'Medical school rejection violated my Charter rights'

Woman sued University of Manitoba, province after failing to gain admission

Josh Dehaas

June 26, 2014

Medical students in a seminar room at the University of Manitoba (Marianne Helm)

Henya Olfman wasn't happy that the University of Manitoba changed the medical school admissions process between 2005, when she began her undergraduate degree, and 2009, when she applied for the M.D. program and didn't get in.

She was so disappointed, in fact, that she and her father, a lawyer named Shawn Olfman, tried—and tried again—to sue the province and the university into giving her the medical spot she felt "entitled" to.

Their first 154-page statement of claim against the University of Manitoba and the province, filed in February 2012, included "45 pages dedicated to the prayer for relief." It was tossed a year later because it was so long and complicated and dealt with a matter that seemed obviously in the university's jurisdiction.

Their second claim was shorter, but still managed to accuse the province and university of violating everything from the United Nations International Covenant on Civil and Political Rights to the Canadian Charter of Rights and Freedoms. It started with the words, "More than any other case in Canada's history, this case will determine Canada's next few hundred years."

The judge threw it out on the basis that it "offended the rules of pleading."

"The statement of claim does not read so much as a claim, but rather as a meandering essay or thesis or debate," wrote Justice Chris Martin of the Court of the Queen's Bench of Manitoba. "Mr. Olfman argues the claim may be lengthy and that he could pare it down to 'an ordinary claim' of 20 pages or less, but that would do it an injustice as it is an "extraordinary claim" that will alter the course of Canada for years to come."

The crux of it was that the rules of admission had changed and thus a contract was broken, even before she had applied. Those changes included the addition of "multiple mini-interviews," a process used by medical schools to evaluate the soft skills of applicants, like communication. On interview day, applicants move from station to station and are scored on a variety of things by a variety of people. Evidence is piling up that it's a reliable and valid tool, and it's now used at most schools in Canada, Israel

ABOUT THIS AUTHOR

Josh Dehaas

Josh Dehaas is a writer and editor focused on post-secondary education and training. He has a Master of Journalism from the University of British Columbia and a Bachelor of Arts from the University of Guelph.

In this column are the comments of Shawn David Olfman on the Maclean's Article to the left.

These statements are lies.

The publicly available court documents clearly stated that: The University breached two contracts, breached the Constitution, breached U.N. Human Rights Laws, and REFUSED to follow its own published admissions formula when it illegally refused to admit Henya into Medicine; and that the University's own Senate said that it did not have the jurisdiction to deal with the issues; hence even the University's Senate indicated that if Henya wanted the issues resolved she would have to sue the University.

To see the University's own documents go to our home page and click the links:
"University Agreed the Issues Should be resolved in Court"
"Henya Was Illegally Denied Admission"

This is a lie. On our home page, the link: "The Documents in Henya's appeal to the Court of Appeal Before it was withdrawn" takes you to where you can read a transcript of the first judge's comments and ruling. The first judge advised Henya to file a new briefer claim, and made NO comments about the issues being within the University's jurisdiction.

On our home page click the link "The Documents in Henya's appeal to the Court of Appeal Before it was withdrawn" and it will take you to where you can read the statement of claim and make you own decision regarding the judge's comments.

This is a lie. Macleans and Dehass knew that the main issues were the invalidity an unconstitutionality of the MMI, and that the University was breaching the Constitution and was breaching Human Rights laws, and that the University's own Senate said that it could NOT determine if the MMI was appropriate to be used.

and Australia. McMaster University in Hamilton has used it for a decade. Oddly, Olman had attempted to argue that, "not even a single one of the doctors teaching in any faculty of medicine *in the world* [emphasis added] had an MMI used to determine if they should be allowed to medical school."

The other problem she had was with the "rurality co-efficient," which gives extra points to those the school believes are more likely to practice in rural areas, where the need for doctors is usually greater.

Although Justice Martin did not get so far as evaluating whether all this violated Ms. Olfman's Charter rights, he did suggest Mr. Olfman "carefully read the university's brief," because, "there is considerable merit to its positions, not only that the pith and substance of this matter is an academic and admission issue, clearly within the jurisdiction of the university."

Martin awarded costs of $3,000 each to the province and the university, even though he wrote that he suspected that was, "well short of the actual costs."

He concluded by chastising the Olfmans for wasting the court's time and money:

> "That Mr. Olfman's daughter did not get into medical school at this university is unfortunate for her and disappointing to her parents. Regrettably, setbacks and denied aspirations are a part of life. Yet, to confront this through a lawsuit with the attendant substantial expenditure of time, effort and money to the specific defendants, as well as to the plaintiff herself, and to the administration of justice generally, is remarkable. But it is worse yet. A similar if not identical action in substance was previously struck for the same reasons. Nothing was learned by that exercise. The same defendants were burdened and taxed once again with a repeat performance of a claim which, through to its core, appears exceptionally specious and falls well below the threshold required to proceed. And, as an aside, I note this type of grandiose claim also contributes to a clogging of the system which in turn delays or denies access to justice for other proper claims."

Filed under:
Henya Olfman **Law** **Medical School** **Medical School Admission** **Multiple Mini Interview**

Dehass and Macleans are being sneaky, they knew that my statement was true, so they don't dispute my statement, but they use sneaky language to insinuate my statement was not true.

That is a lie. The court documents proved that the University was falsely claiming to be obtaining more doctors for rural areas with a rurality co-efficient (the specifics of which it would not disclose). What the University was doing, was discriminating and breaching student's constitutional rights and trying to use its unspecified "rurality co-efficient" as part of its cover-up. After Henya's University Senate hearing the University changed what it does under the name of a rurality co-efficient.

Regarding the Macleans Magazine / Dehass statement that the MMI is used in many medical schools in Canada, and is spreading beyond Canada, that is the problem. They know that the MMI's only purpose is to veil discrimination. They know that the reason the university and the government fought hard to NOT have a public trial where I could question their MMI "Experts", is because my questions would prove that the MMI is a fraud, a breach of the Constitution, a breach of U.N. Human Rights Law, and is used to veil discrimination. They know that the university and government would have loved to be able to get a court ruling stating that I am wrong about the MMI, but they are afraid to let me question their "Experts" in court because they know that I am correct about the MMI.

Macleans Magazine / Dehass, know that the same judge, in the same month, June, 2014, also ruled against Martin Green, another student who sued the university; and that in the Green case there were 375% more documents filed, and 285% more court listings, than in Henya's case. However, Macleans and Dehass wrote nothing about the Green case using up court time or clogging the system.

Most claims use court time to settle issues that only affect the people or corporations involved. Henya's claim would have benefited her AND would have benefited all students, as it asked the court for declarations preventing universities from breaching Constitutional Rights and preventing universities from breaching International Human Rights laws that Canada and the United States agreed to abide by.

However, Dehass and Macleans lie to falsely harm the reputation of a young honors student that put her dreamed of career on the line, to fight for Constitutional Rights and Human Rights for all future students in Canada and the United States.

Do you respect Dehass and Macleans for their bravery against Henya ?