KING'S BENCH FOR SASKATCHEWAN

Citation: **2025 SKKB 196**

Date: **2025 11 24**
File No.: QBG-RG-00933-2020
Judicial Centre: Regina

BETWEEN:

JOHN KARMAZYN

PLAINTIFF

- and -

TRACY GALL, PETER BURKE, WARREN WHITE and ERIN KNUTTILA

DEFENDANTS

Counsel:

John Karmazyn	self-represented plaintiff
Calen Nixon and Alyssa Phen	for the defendants

JUDGMENT — ROBERTSON J.
November 24, 2025

Contents — Paras.

INTRODUCTION

[1] This decision addresses applications by both the plaintiff and defendants for summary judgment. For the following reasons, I dismiss the action with costs awarded to the defendants.

BACKGROUND

Evidence

[2] The parties filed the following affidavit evidence:

(a) By the plaintiff:

(i) John Karmazyn, sworn May 27, 2025 [Karmazyn Affidavit]

(b) By the Defendants:

(i) Peter Burke, sworn June 24, 2025 [Burke Affidavit];

(ii) Tracy Gall, sworn June 30, 2025, 2025 [Gall Affidavit];

(iii) Erin Knuttila, sworn June 27, 2025 [Knuttila Affidavit]; and

(iv) Warren White, sworn June 25, 2025 [White Affidavit].

Parties

[3] At the time of the relevant events, the plaintiff, John Karmazyn, was an instructor and program head, employed by Saskatchewan Polytechnic at its Regina Campus and a member of the Saskatchewan Polytechnic Faculty Association [Faculty Association], which is a certified trade union.

[4] The defendants all held positions in the Faculty Association: Warren White, President; Erin Knuttila, Vice President; Peter Burke, Faculty Relations Officer; and Tracy Gall, Faculty Relations Officer. Erin Knuttila and Warren White were employed by Saskatchewan Polytechnic at its Regina Campus and were members of the Faculty Association. Mr. Burke and Mr. Gall were employed by the Faculty Association.

Timeline of relevant events

[5] From the affidavit evidence and court file, the following chronology of events can be constructed.

2019

April	Mr. Karmazyn is named in a harassment complaint by another employee of Saskatchewan Polytechnic: Karmazyn Affidavit, para. 1; Knuttila Affidavit, paras. 3 and 6.
May	Saskatchewan Polytechnic conducts independent investigation into harassment complaint; Mr. Karmazyn is initially represented by Ryan Tessier as Faculty Relations Officer, with assistance from Mr. Gall: Burke Affidavit, para. 3; Gall Affidavit, para. 3; Knuttila Affidavit, para. 3.

June 7 — Saskatchewan Polytechnic issues reprimand letter to Mr. Karmazyn, copied to Faculty Association [Reprimand Letter]: Statement of Claim, paras. 8-9; Karmazyn Affidavit, para. 4; Burke Affidavit, para. 4; Gall Affidavit, para. 5.

September — Mr. Karmazyn improperly obtains copy of unredacted complaint containing personal information of the complainant: Karmazyn Affidavit, para. 6; Gall Affidavit, paras. 12-13; Burke Affidavit, para. 10.

Mr. Karmazyn asks Mr. Gall to recuse himself as Faculty Relations Officer representing him: Gall Affidavit, para. 12.

Mr. Burke takes over as Faculty Association representative: Gall Affidavit, para. 12 and Exhibit C. Mr. Gall provides Mr. Burke with copy of Reprimand Letter (by photo of copy kept in Faculty Association locked file): Gall Affidavit, para. 14 and Exhibit D; Burke Affidavit, para. 7 (First allegation of breach of privacy).

October — Mr. Karmazyn runs for election as Vice-President of Faculty Association: Statement of Claim, para. 10; Karmazyn Affidavit, para. 13.

Faculty Association receives complaints about Mr. Karmazyn's candidacy [Candidacy Complaints]: Gall Affidavit, para. 16; White Affidavit, para. 9.

Mr. Burke gives copy of Reprimand Letter to Mr. White so he can evaluate Candidacy Complaints: White Affidavit, para. 14 (Second allegation of breach of privacy).

October 28 — Mr. White informs Mr. Karmazyn of Candidacy Complaints and referral to Faculty Association Executive Council, deferring any decision until after the election: Gall Affidavit, Exhibit E; White Affidavit, para. 17 and Exhibit D.

October 29 — Faculty Association hosts "Meet the Candidates" event at which the two candidates for Vice President, Mr. Karmazyn and the incumbent, Ms. Knuttila, speak and answer questions from the audience: Gall Affidavit, para. 23; Knuttila Affidavit, para. 11. Some of the audience knows about the harassment complaint: White Affidavit, paras. 9-10; Knuttila Affidavit, paras. 12-15. A Faculty Association member asks the candidates whether they have a discipline record. Ms. Knuttila answers that she does not have a discipline record: Statement of Claim, para. 19; Karmazyn Affidavit, para. 19; Knuttila Affidavit, paras. 12-15 (Third allegation of breach of privacy).

? — Mr. Karmazyn files two grievances complaining about Mr. Gall's earlier representation and advice as Faculty Relations Officer: Burke Affidavit, para. 19.

2020

? — Faculty Association declines to pursue Mr. Karmazyn's grievances: White Affidavit, para. 23.

March 31 — Faculty Association Executive Council denies Mr. Karmazyn's appeal against refusal to pursue his grievances: White Affidavit, para. 24 and Exhibit E.

April 11 — Mr. Karmazyn files third grievance: White Affidavit, para. 25.

May 15	Mr. Karmazyn files Statement of Claim: court file.
?	Mr. Karmazyn files appeal to Faculty Association Executive Council against decision not to pursue his third grievance: Burke Affidavit, para. 24; White Affidavit, para. 25.
July 14	Defendants file Statement of Defence: Court file.
August 19	Mr. Karmazyn files application to Saskatchewan Labour Relations Board [SLRB] alleging Faculty Association breach of duty of fair representation: White Affidavit, para. 26.
2021	
June 16	SLRB decision: Gall affidavit, Exhibit F; White Affidavit, para. 27.
2025	
January 30	Mandatory mediation completed: court file.
March 25	Mr. Karmazyn files application for summary judgment: court file.
April 29	Clackson J. sets filing deadline for Mr. Karmazyn: court file.
May 29	Tomka J. sets filing deadline for defendants: court file.
June 30	Defendants file application for summary judgment dismissing action: court file.
September 4	Klatt J. directs hearing of summary judgment applications: court file.

November 14 Robertson J. hears summary judgment applications in Chambers: court file.

ISSUES

[6] The applications raise three issues:

1. Are the applications suitable for summary judgment?

2. If so, should the action be allowed or dismissed?

3. What, if any, award of costs should be made?

ANALYSIS

[7] I will address the issues in the order stated above.

1. Are the applications suitable for summary judgment?

[8] *The King's Bench Rules* in Rules 7-2 to 7-5 allow for summary judgment. Rule 1-3, which states the purpose and intention of the Rules, is also relevant.

[9] In *A.M. v Hagen*, 2023 SKKB 176 at paras 55 – 56, Chief Justice Popescul summarized the summary judgment roadmap:

> [55] Rule 7-5(1)(a) provides that the Court may grant summary judgment if it is satisfied that there is no genuine issue requiring a trial with respect to a claim or defence. Rule 7-5(2) sets out the factors that the Court must and may consider when determining whether there is a genuine issue requiring trial:
>
> > 7-5 (2) In determining pursuant to clause (1)(a) whether there is a genuine issue requiring a trial, the Court:
> >
> > (a) shall consider the evidence submitted by the parties; and

> (b) may exercise any of the following powers for the purpose, unless it is in the interest of justice for those powers to be exercised only at a trial:
>
> (i) weighing the evidence;
>
> (ii) evaluating the credibility of a deponent;
>
> (iii) drawing any reasonable inference from the evidence.

> [56] The leading authority on summary judgment applications is *Hryniak v Mauldin*, 2014 SCC 7, [2014] 1 SCR 87. Therein, the Court noted at paragraph 47 that "[s]ummary judgment motions must be granted whenever there is no genuine issue requiring a trial". There will be no genuine issue requiring a trial when the judge is able to reach a fair and just determination on the merits. At paragraph 49, the Court noted that a fair and just determination can be made when the process:
>
> (1) allows the judge to make the necessary findings of fact;
>
> (2) allows the judge to apply the law to the facts; and
>
> (3) is a proportionate, more expeditious and less expensive means to achieve a just result.

[10] The hearing of applications for summary judgment are governed by General Applications Practice Directive #9: "Scheduling of Summary Judgment, Set Aside and Judicial Review Applications". That Practice Directive contemplates filing of all materials to be relied upon at the hearing, including briefs of law, before the Chambers Judge certifies it as ready to proceed to hearing. See: *Richardson Pioneer v Lamb*, 2024 SKKB 214 at para 24; *Standing Buffalo Dakota First Nation v Ron S. Maurice Professional Corporation (Maurice Law Barristers and Solicitors)*, 2023 SKKB 42 at para 41; *Kuffner v Jacques*, 2023 SKKB 14 at para 67; and *Chernick v Chernick*, 2020 SKQB 168 at para 18.

[11] The parties agreed and I was satisfied that the applications were suitable for summary judgment. As set out above, the relevant facts could be determined from

the affidavits filed.

2. Should the action be allowed or dismissed?

The Privacy Act

[12] Mr. Karmazyn pleads *The Privacy Act*, RSS 1978, c P-24 in support of his claim in tort for violation of his privacy. This is a statutory tort. The statute sets out the elements of the tort and defences to claims in ss. 2–4 and 6, which are reproduced below:

> **Violation of privacy**
>
> **2** It is a tort, actionable without proof of damage, for a person wilfully and without claim of right, to violate the privacy of another person.
>
> **Examples of violation of privacy**
>
> **3** Without limiting the generality of section 2, proof that there has been:
>
> (a) auditory or visual surveillance of a person by any means including eavesdropping, watching, spying, besetting or following and whether or not accomplished by trespass;
>
> (b) listening to or recording of a conversation in which a person participates, or listening to or recording of messages to or from that person passing by means of telecommunications, otherwise than as a lawful party thereto;
>
> (c) use of the name or likeness or voice of a person for the purposes of advertising or promoting the sale of, or any other trading in, any property or services, or for any other purposes of gain to the user if, in the course of the use, the person is identified or identifiable and the user intended to exploit the name or likeness or voice of that person; or

(d) use of letters, diaries or other personal documents of a person;

without the consent, expressed or implied, of the person or some other person who has the lawful authority to give the consent is *prima facie* evidence of a violation of the privacy of the person first mentioned.

Defences

4(1) An act, conduct or publication is not a violation of privacy where:

(a) it is consented to, either expressly or impliedly by some person entitled to consent thereto;

(b) it was incidental to the exercise of a lawful right of defence of person or property;

(c) it was authorized or required by or under a law in force in the province or by a court or any process of a court; or

(d) it was that of:

(i) a peace officer acting in the course and within the scope of his duty; or

(ii) a public officer engaged in an investigation in the course and within the scope of his duty;

and was neither disproportionate to the gravity of the matter subject to investigation nor committed in the course of trespass;

(e) it was that of a person engaged in a news gathering:

(i) for any newspaper or other paper containing public news; or

(ii) for a broadcaster licensed by the Canadian Radio-Television Commission to carry on a broadcasting transmitting undertaking;

and such act, conduct or publication was reasonable in the circumstances and was necessary for or incidental to ordinary news gathering activities.

(2) A publication of any matter is not a violation of privacy where:

> (a) there were reasonable grounds for belief that the matter published was of public interest or was fair comment on a matter of public interest; or
>
> (b) the publication was, in accordance with the rules of law relating to defamation, privileged;

but this subsection does not extend to any other act or conduct whereby the matter published was obtained if such other act or conduct was itself a violation of privacy.

(3) In this section **"court"** means any person authorized by law to administer an oath for the taking of evidence acting for the purposes for which he is authorized to take evidence.

...

Considerations in determining whether there is a violation of privacy

6(1) The nature and degree of privacy to which a person is entitled in any situation or in relation to any situation or matter is that which is reasonable in the circumstances, due regard being given to the lawful interests of others.

(2) Without limiting the generality of subsection (1) in determining whether any act, conduct or publication constitutes a violation of the privacy of a person, regard shall be given to:

> (a) the nature, incidence and occasion of the act, conduct or publication;
>
> (b) the effect of the act, conduct or publication on the health and welfare, or the social, business or financial position, of the person or his family or relatives;
>
> (c) any relationship whether domestic or otherwise between the parties to the action; and
>
> (d) the conduct of the person and of the defendant both before and after the act, conduct or publication, including any apology or offer or amends made by the defendant.

[Emphasis in original]

Saskatchewan case law

[13] The statutory tort of privacy was considered in:

(a) *Bierman v Haidash*, 2021 SKQB 44, [2021] 4 WWR 728 [*Bierman*];

(b) *Kumar v Korpan*, 2020 SKQB 256 [*Kumar*];

(c) *Ahmed v Canadian Light Source Inc.*, 2018 SKQB 320 [*Ahmed*];

(d) *Ratt v Tournier*, 2014 SKQB 353, 459 Sask R 206 [*Ratt*] ;

(e) *Bigstone v St. Pierre*, 2011 SKCA 34, [2011] 5 WWR 594 [*Bigstone*]; and

(f) *Peters-Brown v Regina District Health Board* (1995), [1996] 1 WWR 337 (Sask QB) [*Peters-Brown*].

[14] In *Peters-Brown* at paras 34-35, Halvorson J. dismissed a claim of breach of privacy, involving disclosure of the plaintiff's medical information, because the plaintiff failed to prove that the disclosure was made "wilfully and without claim of right", as required under s. 2 of *The Privacy Act*. The Court rejected the idea that internal distribution of the plaintiff's medical information within the hospital to protect its employees could constitute a violation of privacy under *The Privacy Act*.

> 34 On the facts as presented, it cannot be said the hospital "wilfully and without claim of right" violated the privacy of the plaintiff. There was no participation by the hospital in the circulation of the list in the correctional centre. Circulation to hospital departments is a more complicated issue.
>
> 35 Internal distribution of the plaintiff's private information was wilful in the sense that it was done intentionally by the hospital. However, there was never an intention to violate the plaintiff's privacy. Moreover, there was a "claim of right". The aim of the hospital was to safeguard its employees, and it did not mean thereby, to infringe the rights of the plaintiff by revealing

> confidential patient data. Quite the opposite. The hospital intended to preserve secrecy by limiting the circulation to restricted, non-public areas. The only persons who were entitled to see the list were in turn, sworn to secrecy.

[15] In *Bigstone*, the Court of Appeal considered what must be pled to establish the tort of breach of privacy under s. 2 of *The Privacy Act*. In doing so, Ottenbreit J.A. for the majority reviewed Saskatchewan case law and at para. 34 reached the following conclusion:

> [34] At this stage of the development of the jurisprudence respecting the *Act* [*The Privacy Act*], a claim must contain allegations so that, at a minimum, the following is clear:
>
> 1. the action is pursuant to the *Act*;
> 2. there is an act or actions which are claimed to be a violation of privacy which comes within the arguable scope of the *Act*;
> 3. the privacy is that of a person;
> 4. the type of privacy interest violated is generally identifiable; and
> 5. the violation is wilful and without claim of right.

[16] In *Bigstone*, Smith J.A. in dissent found at paras. 54 and 57 that mere accessing of information was insufficient to constitute a violation of privacy under *The Privacy Act*.

> [54] Accordingly, in my view, merely establishing that the defendant has "accessed" some information, in some sense relating to oneself, is clearly not sufficient to establish a violation of privacy within the meaning of the *Act* [*The Privacy Act*].
>
> . . .
>
> [57] I do not agree that such an extraordinary expansion of the notion of legally protected privacy interest is the purpose or intent of this section, or of the *Act* in general. It is not the

> intention of the *Act* to make merely investigating, seeking to find out, accessing, or gathering information about a person an actionable violation of that person's privacy, in the absence of the conduct described in s. 3, or other unusual circumstances. Certainly s. 3 is not itself this broad. Such an interpretation would subject all authors of an unauthorized biography to liability.

[17] In *Ratt*, Acton J. dismissed a claim for breach of privacy based on a teacher taking a cellphone away from a student who was using it in class in violation of school policy. The cellphone was turned over to the vice-principal who looked at the text messaging and informed police of possible evidence of a crime. Acton J. at para. 22 cited with approval Smith J.A.'s dissent in *Bigstone* at paras 53-57. He went on at paras. 33-34 to find that the student's right to privacy was outweighed by the school's duty to provide a safe environment and maintain order in the school. He found the claim must be pled under *The Privacy Act*, which had not been done, and, if it had been pled, the plaintiff had failed to establish any breach.

> [34] With respect to the claim of breach of privacy, the action must be brought pursuant to *The Privacy Act* as stated by the Saskatchewan Court of Appeal in para. 34 of *Bigstone.* Even if the action was brought pursuant to *The Privacy Act*, the plaintiff has failed to establish a breach of the privacy he has a right to expect during school hours and on school property.

[18] In *Ahmed*, Elson J. dismissed a claim of breach of privacy on a summary judgment application. In doing so, Elson J. cited with approval Smith J.A.'s dissent in *Bigstone* at para 53, holding at paras. 76-78 that the employer's sharing of personal information of the plaintiff with its insurer could not constitute a breach of privacy under *The Privacy Act*.

> [76] Section 6 was discussed by Smith J.A. in the Saskatchewan Court of Appeal judgment in *Bigstone v St. Pierre*, 2011 SKCA 34, 371 Sask R 35. Although her comment was set out in a dissenting judgment, I do not believe that, to the extent the comment confined itself to consideration of s. 6, it

necessarily conflicted with the view of the majority. At para. 53, Smith J.A. said the following:

> **53** While these examples of violation of privacy are not intended to be exhaustive, the only other way violation of privacy can be established under the *Act* [*The Privacy Act*] is pursuant to s. 6. This provision requires the plaintiff to establish *some* entitlement to privacy in relation to the acts of the defendant complained of, bearing in mind the considerations set out in that section. While it clearly is not possible to set out all circumstances that might entitle a person to some degree of privacy, it is possible to be certain that no one is entitled to privacy in relation to any and all information relating to himself or herself.
>
> [Emphasis in Original]

> [77] I find the consideration of s. 6, in the context of the above comments, has resonance in this case. Dr. Ahmed's assertion of a violation of privacy is confined to the contact the CLS [Canadian Light Source Inc.] administrator made with Sun Life about his employment status. In these circumstances, I find his privacy claim is not reasonable.
>
> [78] Contact between an employer and its group life and disability insurer is a common and regular occurrence – probably a necessary one. The insurer requires updated employment information as well as any other information that may pertain to potential claims for short-term and long-term disability. In the circumstances here, I find that Sun Life had a lawful interest in the information provided. In turn, CLS had an interest in complying with Sun Life's request. Under these circumstances, it is not reasonable for Dr. Ahmed to assert a privacy interest in this exchange of communication. Accordingly, the claim for violation of privacy must fail.

[19] In *Kumar*, Klatt J. struck a statement of claim for failing to disclose a reasonable cause of action. The plaintiff sued his estranged wife's lawyers, alleging breach of privacy under *The Privacy Act* for serving the wife's petition on a law firm believed to represent her husband (the plaintiff). Klatt J. stated at para. 27 that "Not all information relating to a person is private and no one is entitled to expect privacy in relation to all information about themselves. … the information contained in the petition

was not the plaintiff's to protect." Klatt J. concluded at paras. 36-37 that the element of "willfully" requires more than intentional commission of an act that has the result of violating privacy and that the plaintiff had "not pled any facts that support a claim that the defendants intended to violate his privacy."

> [36] It is fair to say that there is no firm agreement across the country as to what "willfully" entails in the context of privacy legislation (see, for example, *Agnew-Americano v Equifax Canada Co*., 2019 ONSC 7110). However, I agree with Halvorson J.'s comments in *Peters-Brown* that "willfully" requires something more than the intentional commission of an act that has the result of violating privacy. In my view, it is more than recklessness, inadvertence or accident.
>
> [37] In the result, the plaintiff has not pled facts that support the assertion that the defendants' actions were willful as I have accepted the meaning to be. To be precise, the plaintiff has not pled any facts that support a claim that the defendants intended to violate his privacy. This claim is struck.

[20] In *Bierman*, Layh J. granted summary judgment for the plaintiff for breach of privacy under *The Privacy Act* and awarded damages of $7,500 where the defendant physician accessed the medical records of the plaintiff and others through the Prescribing Information Program developed by Saskatchewan Health. The plaintiff and other persons were not his patients. There was no legitimate professional reason for him to be looking at their records.

[21] Layh J. at para. 6 agreed with Klatt J.'s comment in *Kumar* at para 23 that a violation of privacy can occur in many ways. He went on at para. 8 to caution that "considerable judicial discretion" is required in determining what constitutes an actionable breach of privacy:

> [8] Sections 2, 3 and 6 make one matter clear: what manner of conduct constitutes a breach of the privacy rights is imprecise, necessarily calling for considerable judicial discretion. From s. 6(1) one discerns that the court has several judicial measurements to make: the nature and degree of privacy to be

> expected and the reasonable circumstances in which the alleged offending conduct occurred, both balanced against due regard to the "lawful interests of others."

[22] Layh J. at para. 38 set out the constituent elements to prove the tort under s. 2 of *The Privacy Act*:

> [38] If the court parses s. 2 of the *Act* [*The Privacy Act*] and examines each of its constituent parts to find proof of the tort, Ms. Bierman must establish each of the following (before the court will look to a remedy):
>
> 1. Dr. Haidash acted "wilfully."
> 2. Dr. Haidash acted without "claim of right."
> 3. Ms. Bierman had a reasonable expectation of privacy that Dr. Haidash would not access her PIP [Prescribing Information Program] profile.

[23] From these decisions, I conclude that an actionable claim under *The Privacy Act* can arise in many ways. Judicial discretion is required to avoid either an overbroad or unduly restrictive application of the statutory tort. The constituent elements of the tort are proof that:

1. The plaintiff had a reasonable expectation of privacy in the subject of the alleged violation;
2. The plaintiff's privacy was infringed by some act, conduct or publication by the defendant;
3. The defendant acted wilfully;
4. The defendant acted without claim of right; and
5. Without the consent of the plaintiff or other person with lawful authority to give consent to the impugned act, conduct or publication.

Application of the law to the facts of this case

[24] Mr. Karmazyn alleges three separate violations of his privacy, as set out above, all of which involve the use by the Faculty Association of the Reprimand Letter. The essence of his complaint is that the defendants breached his privacy by, without his consent, accessing the Reprimand Letter from the Faculty Association file.

[25] This claim falls within the scope of clause 3(d) of *The Privacy Act* involving "use of letters … of a person". However, the claim is based on the faulty premise that the Faculty Association acted without claim of right and that it required Mr. Karmazyn's consent to look at its copy of the Reprimand Letter.

[26] The Faculty Association received the Reprimand Letter as required by article 23.2.1 of the Collective Agreement between Saskatchewan Polytechnic, as employer, and the Faculty Association, as certified trade union for its members. This provision is found in the extract of the Collective Agreement reproduced in the Gall Affidavit, Exhibit B.

> 23.2 Discipline, Suspension and Dismissal
>
> 23.2.1 Reprimands shall be recorded by means of a letter to the employee with a copy to the Association. …

[27] The immediately following provisions of article 23.2 of the Collective Agreement refer to the employer's personnel file and restrict the employer's use of reprimand letters. Those provisions apply to the employer, not the trade union. Mr. Karmazyn may have failed to draw that distinction. The Gall Affidavit, para. 8 supports this interpretation as consistent with the actual, past practice of the parties to the Collective Agreement.

[28] Saskatchewan Polytechnic, as employer, authored the Reprimand Letter. The two recipients were Mr. Karmazyn, as employee, and the Faculty Association, as

representative trade union.

[29] The Collective Agreement in article 23.2.1 required that both the employee and Association receive copies. The Reprimand Letter held by the Faculty Association was not property of Mr. Karmazyn, who had his own copy of that letter.

[30] The employer provided the Faculty Association with a copy of the Reprimand Letter for the Faculty Association's own record and use. The Faculty Association was in lawful possession of the Reprimand Letter. This gave the Faculty Association a claim of right. The Faculty Association was entitled to use the Reprimand Letter for its legitimate purposes. I find that is what occurred here.

[31] The first two alleged breaches related to Faculty Association officers providing copies of the letter to another officer so that officer could complete or conduct their work on behalf of the Faculty Association. There was no publication of the Reprimand Letter outside the Faculty Association. There can be no actionable breach of privacy in what occurred.

[32] The third alleged breach alleges that Ms. Knuttila implied that Mr. Karmazyn had a discipline record at a "Meet the Candidates" event in which both stood for election as Faculty Association Vice-President. This claim is factually baseless.

[33] Mr. Karmazyn was embarrassed because an unknown Faculty Association member, at a "Meet the Candidates" event, asked him and Ms. Knuttila whether they had a discipline record. The Statement of Claim at para. 17 states that Ms. Knuttila's answer was "I know I don't have any disciplinary letters on my file." This is confirmed in the Knuttila Affidavit, para. 15. I reject the claim that this answer breached Mr. Karmazyn's privacy. Ms. Knuttila answered the question truthfully. There was nothing in her answer that revealed Mr. Karmazyn's discipline record.

[34] The evidence is that the harassment complaint against Mr. Knuttila was

known in the workplace. This general knowledge appears to be confirmed by the Candidacy Complaints. This is hardly surprising, given human nature and propensity for gossip in the workplace. In choosing to stand for election, as was his right, Mr. Karmazyn exposed himself to scrutiny and question.

[35] Mr. Karmazyn later brought further attention to his discipline record by filing an application to the Saskatchewan Labour Relations Board alleging breach of its duty of representation. While that was his right, it kept the controversy alive.

Damages

[36] Section 2 of *The Privacy Act* provides that the statutory tort is actionable without proof of damages.

[37] The Statement of Claim asked for general, special, punitive and aggravated damages and costs on a solicitor-client basis. Mr. Karmazyn's damage claim extends to the end of his employment and marriage. If there was a connection to those events, which is not established, it would not be compensable in damages. That claim for damages would be too remote. If I had found a breach of privacy, I would only award nominal damages in these circumstances.

Action dismissed

[38] For these reasons, I dismiss the action in its entirety.

3. What, if any, award of costs should be made?

[39] Having regard to the factors in Rule 11-1 of *The King's Bench Rules*, I award costs in favour of the defendants as a single award calculated on Column 2.

Judgment for the defendants

[40] The draft judgment filed by the defendants may issue, except that paragraph 4 must be changed to substitute Column 2 for Column 3.

J.
D.N. ROBERTSON