

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

JOANNE ST. LEWIS

Plaintiff

and

DENIS RANCOURT

Defendant

RESPONDING PARTY'S MOTION RECORD
(Mandatory Mediation)

Denis Rancourt

[REDACTED]
[REDACTED]

Tel. [REDACTED]

Defendant
(and Responding Party)

Responding Party's Motion Record

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**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

JOANNE ST. LEWIS

Plaintiff

and

DENIS RANCOURT

Defendant

AFFIDAVIT

I, **Denis Rancourt**, of the City of OTTAWA, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. I am the defendant in the action. I am self-represented. I am not a lawyer. I am a physicist.
2. I was a university professor for twenty three years and attained the highest rank of tenured Full Professor in 1996. My 2009 dismissal case is presently in hearing before binding labour arbitration with unanimous support from my union. The Canadian Association of University Teachers (CAUT) is in mid independent enquiry into the breaches of my academic freedom since 2005, including the dismissal. The dismissal was reported in the national and North American media and is considered a major academic freedom case. I won a significant first labour arbitration award in 2008, reviewed in a law journal, and past settlements have included letters of apology or explanation from the University of Ottawa.
3. The instant case is one where the positions of the plaintiff and of the defendant are not compatible, both in fact and in law. The same is unfortunately true of this motion.

Wish voluntary mediation

4. Early in the process, before filing of the Statement of Claim, I repeatedly requested voluntary mediation, as per the plaintiff's-Motion-Record-affidavit-exhibits "H" and "J". This was flatly and abruptly refused, as per the plaintiff's-Motion-Record-affidavit-exhibits "I" and "K".

5. I continue to desire early voluntary mediation on mutually agreed terms. I also wish to preserve the Mandatory Mediation, consistently with the spirit and intent of the Mandatory Mediation Program, for after some useful discovery that may be possible in the 180 days or less foreseen by the Rules of Procedure. And I wish to establish cooperation with the plaintiff in obtaining needed clarifications for mediation.

Plaintiff refusing to provide clarifications and particulars

6. Early in the process, before a Statement of Claim was filed, I asked for basic clarifications regarding the Acts and sections alleged to have been violated, as per the plaintiff's-Motion-Record-affidavit-exhibit "J". I believe this is fundamental to any mediation. I was rebuked and told it would be in the Statement of Claim, as per the plaintiff's-Motion-Record-affidavit-exhibit "K".

7. There is no mention of an Act or specific alleged statutory breach in the Statement of Claim. Later I made the request again as the first point in a request for particulars, as per the plaintiff's-Motion-Record-affidavit-exhibit "N".

8. I was again rebuked by the plaintiff invoking a not reasonable application of the Rules. This is shown in the attached as exhibit "A" which is a copy of a four-part email exchange ending August 11, 2011, at 3:38pm. The latter refusal came after I promptly provided an answer to a request from the plaintiff for particulars and after the plaintiff's Reply was served beyond the time limit foreseen by the Rules. The latter is shown in the attached as exhibit "B" which is a copy of a five-part email exchange ending on August 5, 2011, at 10:39am.

9. To this day, the plaintiff is refusing to specify the Acts and sections that she is alleging have been breached. This is of concern because "defamation" is a material matter in several different statutes and because each such statute contains several different offences. It is my belief that this refusal by the plaintiff is not a proper way to enter an authentic attempt at mediation.

10. All several attempts to obtain other clarifications and particulars were also refused by the plaintiff, as per the above-cited exhibits.

Plaintiff refusing that discovery be initiated

11. Attached as exhibit "C" is a copy of an eight-part email exchange ending on August 19, 2011, at 9:50am. The email of this exhibit "C" also contains an appended forwarded three-part email exchange ending August 10, 2011, at 2:21pm which contains a proposed Discovery Plan of the defendant.

12. It is my present belief that the exchanges in this attached exhibit "C" show that the plaintiff is flatly refusing to discuss or initiate even a Discovery Plan and is using the instant requested Mandatory Mediation order as a pretext to avoid early and efficient discovery or is using the denial of discovery as leverage to force Mandatory Mediation under plaintiff-imposed conditions.

Cannot afford plaintiff-imposed mediator

13. I have been unemployed since 2009 and I have no source of income.

14. Attached as exhibit "D" is a copy of the mediation fee schedule for mediator James Chadwick which the Plaintiff seeks to impose via the instant Motion, accessed from the mediator's web site on August 21, 2011.

15. The fees of mediator Chadwick are significantly larger than those of other professional mediators, including those of his two colleagues in the same firm, as per exhibit "D". The fees of mediator Chadwick, on an hourly rate basis, are more than twice the allowed maximum fees for mediators on the Mandatory Mediation Program's roster of mediators.

16. I cannot financially afford such high fees as a basis for initiating a mediation process.

Abuse of process, vexatious allegations of racism

17. I do not agree with the plaintiff's characterizations and selections of the material facts in the plaintiff's motion documents.

18. I do not agree with the plaintiff's unsubstantiated and bold declarations about my positions, intentions, motives and character.

19. I have noted that the plaintiff alleges "egregious, racist and defamatory statements" but does not explain the legal basis for the alleged racism (which is denied): How is it racism based on the accepted dictionary definition of racism? What statute is being breached? What remedy is foreseen under the law for the alleged "racism"?

20. I am a recognized staunch defender of the rights of all oppressed peoples and groups through my sustained previous professional and now volunteer work in media, teaching and scholarly research, as per the Statement of Defence (plaintiff's-Motion-Record-affidavit-exhibit "B").

21. I am married to a person of colour and have two daughters who are persons of colour.

22. Attached as exhibit "E" is an affidavit dated the week of August 22, 2011, by psychology Professor Dr. Claude Lamontagne, expert on cognition and perception. His affidavit establishes that there are no racist statements in the blog posts at issue in the instant action. His affidavit concludes:

"In conclusion, any trier of fact faced with allegations of racist communication should (i) use the formally accepted definition of racism as the proper gauge, and (ii) be cognisant of the bias caused by the psychological impact of taboo words. I find no racism in the use of the term "house negro" in the blog communications of the Defendant."

23. It is my belief that the plaintiff's broad charges of racism are baseless in law and potentially harmful to a fair administration of justice.

Plaintiff's alleged urgency unjustified

24. All of the statement meanings at issue in the instant action were clearly and completely made in a detailed broadcast in 2008, as explained in the Statement of Defence, without the use of the defined socio-political racial term "house negro" but communicating the same meaning.

25. This 2008 broadcast is copied in the last blog post in the plaintiff's-Motion-Record-affidavit-exhibit "D": A post dated December 6, 2008, on the "U of O Watch" blog. The post is entitled "Rock Administration Prefers to Confuse "Independent" with "Internal" Rather Than Address Systemic Racism".
26. This 2008 broadcast was directly and entirely about a high-profile university matter covered at the time by the major media outlets and personally and professionally involving the plaintiff as a leading figure, including a CBC live interview with the plaintiff. I believe the 2008 broadcast, therefore, was not a matter that the plaintiff could responsibly disregard.
27. Attached as exhibit "F" is a copy of an email from the defendant to the plaintiff sent December 7, 2008 at 6:44pm. In the Statement of Claim the plaintiff acknowledged receiving the email. The email informs the plaintiff about the 2008 post and asks for comment. The plaintiff never responded, for almost three years, for alleged reasons given in the Statement of Claim.
28. Attached as exhibits "G" and "H" are copies of two emails from the defendant to the plaintiff sent on February 11, 2011 at 9:14pm and 11:26pm, respectively. In the Statement of Claim the plaintiff acknowledged receiving at least one of the emails. These emails were also sent to University of Ottawa president Allan Rock. These emails inform the plaintiff and Mr. Rock about the February 11, 2011, "U of O Watch" blog post (plaintiff's-Motion-Record-affidavit-exhibit "D") which is the plaintiff's central concern in the instant action.
29. The emails of attached exhibits "G" and "H" ask "Please provide any factual corrections or comments for posting." The second email asks "Also, please inform your colleague Robert Major [former VP-Academic] so he can verify the content about him."
30. I would have been pleased to make accommodations based on a reasoned exchange, as I have done with other posts in the past. And I would certainly have posted any submitted counter view or explanation or criticism, as has always been my practice. I continue to invite the plaintiff regarding such accommodations and posts or adjustments.
31. I have never received an answer from Mr. Rock or Mr. Major.
32. I received no answer from the plaintiff for over three months, to this important email in which the president was also a recipient, which, I believe, is something all assistant professors would notice. The eventual "answer" was two letters of notice from a counsel, quickly followed by a Statement of Claim, without any possibility for discussion or informal voluntary mediation, despite repeated requests from the defendant for such early resolution.

Cannot be made responsible for Google

33. The plaintiff has stated that a central and dominant cause of concern is that the February 11, 2011, blog post appears prominently on doing a Google search of the plaintiff's name. Further, the plaintiff in the Statement of Claim has alleged (which is denied) that the defendant has caused the high Google ranking. On asking for clarifications on the latter allegations the plaintiff flatly refused to provide any response (attached exhibit "A"). I have received no response to date regarding my request for clarification on this central point. I have no nor have I ever tried to have any control or influence over Google rankings, nor do I have knowledge about Google ranking algorithms.

University students are adults

34. I was a university professor for twenty three years. I have lectured to thousands of students in several different faculties and study programs, including in law courses on several occasions.

35. I have found that university students and law students in particular (who have previous university degrees) to be highly intelligent and most able to discern facts and arguments.

36. I believe it is the job of a university professor to help students ameliorate their analytical and discernment skills regarding issues of public interest, and to present a variety of alternative facts and interpretations, rather than attempt to limit, sensor or control the considerations of facts and positions, especially when some of the facts and positions are contrary to the professor's own views.

37. I have found that professors who actively practice the above open approach acquire good reputations with students, irrespective of their expressed personal positions and views.

38. Attached as exhibit "I" is a copy of several media articles about the instant action as:

- Vancouver Sun June 24, 2011
- Ottawa Citizen June 24, 2011
- Ottawa Citizen July 26, 2011
- National Post July 27, 2011
- Vancouver Sun July 27, 2011
- Ottawa Citizen August 21, 2011

These were each downloaded from the media web sites shortly after publication. Many more similar media articles appeared in cities across Canada. Two of the articles in exhibit "I" use the term "House Negro" in the article title.

39. I believe the media articles achieve adequately balanced presentations of the facts regarding the instant action, which would allow students and university colleagues of the plaintiff to find additional freely-available needed facts and to arrive at their own reasoned and correct conclusions.

Public discourse cannot be stopped

40. I have been informed by Mireille Gervais, Director, Student Appeal Centre, Student Federation of the University of Ottawa, and verily believe that she was contacted by Ravi Amarnath of the *Law Times* to inform her that the *Law Times* (lawtimesnews.com) is planning to run a story the week of August 22, 2011, regarding the instant action and exploring the arising issues about race, freedom of speech, and freedom of information.

41. I have noted that the public record of pleadings and of this motion contains all the content of the blog posts at issue in the action and which the plaintiff seeks to have removed from the web. This public record is largely or entirely on the web.

Issue of defendant's liability insurance

42. Attached as exhibit "J" is a copy of a four-part email exchange ending with an email dated August 17, 2011, at 1:29pm from University of Ottawa Legal Counsel Alain Roussy to the defendant, with several others in cc.

43. I believe that I have a right to be covered in the instant action by the University of Ottawa's CURIE liability insurance policy.

Fact Sheet: Mandatory Mediation

44. Attached as exhibit "K" is a copy of a document published by the Attorney General of Ontario entitled "Fact Sheet: Mandatory Mediation under rules 24.1 and 75.1 of the Rules of Civil Procedure" marked "Effective January 1, 2010". This copy was downloaded from the Attorney General web site (www.attorneygeneral.jus.gov.on.ca) on August 5, 2011.

45. I believe the latter Fact Sheet document gives an accurate description of the intended purpose of and proper outlook for Mandatory Mediation.

Significant factual errors in Plaintiff's pleadings

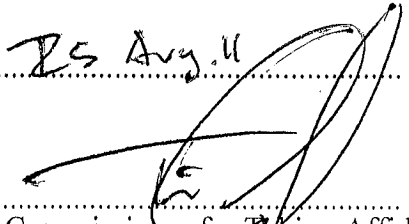
46. I have been informed by Mireille Gervais, Director, Student Appeal Centre (SAC), Student Federation of the University of Ottawa, and verily believe that there are material factual errors in both the Plaintiff's Statement of Claim and the Plaintiff's Reply as pertains to statements about the SAC and the Plaintiff's alleged communications with the SAC. Further, that Ms. Gervais controls relevant documents in this regard and is prepared to serve as a material witness.

Error in the plaintiff's motion affidavit

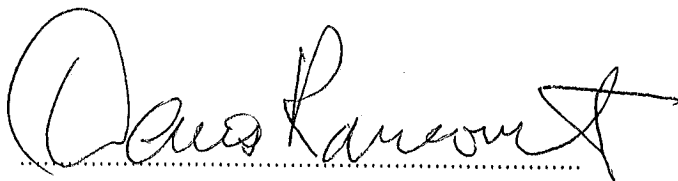
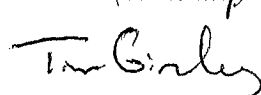
47. The plaintiff's Motion-Record-affidavit sworn on August 18, 2011, contains an error. The affidavit's paragraph 5 reads "5. Attached as Exhibit "D" is a copy of U of O Watch as of August 17, 2011." This is incorrect. The plaintiff's-Motion-Record-affidavit-exhibit "D" is copy of the blog post articles under the blog label "Joanne St. Lewis". U of O Watch contains many more articles than those, 212 articles with comments at the time of this writing.

Sworn and affirmed before me at the City of Ottawa, Ontario, on

..... 25 Aug. 11



.....
Commissioner for Taking Affidavits
(or as may be)



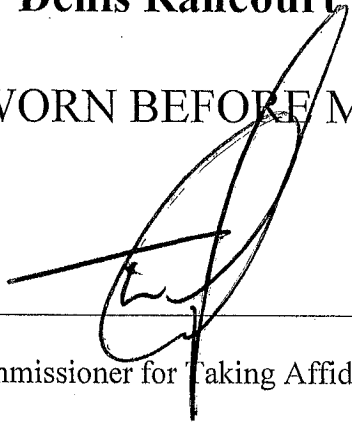
.....
(Signature of deponent)
DENIS RANCOURT
RCP-E 4D (July 1, 2007)

THIS IS EXHIBIT “ **A** ”

OF THE AFFIDAVIT

OF **Denis Rancourt**

SWORN BEFORE ME THIS **August 25, 2011**



Commissioner for Taking Affidavits

10

A



Denis Rancourt [redacted]

Request for particulars of allegations in your Statement of Claim (Superior Court File No. 11-51657)

Dearden, Richard <Richard.Dearden@gowlings.com>

Thu, Aug 11, 2011 at 3:38 PM

To: Denis Rancourt [redacted]

Mr. Rancourt - I am not arguing with you- there is nothing for my client to reconsider. You are not entitled to particulars. Once again I am requesting that you retain a lawyer to represent you in this most serious matter.

Richard Dearden

Partner
613-786-0135
gowlings.com

From: Denis Rancourt [mailto:denis.rancourt@gmail.com]
Sent: Thursday, August 11, 2011 3:34 PM
To: Dearden, Richard
Subject: Re: Request for particulars of allegations in your Statement of Claim (Superior Court File No. 11-51657)

A

Mr. Dearden,

1. Please consider this:

- (i) The rules do not set time limits on requests for particulars.
- (ii) It is recognized by the courts that particulars help in efficient discoveries, in addition to clarifying the allegations before trial (or mediation).
- (iii) Your client has in the Reply made new allegations that require particulars. These Reply pleadings, if legitimate before the court, need to be clarified as soon as possible, in a manner consistent with the purpose of particulars.
- (iv) I have answered all your client's requests for particulars in a timely fashion and respecting the rules.

2. Please therefore ask your client to reconsider her position to refuse answering any of my requests for particulars.

3. In addition to my August 10th request, I wish to have a new request for particulars regarding the Reply.

4. Your client's refusal to answer any particulars at this early stage in the instant circumstances, before discoveries, as needed to optimize the legal process of this action, and including regarding a Reply that was filed after pleadings were closed following rule "25.05 Pleadings in an action are closed when, (a) the plaintiff has delivered a reply to every defence in the action or the time for delivery of a reply has expired;", seems not reasonable to me.

I await your client's re-consideration.

Sincerely,
Denis Rancourt

On Thu, Aug 11, 2011 at 8:05 AM, Dearden, Richard <Richard.Dearden@gowlings.com> wrote:
Mr. Rancourt - You are not entitled to the so called particulars you list below - you have filed your Statement of Defence and a Reply to that Defence has been filed.

From: Denis Rancourt [mailto:██]
Sent: Wednesday, August 10, 2011 09:56 AM

To: Dearden, Richard
Subject: Request for particulars of allegations in your Statement of Claim (Superior Court File No. 11-51657)

Re: Request for particulars of allegations in your Statement of Claim (Superior Court File No. 11-51657)

Mr. Dearden:

Please provide the following particulars of allegations in your Statement of Claim.

- (1) Particulars of the allegations of wrongdoing in the claim. Specifically: Identify the Acts and sections of Acts that are argued to have been breached. Recall that I requested this as a clarification in an email to you dated May 23, 2011, which you have not answered.
- (2) Particulars of the allegations in paragraph 2 of the claim "Professor St. Lewis obtained her tenure in 2001." Specifically: When was Professor St. Lewis first hired as assistant professor at the University of Ottawa? Do you mean "obtained tenure in 2001" or "was granted a tenure-track appointment in 2001"?
- (3) Particulars of the allegations in paragraph 3 of the claim. Specifically: When did Professor St. Lewis become Director of the POWER?
- (4) Particulars of the allegations in paragraph 4 of the claim. Specifically: What is the time period (start dates and end dates) that Professor St. Lewis occupied each of the four alleged positions?
- (5) Particulars of the allegations in paragraph 5 of the claim. Specifically: What is the time period (start date and end date) that Professor St. Lewis occupied each of the alleged committees or working groups? What is the time period (start date and end date) of Professor St. Lewis' elected position as a bencher? When was the vote held for this elected position as bencher and how many candidates were in the election?
- (6) Particulars of the allegations in paragraph 6 of the claim. Specifically: What is the time period (start date and end date) that Professor St. Lewis occupied each of the four alleged positions?
- (7) Particulars of the allegations in paragraph 7 of the claim. Specifically: What are the particulars that the plaintiff's paper for the CJC "was the catalyst for the creation of the first anti-racism training video for federally appointed Judges"? What is the time period that Professor St. Lewis served as a member of the SCECC of the NJI? What are the particulars of "conducted national training programs for the Judges"?
- (8) Particulars of the allegations in paragraph 8 of the claim. Specifically: What is the time period (start and end dates) that Professor St. Lewis served as a technical Advisor? What is a "technical Advisor" and what other Advisor positions existed?
- (9) Particulars of the allegations in paragraph 9 of the claim. Specifically: What is the time period (start and end dates) that the plaintiff was Executive Director of LEAF?

- (10) Particulars of the allegations in paragraph 10 of the claim. Specifically: What is the meaning of "From 1992-94"? What is the time period (start and end dates) that the plaintiff was a steering committee member?
- (11) Particulars of the allegations in paragraph 11 of the claim. Specifically: What is the time period (start and end dates) that the plaintiff was the Special Advisor? What are the particulars regarding the allegation "Her work lead to the formation of the groundbreaking Commission"?
- (12) Particulars of the allegations in paragraph 19 of the claim. Specifically: The particulars about the allegation that the plaintiff is a "national expert in the area of anti-racist decision-making and critical race theory".
- (13) Particulars of the allegations in paragraph 21 of the claim. Specifically: The particulars about the allegation that the plaintiff "has received awards".
- (14) Particulars of the allegations in paragraph 23 of the claim. Specifically: What is the time period (start and end dates) that the plaintiff served as Director?
- (15) Particulars of the allegations in paragraph 25 of the claim.
- (16) Particulars of the allegations in paragraph 36 of the claim. Specifically: The particulars about the allegation "indicating that measures were taken".
- (17) Particulars of the allegations in paragraphs 54, 57 of the claim. Specifically: The particulars about the allegation "Steps have been taken".
- (18) Particulars of the allegations in each of the paragraphs 38, 40, 42, 44, 46, 49, 50, 51, 53, 58 of the claim. Specifically: The particulars about the allegations of malice and of racism. Here, at least please follow Rules of Civil Procedure rule 25.06(8).
- (19) Particulars of the allegations in each of the paragraphs 1, 58, 59, 60 of the claim. Specifically: Please give the particulars regarding each of the damages claimed.

Sincerely,
Denis Rancourt

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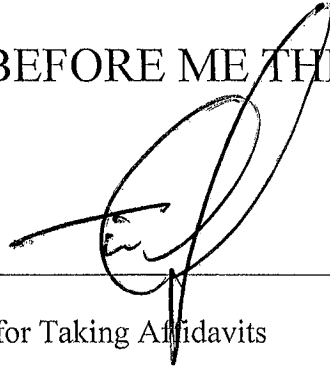
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THIS IS EXHIBIT “ **B** ”

OF THE AFFIDAVIT

OF **Denis Rancourt**

SWORN BEFORE ME THIS **August 25, 2011**

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

Commissioner for Taking Affidavits



Denis Rancourt <[REDACTED]>

Joanne St. Lewis v. Denis Rancourt (Superior Court file No. 11-51657)

Dearden, Richard <Richard.Dearden@gowlings.com>

Fri, Aug 5, 2011 at 10:39 AM

To: Denis Rancourt <[REDACTED]>

Good morning Mr. Rancourt:

1. Further to your email below, I am not going to engage in a debate with you - pleadings are not closed.
2. Attached is the Reply to your Statement of Defence which contains the particulars you requested of your conduct of your defence.
3. Please note that i was not asking for your permission to serve you by email as a self-represented Defendant. I was seeking confirmation that this is the email address i use to communicate with you which it clearly is. A hard copy of the Reply has been mailed to you today.

Richard Dearden
Partner
T 613-786-0135
gowlings.com

From: Denis Rancourt [mailto:[REDACTED]]
Sent: August 3, 2011 4:21 PM
To: Dearden, Richard
Subject: Re: Joanne St. Lewis v. Denis Rancourt (Superior Court file No. 11-51657)

Mr. Dearden:

1. According to Rule 25.04(3) pleadings are closed. What have I not understood about Rule 25.04(3)? There is no mention in the Rules of an exception to 25.04(3) arising from requesting particulars. Please point me to the relevant Rule (or case law?) that you are using? Please provide a valid clarification. My present understanding based on reading the Rules is that pleadings are closed.
2. Please provide me with the particulars concerning my "conduct of your defence" that you allege is relevant to malice. In this regard, please note Rule 25.06(8). Please inform me whether you are going to provide these particulars.
3. Yes, I plan to provide you with the particulars you requested. From the Rules, I understand your request for particulars to be a separate matter from the closing of the pleadings.
4. In general, I prefer not to be served official documents by email. In the future I am open to you describing any special circumstances, in any given case, that would require you to serve me a document by email. Regarding a Reply, the issue of service does not arise it seems because the pleadings are closed.
5. Can you provide a material reason or a practical reason that the time Rule 25.04(3) should not be followed in the instant action, as I remain open to an explanation in view of any needed resolution?

Thank you for your understanding and consideration.

Sincerely,
Denis Rancourt

On Wed, Aug 3, 2011 at 2:37 PM, Dearden, Richard <Richard.Dearden@gowlings.com> wrote:

Mr. Rancourt


1. pleadings are not closed - i have requested particulars within the time period for filing a Reply which was August 2nd.
2. my email of August 1st made no reference at all to the time you had to respond to my request for particulars so i am at a loss as to why you would allege that i was disregarding the Rules.
3. Your email states that i am disregarding the Rules which are intended to protect against abuse. I am notifying you again that your conduct of your defence of this libel action is evidence relevant to the issues of malice, aggravated damages and punitive damages.
4. please inform me whether you are going to provide me the particulars i requested on August 1st.
5. I also asked you whether i can serve the Reply on you by email at this email address - please confirm that i may do so.

Richard Dearden

Partner

T 613-786-0135

gowlings.com

From: Denis Rancourt [mailto:
Sent: August 3, 2011 9:50 AM
To: Dearden, Richard
Subject: Re: Joanne St. Lewis v. Denis Rancourt (Superior Court file No. 11-51657)

Mr. Dearden:

I received your email of August 1st (below).

You appear to be disregarding the Rules of Civil Procedure regarding time in two ways:

- (1) I would normally have seven days to respond to a request for particulars.
- (2) You have chosen not to serve a Reply within the foreseen time limit and you have not requested an accommodation.

The Rules are intended to provide a just process and protection against abuse. My present understanding is that pleadings in the action are closed. Is there a material reason or a practical reason that the time Rules should not be followed in the instant action? I remain open to an explanation in view of any needed resolution.

Sincerely,
Denis Rancourt

On Mon, Aug 1, 2011 at 4:09 PM, Dearden, Richard <Richard.Dearden@gowlings.com> wrote:

Mr. Rancourt :

1. Please provide me particulars of the following paragraphs of your Statement of Defence:
 - (i) Particulars of the allegations in paragraph 5 of the Defence that "the defendant has high regard for and has written about the American Black liberation struggle, such as the works of iconic figures Assata Shakur and Malcolm X". Specifically, identify your writings about Malcolm X.
 - (ii) Particulars of the "statutory academic freedom" alleged in paragraph 6 of the Defence. Specifically, identify the statute that accords the alleged statutory academic freedom.
 - (iii) Particulars of the allegations in paragraph 26 of the Defence of "the many egregious high-profile

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University of Ottawa racial discrimination cases reported in the media in 2011". Specifically, identify the egregious high profile discrimination cases.

2. Once you email me your response to these particulars I will serve you with a Reply to your Statement of Defence shortly thereafter. Please confirm that I can serve the Reply on you by email at this address.

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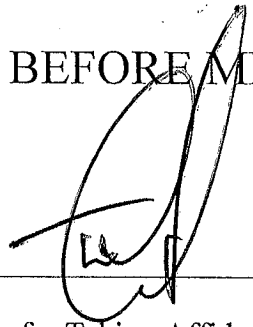
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615K

THIS IS EXHIBIT “ C ”

OF THE AFFIDAVIT

OF Denis Rancourt

SWORN BEFORE ME THIS **August 25, 2011**



Commissioner for Taking Affidavits



Denis Rancourt <[REDACTED]>

Joanne St. Lewis v. Denis Rancourt

Dearden, Richard <Richard.Dearden@gowlings.com>

Fri, Aug 19, 2011 at 9:50 AM

To: denis.rancourt@gmail.com

Mr. Rancourt

1. In response to paragraphs 4-6 below, please be advised that there will be a Discovery Plan but this is a matter to be dealt with after the Court decides the issues in the attached Notice of Motion (the Motion seeks an Order requiring a mediation of this action prior to the exchange of affidavits of documents and examinations for discovery and an Order appointing the mediator). Also attached is our Factum and affidavit (without exhibits). We have attempted personal service on you to no avail and as a result we will mail your hard copy to you in accordance with the Rules. However, if you let me know when you will be home today to have this delivered to you i will do so rather than mailing this out to you.

2. As regards paras 1-3 below, the motion is returnable on September 2nd and it will be heard by a Judge of the Ontario Superior Court of Justice.

3. As you can see from the Notice of Motion, i disagree with paras 7-8 below.

Richard Dearden

Partner

613-786-0135

gowlings.com

From: Denis Rancourt [mailto:[REDACTED]]
Sent: Wednesday, August 17, 2011 3:16 PM
To: Dearden, Richard
Subject: Re: Joanne St. Lewis v. Denis Rancourt

Mr. Dearden,

1. I will be out of town without access to communication most of next week starting this weekend.
2. Please canvas me for availability for hearing dates for your motion before a Master. (As a particular, Thursday afternoons are always unavailable for me. As a particular, I must attend a funeral of a close family member at the end of next week.)
3. I understand that a hearing before a Master involving one party which is not represented by counsel should be recorded by the court. We should arrange this before choosing a date.
4. Regarding the Discovery Plan, are you refusing to agree to a Discovery Plan?
5. Are you refusing to cooperate in finding an agreement to a Discovery Plan?
6. Can you propose changes to my suggested Discovery Plan so that it can be acceptable to you? If so, please do this.
7. I see no reason that discovery cannot proceed irrespective of any disagreement about the timing of a Mandatory Mediation session. Please state your position in this regard.

8. I understand that good practice has shown that even partial discovery can only help in view of a productive Mandatory Mediation attempt.

Sincerely,
Denis Rancourt

On Tue, Aug 16, 2011 at 1:04 PM, Denis Rancourt <[REDACTED]> wrote:

Mr. Dearden:

If your motion presupposes or attempts to establish that there was defamation (which I deny, as per my Statement of Claim), then, if it is an acceptable motion, I expect the public hearing of the motion would be more than two hours long.

DGR.

On Tue, Aug 16, 2011 at 11:11 AM, Dearden, Richard <Richard.Dearden@gowlings.com> wrote:
Mr. Rancourt - I do not accept your discovery plan. You will be receiving a Motion Record from me this week.

Richard Dearden

Partner

T 613-786-0135

gowlings.com

From: Denis Rancourt [mailto:[REDACTED]]
Sent: August 12, 2011 10:31 PM

To: Dearden, Richard
Subject: Re: Joanne St. Lewis v. Denis Rancourt

Mr. Dearden:

1. I am not arguing with you - I do not agree to have the mandatory mediation without information and clarifications that will be provided to both parties in discovery.
2. We should do discovery quickly and efficiently, without further delay.
3. Do you accept my proposed discovery plan (August 10th 2:21pm email, appended again below)?
4. A discovery plan needs to be agreed to at the latest by 4pm October 4, 2011 (rule 29.1.03(2), using your pleadings closure date of filing your Reply); however I propose that we can do the discovery process more quickly than this, as I have indicated.
5. Your other questions are not needed until we are at a stage where we can consider scheduling mediation, after discovery.
6. I share your concern to resolve this action justly as soon as possible.

Sincerely,
Denis Rancourt

On Fri, Aug 12, 2011 at 4:12 PM, Dearden, Richard <Richard.Dearden@gowlings.com> wrote:
Mr. Rancourt

1. I do not agree to delay the mediation until after discoveries. Your false and defamatory publications are causing damage to Professor St. Lewis every day this matter remains unresolved and I insist that we make an attempt to mediate a settlement as soon as possible. In the event that we do not settle this action at a first mediation, nothing precludes us from holding a second mediation after discoveries if we agree to do so.
2. I have proposed as a mediator James Chadwick, a former Regional Senior Justice of the Superior Court of Justice who is skilled in mediation. Please identify your "suggested mediator" mentioned in your paragraph 3 below.
3. Please identify the "adviser" you wish to accompany you at a mediation and the role of the "adviser". Once I have this information I will consider your request. "

From: Denis Rancourt [mailto:████████████████████]
Sent: Wednesday, August 10, 2011 10:47 AM
To: Dearden, Richard
Subject: Re: Joanne St. Lewis v. Denis Rancourt

Mr. Dearden:

1. I suggest that we do discoveries (and outstanding requests for particulars) before mediation. This will make for a more informed, efficient and successful mediation.
2. I will send you a suggested discovery plan shortly.
3. At the present time I have no knowledge or opinion about Mr. Chadwick or his fees and methods. I will need to examine any such proposal and I also may have a suggested mediator.
4. At this time I ask that you accept, as I am self-represented, that at any mediation I will be accompanied by an adviser.

Sincerely,
Denis Rancourt

On Fri, Aug 5, 2011 at 10:46 AM, Dearden, Richard <Richard.Dearden@gowlings.com> wrote:
Mr. Rancourt - we are required to select a mediator and conduct a mediation of this libel action. I propose that we select former Regional Senior Justice James Chadwick as our mediator. You will find background information about Mr. Chadwick at <http://www.odrg.net/chadwick.html>. Assuming you agree to have Mr Chadwick conduct the mediation, I propose that the mediation be held on September 13th or September 30th. Please let me know soon so we can schedule the mediation before those date become unavailable.

Richard Dearden
Partner
T 613-786-0135
richard.dearden@gowlings.com

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----- Forwarded message -----

From: Denis Rancourt [REDACTED]
Date: Wed, Aug 10, 2011 at 2:21 PM
Subject: Proposed Discovery Plan -- Re: Joanne St. Lewis v. Denis Rancourt
To: "Dearden, Richard" <Richard.Dearden@gowlings.com>

Mr. Dearden,

Can you accept the following discovery plan?

DISCOVERY PLAN

1. The intended scope of documentary discovery under rule 30.02 will be all documents in the responding party's power in relation to or arguably relevant to all allegations made in all the pleadings of both parties and in relation to or arguably relevant to all aspects of the action.
2. Each party's affidavit of documents (Form 30A or 30B) under rule 30.03 will be served by 4pm on Tuesday September 6, 2011.
3. Copies of requested documents listed in the affidavit of documents will be promptly made available to a requesting party at cost of the copy (\$0.14/page or cost of the electronic medium), and no later than 7 days after the request.
4. You need only add your names of persons intended to be produced for oral examination for discovery under Rule 31 and information respecting the timing and length of the examinations and your any other information intended to result in the expeditious and cost-effective completion of the discovery process in a manner that is proportionate to the importance and complexity of the action.

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After we agree on a discovery plan, I will send you an affidavit of documents as soon as possible.

Sincerely,
Denis Rancourt

On Wed, Aug 10, 2011 at 10:47 AM, Denis Rancourt <[REDACTED]> wrote:

Mr. Dearden:

1. I suggest that we do discoveries (and outstanding requests for particulars) before mediation. This will make for a more informed, efficient and successful mediation.

2. I will send you a suggested discovery plan shortly.

3. At the present time I have no knowledge or opinion about Mr. Chadwick or his fees and methods. I will need to examine any such proposal and I also may have a suggested mediator.

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Sincerely,
Denis Rancourt

On Fri, Aug 5, 2011 at 10:46 AM, Dearden, Richard <Richard.Dearden@gowlings.com> wrote:

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Richard Dearden
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3 attachments

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