there IS no conflict-of-interest.   We all know what a wonderful person Ms Hopkins is.

A reading of the minutes of the Board of Governors indicates that Ms Hopkins does not recuse herself from deliberations related to the nuclear industry on campus.

When the Government of Saskatchewan channels $30 million (or is it $45M) to the University ear-marked for research and development to benefit the nuclear industry, is Ms. Hopkins going to uphold University autonomy in its ability to allocate funds without political interference?  And is she concerned about the long-term sustainability of that program should that government funding be cut in future because they (and the nuclear industry) believe they are not getting the anticipated return on their “investment”?    No.

Does she benefit from the advancement of the nuclear research at U of S?   After Fukishima the world is exiting nuclear and Ms. Hopkins’ Cameco shares have taken a nose-dive.   Government (public) funding, through the University, of Cameco’s interests will be extremely beneficial to the investments of Nancy Hopkins – – but (repeat) the Administration of the University contends there is no conflict-of-interest.

USSWORD raises the issues;  the University seems unable to deal with them through respectful exchange.   They deny and then threaten “the full force of the law”.

**The question is “WHY”?**

Link back to the spreadsheet of harassment cases.   You may or may not know:   Academic Women for Justice (INSERT: not based in Sask.) has lodged a complaint with the Minister responsible for Post-Secondary Education, Rob Norris.   They recommend that the University of Saskatchewan no longer be eligible for Canada Research Chair Funding because of the cases.   This is a matter of serious concern for the owners of the University and me as a representative.

But still the ***“WHY?”.***. . . Connect the dots.

Monique Dube became a renowned researcher in water.   She was awarded a Canada Research Chair at the University of Saskatchewan, bringing $16 million with her.  I came to know of Monique because she was the ONE scientist at the University who engaged with the community around Outlook over the question of adding high-volume water users and polluters of the South Sask River, in the form of intensive cattle operations.   (The South Sask River supplies 40% of the people in the province with the water that comes out of their taps. There are enormous demands on the River already.   The size of the promoted livestock operations is like adding the demands of another entire city.)

Then  big surprise:  Monique Dube recently and abruptly left, a great loss to the University.   . .  **WHY did she leave?**  I know that in early summer she was extremely worried that the University was going to fire her which was incomprehensible given her publication and work record.  The University has celebrated and profiled her virtues.

Hmmm . . .  I recall a social conversation with Monique.   I had been up to **Wollaston Lake** at a Keepers of the Water Conference.  Keepers of the Water (attendees of the Conference) are First Nations people from northern  Alaska, Alberta, Saskatchewan and Manitoba.  The elders are very concerned by the levels of cancer in their communities, unknown in the past.   Because of the disease levels (poisons going into the environment) they have joined hands across the North to protect their children.

Monique told me her experience by which she was obviously disturbed:  she had been taking water samples in the North.  They had a Geiger counter with them  as they went along the shore.  The counter was going crazy.   What bothered her most was that children were innocently playing on the shore when even adults should not have been in the area without protection, given the readings on the Geiger counter.

Wollaston Lake = Cameco.   The University of Saskatchewan = Cameco University.   The connections are well documented.  Please ask if you would like them.

I received a brown envelope.   The Administration of the University can confirm the content. . . . Monique Dube asserted the need for laboratories at the University to be brought up to Canadian standards.  As I understand, she is a professional and has worked under the world’s best.   In order for her work to be scientifically reliable she must be working in laboratories that meet standards.

Whose interests are served by sub-standard laboratories?   Whose interests are served if the scientist with the Geiger counter is forced out of the University?

END OF EXCERPT

The letter received by Jordan Miller and myself was a SLAPP suit, the University attempting to silence the legitimate exercise of calling to account.

*“  . . .  cease and desist  . . . If you do not comply, we have instructions to pursue all available legal remedies.”*

(We were cited for TradeMark infringement.  We, University Senators,  worked with a group of Senators.  We called ourselves  "University of Saskatchewan Senators WOrking to Revive Democracy, or USSWORD for short.   "University of Saskatchewan" is trade-marked.  The set of related documents are at the posting,  2011-10-15   [***My response to Letter from Lawyer, University threatens legal action***](http://sandrafinley.ca/?p=3366)***.***)

1. **SASKATCHEWAN - INDIVIDUAL’S USE OF SLAPP (ARISING OUT OF CYBER-BULLYING OF YOUNG WOMEN)**

Anti-SLAPP legislation in some jurisdictions has been effective in reducing the use of SLAPP as a tool of coercion, insofar as it applies to Corporate entities versus the Public Interest.

But the world evolves and ***unfortunately, the SLAPP practice developed by large corporate interests has now been learned by individuals***.   The last paragraph under *2. ANTI-SLAPP LEGISLATION* alludes to it:   *costly lawsuits are being used to silence people who are posting negative reviews*.

The specific example I provide (Saskatchewan) is currently in the Justice system.

For a year, a 26 year-old woman had been mercilessly harassed by a 42 year-old man through social media, after she stood up at a public meeting and offered a viewpoint different from his.  I received a complaint from the distressed young woman through a facebook group for which I could be said to have some responsibility, in a volunteer capacity. I forwarded her complaint to the office in Ottawa for independent, 3rd party resolution.

Because I forwarded the complaint, the man then set his sights on me and has not stopped in the almost-three years since.   He attacked others. Eventually he threatened me with, and then brought a lawsuit.   I think he expects that the costs and inadequacies of the Justice system will force me to abandon a defence.  As of August 2016,  lawyer bills for me and a co-defendant are $22,000.   That is to get through preliminaries;  Mandatory Mediation has not commenced;  there is the likelihood of a trial.

More details under   8. **RELATIONSHIP BETWEEN SLAPP AND CYBER-BULLYING.** Look under B.  CYBER-VIOLENCE WITH IMPUNITY, THE POLICE AND COURT SYSTEM WON’T OR CAN’T DO ANYTHING, AS THINGS STAND. *There are currently no avenues for redress.*

It is almost inconceivable that I, one person in one small province of Saskatchewan, can serve up from personal experience the preceding 3 examples of egregious uses of the threat of a lawsuit (SLAPP) for intimidation and silencing purposes.

I grew up in rural Saskatchewan which is conservative.  but community-minded in spirit.  I graduated from the College of Commerce in 1971 with honours.

The fault seems to be that I know right from wrong.

The larger issues . . .

**6.  ISSUE: FREE SPEECH**

Civil litigation is for the wealthy and a few people like myself who believe that Charter Rights have to be defended at all costs.  We must stand in solidarity with others who have defended the right to free speech at huge personal cost. Sometimes it is with their lives and the lives of their family members on the line.

Reference publication of the “***Satanic Verses***” in 1989 by Salman Rushdie.  The Ayatollah Khomeini of Iran issued a fatwa ordering Muslims to kill Rushdie.   “***Joseph Anton: A Memoir***” by Rushdie documents the refusal of himself, a handful of publishers and a few others to bow.

Their sole motivation: they understood that free speech must be an inviolable right.   With responsibilities, yes, but not to be abandoned out of fear.

It takes a deeper understanding, the ability to see that if we individually bow to violence, we collectively condemn our children to a more violent future.   You don’t save them by avoiding or failing to deal with the issue.  Quite the opposite.

My resolve to stay the course against a cyberbully was cemented by the realization that it is an issue of free speech.

**7.  ISSUE: THE TRAGEDY OF THE COMMONS**

As explained in letter to lawyer:

. . .   However,  in my opinion an agreement to settle with him (even if it was possible) would be a short-term fix, and it would be a larger betrayal.

The betrayal can be understood in the framework of “**The Tragedy of the Commons**”.   (The internet – – the air waves – – are part of “The Commons”.)   No one of us individually is responsible, and therefore *no one is responsible*.

A short read may be helpful:    [***Battles to protect the Commons***](http://sandrafinley.ca/?page_id=9)***.***

When there are incursions onto the Commons, people have to come together to defend it.  If not, the Commons is lost and the whole community suffers  – – a lot.

OTHER people work hard, all the time, in defence of the Commons.  Without them, one tiny example,  the quality of the water coming out of your tap would be less than it is.   Many more people would side-step the issue through the purchase of bottled water, if they can afford it.

There have been monumental efforts by people in Canada and the U.S. to stop things like tiered (preferential) access to the Internet that large corporate interests seek.

**In the context of this court case:**

Some of you have daughters, sisters, nieces, or are young women yourselves.   The case against me exists because I forwarded a complaint – – this older man was using the internet against a young woman, in ways you would not tolerate.

Click on:    [***2016-07-29   ‘What law am I breaking?’  How a Facebook troll came undone***](http://sandrafinley.ca/?p=17185)

This recent story is of young women who had the courage to fight against such cyber-bullies, and win.  It’s a win for everyone who has a presence on the internet.   AND for everyone who has a daughter, sister or niece.

One woman, Brierley Newton, stood in defence of the Commons.  She is not asking us for our gratitude.  But she should expect that we will at least stand in solidarity when the ball lands in our court.

Standing down from this man would be a betrayal by me.   We need to ADD to the success of these young women, not subtract from it.

You might think of the case of Amanda Todd (a teen who committed suicide as a consequence of on-line predation).  This is not as extreme, but it is related.

To what extremes will/would the man go?   So far, he knows that the Police and the Justice system will not touch him.

If I capitulate, not only would his belief be reinforced, but he will potentially make money (a “global settlement”) doing what he does.   He would flaunt a win, which would empower him AND others.   The above article, ***How a Troll came Undone***,  describes the extent of the problem, as does the UN Report on CyberViolence.

We leave a more violent world behind us, if we do not accept our responsibility.

The tragedy and comedy of human existence:   we are often unwitting participants in our own demise  (a settlement with the cyberbully, pay him to stop, abandon the Charter Right to free speech, accept tyranny.)

**8.   RELATIONSHIP BETWEEN SLAPP AND CYBER-BULLYING. SHOULD THEY BE ADDRESSED TOGETHER?**

**A.  THE SIZE OF THE PROBLEM WITH CYBER-VIOLENCE,     then to**

B.  **CYBER-VIOLENCE WITH IMPUNITY, THE POLICE AND COURT SYSTEM WON’T OR CAN’T DO ANYTHING, AS THINGS STAND.** *There are currently no avenues for redress.*

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***A.    THE SIZE OF THE PROBLEM WITH CYBER-VIOLENCE***

***i.   UN report on cyberviolence highlights rampant issue online***.

The UN Report was discussed on CBC Radio, *The Current*, which is addressed in [***Cyberbullying, an issue of free speech. Salman Rushdie, a guiding light.***](http://sandrafinley.ca/?p=15382)

You may remember Amanda Todd, a teenager who committed suicide as a consequence of on-line predation.

A recent case from Alberta: white racists (supremacists) vicious online attacks on First Nations female professor.

Canadian lawyer, journalist and author Paula Todd (not related to Amanda Todd) published “***Extreme Mean, Trolls, Bullies and Predators Online***” in 2014. Described as a “meticulous and dramatic investigation …… serves as a demand for action”.

In the search for help to deal with a cyberbully I found the last chapter of Paula Todd’s book ***Extreme Mean*** to be a good statement of the challenge that society has to address, with the rapidly-developed internet technology and its empowerment of destructive forces.

ii.  CYBER-VIOLENCE WITH IMPUNITY, **THE POLICE AND COURT SYSTEM WON’T OR CAN’T DO ANYTHING**, AS THINGS STAND.

*There are currently no avenues for redress.*

There is plentiful documentation of the problem (A).

**Why not just go to the Police and the Court system?**

Experience in Saskatoon:

A number of people have taken serious complaints against the same person to the Police, as early as January 2014.

As of August 2016 - Police could not or have not taken effective action.

Some examples, all against the same person, but not an exhaustive list of the complainants:

a.   January 7, 2014   From Tonia Zimmerman to Sandra Finley

*I learned the hard way that harassment through social media is not taken seriously by local police . . ..  I went to the police with all of the harassment that ( - - ) has thrown at me, and they said there's no way to prove it was really (him) who said and did these things. . . .*

*Lastly, I'm not looking to endanger (him), despite how hard he has come after me--that would just lower me to his level.  I won't spread his last name around--I've known it for months now, and the only action I've taken with it was to implore (his) father to talk some sense into (him), and get him to remove the websites harassing me.  I haven't put it on my website, nor do I plan to.  It didn't work to reach out to his father, so as I see it, I'm out of ammo.*

b.   7 Jan 2014 To Tonia Zimmerman from Sandra Finley

*Re the conversation with John Gormley’s producer, Bryn.*

*We discussed the matter of the Police.  Bryn felt the same as what you articulated.  In the end, the Police will not deal with the complaint.*

(John Gormley had attempted to shut down the cyber-bullying by ( - - ), prior to my involvement.)

c.   17 July 2014From V.S. t**o** Sandra Finley

Subject: Bullying/cyberbullying by *( - - )*

*Here is the email I sent to Sgt. Gulka yesterday.  You can see that (- - ) has not stopped and now is beginning to harass me through work.  I have yet to receive any phonecall or email from Sgt. Gulka although I have given him my work and home phone numbers.  I hope he is taking this seriously as I don't know how much further ( - -) is willing to go.*

d.   26 July 2014 From V.S. to a number of people

*I have filed my complaint with the City Police and if anyone receives any defamatory or threatening emails against me and would like to forward them on to the police, you are free to do so (any ones that I have been cc'd on or sent directly to me I will be forwarding on myself).  The case number I was given is:  14-64476.*

e.   26 Jul 2014 From Sandra to Debra Eindiguer, Ottawa

*Subject: Update ( - - ): Saskatoon Health Region re V.S.*

*With the Saskatoon Health Region now behind the Police complaint procedure, I think ( - - ) will be brought to his senses.*

*Excerpts:  (V.S.)*

*This morning I had my meeting with the Health Region.  There was a union representative available for me as well.  All is well, but they advised me to file a complaint with the City Police which I will do tomorrow. . . .*

*After I file my complaint and have a file number, I am going to give it to my manager as ( - - ) has sent emails, cc'ing almost every executive in the health region, regarding his complaint and giving out his blog information.  The people I talked with today told me that if those emails continue (basically it is additional harassment as he is crossing employee privacy lines), that they could add this to my harassment complaint.*

*The only thing I worry about going to the police is what is ( - - ) going to do to retaliate?  My union representative said that it sounds like (- - ) would escalate things anyway and having a complaint on file speeds up any actions the police can take.*

That is a sampling.

There is, in addition, the **APPENDED   CYBERBULLY INTERFERENCE WITH BUSINESS CONTRACTS, BLOG HOSTING SERVICE AND DOMAIN NAME REGISTRAR**

It is documentation or evidence.

The cyberbully followed through on the threat of the justice system and brought charges against me. He has threatened others and not followed through.  Now, in his continuing harassment of others he frequently refers to the fact that he will take them to Court, as he has done to me; and that they will have $20,000 or $30,000 in lawyer’s bills to pay.

I have paid $22,000 in legal bills to-date (mine and the co-defendant blog-hosting service with whom I have a contractural agreement).  We have not yet entered the Mandatory Mediation phase, which precedes an appearance in Court of Queen’s Bench.   The cyber-bully knows that the contract with the blog hosting service requires me to cover legal expenses they might incur as a consequence of this type of attack.

He knows that if he makes charges of **DEFAMATION** against me and the hosting service as co-defendants,  legal counsel will advise to settle (pay up, don’t defend against the tyranny. Simply because the legal bills will run to $30,000, as high as $50,000).   If you win, you don’t win because Courts typically make miniscule awards in cases of defamation.   And there is the question of the ability of the plaintiff to pay a Court-ordered amount.

The plaintiff offered to settle with the co-defendant, my blog hosting service.   Their lawyer said, “Do it” which certainly made financial sense.   I was able to convince them not to settle (I would ultimately pay their cost, and it would be used by the plaintiff to pay his own legal bills.)

Ideally, from his perspective, I will not be able to defend against defamation charges because of the limited defences that can be used.  And he might make some money.

I did not design this system.

***The reason I give to myself for staying the course in the lawsuit that originated over the cyberbullying (Zimmerman):***

***The cost is ridiculous,  The cause is not.***

It is important to find ways to deal with cyberbullying.   Alternatively, people will find their own means.  Those means will be outside the Justice System for obvious reasons;  they will involve violence.  Civil litigation is completely ineffective in this realm, given the cost, the state of the system and the legislation.

From  [***Cyberbullying, an issue of free speech. Salman Rushdie, a guiding light.***](http://sandrafinley.ca/?p=15382)

The cost of shutting down the perpetrator is horrendous.  It involves a court case; our system of justice is not evolved to handle cyberbullying.  It argues against even trying.   You will be bankrupted which is what the perpetrator knows.   It enables him to continue with almost impunity.

1. ***WHO* HAS AN INTEREST IN ANTI-SLAPP LEGISLATION?** (later)
2. **REMEDY:   ANTI-SLAPP TYPE LEGISLATION** (later)

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**APPENDED   CYBERBULLY INTERFERENCE WITH BUSINESS CONTRACTS, BLOG HOSTING SERVICE AND DOMAIN NAME REGISTRAR**

**Example:**

**From:** Samantha Mak (Lawyer for Domain Name Registrar) **Sent:** January 9, 2015 4:39 PM **To:** 'Sandra Finley'; legal@domainpeople.com **Subject:** RE: re charges by *( - - )* against Sandra Finley

Dear Ms. Finley,

. . . we ask you to understand that we cannot allow a complainant to bring a lawsuit against DomainPeople for any particular registrant’s actions or inactions and we reserve the right to take any action to avoid such liability including the suspension of your domain name.  Furthermore, please be aware that CIRA, the registry for .ca domains, expressly states that .ca domains may not be used to defame or to contribute in any way to the defamation of a person or entity.  As such, we, as the registrar for your .ca domain name, may be obligated to suspend your domain based on our accreditation agreement with CIRA.

If you or your legal counsel would like to discuss this matter, I am available Monday to Friday at 604-688-8946 ext. 226.

Thank you for your understanding in this matter.

Best Regards,

**Samantha Mak**

Corporate Counsel

DOMAINPEOPLE, INC.

550 Burrard Street, Suite 200 | Vancouver, BC | V6C 2B5

T: 604.688.8946

F: 773.442.0563

E: [samantha@domainpeople.com](mailto:samantha@domainpeople.com)

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**From:** Sandra Finley **Sent:** Friday, January 09, 2015 1:39 PM **To:** [legal@domainpeople.com](mailto:legal@domainpeople.com) **Subject:** re charges by  ( - - )  against Sandra Finley

Hello Domain People, Legal Dept and/or Abuse Dept.

In response to your appended email to me,

I spoke at length with ***Adrian*** in your Tech Support Dept yesterday.   Please consider talking with Adrian.  Or phoning me (250-594-9898. . .

*( - - )* is a cyber bully, well documented.   He is narcissistic and craves attention of any kind.   If his on-line bullying is unsuccessful,  ***he uses the THREAT of legal action to try to intimidate and coerce people***.   He has been making threats against me for more than a year now.   He is 43 years old and unemployed.

The Police have been involved.

* Saskatoon City Police, Sgt Gulka is the main contact
* ( - - ) went also to the Duncan BC RCMP and to the
* Parksville BC RCMP

I have been interviewed by all three Police Departments; they all found that there was no basis for the charges by ( - - ) against me.

* The Prosecutor in Saskatoon, Melody Kujawa, has reviewed ( - -  ’s)  complaints against me and advised the Police that there is no basis for charges against me.

Inaccuracies (to which ( - - ) is prone) in his communication to you:

* *As a result of this legal demand letter, Loose Foot Computing Limited very recently discontinued Sandra Finleys service and Sandra Finley immediately switched to using your company, DomainPeople, Inc., as her domain name registrar for sandrafinley.ca.*

No,  DomainPeople has always been my registrar, and for 8 years now.

RE LFC:  After four months of harassment by ( - - ), and in reply to this “demand letter” from law firm Cuelenaere (Saskatoon),  LFC transferred the hosting of my blog to Russia.   They transferred the blog at their suggestion, as the easiest way to deal with the situation and at no cost to me.   (They no longer host the blog which neutralizes (- - ‘s) coercive capacity.)

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**From:** Andrew G. MacCorquodale [<mailto:a.mac@lfchosting.com>] **Sent:** January-07-15 6:23 AM **Subject:** Re: *( - - )*, update and path forward

Good morning Sandra,

At this time, ( - - ) seems to be satisfied with the action LFC took and I don’t have an interest in pursuing it any further from our end. If ( - - ) contacts us again (that means any employee, director, shareholder, or relative thereof) then my tune will dramatically change.

Please let me know if I can be of any assistance to you. It looks like you’ve done your homework.

All the best,

***Andrew G. MacCorquodale*** Vice President LFC Hosting [http://www.lfchosting.com](http://www.lfchosting.com/) 1-866-LFC-HOST (532-4678)

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If you (DomainPeople)  give ( - - ) attention, I expect he will do to you what he has done to others.   He has wasted a huge amount of my time, and other’s I know, for more than a year.    Prior to that he cyber-bullied a young woman for more than a year – entirely unacceptable.    He, 42 years old and she, 26.   He caused there to be a disciplinary hearing against a woman who has worked for years for the Saskatoon Health District.  The outcome:  she was exonerated and advised by her Union Rep to lay a complaint against (him) with Saskatoon Police, which she did.

(He) incorrectly characterizes this as a dispute between him and me.   It is not.

(He) started using Green Party social media against the young woman.   She complained to me;  I forwarded her complaint  for 3rd party, independent resolution.

I forwarded her complaint a year ago to the Ethics Committee of the Green Party of Canada in Ottawa.   Which was **the trigger for him to launch** **an assault on me**.   I have never once responded to him.   He phoned people in Saskatoon with my same surname at 5:00 in the morning.   Got my Mother, 85 years old, out of bed in rural Saskatchewan at 5:30AM. He came to the Airport at 6:00AM.  That is the only time I have conversed or communicated in any way with him since this began.   A gentleman in the line-up standing next to me offered to show (him) out the door.   I said no, I needed to call the Police or Security.   A Westjet attendant happened to have been observing, stepped in and took control of the situation.  She said, “No”  SHE was going to call Security, which she started to do but (he) left.   ((He) went to the parents of Andrew (LFC) who are in their seventies, to obtain Andrew’s home phone number - - the calls to LFC’s office were not enough.)

I posted material (he) generated when I realized there was a good chance I would need it to defend myself against false allegations by him.  The material would otherwise have become lost in my inbox.   It was posted under password protection; 6 months later when he brought ten complaints against me to the Green Party to have my membership revoked, I temporarily removed the password protection so the Ethics Committee and he could access the evidence I have to defend myself against his manipulations and lies.   Password protection was re-instated and has remained until he is dealt with.

I am only one of the people (he) has launched a campaign against.

The Green Parties, federally and provincially in both Saskatchewan and B.C.  have come under attack.   Provincially it was relatively easy;  I did not take out a membership.  GP BC just responded to (him) that they couldn’t do anything because I am not a member.   I am a member of the Federal Party.  The Federal Party has stood by me, but it meant going through the Ethics Committee and an Ombuds Committee process.   A HUGE cost in an organization that is largely volunteer.  He develops a list of people in the organization and then sends hundreds of emails to them, with false accusations about me.   He creates the idea that there is a personal dispute between him and me.   No.   All of my work is in the interests of strengthening democracy.

Especially in a democracy, you cannot bow to would-be tyrants like (him).   He has to know that **there are consequences for his actions.**   He cannot do what he does to other people, with impunity.   In a very small way, it is the Salman Rushdie story.

Canadian law has not kept pace with internet technology.

I believe that Adrian understands the situation.   I hope you will, too.    Please get back to me, if I can be of further assistance.

I request that you first talk with me, if you consider taking any steps to disable my blog, at the request of ( - - ).

Thank-you and Best wishes,

Sandra Finley

(phone)

- - - - - - - - - -- -

**From:** Sandra Finley   **Sent:** January-08-15 4:30 PM **To:** a number of people **Subject:** Update, *( - - )*

Hello Everyone,

Thank-you so much for hanging in, above and beyond the call of duty.  I think (once again!) we are near end-of-line with *( - - )*.

I’ve done another round of conversation with the Police, following more actions directed at my blog hosting service and domain name registrar.

Based on current status with OTHERS, have decided to ***stay the year-long course***, depriving *( - - )* of any attention.  I continue to make No responses to any of his actions.  Based on belief that he is a narcissist and craves attention, regardless of whether negative or positive.

Status:

* Andrew Weaver’s office (Green Party MLA BC).  They are not being bothered by *( - - )* now.  He has been stopped.
* V., who he tried to get fired.    He has been stopped there.
* Elizabeth May’s office, Debra Endiguer  Jan 8/15:  *He has not telephoned me personally in ages and have seen no emails for a couple of weeks. I am not sure if he is calling the GPC office.*

My blog hosting service (LFC) moved my blog to a server in Russia . . .

I am fortunate;  LFC continues to stand by and proposed the Russia remedy,  with no cost or work required on my part.  They looked after it entirely and continue to offer support, technical and moral.

In response to my concerns whether *( - - )* might go after the Russian server, LFC replied:   *I wouldn't worry about it too much -- Russia was chosen for a reason :)*

Yesterday *( - - )* started on the registrar for my domain name.   They are remaining firm, advising him that they have no authority to do anything about my blog, after consulting with their lawyer.  In addition, I am an 8-year client – we had a good conversation.   I believe *( - - )* will find himself at a dead end there.   (UPDATE: NO, Samantha Mak, Doman Legal Counsel took a different position. I have to incur the cost of lawyers or they will take down my domain name.)

He is inventive, but there can’t be too many others that he can turn his sights on now!

Once again,  thank-you so much for your forbearance through this rough saga.  I hope we will never see a similar case!

Happy campaigning! /Sandra