

**SUPERIOR COURT OF JUSTICE - ONTARIO**

**RE:** Amanda Martin, Plaintiff

**- and -**

The City of Mississauga, Geoff Wright, Kimberley Leslie, and Bob Levesque,  
Defendants

**BEFORE:** MacNeil J.

**COUNSEL:** Amanda Martin – Self-represented Plaintiff

Thomas J. Gorsky and Ella Vitols (SAL) – for the Defendants

**HEARD:** July 16, 2025

**REASONS FOR DECISION**

[1] The Plaintiff made this motion seeking various relief, including an order setting aside the parties’ signed Minutes of Settlement, dated March 14, 2024 (“the Settlement Agreement”); a declaration that the City of Mississauga (“the City”) has breached the terms of the Settlement Agreement; a finding that the City made fraudulent and/or negligent misrepresentations during the negotiation and enforcement of the Settlement Agreement; a declaration that the City’s conduct constitutes bad faith and an abuse of process; and an order that the action continue as if there had been no settlement.

[2] The Defendants oppose the Plaintiff’s motion arguing that it is an abuse of process and is frivolous and vexatious as she is relitigating the same allegations she made previously, that were subsumed in the settlement reached between the parties. The Plaintiff’s allegations of “fraud” are not related to the entering into of the Settlement Agreement and, in any event, are unsupported by any evidence. It is the position of the Defendants that they have fully complied with their obligations under the Settlement Agreement and the action has been dismissed on consent. The Plaintiff’s motion should be dismissed because none of the facts alleged by the Plaintiff, even if true, constitute a legal basis to set aside a settlement. The Plaintiff is acting in an egregious manner with bad faith, making “spurious allegations of fraud” and “acts of extortion”.

**BACKGROUND**

[3] The Plaintiff was employed by the City of Mississauga until March 7, 2016, when her employment was terminated.

[4] On March 1, 2017, the Plaintiff commenced a wrongful dismissal action against the Defendants, combined with various tort claims.

[5] The Plaintiff had legal representation from the commencement of the litigation until she served a notice of intention to act in person on September 15, 2023. However, the evidence shows that the Plaintiff, while self-represented, continued to receive some limited legal assistance from her former lawyer, and that she spoke with a new lawyer about the litigation prior to signing the Settlement Agreement.

[6] The Plaintiff was subject to two costs orders totalling \$12,200.00, which the Defendants advise remain unpaid, as follows:

- (i) on November 22, 2018, Justice Carpenter-Gunn ordered the Plaintiff to pay costs in the amount of \$3,200.00 respecting her unsuccessful appeal of the Order of Master McGraw (as he then was) dated June 25, 2018; and,
- (ii) on January 8, 2019, Master McGraw (as he then was) ordered the Plaintiff to pay costs of \$9,000 respecting a successful motion made by the Defendants for leave to amend their statement of defence, and respecting an unsuccessful cross-motion made by the Plaintiff for document production and discovery orders.

[7] The Plaintiff made a motion, by way of a Notice of Motion dated June 14, 2023, wherein she sought an order for, among other things:

- (a) an order for the Peel Regional Police to produce Occurrence Report PR 160177302 in unredacted form;
- (b) an Order to examine Sergeant Cuoco of the Peel Regional Police;
- (c) a declaration that the City's public interest privilege claim over the Sign Shop Investigation Report was improperly made; and,
- (d) an order for the costs of the Plaintiff's discoveries thrown away.

[8] Among the stated grounds for the motion relied on by the Plaintiff were:

- In December 2022, the Plaintiff received the Peel Regional Police's response to her freedom of information request and learned that the City told Sergeant Cuoco in May 2016 that it considered the Plaintiff an associate of the principal target of the Sign Shop Investigation.
- Despite her numerous requests, the City has refused to provide an evidentiary support for its public interest privilege claim.
- The City did not advise the Plaintiff that its privilege claim had been lost prior to the start of discoveries.
- The City's claim of privilege may have been improperly made and the Investigation Report improperly withheld.

- If the City cannot produce a sufficient evidentiary basis of its public interest privilege claim, it should be sanctioned by the court.

[9] In the supporting affidavit sworn June 14, 2023, filed in relation to the motion, the Plaintiff attests, in part:

21. Sergeant Cuco told my lawyers that he did not direct Mississauga to withhold the Investigation Report from me or to claim public interest privilege over it.

26. I believe that this Court needs Sergeant Cuoco's evidence and access to the Peel Police's records to determine whether Mississauga made a proper public interest privilege claim over the Investigation Report.

54. Discoveries were held in June 2021. At discoveries, Wright testified that the police investigation into the activities in Mississauga's Sign Shop ended in 2021. Attached as Exhibit "F" is a copy of the portion of his discovery transcript where Wright states this. I learned subsequently from Det. Cuoco, the officer in charge of the investigation, that the police investigation terminated in December 2020, six months before discoveries occurred. Attached as Exhibit "G" is a copy of the email Detective Cuoco sent to my lawyer revealing that the police concluded their investigation in December 2020.

74. I believe that I have been denied disclosure of the basic facts about my case for years without justification.

[10] Two other motions were heard in this matter in late January 2024. The first was heard on January 29, 2024. It was made by the Defendants for an order requiring the Plaintiff to comply with numerous undertakings. The Plaintiff was unsuccessful on that motion and an order for costs was placed under reserve by the motion judge. The same judge heard the second motion on January 30, 2024. It was made by the Plaintiff for various relief, including striking the City's defence, further discoveries, and document production. That motion was dismissed by the motion judge.

[11] At the conclusion of the second motion, the parties agreed to participate in a settlement conference with the motion judge to see if the matters under litigation could be resolved. The parties ultimately agreed that the Defendants would pay the Plaintiff \$100,000.00 to settle her claims ("the January 30<sup>th</sup> Settlement").

[12] The motion judge's written endorsement respecting the January 30, 2024 settlement conference reads:

- 1) At the conclusion of the hearing of motion #2 and before delivery [of] reasons + costs decision a settlement conference was held to see if [?] could resolve the litigation.
- 2) Matter settled. Parties to enter into written minutes to memorialize settlement, and will execute releases & non-disclosure agreements. At time settlement

terms fulfilled the action will be dismissed without costs. The order can be sent to my attention in due course.

[13] The Defendants' counsel subsequently prepared and sent draft minutes of settlement to the Plaintiff, but she refused to sign them.

[14] The Defendants submit that the Plaintiff reneged on the January 30<sup>th</sup> Settlement, apparently because of a dispute she had with her former legal counsel over unpaid legal fees, which resulted in a motion being made by that legal counsel for a charging order.

[15] After receiving a copy of the draft minutes of settlement, the Plaintiff wrote an email to the motion judge's attention, dated February 12, 2024, setting out her concerns, stating, in part:

... I am writing to bring to your attention the minutes of settlement proposed by Mr. Gorsky following our recent motions. Upon reviewing the proposed settlement, I am concerned that it deviates from the instructions outlined in your endorsement. If I recall correctly, you specified that the funds were to be disbursed as the plaintiff sees fit and that it would be a simple one page agreement.

...

I must confess that during the settlement negotiations, I felt immense pressure and I was under considerable duress. The fear of facing a substantial cost award weighed heavily on me, especially when Natasha and Evan approached me outside the courtroom prior to our settlement negotiations to sign a consent form dismissing my case entirely to avoid a cost award.

They made it clear that failure to do so could result in crippling financial consequences, even hinting at the possibility of bankruptcy. Despite their claim that they hadn't directly discussed this approach with their client, they assured me of their client's compliance. It felt more like a threat and that this would be my only option other than going bankrupt.

Given these circumstances I am requesting your consideration for a fair, equitably [*sic*] and reasonable mediation process where I can negotiate a settlement without the looming threat of a cost award or the defendants requesting me to sign a consent form dismissing my case entirely.

I was not emotionally or mentality [*sic*] capable to request fair compensation for the following costs:

Sexual Harrassment [*sic*]  
Assault  
Bullying  
Defamation  
Breach of Charter of Rights

Wrongful Dismissal  
 Breach of Privacy, intrusion upon seclusion  
 Final payment owed in vacation  
 Portion of Legal Costs [...] incurred over 8 years  
 Reported as a suspect to police  
 Invalid privilege claim  
 [P]laced Under the 30.10 rule for over 3 years  
 Non Disclosure Agreement

By signing this agreement I will also never be able to clear my name with friends, family members or colleagues within the municipal world. The wrong doings that took place at the City of Mississauga, the large theft that occurred and my knowledge of where the money went will never be public. My story will never be heard. If you believe the settlement and negotiation process was fair given these circumstances then I just ask that you deny my request and I will seek legal counsel and sign the agreement. Whatever your decision is [...] I will respect it.

... [Emphasis added.]

[16] The Plaintiff's former law firm served a motion record, dated February 14, 2024, seeking a charging order, in relation to the settlement funds to be paid to the Plaintiff by the Defendants, for the payment of outstanding legal fees they alleged were owing to it by the Plaintiff.

[17] On February 16, 2024, the Plaintiff sent a further email to the motion judge's attention, stating in part:

I will be speaking with the defendants through my legal counsel. I will now be obtaining new legal counsel to sign the agreement. I have recently received a cost order from my previous counsel totaling \$75000 plus HST plus \$7500 for the motion totalling \$92000. ...

...

... This has taken a huge toll on my whole family and myself and my mental health and my relationship with my partner. I'm very grateful for the outcome as you have made this case come to an end. I have been given a gift to have extra time with my dad. I regret ever asking why I was fired.

Myself and my dad just want peace and closure. I am receiving emails all hours of the day and night from Mississaugas legal counsel and my previous counsel. I do not want to argue with three lawyers being funded by unlimited tax payers money. I want to pay my previous counsel fairly and move forward. I am not rich I have worked hard for everything I have. I am just a regular citizen, I did not steal, I did not ruin an investigation, I was wronged during and after my employment. My father has raised three successful women on his own and felt that an injustice occurred to me and financially assisted in proceeding with this case.

We are grateful for this to be concluded. ...

...I cannot afford a cost award I did not know to ask for legal fees and was extremely stressed out during this process. ...

Please give me time to obtain proper legal counsel and they will be in touch shortly to assist me in signing the agreement. [Emphasis added.]

[18] The Defendants’ evidence is that the charging motion was originally returnable on March 1, 2024 but was adjourned to March 14, 2024, at the Plaintiff’s request so that she could obtain legal advice and potentially retain legal counsel.

[19] On March 5, 2024, counsel for the Defendants, Mr. Gorsky, received an email from a lawyer, L. Clarke, who advised that she had “recently been retained” by the Plaintiff respecting the matter and asked if they could have a “without prejudice” call. The Defendants’ evidence is that the lawyers spoke on the telephone, but that L. Clarke did not ultimately become the Plaintiff’s lawyer of record.

[20] The Plaintiff continued to be self-represented at the return of the charging motion on March 14, 2024. It was on that date that the parties to the action, as well as the Plaintiff’s former law firm, entered into the Settlement Agreement.

[21] The relevant paragraphs of the Settlement Agreement signed by the parties read:

WHEREAS the Plaintiff was terminated from her employment with the Defendant, the City of Mississauga (the “City”) on or about March 7, 2016;

WHEREAS the Plaintiff has commenced an action in the Superior Court of Justice, as styled above (the “Action”), which include the Defendants, Kimberly Leslie, Geoff Wright ... and Robert Levesque;

WHEREAS the Action includes claims for defamation, harassment, sexual harassment, breach of Charter rights, intrusion upon seclusion, breach of privacy, assault, etc;

WHEREAS the Plaintiff has made allegations of continuing wrongdoing by the Defendants following her termination of employment, including post-employment harassment, etc;

...

WHEREAS the Plaintiff has no income loss claim in excess of \$12,844;

...

WHEREAS the settlement conference resulted in the parties to this Action agreeing to resolve all of their differences, by way of a full and final settlement (the “Settlement”);

WHEREAS the Settlement will include a full and final release by the Plaintiff against all of the Defendants, for any claims in any way relating to the hiring by the City, employment by the City, cessation of employment by the City, and post-termination event, whether known or unknown, up to the present date;

...

7. The Plaintiff agrees to execute a full and final release which accompanies these Minutes of Settlement as Schedule “A”. The Plaintiff acknowledges that the release contains further representations and covenants which form a part of this settlement.

8. Upon completion of the City’s payment obligations as described at paragraphs 2 and 3 above, Sherrard Kuzz LLP shall obtain a consent dismissal order, dismissing the Action without costs (“Dismissal Order”), as described in the paragraph below.

...

11. The Plaintiff acknowledges, covenants and agrees that, notwithstanding the cessation of her employment, she will not discuss or disclose, to other than her immediate family members, legal advisors, financial advisors, or as required by law, the existence of, or terms of, the Minutes of Settlement or the full and final release.

12. The City will not direct, instruct or authorize any City employee to engage in non-consensual communications with the Plaintiff.

13. The Plaintiff acknowledges that Marshall Kirewskie and its lawyers were instrumental in obtaining the settlement from the defendants and that the settlement the Plaintiff accepted on January 30, 2024, is the same as the Offer the Defendants previously presented in July 2023.

...

16. The Plaintiff acknowledges and confirms that in the course of their representation of her up to and including September 22, 2023, she has received independent legal advice from Marshall Kirewskie, with respect to settlement issues in this Action, including legal advice in reference to a settlement offer made in July, 2023, that is substantially similar to this Settlement, that she has read, understood and that she is voluntarily executing these Minutes of Settlement and Release without duress.

[22] The first paragraph of the Release and Indemnity, also signed by the Plaintiff on March 14, 2024, states:

IN CONSIDERATION of the terms and conditions of settlement set out in the Minutes of Settlement, attached (the “Settlement”) and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, I, Amanda Martin, on behalf of myself, my heirs, successors, administrators and assigns (collectively referred to as the “Releasor”) release and forever discharge the City of Mississauga, Kimberley Leslie, Robert Levesque and Geoff Wright, along with any parent, subsidiary, affiliated and associated person or entity, and together with all respective officers, directors, employees, servants and agents and their successors, administrators and assigns (collectively referred to as the “Releasee”), jointly and severally from any claim I may now have, or may hereinafter have, whether known or unknown at the time of signing this Release and Indemnity, in any way relating to my engagement, hiring, or employment by, or the cessation of my employment with the City of Mississauga, and any events occurring after the cessation of my employment. For purposes of clarity, this includes, but is not limited to, any claim, demand, action, cause of action, contract, covenant, whether express or implied for, or related to group insurance benefits (including disability benefits, loss of benefits, or failure to provide benefits), bonus payment(s), vacation pay, notice of termination or pay in *lieu*, severance pay, indemnity, damages for defamation, breach of Charter rights, intrusion upon seclusion, assault, harassment, sexual harassment, costs, interest, and/or loss or injury of every nature and kind whatsoever and howsoever arising, whether statutory or otherwise and specifically including, but not limited to, any claim under each of the Ontario *Employment Standards Act*, *Human Rights Code*, *Labour Relations Act*, *Pay Equity Act* and the *Occupational Health and Safety Act*, and any successor legislation, or any claim arising or reasonably capable of arising in the Action (Court File No. 17-60754).

[23] The last paragraph of the signed Release and Indemnity reads:

I ACKNOWLEDGE AND CONFIRM I have been afforded sufficient opportunity to obtain independent legal advice with respect to the details of the Settlement and this Release and Indemnity. I further confirm I have read this Release and Indemnity, understand it, and am executing it voluntarily and without duress having been afforded the opportunity to obtain legal advice and having either received such advice or chosen not to do so.

[24] After settling the matter, on March 20, 2024, counsel for the Defendants emailed the Plaintiff asking where the settlement funds cheque should be delivered. The Plaintiff responded by email dated March 25, 2024 providing the address where the cheque should be delivered.

[25] On April 8, 2024, the Plaintiff followed up with the Defendants’ counsel inquiring when she would be receiving the cheque.

[26] On April 10, 2024, the City delivered the settlement funds cheque to the Plaintiff by courier.

[27] The Defendants' counsel's office then followed up with the Plaintiff by way of emails sent on April 16 and April 18, 2024 from Mr. Gorsky asking for confirmation of receipt of the settlement funds, and by way of emails sent on May 1, May 6, May 9, and May 14, 2024 by Mr. Gorsky's assistant asking the Plaintiff to confirm that she is in receipt of the settlement funds.

[28] On May 21, 2024, the settlement cheque was cashed, following its deposit by the Plaintiff.

## ISSUES

[29] The following issues will be determined:

- (a) Should the Settlement Agreement be set aside because it was executed without the Plaintiff having legal counsel?
- (b) Should the Settlement Agreement be set aside because it was coerced?
- (c) Should the Settlement Agreement be set aside because it was based on fraud and misrepresentations?
- (d) Should the Settlement Agreement be set aside because it was breached by the Defendants?
- (e) Should the court exercise its discretion to not enforce the Settlement Agreement?

[30] While the Plaintiff initially posed a further issue, namely, whether the transcript of the May 28, 2025 cross-examination of N. Zervoudakis, on her affidavit sworn on May 7, 2025, justifies granting leave to file a supplementary affidavit under Rule 39.02(2) of the *Rules of Civil Procedure*, the Plaintiff withdrew that issue at the hearing of the motion and advised that she no longer sought that relief.

## ANALYSIS

[31] The Plaintiff moves under Rule 59.06(2) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, which provides for the setting aside or varying of an order. It reads:

**59.06 (2)** A party who seeks to,

- (a) have an order set aside or varied on the ground of fraud or of facts arising or discovered after it was made;
- (b) suspend the operation of an order;
- (c) carry an order into operation; or
- (d) obtain other relief than that originally awarded,

may make a motion in the proceeding for the relief claimed.

[32] In *Sri Guru Nanak Sikh Centre Brampton v. Rexdale Singh Sabha Religious Centre*, 2017 ONSC 6252, at paras. 42-47, affirmed 2018 ONCA 459, the judge discussed the factors to be considered in setting aside a settlement and consent order, as follows:

42 The Court has discretion to set aside a settlement where, in the totality of the circumstances, it would not be appropriate to enforce the parties' agreement. However, as a matter of public policy, a settlement ought to be enforced by the court unless enforcement would create a real risk of clear injustice. *Ruder v. 1049077 Ontario Ltd.*, [2014] O.J. No. 3595 (Ont. S.C.J.) at para. 6.

43 The fact that a settlement has been implemented by a consent order does not preclude the court from exercising its discretion with respect to the enforcement of the settlement. Rule 59.06(2) of the *Rules of Civil Procedure* permits a party to bring a motion to have a court order set aside on the grounds of fraud or of facts arising or discovered after it was made, or to have the operation of an order suspended and/or to obtain different relief than that which was originally ordered.

44 The Rules do not prescribe specific criteria for when an order may be set aside. However, the jurisprudence establishes that attempts to reopen matters that are the subject of a final judgment must be carefully scrutinized. The moving party must demonstrate circumstances that warrant deviation from the fundamental principle that a final judgment, unless appealed, marks the end of litigation. *Tsaoussis (Litigation Guardian of) v. Baetz* (1998), 165 D.L.R. (4th) 268 (Ont. C.A.), at para.20 and *Catalyst Fund General Partner I Inc. v. Hollinger Inc.* [2006 CarswellOnt 4263 (Ont. S.C.J.)], 2006 CanLII 23918, at para. 17.

45 A consent order may be set aside on any ground that invalidates the underlying settlement agreement or on a material change in circumstance after the order was made. *Joshi v. Joshi*, 2014 ONSC 4677 (Ont. S.C.J.).

46 Even where a material change in circumstance is established, the Court retains discretion to refuse to set aside the impugned order based on such factors as prejudice to the other parties or unreasonable delay in bringing the motion. *Hodge v. Toronto Police Service*, 2015 ONSC 5508 (Ont. S.C.J.).

47 In all cases, the onus is on the moving party to show that circumstances warrant making an exception to the fundamental rule that final judgements [*sic*] are, in fact, final.

[33] In *Monarch Construction Ltd. v. Buildevco Ltd.*, 1988 CarswellOnt 369, 26 C.P.C. (2d) 164 (Ont. C.A.), at para. 3, the Ontario Court of Appeal affirmed that, where minutes of settlement are incorporated into a consent judgment, that consent judgment is final and binding and can only be amended or rectified on the same grounds on which a contract can be rectified, that is, when it does not express the real intention of the parties or where there is fraud.

(a) *Should the settlement agreement be set aside because it was executed without the Plaintiff having legal counsel?*

Position of the Plaintiff

[34] It is the position of the Plaintiff that the Settlement Agreement should be set aside because she executed it without having legal counsel and proper legal advice. The Plaintiff argues that this significantly undermines any presumption of informed and voluntary consent.

Position of the Defendants

[35] It is the Defendants' position that, as of March 5, 2024, the Plaintiff had received information and assistance from a lawyer about the Settlement Agreement. The Plaintiff has not filed any evidence to support a finding that she did not receive such legal advice.

[36] Further, the Plaintiff had from January 30 to March 14, 2024 to evaluate the \$100,000.00 settlement offer that had been verbally agreed to at the settlement conference. This refutes her claim that she was under duress to sign.

[37] The Defendants rely on paragraph 16 of the Settlement Agreement that confirms the Plaintiff executed the Settlement Agreement without duress and that she received independent legal advice about a substantially similar offer. They also note that, on April 8, 2024, three weeks after the Settlement Agreement was signed, the Plaintiff sent an email to the Defendants' lawyer asking when she would be receiving the settlement funds. In that email, she did not express any concern about the propriety of the Settlement Agreement.

Analysis

[38] A settlement agreement is a contract and is subject to the law of contract formation. Thus, it is subject to the general law of contract regarding offer and acceptance. For a concluded contract to exist, the court must find that the parties: (1) had a mutual intention to create a legally binding contract; and (2) reached agreement on all of the essential terms of the settlement: *Bawitko Investments Ltd. v. Kernels Popcorn Ltd.* (1991), 79 D.L.R. (4th) 97 (Ont. C.A.), 1991 CarswellOnt 836, at para. 26; *Olivieri v. Sherman*, 2007 ONCA 491, at para. 32.

[39] I find that the Settlement Agreement terms are clear and unambiguous. It was prepared and sent to the Plaintiff after the settlement conference. She had the opportunity to read the Settlement Agreement and the Release and Indemnity in her own time, and she had the opportunity to seek legal advice if she wished. She was not rushed to sign the Settlement Agreement and the Release and Indemnity on January 30<sup>th</sup> itself. I also note that, in her emailed correspondence to the motion judge on February 12 and February 16, 2024, the Plaintiff indicates that she will obtain legal advice respecting the signing of the agreement. She had 2.5 months in which to do so.

[40] There is no evidence from the Plaintiff that she did not understand any of the terms of the Settlement Agreement. There is also no evidence from the Plaintiff that she did not understand that she should seek legal advice if she had any questions or concerns about signing same, or that she ran into problems finding a lawyer.

[41] Here, the Plaintiff signed a document that specifically states that she “acknowledges and confirms that in the course of their representation of her up to and including September 22, 2023, she has received independent legal advice from Marshall Kirewskie, with respect to settlement issues in this Action, including legal advice in reference to a settlement offer made in July, 2023, that is substantially similar to this Settlement” and further that “she has read, understood and that she is voluntarily executing these Minutes of Settlement and Release without duress”. There is no evidence that these are untrue statements. There is no evidence as to why the Plaintiff would sign a document that contains these statements if they were not true. The Plaintiff does not provide any reasonable explanation for why she did not take any steps to have the document and its terms explained to her by a lawyer. The Settlement Agreement terms are substantially similar to the July 12, 2023 offer to settle made by the Defendants for which the Plaintiff did have legal representation.

[42] I find that the Plaintiff clearly had the knowledge and opportunity to seek and obtain legal advice, if she wished, before signing the Settlement Agreement and the Release and Indemnity. She failed to do so. As the court held in *Zeppieri & Associates v. Cascio*, 2015 ONSC 5986, 2015 CarswellOnt 14833 (Div. Ct.), at para. 6: “Independent legal advice is not a legal requirement. There [*sic*] mere fact that such advice was not obtained does not undermine the enforceability of the agreement.”

[43] I find that the Plaintiff has not successfully made out a case that the Settlement Agreement should be set aside because it was negotiated and signed while she was self-represented.

**(b) *Should the settlement agreement be set aside because it was coerced?***

Position of the Plaintiff

[44] The Plaintiff submits that she was coerced into signing the Settlement Agreement by the Defendants’ threats of seeking costs against her for the litigation. As a result, she signed the agreement under duress.

Position of the Defendants

[45] It is the position of the Defendants that counsel are entitled to discuss litigation matters with a self-represented individual. It is not inappropriate or coercive to seek a dismissal from a self-represented litigant during a recess or break during court proceedings.

Analysis

[46] Duress, economic or otherwise, can render an agreement unenforceable against a party compelled by the duress to enter into it. Not all forms of pressure will constitute duress. Two elements are required. First, the alleged pressure exerted on the defendant must have been illegitimate. Second, the pressure must have been exerted to such a degree as to amount to “a coercion of the will”: *Taber v. Paris Boutique & Bridal Inc.*, 2010 ONCA 157, at para. 9; *Stott v. Merit Investment Corp.* (1987), 63 OR (2d) 545 (Ont. C.A.) at para. 48.

[47] The burden is on the party alleging duress to prove that duress existed. The circumstances that will constitute duress must be “quite extreme”. Antagonism and stress do not qualify as duress or economic duress: *Mayerovitch v. Breslin*, 2012 ONSC 5192, at paras. 336, 344.

[48] In this case, I find that there is no evidence that any illegitimate pressure was placed on the Plaintiff to sign the Settlement Agreement. The duress argument is merely a bald assertion. The Plaintiff states that she felt she had no choice but to sign because counsel for the Defendants told her that their client would be seeking its costs of the litigation and the amount of those costs would be substantial. Raising the issue of costs in the course of litigation is not a threat. The fact that an opposing party has stated they would be seeking their legal costs if litigation continues, is not evidence of duress. There has to be something more than the ordinary stresses felt by any litigant. The fact is that, if the Plaintiff had not signed the Settlement Agreement, then the litigation would have continued and, if she proved unsuccessful, costs could have been awarded against her. That is the reality of litigation.

[49] The Plaintiff also relies on the following allegations of intimidation and submits that these efforts, taken together, amount to intimidation, judge shopping, and procedural unfairness:

- (a) On March 26, 2025, she received a letter from legal counsel for the Defendants threatening to garnish her wages, claiming her case would be dismissed, and stating that the City would seek the “highest cost award available” against her. She argues that this correspondence was delivered “without legal basis” and was clearly meant to intimidate her from proceeding with the within motion.
- (b) Counsel for the Defendants wrote directly to the court to request case management, without enclosing the Plaintiff’s motion materials or his March 26, 2025 letter for context. This “circumvented the proper legal process and contributed to a chilling effect” on the Plaintiff’s ability to “participate fairly in these proceedings”.
- (c) On March 28, 2025, counsel for the Defendants sent the Plaintiff another email in which he “criticized” her, stating that she had “learned nothing from this experience”. She submits that “his tone and actions constitute litigation misconduct”.

[50] In my view, none of these allegations constitute intimidation or procedural unfairness. Further, none of these allegations are relevant to the issue to be determined by this court of whether the Settlement Agreement should be set aside because it was coerced, since they all post-date the signing of the Settlement Agreement.

[51] I find that the Plaintiff has not successfully made out a case of coercion or duress so as to not be bound by the Settlement Agreement.

(c) *Should the settlement agreement be set aside because it was based on fraud and misrepresentations?*

Position of the Plaintiff

[52] The Plaintiff argues that the \$12,200.00 costs awards made against her were “built on a false claim of privilege” and that this influenced her fear, and created deceit, fraud and misrepresentation. The Plaintiff submits that the City made fraudulent misrepresentations and obstructed justice in the following ways:

- (a) Records obtained through a freedom of information request revealed that the police investigation ended in May 2016, but the City officials falsely swore that the investigation continued until December 11, 2020.
- (b) During discoveries, G. Wright swore under oath that the Plaintiff’s performance was not an issue at the time of her termination. However, the City later spent five years in litigation claiming “performance concerns”, which is a direct contradiction of their earlier position.
- (c) The City never disclosed that the Plaintiff was internally investigated while employed and reported to police, despite those facts being referenced in the City’s own internal reports.
- (d) On January 8, 2024, counsel for the City submitted an affidavit falsely stating that “the Plaintiff is pointing the finger at herself and that we have never said she was a suspect”.
- (e) The Plaintiff conducted a court-ordered cross-examination of N. Zervoudakis on May 28, 2025. There were 147 refusals to answer material questions and multiple contradictions under oath.

Position of the Defendants

[53] It is the position of the Defendants that the Plaintiff’s lawyer received the freedom of information disclosure from the Peel Regional Police on or about December 21, 2022 and so she had the information in hand at that time relating to when the police investigation had ended. Accordingly, it is self-evident that the Plaintiff did not rely on this allegedly “fraudulent misrepresentation” at the time of entering into the settlement on January 30, 2024 or March 14, 2024. The freedom of information disclosure was attached as Exhibit A to an affidavit the Plaintiff swore on June 14, 2023, in support of her Notice of Motion of the same date. At paragraph 54 of her June 14, 2023 affidavit, the Plaintiff swore that she was informed by G. Wright, during his examination for discovery, that the police investigation “ended in 2021”. Accordingly, the Plaintiff was aware of the purported discrepancy in dates *prior* to signing the Settlement Agreement.

Analysis

[54] The equitable remedy of rescission is available for a false or misleading representation that induces the making of a contract. The party seeking to rescind the contract must prove that the

misrepresentation was material and that the party relied on the misrepresentation in entering into the agreement. To be material, a misrepresentation must relate to something that a reasonable person would consider to be relevant to the decision to enter the agreement. Whether a contracting party did rely on the misrepresentation is a question of fact: *Deschenes v. Lalonde*, 2020 ONCA 304, at paras. 29-30, leave to appeal refused 2021 CarswellOnt 1656 (S.C.C.).

[55] I do not accept that the discrepancy in the end date of the police investigation was a fact that was material to the settlement reached between the parties. Further, while the Plaintiff contends that false statements were made by the Defendants' affiants in this regard, she has not provided evidence that she relied on any of those false statements when entering into the Settlement Agreement, which is a necessary precondition to pursuing a claim based on fraud or misrepresentation.

[56] I find that, given the freedom of information disclosure was already in the Plaintiff's possession at the time she negotiated and signed the Settlement Agreement, she was not under any misapprehension of when the police investigation ended. She had raised the date discrepancy issue in her June 2023 motion, along with the allegation that the City had improperly claimed the public interest privilege.

[57] I find that the Plaintiff has not successfully made out a case of fraud or misrepresentation so as to not be bound by the Settlement Agreement.

***(d) Should the settlement agreement be set aside because it was breached by the Defendants?***

Position of the Plaintiff

[58] The Plaintiff submits that the Defendants breached the Settlement Agreement. She states that after she signed the Settlement Agreement, she was contacted by a witness for the City and called an "associate" and a "liar"; and that the City contacted her as a reference for someone who had applied for a job with the City. The Plaintiff further submits that the City has not returned her personal documents, including legal papers, diary and personal pictures, referenced in the City's internal investigation report, to her.

Position of the Defendants

[59] The Defendants submit that the Plaintiff's name was provided as a reference for someone who was hired by the City, and she was contacted as the reference for that person only. With respect to the Plaintiff's allegation that she was contacted by a "witness" in violation of the settlement's no-contact terms, the Plaintiff has provided no evidence as to who the individual is or how the City was involved. Regarding the Plaintiff's personal items, the Settlement Agreement did not contain a term requiring the return of such items. However, counsel for the Defendants has written the Plaintiff advising that she can pick up her personal property from his office and she has failed to make those arrangements.

## Analysis

[60] I find that the Plaintiff has not met her onus of proving that the Defendants have breached the Settlement Agreement such that it should be set aside.

[61] First, there is no evidence that the individual who contacted the Plaintiff by text was doing so in any formal or official capacity on behalf of the City or that the City had authorized or directed that contact or was even aware of it. The contact itself is comprised of a few brief texts and some memes received on September 14, 2024, October 12, 2024, June 23, 2024, and March 19 2024, that are vague and cryptic. The communications appear to have been sent from the individual's personal account.

[62] Second, to the extent the Plaintiff was contacted by the City as a reference for a job applicant, there is no evidence that she did not put her name forward as a reference or that she had informed the City not to contact her in that context. To the extent that such contact constituted a technical breach of the no-contact term contained in the Settlement Agreement, I find that such a breach is *de minimis* and of no consequence. As the Ontario Court of Appeal held in *Olivieri v. Sherman*, at para. 32, the fact that there may now be disagreement about whether a settlement has been breached does not mean that no concluded agreement ever existed.

[63] I cannot find that the Settlement Agreement should be set aside because it has been breached by the Defendants.

**(e) *Should the court exercise its discretion to not enforce the Settlement Agreement?***

[64] As the court in *Sri Guru Nanka Sikh Centre Brampton* held, at para. 101, even where a settlement agreement is found to be valid, the court is still required to assess whether it is appropriate in all of the circumstances to enforce the settlement.

[65] The Plaintiff submits that counsel for the Defendants, Mr. Gorsky, acted as a “mediator” during the settlement discussions and that his dual role raises substantial concerns regarding conflict of interest and the fairness of the process. I find that there is no evidence to support that Mr. Gorsky acted in an inappropriate manner in the course of the settlement conference. In any event, the settlement conference proceeded before the motion judge to whom the Plaintiff should have raised any concerns she had regarding Mr. Gorsky's role or conduct.

[66] The Plaintiff points to appointments of personnel within the City after the Settlement Agreement was signed, including the appointment of G. Wright to CAO on June 24, 2024 and the appointment of G. Walsh as Head Solicitor in August 2024. She also asserts that the Mayor granted G. Wright complete hiring and firing authority. I find that none of that information is relevant to the issue of whether the Settlement Agreement should be set aside.

[67] The Plaintiff submits that the Defendant has suppressed key evidence – including text messages, harassment records, and performance reviews – all of which undermines the integrity of the Defendants' affidavits; and that ongoing investigations by the Professional Engineers Ontario and by the Ministry of Municipal Affairs and Housing align with her allegations of fraud, harassment, and political interference. I have reviewed the materials filed by the parties relating

to the Plaintiff's complaints submitted to regulatory or investigative bodies. I am satisfied that there is no need or authority for the court to re-open the within litigation based on those materials.

[68] I find that there is no basis upon which to exercise this court's discretion to set aside the Settlement Agreement or the consent Order.

## CONCLUSION

[69] I am satisfied, on a balance of probabilities, that a valid settlement was reached, in that the parties mutually intended to create a legally binding contract and agreed on all of the essential terms of the settlement: *Olivieri v. Sherman* (2007), 86 O.R. (3d) 778 (Ont. C.A.). The Settlement Agreement was a specifically negotiated contract, the purpose of which was to secure payment to the Plaintiff and end the civil litigation between the parties. I accept the Defendants' submission that, by this motion, the Plaintiff is attempting to relitigate issues that have already been litigated or that she had the opportunity to litigate.

[70] Upholding valid settlement agreements is important. As held by Epstein J.A. for the Court of Appeal in *Remedy Drug Store Co. v. Farnham*, 2015 ONCA 576 (Ont. C.A.), at para. 54:

Courts are motivated to enforce settlements for good reason. ... "There are strong policy reasons for the court's attitude to settlements: it is in everyone's interest that litigation be concluded by the parties' agreement".

[71] I find that the Plaintiff has not established any factors that would vitiate the Settlement Agreement. I am satisfied that the Settlement Agreement represents a final, informed agreement. There is no evidence that the Defendants took unfair advantage of the Plaintiff. There is no evidence of unconscionability, fraud, misrepresentation, misapprehension of material fact, or any other ground that would invalidate the Settlement Agreement.

[72] Based on all of the foregoing reasons, I conclude that there is no reason to set aside the Settlement Agreement or the consent Order.

### *Dismissal for delay*

[73] The Defendants submit that the Plaintiff has delayed seeking any recourse from the court. The earliest she claimed to them that the Settlement Agreement did not prevent her from demanding additional compensation was May 28, 2024, ten days after she had deposited the settlement funds cheque. She first attempted to bring her motion on March 3, 2025, some twelve months after the Settlement Agreement had been signed and nine months after she sent her first communication objecting to the Settlement Agreement.

[74] I accept the Defendants' submission that the amount of time it took for the Plaintiff to bring her motion to set aside the Settlement Agreement – the Notice of Motion is dated May 2, 2025 – constitutes unreasonable delay and so the motion should be dismissed on that basis, as well: *International Corona Resources Ltd. v. LAC Minerals Ltd.*, (1988), 66 O.R. (2d) 610 (H.C.), at para. 61, 71, 96.

**DISPOSITION**

[75] The Plaintiff's motion is hereby dismissed.

**COSTS**

[76] As the successful parties, the Defendants are presumptively entitled to costs of the motion.

[77] I would urge the parties to agree on costs. If the parties are unable to agree on costs, they may make costs submissions as follows and submitted to the Sopinka Judicial Assistants to my attention:

- (a) By November 14, 2025, the Defendants shall serve and file their written costs submissions, not to exceed three pages, double-spaced, together with a draft bill of costs and copies of any pertinent offers; and
- (b) The Plaintiff shall serve and file her responding costs submissions of no more than three pages, double-spaced, together with a draft bill of costs and copies of any pertinent offers, by November 28, 2025; and
- (c) The Defendants' reply submissions, if any, are to be served and filed by December 5, 2025 and are not to exceed two pages.
- (d) If no submissions are received by December 5, 2025, the parties will be deemed to have resolved the issue of the costs and costs will not be determined by me.

[78] If the parties are able to settle the question of costs or if a party does not intend to deliver submissions, counsel are requested to advise the court accordingly.

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**MacNEIL J.**

**Released:** October 24, 2025