

CITATION: Benbella v Royal College Dental Surgeons of Ontario, 2026 ONSC 2600
COURT FILE NO.: CV-25-00747117-0000
DATE: 20260430

ONTARIO SUPERIOR COURT OF JUSTICE

RE: DR. HOCINE BENBELLA, Plaintiff

-and-

ROYAL COLLEGE OF DENTAL SURGEONS OF ONTARIO, Defendant

BEFORE: Mathen, J.

COUNSEL: Self-represented, for the Plaintiff

Amy Block, for the Defendant

READ: April 30, 2026

ENDORSEMENT

INTRODUCTION

[1] The registrar’s office referred this motion to me pursuant to rule 2.1.01(7) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, following receipt of a written request from lawyers for the defendant, Royal College of Dental Surgeons of Ontario, under rule 2.1.01(6).

[2] The pleadings arise out of a dispute over the National Dental Examining Board (NDEB) of Canada’s administration of its November 2018 and March 2019 written examinations, and the College’s responsibilities or duties flowing out of that alleged maladministration.

[3] The plaintiff, Dr. Hocine Benbella, seeks:

- a. A declaration that the defendant has an ongoing statutory duty under s. 22.4(2) of the RHPA to ensure that registration practices and decisions are transparent, objective, impartial, and fair.
- b. A declaration that this duty includes taking reasonable steps to verify credible evidence that third-party examinations relied upon for registration may have been compromised, where such allegations, if substantiated, could affect the fairness and validity of the licensing process for past, present, or future candidates.
- c. A declaration that the defendant’s continuing failure to reasonably review and address the plaintiff’s credible evidence — including the publicly available question banks and related records — constitutes a breach of its statutory duty under s. 22.4(2) of the RHPA.

- d. A declaration that this breach also violates the principles of procedural fairness protected under s. 7 and equality under s. 15 of the *Canadian Charter of Rights and Freedoms*, insofar as similarly situated candidates in comparable integrity breaches were treated differently.
- e. An order requiring the defendant to:
 - i. Undertake a reasonable, good faith review of the plaintiff's evidence, including requesting relevant examination records from the NDEB as necessary to verify the integrity of the November 2018 and March 2019 written examinations;
 - ii. Consider whether any follow-up action is required to ensure registration practices remain transparent, objective, impartial, and fair;
 - iii. Provide the plaintiff with a written report, within 90 days of this Order, summarizing the steps taken, the evidence reviewed, and its findings with reasons;
 - iv. Take any further steps that may reasonably flow from its findings, consistent with its statutory mandate.
- f. An order that the plaintiff may apply to this Honourable Court for further directions or enforcement in the event of non-compliance with any part of this Order.
- g. A declaration that this action does not seek to quash, vary, or reopen the plaintiff's final NDEB examination results, does not seek to compel or revive any "special appeal" under NDEB By-Law 5.25, and does not constitute a collateral attack on any final court decision.
- h. Costs.

[4] On March 12, 2026, I directed the registrar to give notice to the plaintiff in Form 2.1A that the court is considering making an order under r. 2.1.01(2).

[5] The plaintiff delivered submissions, which I have considered.

[6] I offered the defendant a chance to provide sur-reply, which it did.

DECISION

[7] For the reasons that follow, I am satisfied that this case should be dismissed.

ISSUE

[8] The only issue is whether this Claim is frivolous, vexatious or an abuse of process on its face.

ANALYSIS

[9] My findings are contained in the following analysis.

[10] Rule 2.1.01(1) provides:

The court may, on its own initiative, stay or dismiss a proceeding if the proceeding appears on its face to be frivolous or vexatious or otherwise an abuse of the process of the court.

[11] As Myers, J. wrote in *Gao v. Ontario WSIB and Ontario Ombudsman*, 2014 ONSC 6100, 37 C.L.R. (4th) 1, at para. 9, the Rule is not meant for ‘close calls’.

[12] This case is not a close call. The proceedings are frivolous and vexatious.

Frivolous

[13] A frivolous proceeding lacks a legal basis or legal merit or is brought without reasonable grounds: Annotation to rule 2.1 in *Ontario Superior Court Practice*, the Hons. Todd Archibald, Stephen Firestone and Tamara Sugunasiri; *Van Sluytman v. Orillia Soldiers' Memorial Hospital*, 2017 ONSC 692, at para. 11.

[14] A frivolous proceeding is readily recognizable as devoid of merit, and with little prospect of success: *Gill v. MacIver*, 2023 ONCA 776, at para. 3; *Lavallee v. Isak*, 2022 ONCA 290, at para. 19; *Pickard v. London Police Services Board*, 2010 ONCA 643, 268 O.A.C. 153, at para. 19. It will necessarily or inevitably fail: *R. v. Haevischer*, 2023 SCC 11, at para. 67.

[15] I find that the following relief sought is frivolous:

- a. A declaration that the College’s alleged breach of its statutory duty violates the principles of procedural fairness protected under s. 7 of the *Canadian Charter of Rights and Freedoms*, insofar as similarly situated candidates in comparable integrity breaches were treated differently. The suggested *Charter* violation lacks merit. On their face, the pleadings do not show a deprivation of any of the interests – life, liberty or security of the person – that section 7 protects. Thus, even if the plaintiff proves that the College failed to properly investigate the NDEB’s written examinations, that would not entail a *prima facie* breach of section 7.
- b. An order that the College consider whether any follow-up action is required to ensure registration practices remain transparent, objective, impartial, and fair. The requested order is not within the province of the courts, is vague and, therefore, is unenforceable.
- c. An order that the College provide the plaintiff with a written report, within 90 days, summarizing the steps taken, the evidence reviewed, and its findings with reasons. This appears to be a request for mandamus relief against a regulatory authority. On

its face, the pleadings do not disclose a basis on a court would require the regulator to make such a report, particularly to a private individual who is not subject to the regulator's authority.

Vexatious

[16] Vexatious actions include those brought for an improper purpose other than the assertion of legitimate rights, including the harassment and oppression of other parties: *Re Lang Michener and Fabian*, 1987 CanLII 172 (ON SC).

[17] The pleadings in this motion do not bear the common hallmarks of vexatious litigations, such as curious formatting, rambling discourse or rhetorical questions: *Khan v. Krylov & Company LLP*, 2017 ONCA 625 citing *Gao v. Ontario WSIB*, 2014 ONSC 6497, at para. 15. The pleadings are professional in tone and presentation, and not, on their face, harassing.

[18] The Plaintiff says that this proceeding raises a distinct legal issue: whether the College, as the statutory regulator responsible for protecting the public interest in dental licensure, may decline to examine credible concerns regarding the integrity of the examination it requires for registration.

[19] To understand why that claim is vexatious, one must consider the plaintiff's history. For this, I rely on and adopt the following submissions of the defendant:

As set out in *Benbella v The National Dental Examining Board of Canada*, [2023 ONCA 56](#), the plaintiff is a dental school graduate. To be registered to practice dentistry in Ontario, the plaintiff must, among other requirements, pass the certification process administered by a third party, the NDEB. The plaintiff attempted the certification process before the NDEB in 2018 and failed. He re-wrote the examination in 2019 and failed again. He exhausted his appeal routes, but the end result did not change.

The plaintiff then commenced an action against NDEB in the Superior Court of Justice, seeking a further way to challenge his unsuccessful examination results. On February 28, 2022, his claim was dismissed, with costs ordered against him.

The plaintiff sought an appeal to the Court of Appeal. Before the appeal was adjudicated, the NDEB brought a motion seeking \$18,000 as security for costs. That motion was granted. By order dated August 10, 2022, the plaintiff was required to pay the sum of \$18,000 into court, as security for costs, failing which the Registrar was directed to dismiss the appeal. the plaintiff made the requisite payment into court.

The plaintiff's appeal was unsuccessful. The Court of Appeal upheld the motion judge's finding that it was plain and obvious that the appellant's application disclosed no reasonable cause of action, dismissed the appeal and ordered costs to be paid out of monies held as security for costs.

The plaintiff, however, did not pay the underlying Superior Court of Justice costs order and refused to consent to the remaining costs order being paid out of the monies held as security for costs. The NDEB was therefore required to bring a further motion in the Court of Appeal to obtain costs, which was ultimately granted: *Benbella v National Dental Examining Board of Canada*, 2025 ONCA 43 at para 5.

The plaintiff sought leave to appeal to the Supreme Court. The leave application was dismissed with costs: *Hocine Benbella v. National Dental Examining Board of Canada*, 2025 CanLII 51606 (SCC).

- [20] In submissions on this motion, the plaintiff acknowledges that the evidence he relies on in this proceeding was encompassed in the NDEB Proceedings that have now been finally dismissed. Nevertheless, the plaintiff submits this action is not a prohibited collateral attack on the final determination of the courts regarding his NDEB examination results. He characterizes his claim as “a tenable cause of action grounded in the interpretation of the Defendant’s statutory mandate...[that] arises in a broader regulatory context in which oversight responsibilities between entities have been expressly recognized but remain contested.”
- [21] In other circumstances, a person might legitimately bring a claim to determine the responsibility of a regulatory college over a separate examination board. However, given the context set out, above, I am satisfied that the plaintiff’s requested order that the College investigate the NDEB’s administration of its November 2018 and March 2019 written examinations is simply a renewed attempt to challenge his examination results. The Court has already determined conclusively that the plaintiff has exhausted his means of challenging those results. I agree with the defendant that: “In essence, the plaintiff is seeking to do indirectly what he could not do directly.”
- [22] The plaintiff acknowledges that, like the former proceeding, the “conduct of the NDEB” lies at its heart of this one. The fact that the Plaintiff has refashioned the claim to target the College does not change its essence – which is to challenge the 2018 and 2019 NDEB examination result and impugn the conduct of the NDEB. The plaintiff is not entitled to do that.
- [23] What the plaintiff really wants is to have the same matter adjudicated in a different form: *Kokic v Johnson*, 2025 ONCA 4 at paras 7-8. Rule 2.1.01 is an appropriate vehicle to strike such a claim.
- [24] While unpaid costs are not, in themselves, a reason to grant an order under Rule 2.1, I find the outstanding costs awards significant. The plaintiff is not entitled to refuse to follow one or more court orders while calling upon the court to issue different ones.

Conclusion

- [25] Rule 2.1.01 is intended to address cases like the present one: proceedings that lack legal merit, in circumstances where proceedings are brought trying to re-determine an issue

already determined, rolling forward grounds and issues from prior proceedings to repeat and supplement them in a later proceeding.

- [26] I am satisfied that the plaintiff's most recent proceeding fits within the above description. It therefore falls squarely within the type of legal mischief targeted by Rule 2.1.

ORDER

- [27] The motion is granted. Hocine Benbella's claim against the Royal College of Dental Surgeons of Ontario is dismissed.

Mathen, J.

Date: April 30, 2026