

APPENDIX A to Form 20 Miraglia v University of Waterloo

Human Rights Decision 2008-00823-1

Due to the number and variety of problems with Vice-Chair Brian Cook's Decision, I request that consideration of this Request as well as the Reconsideration, if granted, be conducted by a different Vice-Chair.

I am filing this request for reconsideration for the following reasons :

- There are new facts and evidence on sexual discrimination and on pay inequity that could potentially be determinative of the case and that could not reasonably have been obtained earlier:
 - o Expert testimony by Professor Agnes Whitfield, President, Academic Women for Justice/Femmes universitaires pour la justice
 - o New evidence relating to Professor François Paré and university women
 - o New evidence of salary inequity
 - o Rough expert report on sexual discrimination academia
- The decision is in conflict with established case law or Tribunal procedure:
 - o The Vice-Chair's failure to provide a decision on harassment,
 - o The Vice-Chair's inconsistencies in argument and in instructions to counsel,
 - o The Vice-Chair's failure to enforce his own ruling on disclosure (of November 2009),
 - o The Vice-Chair's failure to consider my evidence (documents and testimony),
 - o The Vice-Chair's unfairness, appearance of bias and conflict of interest
 - o The Vice-Chair's decision is contrary to established case law re: failure to investigate
- The proposed reconsideration involves a matter of general or public importance:
 - o The reconsideration will have an effect on all female university professors seeking equity in access to promotion, salary equity and a workplace free of harassment and discrimination, and can also potentially affect the resolution of claims of discrimination by female employees in other sectors.
 - o The decision will have an impact on how female faculty members' claims of discrimination in the workplace are dealt with by the Faculty Association of the University of Waterloo (FAUW), other Faculty Associations across Canada, and the guidelines provided to such Associations by the Canadian Association of University Teachers (CAUT),
 - o The reconsideration involves the integrity, fairness and reputation of the Human Rights Tribunal

1. NEW FACTS AND EVIDENCE ON SEXUAL DISCRIMINATION AND ON PAY INEQUITY:

a. *New facts and evidence on sexual discrimination :*

This new evidence will be in the form of testimony by Professor Agnes Whitfield (Department of English, York University), President of Academic Women for Justice/Femmes universitaires pour la justice and possibly by

other members of the Association. She will speak of her own experience with respect to Professor François Paré and his inability or unwillingness to recognize the merit of the scholarly work done by university women, in particular, women of a certain generation.

As Joint Chair in Women's Studies at the University of Ottawa and Carleton University (2009-2010), Professor Whitfield has compiled existing documentation and consulted broadly with women academics across Canada on issues involving discrimination against women academics in the form of harassment, unequitable obstacles to career progress and pay inequity.

In recognition of the continued wide-spread sexual discrimination against academic women across Canada and the incapacity of Faculty Associations or unions, including the Canadian Association of University Teachers (CAUT) to provide meaningful support to women academics fighting sexual discrimination, Professor Whitfield, in collaboration with other university women across Canada, founded Academic Women for Justice/Femmes universitaires pour la justice on June 1, 2010 at the Simone de Beauvoir Institute at Concordia University.

I only became aware of Professor Agnes Whitfield's experience and expertise in April 2010 several months after the last date of the oral hearing. She contacted me when she learned about my case, and informed me about her own experience with Professor François Paré, her work and her intention, with other women colleagues, to found Academic Women for Justice/Femmes universitaires pour la justice.

Professor Whitfield will provide research and testimonial evidence that the kinds of harassment I was exposed to at the University of Waterloo, including but not limited to my being requested to wait to put forward my promotion file, discreditation of my academic work, complaints about my service and collegiality, relocation of my office to a smaller space, undue interference by a department head or dean in promotion process, have been documented to be typical of harassment based on sex.

She will also speak to issues related to how the Faculty Association of the University of Waterloo (FAUW) dealt with my concerns and the resulting negative impact this has had on the initial decision by the Human Rights Tribunal.

Numerous academic women who have now heard about my case, see clearly that the treatment I endured over the promotion process were motivated by sexual discrimination. It is clear to them that the allegations about availability, the attempts to misrepresent my personality, my scholarship, my teaching and my service were all strategies for sexual discrimination. Promotion of women to associate professor is accepted and even needed for administrative reasons but women face the "glass-ceiling" when they apply for promotion to full professor.

b. New evidence on pay inequity

In the HRT decision of November, 2009, the HRT ordered the University of Waterloo to provide G.P.'s salary and to compare it to my salary. During his testimony, the Chair of the Department of French Studies, Professor François Paré, stated that he had « forgotten » to bring the salary figures, and the University of Waterloo subsequently failed to provide this information despite my counsel's objections.

As a result, I was not aware of the information on G.P.'s salary until March 31, 2010 when the University of Waterloo put on its website the Salary Disclosure for 2009. The « sunshine law » obliges the University of Waterloo to make publicly available the identity of employees earning more than \$100,000 per year. According to this public information, available on the University of Waterloo's website, G.P. earned \$126,476.72 in 2009.

My name does not appear on the list because I was on sabbatical for six months in 2009 earning 85% of my normal salary. Even at 100% salary (114,314.00), my salary is well below G.P.'s.

This evidence was not considered by the Vice-Chair in his decision. With this new evidence of salary gap, I believe that the Human Rights Tribunal should conduct a comparison of salaries to re-determine the possibility of salary gap due to sex.

Evidence provided and publicly available on the internet indicates that at the beginning of 2006 when Professor Paré decided to delay my application for promotion and at the time of promotion, G.P. was author of only one sole-authored book (his Ph.D. thesis), compared to my 2 sole-authored books. He had published far fewer refereed articles (6 to my 14), fewer book chapters and had taught fewer courses, fewer students and a smaller variety of Undergraduate and Graduate courses (for example, 3 Graduate courses compared to my 13). This information was also publicly available on the internet (links : University of Waterloo, Quest, undergraduate, schedule of classes).

G.P. completed his Ph.D. in 1991 and began working as an assistant professor in 1991. I completed my Ph.D. in 1989 and began working as an assistant professor at Queen's University in 1989. I have two more years in the profession than G.P.

In short, since there is no evidence of any objective justification for the difference between G.P.'s salary and mine, I am asking the Human Rights Tribunal to re-assess the comparison for discrimination on the grounds of sex.

c. New evidence on sexual discrimination

This new evidence will be in the form of a receipt from an expert witness, Helen B (I'm in Europe and do not recall her name) and in the form of a rough, initial draft of the expert witness report on discrimination against women in academia, and two articles on pay inequity in academia. I agreed to the preparation of an expert witness report on the advice of the HRT mediator of March 19, 2009.

The invoice for the expert report indicates that the rough draft of the report was prepared well before the September 2009 conference call when the Vice-Chair discouraged both my counsel Andrew Pinto from introducing evidence on systemic sexual discrimination in academia. The Vice-Chair indicated that the existence of sexual discrimination in academia was generally recognized. In so doing he gave the impression that the general context of the work situation of women in academia, especially women of a certain generation need not be established. He specifically asked my counsel not to raise the question of systemic discrimination.

As a result, my counsel was prevented from submitting the draft report from our expert on pay inequity and sexual discrimination and the information contained in this report was not considered by the Vice-Chair in his decision.

For the same reason, the two publications on sexual discrimination in academia I referred to in the Complaint I filed with the Human Rights Tribunal in November 2008 were also not considered.

I believe that the draft expert report and the two publications on sexual discrimination in academia are essential to providing the context for determining the legitimacy of my claim of salary inequity and sexual discrimination. On the basis of this information, I am asking for a reconsideration of my case.

I should also point out that had the Vice-Chair allowed evidence on systemic sexual discrimination against women in academia, this would have shifted the burden of proof. It would have been the responsibility of the University of Waterloo to prove beyond a doubt that there was no sexual discrimination in the determination of my salary.

d. New evidence on how I was asked to represent my case by the FAUW

New evidence will also be provided in the form of email messages between me and Professor Frank Reynolds (Chair of Academic Freedom and Tenure Committee, FAUW, at the time).

These documents were not provided earlier, although they were listed in the evidence provided to University of Waterloo counsel in July 2009, because my first lawyer (Kate Hughes) had qualified them as « privileged ». I did not support this decision and stated such during my testimony in October 2009. However, the Vice-Chair did not request that these documents be produced, and as a result they were not made available.

They show that the advice provided by Professor Reynolds deterred me from explicitly formulating that the discrimination I suffered was « sexual ». The Vice-Chair's insistence that I failed to identify specifically the type of discrimination I suffered as « sexual » discrimination is inconsistent with his instruction to counsel and his acknowledgement that the university milieu has a long history of « chilly climate » and discrimination against women.

The Vice-Chair's decision (Points #94, #95, #97, #100) states that in my documents addressed to University of Waterloo administrators (my Complaint against Professor Paré and my Grievance against Dean Ken Coates), I did not specify that the

discrimination I suffered was « sexual » This is incorrect. In my Complaint against Professor François Paré and in my Grievance against Dean Ken Coates, I cite Policy 33, Policy 65, Article 7.5, etc. which all refer to forms of discrimination under the Human Rights Code. At the time of writing the Complaint and Grievance, I examined the Memorandum of Agreement carefully. It speaks of zero tolerance with respect to « harassment » and « discrimination ». Nowhere does this document indicate that one must specify the type of discrimination one has suffered.

The Vice-Chair received a copy of these documents but he has failed to examine them attentively (Point #91 and #92). As I stated during my testimony at the oral hearing, it was obvious that I do not belong to a visible minority group, that I am not disabled, that I am not Jewish or Muslim, that I am not homosexual, etc.. I did not need to state that the discrimination I suffered was « sexual ». It was understood by all given the intrinsic sexual discrimination commonly acknowledged in the university work place and which explains not only the lack of promotion of women to full professor but also pay inequity which has constantly plagued universities across Canada and the University of Waterloo in particular.

In his conference call of September 2009, the Vice-Chair acknowledged the “chilly climate” – the existence of sexual discrimination in academia. In Point #103, the Vice-Chair finally admits that I specifically indicated the discrimination was “sexual” in my Grievance. I finally freed myself from Frank Reynolds’ (FAUW) and the Dean of Arts, Ken Coates’ censorship of my language. I presented evidence during the HRT hearing (an email dated March 2008) that I tried to obtain the assistance of the Human Rights office at the University of Waterloo and I clearly identified the discrimination I suffered as “sexual”. Matt Erickson informed me that his office could not intervene without the invitation of the Administration. The Vice-Chair’s decision unfairly refuses to consider this evidence and contributes to the victimization of the victim.

The Vice-Chair claims that in my documents to University of Waterloo I do not specify that the discrimination was based on sex, yet the Vice-Chair heard testimony from Professor Paré indicating that at the time that he decided that G.P. apply for promotion before me Professor Paré was aware that G.P. was [REDACTED] and that his decision was partly based on G.P.’s [REDACTED] therefore clearly indicating that gender was a component in his discrimination against me.

It is an error on the part of the Vice-Chair not to consider in his decision this evidence (testimony and documents) of oppression, coercion and Professor Paré’s testimony on his gender-based discrimination and then make a Decision on my not qualifying (except for the Grievance) that the discrimination I suffered was « sexual ».

- The reconsideration involves a matter of general or public interest, in particular for:
 - all female university professors,
 - all faculty members at the University of Waterloo,
 - Faculty Association of the University of Waterloo (FAUW),
 - Canadian Association of University Teachers (CAUT),
 - the integrity and reputation of the Human Rights Tribunal

Errors in law, Unfairness, Appearance of bias, and Inconsistencies

1. The Vice-Chair erred in discouraging counsel from presenting evidence (expert witness report and articles on systemic discrimination against women in Canadian universities). This was a grave error on his part and this instruction was harmful to my case. His instruction was in direct contradiction to the advice provided by the HRT Mediator on March 19, 2009. The complaint I filed with the HRT in November 2008 clearly refers to two publications on sexual discrimination in academia and I provided copies of these two articles in my "Reply to the Respondent". At that time, I also provided a copy of the Annual Performance Indicators for the University of Waterloo 2008 which shows that among the top 13 Canadian universities, the University of Waterloo has the least number of female full professors and after the University of Western Ontario, the least number of female associate professors.

2. Error in law : failure to provide a decision on the complaint of harassment

The Vice-Chair's Decision states: "The applicant is not at the University five days a week but the evidence establishes that no other faculty member is either. Professor Paré is there most days but even he has obligations that typically take him away from the campus a half-day per week". The Vice-Chair heard testimony from Priya Mehta that on Tuesdays, Professor Paré regularly teaches at a University in Buffalo, but the Vice-Chair does not refer to this fact in his decision.

The Vice-Chair recognizes that contrary to Professor Paré's allegations about my availability, I have been as available as other colleagues in the Department. Evidence provided in the form of emails and in Professor Paré's response to the FAUW indicate that he made frequent and unreasonable demands of me and held me up to a much higher degree of availability than my colleagues: for example, he asked me to attend meetings during my sabbatical; he asked that I go to campus during my holidays and on days when no meetings, no classes, no student consultations were scheduled. I live 109 kilometers away from campus one way. The Vice-Chair has accepted the evidence. However, he fails to consider that Professor Paré's frequent unreasonable demands and false accusations about my availability amount to harassment. This harassment was aggravated by Dean Ken Coates who threatened to dismiss me, according to Frank Reynolds (see his Request for intervenor status), if I was not 'available' – that is, on campus from 8:30 to 5:00 Monday to Friday – a condition not required of any other professor at the University of Waterloo and across Canada.

It is in the context of this testimony on harassment – and not in the context of sexual discrimination -- that I conceded during the hearing (HRT Points #64 and # 79) that I had no "direct evidence". I had experienced frequent, negative comments and incidents which repeated, over a period of time, amounted to harassment. The fact that a male colleague, Paul Socken, who also lives in Toronto was not subject to harassment and threats (by Professor François Paré and by Dean Ken Coates) regarding his availability indicates that the harassment was due to sex.

During the hearing, my counsel objected to Christopher Riggs' error in his recollection of my testimony. In Points #64 and #79, the Vice-Chair repeats Mr Riggs' error and fails to note our correction.

The Vice-Chair's decision fails to consider that the false allegations concerning availability, the harassment that ensued were due to sex and were all pretexts to deter attention away from the true explanation for their differential treatment of me : sexual discrimination.

The HRT Decision (Point #18) mentions that during the hearing Priya Mehta, former Department secretary (2005-2007) noted a "battle of wills" but the Vice-Chair (Point #17 and #18) fails to consider Priya Mehta's full testimony and material evidence (her two faxes of December 2007) which state that Professor François Paré "seemed to go out of his way to make attending meetings difficult for Professor Miraglia perhaps in an effort to prove his theory that she was not available". Priya Mehta's testimony on my availability puts into question Professor Paré's credibility. The Vice-Chair fails to consider this.

I indicated in my testimony that the "strained relationship" with Professor Paré began after I expressed interest in promotion to full professor and especially after Professor decided that G.P. would apply for promotion first, despite my objections and despite G.P.'s acceptance of my seniority. See email evidence of November 2005 and of Spring 2006. Mistrust was understandably aggravated by Professor Paré's bad "advice" and undue interference in the preparation of materials to be included in my promotion file. He advised me not to include the reviews written on my books and the list of over 60 scholars who cite my publications.

I also indicated in my testimony and in material evidence provided that François Paré gave me a Tuesday Thursday teaching schedule during only 2 teaching terms (one in 2006 and one in 2007) whereas G.P. benefitted from a Tuesday Thursday undergraduate teaching schedule in all his teaching terms starting from his date of hire (2003) to his full sabbatical in 2007-2008. The Vice-Chair fails to consider this differential treatment based on sex.

Had the Vice-Chair considered all the evidence and testimony provided at the hearing, he would have had to make a decision on my complaint of harassment, and then he would have had to determine that the false allegations about my availability were a pretext, and finally that the true explanation behind the treatment I suffered was sexual discrimination and not my availability and not "tensions" in the relationship which developed as a result of the sexual discrimination.

3. Error in law: *prima facie* and the proof of non-discrimination:

The Vice-Chair states (Point #54): "Assuming, without deciding, that the applicant has established a *prima facie* case, for the reasons that follow, there are non-discriminatory explanations for the respondent's conduct. Yet the Vice-Chair does not identify specifically what these "non-discriminatory" issues are. If one is to conclude that he is referring to "availability" issues, and "strained relations", he erred by failing to consider

the evidence and testimony (Priya Mehta) which shows that the availability issues were fabricated by Professor Paré and that the strained relations were provoked by Professor Paré's decision to push G.P.'s application over mine and this despite G.P.'s willingness to defer his promotion application in favour of mine. Had the Vice-Chair considered this evidence and testimony, it would then have been up to the respondent to prove non-discrimination.

4. The HRT Decision on "failure to investigate" is in conflict with established case law

During the oral hearing, my counsel made reference to a number of legal cases concerning the duty to investigate allegations of discrimination under the Human Rights Code (I referred in my Complaint and Grievance to University of Waterloo's Policy 33, Policy 65 and the Memorandum of Agreement). My counsel evoked *Laskowska v. Marineland*, paragraph 53. The substance of the duty to investigate was explored in *Nelson v. Lakehead University* which was very similar to this case: the Dean did not meet with the Complainant; he failed to follow the University's own policies with regard to human rights issues; he chose not to involve the human resources staff, etc.

The parameters of a proper investigation were discussed in *Abdallah v. Thames Valley District School Board*. The principal conducted her own investigation but like Dean Ken Coates, Vice-President Amit Chakma and President Johnston (Administrators at the University of Waterloo) she was directly implicated in the Complainants concerns. These University of Waterloo administrators chose not to ask the Conflict Management and Human Rights office of the University of Waterloo to conduct an investigation despite my requests. They had 3 opportunities to do this: at the time of my Challenge of Delbert Russell's membership on the DTPC, at the time of my Complaint against Professor François Paré, at the time of my Grievance against Dean Ken Coates. The Vice-Chair's HRT decision clearly indicates that my Grievance makes reference to "sexual" discrimination but the Vice-Chair fails to consider the need for the the Vice-President Amit Chakma to charge the Human Rights Office of University of Waterloo with the investigation. The Vice-Chair's decision fails to consider thoroughly and correctly the case law evoked by my counsel and to apply it to my case. He fails to deal with the case laws in favour of a description of Policy 33 at the University of Waterloo and an unfair description of my attempts to have my complaints of "harassment and discrimination" heard. The Vice-Chair focuses exclusively on whether or not I specified that the discrimination was "sexual". I filed a Challenge, a Complaint and a Grievance.

The HRT decision also fails to consider that it took 6 months (March 11, 2008 to September 2008) for the University of Waterloo to deal with my complaints of "harassment and discrimination" (according to Policy 33, 65 and the Memorandum of Agreement) and that the University of Waterloo did not adopt any one of the criteria for assessing the sufficiency of an employer's investigation (Point #90) described in para. 87 *Abdallah v. Thames Valley District School Board*, 2008 HRTO 230 (LanLII).

The Vice-Chair also fails to consider Professor Conrad Hewitt's testimony (FAUW) which recognized the serious limits of the FAUW in dealing with Administration and that

it was unreasonable for Vice-President Amit Chakma to offer me an investigation as “full settlement” of my grievance. The Vice-Chair fails to consider that the University of Waterloo Administration acted in bad faith.

5. Error in law: the University of Waterloo, a corporation

The Vice-Chair also errs in law when he suggests that I did not state that Dean Ken Coates discriminated against me based on sex. This is an error in law and in fact. The Complaint I filed with the HRT is against the institution, the University of Waterloo whose employees in the course of employment practised “harassment and discrimination” against me (contrary to Policy 33, Policy 65 and Memorandum of Agreement). I did not file a complaint against these men as individuals although I could have done so. I could have also filed a civil lawsuit against them for defamation of character. My HRT complaint is against the University of Waterloo, a corporation bound by law. I suffered sexual discrimination through the actions (and inactions) of its employees : Professor Paré (Chair of the DTPC and Chair of French Studies – until August 31, 2010), Dean Ken Coates (the Dean of Arts and Chair of the FTPC), Amit Chakma (Vice President of University of Waterloo and Chair of the UTPC which unanimously voted against my promotion) and President Johnston who blindly accepted Dean Coates’ minority assessment and then on August 13, 2008 presented his case against my promotion to the Appeals Tribunal. The Vice-Chair’s decision does not consider the law concerning corporate responsibility with respect to the Human Rights Code. I cited both Policy 33, Policy 65 and the Memorandum of Agreement in my Complaint and Grievance and in my letter to President Johnston of March 11, 2008.

5. Policy 77

a) Policy 77, a precise document and the criteria for promotion

The Vice-Chair erred in law by concluding that Policy 77 is not a precise document and by not recognizing the authority of the Appeals Tribunal at the University of Waterloo. Even if one were to argue that Policy 77 may be subject to different interpretations, in ascertaining its true intent deference should have been given to the highest authority within the University of Waterloo’s promotion process which is the Appeals Tribunal. That Appeals Tribunal unanimously voted in favour of my promotion and clearly concluded that scholarship is the dominant factor in determining the threshold for promotion. It based its decision on the correct application of Policy 77 which explicitly states: “although strong evidence of teaching is required, normally the greatest emphasis is placed on scholarship and achievement within an individual’s discipline”.

The Appeals Tribunal also pointed out errors in the DTPC’s assessment of my teaching and again based its decision on Policy 77: “teaching quality should be assessed broadly, student course evaluations are an important source of information, but they should be supplemented with peer evaluation of teaching skills, course content and course materials”.

The Vice-Chair erred by failing to give deference to the Appeal Tribunal’s correct interpretation of Policy 77 and to the importance accorded in Policy 77 to the

assessment of the “quality, originality and impact” of scholarship by five external evaluators, preferring, instead, to adopt Professor Paré’s and Dean Ken Coates’ views on Policy 77 as subject to various interpretations. There is, in the process in question, only one correct interpretation of Policy 77, that applied by the University of Waterloo Appeals Tribunal. The other interpretation of Policy 77 as testified by Professor Paré and Dean Ken Coates is incorrect and misleading.

Also, the Vice-Chair erred in law by in effect ignoring a very important part of Professor John North’s testimony (Point #61). Professor North testified that he has over 15 years of experience in the Faculty and Tenure Promotion Committee (FTPC) and over 30 years of employment with the University of Waterloo. In testifying to the correct interpretation of Policy 77, Professor John North confirmed that little weight is accorded to edited books (« collective scholarship » such as that of G.P.) and to phd book publications (G.P.’s only sole-authored book) in promotion to full professor. The Vice-Chair’s decision not to consider this part of Professor North’s testimony suggests unfairness in the selection of evidence and testimony and therefore bias.

The Vice-Chair’s preference for Professor Paré’s and Dean Ken Coates’ misrepresentation of Policy 77 led him to incorrectly define the promotion process (Point # 59) of the decision, as a subjective one. Had the Vice-Chair read Policy 77 and followed the correct interpretation of Policy 77 as applied by the University of Waterloo’s Appeals Tribunal (3 unanimous votes in favour of my promotion by 3 long-serving members of University of Waterloo), and as applied by the 7 *elected* members of the FTPC who voted unanimously in favour of my promotion (vote 7 to 2), and as applied by my colleague in French Studies, Professor Paul Socken (with over 30 years experience at University of Waterloo), the Vice-Chair would then have had to conclude that the application of the incorrect interpretation of Policy 77 by Professor François Paré and Dean Ken Coates led to sexual discrimination against me. Since it was in applying that incorrect interpretation of Policy 77 that Professor Paré, Dean Ken Coates, the UTPC and President Johnston were able to defend the promotion of G.P. and their refusal to promote me.

b). Policy 77 and G.P. as closest comparator

The Vice-Chair also erred in concluding that G.P. is not a comparator simply because his research in French is delivered in ‘collective’ books whereas my research in French is presented in sole-authored publications. The Vice-Chair refuses to consider evidence in Policy 77 which explicitly states that “the candidate’s record is to be judged in comparison with the records of faculty members recently promoted at the University of Waterloo”. The FTPC and UTPC examine, compare and decide on applications for tenure and promotion from various Departments in the Faculty of Arts as different as Accounting, German, Philosophy, Anthropology, History etc. G.P. is the closest comparator because we both work in “the same discipline” (the Arts Faculty) and in the same Department, French Studies. We both teach French language and literature courses. We both teach undergraduate and graduate students. We both conduct research in the field of French studies. He was promoted in 2007, one year before me. G.P. is the closest comparator as defined by Policy 77. Policy 77 is quite clear. The Vice-Chair has based his final decision on incorrect information on Policy 77.

The Vice-Chair gives undue weight to Professor Paré's testimony in Point #26. No concrete, material, "direct" evidence was provided by the Respondent to support Professor Paré's statement that G.P. had been recommended for promotion to full professor at his former university (██████████). If he had been promoted by his former university G.P. would have joined University of Waterloo as a full professor and not as an associate. The promotion process at all universities is long and complex – one is not simply "recommended" for promotion by one's Department. One must submit one's application to a long and complicated process which involves several levels and committees: Department, Faculty, University. This process would have been completed well before G.P. began his employment at University of Waterloo on Sept 2003. Professor Paré at that time was employed at the University of Guelph and was not privy to confidential information concerning G.P.'s negotiations with the University of Waterloo or with G.P.'s promotion discussions (if any took place) with his university. The Vice-Chair's decision does not consider an email provided as evidence in which Professor Paré states that G.P. asked for promotion to full professor when he joined the University of Waterloo in 2003 and that the University of Waterloo refused. The Vice-Chair does not consider this fact and evidence which suggests that the University did not consider G.P. worthy of promotion to full professor when he was hired. One can conclude that his phd book and edited books were not considered "direct evidence" of a "high level of achievement in scholarship" (Policy 77).

c) Policy 77 and "Scholarship"

The Vice-Chair's incorrect view of Policy 77 is also evident in paragraph #72 where he characterizes G.P.'s 'collaborative scholarship' (edited books) as another acceptable form of scholarship whereas Policy 77 very clearly describes that type of work (editing, conference proceedings, etc.) as «Service » and not « Scholarship ». Policy 77 clearly states that it is not "Service" but a «high level of achievement in scholarship » which is required for promotion to full professor. It also states clearly that « edited books » constitute « Service » and not « Scholarship ». Contrary to the Vice-Chair's view, nowhere does Policy 77 state that there are two types of scholarship: one collaborative (G.P.'s) and one based on the traditional single-author model (my own).

Policy 77 does state, however, the importance of the external evaluators in evaluating the originality, quality and impact of a candidate's scholarly record. Even Professor Paré, in his testimony, admitted that at least █ of G.P.'s ██████████ were problematic. I testified that Professor Paré breached G.P.'s right to confidentiality on February 27, 2007 when he provided this same information. The Vice-Chair's decision ignores this evidence and testimony.

Again, in paragraph #78, The Vice-Chair's incorrect characterization of Policy 77 leads him to err that the different treatment of my candidature for promotion relevant to that of G.P. was not based on sexual discrimination. Had the Vice-Chair considered the evidence and applied the correct interpretation of Policy 77 (as was done by the FTPC and the University of Waterloo's Appeals Tribunal) he would have had to conclude that G.P. was less qualified than I for promotion based on the criteria in Policy 77. The Vice-Chair would then have had to conclude Professor Paré was not justified in his decision to have G.P., a lesser qualified candidate, apply for promotion before me and finally he

would have concluded that the various obstacles put in my way -- harassment about availability, creation of tensions, « blatant misrepresentation of the wonderful external evaluation letters », the numerous « errors and omissions” in Professor Paré’s DTPC transmittal report, his misrepresentation of my scholarship, teaching and service, the Dean’s transmittal letter (“a minority assessment”), his unreasonable demands about my physical presence on campus (8:30 to 5:00 Monday to Friday) -- can all be explained by sexual discrimination, commonly acknowledged in the university milieu.

A Comparison of My and G.P.’s Scholarship (Publications) in 2006 and 2007

The Vice-Chair failed to consider evidence and testimony which clearly showed that in 2006, when Professor Paré decided that G.P. apply first for promotion, I not only had far more “seniority” at the University than G.P., but more importantly I was also more qualified for promotion: I had published two sole-authored books compared to his one (phd book); I had published more chapters, far more refereed articles, taught more students and a greater number and variety of undergraduate and graduate courses.

Evidence shows that G.P.s edited books had been prepared with 3 other collaborators in the early 1990s, that is when he was an assistant professor, therefore before promotion to associate professor and well before his application for full professor in 2006. Professor North’s testimony and the FTPC’s narrow vote confirm the clarity of Policy 77: edited books (“Service) carry very little weight for promotion to full professor.

The Vice-Chair refused to consider the evidence provided and to compare the unanimous and enthusiastic support for my promotion by all 5 international evaluators compared to the observations provided by G.P’s external evaluators. The Vice-Chair refused to consider not only the material evidence concerning the superiority of my scholarship and my teaching (both in quantity and quality) but also my testimony (repeated at 3 different moments of the hearing) about Paré’s conduct on February 27, 2007: I was shocked by Professor Paré’s behaviour first in standing over me in an agitated fashion shaking his finger at me, threatening me, and then equally shocked when he tried to smooth things over by confiding that G.P. encountered serious problems at the FTPC level both with respect to scholarship and teaching also considered weak. Professor Paré also confided that [REDACTED] of G.P.’s [REDACTED] were weak and that he was betrayed by the [REDACTED]

The Decision of July 5, 2010 also fails to consider testimony concerning the history in French Studies of women and their bid for promotion to full professor: I testified that Professor Hannah Fournier had applied for promotion to full professor in 1997-1998 (exactly 10 years before me). Her application based on “collective work” and on “service” failed. G.P’s application based on “collective work” and on “service” was approved. The criteria for promotion in Policy 77 have remained the same.

6. Order for Disclosure of G.P.’s confidential documents (November 2009)

During the hearing my counsel asked the Vice-Chair to examine carefully G.P.’s confidential documents and to compare them to my own. The Vice-Chair noted that the Respondent had not provided a copy of these documents. The Vice-Chair’s failure to

7. Lack of credibility, lack of impartiality and appearance of bias

The Vice-Chair erred in choosing to accord greater weight to Professor Paré's and Dean Ken Coates' testimonies, the men who were directly responsible for the « harassment, intimidation and [sexual] discrimination » that I suffered. Both Professor Paré and Dean Ken Coates are not experts on Policy 77 and both would benefit from the HRT's decision to adopt their misleading views on Policy 77. These witnesses, however, were not free of conflict and likely would risk dismissal (according to the Memorandum of Agreement) if found culpable of harassment and discrimination on the basis of the Human Rights Code. The Vice-Chair became aware of this risk during the oral hearing. His decision supports the interests of Professor Paré and Dean Ken Coates over the HRT's quest and need for truth and justice and over my interest and need for fairness and justice.

The Vice-Chair's decision also tries to protect G.P.'s privacy over truth and justice and at my expense despite the HRT order for disclosure of November 2009. The Vice-Chair heard testimony from Professor Paré himself who indicated clearly that he was aware of my unhappiness and frustration with his decision that G.P. apply for promotion before me. The Vice-Chair also heard Professor Paré's testimony that G.P. had told him that he (G.P.) was willing to let me apply for promotion before him, recognizing my seniority. The Vice-Chair chose to disregard this part of Professor Paré's testimony as well as his testimony explaining that his decision to have G.P. apply for promotion first was, in part, based on G.P.'s [REDACTED]. Had the Vice-Chair been fair to me, he would have included this evidence and testimony in his decision, he would have had to find that I was a victim of discrimination based on gender and not on fabricated issues of availability.

Other errors, inconsistencies and unfairness in the Vice-Chair's decision

The Vice-Chair's decision cites only half my sentence in my comment « blatant misrepresentation of the absolutely wonderful letters from external evaluators ».

The Vice-Chair's decision does not provide a reasonable explanation concerning the numerous « errors and omissions » in Professor Paré's DTTPC transmittal report to Dean Ken Coates and to the FTTPC. The Vice-Chair does not provide a reasonable explanation for Dean Ken Coates' minority assessment. I did not have "strained relations" with Dean Ken Coates. The Vice-Chair also does not consider that I did not have "strained relations" with the members (all male Deans) of the UTPC who voted unanimously against me. They had never met me; yet they failed to apply Policy 77's criteria for promotion to my application. The true explanation for this behaviour is sexual discrimination. In this regard, the Vice-Chair fails to see that "tense" relations is a pretext and that the true explanation for the constant and consistent differential treatment by the University of Waterloo Administrators (the Dean of Arts, the Deans in the UTPC) is sexual discrimination.

Direct Evidence

During the hearing, the Vice-Chair indicated that by « direct evidence» he meant clear explicit statements of sexual discrimination. I testified that in our politically correct climate and especially in a university setting no one would make explicit statements of discrimination (sexual, religious or otherwise). It is unfair for the Vice-Chair to indicate in his decision that I conceded that “there is no direct evidence of discrimination on the grounds of sex” (Point 79) while disregarding the context he established and my exact words.

Furthermore, I conceded that I had no “direct evidence” of *harassment*. I did not make this statement with respect to *discrimination*. The documents I provided to support my case about sexual discrimination are not circumstantial ». They are « direct evidence » and the comparison of my promotion materials to those of G.P.’s and the criteria for promotion in Policy 77 (a precise document) all indicate clearly that G.P. was promoted with a weaker file whereas I was more qualified but suffered from sexual discrimination disguised as issues of availability and tense relations. This differential treatment is obvious in the DTPC transmittal briefs prepared by Professor Paré for the Dean and the FTPC and in the transmittal letters prepared by Dean Ken Coates for the UTPC.

The HRT Vice-Chair was not asked to assess scholarship. He was asked to consider the evidence and to give the appropriate weight to evidence such as the external evaluation letters for G.P. and for me. On the one hand, the Vice-Chair states that he is not qualified to assess scholarship, and then he states that G.P. and I are equally qualified scholars. On the other hand, he notes that G.P. obtained 5 votes in favour of promotion out of 9 from the FTPC whereas I obtained 7. If the Vice-Chair considered that the Dean and President’s representative voted in favour of G.P. but against me... it would be clear that G.P. received only 3 votes from the elected FTPC members as opposed to 7 in favour of my promotion. The FTPC vote indicates the superiority of my application for promotion. The Appeals Tribunal and FTPC elected members are in a much better position to apply correctly the criteria for promotion clearly stated in Policy 77 than Dean Ken Coates, Professor Paré and Vice-Chair Brian Cook.

The Vice-Chair’s decision gives the testimony of Professor Paré and Dean Ken Coates, two men whose credibility was compromised by their conduct during the promotion process more weight than the elected members of the FTPC and the Appeals Tribunal. This is a serious error. The HRT decision is illogical, contrary to the evidence provided and against the HRT’s mission.

False Testimony, unreliable witness

The Vice-Chair’s decision also errs in giving consideration and weight to testimony by Professor François Paré which is inaccurate and false. The University of Waterloo did not provide “direct” evidence to support this testimony. For example, the Vice-Chair’s decision, based on Professor Paré’s testimony, claims that G.P. was recruited by the University of Waterloo. This is simply not true. G.P. applied for the job like the other applicants. His name appeared in the short list of three candidates and he was subjected to the entire hiring process : application, CV, short-list, interview with the Hiring Selection committee, presentation of research before the entire Department and teaching a real class (FR452). I attended the interview and the class, and as a member

of the Department, I had access to G.P.'s curriculum vitae (2003) which I compared to my own. Professor Paré was not an employee of the Uof Waterloo at the time and was not at all involved in the process. The Vice-Chair's decision, based on Professor Paré's testimony, that G.P. was offered promotion at his former university before joining University of Waterloo is also questionable for the simple reason that no one is offered promotion to full professor. All faculty members across Canada are subjected to a long and complicated process which begins roughly in Sept and ends in the early winter months (January, February or March). Had G.P. applied for promotion at his former university, he would have obtained it well before his employment of September 1, 2003 at University of Waterloo.

Once again, the Vice-Chair has erred in giving weight to unsubstantiated testimony by a witness (Professor Paré) whose conduct and statements (ie. on my availability, his « blatant misrepresentation » of my external evaluation letters, and « errors and omissions » in his DTPC transmittal brief) have on more than one occasion shown that his credibility is doubtful.

Similarly, the Vice-Chair fails to note that during his testimony, Professor Paré was caught in yet another "mistake" concerning something so basic as the true publication date of my second book (published in 2005). Professor Paré testified that he advised me to wait until 2007 for promotion because my second book had not yet been published and that my application would be stronger with a second sole-authored book. Evidence provided indicated that Professor Paré was well aware that I had published two sole-authored books at the time that he encouraged G.P. to apply for promotion with only one sole-authored book publication (phd book). A comparison of G.P.'s CV and my CV at the time of the promotion application shows clearly that I had published two sole-authored books, whereas G.P. was the sole-author of only one book (phd book). Evidence provided and publicly available clearly show that at the time of his application for promotion he had not produced a book other than his phd book. But as my counsel argued during the hearing, Professor Paré indicated in his DTPC transmittal report for G.P. that G.P. was the author of "two major publications".

Professor Tara Collington's testimony upon cross-examination by my counsel clearly indicated that at the time of G.P.'s application for promotion, and as a member of G.P.'s Department Tenure and Promotion committee (DTPC), she was convinced that G.P. had a manuscript for a second sole-authored book. My counsel provided evidence that this manuscript was yet another edited book, published after G.P.'s promotion and which did not include a single chapter by G.P.

The Vice-Chair has erred too often in not considering relevant and significant testimony for my case while giving undue weight to the testimony of two men whose conduct and statements compromise their credibility. This is bias and impartial treatment detrimental to my case and contrary to the HRT's mission for truth and fairness.

Pay inequity

With respect to pay inequity, the Vice-Chair (Point 87) does not refer to "direct evidence" in the form of two email messages and my testimony that I objected twice, on

two different occasions, to the fact that Professor Paré failed to correctly indicate the number of my professional activities (publications, conferences) which are used to determine the merit part of our salary increase (50% of our salary increase). I also provided “direct evidence” and testimony that I objected twice, on two different occasions, to Pare’s neglect in including my professional activities in our Department bulletin. He once claimed there was no space and then he claimed he “forgot”.

I also provided evidence that in April 2004 I asked for a salary review because I suspected that G.P. was paid more than I despite the fact I had two years more than G.P. in the profession. The Vice-Chair fails to consider this evidence and testimony and the testimony of Professor Conrad Hewitt who indicated that the Dean’s budget is limited with respect to salary increases.

Furthermore, the Vice-Chair’s decision (Point 83) refers to the report of the Working Group on Women’s Salary Equity and gives the false impression that I benefited from maternity leave and that maternity leave provides an explanation for the salary differential between G.P. and I. The inclusion of the statement on maternity leave in the decision is in contradiction of evidence provided (documents and testimony) which clearly shows that I did not lose any time or sacrifice professional development due to the birth of my only child. My son was born in 1988 and I completed my phd and began my full time professional career as assistant professor at Queen’s University in 1989, commuting from Toronto to Kingston.

The Vice-Chair’s reference to maternity leave uses maternity against me although I never benefitted from maternity leave and this is important evidence he has chosen to ignore preferring to give the impression that the salary differential between G.P. and I is due to maternity leave. This is a serious error which falls into sexual stereotypes of women by the Vice-Chair.

The Vice-Chair fails to consider other “systemic concerns” affecting women’s salary differential. In Point #88, the Vice-Chair states “there are many factors to which the [salary] difference can be attributed but he fails to give a reasonable explanation for the great gap in salary between G.P. and me.

The Decision indicates (Point 86) that the “Working Group did not review any of the identified cases of salary differential to determine if the performance ratings were appropriate”. The Vice-Chair did hear evidence concerning the performance rate I obtained in 2005 (1.75 over 2) for the publication of one sole-authored book, two refereed articles and the presentation of 3 conference papers. The Working Group indicates in 5.5 that “outstanding research is often recognized by a score of 2”.

The Vice-Chair failed to indicate that the Working Group on Women’s Salary did not examine and compare the salary of women to that of men at the same level of experience and professional activity. It was, however, within the Vice-Chair’s mandate to request and consider this information in his decision but he failed to do so. The Vice-Chair failed to thoroughly examine my salary differential and to provide a reasonable explanation.

The Vice-Chair refused to consider evidence which shows that G.P. completed his phd and began his career as assistant professor in 1991 – two years after me. Evidence (CV) and testimony show that I have two years more in the profession as well as much greater seniority in the Department. The Vice-Chair does not consider evidence which shows clearly that Working Group on Women's Salary Equity erred in examining my rate of pay since 1991 by excluding the two years full time experience as assistant professor at Queens (1989-1990) and at UofT (1990-1991). University of Waterloo did not disregard G.P's experience prior to employment at University of Waterloo (2003). This is also an indication of the differential treatment based on sex readily adopted by University of Waterloo administrators in favour of men to the detriment of women. It is impossible to suggest that this discrimination is due to « availability issues » and to « tense relations ». This gender-based discrimination exists and affects salary negotiations from the beginning.

The Vice-Chair failed to tape the proceedings

The Vice-Chair failed to tape the 5 day oral hearing of October 21, 22, 23, 2009 and November 9 and November 12, 2009 although aware of the complexity of the case and that a previous HRT ruled in favour of an oral hearing (rather than a written hearing) for reasons of « credibility » The oral hearing represents a considerable financial burden for the individual woman fighting discrimination. White, educated, middle class women do not benefit from free legal services, because, I've been told, we can « self-express ». The HRT was aware that I suffered from serious health problems brought on by the harassment, intimidation and sexual discrimination I suffered at the University of Waterloo and due to the illness of my husband who weeks after I began HRT proceedings was diagnosed (December 2008) with an advanced deadly form of brain cancer. The HRT and, in particular, the University of Waterloo knew that in this context I was not able to "self-express" and that I would therefore have to incur the costs of legal counsel which is highly dissuasive even for healthy people.

The hearing should have been taped and most importantly the evidence (documents and testimony) provided at a great expense should have been considered and given its true weight. The information in this request for reconsideration is based on documents, on my acute recollections of important facts, on my counsel's transcripts of the 5 days of the hearing and on a transcript of the closing arguments.

Page 1, Point 1 and Page 2, Point 9

Must be corrected. The conflict was about promotion from Associate to Full Professor and NOT from Assistant to Full Professor. This error gives the impression that I am an unreasonable, ambitious woman with no regard for the system in place which does not allow for promotion from assistant to full professor without first passing by the phase of associate professor. Evidence provided indicates that one is eligible to apply for promotion to full professor only after having served at least 6 years as an associate professor.

Point 3. The DTPC also identifies possible external referees. The Dean selects five names from the two lists (ten names in all). The external referees must be full professors and specialists in the candidate's specific field of expertise.

Point 10. The Vice-Chair does not make reference to testimony provided that the "integrity" of the promotion process is consistently compromised by people such as Professor François Paré who breach confidentiality and who practice character assassination to sabotage promotion and tenure of colleagues. I testified that Professor François Paré told me on February 27, 2007 that G.P.'s file was considered weak by the FTPC.

Page 3, Point 12

Corrections necessary: Professor Paré joined University of Waterloo in 2003 and NOT in 1991. He did not become a full prof in 2003. He was hired at the University of Waterloo and became the Chair of the Department in 2003 at the exact same time that G.P. and Christine McWebb were hired. Professor Paré and I are not of the same generation of professors. I am about ten years his junior both in age and in career paths.

Last sentence: should state: "In 2006-2007 there were only three members of the Department who were full professors"

Page 5, Point 20 The male faculty member identified as a comparator

Correction must be made: I stated in my testimony and my counsel argued that I was more qualified for promotion than G.P. in 2006 (at the time Professor Paré decided that G.P. apply first) and in 2007 (when Professor Paré employed numerous efforts to sabotage the success of my application). The Vice-Chair has misquoted me and this too suggests bias. I provided evidence indicating that I published two sole-authored books whereas G.P. had only published one (phd book) and that a phd book does not carry any weight for promotion to full professor. I also stated that edited books (G.P.'s 'collective' works) are clearly considered "Service" and not "Scholarship" in Policy 77.

Point 22

An important correction must be made: evidence provided in the form of two emails (2005 and 2006) clearly indicates that it was in 2006 (and not in 2005) that Professor Paré informed me that G.P. was interested in promotion and that it was "in the interest of the Department" that G.P. apply first. See also HRT Decision Point #27. The email reads "It is clear to me that you want G.P. to present his application before me although I have two more years in the profession and, I believe, just as many publications" (HRT decision p.6). This quotation also shows that I had a "new sole-authored book" [unlike G.P. who had at the time had published only one sole-authored book – a phd book].

I also provided a document (email of 2005) which shows that in 2005 Professor Paré stated that he would support my application for promotion. He changed his mind in 2006 when he learned that G.P. was interested in promotion to full professor. The Vice-Chair's decision confuses and inverts the order of these two emails and this error leads

to a misrepresentation of the evidence provided in favour of the Respondent. The Vice-Chair does not give the appropriate weight to Professor Paré's decision to delay my promotion to 2007 "in the interest of the Department" and not, as Professor Paré falsely stated during the oral hearing, with my best interests in mind, falsely claiming that my second book had not yet been published.

Point 25, Page 6

The Vice-Chair states that the "complainant was shocked by the suggestion that G.P.'s promotion should go first because she had considerably more *seniority* as a teacher at the University" but the Decision fails to mention that I argued both in my written and oral testimony that I was more qualified than G.P. I had published two sole-authored books compared to G.P.'s one sole-authored book (phd book).

The Vice-Chair also fails to consider and to give weight to my testimony concerning my meeting of February 27, 2007 with Professor Paré. The Vice-Chair describes my conversation with G.P. but fails to describe my meeting with Professor Paré of February 27, 2007 which I mentioned at least three times in my testimony and in documents I prepared for University of Waterloo administrators (Dean Ken Coates and Vice-President Amit Chakma). I stated on several occasions that on February 27, 2007, Professor Paré threatened me and that he breached confidentiality concerning G.P.'s application for promotion: it was considered weak by the FTPC both with respect to teaching and scholarship and two external evaluation letters were weak.

In failing to consider this important and consistent evidence, the Vice-Chair demonstrates bias and protects the interests of Professor Paré and G.P. at my expense and at the expense of a verdict in my favour. Evidence shows that G.P. in 2006 and 2007 was less qualified than I for promotion and this explains why he had difficulties at the FTPC level where the vote was 5 to 4. The success of his application despite the weaknesses allowed me to believe that I would not have problems at the FTPC level. The FTPC vote was 7 to 2 in favour of my promotion (the Dean voted against my promotion).

The Vice-Chair's approach confirms that university women cannot expect equal treatment, fairness and justice from our universities, our Associations and unions or from the Human Rights Tribunal of Ontario. Little wonder that university women have no faith in the system. They know that sacrificing family, quality of life, health, and economic hardship for recognition and justice is too often all in vain. The Vice-Chair's decision fails to consider evidence of the tremendous physical, mental, emotional and financial toll sustained over a long period of time due to sexual discrimination which is commonly known to be systemic in Canadian universities.

Page 7, Point 29

Important correction: in my testimony and in documents provided I stated that I feared that Professor Paré would not treat my application with objectivity and fairness. I also stated that Professor Paré was biased. It is Professor Paré who testified that he thought that my application would be denied by the FTPC. It was Professor Paré who expressed

concern about my teaching and service. These were pretexts. Policy 77 is clear on criteria for promotion to full professor. The Vice-Chair misrepresents my testimony and makes a very serious error here which, once again, is in favour of the Respondent and this despite concrete, material, direct evidence as well as testimony.

Policy 77 is clear: only a "satisfactory" level of "service" is required for promotion to full professor. This is confirmed in the Appeals Tribunal's decision. However, a "high level of achievement" is required in "scholarship" for promotion to full professor. This is quite clear and commonly understood by all faculty members. The evidence provided shows that Professor Paré sought pretexts to deny ~~for~~^{my} promotion; it shows that he was intent on sabotaging my application and that he employed numerous strategies for this to happen. His credibility is therefore questionable.

Not only does the Vice-Chair give Professor Paré's testimony undue weight but he misrepresents my testimony: "the applicant understood that Professor Paré felt that her application might be denied. He was concerned about her teaching and also about her 'service'. The Vice-Chair, however, does not refer to an email from Professor Paré to Dean Coates expressing his concerns about the FTPC decision in favour of my promotion and asks him for an "urgent" meeting to discuss this.

The Vice-Chair fails to consider my testimony concerning the experience of the only other female professor, Hannah Fournier, to have applied for promotion to full professor in French Studies (1997-1998). Hannah Fournier did not obtain promotion. G.P. however succeeded. I am the very first female faculty member in the history of French Studies (50 years) to obtain promotion to full professor.

Pages 7-8, Point 31

There is here, once again, an important error by the Vice-Chair in favour of the Respondent. His decision states: "In addition, she [Professor Victoria Lamont] was a necessary addition in order to have the requisite number of full professors". Professor Victoria Lamont in 2007 and to the present is an associate professor at the University of Waterloo and NOT a full professor. The evidence showed that there were only 5 professors in the DTPC which examined my case and G.P.'s case for promotion: 3 male full professors and 2 female associate professors. Evidence showed that University of Waterloo failed to provide gender balance in establishing my DTPC and evidence showed that I objected to this. There were no female full professors in the DTPC which examined my case for promotion. I also provided testimony that Professor Tara Collington (associate professor in the DTPC) was just promoted to associate in Winter 2006 and therefore was inexperienced and thus easily influenced and manipulated. This became obvious during her cross-examination when she expressed her conviction that in G.P.'s promotion box there was a sole-authored manuscript. She expressed surprise when my counsel provided documents which showed that even by the time of the hearing (Nov 2009) G.P. still did not have a second sole-authored book: the manuscript she saw in G.P.'s promotion box was a 'collective work'. This means that unlike me, G.P. had not published a second sole-authored book, not even by Nov 2009, at the time of the oral HRT hearing. The Vice-Chair failed to consider this evidence. He also failed to consider that this evidence further compromised the credibility of Professor Paré and

Dean Ken Coates' and it confirmed my testimony concerning Professor Tara Collington's lack of experience, vulnerability and naïveté. Had the Vice-Chair considered this evidence and the fact that Professor Victoria Lamont was, like Professor Tara Collington, an associate professor and not a full professor, he would have understood that the DTPC was not gender balanced, that associate professors can be unduly influenced and finally that the treatment I suffered was due to sexual discrimination and not due to availability (false accusations) or to 'strained relations' or to any so-called ambiguities in Policy 77.

Page 8-9, Point #35

The Vice-Chair fails to quote the sentence in my memo in its entirety and this misrepresentation is in favour of the Respondent. Evidence provided shows the following: 'blatant misrepresentation of the absolutely wonderful external evaluation letters'. The 5 external evaluation letters provided as evidence indicated that my scholarship was "remarkable" and "outstanding". Evidence provided in the form of the DTPC transmittal brief prepared by Professor Paré indicated that he rejected these qualifiers. The Vice-Chair's failure to cite the entire sentence creates the impression that I have an overinflated sense of my scholarship that conflicts with the DTPC's findings of "good to very good" (Point #34). This error is once again in favour of the Respondent and it gives the impression, once again, that my personality is a problem.

Page 9, Point 37

The Vice-Chair failed to consider and give weight to the evidence provided in the form of emails and in my Responses to the DTPC's negative decision and to the FTPC's "reservations". My Response to the FTPC records and provides proof for the various and numerous "errors and omissions" in Professor Paré's DTPC transmittal brief to the FTPC concerning my work and the various "errors" in procedure. This evidence puts in doubt Professor Paré's credibility and draws attention to his lack of professionalism, his dishonesty and the strategies employed to sabotage my case for promotion in support of sexual discrimination. The Vice-Chair's decision, however, does not give these facts and evidence the weight due to them.

Page 9, Point 39

The Vice-Chair repeats Professor Paré's testimony concerning teaching and seems to accept his idea that Policy 77 is not clear with respect to the weight to be attributed to teaching in relation to scholarship. This is clearly not true and the evidence, if considered, would lead the Vice-Chair to a different decision, rather than favouring the Respondent. My response to the DTPC and to the FTPC reservations cites directly all the passages on teaching in Policy 77 and indicates how my teaching responds to all the criteria for assessing teaching described in Policy 77. My teaching, in fact, responds better than G.P.'s teaching experience to the criteria in Policy 77. In 2006 and in 2007 I was more qualified for promotion than G.P. both in scholarship and in teaching. During the HRT hearing, I provided evidence which shows that I have taught a greater number of courses, a greater number of students and a greater variety of courses both (Undergraduate and Graduate) than G.P. The Vice-Chair also fails to consider the

evidence provided in the form of the Appeal's Tribunal's statements with respect to teaching.

Furthermore, the Vice-Chair fails to consider the evidence provided by my counsel during the hearing, that is Professor Paré's assessment of G.P.'s teaching as "[REDACTED]" for the average course rating of [REDACTED] ([REDACTED]) and his assessment of my teaching as "considerable difficulties" for my average course rating of 3.99 deliberately refusing to consider, contrary to Policy 77, the full breadth of my teaching and misrepresenting the number of Graduate courses I taught. He stated I taught 3 instead of 13 and that these 3 were one and the same course. I taught Graduate courses on 6 different topics.

The Vice-Chair's decision gives the impression that something is wrong with my teaching rather than indicating correctly that something is wrong with Professor Paré's assessment of my teaching. He fails to provide a reasonable explanation for this misrepresentation of my teaching and fails to conclude that this misrepresentation is due to sexual discrimination.

Page 10, Point 41

The Vice-Chair fails to observe that my "detailed and lengthy submission to the Faculty TPC" drew attention to the numerous "errors and omissions" in the DTCP brief ("transmittal letter") prepared by Professor Paré. I also provided material evidence to support my statements. These submissions to the HRT indicate that there are serious issues concerning Professor Paré's credibility in his statements and in his conduct. The Vice-Chair fails to consider the question of "credibility" although "credibility" was cited as the reason for the need to hold a very costly and painful oral hearing rather than a written hearing, thus giving advantage to the Respondent which has unlimited financial resources. The HRT was inconsistent. It first made access to justice and fairness very difficult (a huge financial and emotional and physical toll) and then aggravated this situation not only by refusing to consider important evidence which would have led to a decision in my favour but also by creating negative impressions about my personality and negative impressions about my teaching.

Page 11, Point 46

The Vice-Chair fails to consider the evidence provided: my formal Complaint against Professor François Paré and my letter to President Johnston informing him that I would appeal his negative decision on my promotion were both dated March 11, 2008. On April 1, 2008, I rewrote and resubmitted my Complaint to Dean Coates at his invitation. I testified that Dean Coates probably hoped that I would remove certain language – the terms harassment, intimidation and discrimination. I did not. Most importantly, the Vice-Chair does not consider my reference during testimony to an email to Frank Reynolds (at the time Chair of the Academic Freedom and Tenure Committee) dated November 26, 2007 (that is before the DTCP decision and well before President Johnston's final decision on my promotion) in which I repeated, once again, to Reynolds my desire to file a Complaint against Professor Paré for "harassment, intimidation and discrimination". Reynolds warned me that to file a Complaint before the final decision might result in the

rejection of my promotion. The Vice-Chair's failure to include this testimony in his decision favours the Respondent who suggested that my Complaint against Professor Paré was simply vindictive of President Johnston's negative decision of February 28, 2008 on my promotion. The Vice-Chair had this evidence.

Page 11, Point 48

Evidence indicates that I filed my Appeal of President Johnston's negative decision on my promotion on March 11, 2008. I filed a Grievance with Vice-President Amit Chakma on June 21, 2008, after receiving Dean Ken Coates' response of June 9, 2008 to my Complaint against Professor Paré. Amit Chakma responded to Grievance on September 29, 2008. The Vice-Chair does not represent correctly the chronology in my filing of these documents.

Page 12, Point 51

There is an important error in The Vice-Chair's statement: "the applicant then decided to abandon the grievance and filed the present Application with the Human Rights Tribunal". The Vice-Chair fails to consider evidence which shows that Vice-President and Provost Amit Chakma required that I accept the investigation as "full settlement" of the grievance without indicating remedies that would be binding to the University. In my testimony, I indicated that this was unacceptable to me because had I accepted his conditions I would have deprived myself of other alternatives such as proceeding to arbitration or to the HRT, especially had former Dean Kerton's investigation been incomplete, faulty or if remedies (if any) were unsatisfactory. Evidence indicated that my Grievance was unsuccessful and that I filed an Application with the HRT because my complaint involves several Human Rights issues ("harassment, intimidation, discrimination", "pay inequity", humiliation, etc.). The Vice-Chair fails to consider this testimony. I pointed out that arbitration would be the correct venue for the reprisals I had suffered in April 2009 (demotion to a closet-sized office - ML329) but that the only correct venue for the most important issues (harassment, discrimination, pay inequity) was the Human Rights Tribunal. It is a great error on the part of the HRT to subject me to the emotional and economic difficulties of an oral hearing and then offer a schematic, unfair and biased decision which fails to consider evidence (documents, testimonies, etc.), gives undue weight to Professor Paré and Dean Coates' unreliable testimony, and is ridden with inconsistencies, negative impressions about me -- impressions which reinforce negative stereotypes about women) and errors in law.

Page 16, Point 68:

There are two important errors here:

- 1) the Department TPC was not a "unanimous decision". The HRT Vice-Chair's decision clearly states elsewhere (Point 38) that Paul Socken presented a dissenting vote.
- 2) The HRT Decision states: "As the respondent noted, the applicant's theory must also deal with the fact that there were two women on the Department TPC who were part of the unanimous decision". The Vice-Chair refuses here to consider

the evidence provided: the two women on the DTPC were associate female professors and not full professors. There was no gender balance in the DTPC, contrary to Policy 77: 3 male full professors, 2 female associate professors. Evidence and testimony indicate that the respondent's witness, Professor Tara Collington, was recently promoted to associate professor in 2006 and was therefore inexperienced, easily influenced and manipulated (see her reaction to the manuscript in G.P.'s promotion box – she was convinced it was a sole-authored manuscript and not simply another edited book). She is also vulnerable due to the fact that she had small children and did not wish to compromise her relationship with the Chair who establishes teaching schedules (Point 16). The other woman, Professor Victoria Lamont, was not a member of French Studies (thus unable to qualify my scholarship) but was from English and she was not a full professor. The Vice-Chair refuses to consider this evidence available in testimony and in documents submitted to the HRT.

Page 17, Point 71

The Vice-Chair claims not to have received sufficient evidence regarding G.P.'s scholarship. This is clearly false. The Vice-Chair was asked to examine the five external evaluation letters written on G.P.'s scholarship. Policy 77 clearly indicates and so does the Appeals Tribunal decision on my promotion that the external specialists' opinion is the most reliable assessment of scholarship. I testified that Professor Paré told me that G.P.'s promotion had difficulty at the FTPC level. Two of G.P.'s external evaluators questioned his eligibility for promotion. The Vice-Chair indicates that G.P. received only 5 votes in favour among 9 possible votes. This very close vote confirms the veracity of Professor Paré's statements to me of February 27, 2007 on the weaknesses of G.P.'s file. The narrow margin for G.P.'s success explains the testimony that there is "vigorous debate" within the FTPC when the Dean of Arts does not respect the criteria for promotion clearly established in Policy 77. The Vice-Chair also received a copy of G.P.'s CV which indicated less publications for G.P. compared to Miraglia. He also received a copy of a negative review of G.P.'s only sole-authored PhD book. The Vice-Chair also heard testimony by Professor North that PhD books ^{do} ~~are~~ ^{carry} any weight for promotion to full professor. These documents and testimony clearly indicate the superiority of my application for promotion compared to G.P.'s. The Vice-Chair refuses to consider this preferring to speak of G.P.'s solid scholarly reputation and simply my "seniority as a teacher" (Point #25). The Vice-Chair states that he "is not in a position to make a comparison between the relative academic merits of these two scholars" but then concludes "the evidence appeared to me to indicate that both the applicant and G.P. are recognized as scholars who have contributed significantly in their respective fields of work". The Vice-Chair is inconsistent. He should consider the evidence.

During the oral hearing (in submissions – emails - and testimony), my counsel put forward evidence about my availability. These show that I was as available as my colleagues and that my relations with François became "tense" or "strained" when I decided to apply for promotion. Not only did he decide that a lesser qualified male colleague, new member of the Department, apply before me but then Professor Paré made numerous and documented efforts to compromise my application: for example,

his false accusations and rumours concerning my availability, his “blatant misrepresentation of the absolutely wonderful external evaluation letters”, his misrepresentation about my teaching and service in the DTTPC transmittal report he prepared for the Dean and FTTPC, etc.

Almost 8 months after hearing evidence, the Vice-Chair indicates in his decision that my relationship with Professor Paré remained professional at all times. However, the Vice-Chair fails to mention that the evidence (emails) submitted shows that both Professor Paré and Dean Ken Coates refused (or delayed) the announcement of my promotion. And the Vice-Chair’s decision fails to mention testimony concerning the reprisals against me after I filed a complaint with the HRT such as Professor Paré’s decision of April 2009 to move me out of ML325 (a very large office which I occupied for over ten years) to a tiny closet-sized office (ML329). My conduct has remained professional at all times despite the sabotage, sexual discrimination, harassment, pay inequity and reprisals. This says a lot about my personality and about my professionalism. But the Vice-Chair’s decision refuses to give the appropriate weight to my testimony and that of the evidence (FTTPC, Appeals Tribunal, external evaluation letters, etc.) preferring to base his decision on doubtful testimony about Policy 77, about my availability and personality from two men whose integrity and credibility have been compromised by their conduct and statements.

The appearance of conflict of interest.

Two external factors might have unduly influenced the Vice-Chair’s HRT Decision and his failure to consider evidence and testimony in my favour :

- i) the frequent references during the oral hearing to the possibility of a « judicial review » by the Respondent’s counsel, Christopher Riggs
- ii) The fact that Uof Waterloo President Johnston was being considered for the position of Governor General before and at the time of the hearing. His appointment was announced very shortly after the date of the HRT decision (July 5, 2010). The Vice-Chair took almost 8 months to write this decision. The last day of the five day hearing was November 12, 2009.

The case is of utmost public importance

This case has a direct impact on three specific and separate public bodies

- i) this case has a direct impact on all academic women across Canada and on their ability to obtain promotion, equality in the workplace, pay equity and to fight against sexual discrimination in their universities. More and more university women are becoming aware of this case, of the HRT’s decision in favour of the disclosure of confidential documents, of the Vice-Chair’s final decision (and ultimately they will learn of the various flaws in the Decision). Many of these professional women have expressed their outrage. Some have encouraged me to continue the battle, others have advised me to prioritise my health. The Academic Women for Justice, the Italian Canadian Women’s Alliance and the Status of Women and Equity Committee (resuscitated in 2008, University of Waterloo) in particular, are very much interested in

the outcome of this case. These women are also watching attentively the case of sexual discrimination filed by lawyer, Diana LaCalamita.

ii) The Vice-Chair's decision as it now stands will also set an undesirable precedent which will have a negative impact on University of Waterloo and the FAUW's autonomy in determining together new policies and changes for the benefit of all faculty members at University of Waterloo and on the correct application of Policy 77. Contrary to the HRT observations based on the testimony of Professor Paré and Dean Ken Coates, Policy 77 is very clear on the criteria for promotion regarding scholarship, teaching and service. It is easily understood by the common man and woman. To state as the Vice-Chair has done that there are different forms of scholarship, that G.P. and I are not « comparable » and that there are different interpretations of Policy 77 is to suggest that promotions at University of Waterloo are based on subjective popularity contests. This makes a mockery not only of Policy 77 and the policy makers but also of the entire tenure and promotion process at the University of Waterloo as well as discrediting the 7 elected members of the Faculty Tenure and Promotion committee (FTPC) members who voted unanimously in favour of my promotion (7 to 2 vote for me compared to 5 to 4 vote in favour of G.P who benefited from the support of the Dean and the President's rep). Most importantly, the Vice-Chair's decision undermines the absolute authority of the 3 members of the Appeals Tribunal who also voted unanimously in favour of my promotion. In adopting Professor Paré's and Dean Coates' personal and self-serving views on Policy 77 the Vice-Chair's decision shows bias and error in judgement and in law and compromises the reputation of the University of Waterloo and the many honest and talented people it employs.

iii) If the HRT were to allow the numerous errors, omissions and bias present in the selection of evidence considered by the Vice-Chair to go uncorrected, the HRT would encourage the loss of the public's confidence and faith in the HR Tribunal's ability to find the truth and obtain justice for the victims of discrimination. The financial and emotional cost of the hearing which is highly dissuasive should not be compounded by a complete loss of faith in the system and in the integrity, competence and fairness of the people at the HRT.