



Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

JOHN DOE #1 and JANE DOE #1

Plaintiffs

and

YORK UNIVERSITY, YORK FEDERATION OF STUDENTS and YORK
UNIVERSITY STUDENT CENTRE INCORPORATED

Defendants

Proceeding under the *Class Proceedings Act, 1992*, S.O. 1992, C.6

STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff.
The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, **WITHIN TWENTY DAYS** after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date October 20, 2023

Issued by _____

Local Registrar

Address of

Court Office: Superior Court of Justice
330 University Ave.
Toronto, ON M5G 1R7

TO: YORK UNIVERSITY
4700 Keele St., Kaneff Tower 1050
Toronto, ON M3J 1P3

TO: YORK FEDERATION OF STUDENTS
4700 Keele St., 336, Student Centre, York University
Toronto, ON M3J 1P3

TO: YORK UNIVERSITY STUDENT CENTRE INCORPORATED
4700 Keele Street, 335, First Student Centre Building, York University,
Toronto, ON M3J 1P3

CLAIM

1. The Plaintiffs, John Doe #1 and Jane Doe #1, claim on their own behalf and on behalf of the Class against the Defendants:

- a. an Order certifying this action as a class proceeding and appointing John Doe #1 and Jane Doe #1 as Representative Plaintiffs of the Class;
- b. an Order allowing the Representative Plaintiffs to proceed as John Doe #1 and Jane Doe #1;
- c. a Declaration that the Defendants breached their duty of care to John Doe #1, Jane Doe #1 and the Class Members pursuant to the *Occupiers' Liability Act* and at common law and violated the Class Members' rights and freedoms set out in section 15 of the *Canadian Charter of Rights and Freedoms* in respect of its failures set out herein relating to fostering an unsafe environment rife with anti-Semitic and Anti-Israel sentiments targeting Jewish students;
- d. general damages in the amount of \$10 million;
- e. exemplary, punitive and or aggravated damages in the amount of \$5 million;
- f. pre-judgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- g. post-judgment interest in accordance with section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- h. a Mandatory Order requiring the Defendants to implement policies and guidelines aimed at addressing anti-Semitic behaviour on campus and providing a clear and concise grievance mechanism that is easily accessible to Jewish students on York University campuses;
- i. a Mandatory Order requiring the Defendant to remove the mural referred to in paragraph 22 herein;
- j. the costs of this proceeding on a substantial indemnity basis; and
- k. such further and other relief as counsel may suggest and this Honourable Court may deem just.

THE PARTIES

The Proposed Representative Plaintiffs

2. The Plaintiff, Jane Doe #1, attends York University.
3. The Plaintiff, John Doe #1, attended and graduated York University.
4. In order to protect the Plaintiffs' identities, as this is a complicated matter involving serious allegations that the Plaintiffs fear could result in retribution and retaliation not only in their personal lives, but also as it relates to their professional careers, they are referred to in this claim as John Doe #1 and Jane Doe #1. The Plaintiffs will seek the appropriate Orders in this regard to keep the Plaintiffs and other class members anonymized from the public.

The Class

5. The proposed Class (collectively the "Class") herein is defined as:
 - a. All Jewish students currently enrolled at York University (the "Current Student Class");
 - b. All Jewish students who attended York University and graduated within the last two years (the "Recently Graduated Student Class"); and
 - c. All Jewish students who attended York University and graduated between 1998 and 2021 (the "Previously Graduated Student Class").

The Defendants

6. The Defendant, York University ("York University"), is a public research university in Toronto, Ontario, and was at all material times responsible for the safe and secure treatment of students on its campuses.
7. The Defendant, the York Federation of Students ("YFS"), represents over 55,000 undergraduate students at York University, providing services and hosting events and campaigns on the premises of York University.

8. York University Student Centre Incorporated is a not-for-profit corporation incorporated in Ontario.

York University

9. York University is a public research university in Toronto, Ontario with three campuses across the Greater Toronto Area (“GTA”). The Keele campus is the largest campus. The Keele campus offers a large-scale campus experience for over 52,000 students and is located in close proximity to economic and cultural centres throughout the GTA and surrounding communities. York University’s bicameral governance structure is comprised of the Board of Governors and the Senate. The powers of both governance bodies derive from the *York University Act, 1965*.

10. The Board of Governors has responsibility for all matters affecting the government, conduct, management and control of York University, subject only to those duties specifically assigned to the Senate, the President and the Chancellor. This includes authority over property, revenues, and expenditures as well as the appointment of the Chancellor, President and all teaching and administrative staff.

11. The Senate is responsible for York University’s academic policy in areas including the establishment of faculty councils, standards for the admission of students, for the curriculum and requirements for graduation, awards, adjudication of appeals of academic decisions and findings of academic dishonesty, and recommendations to the President on candidates for tenure and promotion.

12. The University Secretariat administers the governance of York University by supporting the Board of Governors and Senate and their committees. The Secretariat also maintains the corporate records of York University.

York Federation of Students

13. YFS is funded entirely, or almost entirely, by student dues. A certain amount of every student's tuition to York University is remitted by York University to YFS. Students do not have the option to opt out of paying these dues.

14. YFS essentially functions as a union, which all students are automatically enrolled in, with no opt out options.

15. Many of the incidents described herein take place at the student centre. YFS occupies this space on the premise and there is an agreement in place that allows YFS complete control over this space. This space is located at York University.

16. The YFS hold itself out to represents students' issues and concerns to government at all levels of governance. YFS also meets regularly with York University administration to fight for students' rights on York University's Keele and Glendon campuses.

17. The YFS portrays itself as an equity-based organization that hosts on campus events and uses various equity and campaigns initiatives to create "equitable and safe(r) spaces".

18. Through awareness campaigns and outreach, or solidarity initiatives, the YFS asserts that it is devoted to fighting inequality, discrimination and marginalization not only on the York University premises, but also in the surrounding communities.

York University Student Centre Incorporated

19. To the best of the Plaintiffs' knowledge York University Student Centre Incorporated ("York University Student Centre") is a holding company set up for the purpose of owning York University's student centre and is controlled, directly or indirectly, by the other Defendants.

Incidents of Anti-Semitism on York University Premises

20. There is a well-documented history of anti-Semitic sentiments on the York University campuses. There are several general and specific examples of such incidents on the York

University campus spanning decades. The incidents described below either occurred on the Keele campus or online.

21. One of the most direct examples in recent weeks has been a statement released by YFS on October 12, 2023 expressing solidarity with Palestine while simultaneously focusing condemnation on Israel. The statement itself contains vitriol directed at “the settler-colonial apartheid state of so-called Israel”. Their statement also describes the massacre that took place in Israel as a “strong act of resistance,” and went on to justify the violent acts committed against Jewish civilians in Israel.

22. Another specific form of anti-Israel propaganda on the York University campus is a pro-Palestine mural plastered over an entrance at York University’s student centre. The mural features a bulldozer and a tree along with a figure holding rocks and wearing a scarf. The mural is entitled “Palestinian Roots”. The scarf is emblazoned with a Palestinian flag and map showing the area of Israel and the Palestinian territories, but without borders. Historically and symbolically, rocks have been used to perpetuate violence against Israelis.

23. Inflammatory statements and displays of anti-Israel propaganda such as these create escalated tensions on the York University campuses and result in Jewish students feeling targeted on campus by their peers as a result of an international conflict occurring off campus.

24. Another incident that took place in 2009 highlights the tensions that can often be heightened on the premises of York University. On February 11, 2009, Jewish students at York University were forced to take refuge in the Hillel student organization office located in the student centre at York University as anti-Semitic protesters banged on the glass doors, chanting, "Die, bitch, go back to Israel," and "Die, Jew, get the hell off campus." The students had taken part in a meeting held to call for an impeachment of the student government at York University due to a strike by teachers' assistants. Prior to the meeting, members of Hillel and the Hasbara at York had met with members of Students Against Israeli Apartheid, in an attempt to decrease tensions between the groups.

25. In the hallway of the student center where the meeting was held, students attempting to exit the meeting room were greeted with screams of “Zionism equals racism” and “Racists off campus”. During the clash in the hallway, Jewish students were singled out and pursued by a mob of more than 100 students. Approximately 15 to 20 Jewish students escaped upstairs to Hillel's offices, where the situation worsened. While students sat in the shelter of the Hillel office, while being forced to listen to the demonstrators hurling verbal abuse from the YFS office below. Once the demonstrators made their way up to the Hillel office, they began banging on the glass doors, which made it impossible for the students trapped inside to leave.

26. Campus security personnel arrived once the tensions had already unfolded and advised the Jewish students to remain in the Hillel office. The police arrived almost an hour after the incident had begun. The Jewish students who had been barricaded in the Hillel office were eventually evacuated by police escort, amid cries of “get off our campus” and “shame on Hillel”.

27. Incidents like the ones described above reflect anti-Semitic and anti-Israel sentiments proliferated on the York University campuses. In addition, Jewish students have and continue to:

- a) Be forced out of student organizations and not be provided with the space or equal opportunity to voice their opinions in a safe manner that would enable an informed discussion;
- b) Be unable to meaningfully participate in or be provided with a space or equal opportunity to voice concerns in relation to incidents of widespread hate speech on the premises of York University;
- c) Be unable to meaningfully participate in or be provided with the opportunity to hold their own table at a campus-wide cultural events. Jewish students have been forced to hide and/or remove any religious symbols, such as the Star of David and the kippah, while on campus to avoid being singled out;
- d) Feel pressured to defend their identities when engaging in educational discussions during lectures and have had their opinions minimized and/or dismissed entirely in a classroom setting; and

- e) Be attacked for their Jewish identity in public student meetings on campus, such as one for a defunct campaign entitled “Stop the Hate”, in which a Jewish student was called “the devil” after speaking about anti-Semitism and another lecture about the Israeli-Palestinian conflict being given by Norman Finkelstein, a well-known anti-Israeli speaker, at which Jewish students were specifically targeted, heckled and asked to leave.

28. Some members of the Class have also faced continued and persistent attacks by YFS as a result of their Jewish heritage and/or association with Hillel that have resulted in negative impacts on career prospects and opportunities.

CAUSES OF ACTION

Negligence and Failure to Uphold the Duty of Care

York University

29. York University was negligent and failed in its duty to:
- a) Investigate incidents of anti-Semitism targeted at Jewish students on the York University premises;
 - b) Provide the administration with training on dealing with and reporting verbal assaults, harassment, and/or bullying matters on the York University premises;
 - c) Properly supervise, control and give guidance to the professors, staff and administration;
 - d) Provide students at York University with resources and proper education on the issue of anti-Semitism, assaults, bullying and zero-tolerance policies;
 - e) Adequately document, discipline or sanction students and student organizations involved in anti-Semitism, assaults, harassment, and/or bullying on the York University premises;
 - f) Take the appropriate steps to adequately investigate the activities of students involved once they became aware of the anti-Semitism, assaults, harassment, and/or bullying on the York University premises in a timely manner;

- g) Identify, counsel and assist Jewish students once they knew of the harassment, assaults, bullying and/or racism they had experienced on the York University premises;
- h) Take the appropriate steps to address the anti-Semitic behaviour and rhetoric on the York University premises using its own internal policies, regulations and guidelines in a timely manner; and
- i) Take the appropriate steps to terminate its agreement with YFS for breach of internal policies, regulations and guidelines relating to the dissemination of hate propaganda and hate speech.

York Federation of Students

30. YFS was negligent and failed in its duty to:

- a) Investigate incidents of anti-Semitism targeted at Jewish students on the York University premises;
- b) Provide students at York University with resources and proper education on the issue of anti-Semitism, assaults, bullying and zero-tolerance policies; and
- c) Identify, counsel and assist Jewish students once they knew of the harassment, assaults, bullying and/or racism they had experienced on the York University premises.

31. YFS has and continues to perpetuate anti-Semitic rhetoric on York University campuses by actively engaging in spreading anti-Israel sentiments through public statements, campaigns and rallies.

32. YFS has a well-documented history of targeting Jewish students, diminishing and dismissing their opinions and marginalizing their involvement in campus-wide events.

33. YFS has wilfully violated York University's policies and guidelines relating to discrimination and hate speech on York University campuses on repeated occasions, creating an environment of fear and intimidation.

34. These actions have caused direct harm to the Class Members, and this harm was reasonably foreseeable by YFS.

York University Student Centre Incorporated

35. York University Student Centre as the owner of part or all of York University's student centre is vicariously liable for the actions of the students and student organizations it houses.

36. As the owner of part or all of York University's student centre, York University Student Centre has the right and responsibility to manage the access to, and the use of, this space to maintain and improve the physical environment, promote ecological sustainability, and ensure compliance with York University's policies, procedures, and regulations, including but not limited to the "Statement of Policy on Free Speech".

York University's Vicarious Liability

37. York University's Guideline for the "Temporary Use of University Space" ("TUUS") indicates that "York University will, in its discretion, make temporary use of University space accessible to members of the University community where the use of space is consistent with the principles reflected in the University's purpose, mission, and values."

38. TUUS specifies that York University's respect for peaceful expression does not extend to violent and unlawful conduct or activity that aims to remove the ability for others to express.

39. York University is also vicariously liable as the YFS is subject to York University's policies and procedures, just as any other club or student organization associated with York University and operating on its premises would be. Regulation 10.1 under the "Regulation Regarding Student Organizations" pursuant to the *York University Act, 1965* specifically requires student organizations, such as YFS, to "conduct itself in an Open, Accessible, Democratic, Non-Discriminatory and Legally and Financially Responsible manner, including with respect to its formation, operation, funding and financial affairs".

40. York University also has the right and responsibility to manage the access to, and the use of, the spaces on its premises to maintain and improve the physical environment, promote ecological sustainability, and ensure compliance with its policies, procedures, and regulations,

including but not limited to the “Statement of Policy on Free Speech”. York University has reaffirmed its commitment to providing an environment conducive to freedom of enquiry and expression and uphold the right of all community members and invited guests to express their views within the law, without fear of intimidation or harassment. Furthermore, a poster promoting an event or activity scheduled or planned to take place on York University premises, must comply with York University policies, procedures, regulations, guidelines, and applicable laws including the *Ontario Human Rights Code*.

41. Furthermore, York University owns the land on which the student centre exists. In addition, York University owns the land on which the surrounding campus exists. The students and student organizations of York University have access to all parts of the campus, their access is not limited to the student centre. There have been posters, tables and events promoting anti-Semitic rhetoric spread across all areas of the campus, which have targeted Jewish students.

Limitations to Freedom of Expression at York University

42. York University has indicated on its own public website that it recognizes that freedom of expression is always subject to reasonable limits and that these limits exist to prevent harm. These limitations are considered ‘reasonable’ where they “allow the broadest amount of freedom of expression **without inhibiting the real safety of individuals** or the legal and planned objective of an event.”

43. The following examples of expressive activity that exceed the limits of free expression and are prohibited at York University, according to its own public website:

- Hate speech, including speech that vilifies the targeted group by:
 - blaming its members for the current problems in society
 - alleging that its members are a “powerful menace”
 - alleging that members of the group are carrying out secret conspiracies to gain global control or plotting to destroy western civilization
 - suggesting its members are engaged in illegal or unlawful activities
 - suggesting that its members are themselves illegal or unlawful, such as by labelling them as “pure evil”

- describing its members as animals or as subhuman, or calling into question whether group members qualify as human beings
- Violence or threats of violence, including intimidation designed to instill a sense of fear in its recipient
- Harassment (engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome), including:
 - physical harassment
 - sexual harassment
 - harassment through digital means
 - stalking
 - hazing
- Advocacy of genocide
- Discrimination against or promoting hatred against an identifiable group
- Expressive activity that is directly incompatible with the objects of York University, which include the advancement of learning, dissemination of knowledge and the betterment of its members. This includes expressive activity that:
 - degrades, denigrates or vilifies persons or groups
 - harasses persons or groups
 - creates an intimidating or hostile environment for York University members such as by bullying or engaging in a course of vexatious or bad faith comments or conduct
- Conduct otherwise creating an intimidating or hostile environment to members of York University

44. Expressive activity as described in the paragraph above is not protected regardless of the medium in which it is expressed, including whether that is in-person, through visual or audio media (such as signs, posters, and songs), on an internet platform or social media, or through telephone, broadcasting or other audible or visible means.

45. As set out in the “Code of Students Rights and Responsibilities”, in exercising their freedom of expression, students at York University “have the responsibility to behave in a way

that does not harm or threaten to harm another person's physical or mental wellbeing and the responsibility to **uphold an atmosphere of civility, honesty, equity, and respect for others**, thereby valuing the inherent diversity in the University community.”

46. The objects and purposes of York University, as set out in its governing statute, include “the advancement of learning and the dissemination of knowledge, as well as the intellectual, spiritual, social, moral and physical development of its members and the betterment of society”. Some kinds of expression are contrary to and damaging to these objectives and are meant to be limited and by failing to do so, York University breached its duty of care.

Sanctions for Disseminating Hate Propaganda on Campus

47. Members of York University who disseminate hate propaganda may be in violation of its Policies and Regulations including:

- a) Policy Concerning Racism
- b) Policy on Sexual Harassment
- c) Policy on Computing and Information Technology Facilities
- d) Guidelines for Users of Computing and Technology Facilities
- e) Code of Student Rights and Responsibilities

48. Despite, affirming its commitment to “providing an environment conducive to freedom of enquiry and expression where all members of the community may learn, teach, work and live, free from prejudice, inequality and discrimination based on grounds enumerated in the *Ontario Human Rights Code*, the link to York University's “Policy Concerning Racism” on its own website does not appear to be current, up-to-date nor working and there is no mention of anti-Semitism.

York University's Failure to Sanction Students and Student Groups for Violating its Internal Policies and Procedures

49. York University has numerous policies in place affirming the rights of students to participate in activities for students at the University without fear of discrimination or harassment. In fact, the Defendant's own *Code of Student Rights and Responsibilities* (“the Code”) stipulates that:

a. Students have the following rights:

- i. The right to academic pursuit as the primary reason for students to be at York University.
- ii. The right to participate in activities for students at York University, without harassment, intimidation, discrimination, disruption or acts of violence.
- iii. The right to freedom of inquiry, expression, assembly and association.
- iv. The right to engage and participate in dialogue and to examine diverse views and ideas.
- v. The right to fair procedures in proceedings under this Code.
- vi. The right to respect for one's person and property.
- vii. The right to privacy of personal information.

b. Students also have the following responsibilities:

- i. The responsibility not to disrupt or interfere with York University activities or events (e.g. academic activities such as classes, York University programs, student co-curricular activities and tabling; York University and student governance activities; extracurricular events).
- ii. The responsibility to behave in a way that does not harm or threaten to harm another person's physical or mental well-being.
- iii. The responsibility to uphold an atmosphere of civility, honesty, equity and respect for others which values the inherent diversity in our community.
- iv. The responsibility to consider and respect the perspectives and ideas of others, even when the student does not agree with their perspectives or ideas.
- v. The responsibility to respect the property of others including the property of the University.
- vi. The responsibility to be fully acquainted with and adhere to York University's policies, procedures or rules.
- vii. The responsibility to respect the privacy of personal information of others and treat disciplinary outcomes as confidential.
- viii. The responsibility to obey public laws.

50. The *Code* sets out a wide variety of sanctions, including expulsion, for students who fail to uphold their responsibilities to other students. Students are also permitted to submit complaints on their own accord when their rights under the *Code* have been violated.

51. Additionally, York University's Statement of Policy on Free Speech specifically states that:

“Freedom of speech is not absolute and does not protect expression that constitutes hate speech, harassment, threats, discrimination or otherwise violates the law.

Consequently, the University will not tolerate members of our community or guests engaging in threatening speech or actions which violates the University's commitments to ensure the safety of community members, as noted in various policies such as Disruptive and/or Harassing Behaviour in Academic Situations, Racism, Sexual Violence which address the priority of community safety and the harm that can arise from some forms of expression. These policies also provide recourse for those affected by such speech.”

52. However, York University rarely, if ever, responds to grievances/complaints submitted by Jewish students regarding anti-Semitic incidents, often minimizing or diminishing their experiences. As a result, students are rarely sanctioned for harassing, intimidating, or discriminating against Jewish students.

53. Similarly, York University has also failed to properly discipline student organizations that perpetuate anti-Semitic language or engage in anti-Semitic incidents.

54. York University recognizes in its own internal regulations, specifically the Regulation Regarding Student Organizations (the “Regulation”), that:

A Recognized Student Organization must:

- (a) Conduct itself in an Open, Accessible, Democratic, Non-Discriminatory and Legally and Financially Responsible manner, including with respect to its formation, operation, funding and financial affairs;

55. The Regulation also sets out sanctions that may be enforced against student organizations who breach their obligations under the *Regulations*. Yet, student organizations are rarely disciplined for any misconduct.

56. By failing to properly discipline students and student organizations for anti-Semitic behaviors that violate the *Code* and the *Regulations*, York University has effectively created a safe space for anti-Semitism on their campus. Student and student organizations know that they can victimize Jewish students freely without any form of punishment.

57. The misconduct of these students is a direct result of York University's failure to enforce their own policies and procedures and, but for the negligence of the York University, John Doe #1, Jane Doe #1 and the Class would not have suffered harm.

Breach of Statutory Duty

Occupiers' Liability Act

58. YFS uses space in the student centre that is on the premises of York University. York University Student Centre owns part or all of the student centre. As such, the Defendants failed their joint duty of care pursuant to the *Occupiers' Liability Act*, which imposes a duty of care on the occupier of a premises to, in all circumstances, take reasonable care to see that individuals entering the premises are reasonably safe while on the premises. This duty applies whether the danger is caused by the condition of the premises or by an activity carried out on the premises.

Ontario Human Rights Code

59. John Doe #1 and Jane Doe #1 plead on their own behalves and on behalf of the Class that they were consistently disregarded and discriminated against by the Defendants' acts and omissions because they are Jewish students.

60. John Doe #1 and Jane Doe #1 plead on their own behalves and on behalf of the Class that York University had a duty to protect all of its students, pursuant to the *Ontario Human Rights Code* (the “Code”) regardless of their race and/or ethnicity.

61. John Doe #1 and Jane Doe #1 plead on their own behalves and on behalf of the Class that the Defendants failed to uphold their duties, and as such, claim damages under the *Code*.

Canadian Charter of Rights and Freedoms

62. There is a positive obligation on the Defendants to ensure that the section 15 rights of Jewish students are protected. These rights have been proscribed, which results in a violation of section 15 of the *Canadian Charter of Rights and Freedoms*.

63. Nothing in this claim is an attempt to restrict the section 2 rights of YFS and non-Jewish students. Pursuant to section 1 of the *Canadian Charter of Rights and Freedoms*, the incidents and repeated pattern of behaviour described in this claim cross the line into hate speech under the *Criminal Code*, which is a reasonable infringement on section 2.

Mandatory Orders

Implementing Policies and Guidelines Aimed at Addressing Anti-Semitic Behaviour on Campus

64. Currently, there are no policies or guidelines in place to address anti-Semitic rhetoric on the York University campus. Jewish students do not have the specific resources needed to access the support they need in filing grievances without fear of retaliation or retribution, nor do they have the adequate mechanisms to use to do so in a manner that brings about a meaningful resolution.

Removal of the “Palestinian Roots” Mural

65. The mural described in paragraph 22 above incites hate in a public space on York University premises. Jewish students have repeatedly attempted to have the mural removed on the grounds that it promotes anti-Semitism and have petitioned to both York University and YFS

without sufficient responses. Jewish students, many of whom have relatives who were killed because of the ongoing violence depicted in the mural, are subjected to the daily reminder any time they step foot in the student centre.

DAMAGES

66. As a result of the repeated discrimination that they endured, John Doe #1, Jane Doe #1 and the Class have suffered from significant psychological injury and will likely continue to suffer for the rest of their lives, including but not limited to:

- a) Recurring nightmares
- b) Flashbacks
- c) Fear of open spaces
- d) Fear of crowds
- e) Fear of being on the York University campus
- f) Fear of identifying themselves as Jewish
- g) Fear of expressing their religion

67. With respect to the negligence claim, John Doe #1 and Jane Doe #1 claim on their own behalves and on behalf of the Class damages, including but not limited to:

- a) pain and suffering and loss of enjoyment of life as a result of the incidents;
- b) significant out-of-pocket expenses for psychological counselling, psychological treatment and other special expenses to be advised of prior to trial; and
- c) damages for the loss of competitive advantage as a result of continued and persistent attacks by YFS long after some members of the Class have graduated.

68. In addition to the above, John Doe #1, Jane Doe #1 and the Class also claim punitive, aggravated and exemplary damages, and assert that these damages are appropriate given the severe and high-handed conduct of the Defendants.

RELEVANT STATUTES

69. John Doe #1, Jane Doe #1 and the Class claim and rely upon, and the amendments made thereto and the regulations thereunder and the Provincial equivalents:

- *Canadian Charter of Rights and Freedoms*, s. 7, Part 1 of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.
- *Class Proceedings Act*, 1992, S.O. 1992, c. 6;
- *Human Rights Code*, R.S.O. 1990, c. H.19;
- *Ministry of Training, Colleges and Universities Act*, R.S.O. 1990, c. M.19;
- *Negligence Act*, R.S.O. 1990, c. N.1;
- *Occupiers' Liability Act*, R.S.O. 1990, c. O.2.; and
- *York University Act*, 1965.

70. John Doe #1, Jane Doe #1 and the Class propose that this action be tried at the City of Toronto, in the Province of Ontario.

October 20, 2023

**DIAMOND AND DIAMOND LAWYERS
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Lawyers for the Plaintiffs/the Proposed Class

John Doe #1 and Jane Doe #1

-and- York University, York Federation of Students, York University
Student Centre Incorporated

Plaintiffs

Defendants

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
TORONTO

STATEMENT OF CLAIM

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