

CITATION: *Tannis v. The City of Ottawa*, 2025 ONSC 4378
OTTAWA COURT FILE NO.: CV-25-99816
DATE: 2025/07/28

SUPERIOR COURT OF JUSTICE – ONTARIO

RE: THE HONOURABLE DR. WINSTON GEORGE N. TANNIS
Plaintiff

AND

THE CITY OF OTTAWA, THE MAYOR OF OTTAWA
MARK SUTCLIFFE, THE TREASURER OF OTTAWA
WENDY STEPHANSON

Defendants

BEFORE: Madam Justice S. Corthorn

COUNSEL: Self-represented plaintiff
Mary Simms, for the defendants

HEARD: In Chambers

ENDORSEMENT

Introduction

[1] In a letter dated June 18, 2025, addressed to the Registrar of this court (“the Letter”), counsel for the defendants requests the dismissal of the action against the individual defendants. Included with the Letter are copies of a notice of action, issued on May 9, 2025, and a statement of claim, bearing that date. The Letter, with the attached documents, came before the court on June 26, 2025.

[2] The author of the Letter requests that the action against the individual defendants be dismissed on the basis that the claims against those defendants are “frivolous and vexatious or otherwise an abuse of the process of the court.” The request is made pursuant to r. 2.1.01(6) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 (“*Rules*”).

[3] The statement of claim is referred to herein as “the Pleading”. Unless otherwise stated, the court’s consideration of the request pursuant to r. 2.1.01(6) is based on the claims set out in the Pleading.

[4] In the balance of this endorsement, I review the Pleading, consider the principles to be applied by the court when determining a request pursuant to r. 2.1.01, and apply those principles to the request made in June 2025.

The Statement of Claim

[5] The notice of action, including the standard form wording, is less than two full pages long. The substance of the plaintiff's claims are set out in three unnumbered paragraphs.

[6] The Pleading is not in the correct form. The plaintiff did not rely on the form for a statement of claim prescribed to be used in conjunction with a notice of action.

[7] The Pleading is two and one-half pages long. The first page of the Pleading consists of the standard form wording for a statement of claim used when no notice of action has been issued. The substance of the plaintiff's claims is set out in four unnumbered paragraphs, all of which appear on the second page of the document. Three of those paragraphs are identical to the three unnumbered paragraphs on the second page of the notice of action.

[8] The plaintiff alleges that his home was sold at a tax sale auction for less than 45 percent of its value. The plaintiff alleges that, as a result of the manner in which his home was sold, he suffered mental distress, suffered a diminution of his reputation in the community, and experienced an aggravation of both his mental and spiritual health.

[9] The plaintiff seeks both compensatory and punitive damages alleged to arise from "the illegal and unethical sale" of the plaintiff's home in Manotick, Ontario. The plaintiff does not, in either the notice of action or the Pleading, (a) state the total amount of damages he is seeking, or (b) include a breakdown of the quantum of damages claimed under each head of damages.

[10] The form on which the Plaintiff relies for the Pleading directs the user to "set out in separate, consecutively numbered paragraphs each allegation of material fact relied on to substantiate the claim." The Pleading does not include any numbered paragraphs.

[11] Instead of following the above-quoted direction, the plaintiff says the following: "Atop the material facts set out above [meaning the four unnumbered paragraphs], a full Statement of Claim shall be issued in the next 30 days, following filing of the Notice of Action on this date, with due service thereafter, and further setting out all material facts concerning the abusive and negligent conduct, and the effects on the plaintiff." If a "full Statement of Claim" was issued, or was filed, a copy of that document is not before the court for the purpose of the individual defendants' request pursuant to r. 2.1.01(6).

The Substantive Test Under r. 2.1.01

[12] Rule 2.1 establishes streamlined procedures that permit the court to fairly, and in a just manner, resolve a particular category of disputes in a timely, proportionate, and affordable way.

[13] In at least three decisions, the Court of Appeal for Ontario highlights that dismissal of an action under r. 2.1.01 is a blunt instrument, reserved for the clearest of cases: *Scaduto v. The Law Society of Upper Canada*, 2015 ONCA 733, 343 O.A.C. 87, leave to appeal refused, [2015] S.C.C.A. No. 488; *Khan v. Krylov & Company LLP*, 2017 ONCA 625, 138 O.R. (3d) 581; and *Khan v. Law Society of Ontario*, 2020 ONCA 320, 446 D.L.R. (4th) 575, leave to appeal to S.C.C. refused, [2020] S.C.C.A. No. 288.

[14] At para. 15 of *Khan v. Law Society*, the court cautions judges regarding reliance on r. 2.1.01:

We reiterate that judges should be cautious about allowing parties to have recourse to r. 2.1 except where it is plain and obvious on the face of the pleading that the action is frivolous, vexatious or an abuse of process. There are many other remedies provided for in the *Rules of Civil Procedure* by which parties can deal with cases that are not clear on the face of the pleading.

[15] In a decision released in early 2025, the Court of Appeal for Ontario again emphasizes that r. 2.1 applies in limited circumstances: *Kokic v. Johnson*, 2025 ONCA 4, at para. 6. In the same paragraph, the Court of Appeal highlights that r. 2.1 “serves an important role in screening out meritless claims that drain the limited resources of the justice system.”

[16] The principles to be applied by a judge considering a requisition under r. 2.1.01 include, but are not limited to, the following principles:

- The statement of claim must be read generously. Drafting deficiencies may be overlooked and the plaintiff given the benefit of the doubt if it appears that the action might be viable;
- “[R]ule 2.1 is not for close calls. Its availability is predicated on the abusive nature of the proceeding being apparent on the face of the pleadings themselves”: *Raji v. Borden Ladner Gervais LLP*, 2015 ONSC 801, at para. 9;
- An action should be dismissed under r. 2.1 only if “the frivolous, vexatious, or abusive nature of the proceeding [is] apparent on the face of the pleading [and there is] a basis in the pleadings to support the resort to the attenuated process of rule 2.1” : *Raji*, at para. 9;

- The procedure under r. 2.1.01 should not be used as a substitute for a pleadings motion; and
- The procedure is intended to serve the purpose of “nipping in the bud actions which are frivolous and vexatious in order to protect the parties opposite from inappropriate costs and to protect the court from misallocation of scarce resources”: *Markowa v. Adamson Cosmetic Facial Surgery Inc.*, 2014 ONSC 6664, at para. 3.

[17] By applying the above principles, the court fulfils its role as a gatekeeper of the justice system. In *Lochner v. Ontario Civilian Police Commission*, 2020 ONCA 720, at para. 21, Pepall J.A. says, “Abusive litigants should be screened out of the system so that parties with true justiciable disputes may have them adjudicated by the courts.”

[18] To determine whether an action may be characterized as “vexatious, frivolous or an abuse of the process of the court” under r. 2.1.01, the court may consider the criteria developed for applications pursuant to s. 140 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 (“CJA”). Pursuant to that section the court has the discretion to grant relief from vexatious litigation or vexatious litigation conduct.

[19] Alternatively, the court may consider the typical characteristics of the form and content of an action brought by a “querulous litigant” as reviewed by Myers J. in *Gao v. Ontario WSIB*, 2014 ONSC 6497, 37 C.L.R. (4th) 7, at para. 15.

[20] At para. 9 in *Gao*, Myers J. refers to the definition in Black’s Law Dictionary of “frivolous”: “Lacking a legal basis or legal merit; not serious; not reasonably purposeful”: quoting from *Currie v. Halton Regional Police Services Board* (2003), 179 O.A.C. 67, at para. 14.

[21] Care is to be taken, however, not to dismiss an action out of hand simply because the plaintiff either has difficulty communicating their claim or has previously engaged in unsuccessful litigation. See *Gao*, at para. 18, wherein Myers J. says the following:

It should be borne in mind ... that even a vexatious litigant can have a legitimate complaint. It is not uncommon for there to be a real issue at the heart of a vexatious litigant’s case. The problem is often that the litigant either cannot properly communicate the concern or, more typically, cannot accept that the law may not provide the remedy sought despite the unfairness felt by the litigant. While rule 2.1 should be applied robustly to bring an early end to vexatious proceedings, the matters should not be considered lightly or dismissively.

[22] In *Scaduto, Khan v. Krylov, and Khan v. Law Society*, the Court of Appeal endorses the approach taken to r. 2.1.01 in *Gao and Raji*.

The Procedure Under r. 2.1.01

[23] Under r. 2.1.01(6), the judge considering a request for dismissal of an action under r. 2.1.01(1) may seek written submissions from the parties. When doing so, the court follows the procedure set out in r. 2.1.01(3). Where further submissions would serve no purpose, the judge may waive the requirement for them.

[24] As observed by the Court of Appeal in *Khan v. Law Society*, at para. 8, “if, after requesting submissions from the plaintiff as to why the action should not be dismissed under r. 2.1, the court feels it necessary to seek submissions from the defendants (who are seeking the dismissal), the fact that these additional submissions are needed ought to be a good indication that the situation is not one of those clearest of cases where the Rule should be invoked.”

[25] The court’s decisions on requests pursuant to r. 2.1.01 are intended to be made in a summary manner and may, in the court’s discretion, be made without written submissions: see *Ahmed v. Ontario (Attorney General)*, 2021 ONCA 427, at para. 7; *Amikwabi v. Pope Francis*, 2022 ONCA 236, at para. 2.

Analysis

[26] Judges determining a request under r. 2.1.01 must “allow generously for drafting deficiencies and recognize that there may be a core complaint which is quite properly recognized as legitimate even if the proceeding itself is frivolously brought or carried out and ought to be dismissed”: *Gao*, at para. 18.

[27] Before considering the substance of the plaintiff’s claims against the individual defendants, I return to the form of the Pleading. There are deficiencies in the form of the Pleading. For example, the Pleading does not comply with the requirement set out in r. 25.06 for the paragraphs to be sequentially numbered.

[28] The Pleading does not comply with the requirement, stipulated in r. 25.06(1), that a pleading “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.” For example, the introductory unnumbered paragraph, which appears only in the Pleading, concludes with the following statement: “At administrative and public law it is said that you do not take a sledgehammer to a problem when such is not needed or necessary, and because such grossly violates constitutional principles entrenched in Canada’s Charter of Rights and Freedoms.” Commentary of that type is not properly part of a pleading.

[29] In the bullet points listed below, I summarize the plaintiff's allegations against the defendant, The City of Ottawa ("the City"):

- In the first unnumbered paragraph, the plaintiff claims entitlement to compensatory and punitive damages based on "the conduct of the City of Ottawa and its public and municipal officials and employees";
- Also, in the first unnumbered paragraph, the plaintiff refers to "the City's grossly negligent and abusive and unreasonable and highly unjust and disproportionate decisions and behaviours"; and
- In the third unnumbered paragraph, the plaintiff alleges that the City "unnecessarily sold the plaintiff's house at tax sale auction for less than 45% of its value". In the same paragraph, the plaintiff alleges that the City refused to bring the tax sale process to an end, averting a sale at auction, despite the plaintiff's repeated requests for the City to do so.

[30] None of the allegations summarized in the preceding paragraph relate to any acts or omissions said to be those specifically of one or both of the individual defendants. Only the second unnumbered paragraph includes a reference to the individual defendants by name. The plaintiff therein makes the following allegation: "The municipal conduct by the City and through the Treasurer and Mayor constitute gross negligence and abuse of power, of malicious and grossly unfair, unjust, disproportionate and unreasonable nature."

[31] The same lawyer of record represents all three defendants. The request pursuant to r. 2.1.01, now before the court, is on behalf of the individual defendants. The City is not, at this time, requesting relief pursuant to that subrule.

[32] Reading the Pleading generously, overlooking the drafting deficiencies, and giving the plaintiff the benefit of the doubt, I conclude that the action against the individual defendants is not viable. The frivolous and abuse nature of the claims against those defendants is apparent on the face of the Pleading. The plaintiff does not have a justiciable dispute against the individual defendants. A pleadings motion is not required to address the plaintiff's claims against the individual defendants.

[33] Nothing in this endorsement is intended in any way as commentary on or a finding regarding the plaintiff's claims against the City. Issues related to the plaintiff's claims against the City are not before the court at this time.

Conclusion

[34] The claims against the individual defendants are not justiciable; on the face of the Pleading, the claims against the individual defendants are frivolous and an abuse of the process of the court. My findings with respect to the claims against the individual defendants are not a matter of a close call.

[35] No purpose would be served by requiring written submissions and I waive the requirement for them.

[36] The plaintiff's claims against the individual defendants are dismissed. There shall be no costs payable related to the request, pursuant to r. 2.1.01, made by the individual defendants.

Date: July 28, 2025

Madam Justice Sylvia Corthorn

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Released: July 28, 2025