

“During this trial against me, I never received a summons to appear in Court, I never received a phone call or letter in my mailbox stating that there was a trial against me. I was surprised and caught off guard when I received the phone call from the Star Phoenix after the fact, I told them I had no idea what they were talking about.”

Laliberte asserts that he was not aware that Froese was representing him; that he had never met Froese, and that he was unaware that the hearing involving his legal interests was taking place. In short, the decision was rendered essentially without his input, despite the fact that he was the defendant. Neither an Affidavit nor a Brief of Law were filed on his behalf.

At the beginning of the present investigation, the complainant was provided with a copy of the Statement of Defence (not prepared by Froese, but by another lawyer in his firm) taken from the Queen’s Bench court file for comment and he reacted as follows:

“Thank you for sending me this document as it is the first time I have seen it, therefore I did not agree to it, and if it was presented to me at the time I would have not agreed to its position in my defense.”

More important than these objections, viewing the file as a whole, is the fact that Laliberte’s explanation of events was never before the Court. However, it is important to note that Froese came to the file late and he saw his involvement as limited to opposing the Plaintiff’s application for summary judgment and then minimizing damages.

### **Summary Procedure**

Froese states that he was asked by another lawyer in his firm, who had prepared the Statement of Defence and attended the Mediation session in 2007, to appear and oppose an application for summary judgment. Whether the Court would proceed under Rule 492 (i.e. summarily) was the first issue to be faced. The Statement of Defence prepared by the other lawyer in Froese’s firm admitted that Laliberte made the “impugned statement”. Also there was a research memo on the law firm’s file that determined that a question can be defamatory, that there was no defence, that damages were presumed under the circumstances in the range of \$20,000.00 to \$40,000.00, and that an apology would be too late. Froese agreed that this analysis was sound and that the only other issue was the appropriate amount of damages. “I further concluded that additional factual information from Mr. Laliberte would be of no assistance in opposing summary judgment.”

Having tried without success to contact Laliberte, Froese considered his options. He then appeared and opposed summary procedure.

“It was, and still is, my view that I could adequately represent Mr. Laliberte’s interests without his express instructions. It was, and still is, my view that there was no information or affidavit material that he could