

COURT OF APPEAL FOR ONTARIO

CITATION: Brown v. Weirfoulds LLP, 2025 ONCA 152

DATE: 20250226

DOCKET: COA-24-CV-0635

Nordheimer, Gomery and Dawe JJ.A.

BETWEEN

Kirk Brown

Plaintiff (Appellant)

and

Weirfoulds LLP, Sandra Astolfo, Glenn Ackerley and
Robert Eisenberg

Defendants (Respondents)

Kirk Brown, acting in person

Shivani Chopra, for the respondents

Heard: February 25, 2025

On appeal from the order of Justice Edward M. Morgan of the Superior Court of Justice, dated June 14, 2024, with reasons reported at 2024 ONSC 3429.

REASONS FOR DECISION

[1] Mr. Brown appeals from the order of the motion judge that dismissed his motion to add a defendant to this proceeding and struck out his fresh as amended statement of claim as against the individual respondents on the basis that it did not disclose any viable causes of action. The motion judge permitted the appellant to amend his pleading but only as against the respondent law firm and with strict

limits. At the conclusion of the hearing, we dismissed the appeal with reasons to follow. We now provide our reasons.

[2] The appellant resigned from the respondent law firm on June 13, 2022. In his statement of claim, he pleads constructive dismissal, defamation, conspiracy, discrimination under the *Human Rights Code*, R.S.O. 1990, c. H.19, and breach of rules of the Law Society of Ontario.

[3] The motion judge found that some of what was pleaded in the statement of claim was irrelevant to the cause of actions alleged. This included details about the appellant's life and professional information relating to the individual respondents. The individual respondents contended that this information was included in the pleading to embarrass them and the law firm.

[4] The motion judge reviewed each of the alleged causes of action. He explained why he found, in each instance, that they either did not disclose a viable cause of action against the individual respondents based on the allegations made or because the necessary facts material to those causes of action were not pleaded.

[5] The motion judge further noted that there was existing authority holding that there is no cause of action for breach of the *Rules of Professional Conduct* of the

Law Society of Ontario. Similarly, there is no cause of action that can be grounded solely in an allegation of a breach of human rights legislation.

[6] The appellant has failed to demonstrate any error in the analysis and conclusions of the motion judge. We agree with the motion judge that there is a paucity of material facts contained in the pleading in support of the claim for an unlawful act conspiracy. The claim in defamation is flawed in a few respects, including the fact that no publication of the allegedly defamatory email to any third party is alleged.

[7] The appellant also complains that the motion judge erred in not granting him leave to amend as against the individual respondents. It was within the discretion of the motion judge to determine whether the circumstances of the case suggested that amendments could be made that would provide a proper foundation for the causes of action pled. The motion judge concluded that amendments could not save the pleading. In that regard, we note that the appellant did not provide suggested amendments that would be sufficient to allow any of the causes of action to stand, either before the motion judge or before this court. We also note that the appellant had already amended his claim on an earlier occasion. The appellant has not shown any reversible error in the motion judge's exercise of his discretion.

[8] It is for these reasons that the appeal was dismissed. The respondents are entitled to their costs of the appeal which we fix in the amount of \$5,000, inclusive of disbursements and HST.

“I.V.B. Nordheimer J.A.”

“S. Gomery J.A.”

“J. Dawe J.A.”