

**ONTARIO SUPERIOR COURT OF JUSTICE**

**RE:** Amanda Jessica Dunning, Plaintiff

-and-

Colliers Macaulay Nicholls Inc. and Daniel Holmes, Defendants

**BEFORE:** Robert Centa J.

**COUNSEL:** Amanda Dunning, self-represented

Robert B. Macdonald, for the defendants

**HEARD:** December 30, 2022 (in writing)

**ENDORSEMENT**

- [1] On December 13, 2022, Amanda Dunning appeared before me in Civil Practice Court. She wished to schedule an appeal from the decision of Associate Justice D. Michael Brown, dated October 4, 2022, which denied Ms. Dunning leave to amend her fresh as amended statement of claim.
- [2] I reviewed the material she filed for the CPC attendance, which included her motion requisition form, the endorsement of the associate judge, her notice of appeal, and her factum on the proposed appeal. It appeared to me that Ms. Dunning's appeal was frivolous and vexatious. I directed the registrar to provide notice to Ms. Dunning that I was considering making an order dismissing the appeal under rule 2.1.02, *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194. I invited Ms. Dunning to provide up to 10 pages of written submissions explaining why her appeal was not frivolous or, put differently, how her appeal could succeed at law. On December 30, 2022, she provided 10 single-spaced pages of submissions.
- [3] I have reviewed Ms. Dunning's submissions and the amended statement of claim she would file if the decision of the associate judge is ultimately set aside. Ms. Dunning's submissions were rambling, incoherent, unfocussed, vituperative, and unresponsive to the question I asked her to address. Her submissions, like her proposed appeal, were frivolous and vexatious. This is a clear case where the abusive nature of this motion is apparent on the face of the material she has filed. This is not a close call.
- [4] For the reasons that follow, I dismiss Ms. Dunning's appeal of the order of the associate judge pursuant to rule 2.1.02. I also order pursuant to rules and 2.1.02(3) and 37.16 that

Ms. Dunning may not make any further motions in this proceeding without leave of the court.

## **Background**

- [5] In June 2018, Ms. Dunning commenced an action for breach of contract arising from an alleged verbal offer of employment and the misuse or theft of confidential information. The 13-paragraph statement of claim named “Colliers International Group Inc. – Toronto Office” and Daniel Holmes as defendants.
- [6] Essentially, Ms. Dunning alleged that Daniel Holmes interviewed her for a commercial real estate sales position, offered her a full-time position, requested that she submit a two-page business plan summarizing her ability to find land and why Colliers would benefit from creating a land division. She submitted the plan, but the defendants did not deliver on their offer of employment. Subsequently, Colliers opened a land division, which Ms. Dunning pleads was a misuse of the business plan that she submitted. She sought damages of \$102,000.
- [7] Shortly before commencing this action, Ms. Dunning commenced a separate action against her former employer: *Dunning v. Intercity Realty Inc.* (CV-18-599175). That statement of claim spanned seven pages and sought damages for wrongful dismissal and for unpaid commissions the defendants owed to her.
- [8] In this proceeding, Ms. Dunning delivered a fresh as amended statement of claim in September 2018. She amended the name of the defendant to reflect the correct legal name of the Colliers entity, she added about 40 paragraphs of additional factual allegations, and attached different legal labels to some of the same or similar factual allegations made in the original claim.
- [9] The defendants delivered a statement of defence in which they denied offering Ms. Dunning a job, denied using her business plan, denied that the plan she submitted had any value, and denied any relationship with her former employer, Intercity Realty.
- [10] The parties exchanged affidavits of documents in 2019. Ms. Dunning brought a motion to compel the defendants to deliver a further and better affidavit of documents. That motion came before Associate Justice McGraw, see *Dunning v. Colliers Macaulay Nicolls Inc.*, 2021 ONSC 6795. Associate Justice McGraw provided case management, made various orders and directions with respect to document categories, and ordered a timetable for examinations for discovery, mediation, and the scheduling of any motions arising from examinations for discovery. Ms. Dunning examined the defendant Mr. Holmes in his personal capacity and as a representative of the corporate defendant on July 12, 2021.
- [11] That brings us to the decision that Ms. Dunning wishes to appeal. In September 2021, Ms. Dunning filed a motion record of approximately 4,000 pages. Associate Justice Brown identified several flaws in the documents she filed:

Although it exceeds 4,000 pages, it is not entirely clear from the motion record filed by the plaintiff on this motion exactly what the motion is about. The plaintiff's notice of motion, entitled "NOTICE of URGENT MOTION (REVISED FOR CLARITY)" fails to comply with the requirements of Rule 37.06(a) as it contains no request for relief. Instead, it consists of a series of disparate allegations of wrongdoing by various individuals and organizations, including the defendants, their lawyers, the plaintiff's previous pro bono legal adviser and a judicial officer of this court.

[12] The motion was heard before Associate Justice D. Michael Brown on March 1, 2022. He dismissed the motion in reasons delivered on October 4, 2022. The associate judge considered Ms. Dunning's motion to be a motion to amend the fresh as amended claim in two ways.

[13] First, Ms. Dunning sought to replace "Colliers Macaulay Nicolls Inc." with "Colliers" as the defendant. Ms. Dunning asserted that Colliers Macaulay Nicolls Inc. was a fake or false name provided to her by the defendants for the purposes of obstructing her action. She alleged that this deception violated her rights under the Canadian *Charter of Rights and Freedoms*. The associate judge dismissed this request for the following reasons:

The defendants' evidence is that Colliers Macaulay is the Colliers entity the plaintiff interviewed with and is the proper defendant to the plaintiff's claims as asserted in the Statement of Claim. The plaintiff has filed no evidence that would persuade me that there exists any Colliers entity other than Colliers Macaulay that is a necessary or proper defendant to this action. There is certainly no evidence before me that would support the plaintiff's serious allegation that Colliers Macaulay Nicolls Inc. is [a] fake or false name provided to the plaintiff in order to deceive her.

[14] Second, the plaintiff wished to add approximately 70 new paragraphs to the claim to bring it to over 120 paragraphs. The associate judge refused to grant leave to amend the fresh as amended statement of claim for several reasons, including that the proposed amendments:

- a. were verbose, rambling, and at times incomprehensible;
- b. were replete with evidence and argument;
- c. had no meaningful connection to the plaintiff's underlying allegations of breach of contract and theft of intellectual property against the defendants;
- d. in some cases, demonstrated no connection to the defendants or resulted in any harm to the plaintiff;
- e. were rife with conspiracy theories about the RCMP, the Real Estate Council of Ontario, the Toronto Police Service, the Toronto Star, the Halton Police Service,

the Ontario Provincial Police, and the Financial Transactions and Report Analysis Centre of Canada;

- f. accused the defendants’ lawyers of wrongdoing;
  - g. included numerous allegations against Ms. Dunning’s former employer, who were at times referred to in the proposed claim as the “Intercity defendants,” despite the fact that they were defendants in an entirely different action;
  - h. violated rule 25.06(1) (every pleading shall contain a concise statement of the material facts on which the party relies for the claim or defence, but not the evidence by which those facts are to be proved); and
  - i. violated rule 25.11 (pleading must not be scandalous, frivolous, or vexatious or is an abuse of process of the court).
- [15] With respect to Ms. Dunning’s request to amend the pleading to include allegations against the “Intercity defendants,” the associate judge noted that she had twice sought unsuccessfully to amend her statement of claim in the *Intercity* action. First, in July 2020, Myers J. stayed her motion to amend the claim pursuant to rule 2.1.02, without prejudice to her moving to amend on properly narrowed evidence and grounds: *Dunning v. Intercity Realty Inc.*, 2020 ONSC 4339. At paragraph 8, Justice Myers noted that:
- The first paragraph of grounds relied upon in the notice of motion lists over 100 rules or sub-rules from the *Rules of Civil Procedure*. The grounds then discuss Ms. Dunning’s view of the improprieties committed by the defendants in connection with the motion for summary judgment and through the RCMP, the OPP, local police forces, FINTRAC, the Ontario Real Estate Association, the Real Estate Council of Ontario, and the Canada Revenue Agency. Amid her claims that she was denied funds to which she was due, she asks the court to undertake an investigation for adjoining landholders for whom, she asserts “no one cares.”
- [16] Ms. Dunning brought another motion for leave to amend her *Intercity* claim in 2021. The proposed claim was 165 paragraphs long. Associate Justice Brott dismissed the motion on the basis that the proposed amendments were scandalous, frivolous, and vexatious: *Dunning v. Intercity Realty Inc., et al.*, 2021 ONSC 7398.
- [17] Associate Justice Brown noted that at least two of the paragraphs referenced in Associate Justice Brott’s decision about the *Intercity* pleading were repeated verbatim or nearly verbatim in the proposed amended claim before him. He could not assess whether or not there were more identical paragraphs because the proposed pleading in the *Intercity* action was not before him.
- [18] Associate Justice Brown dismissed the motion for leave to amend, concluding as follows:

[29] The proposed amendments to the plaintiff's pleading are neither concise nor material to the claims asserted. The plaintiff's various allegations of malfeasance by law enforcement and regulatory authorities appear to be completely immaterial to the present claims against the defendants. While the plaintiff ties this conduct to unspecified defamatory statements by the defendants, there is no claim for defamation nor could there be absent proper notice under the *Libel and Slander Act*. Significant portions of the Proposed Amended Claim improperly plead evidence as opposed to material facts, including the instances where the pleading references excerpts of transcripts or tape recordings of the plaintiff's discussions with one or more individuals or lists the documents in support of the plaintiff's complaint to authorities. The Proposed Amended Claim fails to comply with the general rules of pleading under Rule 25.06.

[30] Given the general absence of materiality in the proposed amendments, the Proposed Amended Claim is also frivolous and vexatious. Many of the allegations of the proposed amendments appear to have been inserted for colour, including the numerous bare allegations of criminal conduct against the defendants and their counsel and certain non-parties to the action. These allegations are scandalous in addition to being frivolous and vexatious.

[31] Finally, to the extent that the plaintiff is attempting to amend her claim to include allegations that are substantially similar to the proposed amendments in the Intercity case that were previously rejected by either Justice Myers or Associate Justice Brott, I find that the plaintiff's motion is an abuse of this court's process. Although it is clear from the two similar paragraphs cited by Associate Justice Brott in Intercity 2021 that the plaintiff has chosen to ignore at least part of AJ Brott's ruling, the full extent of the plaintiff's abuse of process is unknown given that the proposed amended pleadings before Justice Myers and Associate Justice Brott were not included in the record before me on this motion.

[19] Ms. Dunning wished to appeal this decision.

### **CPC – November 29, 2022**

[20] On November 29, 2022, Ms. Dunning appeared before Sugunasiri J. in Civil Practice Court. The endorsement from that appearance reads as follows:

Ms. Dunning appeared at Civil Practice Court (CPC) today. When the registrar called her matter, she immediately started speaking before I could address her and opposing counsel. To assist in the orderly progress of CPC whose mandate is to schedule dates, when appropriate, to litigants seeking hearing dates for urgent short

motions, long motions and other types of proceedings, Ms. Dunning was muted. Once I explained the process, I heard from Ms. Dunning with the hope of clarifying what she was requesting. Based on her request as found above, it appears that she was requesting a hearing date to appeal a decision from Associate Justice Brown. It appears that AJ Brown may have delivered his reasons after the 3 months permitted by the *Courts of Justice Act*. Ms. Dunning believed that due to the delay in releasing the decision, the hearing that she was seeking was not an appeal but rather a hearing to address the same issues. Ms. Dunning might not have been clear on the purpose of CPC was and thought that perhaps it was an appearance to argue the merits of why AJ Brown was incorrect and how delays by the judiciary were impacting this important case. Unfortunately, after Ms. Dunning insisted on speaking over me without pause, she decided to leave the call before I could provide information on the court processes that might have assisted her, or seek submissions from the other side. Mr. Registrar advises me that afterwards Ms. Dunning sent an email to further explain her dismay with me, the court system, the registrar and other members of the judiciary.

If Ms. Dunning is interested in appealing AJ Brown's decision, however late it may have been given, her best course of action is to seek a motion date by sending an email to [civiljudgesmotions@ontario.ca](mailto:civiljudgesmotions@ontario.ca). It sounds like Ms. Dunning would like to amend her pleading and does not agree with AJ Brown's decision on the basis that he did not read or comprehend her materials. Her motion likely does not need more than 2 hours. Those are considered "short motions" and dates are obtained from the motions office whose email is above. If the motion is urgent as noted in her requisition, she can return to CPC but understanding that the only role of CPC is to assign a hearing date and not address the merits of her complaints. That will be for the judge hearing her motion.

### **CPC December 13, 2022**

- [21] Ms. Dunning came back to Civil Practice Court and appeared before me on December 13, 2022. The parties delivered the following material, which I reviewed before CPC started:
- a. Requisition to attend Civil Practice Court, dated November 21, 2022
  - b. Notice of Appeal, undated
  - c. Appeal Factum, dated November 3, 2022

- d. Defendants' brief of submissions, dated December 9, 2022, which included the reasons for decision of Associate Justice Brown and the CPC endorsement of Sugunasiri J.

[22] Based on my review of this material, it appeared to me that Ms. Dunning's appeal was frivolous and vexatious. I declined to schedule Ms. Dunning's appeal and directed the registrar to provide notice to Ms. Dunning that I was considering making an order dismissing the appeal under rule 2.1.01. On December 30, 2023, she provided 10 single-spaced pages of submissions and a copy of a proposed amended statement of claim dated December 12, 2022.

### **Rule 2.1.02**

[23] Rule 2.1.02 permits the court to stay or dismiss a motion if the motion appears on its face to be frivolous or vexatious or otherwise an abuse of process of the court. In *Gao v. Ontario (Workplace Safety and Insurance Board)*, 2014 ONSC 6100, Myers J. reviewed rule 2.1 and provided the following guidance on its application:

Rule 2.1 is not meant to apply to close calls. It is not a short form of summary judgment. But that does not mean that it is not to be robustly interpreted and applied. Where a proceeding appears on its face to meet the standards of frivolous, vexatious or an abuse of process, the court should be prepared to rigorously enforce the rule to nip the proceeding in the bud. Rigorous enforcement of this rule will not only protect respondents from incurring unrecoverable costs, but should positively contribute to access to justice by freeing up judicial and administrative resources that are so acutely needed to implement the "culture shift" mandated by the Supreme Court of Canada. The new rule tailors appropriate procedural fairness for the category of cases involved and is an example of early resolution of civil cases that is very much in line with the goals set out in *Hryniak*.

[24] The Court of Appeal approved of this approach in *Scaduto v. Law Society of Upper Canada*, 2015 ONCA 733.

[25] A frivolous or vexatious motion lacks a legal basis or legal merit or has been brought without reasonable grounds. Frivolous and vexatious proceedings are often identified by, among other features, their multiplicity and their use of rambling language which makes discerning a legitimate cause of action very difficult: *Van Sluytman v Orillia Soldiers' Memorial Hospital*, 2017 ONSC 692, at para. 11. In their annotation to rule 2.1 in *Ontario Superior Court Practice*, the Hons. Todd Archibald, Stephen Firestone and Tamara Sugunasiri wrote as follows:

**Signposts of a clearly vexatious proceeding...** It is expected that most cases under Rule 2.1 will not require much depth of analysis. Many of the cases are the type that will be obvious on their face. The court receives a number of unintelligible proceedings and repeat

attempts to bring the same matters on again and again. Many of these proceedings bear some of the unmistakable hallmarks of querulous litigant behaviour, such as:

*Form of pleadings*

- Curious formatting.
- Many, many pages.
- Odd or irrelevant attachments, e.g., copies of letters from others and legal decisions, UN Charter on Human Rights etc., all usually extensively annotated.
- Multiple methods of emphasis including:
  - highlighting (various colours)
  - underlining
  - capitalization.
  - Repeated use of “”, ???, !!!.
- Numerous footer and marginal notes.

*Content of pleadings*

- Rambling discourse characterized by repetition and a pedantic failure to clarify.
- Rhetorical questions.
- Repeated misuse of legal, medical and other technical terms.
- Referring to self in the third person.
- Inappropriately ingratiating statements.
- Ultimatums.
- Threats of violence to self or others.
- Threats of violence directed at individuals or organizations.

[26] The court is not to use rule 2.1.02 for close calls. However, neither the opposing parties nor the court should be required to devote scarce resources to proceedings or motions that are clearly frivolous and vexatious. Allowing such proceedings to occupy space on the court docket takes time away from other, more meritorious cases. There is simply no benefit to allowing clearly frivolous and vexatious proceedings to continue.

**Application to Ms. Dunning’s appeal**

[27] With the benefit of Ms. Dunning’s submissions, I reviewed again her notice of appeal and factum. I am satisfied that her appeal is frivolous and vexatious.

Ms. Dunning's notice of appeal

- [28] Ms. Dunning's notice of appeal is clearly vexatious and abusive. It has many of the hallmarks of a vexatious court document.
- [29] First, Ms. Dunning attacks the Superior Court of Justice and its judges. Ms. Dunning states that the associate justice is "not up to the job," calls the Superior Court of Justice "corrupt" and "far past any possibility of redemption." She asserts that Morawetz C.J.O. is "unfit to rule over this court and was put in place in 2019 for the purpose to suppress me and this case."
- [30] Second, Ms. Dunning asserts conspiracy theories against a large number of individuals and entities that are not parties to the claim, including staff at the Real Estate Council of Ontario, the Halton Police Service, the Toronto Police Service, and the Post Office.
- [31] Third, the notice of appeal is replete with irregular formatting including text that is bolded, underlined, or italicized.
- [32] Fourth, Ms. Dunning's grounds for the motion include, among other things, sections 7, 8, 12, and 15 of the *Charter* (which have no application to this action between private citizens), and hundreds of sections and forms from the *Criminal Code*, R.S.C., 1985, c. C-46 (which have no application to this dispute).
- [33] It will suffice to provide one example of the vexatiousness of the notice of appeal (formatting as in Ms. Dunning's notice of appeal):

**This motion has been yet another exercise in the court corruption which is humiliating given the evidence, Just as in the Intercity case where Master Brott deliberately failed to mention that a proved and confirmed *minimum of \$238 Billion* dollars will be made by the builders who bought all the land in Milton from which the Plaintiff was to receive her agreed upon 20% of the total commission(s) kept by the defendants, and a confirmed *minimum \$17 Billion dollars* will be made by "South Georgetown Landowners group" who now changed their name to "South West Georgetown landowners group" because they bought so much of the land in Halton Hills from which the Plaintiff was to receive her agreed upon 20% of the total commission(s) kept by the defendants. And where Justice Brott failed to mention in a tape recording of the broker of record admits that his son, Lou Grossi, Sam Pisani and Alda Neves Dube kept the Plaintiffs commission's (plural) for themselves and admitted there was more than one property sold/paid out, even at that time. LIKEWISE Associate Justice Brown appears to have his head in the ground having never heard of the rcmp class action or the fiwa group or the Macleans article. The court exists in a bubble from which they**

are covering their own eyes with one hand and have their other hand out, palm open. We have to reiterate the same facts in the prior motion and force yet another party to be complicit in this corruption.

Ms. Dunning's factum

- [34] The document titled "Plaintiff's Appeal Factum" has many of the same problems demonstrated by the notice of appeal. The factum also had many of the hallmarks of a vexatious court document.
- [35] First, the factum does not clearly or coherently explain how and why the associate judge erred in consideration of her motion for leave to amend the fresh as amended statement of claim.
- [36] Second, the factum does not provide a coherent request for relief (formatting and spelling as in original):

RELIEF REQUESTED TODAY

**Again, there is no amount of money that can repay the Plaintiff for the enormous damage that has been caused by Daniel Holmes and his friends the "repeated gang rape" of her work, time, reputation and by Colliers. The list of offences are too numerous and long and the Plaintiff isn't going to allow this court to waste one more day of her time or make a fool out of her and this process any longer. Not only has there been a frenzy by the two connected defendant's in REPEATED theft of large amounts of work and time but her info distributed across borders and causing an enormity of cases and theft to chase and expose. The plaintiff has her own government working against her and take from her for themselves and keep her down and has gathered that evidence. This is all because this high school educated misogynist wants to be recognized and take over the Plaintiffs life and existence and all without any work.**

- [37] Third, the factum includes six pages of text (much of bolded or otherwise marked for emphasis) that was highlighted in yellow. It appears that this text simply reproduced text from Ms. Dunning's proposed statement of claim.
- [38] Fourth, the factum reiterated conspiracy theories regarding many people who are not defendants in the action including an unnamed family member of the defendant's friend, the RCMP, the OPP, the Toronto Police Service, the Hamilton Police Service, FINTRAC, the Toronto Star, and the Privacy Commissioner.
- [39] Fifth, the factum attacks the lawyers for the defendants, which is a common feature of a vexatious court filing.

- [40] Sixth, the factum attacks people who appear to have nothing to do with the dispute between the parties. For example, it calls the “figure head” of Probono Law Ontario “negligent and corrupt” and asserts that he was “put up” to his conduct by the lawyers for the defendants in both this proceeding and the *Intercity* action.
- [41] Seventh, the factum raises issues that have nothing to do with the action against the defendants. For example, the factum states that “the plaintiff had suffered gross negligence and medical malpractice without her agreement, knowledge or consent 12 years ago.”
- [42] Paragraph 11 of the factum is representative of the lack of focus and vexatiousness of the factum (spelling and formatting as in Ms. Dunning’s factum):

REITERATED - The Plaintiffs charter of rights and freedoms section 15 has been violated by a false police report placed by the defendant’s friends family member who violated her personal trust and went so far as to have sex with her in order to block the Plaintiff system wide throughout all factions of policing and oversight by the rcmp, the opp, the Toronto police, the Halton police, fintrac, reco, the police association, the toronto star, the privacy commissioner, civilian oversight, etc. among others. The plaintiff has a lot of evidence having met with each of these entities that can be delivered in a further revised schedule A for the new claim. Some pieces of evidence have already been provided to the defendants and in this motion record.

#### Ms. Dunning’s submissions

- [43] On December 30, 2022, Ms. Dunning delivered a dense 10-page, single spaced set of submissions. Her submission contained over 8,000 words. The submissions are rambling, incoherent, and unfocussed. Ms. Dunning’s submissions do not answer the key question of how her appeal could succeed at law. Ms. Dunning’s submissions display many of the same vexatious features as did her earlier documents that triggered my request for her submissions. I will provide only a few examples.
- [44] First, Ms. Dunning’s submissions malign judges and associate judges of the Superior Court of Justice, many of whom had no involvement in the matter under appeal. For example, Ms. Dunning stated that Justice Myers (who decided a motion on the *Intercity* case, not this case) was “behind the scenes doing everything unethically in his power to keep the case stagnant”, that Myers J. “has done this before for the defendants sabotaging the entire legal process”, and that he “made the cardinal sin of determining a case before having seen or read any evidence and only listening to one side.” Ms. Dunning states that one associate judge (not the associate judge who decided the motion that she wishes to appeal) is described as seeming “to suffer from a drinking problem.” She also criticized my decision to engage rule 2.1.02 (formatting and spelling as in original):

Justice Centa cruelly made a production reiterating twice how important it was to in another case heard at cpc court to wrap up a wrongful dismissal claim as the injured party an admin out of work for 8 months and the case only two years old, how she needs money. Justice Centa then had the cold abrupt careless attitude with the Plaintiff who is stating the same and being out of funds for 7 years++ the slander, interference, etc. a silent contrived high five between he and Robert Macdonald apart of the Judge Myers puppet master stagnation regime. As Chrystia Freeland the finance minister said under oath a few weeks ago, “Canada is a joke, no one will invest in Canada”. That is what all the banks, execs said to her in the United States. The Plaintiff a decade earlier hearing the same words from execs all over the world visiting her place of work. Its because of this humiliating absence of a justice system. The Plaintiff treated disdainfully, without reason or cause and in a case that could generate the headlines like Bernie Madoff given the amount of money and the extreme greed and misogyny. The amended claim is well written, its factual, its concise....

- [45] Second, Ms. Dunning’s submissions do not address the matters in her appeal. Instead, she focuses on a host of issues that appear to have no meaningful connection to her action for breach of contract and theft of intellectual property against the defendants. For example, Ms. Dunning discusses her alleged mistreatment at Mt. Sinai hospital for a gastro-intestinal issue. She also discusses damages she suffered from the inappropriate placement of her “cranial facial dental braces,” whether or not that required surgery or some other medical treatment, and whether or not a California doctor committed acts of medical negligence leading to scarring.
- [46] I will provide one representative example of the frivolous and vexatious nature of her submissions. This portion of her submissions addressed the conduct of a person who was not a defendant, but may have been a friend of a defendant:

Its important to note that at the end of the interaction with [A.B.] around the 5th or 6th date when he had sex with [the Plaintiff], [A.B.] has a deformity, he has an unusually tiny penis as in there was an accident during circumcision or genetic mutation perhaps and he suffers from erectile dysfunction and although the Plaintiff shouldn’t be mentioning this very taboo topic it must be said because aside from text message evidence not submitted to be kind, it proves that the sexual act did in fact take place and the Plaintiff has intimate knowledge about him. Furthermore, the Plaintiff can say having a psychology degree and experience in the field that [A.B.] definitely doesn’t like women. It must be said that the perpetrator of the false police report was accused formerly of raping his colleague in Nunavut and that he counter sued and apart of the counter sue asked for his dream job apart of the deal. [A.B.] in

relaying this story laughed about the former colleague having cancer and was dying. [A.B.] told the Plaintiff to give him a call when she fixed her teeth. The Plaintiff oblivious thought that he was a god sent because of his role and he was in fact the enemy. This is the caliber of the individual who was allowed to indiscriminately ruin the Plaintiff's life, career, reputation, income, prospects and with such sociopathy that the foursome of [names redacted] can only be described as similar to "A Clockwork Orange". In the case of Tonya Harding, her husband went to prison for what he did to Nancy Carrigan but it was done to benefit Tonya, so Tonya was banned from skating. Likewise, [A.B.] should go to prison, but it was to benefit Terry, Scott and Daniel who should never be allowed to work in real estate or businesses.

- [47] Third, her submissions continue to raise wild conspiracy theories. For example, Ms. Dunning states:

Greg/Daniel Recently intercepted Plaintiffs phone, then using Twitter and create fake profiles on social media and induced her to creating Telegram account and then impersonating a reporter from CNN and impersonating Tom Cruise and impersonating a police officer from Washington DC which is near where she has her registered patents.

- [48] Finally, her submission contains inappropriate comments based on discriminatory stereotypes, such as "[C.D.] is Italian and yes, all Italian men are inappropriate with women and lack boundaries."

### **Conclusion**

- [49] In my view Ms. Dunning's appeal of the associate judge's order dismissing her motion for leave to amend her fresh as amended statement of claim is frivolous, vexatious, and an abuse of process. Her attempt to re-litigate issues that were determined by Justice Myers and Associate Justice Brott in the *Intercity* action is troubling. Her notice of appeal and factum contain many of the classic hallmarks of vexatious court filings.
- [50] The notice of appeal raises only two discernable grounds of appeal. Even if these grounds were extremely weak, Ms. Dunning would be permitted to pursue them if she did so in a way that was not patently frivolous and vexatious. However, viewed in light of the material she filed and her submissions, the grounds are not nearly strong enough to justify permitting this appeal to proceed.
- [51] First, she submits that because the Associate Judge released his decision more than six months after the hearing of the motion, it is a nullity. This submission misunderstands how s. 123 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 operates. While unfortunate, delivering reasons for decision outside of the time limits contained in the *Courts of Justice*

*Act* does not render a decision a nullity: *R. v. Teskey*, 2007 SCC 25, [2007] 2 S.C.R. 267 at para. 40; *R. v. Cunningham*, 2011 ONCA 543, 106 O.R. (3d) 641 at para. 43; *Nicholas C. Tibollo Professional Corp. v. Wasserman Associates Inc.*, 2011 ONSC 4742, at para. 70.

- [52] Second, she submits that the “the court ignores the 4,000 pages and related evidence and then complain there is too much evidence and then complains about the amended claim when all the points are simple and have already been proven and then pivots to a 100 year old tradition that all women’s accusations are ‘conspiracy’”. She does not, however, point to any evidence relevant to a proposed amendment to her claim that was itself permissible. This ground of appeal is really nothing more than a restatement of her conclusion that her motion for leave to amend should have been granted.
- [53] Far from answering my concerns about the frivolous and vexatious nature of her appeal, Ms. Dunning’s submissions heightened them. She was given a chance to provide a written explanation of how her appeal could succeed. Instead, she provided a rambling and incoherent submission that confirms for me that her proposed appeal is frivolous and vexatious.
- [54] Pursuant to rule 2.1.02(1), I order that Ms. Dunning’s motion appealing the order of Associate Justice D. Michael Brown dated October 4, 2022, be dismissed as frivolous, vexatious, and an abuse of process.
- [55] Pursuant to rules 2.1.02(3), I also make an order under 37.16 to prohibit Ms. Dunning from making further motions in this proceeding without leave of the court.

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Robert Centa J.

Date: January 3, 2023