

**CITATION:** Hanif v. College of Veterinarians of Ontario et al., 2026 ONSC 1377  
**COURT FILE NO.:** CV-24-00003826-0000  
**DATE:** 20260306

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**BETWEEN:** )  
 )  
 KHAWAR HANIF ) Self-represented  
 )  
 )  
 )  
 )  
 Plaintiff/Responding Party )  
 )  
 - and - )  
 )  
 COLLEGE OF VETERINARIANS OF ) Gaetana Campisi and Asher Honickman  
 ONTARIO, ATTORNEY GENERAL OF ) for the Defendant, College of  
 ONTARIO AND THE MINISTER OF ) Veterinarians of Ontario  
 AGRICULTURE )  
 )  
 )  
 Defendants/Moving Parties ) James Coristine for The Attorney  
 ) General of Ontario and King in Right of  
 ) Ontario  
 )  
 )  
 )  
 ) **HEARD:** February 4 and 18, 2026

2026 ONSC 1377 (CanLII)

**REASONS FOR JUDGMENT**

**Justice E. ten Cate**

[1] The Plaintiff is a veterinarian. His action arises from disciplinary proceedings brought by the College of Veterinarians of Ontario in which he was found guilty of professional misconduct, resulting in a license suspension and a cost award.

[2] There are two motions before me. The first is brought by the College to strike the Plaintiff's Statement of Claim without leave to amend, and the second by The Attorney General of Ontario to dismiss the claims against it and the Minister of Agriculture.

[3] For reasons that follow, the Plaintiff's Statement of Claim is struck as against all Defendants without leave to amend his pleading.

### **A. Motion to Strike Brought by the College of Veterinarians of Ontario**

[4] The College of Veterinarians of Ontario brings its motion to strike the Statement of Claim pursuant to Rules 21 and 25 of the *Rules of Civil Procedure*.

#### **Procedural History**

[5] The procedural history of this matter provides context.

[6] In 2006, the College received complaints about the Plaintiff from two people whose pets had been treated by him. The complaints were investigated and referred to a hearing pursuant to s. 24(2) of the *Veterinarians Act*.<sup>1</sup>

[7] The complaints were heard together. After 11 days of hearing, the Discipline Committee issued its decisions on March 5, 2010. All allegations of misconduct against the Plaintiff were dismissed save one – he was found guilty of misconduct for having prescribed a flea medication to a cat that is intended only for dogs.

[8] The College appealed to the Divisional Court pursuant to s. 35 of the *Veterinarians Act*. The Plaintiff did not cross-appeal with respect to the finding of misconduct. On February 28, 2011, the Divisional Court granted the appeal on the basis that the reasons of the Discipline Committee were inadequate and ordered a different panel to re-hear the complaints.<sup>2</sup> The Plaintiff sought leave to the Court of Appeal, but his motion was dismissed.<sup>3</sup>

[9] The Plaintiff then filed an application against the College at the Human Rights Tribunal of Ontario alleging that the way the College dealt with the complaints against him was discriminatory, but his application was dismissed for delay on October 24, 2011.<sup>4</sup> The Plaintiff sought reconsideration, which was denied on December 20, 2011.<sup>5</sup>

[10] A new panel of the Discipline Committee was constituted which reheard the complaints that were the subject of the successful appeal in 2012 and 2013. After 13 more days of hearing, the Discipline Committee found the Plaintiff guilty of professional

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<sup>1</sup> *Veterinarians Act*, R.S.O. 1990, c. V.3.

<sup>2</sup> *College of Veterinarians of Ontario v. Hanif*, 2011 ONSC 1155.

<sup>3</sup> *Ibid*, leave to appeal to CA refused on September 12, 2011.

<sup>4</sup> *Hanif v. The College of Veterinarians of Ontario*, 2011 HRTO 1916.

<sup>5</sup> *Hanif v. The College of Veterinarians of Ontario*, 2011 HRTO 2277.

misconduct regarding *both* complaints and imposed a four-month license suspension and costs of \$73,000.

[11] Meanwhile, the Plaintiff commenced another HRTO application against the College alleging discrimination and prosecutorial misconduct. On August 26, 2013, the second application was dismissed.<sup>6</sup> The HRTO held that there was no reasonable prospect of success with respect to the allegations concerning the decisions and actions of the Discipline Committee made during the re-hearing. It also held that re-litigation of the same issues was an abuse of process, because the Plaintiff failed to seek judicial review of the earlier decision, and that issues raised regarding the re-hearing before the Discipline Committee were beyond its jurisdiction due to adjudicative immunity, collateral attack and s. 23(1) of the *Statutory Powers Procedure Act*.<sup>7</sup>

[12] The Plaintiff appealed the second Discipline Committee decision. On May 12, 2017, the Divisional Court overturned the finding of guilt in the cat complaint only, and ordered the Discipline Committee to reconsider penalty and costs.<sup>8</sup> The Court dismissed the Plaintiff's allegations that he was denied procedural fairness and natural justice, that the conduct of the College's prosecution and the composition of the Discipline Committee raised a reasonable apprehension of bias, and that the Discipline Committee improperly relied on expert evidence. The Plaintiff's subsequent motions for leave to appeal to the Court of Appeal and the Supreme Court of Canada were denied.<sup>9</sup>

[13] In April of 2019, the Discipline Committee reheard the issues of penalty and costs. The Plaintiff's suspension was reduced to one month, and the cost award was reduced to \$65,000 which included \$15,000 for unsuccessful post-appeal motions by the Plaintiff. The Plaintiff's appeal to Divisional Court from this decision was dismissed with costs on March 11, 2021.<sup>10</sup> The Court found that the Plaintiff had contributed to the length of the proceedings by his own conduct.<sup>11</sup> In awarding costs, the Court also held that much time, and energy had been spent on the "reiteration and re-argument of matters previously decided or not properly raised". Moreover, there needed to be "some consequences to the appellant's persistent and unrepentant pursuit of such matters".<sup>12</sup>

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<sup>6</sup> *Hanif v. College of Veterinarians of Ontario*, 2013 HRTO 1454.

<sup>7</sup> *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22.

<sup>8</sup> *Hanif v. College of Veterinarians of Ontario*, 2017 ONSC 497.

<sup>9</sup> *Ibid*, leave to appeal to CA refused on October 27, 2017, leave to appeal to SCC refused on June 28, 2018.

<sup>10</sup> *Hanif v. College of Veterinarians of Ontario*, 2021 ONSC 1819.

<sup>11</sup> *Ibid*, at para 29.

<sup>12</sup> *Ibid*, at para 30.

Subsequent motions brought by the Plaintiff for leave to appeal to the Court of Appeal and the Supreme Court were denied.<sup>13</sup>

[14] On December 16, 2024, the Plaintiff commenced this action, seeking \$600,000 in general damages, and \$1,000,000 in punitive damages against the College, the Attorney General of Ontario and the Minister of Agriculture.

[15] The Statement of Claim is 161 paragraphs and 27 pages long. In his introduction the Plaintiff summarizes the general theme of his claim:

This civil action arises from the prolonged and unjust prosecution of Dr. Hanif by the College of Veterinarians, a process that spanned nearly two decades and exposed significant flaws in the regulatory framework. Dr. Hanif alleges abuse of process and misuse of power by the College and its agents, which were compounded by a lack of transparency, accountability, and ineffective legislative provisions. Despite repeated failures in the discipline process – including the appointment of incompetent hearing panels and decisions made without proper oversight – the court was limited to reviewing only the Discipline Committee’s decisions, creating a misleading appearance of fairness. These systemic flaws have not only caused harm to Dr. Hanif but also contribute to an unjust system that places other professionals at risk. This action seeks not only compensation for Dr. Hanif but also urgent reform to ensure transparency, fairness, and accountability within the regulatory process.

## Analysis

[16] In his factum and oral argument, the Plaintiff explained the essence of his complaint against the College is that their prosecutor “maintained a predetermined prosecutorial narrative insulated from correction, even when contradicted by objective clinical evidence.” Because of this, the final product – the Discipline Committee’s second decision – was “curated” and insulated from appellate review.

[17] The Plaintiff seeks access to internal College communications, committee deliberations, prosecutorial instructions, and decision-making records. Through the discovery process, he wants access to the “hidden machinery” contained in the “black box” of the decision-making process, which he believes will expose misconduct and bad faith on the part of the members of the “ghost committee”.

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<sup>13</sup> *Hanif v. College of Veterinarians of Ontario*, 2021 ONSC 1819, leave to appeal to CA refused on January 31, 2022, leave to appeal to SCC refused on February 9, 2023.

[18] The Plaintiff also complains that on May 12, 2024, he discovered that the College's website continued to state that he had been found guilty in the cat matter, despite the Divisional Court's decision to set aside that finding of guilt in 2017.

[19] At the hearing before me, the Plaintiff relied heavily upon excerpts from the dissenting reasons of Dr. Kozuch of the Discipline Committee who would have acquitted the Plaintiff after the first rehearing in 2012. Through inadvertence, the Plaintiff failed to include the full dissenting reasons in his materials. After a short subsequent hearing, I allowed him to file them for completeness, over the objection of counsel.

[20] The Plaintiff submits that the dissenting reasons of Dr. David Kuzuch provide this Court with sufficient basis to conclude that the action should move forward because he found the hearing to be unfair and biased, stating that the College and its prosecutor "had only one intention, and that was to obtain a conviction on all original allegations at all costs. At times it appeared that winning was clearly the objective, not fairness, or the interest of the public."<sup>14</sup> Additionally, Dr. Kuzuch questioned the prosecutorial decision to appeal the first Discipline Committee decision which acquitted the Plaintiff on all counts but one. On the issues of penalty and costs, Dr. Kozuch stated:

This malicious prosecution should not result in any penalty or costs being assessed and once again, it should be absolutely clear that Dr. Hanif should be found not guilty, vindicated and indeed compensated for his financial, professional, emotional and family's suffering.

Please, let justice be done! Simple, natural justice."<sup>15</sup>

[21] The Statement of Claim includes claims for: abuse of discretion, abuse of power, malicious prosecution, conspiracy to harm, breach of investigative process, negligent investigation, breach of public duty, malfeasance and failure of oversight, violation of the *Charter*, breach of statutory duty, negligent disclosure and defamation.

[22] In his factum, but not in his pleading, the Plaintiff raised limited particulars of bad faith, specifically that the prosecutor withheld testimony before the Discipline Committee of the previous hearing in 2012-2013 by not serving him (or his counsel at the time) with a copy of the prior transcript.

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<sup>14</sup> *The College of Veterinarians of Ontario v. Dr. Khawar Hanif*, unreported decision of the Discipline Committee dated October 17, 2013, dissenting reasons, page 124.

<sup>15</sup> *The College of Veterinarians of Ontario v. Dr. Khawar Hanif*, unreported decision of the Discipline Committee dated October 15, 2014, dissenting reasons, last page.

## Issues

[23] There are two issues I must decide – whether the claims against the College should be struck; and whether I should exercise my discretion to grant leave to amend the Statement of Claim.

## Analysis

### *(a) The claims against the College should be struck*

[24] In *Khan v. Law Society of Ontario*<sup>16</sup>, Mills J. succinctly summarized the general principles. A Statement of Claim should be struck where, assuming the facts pleaded are true, it is plain and obvious that the claim is certain to fail because it discloses no reasonable cause of action.<sup>17</sup> It is a high threshold and a difficult test to meet. On a motion to strike, the defendant must demonstrate the claim has no possibility of success; the plaintiff is not required to establish the claim will not succeed.<sup>18</sup> If there is even a slim chance the claim might succeed, it should not be struck out. Only in the clearest of cases where the court is satisfied that the case is beyond doubt, should the plaintiff be deprived of the opportunity to prove the claims asserted.<sup>19</sup>

[25] It is possible to analyze the core of the claim rather than each cause of action individually.<sup>20</sup> Alternatively, the individual causes of action can be assessed under Rule 21.01(1)(b), and then the claim assessed as a whole under Rule 21.01(3)(d).<sup>21</sup> As stated by the Court of Appeal, analytically it makes more sense to first look at the claim as a whole to determine whether it is an abuse of process. If it is, it is not necessary to examine each individually pleaded cause of action.<sup>22</sup>

[26] Here, the Statement of Claim pleads several causes of action which amount to the same claim – that the College acted unjustly toward the Plaintiff in the investigation, prosecution, and adjudication of the complaints against him. Throughout the claim there are allegations that the College breached various duties to the Plaintiff, failed in its performance of other duties, and behaved negligently.

[27] The main barrier for the Plaintiff is that s. 45(1) of the *Veterinarians Act* provides the College with immunity for acts undertaken in good faith:

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<sup>16</sup> *Khan v. Law Society of Ontario*, 2021 ONSC 6019 at para. 4.

<sup>17</sup> *Hunt v. Carey Canada Inc.*, [1990] 2 S.C.R. 959.

<sup>18</sup> *Addison Chevrolet Buick GMC Ltd. v. General Motors of Canada Ltd.*, 2016 ONCA 324.

<sup>19</sup> *Atlantic Steel Industries Inc. v. Cigna Insurance Co. of Canada*, [1997] O.J. No. 1278.

<sup>20</sup> *Lynch v. Canada (Attorney General)*, 2023 ONSC 4366, para. 20.

<sup>21</sup> *Khan*, *supra*, at paras. 32-35.

<sup>22</sup> *Pine Glen Thorold Inc. v. Rolling Meadows Land Development Corporation*, 2025 ONCA 604, paras. 32-33.

**45** (1) No action or other proceeding for damages shall be instituted against the College, the Council, a committee of the College or a member of the Council or a committee of the College, or an officer, employee, agent or appointee of the College for any act done in good faith in the performance or intended performance of a duty or in the exercise or the intended exercise of a power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power. 1998, c. 18, Sched. G, s. 73 (18).

[28] In *Khan*, the Court dealt with similar legislation. Section 9 of the *Law Society Act* incorporates almost identical wording which has been interpreted to mean that mere negligence is insufficient to establish liability; there must be bad faith involving malice or intent, to properly plead a cause of action.<sup>23</sup> The purpose of statutory immunity is to permit organizations such as the LSO and the College to undertake their regulatory and public law duties.<sup>24</sup> Absent bad faith, the College’s agents and employees cannot be subject to private legal action in respect of performance of their duties or the exercise of their powers. This includes the undertaking of investigations and conduct of disciplinary proceedings.<sup>25</sup>

[29] As in *Khan*, the Statement of Claim is replete with bald allegations of bad faith, but no particulars are pleaded to support the allegations. For example, it baldly alleges that the College engaged in a “pattern of actions that abused their authority” without explaining what that pattern involved or its purpose. It also alleges that the College manipulated expert reports but gives no particulars of how this was done. There are allegations of a conspiracy to harm, but no particulars of the participants in the alleged conspiracy or its nature and purpose. Viewing the claim in its entirety, there are no allegations of bad faith sufficiently particularized to ground a cause of action.<sup>26</sup>

[30] The Plaintiff relies on comments by Dr. Kuzuch as evidence of bad faith by the College sufficient to remove this case from the statutory protection of s. 45(1). There are three difficulties with his argument: (1) the Plaintiff cannot compel Dr. Kuzuch to testify because of the principle of deliberative secrecy<sup>27</sup>; (2) s. 38(2) of the *Veterinarians Act* prevents agents of the College from being compelled to testify or produce any document in a civil action; and (3) the comments were made in the dissenting *opinion* of one panel member and are not *evidence* themselves. The Plaintiff candidly admits that he requires

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<sup>23</sup> *Conway v. L.S.U.C.*, 2016 ONCA 72, para. 22.

<sup>24</sup> *Edwards v. L.S.U.C.*, [2001] 3 SCR 562, paras. 14 and 17.

<sup>25</sup> *French v. L.S.U.C.* (1975), 9 O.R. (2d) 473 (CA).

<sup>26</sup> *Grand River Enterprises Six Nations Ltd. v. Attorney General Canada*, 2017 ONCA 526, para. 97 cited in *Khan*, para 10.

<sup>27</sup> *Agnew v. Ontario Assn. of Architects*, 1987 ONSC 4030 (Div. Ct.)

the discovery process to flesh out his allegation, but as it stands, he has insufficient material facts to support his claims. As a result, his claims must fail.

[31] Regarding the issue of the transcript, I pause to note that there is no obligation on the part of a prosecutor to provide a transcript. Had the Plaintiff wished to rely on a previous transcript, it was open to him to obtain it from the court reporter. Additionally, there is no obligation on the part of the prosecutor to present evidence from a previous disciplinary proceeding; it was incumbent on the Plaintiff and his counsel at the time to present their case in way they saw fit.

[32] Moreover, as in *Khan*, the Plaintiff is attempting to relitigate previous proceedings because the essence of his claim is that he was treated unjustly and/or denied procedural fairness by the College. These allegations were either raised, or could have been raised before the panel, the Divisional Court, or the HRTO. He is now attempting a collateral attack on previous decisions, despite having had multiple opportunities to raise any issues regarding the conduct of the College at an earlier stage. I therefore also dismiss his claim as abuse of process because finality must be imposed on this litigation.

[33] The Defendants urge me to dismiss the claim in its entirety because it is brought outside the two-year limitation period prescribed by the *Limitations Act, 2002*.<sup>28</sup> Based upon my earlier conclusions, I find it unnecessary to do so.

[34] For completeness, I will address the individual allegations in the Statement of Claim, grouped into broad categories.

***(i) Abuse of Discretion – Constructive Fraud***

[35] There is no recognized tort of “abuse of discretion”.<sup>29</sup> “Constructive fraud” also known as equitable fraud, is not a common law tort, but a doctrine of equity in its supervision of fiduciaries and contracting parties.<sup>30</sup> Since there are none in this case, the doctrine does not apply.

***(ii) Abuse of Process***

[36] The requisite elements of the tort of abuse of process are: (1) the plaintiff is a party to a legal process initiated by the defendant; (2) the legal process was initiated for the predominant purpose of furthering some indirect, collateral and improper objective; (3) the defendant took or made a definite act or threat in furtherance of the improper

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<sup>28</sup> *Limitations Act, 2002*, S.O. 2002, c. 24, Sched. B.

<sup>29</sup> *Kelly v. Canada (Attorney General)*, 2010 PECA 17.

<sup>30</sup> *Holley v. The Northern Trust Company, Canada*, 2014 ONSC 889, para 119, aff'd 2014 ONCA 719.

purpose; and (4) some measure of special damage has resulted.<sup>31</sup> The Plaintiff only pleaded the first element; he has not pleaded the improper objective, the acts or threats in furtherance of the improper objective or that special damages have resulted. As a result, this claim is untenable.

**(iii) Abuse of Power and Misfeasance and Failure of Oversight**

[37] Abuse of power and misfeasance of public office are the same tort.<sup>32</sup> These concepts represent a progression of accountability failures, primarily within public office, regulatory bodies and corporate governance.

[38] Misfeasance requires: (1) deliberate unlawful conduct in the exercise of public functions; and (2) an awareness that conduct is unlawful and likely to injure the plaintiff.<sup>33</sup> Here, no particulars were provided by the Plaintiff of deliberate unlawful conduct by the College and only bald allegations were provided that the College was aware of any such conduct and that it was likely to injure the Plaintiff. Such failure to provide particulars is an abuse of process.

[39] Paragraph 114 of the Statement of Claim is untenable because “separation of powers” is a constitutional doctrine that divides government responsibilities into three distinct branches (legislative, executive and judicial) to avoid one branch from exercising the core functions of another. It has no relevance where the claim involves a regulatory body such as the College.

[40] Paragraph 143 is likewise untenable because it purports to challenge a by-law amendment which is not private law cause of action. In Ontario, the procedure for attacking decisions of public administrative bodies is by way of judicial review.<sup>34</sup>

**(iv) Malicious Prosecution**

[41] Malicious prosecution is an intentional tort committed when a person or entity initiates criminal or civil proceedings without reasonable cause and for a malicious purpose. The tort of malicious prosecution has four elements, namely, that the proceedings must have been: (1) initiated by the defendant; (2) terminated in favour of the plaintiff; (3) undertaken without reasonable and probable cause to commence or

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<sup>31</sup> *Harris v. Glaxosmithkline Inc.*, 2010 ONCA 872, paras. 27-28.

<sup>32</sup> *Hester v. Canada (National Revenue)*, 2007 CanLII 52015 (ON SC), para 52.

<sup>33</sup> *Odhavji Estate v. Woodhouse*, 2003 SCC 69, para. 32.

<sup>34</sup> *J.N. v. Durham Regional Police Service*, 2012 ONCA 428, para 16.

continue the prosecution; and (4) motivated by malice or a primary purpose other than that of carrying the law into effect.<sup>35</sup>

[42] A successful claim for malicious prosecution requires a plaintiff to meet a high bar in showing the defendant acted maliciously. As the Supreme Court explained in *Henry*<sup>36</sup>, the “malice standard will only be met in exceptional cases where the plaintiff can prove, on a balance of probabilities, that a prosecutor’s decision to initiate or continue a prosecution was driven by an improper purpose or motive. To be improper, that purpose or motive must be wholly inconsistent with the Crown counsel’s role as minister of justice.”<sup>37</sup>

[43] In *Brummel v. Attorney General for Ontario*<sup>38</sup>, the court held that there was nothing in the claim to substantiate pleadings that show that the prosecutor perpetrated a fraud on the process. That, combined with the fact that the proceedings did not terminate in favour of the plaintiff, meant two of the essential elements were absent.

[44] Here, the Plaintiff himself submits that the proceedings did *not* terminate in his favour, other than the overturning of the complaint regarding the cat in 2017. However, this claim does not form the substance of his complaint, and therefore, the second element is not satisfied. He has provided no particulars of elements (3) or (4). The malicious prosecution claim is therefore also untenable.

#### (v) *Conspiracy to Harm*

[45] A conspiracy to harm, otherwise known as a “tortious conspiracy” involves two or more people acting together with the intent to injure another, either through unlawful means or with the predominant purpose of causing damage. To be successful, the plaintiff must establish the defendants: (1) acted in combination; (2) committed an unlawful act; (3) knew or ought to have known that injury to the plaintiff was likely to occur from their misconduct; and (4) the defendants’ misconduct in furtherance of the conspiracy caused harm to the plaintiff.<sup>39</sup>

[46] The plaintiff must plead material facts to show (a) the parties to the conspiracy and their relationship of one to the other; (b) the agreement between or amongst the defendants to conspire, including particulars as to the time, place, and mode of agreement; (c) the precise purpose or object of the conspiracy; (d) the overt acts alleged

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<sup>35</sup> *Biladeau v. Ontario (Attorney General)*, 2014 ONCA 848, para. 17, citing *Nelles v. Ontario*, [1989] 2 S.C.R. 170, pp. 192-194.

<sup>36</sup> *Henry v. British Columbia (Attorney General)*, 2015 SCC 24, para.51.

<sup>37</sup> *Pine Glen Thorold Inc. v. Rolling Meadows Land Development Corporation*, *supra.*, para. 66.

<sup>38</sup> *Brummel v. Attorney General for Ontario*, 2014 ONSC 486, appeal dismissed at 2014 ONCA 828.

<sup>39</sup> *Chuvalo v. Worsoff*, 2022 ONSC 4079, para. 84.

to have been done by each of the alleged conspirators in pursuance and furtherance of the conspiracy, including the time, and place and nature of the acts; and (e) the injury and damage caused to the plaintiff as a result of the conspiracy.<sup>40</sup> However, the Statement of Claim includes none of these material facts, rendering the claim untenable.

**(vi) *Negligent Investigation and Negligent Disclosure***

[47] There is no tort of “negligent disclosure”.

[48] I have already determined that because of the operation of s. 45(1) of the *Veterinarians Act*, any tort claims based on negligence are barred.

**(vii) *Breach of Public Duty/Statutory Duty and Duty in the Investigation Process***

[49] A breach of statutory duty is a tort that occurs when a person or entity violates a specific obligation imposed by statute causing damage to a party the statute was designed to protect. However, such an action can only be advanced if it is expressly provided for in a statute.<sup>41</sup> The statute or policy that has allegedly been breached must be pleaded with particularity.<sup>42</sup>

[50] Here, the only statutory provisions pleaded are ss. 25 and 35 of the *Veterinarians Act*, neither of which provide for a private right of action. The Plaintiff does not allege a breach of s. 35 but that the section itself constitutes a breach. This cause of action is therefore also untenable.

**(viii) *Violation of the Charter of Rights and Freedoms***

[51] The Plaintiff alleges breaches of ss. 7 and 11(d) of the *Charter of Rights and Freedoms*<sup>43</sup>, citing withholding of evidence, contradictory allegations, involvement of prosecutor with various committees, lack of reasons, and obstruction of his right to present new evidence. All these allegations either were made, or could have been made before the Discipline Committee, the Divisional Court, or the HRTO. The Plaintiff raised *Charter* issues in 2021 before the Divisional Court regarding the constitutionality of various provisions of the *Veterinarians Act* and the College’s by-laws. Additionally, he raised *Charter* issues in the context of his HRTO reconsideration request. His claim for breach of the *Charter* is therefore an attempt to relitigate prior proceedings and a collateral attack against the College; it is therefore an abuse of process.

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<sup>40</sup> *Ontario Consumers Home Services v. Enercare Inc.*, 2014 ONSC 4154, paras. 22-24.

<sup>41</sup> *Hodge v. Neinstein*, 2017 ONCA 494, para. 59 and *Khan*, *supra*, para. 17.

<sup>42</sup> *Khan*, *ibid*, para. 17.

<sup>43</sup> *Canadian Charter of Rights and Freedoms*, s. 7, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c.11.

[52] The Statement of Claim seeks monetary damages. *Charter* damages are not awarded where there is an effective alternate remedy<sup>44</sup> and are typically nominal. Judicial review is one effective remedy which negates a claim for *Charter* damages.<sup>45</sup> The *Veterinarians Act*, s. 35(3) provides the Plaintiff with the right of appeal on both questions of law and fact and provides the Divisional Court with broad authority. Since the Plaintiff could have raised *Charter* breaches on his appeal before the Divisional Court in 2017, he cannot now claim *Charter* damages.

[53] In *Khan*, the plaintiff also brought a claim for breaches of ss. 7 and 11(d). Those claims were struck because insufficient particulars of the breaches were provided. In my view, this case is no different from *Khan*, and these claims must also be struck.

**(ix) Defamation**

[54] Lastly, the Plaintiff alleges that the College published false statements on its website. Pursuant to s. 19 of the *Veterinarians Act*, the College is *required* to publish information about its members, including their discipline history. The essence of this claim is that the College breached or incorrectly exercised its statutory duty under s. 19.

[55] In *Khan*, the plaintiff also alleged that he was defamed by the publication of a decision containing inaccurate information. The Court struck the claim because the LSO was authorized to publish such information.<sup>46</sup> Additionally, the Court struck the claim because it lacked sufficient particulars of bad faith.

[56] Here, the Plaintiff alleges that the College did not correct the register to reflect more recent decisions, however, the *Veterinarians Act* provides no private right of action to challenge information on its website, and the College is immune from civil action pursuant to s. 45(1), absent bad faith. Since there is no express allegation of bad faith in the pleading, this claim is also untenable. The Plaintiff's remedy would have been to seek judicial review to challenge the administrative decision to publish and seek *mandamus* (removal of the decision).

**(b) The Plaintiff should not be granted leave to amend the Statement of Claim**

[57] The power to grant leave to amend is discretionary. In *Khan*, the Court refused to grant leave to amend because it found the claim was a collateral attack on the regulatory proceedings and the LSO was statutorily immune from civil prosecution.

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<sup>44</sup> *Vancouver (City) v. Ward*, 2010 SCC 27, para. 34.

<sup>45</sup> *Ernst v. Alberta Energy Regulator*, 2017 SCC 1, paras. 36-37.

<sup>46</sup> *Khan*, *supra*, para. 30.

[58] In this case, I have made the same findings and come to the same result. Affording the opportunity to the Plaintiff to amend his Statement of Claim will not cure its fundamental defects because, based on his own admission, he will be in no different position. Additionally, because I have found his claim is an abuse of process, the issue of whether he should be permitted to amend his claim becomes irrelevant.<sup>47</sup> I therefore decline to grant leave to amend.

## **B. Motion to Strike Brought by The Attorney General of Ontario**

[59] I now turn to the motion brought by the Attorney General of Ontario which seeks dismissal of the claims against it, and the Ministry of Agriculture.

### **Procedural History**

[60] The Plaintiff commenced this action against the AG and the Minister by statement of claim dated December 16, 2024. Both were served without notice on December 17, 2024.

[61] In a letter dated January 13, 2025, counsel for the AG advised the Plaintiff that his office would treat the statement of claim as notice for the purposes of s. 18 of the CLPA, provided he discontinue his claim and issue a new one at least 60 days after issuing the initial claim.

[62] The Plaintiff takes the position that counsel for the AG assured him that his statement of claim would be treated as notice under the CLPA.

[63] It is undisputed that the claim was not discontinued, nor was another one started. The Plaintiff tried to amend his Statement of Claim, but it was rejected by the Court. The Statement of Claim is therefore the same one that the Plaintiff issued on December 16, 2024, without notice to the AG.

### **Issues**

[64] The issues are: (1) whether the Plaintiff failed to give the AG at least 60 days' notice of his claim before starting the action contrary to s. 18 of the *Crown Liability and Proceedings Act, 2019*<sup>48</sup> and s. 8(5) of the *Ministry of Attorney General Act*<sup>49</sup>; and (2) whether the allegations against the Minister disclose a reasonable cause of action pursuant to Rule 21.01(1)(a) or 21.01(1)(b) of the *Rules of Civil Procedure*.

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<sup>47</sup> *Pine Glen Thorold Inc. v. Rolling Meadows Land Development Corporation*, *supra*, para. 33.

<sup>48</sup> *Crown Liability and Proceedings Act, 2019*, S.O. 2019, c. 7, Sched.17.

<sup>49</sup> *Ministry of Attorney General Act*, R.S.O. 1990, c. M.17.

## Analysis

### ***(a) The Plaintiff failed to give the AG at least 60 days' notice of his claim before starting the action***

[65] Section 18 of the *CLPA* prohibits a plaintiff from commencing a proceeding which includes a claim for damages against the Crown except where he or she serves a notice of claim at least 60 days before starting the proceeding. Failure to do so, renders the claim a nullity.<sup>50</sup> Section 8(5) of the *MAGA* provides that subsection 18(1) of the *CLPA* applies with necessary modifications to actions brought against the AG.<sup>51</sup>

[66] Prior to the enactment of the *CLPA*, s. 7(1) of the *Proceedings Against the Crown Act*<sup>52</sup> provided that no action could be brought against the Crown unless prior notice of 60 days was given. It was consistently held under that legislation that proper notice was a precondition to a claim in damages against the Crown, that this requirement could not be abridged, and that an action without proper prior notice was a nullity.<sup>53</sup>

[67] More recently, in *Corrigan v. Ontario*<sup>54</sup> the Court of Appeal decided the same approach should be taken under the *CLPA* because the legislature, in enacting s. 18(1) of the *CLPA* in terms that mirror s. 7(1) of the former legislation, should be taken to have intended the same effect. Additionally, s. 18(6) removes any doubt about this, as it mandates treating an action commenced without complying with the required notice as a nullity from the time of its commencement.

[68] The Plaintiff submits that counsel for the AG agreed that the Statement of Claim constituted notice and/or that he waived the 60-day notice requirement. However, the letter dated January 13, 2025, is clear that this assurance was conditional upon the Plaintiff discontinuing his claim and starting a new one. Moreover, in *Noddle v. Ontario Ministry of Health*<sup>55</sup> it was held that the 60-day requirement cannot be waived. The Plaintiff's claim against the AG is therefore a nullity and must be dismissed.

### ***(b) The allegations against the Minister disclose no reasonable cause of action***

[69] Again, a party may move under Rule 21.01(1)(a) or 21.01(1)(b) to dismiss a claim because it is plain and obvious it discloses no reasonable cause of action. The "plain and obvious" analysis assumes the facts pleaded are true unless they are patently

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<sup>50</sup> *Crown Liability and Proceedings Act, 2019, supra*, s. 18(6).

<sup>51</sup> *Ministry of Attorney General Act, supra*, s. 8(5).

<sup>52</sup> *Proceedings against the Crown Act*, R.S.O. 1990, c. P.27.

<sup>53</sup> See for instance, *Beardsley v. Ontario*, 2001 CanLII 8621 (ON CA) paras. 10-12.

<sup>54</sup> *Corrigan v. Ontario*, 2023 ONCA 39, para. 14. See also *Saha v. Attorney General of Ontario*, unreported endorsement of Chalmers J., CV-24-00720027, dated January 14, 2025.

<sup>55</sup> *Noddle v. Ontario Ministry of Health*, 2019 ONSC 7337, para. 32.

unreasonable or incapable of proof. If, after giving it a generous interpretation, the court determines the claim has no chance of success, the court should dismiss it.<sup>56</sup>

[70] The Plaintiff's allegations against the Ministry relate to: overseeing "veterinary services in Ontario from a broader agricultural perspective"; being informed of "systemic issues within the College's complaints and disciplinary processes" but failing to initiate reforms or to intervene; failing to respond to a letter to the Minister by 70 visible minority licensed veterinarians raising concerns about these disciplinary processes and lack of accountability; complicity between the Minister and the AG thereby enabling the continuation of unlawful actions that harmed the Plaintiff; and vicarious liability on the part of the AG and the Minister for the actions of the College.

[71] In my view, these allegations fail to disclose a reasonable cause of action because they allege no elements of negligence (duty of care, breach of standard of care, causation and damages)<sup>57</sup>, nor the elements of any other tort.

[72] Section 11(4) of the *CLPA* provides that an officer of the Crown, which includes a minister<sup>58</sup> is immune from liability for any failure to decide respecting a policy matter. Section 11(5)(c) defines "policy matter" as follows:

(c) the manner in which a program, project or other initiative is carried out, including,

- (i) the carrying out, on behalf of the Crown, of some or all of a program, project or other initiative by another person or entity, including a Crown agency, Crown corporation, transfer payment recipient or independent contractor,
- (ii) the terms and conditions under which the person or entity will carry out such activities,
- (iii) the Crown's degree of supervision or control over the person or entity in relation to such activities, or
- (iv) the existence or content of any policies, management procedures or oversight mechanisms concerning the program, project or other initiative;<sup>59</sup>

[73] The thrust of the Plaintiff's allegations against the Minister is a failure to supervise or control the College, which in turn is responsible for the regulation of

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<sup>56</sup> *Beaudoin Estate v. Campbellford Memorial Hospital*, 2021 ONCA 57, para. 14.

<sup>57</sup> *Mustapha v. Culligan of Canada Ltd.*, 2008 SCC 27, para. 3.

<sup>58</sup> *Crown Liability and Proceedings Act*, 2019, *supra*, s. 1(2).

<sup>59</sup> *Crown Liability and Proceedings Act*, 2019, *supra*, s. 11(5)(c).

veterinarians in Ontario.<sup>60</sup> The Minister has discretionary powers to review the College under s. 6 of the *College of Veterinarians Act*.<sup>61</sup> Absent bad faith, any discretionary decision made by the Minister is a policy decision for which the Minister is immune from liability pursuant to s. 11(4) of the *CLPA*. Since the Plaintiff has not pleaded bad faith, these claims must fail.

[74] The claims that the AG and the Minister are vicariously liable must also fail because vicarious liability arises only where there is a level of control over the direct tortfeasor such as in an employer/employee relationship.<sup>62</sup> Here, the Statement of Claim does not contain particulars of any level of control over the College.

[75] Lastly, a minister of the Crown is not vicariously liable for the conduct of other servants or agents of the Crown and cannot be sued in his or her representative capacity.<sup>63</sup>

[76] As a result, I find the claim against the AG is a nullity, and the claims against the Minister have no reasonable chance of success. The action is therefore dismissed against both, pursuant to Rule 21.01(1)(a).

### **Order**

[77] I therefore strike the Statement of Claim as against all Defendants, without leave to amend.

### **Costs**

[78] The parties may make submissions, limited to four pages, exclusive of bills of costs, as follows:

- a) The Defendants within 30 days;
- b) The Plaintiff within 15 days of service of the Defendants' submissions; and
- c) There shall be no right of reply without leave of the court.

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Justice E. ten Cate

**Released:** March 6, 2026

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<sup>60</sup> *College of Veterinarians Act*, *supra*, s.3.

<sup>61</sup> *College of Veterinarians Act*, *supra*.

<sup>62</sup> *671122 Ontario Ltd. v. Sagaz Industries Canada Inc.*, 2001 SCC 59, para. 34.

<sup>63</sup> *Rebello v. Attorney General for Ontario*, 2021 ONSC 6502, para. 38.

**CITATION:** Hanif v. College of Veterinarians of Ontario et al., 2026 ONSC 1377  
**COURT FILE NO.:** CV-24-00003826-0000  
**DATE:** 20260306

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**B E T W E E N :**

**KHAWAR HANIF**

Plaintiff/Responding Party

**- and -**

**COLLEGE OF VETERINARIANS OF  
ONTARIO, ATTORNEY GENERAL OF  
ONTARIO AND THE MINISTER OF  
AGRICULTURE**

Defendants/Moving Parties

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**REASONS FOR JUDGMENT**

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ten Cate J.

**Released:** March 6, 2026