

**CITATION:** Dunning v. Colliers MacAulay Nicolls Inc., 2025 ONSC 4083

**COURT FILE NO.:** CV-18-00600000-0000

**HEARD:** 2025-7-9

**SUPERIOR COURT OF JUSTICE – ONTARIO**

**RE:** AMANDA DUNNING, plaintiff

AND:

COLLIERS MACAULAY NICOLLS INC. et al, defendants

**BEFORE:** ASSOCIATE JUSTICE R. FRANK

**COUNSEL:** Robert Macdonald for the defendants/moving parties  
Amanda Dunning, self-represented plaintiff

**HEARD:** Costs submissions made in writing June 25, 2025 and July 7, 2025

**COSTS ENDORSEMENT**

[1] On June 16, 2025, I released my Reasons for Decision with respect to the defendants' motion to dismiss or alternatively stay this action on the basis that the plaintiff, Amanda Dunning, has failed to comply with a December 15, 2023 order requiring her to pay to the defendants \$5,086.08 in costs.<sup>1</sup>

[2] With respect to costs of the defendants' motion, I ordered the parties to deliver written costs submissions. The defendants submitted their written costs submissions on June 25, 2025. Ms. Dunning submitted her responding costs submissions on July 7, 2025.

[3] In her responding costs submissions, Ms. Dunning seeks costs against the defendants' lawyer personally. On July 9, 2025, the defendants' lawyer requested leave to file reply submissions to address the issue of whether he should be required to pay costs of the motion personally. For the reasons outlined below, I do not require reply submissions on that issue, and I am releasing this costs endorsement without having received any reply submissions from the defendants or on behalf of the defendants' lawyer.

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<sup>1</sup> *Dunning v Colliers Macaulay Nicolls Inc. et al*, 2025 ONSC 3561

[4] The defendants' Costs Outline provides that they incurred actual fees and disbursements for this motion in the amount of \$15,146.86, inclusive of disbursements and taxes. The defendants seek costs on a substantial indemnity basis in the amount of \$11,685.56 in fees and \$459.35 in disbursements, plus H.S.T., for a total of \$13,679.68. In the alternative, the defendants seek \$9,278.11 in costs on a partial indemnity basis.

[5] The defendants' costs submission include the following:

- (a) The defendants were successful on their motion and are therefore entitled to their costs of the motion.
- (b) Ms. Dunning's materials on the motion were unnecessarily voluminous. Her long submissions were incoherent and abusive, and they complicated and prolonged the motion.
- (c) Ms. Dunning was frequently abusive, attacking and highly disrespectful of the court, court staff, and the defendants' lawyer. She accused the court of corruption. In view of Ms. Dunning's conduct on the motion, costs should be fixed on a substantial indemnity basis.
- (d) Given prior costs awards against Ms. Dunning that fixed costs on a substantial indemnity basis for similar conduct, Ms. Dunning could reasonably expect to pay costs on that scale for this motion.
- (e) The costs claimed by the defendants are both reasonable and proportionate, particularly given the importance of the motion.
- (f) Where appropriate, the defendants' lawyers delegated work to a law clerk, and the time spent and fees claimed by the defendants' counsel are reasonable in the circumstances.

[6] I have reviewed Ms. Dunning's responding costs submissions. Her submissions were largely irrelevant, went to the merits of the action, related to issues wholly irrelevant to the action or the motion, repeated arguments and conspiracy theories that have been determined to be irrelevant, and referenced case law that is irrelevant to the issue of costs. In addition, Ms. Dunning's costs submissions were excessively long. Although she was directed to make submissions no longer than 3 pages, her submissions exceeded 18 pages.

[7] As noted above, Ms. Dunning submits that costs of the motion should be paid personally by the defendants' lawyer. In my view, there is no basis for Ms. Dunning's assertion that the defendants' lawyer acted inappropriately on this motion. Further, the defendants were successful on the motion, and there are no circumstances that would justify any award of costs to the plaintiff for this motion, let alone that such costs should be paid personally by the defendants' lawyer.

[8] The overriding principles in determining costs are fairness and reasonableness; see *Boucher v. Public Accountants Council for the Province of Ontario*.<sup>2</sup> I have reviewed the parties' respective costs submissions. In addition, I am guided by the factors set out in Rule 57.01(1) when awarding costs. I have also noted the stated purposive approach to costs as set out in *394 Lakeshore Oakville Holdings Inc. v. Misek*.<sup>3</sup> Costs rules are designed to: (1) indemnify successful litigants for the costs of litigation, although not necessarily completely; (2) facilitate access to justice, including access for impecunious litigants; (3) discourage frivolous claims and defences; (4) discourage inappropriate behaviour by litigants in their conduct of the proceedings; and (5) encourage settlements.

[9] The general rule is that costs are awarded on a partial indemnity basis. However, in exceptional circumstances, the level of costs may be increased to award of costs on a substantial indemnity basis where it is necessary to note the court's disapproval of the conduct of a party in the litigation. In my view, Ms. Dunning's conduct on this motion was improper and sufficiently egregious to be deserving of sanction, and I am fixing costs of this motion on a substantial indemnity basis.

[10] With respect to quantum. I find that the time spent and rates claimed by the defendants are reasonable. I also accept the defendants' claim for disbursements in the amount of \$459.35 plus taxes.

[11] Based on the written costs submissions of the parties and considering all relevant factors, I find that it is fair and reasonable in the circumstances and within the reasonable expectations of the parties for Ms. Dunning to pay the defendants costs of this motion fixed on a substantial indemnity basis in the amount of \$13,679.68, inclusive of disbursements and taxes, within 30 days.

## **DISPOSITION**

[12] In accordance with the order I made on June 16, 2025, the stay of proceedings I ordered shall only be removed upon Ms. Dunning paying to the defendants in full:

(a) \$5,541.73 in costs owing under the December 15, 2023 order of Associate Justice Brown (defined in my June 16, 2025 Reasons for Decision as the "2023 Costs Order"); plus

(b) \$13,679.68 with respect to the costs of this motion,

for a total amount of \$19,221.41 owing in costs.

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<sup>2</sup> *Boucher v. Public Accountants Council for the Province of Ontario* (2004), 71 O.R. (3d) 291 (C.A.)

<sup>3</sup> *394 Lakeshore Oakville Holdings Inc. v. Misek*, 2010 ONSC 7238 at para 10

[13] Further, as provided in my June 16, 2025 Reasons for Decision, if Ms. Dunning fails to pay to the total costs owing in the amount of \$19,221.41, in full, within thirty days of the date of release of this costs endorsement, Ms. Dunning's claim shall be dismissed without further notice or motion and the defendants shall be entitled to apply for an order dismissing the action upon filing an affidavit certifying non-payment of the foregoing amount ordered to be paid.

**DATE:** July 9, 2025

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**R. Frank Associate J.**