

Examination No. 97-0659

Court File No. 91160/95

(Ottawa-Carleton)

ONTARIO COURT (GENERAL DIVISION)

B E T W E E N:

MIKE DUFFY

PLAINTIFF

- and -

GREAT CENTRAL PUBLISHING CO. LTD., LANSDOWNE  
ENTERPRISES (1985) LIMITED, COLTSFOOT PUBLISHING LIMITED,  
MICHAEL BATE and DAVID BENTLEY

DEFENDANTS

\*\*\*\*\*

EXAMINATION FOR DISCOVERY OF MICHAEL DENNIS DUFFY, pursuant  
to an appointment made on consent of the parties to be  
reported by Cornell•Catana Reporting Services, on June 24,  
1997, commencing at the hour of 10:00 in the forenoon.

\*\*\*\*\*  
**COURT COPY**

APPEARANCES:

D. Sherriff-Scott

for the Plaintiff

W.C. McDowell and M. Ethier

for the Defendants

This Examination was taken down in Shorthand  
by David Mackay at Ottawa, Ontario.

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EXAMINATION BY: MR. W.C. McDOWELL

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MICHAEL DENNIS DUFFY, SWORN:

EXAMINATION BY MR. McDOWELL:

1. Q. Could I get your full name for the record,  
please?

A. Michael Dennis Duffy, D-U-F-F-Y.

2. Q. What's your date of birth?

A. 27 May, 1946.

3. Q. You're from Prince Edward Island?

A. Charlottetown, Prince Edward Island.

4. Q. And a graduate from high school there?

A. No.

5. Q. I thought you graduated from university  
there.

A. It's an honorary degree.

6. Q. I see. What level of education did you get?

A. I was in Grade 11. I can't remember if I  
passed it or not.

7. Q. And what did you do upon completing your  
studies? What was your first job?

A. Charlottetown Guardian newspaper.

8. Q. How long did you work there?

A. Oh, about six months.

9. Q. In which year? Do you know?

A. It was either 1963 or '64. When was Kennedy  
shot?

1 10. Q. '63.

2 A. '63, so it was 1964.

3 11. Q. All right. What was your next job after  
4 that?

5 A. Do you want -- I left the -- do you want  
6 every little one? I left the Charlottetown Guardian. I  
7 was transferred to Summerside in the spring of -- what  
8 did we --

9 12. Q. '64?

10 A. '64. In the spring of '64, I was  
11 transferred to Summerside. And in the summer of 1964, I  
12 left the Guardian to work as a road manager for a rock  
13 and roll band called the Beavers and spent the summer  
14 with them.

15 13. Q. The Beatles?

16 A. The Beavers. The Beatles put us out of  
17 business.

18 14. Q. All right.

19 MR. SHERRIFF-SCOTT: It's going to be a long day.  
20 I can tell.

21 MR. McDOWELL: It could be.

22 BY MR. McDOWELL:

23 15. Q. So the Beavers. How long did do you that?

24 A. That was over the summer. In the fall of  
25 that year, I went to work part-time at CJCH radio in

1 Halifax. And I was there until just before Christmas of  
2 that year.

3 16. Q. All right.

4 A. In January --

5 17. Q. That would be '66 now?

6 A. '65. I went to work at CKDH radio in  
7 Amhurst, Nova Scotia.

8 18. Q. All right.

9 A. And in June of 1966, I went to CHNS in  
10 Halifax.

11 19. Q. All right.

12 A. In June, maybe July, of '69, I went to CFCF  
13 TV in Montreal. In June or July of '71, I came to CFRA  
14 in Ottawa. Immediately after the '72 election, October,  
15 '72, I went to Parliament Hill for CHUM radio, which owns  
16 CFRA CHUM. In May, first of June, of 1974, I went to CBC  
17 national radio news on Parliament Hill. In August of  
18 '77, I went to CBC TV news on Parliament Hill. In July  
19 or August of '88, I went to Baton Broadcasting, where I  
20 still am.

21 20. Q. All right. Now, at CFRA, you were a news  
22 reporter or a correspondent?

23 A. News reporter.

24 21. Q. All right. And then you went on to become  
25 the Parliament Hill correspondent for CHUM CFRA?

1 A. That's right. They had three. I was one of  
2 three.

3 22. Q. Right. Who were the other two? If you're  
4 --

5 A. Jack Darowan, and Paul Akehurst.  
6 A-K-E-H-U-R-S-T.

7 23. Q. And thereafter, you went to CBC national  
8 radio news as a reporter or as a bureau chief or --

9 A. As a reporter in the radio news Parliament  
10 Hill bureau.

11 24. Q. Right. Then Parliament Hill reporter for  
12 CBC TV news?

13 A. Right.

14 25. Q. At some point, did you become the Ottawa  
15 bureau chief or some designation like that?

16 A. No.

17 26. Q. And then Baton in 1988, that was to the  
18 Sunday Edition show?

19 A. That's right.

20 27. Q. Where you've been until the present?

21 A. That's right.

22 28. Q. So it's been a pretty steady progression, if  
23 I can put it that way, from working as a reporter in  
24 Charlottetown to having a nationally syndicated news show  
25 or having a show on Baton?

1                   A.    Well, I've left out a few of the intervening  
2                   steps, i.e., when you move from one firm to another, it  
3                   doesn't necessarily happen easily. It took a lot of work  
4                   and a lot of -- there were a lot of doors slammed in my  
5                   way. I had to work very hard to get where I am.

6 29.               Q.    You have said that before, and I think that  
7                   goes without saying.

8                   Now, in your pleading, which I don't think you  
9                   really need in front of you at the moment, but in  
10                  paragraph 2, you say that you are a senior national  
11                  Canadian television journalist. In fact, would you say  
12                  that you hold one of the handful of most prominent  
13                  television news jobs in the country?

14                 A.    I don't know. There are many ways to  
15                  measure it.

16 30.               Q.    But it's an important position within Baton?  
17                  Certainly within its news department, if I can put it  
18                  that way?

19                 A.    I'd like to think so.

20 31.               Q.    And we'll get into this later, and I think  
21                  Mr. Sherriff-Scott and I may have a disagreement about  
22                  how much of this I can get into, but is it fair to say  
23                  that your salary has risen pretty steadily through this  
24                  period of time, from the Charlottetown Guardian up to  
25                  working for Baton in your current position?

1 A. I'm making more than I was at that time,  
2 yes.

3 32. Q. Right. And since 1988, you've had a steady  
4 progression of salary increases?

5 A. Modest. Quite modest.

6 33. Q. Now, you point out in the Statement of Claim  
7 that you won the Association of Canadian Television and  
8 Radio award, and that's the Canadian Television and Radio  
9 award for live television reporting?

10 A. That was a Gemini. Yeah, a Gemini award. I  
11 can't remember the year exactly. It was when I was at  
12 the CBC.

13 34. Q. What year was that? Do you know?

14 A. I think it was 1987.

15 35. Q. All right. And then you've been nominated  
16 twice for the Best in the Business award which is  
17 conferred by the Washington Journalism Review?

18 A. Yes.

19 36. Q. And I take it you haven't won the award;  
20 you've just been nominated?

21 A. That's right.

22 37. Q. And is that a prestigious award as well?

23 A. Yes.

24 38. Q. Is there an ethical component to these  
25 awards, that you're not only a good journalist but also



1 that you hold to high standards?

2 MR. SHERRIFF-SCOTT: If you know.

3 THE WITNESS: I really don't know. I think the  
4 important thing is that I have not been nominated for any  
5 journalistic awards since I've come under attack by Frank  
6 magazine.

7 BY MR. McDOWELL:

8 39. Q. We'll come back to that. The Gemini award  
9 that you won, is that an ACTRA award, A-C-T-R-A?

10 A. Yes. I'd have to go back and look at the  
11 inscription, but basically it is. It changed from -- I  
12 got the award the last year it was under a previous  
13 administration, and I'm not 100 per cent sure. I think  
14 they're now called Geminis, and it would have been an  
15 ACTRA award.

16 40. Q. Is there a citation that goes along with the  
17 award, an individual text? You know the way --

18 A. Yes. Yeah. I'm sad to report that the base  
19 of the award warped and the little brass plate that says  
20 what it's for popped -- believe it or not, the little  
21 nails popped out and the thing disappeared. It was the  
22 last year that they gave this award. I don't know if  
23 they ever gave any other for live reporting, because the  
24 next year they came out with these silver --

25 41. Q. Sculptures?

1 A. -- sculpture things. This is a NELLY or  
2 something. It's a female form, on one foot.

3 42. Q. And is there a text as well that goes with  
4 it, like a scroll or something?

5 A. If there is, I have long since mis-filed it.

6 43. Q. All right.

7 A. That's why I'm a little bit -- there is a --  
8 I'm sure if we went back to the ACTRA people, they could  
9 dig out of a program from them what it was actually  
10 called. But the problem with it was that it was the very  
11 last one, and then everybody went on to these new things.  
12 That was the year it changed. The following year it  
13 changed.

14 MR. McDOWELL: Mr. Sherriff-Scott, I wonder if we  
15 could get production of the citation that accompanied  
16 this award.

17 MR. SHERRIFF-SCOTT: I'll think about it.

\*A\*

18 BY MR. McDOWELL:

19 44. Q. I have no objection to us --

20 A. As I recall, it was something very simple,  
21 about two sentences, award for live broadcasting, and it  
22 said the Armenian take-over of the Turkish embassy in  
23 Ottawa, period.

24 45. Q. Now, in 1994, you were named to the Canadian  
25 Association of Broadcasters' Hall of Fame?

1 A. Mm hm.

2 46. Q. Could we get production of the citation that  
3 accompanied that, please?

4 A. Interestingly, the CAB relates essentially  
5 to my work, again, way before Frank in the Maritimes.

6 MR. SHERRIFF-SCOTT: Why don't you ask him about  
7 it first, and then we can consider your request.

8 BY MR. McDOWELL:

9 47. Q. Do you remember, when you are made a member  
10 of the Hall of Fame, or you get the Order of Canada or  
11 something, there is --

12 A. Haven't gotten the Order of Canada, Wil. I  
13 wonder what Frank has to do with that.

14 48. Q. We'll get into that.

15 A. I think it's a big factor.

16 49. Q. Well, Mr. Duffy, what I'm wondering is --

17 A. The CAB award came from the Maritime  
18 Association of Broadcasters. Each regional broadcaster  
19 gets to nominate someone. An old friend going back 30  
20 years in Summerside, P.E.I. named Paul Scureman and my  
21 roommate from CKDA in Amhurst, a guy named Gary Kroll,  
22 organized the CAB Hall of Fame thing for me, partly  
23 because they knew how devastated I was by the kind of  
24 shit that was being written about me up here.

25 50. Q. All right.

1           A.    So it came from my old friends from 30 years  
2 ago in the Maritimes.  Nothing to do with national.  And  
3 frankly, I have not been nominated or pushed for any kind  
4 of national award since your clients began their shit  
5 about me.

6 51.           Q.    And --

7           A.    You have touched a nerve.

8 52.           Q.    You said at an earlier juncture that you've  
9 maintained a running account of promotions that you have  
10 not gotten, salary increases that you thought you were  
11 entitled to that you haven't gotten, and you attribute  
12 that to Frank; right?

13           A.    Well, I don't know that a running account --  
14 I mean, I know where Frank has hurt me.

15 53.           Q.    All right.

16           A.    It has not been insignificantly.  You  
17 touched on a great one with the Order of Canada.

18 54.           Q.    Well, I wasn't suggesting that you did or  
19 didn't have it.  It was just by way of illustration.

20           A.    But I've been nominated for it, and people  
21 on the jury have privately reflected back to me that part  
22 of the reason is they don't want the Order to be brought  
23 into disrepute by the constant attacks that have been on  
24 me in Frank magazine.  I would frankly like to have the  
25 Order of Canada before my mother dies.  She's 80 years

1 old. And to have been nominated three times and three  
2 times have the message come back from the Privy Council  
3 Office on the back channel that Frank is the reason  
4 you're not going to get it and Frank is the reason your  
5 mother is not going to see you win this award makes me --  
6 makes my blood boil.

7 55. Q. But isn't the Order of Canada awarded by an  
8 panel which is chaired by the Chief Justice of Canada?

9 A. That's right. One of the members is the  
10 Clerk of the Privy Council. And the Clerk of the Privy  
11 Council has been asked by some very senior people in this  
12 country why Duffy has been nominated three times and has  
13 not received it. And she is on the committee, and the  
14 answer back is the committee doesn't want the Order to be  
15 brought into disrepute by having it being associated with  
16 Frank. So my mother gets to go to her grave without  
17 seeing her son get an award that Joe Schlesinger got,  
18 that Peter Gzowski got, but, because of your clients, I  
19 don't get.

20 56. Q. Did you have the conversation with Ms  
21 Bourgon directly or did someone else have a conversation  
22 with her?

23 A. Someone else did.

24 57. Q. Who was that?

25 A. I'm not at liberty to say.

1 58. Q. Now, would you agree with me that your  
2 physical frame has been the subject of extensive comment  
3 over the years, not just by Frank but by other  
4 publications?

5 A. I would not agree with that.

6 59. Q. You don't agree with that. Would you agree  
7 that you yourself have made reference to it in a joking  
8 way?

9 A. Since it's become the centrepiece of public  
10 discourse about me, I have no other choice.

11 60. Q. So, for example, you appeared on CFMY radio  
12 in Toronto recently?

13 A. Yeah.

14 61. Q. And made comments of a self-deprecating  
15 nature, including about your stature?

16 A. Absolutely.

17 62. Q. A number of years --

18 A. Because the choice is to appear to people to  
19 be bent out of shape about the kinds of nasty, mean  
20 things that have been printed about me in the press. You  
21 either go into a hole and you don't speak to anyone, or,  
22 if you have to go out because it's part of your job and  
23 be in the public eye, then you've got to adopt the pose  
24 that this stuff doesn't hurt, but I want to tell you, and  
25 I think you know, it does hurt.

1 63. Q. Now, a number of years ago, you were named  
2 one of the ten sexiest men in Canada by Chatelaine?

3 A. That was ten years ago. That was before  
4 your guys.

5 64. Q. I understand that. But there was a bit of a  
6 backlash within the pages of Chatelaine about that,  
7 wasn't there?

8 A. Backlash? How so?

9 65. Q. Well, I seem to recall there being comments  
10 made to the effect that a woman in the same position  
11 wouldn't have received the nomination. Or is that just  
12 my memory failing me?

13 A. Well, you're probably -- I haven't read the  
14 stuff in years, so I don't know what -- you mean letters  
15 to the editors afterwards or something?

16 66. Q. Right.

17 A. I don't remember. There were some, but I  
18 can't remember.

19 67. Q. All right. Now, if we could move on, you  
20 have been depicted on the Royal Canadian Air Farce show  
21 as Tiny Mike. You know that?

22 A. Yeah.

23 68. Q. Which is an indirect reference to your  
24 stature, I take it?

25 A. Yeah.

1 69. Q. Do you attribute that to Frank as well?

2 A. I think Frank has put this whole thing in  
3 the public arena. They are the people who have made  
4 talking about Duffy's weight okay. And as I said to you  
5 before, I had two choices: One is to hide in a hole, and  
6 the other is to try and ride with the punches or  
7 whatever. And because I needed to continue making a  
8 living and that involves going out in public, I decided  
9 that the only strategy to take was to appear to be above  
10 it and not to be bothered by it.

11 70. Q. All right. Now, in our productions --

12 MR. McDOWELL: I can come back to this, if you  
13 want, because I see, Mr. Sherriff-Scott, that I don't  
14 have our productions with us, and I don't think you have  
15 them either.

16 MR. SHERRIFF-SCOTT: Not with me, no.

17 BY MR. McDOWELL:

18 71. Q. At Tab 16 of our productions, I think I've  
19 transcribed this directly, there is a excerpt from the  
20 Globe and Mail on June 21, 1993, a column called Tattler,  
21 which says, "At a ceremony the very next day at Rideau  
22 Hall" --

23 A. Sorry, June what?

24 72. Q. 21st, 1993. We can come back to it, if you  
25 want. It says, "At a ceremony the very next day at



1 Rideau Hall, Mr. Duffy virtually leapt from his second  
2 row seat, no easy task, in his eagerness to applaud the  
3 bestowing of the title Right Honourable on Deputy  
4 Minister Don Mazankowski."

5 So again, that's a reference to your stature, if  
6 I can put it that way?

7 A. For which the Globe and Mail apologized to  
8 me because they -- in the words of Eddie Greenspon, "It  
9 got passed me in our rush to try and emulate Frank." You  
10 notice the Tattler doesn't appear in the Globe and Mail  
11 any more as a column.

12 73. Q. Is it because of that reference?

13 A. Absolutely. Well, I have been assured.

14 74. Q. And this is --

15 A. It was another attempt by somebody in the  
16 media to emulate your clients and go to the gutter. And  
17 the reaction against it was --

18 75. Q. So you complained about that, did you?

19 A. Yes, I did.

20 76. Q. You complained in writing?

21 A. No, verbally.

22 77. Q. To Edward Greenspon?

23 A. That's right.

24 78. Q. And he apologized for that?

25 A. Absolutely.

1 79. Q. And he assured you that the Globe and Mail  
2 wasn't going to run this column any more?

3 A. That's right. He said to me, "It's been the  
4 subject of some considerable discussion at the Globe, and  
5 we are appalled that people would make references to  
6 someone's physical size."

7 80. Q. And at Tab 4 of our productions, there is a  
8 reference within a column within the Financial Post, and  
9 again I think I've transcribed this correctly. "What was  
10 so refreshing about appearing on Duffy's show was the  
11 leanness of the operation, a characterization not  
12 normally associated with Duffy, who is himself famously  
13 unlean, of course."

14 Do you recall seeing that reference in the  
15 Financial Post?

16 A. William Watson.

17 81. Q. And did you make a complaint about that?

18 A. No.

19 82. Q. Do you attribute that to Frank as well, that  
20 reference?

21 A. The whole issue of my weight has become okay  
22 for people to talk about, even though they would never  
23 raise it about someone who was a female or all kinds of  
24 persons of colour, because your clients have chosen to  
25 drag it out into the open.

1 83. Q. Now --

2 A. The reason I didn't complain, by the way, is  
3 that the rest of column which you didn't quote was 100  
4 per cent laudatory.

5 84. Q. Wasn't it also that at that point you were  
6 associated with the Toronto Sun group of companies?

7 A. I don't get the connection.

8 85. Q. Well, if you're working for the same group  
9 of companies, I assume that if somebody make a complaint  
10 about something being published about them --

11 A. No. Why would that have any connection? If  
12 it's unfair, it's unfair. The rest of the column by Bill  
13 Watson was that Duffy was basically setting a standard  
14 for other businesses to follow.

15 86. Q. And doing it with fewer resources and fewer  
16 people?

17 A. That's right. Creativity and imagination.  
18 The piece wasn't a slam on my weight. The piece was a  
19 complimentary piece, and that's why I didn't raise it.

20 87. Q. Now, I produced a clipping to your counsel a  
21 moment ago.

22 MR. SHERRIFF-SCOTT: Just let him read it before  
23 you ask questions.

24 MR. McDOWELL: Sure.

25 THE WITNESS: This is your set-up, Wil. Your

1 guys set this up.

2 BY MR. McDOWELL:

3 88. Q. We'll hear about it, but I want you to  
4 refresh your memory first.

5 A. Yeah.

6 89. Q. This is a column by Pat Connelly in the  
7 Daily News?

8 A. Yes.

9 90. Q. The Daily News is the Halifax publication  
10 which was formerly owned by David Bentley's group, I take  
11 it?

12 A. That's right.

13 91. Q. It's now owned by Harry Steel, is it?

14 A. That's correct.

15 92. Q. Do you know Pat Connelly personally?

16 A. I have met him years ago.

17 93. Q. Now, the column says, "Mike Duffy, the  
18 Charlottetown host of CTV's, ATV's Sunday Edition, is an  
19 amiable kind of guy, freely given to sharing a laugh  
20 about such things as his girth and a thinning coiffure."

21 Do you accept that comment as an accurate one  
22 from Mr. Connelly?

23 A. No.

24 94. Q. All right. He goes on to say that you've  
25 started an action against Frank magazine, and then he

1 quotes you as saying, "They, Frank, can have their fun  
2 with the hair and weight jokes, but calling me a liar  
3 puts my credibility into question. As far as I'm  
4 concerned, Frank crossed the line of acceptable comment,  
5 and the next round will be in the courts."

6 Did you say that to Mr. Connelly?

7 A. I think we should go back --

8 95. Q. We can go back to that --

9 A. -- to why Mr. Connelly phoned me in the  
10 first place. At your instigation.

11 96. Q. Like --

12 A. This whole thing is --

13 97. Q. I'm not going to accept that I as counsel  
14 have instigated anything here, Mr. Duffy.

15 A. Your clients instigated it. This is part of  
16 a thrust and parry that, as soon as he called, I knew  
17 what this was, and I got him to fax me the anonymous fax  
18 he'd received setting him off on this chase.

19 98. Q. Well, come back to my question. All right?  
20 We can explore that in a second. But did you say that to  
21 Mr. Connelly? They can have their fun with the hair and  
22 weight jokes and so?

23 A. I don't remember saying that to him,  
24 frankly.

25 99. Q. So he's misquoted you?

1 A. I don't remember saying that. I think he  
2 may have adjusted the quotes to help your client.

3 100. Q. All right. And did you say the latter part  
4 of the quote, that calling you a liar puts your  
5 credibility into question?

6 A. No question.

7 101. Q. And did he accurately quote you in saying,  
8 "As far as I'm concerned, Frank crossed line of  
9 acceptable comment, and the next round will be in the  
10 courts"?

11 A. Again, something like that. I think he's  
12 doctored the quote a little bit, but.

13 102. Q. Is the thrust of what he has put at the  
14 front of that quote, they can have their fun with the  
15 hair and weight jokes, accurate?

16 A. I think what I said to him was something to  
17 the effect that they are having fun or they think they're  
18 having fun with the hair and weight jokes, but they have  
19 carried it too far.

20 103. Q. All right. Now, in your pleading, you say  
21 that the --

22 A. I didn't -- I don't recall ever giving them  
23 permission: They can have their fun.

24 104. Q. You say in your pleading -- we'll come back  
25 to it -- that there was a four-year campaign of abuse

1 against you by Frank magazine.

2 MR. SHERRIFF-SCOTT: Is that what it says?

3 MR. McDOWELL: I believe so.

4 THE WITNESS: I mean, it's been going on so long,  
5 it's hard for me to remember the exact number of years.  
6 But anyway.

7 MR. McDOWELL: Paragraph 10(b).

8 MR. SHERRIFF-SCOTT: Okay.

9 BY MR. McDOWELL:

10 105. Q. And do I take it that you did not feel moved  
11 to sue when it was simply the hair and weight jokes, if I  
12 can put it that way, which was being commented upon?

13 A. No. I think you know from previous  
14 discussions, as soon as they started this, I immediately  
15 consulted counsel.

16 106. Q. That was Mr. Henderson?

17 A. That's right.

18 107. Q. And Mr. Henderson, if I recall, told you  
19 that when the time comes, sue the newsstands and so on?

20 MR. SHERRIFF-SCOTT: What is this about? Sorry,  
21 Mr. McDowell. Let's get to something that's germane.  
22 Forget what Mr. Henderson told him in the confines of  
23 their relationship, whatever that might have been.

24 MR. McDOWELL: He's already waived the confines  
25 of that relationship.

1 MR. SHERRIFF-SCOTT: Has he?

2 MR. McDOWELL: He's testified about it.

3 MR. SHERRIFF-SCOTT: When?

4 MR. McDOWELL: During the cross-examination.

5 MR. SHERRIFF-SCOTT: Do you have it handy? I  
6 remember some general discussion. I don't remember the  
7 details.

8 MR. McDOWELL: All right. Well, I'll get the  
9 excerpt after lunch, if you want it.

10 MR. SHERRIFF-SCOTT: All right.

11 BY MR. McDOWELL:

12 108. Q. So you do not hold the view, then, that you  
13 took no issue with them making comments about your  
14 weight? You have always been concerned about those  
15 comments?

16 A. Absolutely.

17 109. Q. All right.

18 A. I don't know anyone who wants to be held up  
19 to ridicule. I've never met a human being who wants  
20 people to make or doesn't mind or doesn't feel hurt when  
21 people make personal comments about them. I think it  
22 applies to me, and any -- well, just to every human  
23 being. I'm not sure your clients appreciate that.

24 I mean, I'm not sure if your clients appreciate  
25 when they put down the Prime Minister for his accent and



1 so on, that hurts him personally. Now, one could argue  
2 that he asked for that because he ran for office, but the  
3 fact is we're all human beings, and what your magazine,  
4 or your clients's magazine, consistently demonstrates is  
5 a complete absence of any shred of humanity in relation  
6 to other human beings.

7 And there is no reason for you to think for one  
8 second that Mike Duffy doesn't have a soul, that Mike  
9 Duffy doesn't have a heart, that I can be hit and not be  
10 bruised and not feel it. Of course. And everybody else  
11 who is in there feels it too, when they're attacked. So  
12 the idea that you can get some kind of free pass that  
13 Mike Duffy is the only human being on the earth who  
14 doesn't feel pain when people makes cracks about him,  
15 personal attacks, is totally wrong.

16 What you have to do is learn how to cope. If you  
17 go back, you'll discover the hair and weight jokes on my  
18 part only started after not to do it would have added  
19 fuel to the fire of controversy created by these  
20 so-called journalists.

21 110. Q. Now, at Tab 5 of our productions, there is a  
22 Canadian Press story which reports upon you having  
23 suffered a heart attack on or about June 15, 1992, and  
24 the article described you as a portly TV personality.

25 A. You guys have made all of this legal. Frank

1 is the first to have made personal comments okay. That's  
2 how the entire system gets dragged down. The Canadian  
3 Press would never have done this before. But your  
4 clients, in their ground-breaking journalism, have just  
5 broken every civil convention, and that's where this --  
6 that's why it's got to be stopped. Because you start,  
7 and it moves from one to the other to the other as the  
8 kids, young journalists who don't know any better, try to  
9 emulate what they think is smart. And that's why the  
10 Globe and Mail was so appalled at the Tattler item,  
11 because it was so beneath their standards. And they were  
12 appalled that it got by.

13 111. Q. You did in fact suffer a heart attack on or  
14 about June 15, 1992?

15 A. Yeah. I think it's the 5th, actually.

16 112. Q. All right. And that was reported fairly  
17 extensively throughout the country?

18 A. I was busy. I didn't -- yeah, but I don't  
19 know how extensive it was.

20 113. Q. You were married in your hospital bed, as I  
21 read the clippings?

22 A. Not literally. We got married in the  
23 hospital. I wasn't in bed.

24 114. Q. Now, there is another -- go ahead.

25 A. The marriage. We were going to get married

1 in Pembroke, my wife's hometown, but we spent months in  
2 secrecy arranging our wedding because we'd seen what  
3 Frank did in Halifax to one of the Owen girls. It was  
4 just outrageous. So here I am, a normal person who wants  
5 to get married and wants this to be a very special day  
6 for his bride, and what does he have to do? He has to  
7 resort to a ton of arrangements to avoid having her  
8 embarrassed by your clients.

9 I mean, the infestation, the infection, that your  
10 clients spread affects their victims, every aspect of  
11 their lives. I'm going to get married, it's going to be  
12 a happy day, but will these clowns come and put a camera  
13 on the ground and shoot up this like and make the bride  
14 look bad and then run two or three pages of it because it  
15 makes money for them? It has no journalistic value.

16 Here is somebody named Owen. Guess what?  
17 Marrying a TV guy in Halifax. So we'll put two or three  
18 pages of pictures quite embarrassing to her. Your  
19 clients are not nice people. They're not civil.

20 115. Q. Let me see if I understand. You're not  
21 suggesting that you didn't have a heart attack? This  
22 wasn't some sort of subterfuge to get married?

23 A. No, not at all. All I'm saying, since you  
24 raised the question of marriage, you should know that  
25 your clients played a large part in our marriage

1 planning. It was all how to avoid those assholes from  
2 Frank.

3 116. Q. So you were going to go to Pembroke?

4 A. Well, yeah, that. But basically -- yeah,  
5 don't get married in town; get married out of town. Make  
6 sure that you keep everything secret. You have to tell  
7 everybody that you mean it, that they can't say a word to  
8 anyone about it, because these guys will come and ruin  
9 it.

10 117. Q. All right. Let's review some of your  
11 productions. I think I understand most of the points in  
12 play here, but let's just go through them.

13 Tab 1, the second page, Mr. Duffy. This has to  
14 do with Brian Stewart's wedding.

15 A. Okay.

16 118. Q. Did you in fact attend Mr. Stewart's  
17 wedding?

18 A. Yes, I did.

19 119. Q. And Peter Mansbridge and you were ushers, I  
20 take it, from that?

21 A. Yeah.

22 120. Q. Okay. And then there is a comment, at the  
23 top of the page, right-hand side, that Senator Duffy and  
24 whoever the author is, enjoyed the gallons of Brights'  
25 ladelled on by Peter the Great. The rest of the piece

1 seems to be cut off, but do you take the position that  
2 what is said there is in fact defamatory of you?

3 A. Sure it is.

4 121. Q. How so?

5 A. Because it -- even better, why don't we just  
6 leave it to the judge to decide? I think it is, and I  
7 think any reasonable person reading that would too.

8 122. Q. You take the position that it's  
9 professionally demeaning of you?

10 A. It's demeaning of me, yeah.

11 123. Q. Professionally?

12 A. Well, I don't know how you separate the two.

13 124. Q. All right. Now, the next tab, Tab 2, is  
14 limited. What is said about you there is limited to a  
15 photograph and then the inscription "Fred Pennis'" --  
16 P-E-N-N-I-S-' -- "Smarter Brother". Who was Fred Pennis,  
17 if I can ask you that? Who is the reference to?

18 A. Fred Ennis.

19 125. Q. Fred Ennis. Who is he?

20 A. He was a columnist in the Ottawa Sun.

21 126. Q. Right. And it's objectionable to you that  
22 you're described as his smarter brother?

23 A. It's not put in there to make me look good.

24 127. Q. Tab 4, if we can go to that one. This  
25 appears to be a part of an advertisement, "Sunday

1 Emission with Mike Puffy". Do you accept this as a  
2 parody?

3 MR. SHERRIFF-SCOTT: We don't know if we know  
4 what your clients's intentions are.

5 THE WITNESS: It's a slam.

6 BY MR. McDOWELL:

7 128. Q. Do you say that that professionally demeans  
8 you?

9 A. Sure it does. Look at the number of viewers  
10 they're putting down. They're basically saying that only  
11 4,000 people watch the show.

12 129. Q. The actual number is one point something  
13 million?

14 A. About half a million.

15 130. Q. So Tab 5, if we can carry on. This seems to  
16 be the inaugural sort of multi-frame entry within Frank  
17 that relates to you. You take the position that that is  
18 professionally demeaning, I take it?

19 A. It has me making disparaging remarks about  
20 the Prime Minister's principle secretary.

21 131. Q. All right. That's demeaning to you, not to  
22 him?

23 A. Well, certainly doesn't enhance my  
24 reputation, does it.

25 132. Q. Now, Tab 6 --

1 A. I can't wait until we do this for the judge.  
2 Does the judge get all of these?

3 MR. SHERRIFF-SCOTT: Go ahead and ask your  
4 question.

5 BY MR. McDOWELL:

6 133. Q. It's up to your counsel.

7 A. I've forgotten some of. The pain gets so  
8 hard after a while that you just push it away, but you're  
9 bringing it all back very nicely.

10 134. Q. Now, this is entitled, "Puffy's PMO  
11 Pipeline," and it has to do with Prime Minister Mulroney  
12 appearing on the afternoon open-line show of a Mr. Good  
13 instead of the show of Mr. Mair. Do you recall this  
14 incident?

15 A. Yes. It's a total fabrication.

16 135. Q. So the Prime Minister didn't appear on Mr.  
17 Good's show?

18 A. Oh, he may very well have, but it had  
19 nothing to do with me.

20 136. Q. You had no involvement in that?

21 A. None whatsoever.

22 137. Q. Did you have a warm working relationship  
23 with Prime Minister Mulroney?

24 A. No.

25 138. Q. You didn't?

1 A. Did not.

2 139. Q. How about with his secretary Gilbert Lavoie?

3 A. I had a business-like relationship with him,  
4 as I have with Peter Donnelly, who is Chrétien's press  
5 secretary.

6 140. Q. So you had no better relationship with Prime  
7 Minister Mulroney than with any of the other prime  
8 ministers who you have served on the hill during their  
9 tenure?

10 A. In fact, I had a much worse relationship  
11 with Brian Mulroney. If your people were real  
12 journalists and if they'd done their research, they'd  
13 know that. In 1983, when he was running for the Tory  
14 party leadership, Mulroney threatened to sue me over a  
15 story I did on CBC television and pursued his diatribes  
16 against me for weeks and weeks and weeks afterwards.

17 141. Q. Now, Tab 7, there is characterization of you  
18 there that I won't review with you. I think I know what  
19 your position will be. This has to do with you  
20 inadvertently using the word or the name "Muldoon" rather  
21 than "Mulroney", as a slip. Do you recall that  
22 happening?

23 A. Yes.

24 142. Q. And that was I presume because you had read  
25 the name "Muldoon" repeatedly in Frank magazine?



1                   A.    I don't know.  Do you know where the Muldoon  
2    thing comes from?

3  143.            Q.    It comes from a senator, I recall, calling  
4    the Prime Minister "Muldoon" because he wasn't exactly  
5    thrilled by the Prime Minister or something.

6                   A.    But it's -- again, what do they call it --  
7    Freudian.

8  144.            Q.    Now, there is a reference there to your  
9    genial sycophancy.

10                  A.    It's wonderful, isn't it.

11 145.            Q.    I take it that Frank is the only national  
12    magazine or the only commentator within the public press  
13    that makes those sorts of comments about your  
14    journalistic style?

15                  A.    I'd like you to remind me of somebody else  
16    who does.

17 146.            Q.    All right.  Do you ever read anything  
18    written about you by Rick Salutin?  You're laughing, for  
19    the record?

20                  A.    Yes.  I'm talking about real journalists.

21 147.            Q.    All right.  So Mr. Salutin is not a real  
22    journalist?

23                  A.    Mr. Salutin is a columnist who has a point  
24    of view and who pursues that point of view in the  
25    newspaper.

1 MR. SHERRIFF-SCOTT: Have you produced any of  
2 this, Mr. McDowell?

3 MR. McDOWELL: Yeah, we have. It's in our  
4 production.

5 BY MR. McDOWELL:

6 148. Q. So you discount anything that Mr. Salutin  
7 says about you, I take it?

8 A. I take it from Frank magazine. I take it  
9 from whence it comes.

10 149. Q. So do you accept that Mr. Salutin has  
11 repeatedly made comments about you which suggest that you  
12 were, for example, too kind to business interests on your  
13 show?

14 A. No, I don't accept that.

15 150. Q. You don't accept that?

16 A. I only remember Rick Salutin making mention  
17 of me once ever. I haven't done exhaustive research, but  
18 I would have thought that it would have been brought to  
19 my attention if I hadn't seen it.

20 MR. McDOWELL: Well, this I believe is in our  
21 production, but it may not be.

22 MR. SHERRIFF-SCOTT: I haven't seen it yet.

23 MR. McDOWELL: I'll let you see it. What I want  
24 to direct your attention to is the fourth paragraph on  
25 the second page. Off the record for a moment.

1 (DISCUSSION OFF THE RECORD)

2 BY MR. McDOWELL:

3 151. Q. Okay. Now, you've had a chance to review  
4 Mr. Salutin's piece of Friday, September 27, 1996?

5 A. Yes, I did.

6 152. Q. All right. And I'm not sure that I  
7 understand all of it, but some of it has to do with  
8 public broadcasters and the contrast with private  
9 broadcasters. Mr. Salutin says, "Those people have  
10 basically been left to the mercies of private  
11 broadcasters who rarely make even a phoney nod towards  
12 subtlety. They provide formula drama and sit-coms, game  
13 shows, and in news and public affairs, the pandering of  
14 the talk shows or the affected folksiness of Mike Duffy  
15 and Eric Malling, plus opinions to make any banker  
16 cream."

17 So did you read this when it came out in the  
18 Globe the first time?

19 A. No.

20 153. Q. Mr. Salutin seems to be suggesting that  
21 you're a bit insincere in your manner in television? So  
22 is Mr. Malling, for that matter, according to Mr.  
23 Salutin?

24 A. Yeah.

25 154. Q. So Frank is not the only part of the media

1 that has some criticism of you and your supposed  
2 preference for business interests?

3 A. I heard -- I read Rick Salutin say that. I  
4 don't recall Frank saying that.

5 155. Q. Okay. Frank has accused of you being an  
6 apologist for the Conservative government?

7 A. You were asking about being an apologist for  
8 business. I don't remember Frank saying that. I think  
9 they're two different things, with respect.

10 156. Q. Fair point.

11 A. Frank has accused me of practically  
12 everything except paedophilia over the years, and I just  
13 am up to here.

14 157. Q. Well, the point of departure to our  
15 consideration of Mr. Salutin's column was the phrase  
16 "genial sycophancy" in Frank, but that seems to be  
17 essentially what Mr. Salutin says in his column, isn't  
18 it? Affected folksiness, genial sycophancy?

19 A. I think they mean different things.

20 158. Q. Is what Mr. Salutin says about you  
21 objectionable to you?

22 A. It's his opinion.

23 159. Q. But it's part of being a public figure, I  
24 take it?

25 A. Well, I mean, if in a decade I've been

1 mentioned twice by Rick Salutin, it hardly constitutes a  
2 campaign.

3 160. Q. All right. Now, Tab 8 is the edition of  
4 Frank from April 4, 1991. This has to deal with a column  
5 of yours which is said to have been distributed to a  
6 meeting of the riding association or something of Finance  
7 Minister Wilson. Do you recall this incident?

8 A. No. Can I just read it?

9 161. Q. Sure.

10 A. What is your question?

11 162. Q. Was there an incident in which one of your  
12 columns was provided in advance of its publication in the  
13 Sun or Financial Post to Mr. Wilson's party? I mean  
14 social party.

15 A. I frankly don't remember that.

16 163. Q. All right. And you take the position that  
17 that column or that entry was professionally demeaning of  
18 you, I take it? Or is that one fairly unobjectionable,  
19 as they go?

20 A. I don't remember this one at all, frankly,  
21 and, for all I know, it could be just all made up.

22 164. Q. Okay. Tab 10. Did you comment in your  
23 column about the infamous ad involving Caroline Mulroney?  
24 Do you remember making any comment of that sort?

25 A. Yes.

1 165. Q. All right. Then the next frame has to do  
2 with a Bill Kempling impersonation?

3 A. Yeah.

4 166. Q. Bill Kempling was an MP for Burlington who  
5 actually did look a bit like you, didn't he?

6 A. His picture is there. You can draw your own  
7 conclusion.

8 167. Q. Seems to look like you to me.

9 A. Well, we're both white males, and we're both  
10 thinning on top.

11 168. Q. Right. And the last frame has to do with  
12 you threatening to call Pat MacAdam and talk to Doug  
13 Bassett and so on. There is nothing particularly  
14 demeaning about that, I take it?

15 A. The whole thing is holding me up to  
16 ridicule.

17 169. Q. Have you read Mr. Bate's Examination for  
18 Discovery?

19 A. No.

20 170. Q. All right. Now, turn up Tab 13 briefly.  
21 This is another strip of the cartoon, or whatever you  
22 want to call it, called "The Puffster". In this one, the  
23 point of the strip is that you're attempting to hypnotize  
24 your audience?

25 A. The point is -- you think that's the point

1 of the strip?

2 171. Q. What do you think the point of the strip is?

3 A. To put me down. The commentary on the  
4 bottom of the strip has absolutely no relation to  
5 anything that was every discussed on Sunday Edition.

6 172. Q. Does Sunday Edition take an editorial stance  
7 from time to time? Do you take positions on the show by  
8 way of commentary and so on?

9 A. We have guests who do.

10 173. Q. Do you personally?

11 A. I spoke up in favour of Father's Day two  
12 weeks ago.

13 174. Q. But during the period of time that --

14 A. Not in the traditional sense of a newspaper  
15 editorial, no.

16 175. Q. So your position is that, as at December of  
17 1991, you weren't taking any position in relation to the  
18 Mulroney ministry one way or the other?

19 A. No, and I certainly wasn't trying to  
20 hypnotize people.

21 176. Q. Tab 14. This is the one in which Frank  
22 named you its Eyesore of the Year. There is reference at  
23 the top of the second column to a 1988 interview in TV  
24 Guide. And they say, and I'll set it out, "How else to  
25 explain statements in a 1988 TV Guide when Duffy

1 acknowledged that he knew where the bodies were buried in  
2 Ottawa, what scandals went untold, and yet maintained he  
3 would always keep silent about them, in the public  
4 interest. That isn't a journalist, that's a  
5 co-conspirator."

6 Do you recall the interview they're referring to?

7 A. Show me the quotes. As they say, "Show me  
8 the money."

9 177. Q. Well, we'll get it if we have to. Do you  
10 recall the interview?

11 A. With TV Guide?

12 178. Q. Yes.

13 A. Yes.

14 179. Q. Was that something that you said?

15 A. No, absolutely not.

16 180. Q. What did you say relative to keeping  
17 confidences and so on?

18 A. I can't accurately or can't remember that  
19 specific piece, but, in other places, I have described a  
20 confidential envelope being inadvertently handed to me,  
21 addressed to someone else, which I passed on and did not  
22 open.

23 181. Q. Who was the someone else, and what was the  
24 envelope?

25 A. The envelope was when the Liberals were in



1 opposition, a report on restructuring the Liberal party  
2 in western Canada. It was a report to Pierre Trudeau by  
3 Lloyd Axworthy, and I believe the other Manitoba MP's  
4 name was Robert Bocksthal, B-O-C-K-S-T-H-A-L.

5 And they came out of Trudeau's office, and I was  
6 with a group of journalists standing outside. And Bob  
7 Bocksthal handed me an envelope that was addressed to Jim  
8 Coots, who was Trudeau's principle secretary. And we're  
9 walking down the halls. I didn't -- I just took it. I  
10 thought it was a press release or something.

11 And as we were walking down the hall to interview  
12 them, I looked at the envelope and said, "Oh, this isn't  
13 intended for me," and I in turn gave it to Lloyd  
14 Axworthy.

15 182. Q. This was in 1979? I presume, because that  
16 would have been when Mr. Trudeau was in opposition.

17 A. Yeah. Or it may have been just after the --  
18 it may have been just after the '80 election and they  
19 didn't win any seats. Only won a couple seats in the  
20 west, and how do we build in the west. So it was  
21 somewhere in that area.

22 183. Q. Right.

23 A. And I gave it to Lloyd. Said, "This is  
24 obviously not meant for me," and I just handed it to  
25 Lloyd, and --

1 184. Q. You have described that incident somewhere,  
2 I presume?

3 A. And Lloyd has, I guess, made reference to it  
4 in talking about integrity in journalism. I could have  
5 just put it in my pocket and walked away and would have  
6 known exactly what they told Trudeau, because it was a  
7 copy of their report to Trudeau.

8 185. Q. There were lots of journalists who would  
9 have done that?

10 A. I don't know. I just know what my standards  
11 are.

12 186. Q. But there is --

13 A. I know what the right thing to do is, and it  
14 wasn't intended for me, and I don't open other people's  
15 mail.

16 187. Q. All right. But there is another school of  
17 thought that puts the public right to know quite high on  
18 the pedestal, and there are other journalists who would  
19 have published that, presumably?

20 A. Presumably. That is what I think the TV  
21 Guide article was all about.

22 188. Q. That was a theme in the TV Guide article?

23 A. No, I think it's just, "What's Mike Duffy  
24 like?"

25 189. Q. But that incident or something like this was

1 offered as an example?

2 A. I think that's what that paragraph refers  
3 to.

4 190. Q. All right. And the comment on that is,  
5 "That isn't a journalist, that's a co-conspirator"?

6 A. And I say that's a honourable human being.

7 191. Q. Right. But you've acknowledged that there  
8 is another school of thought that says you should publish  
9 in those circumstances?

10 A. Your clients are the only ones I know who  
11 would probably take that position.

12 192. Q. New York Times wouldn't take that position?

13 A. I don't think the New York Times reads other  
14 people's mail.

15 193. Q. What about the instances in which  
16 journalists have photographed the budget being flipped by  
17 Mark LaLonde, that incident?

18 A. Right?

19 194. Q. That is inadvertent disclosure. Should that  
20 have been subject of publication in the news media?

21 A. I think you can have a great academic debate  
22 about that.

23 195. Q. About the whole area?

24 A. Yeah.

25 196. Q. All right. What about Doug Small and the

1 Global TV example where the budget is found in the  
2 printer's dumpster or whatever, whatever the situation  
3 was?

4 A. I disagreed with what he did in that case.

5 197. Q. All right. Were you on record at the time  
6 as disagreeing?

7 A. I don't know if anybody asked me, but  
8 anybody who did, I made no secret. Doug certainly knows  
9 that I disagree.

10 198. Q. Right.

11 A. Again, it's not -- my disagreement is  
12 becoming a co-conspirator with the person who took the  
13 document.

14 199. Q. Well, isn't --

15 A. That's where I think -- I think there are  
16 ethical lines and there are ethical lines. There are  
17 brown envelopes that come mysteriously or people phone  
18 you up and say, "I have a document which I've stolen, and  
19 I want you to come out and be part of it." I don't  
20 believe journalists should ever be part of criminal  
21 activity.

22 200. Q. All right. But in this example, can you go  
23 so far as to say that Lloyd Axworthy owes you one by  
24 reason of you having kept his confidence?

25 MR. SHERRIFF-SCOTT: Can we move on, please?

1 THE WITNESS: I assume Lloyd Axworthy would do  
2 the same for me because that's what civilized people do.

3 BY MR. McDOWELL:

4 201. Q. Right. So you curried any favour --

5 MR. SHERRIFF-SCOTT: Just stop. Mr. McDowell,  
6 let's press on. Get to the point.

7 MR. McDOWELL: I'm getting to the point.

8 MR. SHERRIFF-SCOTT: Well, you're far afield now.  
9 We're talking about what Mr. Axworthy is going to do as a  
10 result of Mr. Duffy passing him back an envelope. It has  
11 nothing to do what you're describing here.

12 MR. McDOWELL: I disagree.

13 MR. SHERRIFF-SCOTT: Well, we disagree, so press  
14 on.

15 BY MR. McDOWELL:

16 202. Q. You're the one who has put 73 tabs of  
17 material which you say disclose malice before the court.

18 A. If it's not malice, I don't know what it is.

19 203. Q. Well, you just told me there is legitimate  
20 academic debate there.

21 A. But this is a compendium of a campaign to  
22 destroy someone, and any judge, no matter how blind, no  
23 matter how misguided, no matter how whatever, any judge  
24 can see that.

25 204. Q. All right.

1 A. That's why I can't wait to get your --  
2 whatever happens. Get on with it. Let's get on with it.

3 205. Q. All right. Let's move to the next  
4 paragraph. Stevie Cameron wrote book called "Ottawa  
5 Inside Out"?

6 A. Yeah.

7 206. Q. All right. In the book, she said, "If you  
8 want to see Mike Duffy, and most visitors to Ottawa do,  
9 whether or not they'll admit it, you have to drop by the  
10 Press Club at 150 Wellington at lunch time ... Mike  
11 Duffy is the most famous journalist on Parliament Hill.  
12 For whatever reason, people like to tell him things, and  
13 he always has the gossip that nobody else knows."

14 A. Sorry, where is this?

15 207. Q. Just below.

16 A. Sorry. All right.

17 208. Q. Then the comment is made, "Unfortunately,  
18 only cronies get the stories. The nation doesn't."

19 A. That's an editorial comment by Frank.  
20 That's your clients' addition to what she said.

21 209. Q. Right. And again, that, I suggest to you,  
22 is legitimate editorial comment on the part of my client.  
23 They're entitled to hold that point of view. It's not  
24 actionable if they hold that point of view.

25 MR. SHERRIFF-SCOTT: That's your position, isn't

1 it?

2 BY MR. McDOWELL:

3 210. Q. All right, let's move on. Now, in the next  
4 paragraph, there is reference to Mr. Mulroney having  
5 threatened to sue you and the CBC in 1983. And they say,  
6 "... after the Puffster revealed how Muldoon was  
7 double-dealing Joe Clark during the 1983 Tory leadership  
8 campaign."

9 And I've heard from you earlier in the  
10 examination that, in fact, that happened? Mr. Mulroney  
11 did threaten to sue you?

12 A. That's right.

13 211. Q. For libel?

14 A. I can't remember. He never put it in  
15 writing. It was always verbal, so I assume libel,  
16 defamation. I'm not a lawyer, so.

17 212. Q. What is it you had done to enrage him?

18 A. I did a story about what he was doing that  
19 weekend, the holiday weekend, that he was on the phone  
20 trying to line up support from the other leadership  
21 contender so he wouldn't be skunked, as he was in 1976,  
22 by Joe Clark.

23 213. Q. Now, flipping the page over, there are a  
24 number of anecdotes?

25 A. In other words, I was exposing what he was

1 up to, which is in a total contradiction to what your  
2 clients allege in the previous paragraph, "... only  
3 cronies get the stories. The nation doesn't." Mulroney  
4 threatened to sue because of what I did on The National.

5 214. Q. Now, moving on, there is another excerpt of  
6 a book from John Fraser called "Telling Tails"?

7 A. Yeah.

8 215. Q. Which involves Madam Speaker Sauvé, as she  
9 then was?

10 A. Right.

11 216. Q. And the Press Gallery dinner?

12 A. Yeah.

13 217. Q. And you have the comment from Mr. Fraser  
14 that Madam Sauvé "found herself having to fend off the  
15 unsolicited amorous advances of the most rotund media  
16 hack on Parliament Hill."

17 A. You're aware that Mr. Fraser has apologized  
18 and retracted all of this, and it was changed in the  
19 subsequent publications of the book.

20 218. Q. I'm coming to that. I take it your position  
21 was that incident simply never happened?

22 A. My position is it's wrong.

23 219. Q. So nothing like that happened?

24 A. It's wrong.

25 220. Q. What did happen?



1           A.    Nothing happened.  I mean, we met at the  
2   Press Gallery dinner, and she introduced me to her  
3   husband and her son and her EA, and John Fraser was ten  
4   feet away and invented the dialogue that is in the book.  
5   And Jean Sauvé, even though she was Governor General, was  
6   angered enough by this shit that she had her lawyer at  
7   Stikeman Elliot in Montreal write the publisher and  
8   demand a retraction.  Something that the Crown never  
9   does.

10 221.           Q.   Right.  And did you also make a demand for a  
11   retraction?

12           A.    Absolutely.

13 222.           Q.   Frank goes on to say, "When 'Mr. D-----'  
14   threatened legal action against Fraser and his publisher,  
15   the Sauvé chapter was excised from the paperback edition  
16   of 'Telling Tales'."

17           So they acknowledge in there, don't they, that --

18           A.    Sorry, I just -- okay.  Sorry.

19           MR. SHERRIFF-SCOTT:  Sorry, your question, Mr.  
20   McDowell, was what?  He's found the reference.

21           BY MR. McDOWELL:

22 223.           Q.   All right.  Frank has acknowledged that this  
23   was withdrawn from the subsequent edition?

24           A.    Right, after they republished the libel.

25 224.           Q.   After, and this was at the instance -- or

1 not, "Right, after they republished the libel." We don't  
2 accept that. But at the instance of the Governor  
3 General, you're saying?

4 A. That's right.

5 225. Q. Right.

6 A. And me.

7 226. Q. And you?

8 A. Yeah.

9 227. Q. And did Mr. Henderson act for you on this  
10 occasion?

11 A. His firm. Yes, I believe his firm did.

12 228. Q. Will you produce the correspondence in  
13 connection with that?

14 MR. SHERRIFF-SCOTT: No.

15 MR. McDOWELL: Well, you say that publishing this  
16 amounts to an instance of malice. I'm entitled to  
17 explore it.

18 MR. SHERRIFF-SCOTT: No.

19 BY MR. McDOWELL:

20 229. Q. Okay. You say that Mr. Fraser invented the  
21 dialogue. Did he invent the fact of you having touched  
22 the then Speaker of the House of Commons?

23 A. I shook her hand.

24 230. Q. That's what happened, and nothing more than  
25 that?

1 A. That's what happened. Nothing more than  
2 that.

3 231. Q. Now, there is an excerpt a column over from  
4 Knowlton Nash's book.

5 MR. SHERRIFF-SCOTT: Where is that?

6 MR. McDOWELL: The excerpt is by the bulletin  
7 next to --

8 THE WITNESS: Middle of the page?

9 MR. McDOWELL: Yes.

10 MR. SHERRIFF-SCOTT: Okay.

11 BY MR. McDOWELL:

12 232. Q. Mr. Nash says, "As we chatted and joked with  
13 each other before taping our discussion" -- this is in  
14 the Toronto studio -- "Mike whimsically pretended to be a  
15 romantic fiction writer. In his flight of fictitious  
16 fancy he graphically described to us a torrid romantic  
17 setting in which he was a lustful hero rising from a  
18 well-used bed with a busty damsel beside him," and so on.  
19 Then he says that Prime Minister Mulroney in this  
20 instance and some other people were at Harrington Lake  
21 and someone picked this up on satellite dish.

22 Did that incident happen?

23 A. Half of it happened.

24 233. Q. Which half?

25 A. I didn't have any discussion of this.

1 Knowlton has made this up about a lustful hero rising  
2 from a well-used bed. But I did do a broadcast from  
3 Edmonton about the premier's conference, and Mulroney saw  
4 it and phoned me.

5 234. Q. And were you sort of clowning around before  
6 you went on air, that sort of thing?

7 A. I wouldn't say clowning around. I'd say  
8 what I did -- I mean, I remember very clearly. I said --  
9 it was before the premier's conference had opened, and I  
10 said, "There is nothing really to say, and, Knowlton, you  
11 will know that I'm running out of things to say when I  
12 hold up the Edmonton Journal. As you can see, it doesn't  
13 even get full front page coverage here." And that's when  
14 I'm totally -- the conversation among the three of us  
15 was, how are we going to fill this eight minutes about a  
16 conference that hasn't occurred and has nothing on the  
17 agenda.

18 235. Q. So there was no suggestion of your sex life  
19 at all?

20 A. None whatsoever.

21 236. Q. And no discussion of busty damsels and all  
22 the rest of it?

23 A. No. I'd just flown in off the plane and  
24 just landed and gone straight to the studio. I mean, I  
25 hadn't even before in Edmonton for, I don't know, an

1 hour. So there had been no time to have any adventures.  
2 I hadn't seen the premiers. There was no -- there was  
3 nothing.

4 237. Q. Now, do you say that including this excerpt  
5 from Mr. Nash's book in Frank is professionally demeaning  
6 of you?

7 A. I think what they're trying to do is build a  
8 body of evidence that says that Duffy is someone who  
9 can't be trusted, that is duplicitous.

10 238. Q. And this is part of that, I take it, this  
11 excerpt that I read you to from Mr. Nash's book?

12 A. The whole thing from top to bottom.

13 239. Q. But this is part of it?

14 A. Sure.

15 240. Q. Have you sued Mr. Nash over this book?

16 A. No.

17 241. Q. But he's invented sort of a demeaning story  
18 involving you? According to you.

19 MR. SHERRIFF-SCOTT: You don't have to discuss  
20 why you have or haven't sued Mr. Nash.

21 THE WITNESS: He only got --

22 MR. SHERRIFF-SCOTT: Just a minute. You don't  
23 have to discuss this.

24 BY MR. McDOWELL:

25 242. Q. Why is this malice when Frank prints it but

1 something among friends when Mr. Nash prints it?

2 THE WITNESS: Do you want me to answer?

3 MR. McDOWELL: Yes, I do.

4 MR. SHERRIFF-SCOTT: Go ahead.

5 THE WITNESS: All right. It's not something  
6 among friends. Knowlton Nash isn't a friend of mine.  
7 The fact is Knowlton Nash makes one reference to me in  
8 the entire -- in his entire journalistic career, in which  
9 he got it half right. Frank, on the other hand, has got  
10 it mostly wrong, but has been most determined, and there  
11 is no -- they are beyond attempting to try and set the  
12 record straight. They don't want to set the record  
13 straight. They set out to destroy people. That's what  
14 your client does.

15 BY MR. McDOWELL:

16 243. Q. Did Mr. Nash make any effort to set the  
17 record straight in this instance?

18 A. Frankly, I hadn't read the book. I didn't  
19 know about this until they printed it. This is some time  
20 after the -- long after the fact.

21 244. Q. Did you ever take that up with Mr. Nash?

22 A. No.

23 245. Q. And the Prime Minister did comment that he  
24 had seen this, whatever it was?

25 A. Absolutely, yes, that's true.

1 246. Q. He found it funny?

2 A. He offered no characterization. He just  
3 called to say, "Hey, it's interesting that I can see your  
4 feed at 6 o'clock Eastern Time because it's on the bird,  
5 so I know what you said in advance."

6 247. Q. Now, Patrick Gossage, the top of the next  
7 column, has written a book called "Close to the  
8 Charisma". Patrick Gossage is a friend of yours?

9 A. He's an acquaintance. I have a business  
10 relationship with him, or did have when he worked for  
11 Trudeau.

12 248. Q. There is an incident described there with a  
13 fair amount of drinking on the plane involving people  
14 other than you, and then Tom Axworthy, in what is  
15 described as an inspired outburst, is said to have  
16 shouted, "Get me Duffy, that porker! Get me the porker!"

17 And he goes on to say, "Sensing some good fun to  
18 be had at the expense of Duffy, usually the best of  
19 sports, a couple of us volunteered to drag him down from  
20 his room for the dressing down he deserved" and so on.

21 Did this incident happen? Do you have any  
22 recollection of it?

23 A. I mean, I don't know about all this top  
24 stuff because I wasn't there.

25 249. Q. Fair enough.

1 A. I was in bed, and --  
2 250. Q. What about --  
3 A. I didn't call Toronto.  
4 251. Q. Were you rudely awakened?  
5 A. Yes.  
6 252. Q. Did you think that your physical safety was  
7 in issue?  
8 A. No. No.  
9 253. Q. Were you being referred to as a "porker" in  
10 this instance?  
11 A. I don't remember.  
12 254. Q. Did Mr. Axworthy thereafter remind you of  
13 the "porker" incident?  
14 A. No.  
15 255. Q. So Mr. Gossage has embellished, to that  
16 extent, at least?  
17 A. Yeah. I mean, all I know is that I was  
18 asleep, the phone rang, and a few minutes later somebody  
19 was pounding on the door. I just rolled over and pulled  
20 the pillow over my head.  
21 256. Q. All right. Now, Tab 15. They have  
22 published your high school yearbook photo, as they have  
23 others, I take it. There is nothing demeaning or  
24 insulting about that, is there?  
25 A. Except "Eyesore of the Year".



1 257. Q. I think this says "Eyesores of Yesteryear",  
2 actually.

3 A. Well, whatever.

4 258. Q. Now, a recurring theme seems to be -- if you  
5 turn up Tab 18 -- a suggestion that you fall asleep on  
6 the set. There is nothing particularly demeaning about  
7 that, I take it? It's just sort of photographing  
8 television images which sometimes happen to catch you  
9 with your eyes closed when you're blinking. What do you  
10 say is professionally demeaning or insulting about that?  
11 This is at Tab 18.

12 A. It's got me using a four-letter word which I  
13 don't use in public. It's got me -- it's making me out  
14 to be asleep at the switch.

15 259. Q. At Tab 20 is a strip in which there is a  
16 reference to the loss at the CBC of an irreplaceable  
17 journalist. Was that Norman DePaux?

18 A. I don't know who they're referring to.

19 260. Q. All right. And then the punch line is, "One  
20 who was, and always will be, a Giant of Journalism", and  
21 the last frame is, "But what I really want to know is  
22 what took the Corp. so long to realize I has gone."

23 There is nothing particularly demeaning or  
24 insulting about that, is there?

25 A. If you don't find it demeaning or insulting,

1 then you've got unusual taste.

2 261. Q. You do? You find it demeaning or insulting?

3 A. Of course. It says I'm vain. It says I'm  
4 self-centred.

5 262. Q. Now, Tab 24, if you can move to that one.  
6 The punch line is, "That was no journalist, that was Mike  
7 Duffy," and this is superimposed over a picture of you  
8 smiling and so on.

9 I take it that your position with respect to all  
10 of these strips is that, in a general way, they make you  
11 a figure of fun?

12 A. No, this says I'm no journalist.

13 263. Q. And you think that someone reading that  
14 would take it as a serious statement of fact?

15 A. How many times do you have to be hit on the  
16 head before somebody says, "Maybe there's something here.  
17 You know, there is more here than meets the eye. This  
18 guy -- obviously, they know something I don't know." The  
19 public assumes, who reads this, that there is something  
20 going on here that they're not aware of but that Frank  
21 is.

22 264. Q. Right. Then the next page is exploiting the  
23 theme that you had a close relationship with Prime  
24 Minister Mulroney?

25 A. Yeah, which is total bunk.

1 265. Q. Your position is that you were no closer to  
2 the Prime Minister than any other journalist?

3 A. I don't know how close other journalists  
4 were.

5 266. Q. You enjoyed no special relationship with  
6 Prime Minister Mulroney?

7 A. Well, special. Unique.

8 267. Q. In that he threatened to sue you?

9 A. Yes.

10 268. Q. And that's the only relationship that's  
11 special with the Prime Minister?

12 A. Yeah.

13 269. Q. Okay. Well, let's move on for the moment.  
14 Now, at Tab 1 of our productions, there is the report  
15 which Frank printed in January of 1995 that had you going  
16 to the Duke University medical centre?

17 MR. SHERRIFF-SCOTT: Is this the article in issue  
18 here?

19 MR. McDOWELL: It's the one before the article in  
20 issue.

21 MR. SHERRIFF-SCOTT: Is there nowhere we can look  
22 at the whole of it? I'm a bit anxious that if we're  
23 going to be questioning on issues here, that we have  
24 what's --

25 MR. McDOWELL: Fair enough.

1 BY MR. McDOWELL:

2 270. Q. I just have one question about that part of  
3 it. There is no issue, I take it, that you went to the  
4 Duke University medical centre?

5 A. No.

6 271. Q. No. And that was in January of 1995?

7 A. Whatever the date was. I don't know.

8 272. Q. Okay. And similarly, there is no issue that  
9 you broadcast from Durham, North Carolina, to the Sunday,  
10 Sunday program on CFRA?

11 A. That's right. On CHFI.

12 273. Q. CHFI. Was it also carried on CFRA? Would  
13 it have been? Is it part of the same chain?

14 A. Probably. No, I think it would have been  
15 CKOI here, if it were on -- I can't remember, but. They  
16 keep changing their call letters.

17 274. Q. If you turn up your pleading -- Mr.  
18 Sheriff-Scott will put it before you.

19 MR. SHERRIFF-SCOTT: Are you on the article in  
20 question in the proceeding? Is that what you're going to  
21 refer to?

22 MR. McDOWELL: Off the record for a minute.

23 (DISCUSSION OFF THE RECORD)

24 BY MR. McDOWELL:

25 275. Q. Tab 64 is the article to which I just made

1 reference, and this describes your trip to the Duke  
2 University medical centre in Durham, North Carolina. You  
3 didn't take any action or issue a notice in relation to  
4 this article?

5 MR. SHERRIFF-SCOTT: We didn't?

6 MR. McDOWELL: Not in relation to this one. It's  
7 the subsequent one, as I understand it.

8 MR. SHERRIFF-SCOTT: Why don't you read it? Off  
9 the record.

10 (DISCUSSION OFF THE RECORD)

11 THE WITNESS: No, we didn't.

12 BY MR. McDOWELL:

13 276. Q. And there is a notation there that you were  
14 returning to work this week, hopefully a shadow of your  
15 320 pound former self. Was that approximately your  
16 weight at that time?

17 A. No.

18 277. Q. What was your weight at that time?

19 A. Depends on what you're saying. Before or  
20 after?

21 278. Q. Say before.

22 A. 270.

23 279. Q. All right. There is discussion in the  
24 right-hand column of you having suffered a heart attack  
25 in 1992, your marriage having been performed, and it says

1 in a hospital room, but subject to that, that's an  
2 accurate description of your marriage? The circumstances  
3 of your marriage?

4 A. Yeah.

5 280. Q. There is reference to you eating Wonderbars  
6 and drinking lots of Pepsi.

7 A. That's not true.

8 281. Q. That's not true. Okay. O'Dools  
9 de-alcoholized beer. Is that something that you at one  
10 point had a fondness for?

11 A. I have had O'Dools.

12 282. Q. So you went to the Duke University medical  
13 centre in January of '95. Do you know when you went  
14 within that month?

15 A. I think it was probably about December 28 or  
16 29, something like that.

17 283. Q. When did you return?

18 A. Around -- I don't have a calendar, but say  
19 around the 15th of January or 17th of January.

20 284. Q. Do you have a diary or something where  
21 that's recorded, the dates of your stay there?

22 A. Yeah.

23 285. Q. Will you produce that to us, please?

24 MR. SHERRIFF-SCOTT: I'll give you the dates.

25 I'm not going to produce his diary. If you want the

1 dates, you can have the dates.

2 MR. McDOWELL: All right. Well, I may return to  
3 that, but thank you for the moment.

4 MR. SHERRIFF-SCOTT: Do you want the dates or  
5 not?

6 MR. McDOWELL: Yes, I do want the dates.

7 MR. SHERRIFF-SCOTT: The dates when he went and  
8 came back? Is that what you want?

9 MR. McDOWELL: Yes. And his activities while  
10 there.

11 MR. SHERRIFF-SCOTT: Well, you can ask about  
12 that.

13 MR. McDOWELL: All right

14 MR. SHERRIFF-SCOTT: That's 1995, right?

15 MR. McDOWELL: That's right.

16 BY MR. McDOWELL:

17 286. Q. Now, we can turn it up either in your  
18 pleading or at Tab 71. This is the subsequent article  
19 entitled "Mike Duffy: Fat-faced liar". I take it from  
20 your pleading that what you object to within the headline  
21 is the "liar" reference?

22 A. Yeah.

23 287. Q. Now, on January 15, I take it there is no  
24 issue that in fact you did have a broadcast on Sunday,  
25 Sunday?

1 A. There is no issue, no.

2 288. Q. And what is Sunday, Sunday?

3 A. It's an hour-long radio talk show, public  
4 affairs show.

5 289. Q. Who was the host then?

6 A. Arlene Bynan.

7 290. Q. And is this on CHUM City network of  
8 stations?

9 A. No, it's on the Rogers network.

10 291. Q. Now, is there any issue that you in fact  
11 said what you are described as having said in the story?  
12 So beginning just after it says, "(Cheesy faux  
13 Parliamentary bell sound effects)", and then moving on?

14 A. I haven't --

15 292. Q. Listened to the tape?

16 A. -- checked the tape against their  
17 transcript.

18 293. Q. But so far as you're aware, that's an  
19 accurate transcript?

20 A. Yeah.

21 MR. SHERRIFF-SCOTT: You have the transcript?

22 MR. McDOWELL: We have the tape, which we'll  
23 produce to you. I think we've offered it to you.

24 MR. SHERRIFF-SCOTT: Well, just off the record.

25 (DISCUSSION OFF THE RECORD)



1 MR. SHERRIFF-SCOTT: Have you checked it against  
2 this yourself?

3 MR. McDOWELL: I don't think we have, at this  
4 go-around, any way.

5 BY MR. McDOWELL:

6 294. Q. But what I wanted to ask you, first of all,  
7 is, did you deliver any lectures at Duke University  
8 during the time that you were there at the health  
9 sciences centre or whatever it's called?

10 A. No.

11 295. Q. Have you ever delivered lectures at Duke  
12 University?

13 A. Yes.

14 296. Q. When was that?

15 A. 1975. This again is by memory. I believe  
16 it was '75. I can get you the date. I was there as a  
17 visiting fellow.

18 297. Q. Will you produce any material that went  
19 along with your visit there?

20 A. Yeah. I don't really have any.

21 298. Q. But can you get the date for me?

22 A. Yeah.

23 299. Q. Do you keep a journal? Is that how you keep  
24 track of all these things, or a daybook or something?

25 A. I should. I have little -- I have a bits

1 and pieces, you know.

2 MR. SHERRIFF-SCOTT: If we can find you the date,  
3 we'll get you the date.

4 BY MR. McDOWELL:

5 300. Q. All right. And if there is any  
6 correspondence with Duke University that described what  
7 you were going to do when you were there, I'd like that  
8 produced as well.

9 A. It's long gone.

10 301. Q. All right.

11 A. That's over 20 years.

12 302. Q. Now, which department were these lectures  
13 held in relation to? Or at the instance of, if I can put  
14 it that way?

15 A. They were on a fellowship program. The CBC  
16 is a participant in it.

17 303. Q. Sort of like the Southam fellowship program  
18 here?

19 A. Yeah.

20 304. Q. Who was the sponsor of the program, or  
21 what's the series called?

22 A. I'll have to go back and dig it out. It's  
23 not -- it's Duke University Visiting Fellows.

24 305. Q. Is that the one instance in which you were a  
25 visiting fellow, or were there others?

\*U\*

1 A. Yeah.

2 306. Q. That was the one time?

3 A. Yeah.

4 307. Q. Had you been at the health sciences centre  
5 before?

6 A. Before I was a visiting fellow?

7 308. Q. Right.

8 A. No.

9 309. Q. Had you been subsequently but before 1995?

10 A. Yes. I can't remember exactly when, but I'm  
11 sure this wasn't my first visit.

12 310. Q. A couple of times?

13 A. Yeah. I'll have to go back. My wife would  
14 probably have a better idea.

15 311. Q. So this was after 1992? I take it that's  
16 when you married your wife?

17 A. Yeah. I'm not very good with dates, but  
18 yeah. After 1992 and before 1995.

19 312. Q. All right.

20 A. It may have been 1992, in fact.

21 313. Q. Right, and what we're referring to, when you  
22 say you've been there a couple of times, that was in  
23 essence as a patient at the medical centre?

24 A. That's right.

25 314. Q. All right. So to the extent that Duke is

1 one of your regular stops, this is as a patient really  
2 rather than as a lecturer?

3 A. That's right.

4 315. Q. All right. And I think the record is clear,  
5 but there were no other lectures at Duke apart from the  
6 1975 lecture?

7 A. No.

8 316. Q. Do you remember what you talked about in the  
9 1975 lecture?

10 A. I was there for a month, so I was at a  
11 number of classes. It was about journalism public  
12 policy.

13 317. Q. Now, we read that you said, "Hi, Arlene," in  
14 answer to her greeting.

15 And then she asks a question, "Okay, I want to  
16 know what brings a political animal like you to Duke  
17 University. It's gotta be because it's in the heart of  
18 North Carolina, Jesse Helm's home state."

19 And then you say, "Well, Arlene, I gotta be  
20 honest. I didn't come here to see Jesse, although I'm  
21 sure that would be an unforgettable encounter -- he's a  
22 bit left wing for me."

23 So you're making a sort of a joke at your own  
24 expense there, I guess, based upon a characterization of  
25 you as someone who is right wing?

1 A. Yeah.

2 318. Q. Then you go on to say, "Anyway, no, Duke is  
3 one of my regular stops."

4 And we've established that, to the extent that  
5 it's a regular stop of yours, it's been really more as a  
6 patient than as lecturer or anything else?

7 A. Yeah.

8 319. Q. And you go on to say, "This great university  
9 is the home of America's first Canadian studies program  
10 and has been actively following Canadian political  
11 developments for more than 20 years, ever since Pierre  
12 Trudeau got an honorary degree here -- I think it was  
13 1973."

14 Then you go on to say, "So you know me. I'll go  
15 anywhere they want to talk Canadian politics and where  
16 they promise to laugh at my jokes ..."

17 Who was "they" in that sentence?

18 A. People.

19 320. Q. I'll go anywhere people want to talk  
20 Canadian politics and where people promise to laugh at my  
21 jokes. That's what you meant to imply by saying that?

22 A. Yeah.

23 321. Q. Now, Ms Bynan goes on and says, "Those  
24 Americans who actually go to school to study Canada,  
25 let's face it, they must have a lot of questions to ask



1 326. Q. The Duke staff told you that?

2 A. Yeah.

3 327. Q. All right. And this was the medical staff?

4 A. No. This is Melinda Stubbee.

5 328. Q. Belinda?

6 A. Melinda.

7 329. Q. Stubbee?

8 A. S-T-U-B-B-E-E.

9 330. Q. Who is she?

10 A. She's the director of the Duke News Service.  
11 She's the person who has arranged the Duke radio studio  
12 for me.

13 331. Q. Who has in the past?

14 A. Yeah, and on this trip.

15 332. Q. Did you know her from your previous trips to  
16 Duke?

17 A. No. You mean the first one, or -- no, she  
18 wasn't there the first time.

19 333. Q. Right. The one other time?

20 A. Her predecessor was the Duke -- the PR, all  
21 of their fellowship programs come under the same kind of  
22 department. And so when I went back, I went to see the  
23 guy who had run the fellowship program and discovered  
24 he'd retired and she had taken over at least part of his  
25 duties.

1 334. Q. Now, I had always thought, I guess, you went  
2 off and did these interviews by picking up a phone and  
3 attaching something to it, but you actually have to have  
4 a studio to get the sound quality?

5 A. That's right.

6 335. Q. She made those arrangement for you. Is  
7 there any correspondence with her at all?

8 A. No. The radio station -- it was all done on  
9 the phone.

10 336. Q. And this is just sort of a professional  
11 courtesy thing among journalists?

12 A. Yeah. Well, I'd been there before and knew  
13 her previous boss, Bill Green, and he was a kind of  
14 legendary person there. So when I arrived looking for  
15 him, she told me he'd retired and she'd taken his place.

16 337. Q. And you asked her whether or not she would  
17 provide a studio?

18 A. She was quite interested. They were quite  
19 interested in Canada. Wow, what is going on on the  
20 separatist front? Blah, blah, blah. They're quite into  
21 it.

22 338. Q. Let me just get this clear for the record.  
23 You approached her after you were at Duke in January of  
24 '95?

25 A. This would be previous to that.



1 339. Q. This would be December of '95?

2 A. No, this would have been -- I'm not sure  
3 what year, but '92, '93.

4 340. Q. '92, '93?

5 A. When I went down.

6 341. Q. I see. So you had made broadcasts from Duke  
7 before?

8 A. Yes. Well, when I went down -- I'll have to  
9 get the dates. I hope Heather can remember. I went in  
10 to see the guy who had run the fellowship program. He'd  
11 retired. She's the replacement. "This is our radio  
12 studio, and we've added this since you were here," blah,  
13 blah, blah, blah, blah. She was quite welcoming,  
14 interested, and wanted to talk about Canadian politics.

15 342. Q. Right?

16 A. And she said, "The students here are very  
17 interested," blah blah blah. So I maintained an ongoing  
18 acquaintanceship with her since then.

19 343. Q. All right. So during one of the trips  
20 between '92 and '95 --

21 A. Well, probably on every trip in those days.

22 344. Q. Right?

23 A. Because I don't do the radio any more, but  
24 in those days, every time I went there, I did one or two  
25 broadcasts from their studios. And I briefed her and

1 anybody else who was around who was interested on  
2 Canadian politics. Took them to lunch. They laughed at  
3 my jokes.

4 345. Q. Well, let's take these in stages. In the  
5 instances apart from 1995, you went to Duke as a patient,  
6 but you had to have radio access. You phoned up Ms  
7 Stubbee, and Ms Stubbee would make these arrangements for  
8 you; correct?

9 A. Mm hm.

10 346. Q. Say "yes" or "no", please?

11 A. Yes.

12 347. Q. And in the course of making those  
13 arrangements, you would have a conversation with her  
14 because she, at least, was quite interested in Canadian  
15 politics?

16 A. Yeah.

17 348. Q. All right. Then on the occasions apart from  
18 1995 when you were at Duke, you went to lunch with her  
19 and whoever else happened to be around?

20 A. That's correct.

21 349. Q. And you paid for lunch, presumably because  
22 she was doing you a favour?

23 A. Yeah.

24 350. Q. And you had a conversation about Canadian  
25 politics at each of those occasions apart from 1995?

1 A. Yeah.

2 351. Q. Do you remember the names of anyone else who  
3 went to lunch with you?

4 A. Heather may.

5 352. Q. All right. So your wife went along as well?

6 A. That's right.

7 353. Q. And as you say, they laughed at your jokes  
8 and so on?

9 A. That's right.

10 354. Q. Now, in 1995, you arranged the access to the  
11 radio studio through Ms Stubbee as well?

12 A. That's right.

13 355. Q. And Ms Stubbee was once again interested in  
14 Canadian politics?

15 A. Absolutely.

16 356. Q. Did you go to lunch with Ms Stubbee on this  
17 occasion in 1995?

18 A. Or dinner or. We'd become friends.

19 357. Q. Right. Who else went to dinner?

20 A. Her husband.

21 358. Q. Anyone else?

22 A. I'll have to ask my wife.

23 359. Q. All right. Would you ask your wife and  
24 provide us with her best recollection?

25 MR. SHERRIFF-SCOTT: Yes.

1 MR. McDOWELL: And what I want to know from her  
2 is, who went to dinner, when it was --

3 MR. SHERRIFF-SCOTT: Do you want to know what  
4 they had for dinner?

5 MR. McDOWELL: No, I'll wait and see what I get  
6 so far. Why not do this? I think we've already got this  
7 on the record, but ask her if she recalls the dates of  
8 the other attendances at Duke?

9 MR. SHERRIFF-SCOTT: Historically?

10 MR. McDOWELL: Right. Who went to dinner.

11 MR. SHERRIFF-SCOTT: On each of those occasions  
12 historically?

13 MR. McDOWELL: On each of those occasions  
14 historically.

15 MR. SHERRIFF-SCOTT: We'll see what she  
16 remembers. No promises.

\*U\*

17 MR. McDOWELL: And a synopsis of the conversation  
18 at dinner.

19 MR. SHERRIFF-SCOTT: Well, I'll think about that  
20 one.

\*A\*

21 THE WITNESS: Canadian politics.

22 BY MR. McDOWELL:

23 360. Q. Now, in 1995 --

24 A. Her husband has a cottage overlooking the  
25 Thousand Islands.

1 361. Q. I see. So he has a particular interest in  
2 Canada?

3 A. They all do. They all -- Nortel is a big  
4 employer in the area.

5 362. Q. Is her husband an academic of some sort? Do  
6 you know what his first name is?

7 A. Heather would remember.

8 363. Q. Is his name Stubbee as well?

9 A. I think he's a lawyer, and I think his name  
10 is Greg, but I have to -- she'll remember.

11 364. Q. Right. So the nub of it is that in 1995,  
12 you went to lunch or dinner and you had a conversation  
13 with Mr. Stubbee, if he's a lawyer or whatever he is,  
14 with Mrs. Stubbee, and that you talked about Canadian  
15 politics?

16 A. Yeah. And others. Don't forget the  
17 patients are all fascinated.

18 365. Q. The patients are all fascinated.

19 A. Well, the Canadians who are there all know  
20 who I am, so they tell all the others, and then it's --

21 366. Q. Are there many Canadians there?

22 A. Well, at any time, there is, I don't know,  
23 70 people, of which probably anywhere from half a dozen  
24 to a dozen are Canadian.

25 367. Q. Were most of the conversations that you had

1 with patients in 1995 with Canadian patients about  
2 Canadian politics, or others?

3 A. Oh, a lot of Americans. Everybody is  
4 interested.

5 368. Q. These would tend to be older Americans? I  
6 mean, they're not 20-year-olds, put it that way?

7 A. There are some. There is lots of students  
8 there who are going to school and on the program.

9 369. Q. All right.

10 A. Trying to lose weight.

11 370. Q. Is it called the Diet and Fitness Centre?

12 A. Yeah. Duke Diet and Fitness Centre, DFC.

13 371. Q. Then you go on to say, "It's quite  
14 refreshing, in fact, to find Americans who can talk about  
15 the Quebec problem with real knowledge ..." and so on.

16 The Americans you're referring to are the other  
17 patients and Ms Stubbee and her colleagues or whoever  
18 went to dinner with you?

19 A. Well, and the patients who are students.  
20 There are a lot of university students on the program.  
21 There is another whole -- I was frankly pleasantly  
22 surprised. You'd think that people would have no  
23 interest. That little part -- I mean, it may exist  
24 elsewhere, but that little part of the U.S. is very  
25 interested in Canada.

1 372. Q. Do you know whether any of the students who  
2 were discussing Canadian affairs with you and were also  
3 in the program with you were in fact taking Canadian  
4 studies?

5 A. I never really asked.

6 373. Q. Fair enough. Just to finish this off, the  
7 excerpt, at the lower right-hand corner of the page,  
8 where you say, "Well, I've got to say, it's great to see  
9 you all again after an absence of a couple of weeks. I  
10 had a great time discussing Canadian politics at Duke  
11 University in North Carolina. It's nice ... to find a  
12 new group of people to laugh at my bad political jokes."

13 There is no issue that you actually said those  
14 words on Sunday Edition?

15 MR. SHERRIFF-SCOTT: We'll have to check the  
16 tape.

17 MR. McDOWELL: Do you have the tape?

18 MR. SHERRIFF-SCOTT: No, we don't have the tape.  
19 You have it, from what I understand.

20 MR. McDOWELL: This is a different one. I don't  
21 think we have this one.

22 MR. SHERRIFF-SCOTT: I'm sorry, I don't have the  
23 tape.

24 THE WITNESS: I don't remember saying that, but I  
25 may very well have.

1 BY MR. McDOWELL:

2 374. Q. All right. Do you maintain tapes of all the  
3 programs at Baton?

4 A. There was some requirement. I'm not sure.

5 375. Q. Can you check just so that we know to see  
6 whether you have this one? And put it this way: If you  
7 take the position that this is an inaccurate  
8 transcription of what you said, will you let us know?

9 MR. SHERRIFF-SCOTT: Yes.

\*U\*

10 Sorry, Mr. McDowell, just on the subject of the  
11 previous text, I know you asked Mr. Duffy whether or not  
12 it accurately records what he said, but off the record  
13 you indicated you actually have a tape of that and we  
14 don't.

15 MR. McDOWELL: Yes. We'll produce that to you.  
16 We've taken that position before.

17 MR. SHERRIFF-SCOTT: Then we can check it. Okay.

18 BY MR. McDOWELL:

19 376. Q. Now, to go to the text above the  
20 transcription of your interview with Ms Bynan, the  
21 article says, "Last issue FRANK revealed Mike Duffy's  
22 desperate weight loss bid at Duke University's Diet and  
23 Fitness Centre, a world-renowned fat farm in North  
24 Carolina."

25 In common parlance, what Duke University is is a



1 fat farm?

2 A. No. You're talking about the DFC or Duke  
3 University?

4 377. Q. Duke University I know is an excellent  
5 university.

6 A. That's right.

7 378. Q. But the Diet and Fitness Centre is  
8 principally directed at assisting people in losing  
9 weight?

10 A. That's right.

11 379. Q. All right. And people refer to those sorts  
12 of things as "fat farms", I take it?

13 A. Some people.

14 380. Q. Do you?

15 A. No.

16 381. Q. Is that an objectionable characterization of  
17 the Duke University Diet and Fitness Centre?

18 A. I'll think it's pejorative.

19 382. Q. Now, the article goes on to say, "The CTV  
20 investigative reporter spent two weeks in January,  
21 hitting the treadmill and learning how to reduce his  
22 Herculean caloric intake ..."

23 I take it that you probably did some walking  
24 exercises and so on on the treadmill while you were  
25 there?

1 A. That's correct.

2 383. Q. Cardiovascular exercises, that type of  
3 thing?

4 A. Yes.

5 384. Q. So there is nothing objectionable about that  
6 part?

7 A. Well, I don't work for CTV. I'm not an  
8 investigative reporter. And I have no idea about the  
9 cost figure.

10 385. Q. All right.

11 A. I suspect they phoned the front desk and  
12 asked what it cost to go.

13 386. Q. But calling you a CTV investigative reporter  
14 is not pejorative? It's just wrong, but it's not  
15 demeaning of you in some way?

16 A. Well, it's wrong, and it's designed to set  
17 me up to knock me down later on down in the copy. It  
18 wasn't done by accident. It's not -- I'm sure it wasn't  
19 inadvertent. They know who I work for.

20 387. Q. How do you mean it was to set you up?

21 A. Well, if you build somebody up,  
22 investigative reporter implies a kind of athletic  
23 no-holds-barred going in and cutting through to the  
24 truth, whatever, investigative man. And then what you're  
25 saying is, "But in fact, this guy is a fat slob who is

1 out of shape. He's not this macho dynamic person." So  
2 the two are set up to be counterposed against each other.

3 388. Q. And as you say, the cost you have no idea  
4 one way or the other whether it is 4200 U.S.

5 A. I can't remember, but when you ask me if I  
6 agree with it, you know, that part is wrong. I wouldn't  
7 quibble over the \$4200. It sounds high to me, but.

8 389. Q. Was the network paying for this? Is that  
9 why you don't know?

10 A. No. I don't know because I don't remember.  
11 But 4200 American, it's like calling up a car dealer and  
12 saying, "How much are your cars?" If they quote you on  
13 the Cadillac, you get one price; if they quote you on the  
14 Chevelle, you get another.

15 390. Q. But you were there for two weeks?

16 A. So that's why I think it's high.

17 391. Q. If you're there for two weeks, and you're in  
18 hospital, I mean --

19 A. It's not a hospital.

20 392. Q. It's not a hospital?

21 A. No. It's like a YMCA.

22 393. Q. But there are physicians treating you or  
23 examining you and so on?

24 A. That's right, yes.

25 394. Q. The only reason I say that is even Canadian

1 hospitals are \$1,000 a day, so --

2 A. It's not a hospital. It's a fitness centre.  
3 And this also tends to make it look elitist and high, and  
4 again, designed to deliberately distort and present --

5 395. Q. Well, were there a lot of poor Americans in  
6 the Duke University Diet and Fitness Centre when you were  
7 there?

8 A. I don't know how much people make, but it's  
9 as reasonable as 500 bucks as week.

10 396. Q. Were there a lot of poor Canadians or any  
11 poor Canadians when you there?

12 A. I didn't ask people how much money they  
13 made.

14 397. Q. Do you remember who --

15 A. It's not a spa. It's not a LaCosta or  
16 something in California. As I say, it's as reasonable as  
17 500 bucks a week American, so how they don't -- where  
18 that get that number, I don't know. But they may have  
19 asked, "What would it take if I went for a couple of  
20 months or" -- you know, I don't know where they got that  
21 number.

22 398. Q. All right.

23 A. They obviously didn't tell them when they  
24 called who they were, and they got that number somewhere.

25 MR. McDOWELL: Why don't we break for 45 minutes,

1 and then I'll be about an hour.

2 MR. SHERRIFF-SCOTT: Do you want to finish this  
3 article? Off the record.

4 (DISCUSSION OFF THE RECORD)

5 (BRIEF ADJOURNMENT)

6 MR. McDOWELL: Now, if you turn up, Mr.  
7 Sheriff-Scott, paragraph 8 of the pleading.

8 MR. SHERRIFF-SCOTT: Of the Statement of Claim?

9 MR. McDOWELL: Statement of Claim, that's right.

10 MR. SHERRIFF-SCOTT: Yes, we have it.

11 MR. McDOWELL: Will you undertake to let us know  
12 which words in the capital A article you mean in relation  
13 to each of the parts of that paragraph? In other words,  
14 in relation to sub (a), which words mean that the  
15 plaintiff lies to the public, and, in relation to  
16 subparagraph (b), which words in particular mean that the  
17 plaintiff misleads the public, and so on?

18 MR. SHERRIFF-SCOTT: Down the list and so on, (a)  
19 through (d)?

20 MR. McDOWELL: Just (a) through (d).

21 MR. SHERRIFF-SCOTT: Well, let me think about it.

22 MR. McDOWELL: Because as it stands, you have  
23 pleaded that the entire article is defamatory, and then  
24 you have particularized without particularizing.

25 MR. SHERRIFF-SCOTT: Yeah. Let me think about

1 All I want to know is, what is the conduct to  
2 which you refer?

3 MR. SHERRIFF-SCOTT: Do you want me to answer it?  
4 It's on the pleading.

5 MR. McDOWELL: Go ahead.

6 MR. SHERRIFF-SCOTT: I suppose that he's a liar,  
7 as it says he is. There is references to fraud, to  
8 misleading. For the moment, that's what I can think of.  
9 If there is more, I'll tell you.

10 MR. McDOWELL: Thank you.

11 BY MR. McDOWELL:

12 402. Q. Your position, Mr. Duffy, is that no one  
13 could have been misled by what you had said on Sunday,  
14 Sunday to thinking that you were lecturing at Duke  
15 University to Canadian studies students?

16 A. I didn't say I was lecturing to Canadian  
17 studies students.

18 403. Q. No one could have gotten that impression?

19 A. Well, no right-thinking person would have  
20 taken more than what I said. I didn't say I was  
21 lecturing.

22 404. Q. Didn't imply it?

23 A. No. What I had to say, I said.

24 405. Q. Now, in paragraph 9, you plead that, as a  
25 consequence of publication of the capital A article, you

\*U\*

1 have been greatly injured in your character, reputation,  
2 and vocation. Is there anything that has happened since  
3 publication of the article which you say provides  
4 evidence of you having been injured in your character?  
5 Did anyone comment to you about the article?

6 A. Countless.

7 406. Q. Did anyone at Baton make any comment in  
8 relation to that article?

9 A. I'm sure they did. I can't recall  
10 specifically. I mean, one quickly learns when you're a  
11 serial target week after week after week that you go into  
12 a kind of defensive crouch so that when people raise the  
13 issue, you immediately try and move on to other topics.  
14 You don't sit around and sift through it line by line.

15 407. Q. Have you received any correspondence in  
16 relation to the publication of the article?

17 A. None that I have kept.

18 408. Q. Do you remember who you received them from?

19 A. Oh, it's mostly people you meet on the  
20 street and in the precincts of Parliament and so on.

21 409. Q. Who write to you or who raise it with you?

22 A. Who raise it with you. Other people have  
23 written nasty and demeaning things on the Internet, and  
24 other people like Salutin feed off of this into his two  
25 articles that we've found.

1 410. Q. So you think that Rick Salutin is  
2 essentially being put up to what he does or is being  
3 uninventive in printing the stuff that he does about you?

4 A. I think it's an open secret in the  
5 journalistic community that Salutin is part of the cabal  
6 of people who feed Frank.

7 411. Q. And so when he publishes articles in  
8 relation to you, you just take it in that vein?

9 A. That's right.

10 412. Q. That he is a co-conspirator?

11 A. Well, I mean, he's only mentioned it twice.  
12 I think there are a lot more co-conspirators at the  
13 office of Frank, frankly.

14 413. Q. Now, have you received any correspondence in  
15 relation to the fact that you're suing Frank?

16 A. Yes, I received a very interesting fax from  
17 Pat Connelly in Halifax --

18 414. Q. This is the fax --

19 A. -- newspaper column, who claimed that  
20 somebody had anonymously faxed him a copy of my libel  
21 action. But they wouldn't -- they didn't identify  
22 themselves. It was a sort of a brown envelope over the  
23 transom, only this was a white piece of paper over the  
24 fax.

25 415. Q. Did it look like Mr. Sheriff-Scott's



1 writing? No. I mean, did he provide the fax to you?

2 A. Yes.

3 416. Q. Would you produce that to us?

4 A. I don't think I still have it.

5 417. Q. Is it your position that that came from  
6 Frank magazine?

7 A. Of course. And Pat didn't deny it on the  
8 phone. He was just doing a little spade work for his  
9 friend David.

10 418. Q. And?

11 A. Trying to feel out the opposition.

12 419. Q. Is he a crony of David Bentley's?

13 A. He used to work for him.

14 420. Q. Now, you plead that you have been injured in  
15 your vocation by publication of the article. The obvious  
16 point, your vocation is that of a journalist?

17 A. That's right.

18 421. Q. And a broadcaster?

19 A. Yes.

20 422. Q. Can I ask this much? Have you received  
21 increases in your remuneration since publication of the  
22 article?

23 A. Yes.

24 423. Q. What was your salary when the article was  
25 published?

1 MR. SHERRIFF-SCOTT: No.

2 MR. McDOWELL: Mr. Sherriff-Scott, the reason for  
3 that objection?

4 MR. SHERRIFF-SCOTT: Well, I don't think it's --  
5 has he pleaded that he's suffered a loss in salary?

6 MR. McDOWELL: He says he's been injured in his  
7 vocation. How are we to tell?

8 MR. SHERRIFF-SCOTT: You just asked him a  
9 question about salary. He's given you an answer.

10 MR. McDOWELL: I'm intending to test the --

11 MR. SHERRIFF-SCOTT: In my view -- we've had this  
12 debate on the phone a couple of times. I know what your  
13 view is. I think the pleading speaks for itself on this  
14 subject, and --

15 MR. McDOWELL: It says he's been injured in his  
16 vocation.

17 MR. SHERRIFF-SCOTT: It does.

18 MR. McDOWELL: So the obvious way in our society  
19 to measure that is to see whether or not he's suffered  
20 any loss in his income.

21 MR. SHERRIFF-SCOTT: May I put my position on the  
22 record?

23 MR. McDOWELL: You interrupted me.

24 MR. SHERRIFF-SCOTT: Well, if you don't want my  
25 position, I'll just object and you can do whatever you

1 want. I don't care. If you want to hear it, I'll put it  
2 on the record. If you don't, that's your doing. I have  
3 no problem with not giving you my position.

4 MR. McDOWELL: I'm also interested in your  
5 position, Mr. Sheriff-Scott.

6 MR. SHERRIFF-SCOTT: We've had this debate  
7 before. You've got an answer on the subject of salary,  
8 and he's not going to be disclosing his salary to you or  
9 what it may or may not be. You've got the answer you  
10 were looking for, Mr. McDowell.

11 BY MR. McDOWELL:

12 424. Q. Have you been injured in the practise of  
13 your profession within Baton Broadcasting?

14 A. Let me just put it this way: Being the  
15 target of Frank has not enhanced my career with Baton or  
16 outside.

17 425. Q. Do you take the position it has harmed your  
18 career?

19 A. Yes.

20 426. Q. You take the position that it has, in  
21 effect, denied you the Order of Canada, among other  
22 things?

23 A. That's right.

24 427. Q. But if you take the position that it has  
25 harmed your career at Baton, why do you say that?

1 A. Well, for example, on the night of the  
2 federal election, I was not on the anchor desk in Toronto  
3 with Lloyd Robertson.

4 428. Q. This federal election just passed?

5 A. Yes. And the previous one.

6 429. Q. The '93 election?

7 A. Right. In other words, since I've come  
8 under attack by Frank, there are a number of prominent  
9 venues where I should have been by virtue of my standing  
10 and whatever, where I was not used.

11 430. Q. Let's just get those. The federal election  
12 of 1997, the federal election of 1993. Are there others?

13 A. What year was the referendum in Quebec?  
14 '95? I mean, since this has gone on, I have not been  
15 used on Canada A.M., I have not been used on CTV national  
16 news, and I have had minimal roles in the federal  
17 election coverage and the referendum coverage.  
18 Absolutely minimal. One appearance on CTV in the last  
19 election.

20 431. Q. But this is not just by reason of  
21 publication of the article. This is by reason of  
22 publication of all of these articles, all of these  
23 excerpts that are in your productions?

24 A. Well, this is the most blatant example. You  
25 call me a liar. You basically said I'm untrustworthy,

1 and the CTV television network has chosen not to trust me  
2 to be on the air.

3 432. Q. Have you raised that with anyone within CTV?  
4 A. Yes.

5 433. Q. Who?  
6 A. Fiona Conway, the producer of the CTV  
7 election coverage.

8 434. Q. Did you raise it in 1993 as well?  
9 A. Yes.

10 435. Q. Same person?  
11 A. Yeah.

12 436. Q. Are there memoranda to her setting out your  
13 position?  
14 A. No, it was done on the phone. And in this  
15 last case, in person.

16 437. Q. And did you take the position with Ms Conway  
17 that this was by reason of Frank magazine, that you were  
18 not on the air?  
19 A. She raised that.

20 438. Q. What did she say?  
21 A. She said, "You know why we're not making  
22 more use of you."

23 439. Q. Is that all she said?  
24 A. Well, it was in the context between -- what  
25 do you call them -- body gestures and whatever. You

1 know, I don't want to go into what she said.

2 440. Q. Okay. Have you ever taken --

3 A. "You know why it is. Everybody knows why it  
4 is, and you know we're not going to solve anything,"  
5 yada, yada.

6 441. Q. This is what Ms Conway said?

7 A. Yeah.

8 442. Q. You were angry during that conversation with  
9 her, I take it?

10 A. No.

11 443. Q. When was that conversation relative to the  
12 federal election just passed?

13 A. A month before, when they were making up  
14 their election night assignments.

15 444. Q. Does the fact that you don't have these  
16 assignments from CTV have any effect on your income?

17 A. I think it does.

18 445. Q. Just explain how that is.

19 A. I think that it means that you do not get  
20 invited to speak in various public fora and so on.

21 MR. SHERRIFF-SCOTT: I don't think that's what  
22 his question is.

23 BY MR. McDOWELL:

24 446. Q. Well, I guess that's part of it. But does  
25 it affect how much you earn from either of CTV or Baton?

1           A.    Well, it's very difficult to quantify.  
2           People don't tell you, "We're only giving you a 1 per  
3           cent raise or half a per cent raise because you're being  
4           attacked by Frank."

5   447.           Q.    Right.

6           A.    But there is this continuing monkey on my  
7           back called Frank magazine. And it's one of these things  
8           -- like, it's almost as if you have cancer. It's an  
9           unspoken or looming presence, wherever. Who are we going  
10          to use on this program? Who is best to do this, that, or  
11          the other thing? Inside the network, Duffy is always at  
12          the bottom of the list. Didn't used to be that way.  
13          Before this started, in 1988, I was on the anchor desk  
14          with Lloyd.

15   448.           Q.    Every night?

16           A.    On election night.

17   449.           Q.    On election night.

18           A.    The biggest political night of the year.

19   450.           Q.    So let me get this straight. You're on the  
20          anchor desk in 1988?

21           A.    That's right.

22   451.           Q.    Were you on during the Meech Lake  
23          referendum?

24           A.    No.

25   452.           Q.    Are there other big events between 1988 and

1 1992 that you missed out on?

2 A. There was a steady decline in the  
3 appearances on the CTV national news.

4 453. Q. And do you keep a daybook that would track  
5 those appearances?

6 A. Well --

7 454. Q. Is there a way of tracking those appearances  
8 and figuring out which ones pre-Frank you would have been  
9 on and which ones you weren't after this campaign of  
10 abuse started?

11 A. I don't have a list at hand, but it's fairly  
12 obvious. When the phone doesn't ring, you sort of, you  
13 know -- I used to have a regular slot on Canada A.M.,  
14 every Wednesday or Thursday morning. Wednesday morning,  
15 I think it was.

16 455. Q. Now, you speak various places apart from  
17 your professional duties with Sunday Edition, I take it?

18 A. Yeah.

19 456. Q. And do you have an agent who coordinates  
20 those bookings for you?

21 A. Yes.

22 457. Q. Who is that?

23 A. Well, there are several. There are agencies  
24 that call you with jobs, and so --

25 458. Q. What are they called? Which ones do you



1 use?

2 A. Well, there is a whole series of them.  
3 There is the Idea Connection in Prince Edward Island.  
4 Vangastle V-A-N-G-A-S-T-L-E Enterprises in Toronto,  
5 Lillian Vangastle. There is an outfit in Calgary called  
6 Positive Concepts. I don't know. There used to be one  
7 main agency called Canadian Federation of Students which  
8 ran a thing called the Canadian Programming Service.  
9 They went out of business, so since then -- they used to  
10 be my main people, but they folded, so it's now kind of  
11 people phone.

12 459. Q. Could we have production of the documents  
13 from each of these agencies from 1989 to the present?

14 MR. SHERRIFF-SCOTT: I'll think about it.

15 BY MR. McDOWELL:

16 460. Q. The fees that you earned for this work, I  
17 take it, are channelled through your accountant?

18 A. Yeah.

19 461. Q. Who is your accountant?

20 A. Well, bookkeeper.

21 462. Q. Bookkeeper?

22 A. Karen Virtue.

23 MR. McDOWELL: Well, Mr. Sheriff-Scott, I just  
24 don't see any way around this.

25 MR. SHERRIFF-SCOTT: You put your question, and

\*A\*

1 I'll think about it. Ask me for what you're looking for  
2 and I'll consider my position.

3 MR. McDOWELL: What I'm looking for, for the  
4 purposes of this action only --

5 MR. SHERRIFF-SCOTT: That goes without saying.

6 MR. McDOWELL: It goes without saying, but I --

7 THE WITNESS: I can imagine it all appearing in  
8 the magazine.

9 MR. McDOWELL: Well, we can discuss if there is a  
10 way similar to the way we dealt with some of our  
11 financial records. If it's appropriate, then --

12 MR. SHERRIFF-SCOTT: I haven't conceded I'm going  
13 to give them to you. Ask for what you're looking for and  
14 I'll consider my view on it.

15 MR. McDOWELL: What I want is production of Mr.  
16 Duffy's T4 slips for the years in question, 1988 moving  
17 forward, together with the attachments. And if the  
18 bookkeeper prepares a statement breaking down income by  
19 source, then I would like production of that statement  
20 for each of the years. Additionally, assuming that there  
21 is such a document, I would like production of each  
22 contract relating to Sunday Edition from Baton. I  
23 presume Mr. Duffy has a copy of that, or I'm sure the  
24 lawyer who negotiated that contract would have a copy.

25 MR. SHERRIFF-SCOTT: Assuming that has relevance,

1 what would it be?

2 MR. McDOWELL: The relevance is, is the contract  
3 worse in some material way now than it was in 1988.

4 MR. SHERRIFF-SCOTT: In what way worse?

5 MR. McDOWELL: In terms of his pay, in terms of  
6 benefits, opportunities for outside work, and so on.

7 MR. SHERRIFF-SCOTT: I'll think about it. \*A\*

8 MR. McDOWELL: And your position in relation to  
9 the tax returns and the other financial information is  
10 no, or you want to think about it?

11 MR. SHERRIFF-SCOTT: It will likely be no, but  
12 I'll think about it. \*A\*

13 MR. McDOWELL: You appreciate that the position  
14 that Mr. Duffy is taking today is a bit different than  
15 the pleading. He is pleading that you suffered actual  
16 damage by reason of what has been published before 1995,  
17 and that's not what the pleading says.

18 MR. SHERRIFF-SCOTT: I'm not going to debate what  
19 he said to you. He's talked about opportunity lost. But  
20 any way, he said what he said. I'll look at the  
21 transcript and your questions, and I'll consider  
22 answering it or not answering it.

23 MR. McDOWELL: The other point that my colleague  
24 makes is that the contract may also address the question  
25 of how much on-air time Mr. Duffy gets. I've frankly

1 never seen one of these contracts. I don't know what's  
2 covered, but.

3 MR. SHERRIFF-SCOTT: Well, anyway, as I said,  
4 I'll look at it.

5 BY MR. McDOWELL:

6 463. Q. What does a contract look like, just so we  
7 have some idea? Is it a 20-page document or a two-page  
8 letter?

9 A. It's a 20-page document. It's been both.  
10 But basically, I think David is right. It's opportunity  
11 lost. Why does the phone not ring? People don't call  
12 you up and say, "We're not calling you because of Frank."  
13 But when you check around and try to find out why you're  
14 not being used on these broadcasts, Frank is the big  
15 gorilla in the closet. And if your stature diminishes --  
16 it's all interlinked. I don't think the judge will have  
17 any difficulty understanding it.

18 464. Q. The judge will say, "Let's test that against  
19 the tax returns."

20 MR. SHERRIFF-SCOTT: We have got your request.

21 BY MR. McDOWELL:

22 465. Q. Now, have you ever had a conversation with  
23 Doug Bassett about any or all of this?

24 A. Yes.

25 466. Q. And have you had more than one conversation?

1 A. Probably. I mean, I don't remember any  
2 specifics, but I know he has views on Frank.

3 467. Q. What did Mr. Bassett say about Frank in so  
4 far as it related to your position with Baton?

5 A. No company likes to be the centre of  
6 controversy, and so he encouraged me to keep on keeping  
7 on, but it was clear, and it's been clear for a long  
8 time, that they're not thrilled with having their  
9 employees attacked in this way.

10 468. Q. The conversation that you're referring to  
11 took place when?

12 A. Oh, I don't know.

13 469. Q. Before this action was started, or after?

14 A. No, it's all been in around the same time.

15 I mean --

16 470. Q. When you say they encouraged you to keep on  
17 keeping on, do you mean keep on suing Frank or keep on  
18 doing the job that do you for Sunday Edition?

19 A. Both.

20 471. Q. And what was the controversy to which he was  
21 referring?

22 A. I mean, he's in half of these things in the  
23 book. Do you think he doesn't pay attention to it?

24 472. Q. I don't know one way or the other.

25 A. Well.

1 473. Q. Has anyone else at Baton, apart from Mr.  
2 Bassett and Ms Conway, spoken to you about what Frank  
3 magazine has published regarding you?

4 A. Oh, at one time or another almost all of the  
5 brass have made some reference to it in passing, but I  
6 don't have any specifics. As I say, this is the sort of  
7 thing that you try and move on to the next subject. I  
8 don't want people to focus on it.

9 474. Q. Do you receive annual performance  
10 appraisals?

11 A. No.

12 475. Q. Is there any evaluation, apart from the  
13 ratings for your program, that is made of your  
14 performance at Baton?

15 A. Not that I'm aware of. If they do it, it's  
16 beyond me.

17 476. Q. Will you ask them whether they do it, and  
18 will you produce them if --

19 MR. SHERRIFF-SCOTT: That's not a document he has  
20 control over.

21 MR. McDOWELL: It's within his power, though.

22 MR. SHERRIFF-SCOTT: He may not have power.

23 THE WITNESS: I don't even know if it exists.

24 MR. McDOWELL: Can we ask and find out whether  
25 there is such a document, and then can you take a

1 position one way or the other?

2 MR. SHERRIFF-SCOTT: What does this have to do  
3 with the proceeding?

4 MR. McDOWELL: Injury to his vocation. If there  
5 is a file at Baton somewhere that says Mr. Duffy is --

6 MR. SHERRIFF-SCOTT: What does that have to do  
7 with his performance? He may perform one way or another,  
8 and they may evaluate that. What does that have to do  
9 with Frank magazine?

10 THE WITNESS: It probably doesn't.

11 MR. SHERRIFF-SCOTT: In any event, how could that  
12 be related?

13 MR. McDOWELL: Because if there are references,  
14 or if it's implicit in his performance appraisal, then I  
15 think he would want to lead evidence of that.

16 MR. SHERRIFF-SCOTT: Well, I don't know what --  
17 first of all, I don't know whether it exists. Secondly,  
18 I don't know what relevance it would have. They're  
19 evaluating his performance as it goes. What that would  
20 have to do with the impacts on his reputation --

21 MR. McDOWELL: He says he's injured in his  
22 vocation.

23 MR. SHERRIFF-SCOTT: I know that.

24 MR. McDOWELL: What does that mean, Mr.  
25 Sherriff-Scott? You pleaded it.

1 MR. SHERRIFF-SCOTT: I'm not going to debate the

2 --

3 MR. McDOWELL: Just explain it.

4 MR. SHERRIFF-SCOTT: I made my position clear.

5 MR. McDOWELL: You haven't.

6 MR. SHERRIFF-SCOTT: If there is an appraisal,  
7 Mr. McDowell, it would have to do with his functional  
8 performance on the air.

9 MR. McDOWELL: Which he says has been injured by  
10 Frank.

11 MR. SHERRIFF-SCOTT: No, he said that his  
12 reputation has been injured by Frank, not his  
13 professional performance. He said his reputation as a  
14 person in the community and a journalist of good standing  
15 has been injured. Baton may or may not be evaluating him  
16 in their own way based on his functional performance on  
17 the air. What does that have to do with Frank magazine?  
18 I'll think about your request, but I don't see what it  
19 has to do with anything here.

20 MR. McDOWELL: Don't you think they would say  
21 he's done less rather than more on the air this year,  
22 which is what he says?

23 MR. SHERRIFF-SCOTT: I don't know what it would  
24 say. I don't even know if it exists. I don't think it's  
25 relevant. If Baton has it and they're not producing it



1 to Mr. Duffy from year to year, how would he have access  
2 to it? You go ask them.

3 MR. McDOWELL: No. It's not within my power.  
4 You're taking a position with respect to relevance of a  
5 document that you haven't seen, which is pressing it at  
6 best, but how are we to evaluate the claim that he makes,  
7 which is a very serious claim?

8 MR. SHERRIFF-SCOTT: Well, Mr. McDowell, if you  
9 want, we'll ask and see if it exists. If it exists and  
10 they'll produce it -- that's question number 2 -- I'll  
11 look at it.

12 MR. McDOWELL: Right.

13 MR. SHERRIFF-SCOTT: If I look at it and I think  
14 it's relevant to the proceeding, I'll consider whether  
15 I'll give it to you.

16 MR. McDOWELL: Will you do this? Whatever  
17 position you take, will you let me know? Will you  
18 describe the document in such a way that we can have the  
19 court rule on it one way or the other? The documents?

20 MR. SHERRIFF-SCOTT: If in the end I end up  
21 getting it, I might be able to describe it. If they  
22 won't produce it to me, I won't have an opportunity to do  
23 that. Mr. Duffy says he's never heard of it at Baton,  
24 but anyway, I think I've said what I'll do.

25 MR. McDOWELL: All right. That's for each of the

1 years going forward from 1989.

2 MR. SHERRIFF-SCOTT: I'll see.

3 BY MR. McDOWELL:

4 477. Q. What about with the radio networks that you  
5 have had dealings with? That's a horribly cumbersome  
6 question.

7 You have had appearances on various radio  
8 networks. Do you take the position those have declined  
9 by reason of Frank's various publications about you?

10 A. They have certainly declined.

11 478. Q. Well, let's do it this way: In 1988, which  
12 radio networks did you appear on?

13 A. I'd have to go back and check. I assume --

14 479. Q. How do you keep track of that? Do you have  
15 contracts with each of them or --

16 A. It's all -- I know this isn't good for  
17 lawyers. Mostly it's done verbally. Someone calls you  
18 up and says, "Would you come on this show?" There's  
19 usually no paper involved.

20 480. Q. So after the fact, you get paid for each of  
21 those, or not?

22 A. Some you do, and some you don't. Some you  
23 do for cross-promotional purposes; others you don't.

24 481. Q. Is there any way that you can think of of  
25 charting which networks you were on in 1988, which ones

1 you're on now, and let us know?

2 A. I'll see what I can dig up. My wife may  
3 have better memory of this than me.

4 482. Q. Similarly, with newspaper columns, you don't  
5 write a column at present?

6 A. No.

7 483. Q. When did you stop?

8 A. I'll ask her.

9 484. Q. Okay.

10 A. After the heart attack. At the time of the  
11 heart attack.

12 485. Q. That's what I'm coming to. Doesn't some of  
13 this have to do with the fact you had a heart attack?

14 A. The newspaper column, maybe, but -- I don't  
15 know how I can say this other than if they had said about  
16 you the things they said about me, you would know. You  
17 could pick up fairly quickly places where the mood had  
18 changed.

19 MR. McDOWELL: Off the record for a second.

20 (DISCUSSION OFF THE RECORD)

21 BY MR. McDOWELL:

22 486. Q. One other point, just so I can have yet  
23 another argument with Mr. Sheriff-Scott, I suspect. You  
24 have pleaded that you're entitled to punitive damages.  
25 We have pleaded in paragraph 17 of our Statement of

1 Defence that you had made a statement or statements  
2 disparaging of the integrity of other journalists and  
3 news organizations. This had to do with an action that's  
4 commenced against you by the Toronto Star.

5 MR. SHERRIFF-SCOTT: Just wait. Just finish your  
6 question.

7 BY MR. McDOWELL:

8 487. Q. I wanted do know whether in fact an action  
9 was commenced against you by the Toronto Star for  
10 defamation, whether or not that was in relation to  
11 comments that you made concerning the Toronto Star's  
12 publication or otherwise of a public opinion poll, and to  
13 confirm for me that that action was in fact disposed of  
14 by means of an apology.

15 MR. SHERRIFF-SCOTT: And this question is in  
16 furtherance of your plea on section 21 of the act?

17 MR. McDOWELL: Correct.

18 MR. SHERRIFF-SCOTT: No, don't answer that  
19 question.

20 MR. McDOWELL: All right. Off the record.

21 (DISCUSSION OFF THE RECORD)

22 MR. SHERRIFF-SCOTT: The question is objected  
23 to.

24 BY MR. McDOWELL:

25 488. Q. All right. Now, you plead in your Statement

1 of Claim that you're entitled to pierce the corporate  
2 veil, as we refer to it, or have come to refer to it, in  
3 various actions against my clients brought by your  
4 counsel with respect to the allegations in paragraph 12  
5 which have to do with the relationship among Lansdowne,  
6 Coltsfoot, and Great Central. Do I take it that really  
7 you have no knowledge one way or the other in relation to  
8 the allegations 12(a) through 12(q?)

9 MR. SHERRIFF-SCOTT: I think he doesn't, Mr.  
10 McDowell.

11 BY MR. McDOWELL:

12 489. Q. These are the relationships among the  
13 corporations.

14 A. No, I don't know that.

15 490. Q. Okay. And in relationship to the  
16 allegations in paragraph 13 which have to do with David  
17 Bentley, Great Central, and the shareholding of Great  
18 Central and so on, you have no knowledge, I take it, of  
19 the truth or otherwise of those allegations?

20 A. I mean, it seems to be common knowledge.

21 491. Q. Right. Put it this way: I cross-examined  
22 you in 1995, in November, and, at that time, you said  
23 that, in a general way, you knew because Mr. Bentley told  
24 you at the train station that he intended to set up this  
25 enterprise called Frank?

1 A. Right.

2 492. Q. But beyond the knowledge that you described  
3 at that time, you have nothing further to offer at this  
4 time?

5 A. No.

6 493. Q. And you haven't seen any of the financial  
7 statements or documents relating to Great Central  
8 Publishing?

9 A. No.

10 494. Q. No. Just to cover this off, you took the  
11 position at the beginning of the examination that you had  
12 in effect been denied the Order of Canada by reason of my  
13 clients and that you had been led to believe that to be  
14 the case by reason of a conversation that an intermediary  
15 had with Jocelyn Bourgon, B-O-U-R-G-O-N. Correct?

16 A. I don't think I identified her by name.

17 495. Q. That's who we're talking about?

18 A. I think you're trying to smuggle that in,  
19 trying to get me to confirm it.

20 496. Q. You said the Clerk of the Privy Council, and  
21 there is only one.

22 A. At the moment, yes.

23 MR. SHERRIFF-SCOTT: I think the name is on the  
24 record.

25 THE WITNESS: Okay.

1 BY MR. McDOWELL:

2 497. Q. All right. And you didn't want to tell me  
3 the name of the intermediary that had that conversation?

4 A. No.

5 498. Q. No?

6 A. No?

7 MR. SHERRIFF-SCOTT: I don't see any harm in it,  
8 Mr. McDowell. If he's pursuing this line, I suppose, and  
9 if it's something you feel you've been denied, then you  
10 ought to say.

11 THE WITNESS: I should? You know who it is.  
12 Jean Chrétien.

13 BY MR. McDOWELL:

14 499. Q. And in the course of that conversation with  
15 Mr. Chrétien, did Mr. Chrétien make any comment in  
16 relation to Frank apart from the fact that it had been  
17 instrumental in you having been denied the Order of  
18 Canada?

19 A. No.

20 500. Q. Now, you made reference to Mr. Chrétien  
21 having been injured by comments that had been made in the  
22 magazine about his accent and so on. Did he say that to  
23 you?

24 A. Yeah.

25 501. Q. In that conversation?

1 A. We've had a couple, but he made it clear  
2 that he's -- he feels hurt by Frank. Most upset about  
3 the son, of course. His son.

4 502. Q. Michel? You have to say "yes" or "no" for  
5 the record.

6 A. Yes.

7 503. Q. All right. And the couple of conversations  
8 that you've had with the Prime Minister, when did those  
9 take place?

10 A. Over the course of this past winter.

11 504. Q. What else did he say about the magazine?

12 MR. SHERRIFF-SCOTT: Well, is there something?

13 THE WITNESS: He's not your fan. He is not a  
14 fan.

15 BY MR. McDOWELL:

16 505. Q. Of me personally or the magazine?

17 A. He doesn't know you. Or if he does, he  
18 didn't mention you.

19 MR. SHERRIFF-SCOTT: I'm not sure that's a worse  
20 answer.

21 MR. McDOWELL: Off the record.

22 (DISCUSSION OFF THE RECORD)

23 BY MR. McDOWELL:

24 506. Q. He's not thinking of suing them, I hope?

25 MR. SHERRIFF-SCOTT: We don't know what he's



1 going to do.

2 MR. McDOWELL: All right. Well, I'm sure he  
3 would retain Scott & Ayles if he were going to do so.

4 MR. SHERRIFF-SCOTT: On your client's theory, any  
5 way.

6 MR. McDOWELL: Off the record.

7 (DISCUSSION OFF THE RECORD)

8 BY MR. McDOWELL:

9 507. Q. The article that Mr. Connelly wrote, you've  
10 taken no action in relation to Mr. Connelly and the Daily  
11 News?

12 A. No.

13 508. Q. Now --

14 MR. SHERRIFF-SCOTT: Nor in relation to the  
15 article in which you were quoted.

16 MR. McDOWELL: Which one is that?

17 MR. SHERRIFF-SCOTT: I can't remember. I think  
18 it was the Lawyers' Weekly or some such publication.

19 MR. McDOWELL: I don't think I republished the  
20 alleged libel.

21 THE WITNESS: You guys aren't going to argue  
22 that it's not libelous, are you? Surely the issue is  
23 damage.

24 BY MR. McDOWELL:

25 509. Q. Now, could we have an address or telephone

1 number for Ms Stubbee, if you have one?

2 MR. SHERRIFF-SCOTT: Yeah, we're going to provide  
3 you with a list of the people that you've asked for. I  
4 can't guarantee we'll give you everyone's address if we  
5 don't have it.

6 MR. McDOWELL: Well, just how we could find these  
7 people in a general way.

8 MR. SHERRIFF-SCOTT: We can find Ms Stubbee's  
9 address.

10 MR. McDOWELL: Apart from Mr. Duffy, who are the  
11 other witnesses that you propose to call at trial?

12 MR. SHERRIFF-SCOTT: I don't know.

13 MR. McDOWELL: Are there any other persons, apart  
14 from Mr. Duffy, who may have known of the matters in  
15 issue in the action?

16 MR. SHERRIFF-SCOTT: I don't know.

17 MR. McDOWELL: Have you --

18 MR. SHERRIFF-SCOTT: There is certainly obviously  
19 some.

20 MR. McDOWELL: Put it this way: Have you  
21 interviewed people having knowledge of the matters in  
22 issue in this action, and, if so, will you give us a  
23 synopsis of those interviews?

24 MR. SHERRIFF-SCOTT: I don't have any interviews  
25 that I can give you a synopsis of right now.

\*U\*

1 MR. McDOWELL: You haven't done them, or you  
2 object to producing them?

3 MR. SHERRIFF-SCOTT: No, I haven't done them.

4 MR. McDOWELL: If that changes, will you do that?

5 MR. SHERRIFF-SCOTT: If that changes, and I have  
6 got witnesses that I've got to produce, you'll get what I  
7 have to give you.

8 MR. McDOWELL: But what you have to give me is  
9 name and address of any person having knowledge of the  
10 matters in issue in the action, and then you have to give  
11 me, I say, a synopsis of the evidence of any proposed  
12 witness.

13 MR. SHERRIFF-SCOTT: You might be right. I  
14 suppose I'll do what I have to do. I don't have it in  
15 front of me, Mr. McDowell. You might be quite right  
16 about the summary of what I have to do. If it's there,  
17 I'll do have I have to do. I don't have anything to give  
18 you at the moment. That's all I can say.

19 MR. McDOWELL: Well, illuminate me as to what you  
20 think you have to do.

21 MR. SHERRIFF-SCOTT: I don't remember at the  
22 moment. If I have to provide you with witnesses and  
23 synopsis, then I'll do that, if it's necessary.

24 MR. McDOWELL: All right.

25 MR. SHERRIFF-SCOTT: I'm not going to debate the

1 rules with you. I'm sure they say what they say, and you  
2 may be quite accurate in your reflection, and of course  
3 I'll comply with them.


4 MR. McDOWELL: You don't know what they say?

5 MR. SHERRIFF-SCOTT: I don't want to debate it  
6 with you. That's kind of a pointless exercise, isn't it?

7 MR. McDOWELL: Subject to the undertakings and  
8 the refusals, those are my questions.

9 ---WHEREUPON THE EXAMINATION WAS ADJOURNED AT THE  
10 HOUR OF 1:25 IN THE AFTERNOON.

11  
12 I HEREBY CERTIFY THAT I have to the best of my  
13 skill and ability taken down in shorthand and transcribed  
14 the foregoing Examination.

15  
16   
17 PER David Mackay, C.S.R.  
18  
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