

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Hamilton v. Vaughan
BEFORE: Justice K.E. Cullin
COUNSEL: Shawn Hamilton, Self-Represented, Plaintiff
Joanne Vaughan, Self-Represented, Defendant
HEARD: December 2, 2025

ENDORSEMENT

[1] This matter appears before me for a motion in writing.

[2] The defendant has brought a motion to dismiss the plaintiff's action, or alternatively to strike several paragraphs of the plaintiff's statement of claim. Among other things, the defendant submits that the claim is an abuse of process, that the plaintiff is estopped from proceeding with the claim by virtue of a settlement agreement, and that the plaintiff has admitted to contradictory facts due to his failure to respond to requests to admit.

[3] This matter appeared before me on October 28, 2025. At that time, I ordered that deficiencies in service be rectified by the defendant. I also directed that the court registrar at North Bay, Ontario issue a notice in Form 2.1B to the parties with respect to the defendant's motion. That has occurred, and the matter has now been returned before me.

[4] The Rule 2.1 notice was issued on November 18, 2025. The defendant served and filed a written response to the Rule 2.1 notice on November 19, 2025. The plaintiff has not responded, nor is he obligated to pursuant to Rule 2.1.01(8). The plaintiff has, however, served and filed a notice of intention to act in person.

[5] Briefly by way of overview, this is an action, commenced by the plaintiff, seeking damages for defamation; the action has been commenced under the Simplified Rules. The defendant is a former client of the plaintiff. The plaintiff alleges that the defendant made defamatory statements about him, both personally and professionally, in a post on a website. The defendant denies the plaintiff's allegation; to the extent that she made statements about him, she says they were made in the context of obtaining legal advice online.

[6] There have been prior motions brought in this proceeding by both of the parties. Notably, this is not the defendant's first motion to strike parts of the plaintiff's claim or to dismiss his action for abuse of process. The defendant also sought to stay the plaintiff's claim by bringing an anti-

SLAPP motion. To date, the defendant has been unsuccessful in these efforts to summarily conclude the plaintiff's action.

[7] Rule 2.1.02 provides that the court may make an order staying or dismissing a motion that appears on its face to be frivolous, vexatious, or otherwise an abuse of the process of the court. An order may be made by the court on its own initiative.

[8] As noted in *Gao v. Ontario WSIB*, 2014 ONSC 6100, at para. 9, Rule 2.1 is not a form of summary judgment, nor is it intended to apply to "close calls". The rule is intended to conserve the resources of the court by ensuring that proceedings that are clearly frivolous, vexatious, or abusive do not occupy space that is required to adjudicate meritorious proceedings. In some cases, it is a tool to focus the litigation on the issues actually in dispute, thereby ensuring that responding parties are not exposed to excessive and potentially unrecoverable costs: *Gao*, at paras. 9-10; *Dunning v. Colliers Macaulay Nicolls Inc.*, 2023 ONSC 73 (CanLII), at paras. 23-26.

[9] The present motion seeks to strike and/or dismiss the plaintiff's claim and requests the following relief:

- a. The defendant seeks to strike the prayer for relief in paragraphs 1(a) to (j) in the plaintiff's statement of claim, or alternatively to permanently stay the plaintiff's claim, with prejudice, on the grounds that it is frivolous, vexatious, and an abuse of the court's process. The defendant alleges that the plaintiff is estopped from claiming relief due to a settlement agreement negotiated between the parties in 2017. That agreement was made in a Small Claims Court proceeding brought by the defendant against the plaintiff. The proceeding pertained to the plaintiff's fees.
- b. The defendant seeks to strike paragraphs 11 to 39 in the plaintiff's statement of claim. The defendant alleges that paragraphs 11 to 39 contradict deemed admissions by the plaintiff arising from unanswered requests to admit. The paragraphs at issue form the substance of the claims advanced by the plaintiff.
- c. The defendant seeks an order declaring that facts and documents are deemed admitted pursuant to Rules 51.03(2) and 51.03(3)(a) and (b).
- d. The defendant seeks an order restraining the plaintiff from relying on decisions rendered by the Law Society Tribunal pending the outcome of an application for judicial review before the Divisional Court.
- e. The defendant seeks substantial indemnity and full indemnity costs with respect to this motion and the proceeding.

[10] The pleading addressed in the motion is the plaintiff's original statement of claim. There are references in the court file to a fresh as amended statement of claim, but it appears that an amended claim has not been issued.

[11] I will deal first with the relief sought with respect to the defendant's requests to admit. A request to admit is a vehicle through which to secure factual admissions in advance of trial. To the

extent that factual admissions contradict pleadings, the admissions take precedence. It is not necessary, or an appropriate use of the court's resources, to move to strike pleadings based on factual admissions obtained in advance of trial.

[12] It is possible, and in this case likely, that the parties will disagree upon what admissions, if any, have been made. To the extent there is disagreement, that is an issue to be determined by the trial judge. Determining that issue in a pretrial motion would be an improper incursion upon the trial judge's exclusive jurisdiction to admit and exclude evidence and to find facts.

[13] Likewise, it would be improper to make a pretrial determination about the admissibility of evidence pertaining to the proceedings before the Law Society Tribunal. This is also within the exclusive jurisdiction of the trial Judge and is not appropriately addressed in a pretrial motion.

[14] I find that the defendant's motion with respect to both issues is an abuse of process. The defendant's requests for relief will be dismissed pursuant to Rule 2.1.02, without prejudice to her ability to raise the issues of factual admissions and the admissibility of evidence regarding the Law Society Tribunal at trial.

[15] Turning to the defendant's request for a finding that the plaintiff is estopped from claiming relief due to a prior settlement agreement, in my view this motion does not attract the consequences of Rule 2.1.02, but it should be adjourned to the trial judge. In making this determination, I have given some latitude to the defendant as a self-represented litigant with respect to the drafting of her request for relief.

[16] While the defendant has framed this request for relief around the pleadings, it is clear that what she is attempting to do is to raise an issue of *res judicata*, specifically, cause of action estoppel. That is an issue which can be advanced either through a summary judgment motion or at trial. In my view, having regard to all the circumstances of this case, it is best addressed at trial. In arriving at this conclusion, I have considered the following:

- a. Based upon my review of the pleadings and evidence in the court file, I expect that there will be disagreement between the parties about what took place in the Small Claims Court proceeding. There will be determinations of credibility regarding the parties' evidence that are best reserved for the trial judge and therefore make the issue inappropriate for summary judgment.
- b. The Simplified Rules are intended to provide a streamlined, cost-effective process to litigate disputes. In this case, there have already been several lengthy and expensive motions, and an appeal. A summary judgment motion would either be followed by a trial, or an appeal, or possibly both. In my view, it would neither be cost-effective nor an effective use of the court's resources to undertake a summary judgment motion at this stage of the proceeding.

[17] In my view, the most appropriate course of action at this stage of the proceeding is to schedule a trial management conference to review what, if anything, must take place prior to scheduling this matter for trial and to establish a litigation plan for the trial itself. This matter will be returned to a civil assignment court list to schedule this conference.

[18] As this motion raises concerns for me about the defendant's ability to determine what issues are appropriately the subject of a pretrial motion, I am going to exercise my discretion pursuant to Rule 2.1.02(3) to require the defendant to seek leave prior to bringing any further motions in this proceeding. This will ensure that the proceeding moves toward trial in an efficient and cost-effective manner and that the court's resources are directed to adjudicating the issues actually in dispute.

[19] Finally, I note from reviewing the court file that there have been historical challenges issuing and entering orders, which have given rise to additional court appearances. In my view, this is not an effective use of the court's resources, and I am therefore dispensing with the requirement that this order be approved as to form and content prior to being issued and entered. The registrar may, in their discretion, forward any draft orders to my attention for signature.

[20] For the reasons given, I make the following orders:

1. Pursuant to Rule 2.1.02, the defendant's motion to strike paragraphs 11 to 39 in the plaintiff's statement of claim, to declare that facts and documents are deemed admitted, and to restrain the plaintiff from relying on decisions rendered by the Law Society Tribunal are dismissed without prejudice to the defendant's ability to raise the issues of factual admissions and the admissibility of evidence regarding the Law Society Tribunal at trial.
2. The defendant's motion to strike paragraphs 1(a) to (j) in the plaintiff's statement of claim or alternatively to stay the plaintiff's claim due to the doctrine of *res judicata* (cause of action estoppel) is adjourned to the trial of this action.
3. Pursuant to Rule 2.1.02(3), the defendant is prohibited from making further motions in this proceeding without leave of the Court.
4. This matter is adjourned to the Assignment Court scheduled to take place on Friday, January 16, 2026, at 9:00 a.m. by Zoom videoconference, to schedule a trial management conference at the earliest availability of the parties and the Court.
5. The requirement that this order be approved as to form and content prior to being issued and entered is hereby dispensed with.
6. The costs of this motion, if any, are reserved to the trial judge.

Cullin J.

Date: December 3, 2025