

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Joanne St. Lewis v. Denis Rancourt

BEFORE: Mr. Justice Robert N. Beaudoin

Appearances:

Richard Deardon (by teleconference) and Anastasia Semenova: *for the Plaintiff*

Denis Rancourt: for himself

Peter Doody: for the University of Ottawa

Joseth Hickey: Observer

Hazel Gashoka: Observer

ENDORSEMENT (at Case Conference)

There are a number of issues for this conference:

1. The University of Ottawa seeks leave to intervene in the Defendant's motion to have a finding that the agreement between the Plaintiff and the University violates the rule against Champerty. No leave is required. As the University would be affected by this order, service of the Notice of Motion must be made on the University pursuant to Rule 37.07(1). It is implicit in that Rule the University has the right to file material in response to the Notice of Motion. Mr. Doody has accepted service of the Notice of Motion on behalf of the University.
2. The Defendant sought to postpone discoveries in the main action pending the results of the Champerty motion. Whether or not a court will conclude that the arrangements between Ms. St. Lewis offend the rule against Champerty, that does not dispose of the merits of her claim in defamation against Mr. Rancourt and I have concluded that discoveries on the main action should not be postponed pending the hearing of the Champerty Motion. If Mr. Rancourt should succeed in his Champerty Motion, he can claim any costs incurred of having to attend discovery.
3. The Defendant also expressed an intention to bring an "Open Court" Motion that would allow any member of the public or media to attend at any examinations for discovery. For this reason, he expressed the view that this motion should be heard before any cross-examinations or discoveries are scheduled or take place. This issue has been dealt with before. I conclude that this principle does not apply to out-of-court examinations and I adopt the reasoning of Master MacLeod in his order of October 6, 2011, which order has not been

appealed. There is no right for the public to attend an examination out-of-court at the office of the special examiner or court reporter.

4. As for the Champerty Motion itself, the following schedule applies:
 - a) the Plaintiff and the University will deliver their responding affidavits by February 21, 2011;
 - b) the Defendant will serve his Summons to a Witness, Robert Giroux, by February 13, 2012 for an examination to take place on March 5, 2012;
 - c) if the University agrees to the examination of Mr. Giroux, it will take place on March 12 or March 13, 2012, subject to Mr. Giroux' availability;
 - d) if the University does not agree with the proposed examination, it will serve its Motion to Quash the Summons no later than February 27, 2012 and the Motion will be heard on March 5, 2012 at a time to be arranged;
 - e) cross-examinations on affidavits will take place on March 27 and March 28, 2012. Ms. St. Lewis to be cross-examined first on March 27, 2012;
 - f) service of any documents on Mr. Rancourt in these proceedings can be made by e-mail and same day delivery of hard copies by courier at Mr. Rancourt's address;
 - g) a case conference will be held on April 2, 2012 at 9:00 a.m. to review compliance with this timetable, to schedule any motions arising out of the cross-examinations and the hearing of the motion.
5. As for the defamation action, the following timetable applies:
 - a) Examinations for discovery will take place on April 30 and May 1, 2012 with examinations of Mr. Rancourt taking place on April 30th and those of Ms. St. Lewis taking place on May 1, 2012;
 - b) if Mr. Rancourt decides to bring a motion pursuant to Rule 30.06 for a better affidavit of documents or to cross-examine on the plaintiff's affidavit of documents, this is to be scheduled by him to be heard on April 3, 2012 at 10:00 a.m. He must serve his Notice of Motion in accordance with the Rules;
 - c) Mr. Rancourt is to provide copies of all documents referred to in his existing affidavit of documents by March 9, 2012. He is to provide an updated Affidavit of Documents and copies of those documents by April 16, 2012;
 - d) a case conference to review the status of the discoveries and to schedule the next steps will take place on May 4, 2012 at 9:00 a.m.
6. The plaintiff seeks costs "Thrown Away" for its attendance at the case conference before Master MacLeod on January 26, 2012 as well as for its response to the Defendants' request

for the translation of all documents and has filed written submissions in support of that request. Mr. Rancourt is to provide his written submissions in response by April 23, 2012 and the plaintiff will have a further 10 days from that date to provide her reply submissions.

7. The Plaintiff sought a ruling today on the issue of whether the French language interpretation should appear in the transcripts. This matter will be dealt with at the April 2, 2012 case conference.

“original signed”

Mr. Justice Robert N. Beaudoin

Date: February 8, 2012