Local

Failed bid for med school no basis for suit: judge

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She dreamed of becoming a doctor. But when a Winnipeg woman wasn't accepted into the faculty of medicine, she tried to sue the University of Manitoba and the provincial government.

Led by her father, a lawyer, the pair has spent the past few years fighting what they say is an unfair admissions process that breached her charter rights by denying entry into a program she was "entitled" to.

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Now a judge has stepped in. In a strongly worded decision, he took aim at what is being described as a "frivolous, vexatious and absolute abuse of process" that has tied up countless resources, has no basis in law and resembles the type of litigation often seen in the United States, but rarely filed in Canada.

"That she 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," said Queen's Bench Justice Chris Martin. "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."

> *'Frivolous, vexatious and absolute abuse of process'*
>
> *-- Justice Chris Martin on lawsuit*

Martin was only getting started. He said the original 154-page statement of claim filed by Shawn Olfman on behalf of his daughter, Henya Olfman, is unlike anything he'd ever seen.

"The statement of claim does not read so much as a claim, but rather as a meandering essay or thesis or debate," said Martin. "A substantial portion of the claim is immaterial fact, argument and evidence and I agree it is repetitious and incomprehensible in parts."

In this column are the comments of Shawn David Olfman on the Winnipeg Free Press Article to the left.

In its September 17, 2010 letter to Henya, the University's Senate wrote that it could not determine if the MMI system used by the Faculty of Medicine was an appropriate mechanism for judging the quality of candidates. In its letter the University's Senate also wrote that it could not determine whether or not Henya merited being admitted into medicine (ie. it could not determine if she was wrongly excluded). You can read that letter in the "Henya was Illegally Denied Admission" section, on our home page.

Why did the Free Press exclude that information ?

That is a lie.

The judge did NOT say that there is no basis in law for the lawsuit. The judge did NOT say that Henya's lawsuit has tied up countless resources. The judge did NOT say that this resembles the type of litigation seen in the United States, but rarely filed in Canada.

The same judge, in the same month, June, 2014, made no such comments in the case involving student Martin Green, who also sued the university, and who the judge also ruled against. In the Green case there were 114 documents filed, Henya's case had only 24 documents filed. In the Green case there were 27 court hearing date listings; Henya's case had only 7 court hearing date listings. The Green case took up many times more court hours than Henya's case,

Why did McIntyre and the Free Press write NOTHING about the Green case ?

That is a lie. The judge did NOT say that.

The lawsuit began with this introduction: "More than any other case in Canada's history, this case will determine Canada's next few hundred years."

The Olfmans wrote 45 pages listing dozens of forms of financial relief and legal declarations they were seeking. Typically, this sort of summary takes a page or two. They claimed the U of M had a fiduciary duty to allow her into the faculty of medicine, of which it breached. They also cite numerous international conventions surrounding human rights as causes for legal actions.

"I am not confident that anything short of glancing over the document itself could truly convey how bad a piece of drafting it is," said Martin. "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."

Henya Olfman first enrolled in the U of M in 2005, taking pre-med classes. She wrote the entrance exam for the faculty of medicine in 2009, hoping to be accepted for the start of the 2010 academic year.

But the woman was not offered admission following a process that included an interview. The lawsuit alludes to the fact she didn't perform well in the interview. They also take aim at what they say was greater weight given to rural applicants.

"She appealed according to university protocol and channels but her appeal was denied. Not satisfied, she and her lawyer father... chose litigation as the forum for her complaints," said Martin.

The original statement of claim was quickly struck down by a magistrate after being filed in 2012 on the grounds it wasn't a proper legal document, involved an academic matter and shouldn't tie up court resources given the U of M had its own appeal systems in place and ultimate authority over admissions decisions. The Olfmans appealed that decision to the Court of Queen's Bench and lost.

So they started over, filing a new statement of claim last summer. It was slightly pared down but involved all the same complaints and issues.

It was struck down by a magistrate for the same reasons and they once again appealed.

Martin said in his decision it would be unfair to force school officials to have to respond to the lawsuit.

"Any attempt to defend this claim by the university would, by necessity, just add to the muck," he said.

The judge ordered the Olfmans to pay legal costs of $3,000 each to the university and the province. And he warned them about the dangers of trying to file the same lawsuit a third time.

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Have we become Americanized and are too willing to sue?
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Read more by Mike McIntyre.

That is a lie. There were 10 pages, not 45 pages. Most of those 10 pages asked for declarations that would help future students be treated in accordance with the Constitution and Human Rights Laws.

The claim stated that Henya was entitled to be admitted, because, based on the University's own published admissions formula, Henya's Faculty of Medicine admissions score was higher than most of the students that were admitted. **Why did McIntyre and the Free Press exclude that information ?**

The document referred to is the "Statement of Claim", you can read the "Statement of Claim" by going to our home page and clicking the link "Documents in Henya's Appeal to the Court of Appeal Before it was withdrawn", and then clicking the link to the "Factum and other Court of Appeal Documents" where you will find a link to the Statement of Claim. You will discover that the Statement of Claim is an excellent document which sought to restore Constitutional Rights and Human Rights for all present and future students.

That is a lie. The lawsuit made 4 things very clear:

(1) The MMI interview system is invalid, illegal and unconstitutional;
(2) The U of M refused to reveal how it arrived at the score it claimed Henya received on the MMI;
(3) The information provided by the inventor of the MMI demonstrates that Henya would do very well in any MMI, because she scored in the top 1% of all students in North America on the Verbal Reasoning portion of the MCAT; and
(4) The University's own Senate could NOT determine if the MMI was a valid system.

This is dishonest; in the original claim, the judge, Judge Kaufman, stated that a new statement of claim should be filed, and did NOT rule that the university was the ultimate authority over admission decisions.

That is a lie.
The new claim was less than $\frac{1}{3}$ the size of the original.

As stated above, the claim ("statement of claim") is available on this website, for you to read. Decide for yourself if it is muck, or a claim that the University and Government were afraid to answer, because it clearly pointed out how they have lied, Breached the Constitution and Violated U.N. Human Rights Laws.

Why would the Free Press and Mike McIntyre try to incite hatred against Americans and against Henya ?

Mike McIntyre and the Free Press do not try and incite hatred against lawyers who look for loop holes to set free a murderer, rapist or mugger. They do not try and incite hatred against people that use court time to settle divorce issues, contract disputes, property claims, injury claims, copyright infringement, etc.; all of which only affect the parties involved.

However, the Lying Free Press and Big Man McIntyre are brave enough to incite hatred against a young honors student that put her dreamed of career on the line, and made her case inclusive enough to fight for Constitutional Rights and Human Rights for all present and future students in Canada and in the United States.