

CITATION: *O'Connell v. Paquette*, 2025 ONSC 6620
COURT FILE NO.: CV-25-86-00ES
DATE: 20251126

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:)
)
HANNAH O'CONNELL)
) Tracy Lyle and Joe Habr, for the Applicant
Applicant)
)
– and –)
)
STEPHANIE JEAN PAQUETTE and)
NOREEN NICOLE SULLIVAN, in their)
personal capacities and as ESTATE)
TRUSTEES TO THE ESTATE OF)
DONALD RICHARD SULLIVAN)
) Judith Wilcox, for the Respondents
Respondents)
)
)
)
) **HEARD:** October 16, 2025

2025 ONSC 6620 (CanLII)

HOLLOWKA J.

REASONS FOR DECISION

Overview

- [1] This application concerns the enforceability of a contested contract agreement.
- [2] Prior to his death, lawyer Donald Sullivan created and implemented a succession plan that included a written agreement allowing the applicant, lawyer Hannah O'Connell, to continue practicing law at the location now owned by his daughter, the respondent Stephanie Paquette, where the practice has operated for years. Since Donald Sullivan's death, the respondents have, in multiple ways, refused to honour the agreement. The situation can be fairly described as acrimonious.
- [3] The applicant seeks the following relief:

- a) a declaration that the written agreement between Donald Sullivan, Hannah O'Connell and Stephanie Paquette made on April 4, 2025, is in full force and effect;
- b) an order for specific performance of the April 4, 2025 agreement;
- c) an order for the respondents to remove all cameras or listening devices from the premises of 89 Ottawa Street, Arnprior, Ontario;
- d) an order that Hannah O'Connell be given unhindered and uninterrupted access to all of Sullivan O'Connell LLP's assets, including physical files, physical assets, accounts receivable and accounts not yet billed;
- e) an order that Hannah O'Connell may exercise her right to First Option to purchase 89 Ottawa Street, Arnprior, Ontario, at any time for a period of three years after she moves into the Home;
- f) an order for injunctive relief to prevent interference with the applicant's rights;
- g) the issuance of a certificate of pending litigation; and
- h) an order that the respondents shall pay the applicant's costs for the application.

[4] For the reasons that follow, I conclude that the agreement of April 4, 2025, is valid and enforceable. I find that the agreement is neither unconscionable nor unenforceable, having regard to equitable principles. Specific performance of the agreement is ordered, as well as an associated injunction to ensure its implementation.

Facts

The law firm

- [5] The applicant, Hannah O'Connell, is a lawyer, called to the bar in 2017. She practiced law with Donald Sullivan from a home office located in a house at 89 Ottawa Street, Arnprior. Stephanie Jean Paquette and Noreen Nicole Sullivan are the respondents in their personal capacities and as Estate Trustees to the Estate of Donald Sullivan.
- [6] In 2006, Donald Sullivan and Hannah O'Connell started working together, with Ms. O'Connell serving as a paralegal. Their relationship grew from mentorship to a full partnership, culminating in the establishment of Sullivan O'Connell LLP in 2017 after Ms. O'Connell was admitted to the Bar. They operated the firm from the home office at 89 Ottawa Street, where Mr. Sullivan also resided.
- [7] Over a span of approximately twenty years, Ms. O'Connell and Mr. Sullivan collaborated closely in the development of the firm. They shared or delineated responsibilities concerning legal affairs, administrative duties, and financial management. Together, they managed cases, represented clients in court, and invested jointly in the firm's infrastructure.

- [8] Mr. Sullivan and Ms. O’Connell shared a close bond that went beyond their work duties, becoming friends and confidants. Mr. Sullivan’s family regarded Ms. O’Connell as part of the family, and she cared for Mr. Sullivan during health emergencies, helping to keep the law firm running smoothly.
- [9] Mr. Sullivan was a respected lawyer in Arnprior and took pride in his legal practice. He consistently expressed his desire for Ms. O’Connell to take over the practice after his death. This wish was made clear during his illness and in discussions about succession planning.

Events leading to the contested agreement

- [10] Following the death of Sheila Sullivan, Donald Sullivan’s spouse, on December 24, 2024, Donald Sullivan's health declined. Stephanie Paquette and Noreen Sullivan, the daughters and Estate Trustees of Donald Sullivan, assumed daily care for him.
- [11] In January 2025, Mr. Sullivan opened a joint bank account with Ms. Paquette. Historically, Mr. Sullivan’s wife managed the bills and held the bank accounts in her name. Furthermore, Mr. Sullivan occasionally deposited small sums into the account to aid Ms. Paquette in paying his bills.
- [12] In March 2025, Mr. Sullivan was diagnosed with a terminal illness.
- [13] On March 31, 2025, Mr. Sullivan was hospitalized. He issued a cheque to his daughter, Ms. Paquette, for \$125,000.00, with instructions to deposit it into their joint bank account; she did so that same day.
- [14] At this time, Ms. Paquette was aware that Mr. Sullivan had outstanding balances with the Canada Revenue Agency (“CRA”), and she understood that he was concerned that any bank account held in his name might be subject to seizure by the CRA.

The creation of the agreement

- [15] On April 2, 2025, two days later, Mr. Sullivan was at 89 Ottawa Street with Ms. O’Connell, instructing her to fetch her laptop. He dictated the terms of an agreement to her in one sitting, and she was asked to transcribe what he said.
- [16] After dictating the entire agreement, they discussed its clauses. Ms. O’Connell recommended adding "prior written consent" in clause four and “fair market value” in clause six. The exact wording “prior written consent” was not used in clause four; instead, the clause was changed to say, “repair must be approved of in advance.” The phrase “fair market value” was included in clause six.
- [17] After discussing the agreement, Mr. Sullivan informed Ms. O’Connell that he wanted to talk with his daughter, Ms. Paquette, about the document before it was signed.
- [18] This agreement, dated April 4, 2025, contained six clauses:

Between DON SULLIVAN and HANNAH O'CONNELL and STEPHANIE PAQUETTE

- a) Hannah O'Connell is to carry on SULLIVAN O'CONNELL LLP and assume all of its assets, including files, physical assets (computer, printer, fax machine, etc), accounts receivable and accounts not yet billed, less Hannah's fair attribution of unfinished files to Don Sullivan's estate by way of Stephanie Paquette and Don Sullivan BNS account or trust ledger.
- b) Hannah O'Connell to move in and reside at 89 Ottawa Street, rent free.
- c) Hannah O'Connell to pay all overhead expenses ie: property taxes, hydro, heat, telephone, etc while residing there and keep the property in good repair.
- d) If Hannah O'Connell pays for any major repair during her occupation, which repair must be approved of in advance by Don Sullivan's Estate, she is to be repaid out of sale proceeds or credited on closing if she purchases the property.
- e) Funds to which Stephanie Paquette has access (Don Sullivan joint account with Stephanie Paquette at BNS, CIBC funds in "Sullivan" trust ledger from PEI sale), to cover Noreen Sullivan's household costs beyond her ODSP contribution, and minimum payments on Don Sullivan and Sheila Sullivan's line of credit, credit cards and personal income tax.
- f) This system to govern for a period following Don's death of at least three years, with Hannah O'Connell to have a First Option to purchase 89 Ottawa Street, Arnprior, at fair market value during that time. If that Option is not exercised during that period, then that Option shall expire at the end of that three year period.

[19] After dictating the agreement to Ms. O'Connell, Mr. Sullivan instructed her to prepare the necessary documents for its execution, including a Transfer that designates Ms. Paquette as a joint tenant and a Declaration of Trust to govern the transfer. The Declaration of Trust was dictated by Mr. Sullivan and reflected his intention that, although Ms. Paquette would be added to the title, her interest would vest one hour before Mr. Sullivan's death. Ms. Paquette signed the transfer documents on April 2, 2025, after receiving them via email. During cross-examination, she confirmed that, based on previous conversations with her father, she was aware the documents were forthcoming and understood her name would be added to the deed to 'protect the house' after his death. She did not discuss these documents with Ms. O'Connell.

[20] On April 3, 2025, Ms. O'Connell registered the transfer documents on title as instructed by Mr. Sullivan. That same day, he spoke with his daughter, Ms. Paquette, via video call. He expressed his wish for her to visit him at his home office and mentioned there was a document for her to sign, which they would discuss when she arrived.

- [21] On April 4, 2025, Mr. Sullivan met with his daughters, Ms. Paquette and Ms. Sullivan, at the home office to discuss the agreement. Ms. O’Connell left the room where the meeting was to take place and was not present during this discussion. According to Ms. Paquette, Mr. Sullivan informed his daughters of a document that required their signatures, assured Ms. Paquette that she would take care of the bills, and told Ms. Sullivan that she would be okay. The discussion lasted about ten minutes, as reported by Ms. Paquette. Ms. Paquette read the agreement, understood its contents, and had no questions for Mr. Sullivan.
- [22] Following this discussion, Donald Sullivan’s brother, Bernie Sullivan, arrived. Ms. Paquette then called Ms. O’Connell back into the residence and informed her that Donald Sullivan had explained the terms of the agreement document to her, and that she agreed to sign it. Ms. Paquette confirms that she read the agreement, understood its contents and each of its provisions, and signed it voluntarily. The agreement was duly signed by Donald Sullivan, Stephanie Paquette, and Hannah O’Connell in the presence of Bernie Sullivan and Noreen Sullivan, who also reviewed it. Bernie Sullivan served as a witness to the signatures.
- [23] It is not disputed that Donald Sullivan was lucid and under regular medical care at the time of signing. His physician expressed no concerns about his capacity, and Donald Sullivan took steps to explain the agreement to his daughters beforehand

Events following the death of Donald Sullivan

- [24] Donald Sullivan died on April 9, 2025.
- [25] After Mr. Sullivan's passing, Ms. O’Connell took over managing the practice, supported the Estate Trustees, and prepared to transition into the home office as planned.
- [26] In late April or early May 2025, Ms. O’Connell was informed by Ms. Paquette that the Sullivan O’Connell LLP registration had lapsed in 2022. Ms. O’Connell was unaware that renewal was necessary. Neither Mr. Sullivan nor Ms. O’Connell had altered their practice methods since that time. Upon discovering the expiration, Ms. O’Connell was compelled to convert the legal entity of the firm into a sole proprietorship, as Mr. Sullivan was deceased and unable to sign the renewal documents, which required signatures from both parties.
- [27] In June 2025, Ms. Paquette began showing reluctance to honour the agreement, demanding changes to its terms, and setting conditions. Ms. O’Connell was later denied access to 89 Ottawa Street except to run the law practice. Ms. O’Connell claims that Ms. Paquette has conducted surveillance at that address and interfered with her ability to practise law, as well as compromising client confidentiality.
- [28] By mid-2025, Ms. Paquette asserts that the creditor landscape was serious:
- a) HST returns on Donald Sullivan’s personal number had not been filed for years;
 - b) CRA arrears were significant; and

c) a CIBC line of credit was registered against the property.

[29] Ms. Paquette was unaware that the aforementioned situation existed at the time she was asked to sign the April 4, 2025 agreement. She states that this information was not disclosed to her.

The issues

[30] The parties do not precisely delineate the issues in the same manner, although there exists considerable overlap.

[31] The issues to be addressed in deciding this application are the following:

- a) Does the contested agreement satisfy the requirements of a valid contract?
- b) If the agreement is a valid and enforceable contract, have the respondents demonstrated that the contract is unconscionable and therefore should not be enforced? Should the court refuse to enforce the order due to other reasons or circumstances related to the creation or execution of the agreement?
- c) Should specific performance be ordered?
- d) Is injunctive relief appropriate if specific performance is ordered?

[32] In my view, I do not need to consider whether a certificate of pending litigation should be issued, given the outcome of this motion. The result of this application eliminates the need for this remedy.

Analysis

The contested agreement is a valid contract

Position of the parties

[33] The applicant contends that the parties—Mr. Sullivan, Ms. Paquette, and Ms. O’Connell—intended to establish a contractual relationship when they entered into the April 4, 2025 agreement. This intent was clearly conveyed through the agreement's straightforward, unambiguous language, which was understood by all parties. Concerning consideration, the applicant asserts that Ms. Paquette received substantial benefits as part of Mr. Sullivan’s succession plan, including a \$125,000 transfer on March 31, 2025, the transfer of title on April 2, 2025 which made her a joint tenant of 89 Ottawa Street, and the signing of a Declaration of Trust.

[34] The respondents argue that Ms. Paquette did not receive any consideration for relinquishing her rights. They highlight the following points: a) There was no new bargain on April 4, 2025, and therefore no consideration supporting it. The respondents claim that simply labeling earlier actions as “consideration” afterwards is not sufficient. b) The amount of

\$125,000 was transferred days earlier to meet family and estate needs. c) The joint-tenancy transfer and declaration were finalized and registered on April 2, 2025, as part of a different title-planning process. d) None of the above was promised in exchange for Ms. Paquette surrendering possession, granting a three-year option, or taking on operational risk.

- [35] The respondents also assert that both parties were operating under a common or mutual mistake sufficient to invalidate the April 4, 2025 agreement.

Discussion

- [36] A contract is established when there is an offer from one party, acceptance by the other, the intention to create a legal relationship, and consideration. These elements were outlined by the Supreme Court in *Ethiopian Orthodox Tewahedo Church of Canada St. Mary Cathedral v. Aga*, 2021 SCC 22 at paras. 34-35.

[34] As this Court held in *Wall*, at para. 29, “[w]here one party alleges that a contract exists, they would have to show that there was an intention to form contractual relations. While this may be more difficult to show in the religious context, the general principles of contract law would apply” (emphasis added). These principles are decisive of the present appeal.

[35] A contract is formed where there is “an offer by one party accepted by the other with the intention of creating a legal relationship, and supported by consideration”: *Scotsburn Co-operative Services Ltd. v. W. T. Goodwin Ltd.*, 1985 CanLII 57 (SCC), [1985] 1 S.C.R. 54, at p. 63. The common law holds to an objective theory of contract formation. This means that, in determining whether the parties’ conduct met the conditions for contract formation, the court is to examine “how each party’s conduct would appear to a reasonable person in the position of the other party”: *Owners, Strata Plan LMS 3905 v. Crystal Square Parking Corp.*, 2020 SCC 29, [2020] 3 S.C.R. 247, at para. 33.

- [37] In this case, the agreement was clear, straightforward, and unambiguous—expressed in plain English. It was understood by the parties who intended to be bound by its terms. The only issue requiring further discussion regarding the contract's validity is the consideration.

- [38] The respondents submit that the contested agreement of April 4, 2025, does not constitute a valid and enforceable contract, as no new consideration was provided, citing *McNamee v. McNamee*, 2011 ONCA 533 at para. 30.

- [39] I accept the proposition in *McNamee* that past consideration does not generally support a subsequent contract; however, respectfully, the facts of the present case demonstrate that new consideration is being provided within the agreement.

- [40] First, the document reflects the succession plan that consisted of several components designed to maintain the ongoing legal practice and simultaneously provide Ms. Paquette with material and tangible benefits. These components reflected in the document included:

- a) The transfer of \$125,000 into a joint account held by Mr. Sullivan and Ms. Paquette;
- b) The title transfer of 89 Ottawa Street, Arnprior to Ms. Paquette as joint tenant of that property; and
- c) The execution of a Declaration of Trust.

[41] I acknowledge the respondents' submission that the agreement was signed after the provision of the \$125,000 and the transfer of title to Ms. Paquette. Under a narrow interpretation, this would not constitute new consideration for the agreement of April 4, 2025. However, it is my view that the circumstances should be considered holistically and not dissected. Furthermore, Ms. Paquette received the title to the property exempt from probate fees and protected from creditor enforcement—a clear advantage that would constitute consideration.

[42] The text of the contested agreement reflects the provision of consideration to Ms. Paquette in the following three ways:

- a) Clause 1 states that Ms. O'Connell would fairly attribute income from Mr. Sullivan's unfinished files to the estate.
- b) Clause 3 states that Ms. O'Connell was to pay all overhead expenses, such as property taxes, hydro, heat, and telephone, while she resides at 89 Ottawa Street. Ms. O'Connell was also required to keep the property in good repair.
- c) Clause 5 makes explicit reference to the \$125,000 that was provided to Ms. Paquette.

[43] In my view, when examining the overall circumstances that led to the agreement or by analyzing its content, consideration was given to Ms. Paquette. The agreement constitutes a valid and enforceable contract.

The contract is not unconscionable

Position of the parties

[44] The respondents contend that, notwithstanding the validity of the contract, it should nevertheless not be enforced for various reasons. Fundamentally, their argument is rooted in equity. They invoke the doctrine of unconscionability and cite the following factors:

- a) The lack of consideration provided to Ms. Paquette and the significant financial harm the agreement caused her.
- b) The lack of independent legal advice provided to or accessible by Ms. Paquette at the time she signed the contested agreement dated April 4, 2025.

- c) Ms. O’Connell was the only individual, either mentally or physically capable, of ensuring that Ms. Paquette understood the consequences of signing the contested agreement dated April 4, 2025.
- d) The emotional circumstances Ms. Paquette faced at the time, including the recent death of her mother and her ailing father.

[45] The applicant argues that the respondents have failed to demonstrate, on the balance of probabilities, that the transaction between the parties was unconscionable, as there was no evidence of an inequality of bargaining power nor a resulting improvident transaction. The applicant primarily relies on *Uber Technologies Inc. v. Heller*, 2020 SCC 16.

Discussion

[46] In my view, the agreement and the circumstances surrounding its signing are not unconscionable.

[47] In *Uber*, the Supreme Court reaffirmed a two-part test for unconscionability, which encompasses (a) inequality in bargaining power and (b) a transaction that is unjust or improvident as a consequence.

Inequality of bargaining power

[48] An inequality of bargaining power exists when one party cannot adequately protect their interests in the contracting process, as outlined in *Uber* at paras. 67 and 68.

[67] There are no “rigid limitations” on the types of inequality that fit this description (McCamus, at p. 429). Differences in wealth, knowledge, or experience may be relevant, but inequality encompasses more than just those attributes (McInnes, at pp. 524-25). Professor McInnes describes the diversity of possible disadvantages as follows:

Equity is prepared to act on a wide variety of transactional weaknesses. Those weaknesses may be *personal* (i.e., characteristics of the claimant generally) or *circumstantial* (i.e., vulnerabilities peculiar to certain situations). The relevant disability may stem from the claimant’s “purely cognitive, deliberative or informational capabilities and opportunities”, so as to preclude “a worthwhile judgment as to what is in his best interest”. Alternatively, the disability may consist of the fact that, in the circumstances, the claimant was “a seriously volitionally impaired or desperately needy person”, and therefore was specially disadvantaged because of “the contingencies of the moment”. [Emphasis in original; footnotes omitted; p. 525.]

(See also Chen-Wishart (2018), at p. 363.)

These disadvantages need not be so serious as to negate the capacity to enter a technically valid contract (Chen-Wishart (2018), at p. 340; see also McInnes, at pp. 525-26).

[68] In many cases where inequality of bargaining power has been demonstrated, the relevant disadvantages impaired a party's ability to freely enter or negotiate a contract, compromised a party's ability to understand or appreciate the meaning and significance of the contractual terms, or both (see Stephen A. Smith, *Contract Theory* (2004), at pp. 343-44; John R. Peden, *The Law of Unjust Contracts: Including the Contracts Review Act 1980 (NSW) With Detailed Annotations Procedure and Pleadings* (1982), at p. 36; Andrew Burrows, *A Restatement of the English Law of Contract* (2016), at p. 210; *Downer*, at para. 54; McInnes, at p. 525).

[49] The necessary inequality of bargaining power, which may impair a party's ability to enter into an agreement freely, was described in *Uber* at paras. 69-70:

[69] One common example of inequality of bargaining power comes in the "necessity" cases, where the weaker party is so dependent on the stronger that serious consequences would flow from not agreeing to a contract. This imbalance can impair the weaker party's ability to contract freely and autonomously. When the weaker party would accept almost any terms, because the consequences of failing to agree are so dire, equity intervenes to prevent a contracting party from gaining too great an advantage from the weaker party's unfortunate situation. As the Privy Council has said, "as a matter of common fairness, 'it [is] not right that the strong should be allowed to push the weak to the wall'" (*Janet Boustany v. George Pigott Co (Antigua and Barbuda)*, [1993] UKPC 17, at p. 6 (BAILII), quoting *Alec Lobb (Garages) Ltd. v. Total Oil (Great Britain) Ltd.*, [1985] 1 W.L.R. 173, at p. 183; see also *Lloyds Bank Ltd. v. Bundy*, [1975] 1 Q.B. 326 (C.A.), at pp. 336-37).

[70] The classic example of a "necessity" case is a rescue at sea scenario (see *The Medina* (1876), 1 P.D. 272). The circumstances under which such agreements are made indicate the weaker party did not freely enter into the contract, as it was the product of his "extreme need... to relieve the straits in which he finds himself" (*Bundy*, at p. 339). Other situations of dependence also fit this mould, including those where a party is vulnerable due to financial desperation, or where there is "a special relationship in which trust and confidence has been reposed in the other party" (*Norberg*, at p. 250, quoting Christine Boyle and David R. Percy, *Contracts: Cases and Commentaries* (4th ed. 1989), at pp. 637-38). Unequal bargaining power can be established in these scenarios even if duress and undue influence have not been demonstrated (see *Norberg*, at pp. 247-48; see also McInnes, at p. 543).

[50] Another circumstance that can establish the required inequality of bargaining power relates to a party's inability to understand or appreciate the meaning and significance of the contractual terms, as outlined in *Uber* at paragraph 71.

[71] The second common example of an inequality of bargaining power is where, as a practical matter, only one party could understand and appreciate the full import of the contractual terms, creating a type of “cognitive asymmetry” (see Smith, at pp. 343-44). This may occur because of personal vulnerability or because of disadvantages specific to the contracting process, such as the presence of dense or difficult to understand terms in the parties’ agreement. In these cases, the law’s assumption about self-interested bargaining loses much of its force. Unequal bargaining power can be established in these scenarios even if the legal requirements of contract formation have otherwise been met (see Sébastien Grammond, “The Regulation of Abusive or Unconscionable Clauses from a Comparative Law Perspective” (2010), 49 *Can. Bus. L.J.* 345, at pp. 353-54).

- [51] In my view, there was no inequality of bargaining power between the parties resulting from circumstances showing “necessity.” Ms. Paquette was free to oppose the agreement. The evidence does not demonstrate that Ms. Paquette was so reliant on Mr. Sullivan that refusing the agreement would lead to serious consequences — she was free to choose whether to contract or not, without constraint or pressure arising from the circumstances. If anything, Ms. O’Connell had less bargaining power — she would have been compelled to accept any terms set by the parties to continue access to 89 Ottawa Street and to maintain her law practice.
- [52] Furthermore, I find that there were no personal or circumstantial factors capable of establishing such an inequality. Ms. Paquette was not subjected to any threats or pressure to sign the agreement. More realistically, she understood the document's clear, straightforward terms despite the lack of independent legal counsel. Although Ms. Paquette’s mother had died in December 2024 and her father was terminally ill, I do not find, on the balance of probabilities, that she was specifically disadvantaged because of the circumstances at the time.
- [53] I recognize that Ms. Paquette might have been partly motivated by a wish to please her father, Mr. Sullivan, when she signed the agreement. However, I do not believe this alone establishes unconscionability. Ms. Paquette still had the option to refuse to enter into the agreement, even though she clearly understood that her father was the main influence behind it.
- [54] Although the circumstances of April 4, 2025, were emotionally charged for both Ms. Paquette and Ms. O’Connell, I do not conclude that they prevented Ms. Paquette from making, at the time the agreement was made, a sound judgment about what is in her best interest. The evidentiary record does not establish that Ms. Paquette was significantly impaired volitionally.
- [55] Similarly, I do not find sufficient evidence to support a conclusion that there was an inequality resulting from Ms. Paquette’s ability to understand the agreement and its terms. No “cognitive asymmetry” exists as that term is used in *Uber*. The agreement in question was straightforward and in plain English—there were no dense or difficult-to-understand

terms. I find that Ms. Paquette clearly understood what the agreement entailed based on the evidentiary record.

- [56] The respondents, concerning this issue and the broader question of fairness and equity, stress that Ms. O’Connell is a lawyer and was therefore uniquely qualified to understand the nature and implications of the agreement, unlike Ms. Paquette, who was not as well equipped. The respondents argue that Ms. O’Connell was in a conflict of interest.
- [57] While the respondents’ above position, apart from the opinion expressed regarding a conflict of interest, is accurate, it did not establish a situation of bargaining inequality or cognitive asymmetry that would amount to unconscionability. Firstly, Mr. Sullivan was an experienced and sophisticated lawyer who drafted the agreement and presented it to his daughter. Secondly, although Ms. O’Connell acted as counsel in relation to the transfer of the property and the preparation of the Declaration of Trust, she did not provide any legal advice to Ms. Paquette, nor was she present when Mr. Sullivan presented the agreement to Ms. Paquette, and Ms. Paquette signed it. I do not believe Ms. O’Connell’s conduct raises concerns about a conflict of interest in the formation of the contract. Thirdly, the evidence demonstrates that Ms. Paquette did not believe Ms. O’Connell was acting as her legal representative when the agreement was signed. Fourthly, in this context, I find that Ms. Paquette understood the straightforward terms of the contract.
- [58] In summary, I do not find that the required inequality of bargaining power is present based on the totality of the circumstances.

A resulting improvident transaction

- [59] As noted above, the second branch of the test requires a resulting improvident transaction. The agreement would be considered improvident if it unduly advantages a stronger party or unduly disadvantages the vulnerable party and that improvidence must be assessed contextually (see *Uber* at paras. 74-75).
- [60] I do not find that the second branch of a resulting improvident transaction has been established.
- [61] Ms. Paquette contends that the transfer of the \$125,000 and the transfer of joint tenancy to her should be regarded as separate from Ms. O’Connell’s occupancy rights and purchase option as delineated in the written agreement. When considered in this manner, the transaction appears evidently improvident. However, I have previously articulated my perspective regarding the consideration exchanged within the agreement. Respectfully, upon examining the entire context of the agreement, it does not substantiate the assertion that it was improvident. In my view, Ms. Paquette was not unjustly disadvantaged when taking into account the receipt of \$125,000 and ownership of the property at 89 Ottawa Street.
- [62] Ms. Paquette also argues that the agreement should be declared invalid due to common or mutual mistake—that the parties operated under a fundamental misapprehension. She submits that neither party was aware of the CRA/HST arrears owed by Mr. Sullivan and

that the agreement bars the respondents from accessing the only meaningful source of liquidity—the house at 89 Ottawa Street, Arnprior. She asserts that the agreement violates mandatory creditor priorities and Ms. Paquette’s duties as estate trustee.

- [63] I do not accept this submission. Mr. Sullivan was evidently cognizant of the CRA/HST arrears; it appears that the transfer of the property to Ms. Paquette was executed to ensure that it would not be liable for the estate's debts. Ms. Paquette understood this rationale for the transfer and the Declaration of Trust. Both Ms. Paquette and Ms. O’Connell were aware that Mr. Sullivan had CRA/HST arrears, even if they did not possess knowledge of their full extent. The agreement explicitly references the arrears and stipulates the provision of \$125,000 to facilitate minimum payments towards such liabilities. In my view, the lack of detailed knowledge concerning the exact extent of the debt does not diminish the fundamental validity of the agreement.
- [64] In summary, I conclude that the agreement of April 4, 2025, is neither unconscionable nor invalid in equity.

Specific performance is the appropriate remedy

Position of the parties

- [65] The applicant asserts that specific performance is the sole effective remedy in this case, taking into account the nature of the property and the inadequacy of damages. She maintains that monetary compensation cannot adequately remedy her loss of the property, considering the disruption to clients and the diminution of goodwill associated with the law practice at that location, which would be forfeited should damages be awarded.
- [66] The respondents argue that specific performance should be denied because damages are evidently adequate, there is no fair and important reason to enforce residence or operation at this particular house, and the equities mainly favour Mr. Sullivan’s estate and legitimate creditors.

Discussion

- [67] The principles to be applied to the question of whether specific performance is an appropriate remedy in a given case were distilled by Pepall J. of this court in *DeFranco v. Khatri*, [2005] O.J. No. 1890 at para. 32:
- 1) Specific performance should not be granted absent evidence that the property is unique to the extent that its substitute is not readily available: *Semelhago v. Paramadevan*, *supra*.
 - 2) There must be some fair, real and substantial justification for the claim: *Asamera Oil Corp. v. Seal Oil and General Corp.*, *supra*.

- 3) The plaintiff must show that an order for the property, rather than its monetary equivalent better serves justice between the parties: *John E. Dodge Holdings Ltd., supra.*
- 4) The burden of proof to establish that property is unique and that damages are inadequate to do justice should be on the plaintiff: *John E. Dodge Holdings Ltd.* and *Semelhago v. Paramadevan.*
- 5) There is a subjective and objective aspect to uniqueness: *John E. Dodge Ltd. supra.* In that case Justice Lax stated at page 356,

"While it is difficult to be precise about this, it strikes me that normally, the subjective aspect will be less significant in commercial transactions and more significant in residential purchases, unless the motivation in the latter case is principally to earn profit. In terms of the subjective aspect, the court should examine this from the point of view of the plaintiff at the time of contracting. In some cases, there may be a single feature of the property that is significant, but where there are a number of factors, the property should be viewed as a whole. The court will determine objectively whether the plaintiff has demonstrated that the property has characteristics that make an award of damages inadequate for that particular plaintiff. Obviously, investment properties are candidates for damages and not specific performance.

It is important to keep in mind that uniqueness does not mean singularity. It means that the property has a quality (or qualities) that makes it especially suitable for the proposed use that cannot be reasonably duplicated elsewhere. To put this another way, the plaintiff must show that the property has distinctive features that make an award of damages inadequate. The plaintiff need not show that the property is incomparable.

[68] In my view, specific performance is the only meaningful remedy in this case because of the following reasons:

- a) Although the building at 89 Ottawa Street in Arnprior does not possess any inherently unique characteristics, monetary damages would not fully compensate the applicant for the loss of use of the property. The residence housing the office is closely connected to the legal practices of Mr. Sullivan and Ms. O'Connell. I am convinced that the goodwill associated with the practice is tied to its established location. Therefore, the property at 89 Ottawa Street is unique in the way described in *John E. Dodge Ltd.*
- b) Requiring the applicant to relocate would be exceedingly disruptive to the law practice and likely lead to loss of the client goodwill that the applicant seeks to maintain and grow.

- c) The calculation of damages would be difficult. Moreover, there are legitimate concerns about the respondents' ability to pay damages. The respondents highlight the improvident nature of the agreement and the estate's inability to satisfy creditors.
- d) Specific performance has the effect of carrying out Mr. Sullivan's intention in ensuring the ongoing practice of law at that location. I am of the view that the fact that the LLP was technically inactive does not diminish Mr. Sullivan's intention that his legacy within the legal profession and community continue at that location.
- e) Specific performance would effectively uphold the *status quo*.

[69] A court may consider the behaviour of the parties because of the equitable nature of the remedy: *Landmark of Thornhill Ltd. v. Jacobson* (1995), 1995 CanLII 1004 (ON CA), 25 O.R. (3d) 628, [1995] O.J. No. 2819 at para. 37 (C.A.). Both parties argue that their conduct favours their respective positions regarding the equities of the situation. Although the relationship between the applicant and the respondents has become somewhat acrimonious, and the applicant describes the respondents' conduct in trying to frustrate the agreement as coercive, I do not find that the respondents' conduct after the agreement was signed significantly influences my exercise of discretion in this case.

[70] Nevertheless, the equities favour the applicant, who seeks to enforce a valid agreement based on Mr. Sullivan's explicit intention to ensure the continuation of a law practice where it previously existed. The applicant appropriately initiated this application to resolve this matter. In my view, the applicant comes to court with clean hands to enforce an agreement consistent with the parties' and Mr. Sullivan's intentions.

Injunctive relief is appropriate

[71] Neither party provided extensive oral submissions on whether an injunction should issue if the court were to order specific performance. The applicant's written materials request an injunction only to the extent that the respondents be prohibited from interfering with her rights pursuant to the agreement, and that they possess the rights equivalent to those of a residential landlord. The respondents are opposed to any injunctive relief.

[72] Given the prior conduct of the respondent, Ms. Paquette, in interfering with the applicant's use of 89 Ottawa Street after the signing of the agreement before the hearing of this application, I am of the view that a limited injunction is required to implement the order for specific performance.

Conclusion

[73] For the foregoing reasons, I conclude that the agreement of April 4, 2025, is valid and enforceable. I determine that the agreement is neither unconscionable nor unenforceable, considering equitable principles.

[74] The application is granted, and an order shall issue as follows:

- a) Specific performance of the April 4, 2025 agreement is ordered;
- b) The applicant, Hannah O'Connell, shall be permitted to move into 89 Ottawa Street, Arnprior, Ontario and have unhindered and uninterrupted access to all parts of the premises;
- c) The respondents shall remove all cameras or listening devices from the premises of 89 Ottawa Street, Arnprior, Ontario;
- d) Hannah O'Connell shall be given unhindered and uninterrupted access to all of Sullivan O'Connell LLP's assets, including physical files, physical assets, accounts receivable and accounts not yet billed; and
- e) Hannah O'Connell may exercise her right to First Option to purchase 89 Ottawa Street, Arnprior, Ontario, at any time for a period of three years after she moves into the premises.

[75] An injunction is granted preventing the respondent, Ms. Paquette, from interfering with the rights of the applicant, Hannah O'Connell, pursuant to the agreement of April 4, 2025. For greater certainty, Ms. Paquette has rights consistent with those enjoyed by a residential landlord.

Costs

[76] I encourage the parties to settle the costs of the application. If they cannot, the applicant may serve and file written cost submissions, together with a Bill of Costs, within 10 days of this date. The respondents may serve and file responding written cost submissions within 7 days of receiving the applicant's submissions. The cost submissions shall not exceed three pages in length, excluding the Bill of Costs.

Mr. Justice Brian Holowka

Released: November 26, 2025

CITATION: *O'Connell v. Paquette*, 2025 ONSC 6620
COURT FILE NO.: CV-25-86-00ES
DATE: 20251126

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

HANNAH O'CONNELL

Applicant

– and –

STEPHANIE JEAN PAQUETTE and NOREEN
NICOLE SULLIVAN, in their personal capacities and
as ESTATE TRUSTEES TO THE ESTATE OF
DONALD RICHARD SULLIVAN

Respondents

REASONS FOR DECISION

Mr. Justice Brian Holowka

Released: November 26, 2025