

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

JOANNE ST. LEWIS

Plaintiff

and

DENIS RANCOURT

Defendant

RESPONDING PARTY'S MOTION RECORD
(Compelling answers and document production, affidavit on motion)

Denis Rancourt

Defendant
(and Responding Party)

Responding Party's Motion Record

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	(B) Complete Court Reporter transcript of the September 6, 2011, cross-examination of defendant.	
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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, AFFIRM AS FOLLOWS:

1. I am self-represented. I am not a lawyer.
2. I am the defendant in the action. I am the respondent in the instant motion to compel answers and document productions from a cross-examination on affidavits on a previous motion (the “original motion”) to force immediate Mandatory Mediation and to impose the plaintiff’s mediator without my consent.
3. I have knowledge of the matters sworn to in this affidavit.
4. My affiant expert witness Professor Dr. Claude Lamontagne has authorized me to speak on his behalf in the instant motion.
5. I have been informed by Dr. Claude Lamontagne and verily believe: that he does not have further memory about what dictionaries he looked at in reference to his paragraph 8 of his affidavit, beyond the details he provided in cross-examination; and that he did not make and has never made copies of the dictionary entries he refers to in paragraph 8 of his affidavit.

Plaintiff's original motion untenable at law

6. Based on the record of the instant action to date, on the Rules of Procedure, and on my experience of the action to date, I believe that the original motion to force immediate Mandatory Mediation before the 180 days foreseen by the Rules and to impose the plaintiff's mediator without my consent is frivolous, vexatious or an abuse of process and that the cross-examinations and instant motion that followed from the original motion constitute improper attempted financial and procedural intimidations of me.

7. I do not consent to the mediators that the plaintiff seeks to impose via the plaintiff's original motion.

8. Based on the plaintiff's Motion Record for the original motion to force immediate Mandatory Mediation and to impose the plaintiff's mediator without my consent and based on my experience of the action to date, I believe that Mandatory Mediation is less likely to succeed under the conditions sought in the plaintiff's original motion. I also believe that this would be obvious to any reasonable observer familiar with the concept of mediation.

9. Based on my experience in and knowledge about the September 6, 2011, cross-examinations on affidavits on the original motion and based on my experience in and knowledge about the instant defamation action, I believe that any authentic attempt at mediation is likely to be complex and lengthy and that partial or complete success of the plaintiff's original motion to force immediate Mandatory Mediation prior to the foreseen 180-day Rule limit and to impose the plaintiff's non-list mediator without my consent, under motivational allegations of urgency and impending harm, will significantly reduce the likelihood of success in mediation.

10. Based on

- (i) the plaintiff's Motion Record for the original motion to force immediate Mandatory Mediation and to impose the plaintiff's mediator,
- (ii) Rule of Procedure 24.1.09(2)(d) which specifies the condition under which a judge may order a party to attend early Mandatory Mediation before the 180 days foreseen by the Rules,
- (iii) Rule of Procedure 24.1.08(2)(c) which specifies the condition under which a non-list mediator can act in Mandatory Mediation, and
- (iv) the plaintiff's instant pursuance of the original motion despite my Factum response to it and my affidavit evidence,

I believe that the original motion to force immediate Mandatory Mediation before the 180 days foreseen in the Rules and to impose the plaintiff's mediator without my consent is

- (a) unambiguously contrary to Rules 24.1.09(2)(d) and 24.1.08(2)(c) in the instant circumstances,
- (b) not tenable at law, and
- (c) an improper attempt to use a motion about Mandatory Mediation as a proxy for a motion seeking an interim injunction in a defamation action.

Exhibits

11. I believe that the defendant's and plaintiff's Motion Records for the original motion are relevant to the instant motion and that all these documents should be admitted for the instant motion.
12. Attached as exhibit "A" is a true copy of an August 29, 2011, *Law Times* article about the instant action. The copy, with all reader comments, was downloaded by me from the *Law Times* web site on September 24, 2011. I believe this article shows a reasonable discourse occurring in the Canadian law community about the instant action and thereby invalidates the plaintiff's (who is a law professor) alleged motive for the original motion – that urgent intervention is needed to prevent harm.
13. Attached as exhibit "B" is a true complete copy of the transcript of the September 6, 2011, cross-examination of me on my affidavits on the original motion. This copy is of the paper copy first received by me via courier service, without any changes arising from my requests to the court reporter for corrections. (Note affirmed errors in both cross-examination transcripts, see below and exhibit "I".)
14. Attached as exhibit "C" is a true complete copy of the transcript of the September 6, 2011, cross-examination of Associate Professor Dr. Claude Lamontagne on his affidavit on the original motion. This copy is of the paper copy first received by me via courier service, without any changes arising from my requests to the court reporter for corrections. (Note affirmed errors in both cross-examination transcripts, see below and exhibit "I".)
15. I know or believe the cross-examination statements of affiant Claude Lamontagne about my relation with him to be true except some of the statements about the support committee (e.g. transcript paragraphs 106-108 and on page-42).
16. Attached as exhibit "D" is a true copy of the Curriculum Vita (CV) of Associate Professor Dr. Claude Lamontagne which Dr. Lamontagne produced at the cross-examination of September 6, 2011, and offered to the plaintiff's counsel Mr. Dearden but which Mr. Dearden refused to accept. I believe that Dr. Lamontagne's research work firmly establishes him as an expert in cognitive science and in the more specific area of cognitive dynamics, which are relevant to his affidavit evidence.
17. Attached as exhibit "E" is an email sent from plaintiff's counsel Mr. Dearden to my affiant Dr. Claude Lamontagne on September 24, 2011, at 3:48pm, after the instant motion was served, without including me in cc. It states in part: "There is no issue that the "undertakings" you provided must be fulfilled."
18. Attached as exhibit "F" is a six-part email exchange between me and the plaintiff's counsel ending September 1, 2011, at 12:39pm, primarily about the public's right to attend cross-examinations on affidavits on motions. Mr. Dearden refused to answer the September 1, 2011, 12:39pm email before the September 6, 2011, cross-examinations and continues to refuse to answer.
19. Attached as exhibit "G" is a copy of the court-stamped defendant's Affidavit of Documents for discovery filed and served on September 21, 2011, and a copy of the associated filed Affidavit of Service of the same date.
20. Attached as exhibit "H" is an email from me to plaintiff's counsel Mr. Dearden sent September 22, 2011, at 10:30am. The email asks for available dates in view of my intension to serve a notice of examination for discovery. Mr. Dearden is refusing to answer. The email asks to avoid Thursday dates.

Mr. Dearden unilaterally set the instant motion date for Thursday October 6, 2011, and served me the Notice of Motion on September 23, 2011.

21. I served the plaintiff a Notice of Examination for discovery on September 28, 2011, with examination date of November 8, 2011. The plaintiff's counsel acknowledged service on the same day.

22. Attached as exhibit "I" is an email from me to Mr. Renzo Catana of Cornell-Catana court reporting services, with plaintiff's counsel in cc, sent on September 26, 2011, at 3:44pm. The statements in the email are true. Point-(1) in the email describes an error in the transcript pages that the plaintiff has included in the plaintiff's Motion Record (page-129 of plaintiff's Motion Record).

23. Attached as exhibit "J" is a five-part email exchange between the defendant and the plaintiff's counsel ending with an email sent on September 28, 2011, at 11:35am. In this exchange, the plaintiff seeks to adjourn the hearing of the original motion (set for October 7, 2011) in order to postpone the hearing to December 2011.

Absence of plaintiff's counsel's reasonable diligence

24. Plaintiff's counsel has not practiced due courtesy. Mr. Dearden has systematically refused to canvas me or reply for dates in all aspects of the action (all motions, cross-examinations, Discovery Plan, and examination for discovery) despite my written protests against his disregard (e.g., email paragraph-(6), page-144, plaintiff's Motion Record).

25. Starting with the plaintiff's original motion, plaintiff's counsel has continuously stressed urgency by alleging immediate harm to his client and by imposing extreme dates, yet plaintiff's counsel cancelled the hearing date of September 2, 2011, for the original motion in order to perform cross-examinations which, I believe, change nothing to the fatally flawed legal standing of the plaintiff's original motion.

26. During the cross-examination of me, plaintiff's counsel badgered me repeatedly, such as transcript paragraphs 1 through 127. At paragraph 127 when I named the badgering, plaintiff's counsel threatened to use my protest about the badgering against me as

"Mr. Rancourt, I'm putting you on notice again that the shots that you take at me as counsel will be used against you in terms of malice and aggravated damages and punitive damages. Do not tell me that I am badgering you." (paragraph 128 in part).

27. In the course of the cross-examinations, I stated approximately fifty (50) times my intension to respond only after consulting a lawyer (e.g., such as using the term "under advisement"), often needing to repeat the statement while being badgered on a given question despite my expressed commitments to answer after consultation and within a week.

28. I believe that during the cross-examination counsel for the plaintiff attempted to mislead me to accept that I was liable up-front for the cross-examination transcript costs as:

162. Q. It will be on the transcript?

A. Will you be sending me a copy of the transcript?

163. Q. You will be buying a copy of the transcript from Madam Court Reporter?
A. No, I will not. Would you send me one?
164. Q. I am going to buy one. And you can buy one. Because they have copyright in them?
A. No, I believe the Rules of Procedure don't go like that. You are to provide me one if you are going to use it in Court.
165. Q. Well, let's see okay? Right now I want to ---

Mr. Dearden then never corrected his statements about costs of the transcripts or apologized for his incorrect statements.

29. During the cross-examination I believe plaintiff for counsel attempted to mislead me by repeatedly insisting that all his questions were legitimately required to be answered in the cross-examination on affidavits on a motion, for example, such as:

314. Q. Okay. Did she [Mireille Gervais] agree to be a witness?
A. That's not something I need to answer.
And you probably know that that's the case. Do you agree that's not something I need to answer?
315. Q. I wouldn't have asked you the question if I didn't expect an answer to it. I'm just not arguing with you?
A. Do you agree that I don't have to answer that question?
316. Q. No, you should be answering the question. Answer the question?
A. Do you agree that I'm not obliged to answer this question?
317. Q. I can't force you to answer it sir, but I can bring a Motion ---
A. Within the law and the procedures, do you agree that I don't have to answer that question?
318. Q. You gave an answer. You raised the fact that you asked her to be a witness. And you put that into evidence. And I can ask you a question arising out of that. Period?
A. Do you agree that I don't need to answer the question?
319. Q. Are you listening to me?
A. I'm asking you a question.
320. Q. Are you listening to me?
A. You refuse to answer, that's fine.

30. Mr. Dearden never corrected his stance or apologized. In addition, at no time in the cross-examinations did Mr. Dearden make clear to me or my affiant Dr. Lamontagne that he was acting exclusively in the interests of his client and accordingly his comments may be partisan.

31. Many of the questions to me that plaintiff's counsel insisted were required at law to be answered and that plaintiff's counsel included in his "Refusals/Advisements..." document sent to me on September 13, 2011 (plaintiff's Motion Record, affidavit of Ryan Kennedy, exhibit "G") after I had advised him

"Please reconsider each of your requests and indicate if you continue to hold that you are entitled to obtain each of the outstanding items. Please drop the items from your list that you will admit are not properly legally due from the cross-examinations on the affidavits in this motion."
(plaintiff's Motion Record, page-145, email paragraph-(5); affidavit of Ryan Kennedy, exhibit "H")

were finally only-now abandoned by plaintiff's counsel in the instant motion. These only-now abandoned questions that I believe to be improper and to have been aggressively pushed on me include:

6. Q. 121, p. 33

Do you have any ownership in patents?

11. Q. 198, pp. 48-49

What do you think you would ask Mr. Chadwick to get yourself comfortable with him as a mediator?

12. Q. 305-309, pp. 70-71

Produce the communications exchanged with Mireille Gervais about this libel action.

Q. 314, p. 71

Did Mireille Gervais agree to be a witness?

13. Q. 339- Q. 347, pp. 76-77

Did you post everything I [Richard Dearden] see on the U of O Watch?

Did you post what I see about this action including my emails to you on your U of O Watch?

16. Q. 405-409, pp. 89-91

The reason the Statement of Claim was immediately made public was because you posted it on your blog?

[From "Refusals/Advisements..." document sent to me on September 13, 2011; plaintiff's Motion Record, affidavit of Ryan Kennedy, exhibit "G".]

32. Similarly, Mr. Dearden abandoned one of his four questions (a particularly improper question, I believe) to my affiant Dr. Lamontagne only-now for the instant motion despite Dr. Lamontagne stating (cross-examination transcript, paragraph-11) that he did not want to answer:

1. Q. 8-11, pp. 4-5

Do you know the three individuals sitting at the end of the table here who are strangers to me?

Do you know them?

[From "Refusals/Advisements..." document sent to Dr. Lamontagne on September 15, 2011; plaintiff's Motion Record, affidavit of Ryan Kennedy, exhibit "I".]

33. Three members of the public attended the cross-examinations (see attached exhibit "F" and cross-examination transcripts). Mr. Dearden vehemently and repeatedly affirmed that they were not allowed, aggressively pressured me to ask them to leave, and violated their privacy by demanding that they identify themselves. He also improperly pressured my affiant to identify them, at cross-examination and by including the question in a "Refusals/Advisements ... and Undertakings" document ("Refusals/Advisements..." document sent to Dr. Lamontagne on September 15, 2011; plaintiff's Motion Record, affidavit of Ryan Kennedy, exhibit "I".) I believe that the public has a right to peaceably attend cross-examinations on affidavits on motions, while being informed about privilege.

34. Plaintiff's counsel Mr. Dearden is insisting that my affiant Dr. Lamontagne is bound to "undertakings" made at cross-examination (e.g., exhibit "E", and above). This is contrary to how we concluded the cross-examination of my affiant regarding all the questions, with the following statement (from the transcript, exhibit "C"):

BY MR. DEARDEN:

160. Q. As I said Dr. Lamontagne, when I get the information that I have asked you for, I may have other questions for you in cross examination. So you may be back here one more time. Any idea when you can get me this information?

MR. RANCOURT: I'd like to point out that I think we have an understanding that we are going to be examining whether the affiant must provide you with that information.

THE WITNESS: If it turns out I have to, it will be done within a couple of weeks.

BY MR. DEARDEN:

161. Q. Well, we need it more than a couple of weeks sir. So could I ask you ---

A. I thought legal processes took months?

There were no undertakings to produce answers or documents on the part of my affiant who was not accompanied by a lawyer.

35. Plaintiff's counsel Mr. Dearden filed six exhibits on the examinations of affidavits on the motion. I believe all or most of these exhibits were improperly filed, possibly as an attempt to prematurely introduce evidence not relevant to the motion. The proper sources of these exhibits were not given, nor were the documents authenticated. An undertaking by Mr. Dearden to provide the web address (URL) of one of the contentious documents has been disregarded to this date (cross-examination of Dr. Lamontagne, transcript, paragraphs-101-102). In another case, the content of a youtube video was questioned based only on unidentified titles of youtube videos from an unidentified print-out.

36. The tone of Mr. Dearden's cross-examination of me was aggressive and intimidating and his voice was loud and unnecessarily stern. The observers were understandably shaken. He was also at times demeaning in his comments about my procedural inexperience, such as "This isn't American TV law program. Okay?" (page-17, line-22) and "Yeah. This isn't a labour arbitration okay, where you get to pick your guy[?]" (page-48, lines-1-2). Mr. Dearden knows that I am involved in a labour arbitration and has noted it on the record. He demeaned my affiant Professor Dr. Claude Lamontagne as "a so called expert that you have put in as Exhibit E to your Affidavit" (page-24, line-25 and page-25 line-1). He used the derogatory term "ya" instead of "you" (not reproduced in the transcripts, but heard and also verified by me on the court-reporter voice recordings). He used the intimidating military expression "Now, here's the drill sir." as part of one of several prolonged scoldings of me (e.g., transcript, page-8, line-3; regarding a legitimate disagreement about public attendance). I believe there is no valid legal reason for Mr. Dearden's intimidating, demeaning and disrespectful behaviour in the cross-examination of me; that it served no legitimate purpose. His demeanour was qualitatively somewhat different with affiant Dr. Lamontagne.

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

September _____, 2011

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

.....
(Signature of deponent)
Denis Rancourt

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DENIS RANCOURT, AFFIRMED:

CROSS EXAMINATION BY MR. DEARDEN ON AFFIDAVITS

SWORN AUGUST 25 AND AUGUST 26, 2001:

1. Q. Mr. Rancourt, you have been sworn to tell the truth? Or were you affirmed to tell the truth in this cross examination?

A. That's correct.

2. Q. Mr. Rancourt, before you were served with the Notice of Cross Examination in this matter, we had an exchange where I told you that members of the public were not entitled to attend this private litigation between you and Professor St. Louis.

I am seeing three people, two males, one female sitting at the end of the table who I do not recognize and you know these people?

A. They are members of the public.

3. Q. Do you know these people sir?

A. I refuse to answer that question.

MR. DEARDEN: I am asking you sir, I don't know your name so I'm not being disrespectful. What is your name please?

MALE NO. 1: If you can give me authority of speaking on behalf I can give you my name.

MR. DEARDEN: I'm sorry?

MALE NO. 1: If he can give me the authority of

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1 speaking on behalf to ask me my name.

2 MR. DEARDEN: I am counsel for Joanne St. Lewis,
3 the Plaintiff, in a libel action. You are in a cross
4 examination that is private. I am asking your name?

5 MALE NO. 1: I'm asking you to show me the
6 authority representing not the client.

7 MR. DEARDEN: You are getting all of this Madam
8 Court Reporter? And I'll ask the second male that is
9 sitting in this room, your name sir?

10 MALE NO. 2: I am a member of the public. I am
11 here to observe.

12 MR. DEARDEN: You are not going to give me your
13 name? Pardon? The transcript doesn't pick up motions
14 which you were sort of putting your hands out ---

15 MR. RANCOURT: Mr. Dearden, I'd like to interrupt
16 for a second. I'd like to object.

17 MR. DEARDEN: No, I'm not letting you. I'm
18 asking who these strangers are in this cross examination.

19 MR. RANCOURT: I'd like to object to what you are
20 doing.

21 MR. DEARDEN: Go ahead and put it on the Record?

22 MR. RANCOURT: I'd like to object. I don't see -
23 - I believe that the public is entitled to attend here.

O

24 MR. DEARDEN: And you are wrong.

25 MR. RANCOURT: Well, we can discuss that. But at

1 this time I don't see what authority you have to invade
2 their privacy as members of the public by asking them
3 their name.

4 And I don't see what relevance that has to the
5 point you are trying to make about whether or not they
6 can attend.

7 MR. DEARDEN: Are you a lawyer for these three
8 strangers that are sitting in this cross examination sir?

9 MR. RANCOURT: I'm making an objection. I'm
10 making an objection to what you were doing at this cross
11 examination.

12 MR. DEARDEN: Madam I'll ask you the same
13 questions I asked these two gentlemen.

14 MR. RANCOURT: Can you explain the relevance of
15 what you're doing?

16 MR. DEARDEN: Can you identify yourself please?

17 FEMALE: I am a member of the public.

18 MR. DEARDEN: So you are not going to identify
19 yourself either?

20 FEMALE: Not until you tell me on what grounds I
21 must.

22 MR. DEARDEN: This is a private litigation
23 between Joanne St. Louis and Mr. Rancourt. Cross
24 examinations and examinations for discovery are not
25 public.

1 Now Mr. Rancourt, I'm putting you on notice again
2 that your conduct from the time you published the
3 defamatory statements about Professor St. Louis, until
4 there is a Judgment, is relevant to the issues of malice,
5 aggravated damages and punitive damages.

6 Now, ask these people to leave please?

7 MR. RANCOURT: I understand the notice you have
8 just put me under. I'd like to -- this is an issue of
9 whether or not the public can attend. And I'd like to
10 give you a copy of this email exchange we had on that
11 very question which I brought a copy for you here.

12 And the last email I sent you on this matter was
13 as follows. It was sent September 1st, 2011 at 12:39
14 p.m. And you had affirmed in a previous email that the
15 public was not entitled to attend here. So I responded
16 in this way.

17 I said, "Please provide a case law decision or
18 rule or a succinct legal argument regarding your
19 position". My considered position is that the public --
20 is that sorry, my considered position is that this is
21 public, but I'm open to hearing your reasons beyond your
22 simple affirmation.

23 Because your reasons -- because this affirmation
24 appears to be contrary to the principle of a just and
25 public hearing process. Now a cross examination is

1 something that we would normally only do at trial. But
2 because this is a Motion the process is simplified.

3 So this is part of the trial process for this
4 Motion and I believe it should be public. Can you please
5 provide your argument as to why that is not the case.

6 MR. DEARDEN: I don't have to provide you any
7 argument sir. We are in Room 10 at Cornell Catana
8 conducting a cross examination and they are done without
9 members of the public present. Okay. I don't have to
10 argue with you sir. I'm not going to argue with you.
11 Tell them to leave please?

12 MR. RANCOURT: Okay. I want to make another
13 point. I'm not arguing. I just want to say that I want
14 to co-operate. But I want to understand why you are
15 affirming this. I understand that you are saying in your
16 practice you have not admitted this previously if that is
17 what you are saying.

18 But I want to -- if you could just explain how it
19 is that this is not public. Because your affirmation
20 doesn't seem reasonable to me. So if you could just ---

21 MR. DEARDEN: I don't care. Okay. The
22 transcript of this cross examination if it is filed as
23 part of this Motion that we brought to compel you to
24 attend a mandatory mediation and to appoint a mediator
25 will then be subject to the open court principle. But

1 not until then.

2 Members of the public are not entitled to be
3 sitting here right now, during this cross examination on
4 your Affidavit. Okay? So I'm giving you one more
5 opportunity to tell them to leave.

6 MR. RANCOURT: They are independent members of
7 the public. They can make their own decisions.

8 MR. DEARDEN: You brought them here. Tell them
9 to leave.

10 MR. RANCOURT: That's your characterization.

11 MR. DEARDEN: You were standing out front of this
12 building when I came into this building with these people
13 who you were chatting up. You brought them here.

14 You alerted me to the fact that you were going to
15 bring four or five people here and wanted a room big
16 enough to have them sit in here. And I told you you
17 couldn't do that.

18 MR. RANCOURT: I didn't bring them here. They
19 are independent members of the public.

20 MR. DEARDEN: Are you going to ask them to leave?

21 MR. RANCOURT: I don't take orders of that type.

22 MR. DEARDEN: I wasn't ordering you. I asked you
23 to ask them to leave. Are going to ask them to leave
24 sir?

25 MR. RANCOURT: They are independent members of

1 the public. I think my answer is clear.

2 MR. DEARDEN: Okay. I'm taking it that you are
3 not. Now, here's the drill sir. I would normally walk
4 out of here now and I would be seeking costs for re-
5 attendance against you personally.

6 But because of the urgency in trying to get a
7 mandatory mediation held, and because of the urgency of
8 that, I'm not going to waste time or money trying to get
9 you to understand that you can't have members of the
10 public in a cross examination or an examination for
11 discovery.

12 So I'm going to ---

13 MR. RANCOURT: --- Mr. Dearden, I asked for a
14 simple explanation.

15 MR. DEARDEN: I am going to proceed with your
16 cross examination sir. But I'm telling you I'm going to
17 seek costs against you for you doing this.

18 And of course as I've told you, your conduct of
19 this litigation from the day you published the defamatory
20 statements until the Judgment is going to be used against
21 you for malice purposes and aggravated damages and
22 punitive damages. You understand that. Correct?

23 MR. RANCOURT: This is something you have been
24 repeating in writing and now orally many times. I think
25 it's abusive to keep repeating this.

1 MR. DEARDEN: It's actually not abusive at all
2 sir. What I'm trying to do is to make sure you
3 understand what I'm saying to you because you are not a
4 lawyer.

5 MR. RANCOURT: --- indication that I don't
6 understand it.

7 MR. DEARDEN: You tell me. You understand, don't
8 you? Because I won't repeat it again. Okay?

9 MR. RANCOURT: I understand. Thank you for not
10 repeating it again.

11 MR. DEARDEN: We'll do the cross examination now.

12 BY MR. DEARDEN:

13 4. Q. So you live where sir? Your residence
14 address?

15 A. I don't see how that's relevant to cross
16 examine on the Affidavit.

17 5. Q. Okay. Well it's 35 Simcoe Street which is on
18 your Responding Motion Record which you obviously thought
19 was relevant. Is that still where you live?

20 A. Yes.

21 6. Q. Okay. Now, you have a copy of your
22 Responding Party's Motion Record?

23 A. Responding Party's Motion Record, yes I have.

24 7. Q. That's you. Right. So if you could turn to
25 page 3 please? That would be your first Affidavit,

1 right?

2 A. Yes.

3 8. Q. And if you turn to page 8, I see that you
4 swore ---

5 A. Excuse me. I just need to get to page 8 of
6 this Affidavit. That's beyond the Affidavit. Page 8 is
7 the Exhibit.

8 9. Q. Top right hand corner. I'm using the
9 numbering you have written in your own hand?

10 A. Okay. Page 8 of the ---

11 10. Q. Are you with me?

12 A. Yes.

13 11. Q. So you have sworn a 47 paragraph Affidavit on
14 what date is that?

15 A. I believe that's August 11th.

16 12. Q. Did you?

17 A. Let me double check the date.

18 13. Q. The Table of Contents says August 25th, 2011?

19 A. Hang on a second. That's not the right date.

20 What's written here ---

21 14. Q. Okay. We're looking at page 8 of your
22 record?

23 A. Yeah, what's written here, the 11 represents
24 2011. Okay. So what's written here is the 25th of
25 August. I remember now that the person taking the

1 Affidavit first wrote down a one then a five and then
2 changed it to a two because it was the 25th of August.
3 And that's August 20/11.

4 15. Q. Who is that person that commissioned your
5 Affidavit, Tim Girley?

6 A. He is an agent at the civil counter for civil
7 causes in Ottawa.

8 16. Q. At the Court House?

9 A. Yes.

10 17. Q. 161 Elgin Street?

11 A. Yes. I'm not sure how you could have
12 interpreted that to mean August 11th because then one
13 would wonder ---

14 18. Q. I didn't. You told me that. I didn't say
15 August 11th. You did. I just asked you what's the date?

16 A. Well, I'll need to look at the Record. But I
17 believe you said, "Didn't you swear that on August 11th".
18 Something to that effect.

19 19. Q. Negatory?

20 A. Okay. You deny it. That's fine.

21 20. Q. Thanks. So you have a Notice of Examination
22 Mr. Rancourt, that I asked you to bring with you all
23 documents and records that pertain to the matters that
24 you have sworn or affirmed to in your two Affidavits.

25 This one that we are talking about on August

1 25th, 2011 and there is a second Affidavit that you swore
2 that we'll deal with it later. But it starts at page 72
3 of your Record. And you swore that on August 26th, 2011.

4 Did you do that sir? Did you bring all documents
5 and records that pertain to the matters raised in your
6 Affidavit to this examination?

7 A. Yes, I gave that some thought. And I did
8 bring the documents that I felt were relevant.

9 21. Q. Do you have them?

10 A. Yes.

11 22. Q. Can I see them?

12 A. Well, you can see them when they become an
13 issue.

14 23. Q. I see. Okay. So you are objecting ---

15 A. You can see some of them now in front of me.

16 24. Q. Which are -- you are pointing to your Motion
17 Record?

18 A. Yes.

19 25. Q. Okay. Your Responding Record?

20 A. One email that I showed you earlier.

21 26. Q. Okay. So I take it you are objecting to
22 showing me right now what you were required to bring with
23 you according to this Notice of Examination?

24 A. I agree to show records as they become
25 relevant at this time.

1 27. Q. What I want ---

2 A. As you can see I have a bag here. There are
3 some records in it.

4 28. Q. I would like you to produce all of the
5 records and communications you've had with Claude
6 Lamontagne regarding his Affidavit that you have attached
7 as Exhibit E to your August 25th Affidavit?

8 A. I take note of that request.

9 29. Q. No, I'm asking for it now. You are not
10 taking note of them. I'm asking you to produce right now
11 all of your communications with Claude Lamontagne whose
12 Affidavit you have attached as Exhibit E to your August
13 25th Affidavit.

14 A. Most if not all of those communications were
15 by phone.

16 30. Q. Well, I want the ones that weren't?

17 A. Okay. I'll take that under advisement
18 and ---

19 31. Q. No, I'm cross examining you now Mr. Rancourt.
20 I'm asking for those records right now. I've got Mr.
21 Lamontagne coming here at 11:00 o'clock and I want to be
22 able to ask your questions about those communications
23 which you were not allowed to discuss with him, by the
24 way, before his examination is complete.

25 So take note of that. But I'm asking you to

A

1 produce them now because I want to ask you questions
2 about them before I cross examine him at 11:00 o'clock?

3 A. I don't have them. If there are any ---

4 32. Q. You just told me you brought everything that
5 was relevant to the matters you referred to?

6 A. I brought everything that I felt was relevant
7 to a cross examination on an Affidavit. The Affidavit
8 states that I know Claude Lamontagne to have written an
9 expert opinion that it is here and I believe this to be
10 something that he has signed.

11 That's what the Affidavit says. I don't see how
12 what you are requesting puts that in doubt in any way.

13 33. Q. That's not for you to decide sir. I've asked
14 you to produce those records, documents such as emails,
15 memos, notes, whatever you have between you and Claude
16 Lamontagne regarding his Affidavit that you have attached
17 as Exhibit E to your August 25th Affidavit. And which
18 starts at page 28?

19 A. Yes. Well it's for me to decide what I
20 believe is relevant to in this cross examination about
21 this Affidavit about a Motion.

22 34. Q. So the alleged expert opinion of Claude
23 Lamontagne is not relevant to this Motion. Is that what
24 you are telling me?

25 A. The expert opinion is relevant. I don't see

1 right now how the details of our communications about it
2 are relevant.

3 35. Q. What did you ask him to do?

4 A. I inquired if he would write an expert
5 opinion about the question of the expression "house
6 negro". Whether it was in itself racist. I didn't ask
7 him that, but he actually in our conversations he refers
8 -- I have contact with Claude Lamontagne. I know him.

9 And when he heard about this affair, he was quite
10 shocked about the allegation of racism against me and
11 told me his opinion. And I said that that was something
12 that could be used. That could be useful in an eventual
13 trial.

14 36. Q. When did that conversation occur when you
15 tell me you knew him and when he heard about this affair,
16 to use your words, he was shocked. When did that
17 conversation occur?

18 A. I don't remember. And also I'm of the
19 opinion that your questions are too broad and out of line
20 with regard to a cross examination of this Affidavit.

21 37. Q. When did you have this conversation with Mr.
22 Lamontagne when apparently he was shocked?

23 A. So I can take it under advisement. Whether
24 or not I need to answer that. And if I find that I need
25 to answer it, I will answer it.

1 38. Q. Okay. And when you are referring to this
2 affair, when he heard about this affair, those are your words.

3 What affair are you talking about?

4 A. The lawsuit.

5 39. Q. This libel action against you?

6 A. Yes.

7 40. Q. Okay. How do you know Mr. Lamontagne. You
8 said he knows you, he heard about this affair?

9 A. Again, this is one of these questions I'm
10 going to take it under advisement. If I find I must
11 answer that, I will.

A

12 41. Q. So what you are telling me you are not going
13 to answer what you decide not to answer until I get a
14 Court Order against you?

15 A. No, that's not what I said. I'm self
16 represented. And I'm not completely sure about my rights
17 with regards to how deeply you can probe on a cross
18 examination about an Affidavit. I will inquire knowing
19 what your questions are. And if I obtain the information
20 I need, I'll make that decision and I'll answer you.

21 42. Q. How long have you known Mr. Lamontagne?

22 A. Well, again, that's something I don't see how
23 that's relevant to this case. Can you explain how that's
24 relevant to this cross examination?

25 43. Q. He is in attendance as an alleged expert as

1 you are putting him forth is highly, highly relevant?

2 A. Okay. So you're worried about his
3 independence. I've known -- how long have I known Claude
4 Lamontagne. Probably first met him in -- you know I
5 don't remember the exact year and date and everything.

6 But I probably first met him -- I mean I've known
7 of him as a Professor at the University of Ottawa since
8 about 2006 I would say. I could be wrong by a year.

9 44. Q. Just so I'm understanding your testimony
10 correctly. You are saying he phoned you? Because you
11 told me when he heard about this affair he was shocked?

12 A. Yeah. Again, I don't think you are entitled
13 to ask me that question and I could have refused -- I
14 still have to look into that. So I'd rather not.

15 45. Q. It's your answer sir?

16 A. It was.

17 46. Q. It was your answer so ---

18 A. Yes, it was. And I just explained that you
19 know, I believe I didn't need to give that answer. In
20 fact, I would ask for it to be struck because I believe
21 I ---

22 47. Q. This isn't American TV law program. Okay?

23 A. Okay. I'm just telling you what I feel, what
24 I believe as a self represented person. So I'm not going
25 to answer any more questions along those lines.

1 48. Q. So you refuse to answer any other questions I
2 would have to you about your relationship with Claude
3 Lamontagne?

4 A. No, I don't refuse outright. If you can
5 explain the relevance of the question.

6 49. Q. His independence, as what you are putting him
7 forth as ---

8 A. And I did answer that I have known him since
9 approximately 2006.

10 50. Q. And he is a big supporter of yours. Isn't
11 he?

12 A. He is a -- big is your characterization. He
13 is definitely a supporter with regards to my academic
14 freedom case with the University of Ottawa. He is and
15 this is public knowledge. I believe a simple internet
16 search could show this.

17 He is part of a committee that was formed at some
18 time in support of my academic freedom case at the
19 University of Ottawa.

20 51. Q. In fact he chairs it?

21 A. Yes.

22 52. Q. How did that get created?

23 A. I don't remember the details.

24 53. Q. Were you involved in the creation?

25 A. I was certainly made aware of it and ---

1 54. Q. Were you involved in the creation?

2 A. Yes. Involved in a broad sense I mean.

3 55. Q. Are you privy to what that committee does?

4 A. Only if they inform me.

5 56. Q. And they do. Don't they?

6 A. I don't know the things they don't inform me
7 about.

8 57. Q. They do inform you of some things that they
9 are up to in terms of support in your case, against the
10 University of Ottawa with regard to your dismissal as a
11 professor ---

12 A. They have in the past. I have to say the
13 committee has been you know, inactive for relatively --
14 relatively inactive over long periods of time ---

15 58. Q. --- was it?

16 A. Last May.

17 59. Q. Your first -- I may not be using the right
18 term. But when you had your first appearance before the
19 arbitrator I take it the committee was active back in ---

20 A. I don't know what the committee as an entity
21 was doing. I know that Claude was present at the
22 hearing. Since you are concerned ---

23 60. Q. That was your grievance hearing. Is that
24 fair? Your grievance hearing before arbitrator referral?

25 A. Yes. It was the first day of hearing for the

1 arbitration.

2 61. Q. Just so the Record is clear, this is an
3 arbitration with respect to your dismissal as a professor
4 at the university. Correct?

5 A. No. It's an arbitration about the grievance
6 against my dismissal.

7 62. Q. Against your dismissal. Okay. And Claude
8 Lamontagne was present at that hearing?

9 A. Yes, he was.

10 63. Q. And did he share with you the letters that he
11 solicited from professors, from students, from community
12 members? When he got responses, did he share those
13 responses with you?

14 A. I think he -- yeah. That's one that I'm not
15 going to not answer on the basis I think you are probing
16 too quickly, too deeply, too broadly with regard to this
17 Affidavit.

R

18 I mean, this Affidavit affirms that this expert
19 opinion is from Claude Lamontagne and here it is. So I
20 don't -- now you are doing a process which is very close
21 to discovery in preparation for a trial. So I don't -- I
22 feel you are going too broadly.

23 64. Q. Actually, I'll let you know right now, I'm
24 challenging his independence to put in any Affidavit
25 relevant to this Motion. So that's what I'm doing. I'm

1 not doing an examination for discovery. That will be
2 another day. If we don't settle this case in the
3 mediation which is what I'm trying to accomplish here.

4 Are you telling me sir, that you are unaware of
5 responses that Claude Lamontagne received to a letter
6 that he sent out in January, 2009 to the U of O
7 professorship if I can use that term. You are unaware of
8 responses he got back to that letter?

9 A. You appear to have a copy of that. If you
10 can show me it so that I can examine it?

11 65. Q. No, what I'm looking at is a print out from
12 your -- I believe it's your academicfreedom.ca website
13 which you are familiar with?

14 A. Yes.

15 66. Q. You do have a rancourt.academic web site?

16 A. I don't have it but of course.

17 67. Q. That's your website. Right?

18 A. No, it's not my website. I am not the what
19 do you call it -- the person who produces it. And I'm
20 not the person who hosts it. And I don't have anything
21 to do with the company that hosts it.

22 68. Q. Okay. You are aware of this website?

23 A. Yes, I am.

24 69. Q. And on it is a call for letters stating an
25 opinion on Denis Rancourt's case should be sent to Allen

1 Rock with a cc to Claude Lamontagne. So my question to
2 you --- go ahead?

3 A. The website I know is very elaborate. Has
4 many hundreds of documents on it. And many venues ---

5 70. Q. It's not what I was talking about sir ---

6 A. --- of all kinds. So if you want me to say
7 something specific about a document, I'd like to see it.

8 I'd like to know what we are talking about. I don't
9 have memory of everything that is on that website.

10 71. Q. I'll show you a print out ---

11 A. Thank you.

12 72. Q. --- entitled Letters of Support from
13 Professors of the University of Ottawa, which comes off
14 of the rancourt.academicfreedom.ca website. And you'll
15 see under the heading Call for Letters, it says

16 "On 7 January 2009 Claude Lamontagne,
17 Professor of Psychology and 3M Teaching
18 Fellow, sent a request for assistance
19 with the Denis Rancourt case to all
20 professors at the University of Ottawa".

21 Do you see that?

22 A. Can you give me a minute please?

23 73. Q. Sure?

24 A. It doesn't show a letter coming from Claude
25 Lamontagne. This copy you have given me does not show

1 that. It shows some letters from various professors.
2 One is Ralph Kretz, Valerie Whiffen, Robert Gaucher, and
3 that's the last one on this copy that you have given me.

4 74. Q. I'll enter that as Exhibit 1 to this cross
5 examination. And we will call it Madam Court Reporter, a
6 print out from the website rancourt.academicfreedom.ca
7 headed Letters of Support from Professors at the
8 University of Ottawa.

9 Can you give that to the Court Reporter please
10 Mr. Rancourt and have it marked as Exhibit 1 to this
11 cross examination?

12 A. Will I have a copy of that?

13 75. Q. Yeah, I will make copies for you.

14 **EXHIBIT NO. 1:** Print out from the website
15 rancourt.academicfreedom.ca headed Letters of
16 Support from Professors at the University of
17 Ottawa.

18 My question to you sir was, were you provided by
19 Claude Lamontagne any responses that he got to the letter
20 that is referred to here as January 7, 2009? Say it's
21 January 2009. If you can provide me with any responses?

22 A. Again, I think this is a place where you are
23 probing too broadly. So it's something I can answer
24 later after I ---

25 76. Q. I'm probing his independence of his Affidavit

1 that you put in as a so called expert opinion in this
2 Motion?

3 A. And I'm not sure you are entitled to do that
4 in cross-examining an Affidavit. My understanding of an
5 Affidavit is you're challenging the truth of my
6 Affidavit. And therefor your cross examination is aimed
7 at challenging this Affidavit.

8 What you are doing is far beyond that. You are
9 preparing -- you are collecting evidence to advance the
10 position at a hearing for a Motion and eventually trial.

11 That's what you are doing at the moment, I believe.

12 So I think you are going too broadly and so,
13 until I know more, I'm going to not answer that
14 particular question.

R

15 77. Q. So you are not going to answer it at all. Is
16 that what you are telling me?

17 A. If you -- yeah. I mean if you feel my
18 position ---

19 78. Q. So you understand the process Mr. Rancourt
20 then. I have a right to compel, bring a Motion, another
21 Motion to compel you to answer. And if we come back, I
22 am going to ask that the Master award costs against you
23 payable forthwith on a substantial indemnity basis.

24 Because there could be nothing more relevant that
25 I'm asking you than to probe the independence of a so

1 called expert that you have put in as Exhibit E to your
2 Affidavit. Okay? So I'll let you think about that.

3 A. I've given it some thought. Let me answer
4 it. I agree that your question is relevant to the
5 question of the independence of the expert in this case.

6 But I don't agree that it's relevant to a cross
7 examination of this Affidavit.

8 79. Q. I'll ask you the same question with respect
9 to support that Claude Lamontagne sought on your behalf
10 from students and community members. Did he provide you
11 any responses he got in solicitations of support from
12 students and community members?

13 A. I'll give the same answer.

14 I'm prepared to answer these questions after I've
15 had a chance to consider the legality and whether or not
16 they are proper questions in this context.

U

17 80. Q. When would you be letting me know that?

18 A. As soon as possible.

19 81. Q. Like when?

20 A. This week.

21 82. Q. Okay?

22 A. Is there something about the Affidavit you
23 question?

24 83. Q. Whose Affidavit?

25 A. Mine, the one we are talking about now.

1 84. Q. Oh, I have several more questions about your
2 August 25th and August 26th Affidavit. Yes. And your
3 Exhibits. One of which is the Affidavit of Claude
4 Lamontagne. If you look at page 4 of your Responding
5 Record, paragraph 13 of your August 25th Affidavit?

6 A. One second.

7 85. Q. Do you have it?

8 A. I'm at page 4 ---

9 86. Q. Paragraph 13 says, "I have been unemployed
10 since 2009 and I have no source of income". Do you see
11 that?

12 A. Yes, I do.

13 87. Q. Under a heading, "Cannot afford Plaintiff-
14 imposed mediator"?

15 A. Yes.

16 88. Q. And paragraph 16 on the next page you have
17 affirmed that you cannot financially afford such high
18 fees as a basis for initiating a mediation process. Do
19 you see that?

20 A. Yes.

21 89. Q. And the fees that are supposedly so high are
22 the fees of Jim Chadwick, the former regional senior
23 Justice of the Ontario Court of Justice -- Superior Court
24 of Justice. Correct? You see that?

25 A. That's correct.

1 90. Q. Okay. You are the co-owner of a residential
2 property at 35 Simcoe Street here in Ottawa?

3 A. Yes, I am.

4 91. Q. And as I understand it you have a 60 percent
5 interest in that residential property sir?

6 A. That's true.

7 92. Q. That's your home, right?

8 A. Yes.

9 93. Q. And the other 40 percent interest is your
10 wife Marie Terese Wang?

11 A. Yes.

12 94. Q. I'm pronouncing it right, it's spelled W-A-N-
13 G?

14 A. Wang.

15 95. Q. Wang. Okay. What equity do you have in your
16 property today sir? Approximately?

17 A. What does that mean?

18 96. Q. You bought your property for how much? Back
19 in the year 2000 when you purchased this residential
20 property?

21 A. I don't remember the exact ---

22 97. Q. Approximately? Over 10 years ago. Is that
23 fair?

24 A. Yes.

25 98. Q. For about \$226,000. Is that fair?

1 A. That sounds right.

2 99. Q. And how much if anything exists in terms of a
3 mortgage on that property sir?

4 A. So in relevance to the Affidavit, are you
5 suggesting I should take out a loan on my house in order
6 to pay for fees?

7 100. Q. You are saying you have no money. But you do
8 have assets, don't you?

9 A. That's right. I said I have no income.

10 101. Q. No, I saw that. But I'm exploring your
11 ability to retain a lawyer or at least in this Motion to
12 retain a mediator?

13 A. My ability to get a loan is what you are
14 exploring.

15 102. Q. I want to know what assets you have sir? And
16 I'm dealing right now with your residential property. So
17 do you have a mortgage on that property today that's
18 outstanding?

19 A. Okay. I think now this is approaching what
20 would normally be done at discovery. It's going beyond a
21 cross examination of an Affidavit I believe. The
22 Affidavit says I have no income.

23 103. Q. Your Affidavit says, "Cannot afford
24 Plaintiff-imposed mediator". Page 4 of your Record.
25 Cannot afford Plaintiff-imposed mediator?

1 A. That is a title to a section.

2 104. Q. Of your Affidavit?

3 A. Yes.

4 105. Q. Okay. So that's what I'm probing. Okay?

5 Because I happen to think that Jim Chadwick isn't too
6 expensive and I think he is the best mediator to try to
7 resolve this action at an early stage with a self
8 represented litigant like yourself. Okay?

9 You've told me you can't afford that. I'm
10 reading right above paragraph 13 of your Affidavit?

11 A. That is a title. That is not a paragraph in
12 the Affidavit. There are titles in this Affidavit. One
13 is Plaintiff refusing that discovery be initiated.
14 Another is Plaintiff refusing to provide clarifications
15 and particulars. And so on.

16 They are titles. They are not -- they are
17 intended to guide the reader. That's right. And so the
18 paragraph says, "Cannot financially afford such high fees
19 on a basis for initiating a mediation process". And that
20 is true.

21 106. Q. Do you have an outstanding mortgage on your
22 residential property at 35 Simcoe today?

23 A. I already explained that I thought you were
24 over reaching with respect to myself.

25 107. Q. Are you refusing to answer that question sir?

1 A. You are over reaching. I'm not refusing
2 outright. It's one of the -- as I said earlier, I will
3 be verifying how proper your questions are and answering
4 you as soon as I can after I've made that verification.

A

5 108. Q. Okay. Paragraph 16 says "I cannot
6 financially afford such high fees", which would be \$2,000
7 sir?

8 A. No, it does not say that. It says I cannot
9 financially afford such high fees as a basis for
10 initiating a mediation process.

11 109. Q. Right. And just so we are clear, Jim
12 Chadwick charges \$4,000 a day for a full day. We only
13 have to do a mediation for three hours. We can go beyond
14 that if we think it will be fruitful.

15 So assuming that we would have a full day
16 mediation, it's \$4,000 divided by two. So \$2,000. It's
17 your evidence that you cannot financially afford such
18 high fees?

19 A. First of all, we should verify his fees. I
20 have a copy of his fee schedule. I don't remember this
21 exact number. So we should look at that ---

22 110. Q. Assume I'm correct?

23 A. Listen, you are asking a complex question,
24 all right. It's got many parts. You are assuming what
25 his fees are. And the other part was I've even forgotten

1 it now. What is your question.

2 111. Q. I am probing whether you cannot financially
3 afford such high fees, which are Jim Chadwick's fees?

4 A. Right. I remember that.

5 112. Q. His fees per day sir, are \$4,000 total.

6 Okay? But you only have to pay as a party to this action
7 half of those. So that's \$2,000 by my math. Okay?

8 And is it your evidence that you cannot
9 financially afford \$2,000 to conduct a mediation before
10 Jim Chadwick in an attempt to resolve this action at an
11 early stage. Is that your evidence?

12 A. The underlying assumption to your question is
13 that this complex matter can be resolved in two hours.

14 113. Q. No, I'm saying in a day. A day. One day at
15 mediation for Jim Chadwick is \$4,000. He is the former
16 regional senior Justice of our Superior Court of Justice?

17 A. Now you are saying that ---

18 114. Q. Your contribution to that would be \$2,000?

19 A. His resolution would require a full day is
20 what you are saying.

21 115. Q. No, I'm saying if it went into a full day,
22 mandatory mediation only requires three hours. But if
23 the parties think that it's worth continuing, which it
24 might be. I don't know. Okay. Then for a full day Jim
25 Chadwick's fees would be \$4,000 divided by two in terms

1 of cost to you?

2 A. Yes.

3 116. Q. You put in paragraph 16 of this Affidavit you
4 can't afford that?

5 A. That's not true. That's not what paragraph
6 16 says. It says "for initiating a mediation process".
7 What I believe is that this action is complex, has many
8 aspects to it.

9 And that you have demonstrated up to now absolute
10 unwillingness to consider a mediation that would allow
11 letting go of the assumption of absolute guilt on my
12 part. In other words you're not -- as far as I can see
13 is you haven't shown me any evidence that you would
14 mediate in good faith.

15 Therefor, I think it would take some time to have
16 a proper mediation. It would take you know, if your hard
17 line position that you communicated for me, ever since I
18 have been asking to go into mediation or resolution of
19 some kind, you have been refusing it from the beginning.

20 If that hard line is to hold up, I don't see how
21 a mediation can be successful within three hours. I
22 would certainly give it my best shot, but ---

23 117. Q. What about a full day?

24 A. I don't see how -- I don't have a lot of
25 experience with mediation. But I do know how hard lined

1 your position is. And I do know how many times you've
2 boldly accused me of malice and being racist and so on,
3 without any factual basis.

4 So I see that as an indication that it wouldn't
5 be an easy mediation.

6 118. Q. Mr. Rancourt, I've been asking you questions
7 about paragraphs 13 to 16 of your Affidavit of August
8 25th. You say you can't afford Jim Chadwick's fees. I
9 want to know what assets you have. Do you have other
10 real estate that you have an ownership interest in?

11 A. How many times are you going to ask the same
12 question so that I have to give the same answer. You are
13 probing too deeply.

14 119. Q. Are you refusing to answer that question sir?

15 A. No, I already explained to you all of the
16 questions where I believe you are probing too deeply and
17 let's apply that for this entire interrogation. I will
18 verify whether or not these are proper from a legal stand
19 point. And I will respond to you as quickly as I can.

U

20 120. Q. Do you own any RRSPs?

21 A. Probing to deeply.

R

22 121. Q. Do you have any ownership in patents?

23 A. Same answer.

R

24 122. Q. So you are refusing to answer my question?

25 A. No, that's not what I said.

1 123. Q. This is probing your ability to pay -- to
2 afford rather to use your term to financially afford the
3 mediation fees of Jim Chadwick. So you are refusing to
4 answer?

5 A. No.

6 124. Q. As we sit here today?

7 A. I'm not refusing to answer.

8 125. Q. As we sit here today you are refusing to
9 answer?

10 A. I'm not refusing to answer.

11 126. Q. I'm not hearing an answer am I?

12 A. I am undertaking to find out as soon as I can
13 and to answer you as soon as I can. And as I've already
14 said, that will be this week. So I would hope that you
15 would stop characterizing my position in the way that you
16 are doing and accept that I will do that.

U

17 127. Q. I am putting on the Record the questions I
18 have for you under cross examination about your
19 statements in paragraphs 13 and 16 of your Affidavit that
20 you cannot afford the fees of Jim Chadwick?

21 A. You are doing more than that, sir. You are
22 more than just putting your questions on the Record. You
23 are badgering me and insisting on characterizing the
24 situation a certain way.

25 128. Q. Mr. Rancourt, I'm putting you on notice again

1 that the shots that you take at me as counsel will be
2 used against you in terms of malice and aggravated
3 damages and punitive damages. Do not tell me that I am
4 badgering you.

5 I am putting on the Record questions that you can
6 refuse to answer and take under advisement and get back
7 to me on. But I'm giving you the heads up of what I'm
8 asking you.

9 So that we don't come back here another day and
10 when I say "Do you have any RRSPs"? And you say oh, you
11 didn't ask me that question back on September the 6th, so
12 I'm going to take that under advisement. Time is of the
13 essence here sir.

14 I want to get a mandatory mediation conducted and
15 see if we can resolve this action. Okay?

16 A. So you are ---

17 129. Q. So I'm letting you know what I'm exploring?

18 A. I understand that. You've just explained
19 that. But you are mischaracterizing my expression that
20 you are not simply putting questions on the Record. You
21 are going beyond that.

22 If you want this to be efficient and quick and
23 respectful, then let's do it. You know what my answers
24 are when you are probing too deeply. Put your questions
25 on the Record and let's move on.

1 130. Q. That's what I'm doing?

2 A. Okay.

3 131. Q. Do you have any investments such as shares,
4 mutual funds?

5 A. Same answer.

R

6 132. Q. Do you have any pension benefits?

7 A. Same answer.

R

8 133. Q. Do you have any pension income?

9 A. Same answer.

R

10 134. Q. Which is you are not giving any answer?

11 A. No listen, with regards to income I already
12 stated in my Affidavit that I have no income. So I can
13 give you the answer to that. I have no income.

14 135. Q. So you have no pension income?

15 A. That's right. I have no pension income. I
16 have no income of any kind.

17 136. Q. Do you have any kind of money coming in to
18 you for whatever you might be doing these days?

19 A. None at all. No salaries of any kind.

20 137. Q. I didn't say salary. I said money of any
21 kind. Interest on whatever?

22 A. Interest is not necessarily something I can
23 use if it's locked in somewhere.

24 138. Q. Which it is, isn't it?

25 A. Again, that's same answer.

R

1 139. Q. Okay. So how much can you afford for a
2 mediation?

3 A. I would like the mediation to be as
4 inexpensive as possible. Especially given the
5 possibility that it might be longer than three hours. I
6 believe that a good faith mediation would take more than
7 three hours. And you know, in a complicated case like
8 this could extent quite some time. I don't know.

9 So I feel that it should be as least expensive as
10 possible. And as you know, I have made significant
11 efforts to benefit from this new program with Law Help
12 Ontario which gives me access to free mediation. And so
13 ideally I would like the mediation to be free.

14 Another way that this would be inexpensive would
15 be to simply sit down and try to resolve this even
16 without a mediator if we were trying to do it in good
17 faith. That certainly would be my intention. I've
18 offered it since the beginning. That's how I feel about
19 that.

20 140. Q. If you didn't have a free mediation, my
21 question was how much can you afford for a mediator in a
22 mandatory mediation? How much can you afford?

23 A. I do have a free mediator and I do have a
24 strong desire given my financial circumstances for this
25 entire process to be as inexpensive as possible.

1 141. Q. I asked you a question. How much can you
2 afford?

3 A. Well, that is you know, that is a question --
4 how much can a person afford. How much should a person
5 have to borrow in order to do something in a long term
6 case like this. I mean, I'm self represented.

7 You know, what is reasonable. I don't think any
8 of this is reasonable. I don't think the action is
9 reasonable. So I would like to -- this all to be as
10 least expensive as possible.

11 142. Q. Why don't you just take down the defamatory
12 statements that you have made about professor St. Louis
13 and apologize to her? Why don't you do that?

14 A. Isn't that a question that would be part of
15 mediation or a trial? How is that related to this?

16 143. Q. We certainly are going to be exploring that
17 of course?

18 A. Yes, but how is that related to this
19 Affidavit. Just explain it.

20 144. Q. You have been constantly talking about
21 wanting to have voluntary mediation?

22 A. Yes.

23 145. Q. That is a core issue. Is Mr. Rancourt, take
24 down the defamatory statements that you have made. Okay.
25 And by the way ---

1 A. You have just illustrated your inflexible
2 position in entering any mediation.

3 146. Q. That's our position. You have a position.
4 That's what mediation is about?

5 A. Yes.

6 147. Q. What do you want? That will be a core issue.
7 Will you take down the defamatory statements that you
8 have made?

9 A. You talk about wanting an efficient process
10 this morning, here and now. So let's not attempt
11 something else than a cross examination of this
12 Affidavit. How about that.

13 148. Q. You are the one that has been making
14 allegations of we didn't want to mediate in good faith.
15 Which is completely false. Why do you think we brought
16 this Motion? We want to mediate with you with somebody
17 who is quite skilled in mediation?

18 A. I don't agree with your characterizations.
19 But let's leave them aside. With regards to -- yeah.
20 Let's leave it at that.

21 149. Q. Okay. You swore an Affidavit on August 26,
22 or affirmed on August 26, 2011 which you'll find at pages
23 72 and 73 of your Record? You have to speak for the
24 Record to pick up the answer?

25 A. Yes. I'm at page 72. What was the question?

1 150. Q. The question was you affirmed this Affidavit
2 dated August 26, 2011 that I'm seeing on pages 72 and 73
3 of your Record?

4 A. Yes, in the Affidavit it says make oath. I
5 have since come to understand, I forget where I read it
6 or who said it to me. But there is a difference between
7 make oath and affirm which is a difference that I didn't
8 fully appreciate at the time. But I would prefer to use
9 affirm.

10 151. Q. When you were before this Commissioner ---

11 A. I think make oath makes the same point. I
12 think ---

13 152. Q. There's a huge difference. You were
14 affirmed, right? You affirmed? I'm not arguing with
15 you. When you were before M. Hannah if I'm reading -- in
16 fact maybe I may be misreading it. Who is this
17 Commissioner? What is that name there? Michele-
18 Antoinette Hannah?

19 A. Yeah, Michele-Antoinette Hannah.

20 153. Q. Who is that?

21 A. That is a Commissioner again at the civil
22 action counter at the Court House at 161 Elgin Street.

23 154. Q. Okay. And you affirmed before Ms Hannah what
24 I see in those 11 paragraphs?

25 A. I don't remember if Ms Hannah said "Do you

1 swear, do you make oath or do you affirm". I don't
2 remember exactly what word she used. But I would have
3 answered yes.

4 155. Q. Okay. So paragraph 7 of this Affidavit sworn
5 on August 26, 2011 says, "Acceptance into the Law Help
6 Ontario program is based on financial need, based on
7 income"?

8 A. Yes.

9 156. Q. And what information did you provide Law Help
10 Ontario about your income and the assets that you own?

11 A. I filled out their standard application form.
12 And completely.

13 157. Q. Do I have that in this Record? The standard
14 application form that you are speaking of?

15 A. I believe you do not.

16 158. Q. Then I want you to produce it please? Do you
17 have it here?

18 A. I'll verify if I need to and I'll answer you
19 within a week.

20 159. Q. Did you inform Law Help Ontario that you
21 owned a house?

22 A. I don't remember the details of the
23 application form.

24 160. Q. Were they aware that you own a residential
25 property at 35 Simcoe?

1 A. As I said, I don't remember the details.

2 161. Q. Okay. You have sworn in paragraph 7 that
3 acceptance into the Law Help Ontario is based on
4 financial need, is based on income.

5 What I'm asking you sir is to produce the
6 application that you made and any details of what you
7 could afford or not afford in terms of becoming entitled
8 to get help from Law Help Ontario program?

9 A. I'm writing that down. Produce application
10 to Law Help Ontario as a potential thing that I will need
11 to respond if I find that you are not over stepping.

U

12 In fact it would be helpful to me if I took note
13 of everything that I have. Would it be possible for you
14 to summarize the things that we have agreed to later
15 maybe?

16 162. Q. It will be on the transcript?

17 A. Will you be sending me a copy of the
18 transcript?

19 163. Q. You will be buying a copy of the transcript
20 from Madam Court Reporter?

21 A. No, I will not. Would you send me one?

22 164. Q. I am going to buy one. And you can buy one.
23 Because they have copyright in them?

24 A. No, I believe the Rules of Procedure don't go
25 like that. You are to provide me one if you are going to

1 use it in Court.

2 165. Q. Well, let's see okay? Right now I want
3 to ---

4 A. I'm asking and you haven't contradicted me on
5 that last point. But I'm asking if you will provide me
6 with the things that I have promised to provide after I
7 verify whether or not you are over reaching. Are you
8 able to do that?

9 166. Q. We can certainly provide you a list of all
10 the objections that you have made to ---

11 A. No, what I would like is a list of the
12 documents you have asked me to produce. And the
13 questions you have asked me that you'd like me to answer.

14 167. Q. Whatever is outstanding, I'll give you a
15 list. Sure.

16 A. Okay. I'll wait for that list before I
17 initiate any further. Do you agree with that?

18 168. Q. Sure?

19 A. And it will be a list of things we've agreed
20 to today. That you have asked me today.

21 169. Q. You and I haven't agreed to a thing today?

22 A. I have agreed to verify all of the things you
23 have asked me to see if I can answer you. I have agreed
24 to that.

25 170. Q. Mr. Rancourt, what I want to know is what

1 information you provided to Law Help Ontario with respect
2 to the financial need and being entitled to being
3 accepted to their program?

4 A. And I have written that down. We have
5 settled that.

6 171. Q. Okay?

7 A. Yeah.

8 172. Q. And your paragraph 6 of your August 26
9 Affidavit says that your application was approved?

10 A. Let me read it. Yes, it does say that.

11 173. Q. And did they approve that in writing?

12 A. No, it was an oral affirmation. That's why I
13 took the time to explain it in some detail in paragraph
14 6. But they did properly open a file and so on.

15 174. Q. And you have attached as Exhibit BB your --
16 let's turn it up to page 78 Mediation Assistance Project?

17 A. Yes.

18 175. Q. This is the Law Help Ontario as you referred
19 to it in paragraph 6?

20 A. I believe that's its proper name. Let me
21 see. Law Help. Now you are going back to paragraph 6.
22 Let me just read that to see if that's the form that
23 corresponds to that. Paragraph 5 is the form -- is the
24 paragraph that relates to this form, which is Exhibit AA
25 in my Affidavit.

1 176. Q. No, paragraph BB?

2 A. Oh, are we at BB? Sorry. Hang on, I'm a
3 little bit lost. BB, yes. So where is the paragraph
4 that refers to BB?

5 177. Q. Ten?

6 A. Yes, so it's paragraph 10.

7 "Attached as Exhibit BB is a copy of my
8 August 25th, 2001 signed application to
9 the Mediation Assistance Project of Pro
10 Bono Law Ontario. The application
11 contains an example letter sent to the
12 other side to invite voluntary
13 participation" etcetera.

14 So I understand this Mediation Assistance Project
15 is administered by Law Help Ontario.

16 178. Q. And you are interested in pro bono free
17 mediation as I see on page 78?

18 A. Yes, I am.

19 179. Q. That is your signature at the bottom of that
20 page, correct? On this document?

21 A. Yes, it is.

22 180. Q. Are you taking issue with Jim Chadwick's
23 qualifications to mediate this libel action in the
24 mandatory mediation?

25 A. Not at all. I know nothing about his

1 qualifications. I have not had a chance to interview him
2 or to study his qualifications or to explore whether or
3 not I'm comfortable with him as a mediator. I haven't
4 had a chance to do any of that.

5 181. Q. So really your only concern as you sit here
6 today is his fees are too high?

7 A. No, my concern is his fees are too high and I
8 haven't had a chance to meet the man and ask him the
9 questions that I would normally ask a mediator.

10 182. Q. And what would those be?

11 A. Those would be my questions for the mediator.

12 183. Q. What would they be?

13 A. I'm not going to tell you. I don't think I
14 need to tell you that.

15 184. Q. The mediator mediates sir. He's neutral?

16 A. I understand that.

17 185. Q. We don't interview them and somehow try to
18 convince them to try to be on our side. We look for
19 somebody who is qualified with the skills of mediating
20 two parties to a dispute?

21 A. You are constructing something entirely. I
22 never said those things.

23 186. Q. You said you wanted to ask him a list of
24 questions. What questions?

25 A. I did not use the word list. And I would ask

R

1 him questions and those would be my questions.

2 187. Q. You saw his biography on his website?

3 A. Yes.

4 188. Q. Okay. Do you have any concerns from what you
5 saw on Mr. Chadwick's background?

6 A. Yes, I do have concerns about his website.

7 189. Q. I said his background, not his website. Do
8 you have any concerns about his qualifications to mediate
9 this ---

10 A. I've already answered that question sir.

11 190. Q. What's your concerns then?

12 A. I already answered that question.

13 191. Q. You told me you read something on the website
14 about his background that caused you concern. What is
15 that?

16 A. I didn't say that. I said I had concerns
17 about his website in that they do not provide many
18 details that are useful in establishing whether or not
19 one will feel comfortable with a mediator. So there are
20 some lacks I believe on the website. Which is why I
21 would want to meet the potential mediator.

22 192. Q. You have the opportunity Mr. Rancourt to have
23 a one on one with the mediator when we go into mediation?

24 A. That's after the mediator has been selected
25 sir.

1 193. Q. Yeah. This isn't a labour arbitration okay,
2 where you get to pick your guy?

3 A. I didn't say that. And I've never suggested
4 my guy. I have never suggested -- you have suggested a
5 particular and trying to impose a particular mediator.
6 I've never done that.

7 194. Q. No, I'm asking that one be appointed, not
8 imposing. An Order appointing a skilled mediator?

9 A. A particular one.

10 195. Q. Yeah, the former regional senior Justice of
11 our Court?

12 A. Fine.

13 196. Q. So are you saying that with this pro bono
14 mediation that I see at page 78 that you intend, you
15 think you are going to be questioning and interviewing
16 and meeting whoever that mediator is going to be? Is
17 that your intention?

18 A. I didn't say -- you are mischaracterizing
19 what I said about meeting a mediator. But I certainly
20 would want to have a meeting with the mediator ahead of
21 time. Yes, I would.

22 197. Q. Really?

23 A. Yes.

24 198. Q. So what are you going to ask -- what do you
25 think you would ask Mr. Chadwick to get yourself

1 comfortable with him as a mediator?

2 A. I'm not going to answer that question.

R

3 199. Q. Page 63 of your record. First paragraph
4 under the heading What is the Mandatory Mediation
5 Program?

6 A. Sorry. This is a document, this is page 2 I
7 believe, page 2 or 3 -- page 3 of a document that's
8 entitled Mandatory Mediation. It's a fact sheet. Right?
9 That's the one you're referring to.

10 200. Q. I'm referring to page 63 of your record?

11 A. Page 3 of this document which is Exhibit K in
12 my first Affidavit of August 25th. Just to be clear what
13 that is.

14 201. Q. May I continue sir?

15 A. Yes.

16 202. Q. So under the heading What is the Mandatory
17 Mediation Program, the first paragraph says,

18 "The Mandatory Mediation Program is a
19 program designed to help parties involved
20 in civil litigation and estates matters
21 settle their cases early in the
22 litigation process to save time and
23 money".

24 Do you see that?

25 A. Yes.

1 203. Q. Do you take issue with that statement sir?

2 A. No, I do not. I don't take issue with it.
3 Let me read it again. Yes, I believe that that paragraph
4 expresses something true about this mandatory mediation
5 program.

6 204. Q. Turn to page 89 please of your record.
7 Paragraph 35 of your ---

8 A. I'm going to page 89.

9 205. Q. I'm asking you to look at paragraph 35 of
10 your Factum?

11 A. This is paragraph 35 of my Factum. Yes. You
12 want me to read that?

13 206. Q. Hm hmm?

14 A. Yeah. I don't think we should be answering
15 -- we should be talking about my Factum. My Factum is
16 not part of the Affidavit.

17 207. Q. What I'm asking you about sir, is your
18 statements, and you make them often about repeated
19 requests for early resolution by a voluntary mediation.
20 Right?

21 Your position is you've made repeated requests to
22 me as counsel for Professor St. Louis to have informal
23 voluntary mediation so that there can be an early
24 resolution to attempt or to attempt to have an early
25 resolution to this action. Right? Is that right?

1 A. No, I'm not answering yes or no. I'm telling
2 you this is about my Affidavit, not about my Factum. So
3 if there is something in the Affidavit that relates to
4 that that you want to ask me about, ask me that.

5 208. Q. Is it your evidence Mr. Rancourt that you
6 haven't told us that you want voluntary -- early
7 voluntary mediation?

8 A. You have said that you want this morning, to
9 be efficient and smooth. So let's stick to that.

10 209. Q. I didn't say that, you said it. But that's
11 another matter. It doesn't matter. Paragraph 5 ---

12 A. Of?

13 210. Q. Of your Affidavit of August 25th, page 4?

14 A. Thank you.

15 211. Q. "I continue to desire early voluntary
16 mediation on mutually agreed terms"?

17 A. Can you wait a second while I get to page 4.
18 Okay. Now we are back to the Affidavit. Which
19 paragraph?

20 212. Q. Five, first sentence. "I continue to desire
21 early voluntary mediation on mutually agreed terms"?

22 A. Yes.

23 213. Q. Right?

24 A. I did state that in paragraph 5.

25 214. Q. Yeah, you did?

1 A. Yes.

2 215. Q. You did. So as we sit here today you want to
3 hold an early mediation. But you don't want to hold an
4 early mandatory mediation?

5 A. In that paragraph it says, "early voluntary
6 mediation". I think that if you are trying to force
7 mediation it's contrary to the concept of mediation. If
8 you are forcing it on terms that one side determines.
9 And those terms include the timing, the cost, the choice
10 of the mediator and so on.

11 I'm saying that that is counter productive and
12 what I would prefer is something that is inexpensive,
13 voluntary, where we are able to mutually agree on the
14 terms of the mediator. I mean the procedure whereby we
15 will come into mediation.

16 And what the issues are for the mediation. I
17 think all of that can be done on a mutually agreed basis
18 and voluntarily and right away.

19 216. Q. Prior to discovery. Right?

20 A. I think that ---

21 217. Q. Right away means prior to discovery?

22 A. No, it does not.

23 218. Q. Agreements together ---

24 A. That is your characterization ---

25 219. Q. What, are you disagreeing?

1 A. No, I'm not disagreeing. I'm trying to say
2 that you are mischaracterizing the situation. And I'm
3 trying to explain how I would describe the situation.

4 But I see no reason and as you know I have
5 expressed it to you in writing, that discovery cannot
6 proceed at the same time as mediation. There is not
7 reason to delay discovery. And there are many reasons
8 why discoveries could be helpful in mediation. That is
9 my position sir.

10 220. Q. My question to you sir, and you've said it in
11 your Affidavit. So let's be clear. As we sit here
12 today, you are ready to have a voluntary mediation, your
13 term, a voluntary mediation right away but not an early
14 mandatory mediation. Correct?

15 A. No, you are mischaracterizing again. I said
16 voluntary mediation on mutually agreed terms. And yes, I
17 would agree to start that immediately. That is right.
18 But I on -- well, that's true. I would agree to do that.

19 To start that process and do it right away. At the same
20 time as we start the process of discovery.

21 221. Q. That's completely different. What are you
22 talking about?

23 A. I'm talking that I would like to do both
24 simultaneously.

25 222. Q. We do an early mediation before discoveries?

1 A. I'm saying ---

2 223. Q. You don't have a problem with that?

3 A. I'm saying that it would be good to start
4 discovery as soon as possible to clear up
5 misunderstandings, to get background information. To get
6 relevant things that would position us for mediation.
7 And I see no reason why we can't do that as quickly as
8 possible.

9 224. Q. The voluntary mediation sir, that you are on
10 Record as agreeing you could do right away, would have
11 the goal of trying to settle this libel action on
12 mutually agreed terms. Correct?

13 A. No, you are mischaracterizing again. The
14 mutually agreed terms are the terms for the mediation.

15 225. Q. No sir, listen to me, will you? Please
16 listen to me?

17 A. I'm listening sir.

18 226. Q. We are in a voluntary mediation. Okay?
19 Pretend that we are in a voluntary mediation, okay?

20 A. Why are you implying that I'm not listening
21 to you?

22 227. Q. Because you are not answering my questions.
23 So my question is this. If we were in a voluntary
24 mediation okay, so that all the terms you wanted for
25 procedure you are happy with, we are in a voluntary

1 mediation sitting down, where you don't have to pay the
2 mediator, okay?

3 A. Yes.

4 228. Q. The goal of that is to settle this action on
5 terms that you and Professor St. Louis agree to.
6 Correct?

7 A. No.

8 229. Q. No?

9 A. No, let me explain. You are
10 mischaracterizing again. That is one possible goal. But
11 there are many goals to such a mediation. One can be to
12 settle some of the issues. One goal can be to settle
13 some of the issues. Not necessarily all the issues.

14 Another goal can be to clarify our positions and
15 to elucidate and to clear up any misunderstandings.
16 Those are all goals.

17 230. Q. Right. But the ultimate goal of course is
18 that you settle all the issues in a mediation?

19 A. In an ideal world.

20 231. Q. Yeah. But if we can't, okay. So another
21 outcome could be we've settled some issues but ultimately
22 that's what you would try to do in a mediation. Right?

23 A. We settle some issues. Or it's during that
24 process we are getting discoveries at the same time, that
25 can be very helpful. That can be very helpful.

1 232. Q. Okay. And the same thing would happen in a
2 mandatory mediation. Right? One is we're sitting in a
3 mandatory mediation, the goal would be to resolve all
4 issues. But if we can't do that, try to resolve some
5 issues?

6 A. It would not be the same at all in a
7 mandatory mediation in the way that you are trying to
8 impose one with pre mediation conditions that would be
9 imposed rather than mutually agreed upon. That would be
10 a whole different circumstance ---

11 233. Q. --- in here Mr. Rancourt?

12 A. And the circumstances would be such, if you
13 let me answer. That the chances of mediation are less
14 likely to succeed. The chances of having even partial
15 agreement would be less likely to succeed because of all
16 of the imposed circumstances.

17 And because the degree of comfort would not be
18 the same and so on. So the two are very different.
19 There's no doubt about that in my mind.

20 234. Q. Mr. Rancourt, assuming we are sitting in a
21 mandatory mediation right now, okay? So all your
22 concerns about procedure again -- now you listen to me
23 this time please? Okay? So the assumption is we are in
24 a mandatory mediation. All your procedural concerns have
25 been looked after.

1 We are sitting now in a mandatory mediation. Do
2 you agree with me that the goal of that mediation is to
3 resolve all the issues in the action to the satisfaction
4 of you and Professor St. Louis. And if we can't do that
5 then maybe we resolve some issues ---

6 A. This is a long question Mr. Dearden. I need
7 some clarification. Okay? Are you saying that it is a
8 mandatory mediation that we mutually agreed to? Or are
9 you saying that it is the mandatory mediation that you
10 are trying to impose by this Motion?

11 235. Q. I'm talking about ---

12 A. Which mandatory mediation are you referring
13 to?

14 236. Q. --- where you, fast forwarding to a point in
15 time where you are sitting in a mandatory mediation. You
16 have a mediator that you are happy with ---

17 A. --- imposed by the Motion.

18 237. Q. That you are happy with. Whoever that is?

19 A. It's not a question of just the mediator ---

20 238. Q. You won't answer the question, will you?

21 A. --- all the circumstances.

22 239. Q. You won't answer the question?

23 A. I am answering the question.

24 240. Q. No, you won't?

25 A. I am not going to agree with your

1 characterization. That's what I'm not going to do.

2 241. Q. I'm asking you one more time and then I'm not
3 going to argue with you ---

4 A. You are already arguing with me ---

5 242. Q. You are in a mandatory ---

6 A. You are imposing your characterization on the
7 situation. That's what you are doing.

8 243. Q. I'm going to put the question on the Record.

9 You can deal with it as you wish and then I'm moving on
10 to my next question. Answer it or not at your peril?

11 A. I will respond to it.

12 244. Q. Pardon?

13 A. I will respond to your question.

14 245. Q. Okay. Assuming you are sitting in a
15 mandatory mediation, we have a mediator that you are
16 happy with. Is the goal of that mediation to try to
17 settle the libel action?

18 A. That is what I would call a trick question.
19 Because I cannot answer it agreeing with your
20 characterization.

21 246. Q. Okay. I'm not arguing with you. If you
22 could turn to paragraphs 44 and 45 of your Factum. I'll
23 give you a page number. Pages 91 and 92 under a heading
24 Plaintiff refusing to allow an adviser at the mediation?

25 A. Could you slow down just a bit? What page

1 are you going to?

2 247. Q. I said 91 and 92?

3 A. Okay. Shall we start with 91?

4 248. Q. You see the heading at the bottom of the
5 page, Plaintiff refusing to allow an adviser at
6 mediation?

7 A. Yes, that's the heading.

8 249. Q. Paragraph 45, last sentence ---

9 A. Wait, we are back in the Affidavit. We are
10 back in the Factum. We are in the Factum here. This is
11 not about the Factum. So if you want to ---

12 250. Q. "Plaintiff is refusing --- let me put it on
13 the Record?

14 A. Well, let me put on the Record that I object
15 to you asking questions about my Factum.

16 251. Q. Yeah. So I'm putting on the Record that you
17 are making a submission ---

18 A. It's already in the Record. It's in the
19 Factum.

20 252. Q. Under the heading Facts. "The Plaintiff is
21 refusing to consent to the Defendant's reasonable request
22 for an accompanying adviser chosen by the Defendant"?

23 A. Why are you using this cross examination in
24 this way?

25 253. Q. Because I'm putting to you sir, that that is

1 a false statement that you are making there?

2 A. Let's talk about the Affidavit.

3 254. Q. You have it in your Affidavit as well?

4 A. Well, then let's talk about that. I'd be
5 happy to answer questions about the Affidavit.

6 255. Q. I can ask you questions about any part of
7 your Responding Record. Okay? You have taken a position
8 that the Plaintiff has refused to consent to the
9 Defendant's reasonable request for an accommodation. If
10 you turn to page 20 of your Affidavit, I'm putting it to
11 you sir that this is a false statement ---

12 A. I'm getting to page 20, if you want to slow
13 down a little bit please. Okay, I'm at page 20.

14 256. Q. Okay. It's an email that I sent to you on
15 August 12, 2011 at 4:12 p.m.?

16 A. Let me just -- this is an Exhibit to my
17 Affidavit, is that right?

18 257. Q. That's right?

19 A. Exhibit C to my Affidavit of August 25th.
20 Yes. And you are half way through that Exhibit, on page
21 20?

22 258. Q. I'm in paragraph 3 of the email I just told
23 you I was referring to ---

24 A. And the email is the one of August 12th, at
25 4:12 p.m.

1 259. Q. And I have asked you to identify the
2 "adviser" you wish to accompany you at a request and the
3 role of the advisor. "Once I have this information I
4 will consider your request".

5 So that is not a refusal I put it to you sir, to
6 allow you to have an advisor. It's questions about who
7 is the advisor and what's the role of the advisor. Do
8 you agree?

9 A. Well, you can characterize it how you like.

10 260. Q. Do you agree?

11 A. No, I do not. That is your characterization.
12 What I see there is undue, improper affirmation of being
13 allowed to veto who I might choose as an advisor on
14 questions on -- you want to apply this veto on criteria
15 that you decide what they are.

16 And you want me to give you prior information
17 about all kinds of details. I see that as refusal. I
18 see that as non cooperation. I see that as unreasonable.

19 261. Q. I asked you the question. Is that a refusal
20 or are those questions, you see in paragraph 3 of your
21 record?

22 A. It is in the context of this exchange and in
23 of all our exchanges, that is a refusal.

24 262. Q. Turn to paragraph 21 of your August 25th
25 Affidavit, please?

1 A. That and the follow up to that and so on is a
2 refusal.

3 263. Q. I asked you to turn to paragraph 21 ---

4 A. Are you saying that you would now agree that
5 I bring in an advisor of my choice?

6 264. Q. Absolutely not. I've asked you questions.
7 You have refused to answer them?

8 A. Okay.

9 265. Q. Okay. I haven't refused anything. I've
10 asked you questions, you won't answer them?

11 A. Do you now agree to accept an advisor of my
12 choice in ---

13 266. Q. Answer my questions?

14 A. --- circumstances.

15 267. Q. Who is the advisor and what's their role?

16 A. And ---

17 268. Q. Who?

18 A. Why do you need to have that kind of veto
19 power over my advisors ---

20 269. Q. I want to know who is in the room?

21 A. --- if it were a lawyer representing me would
22 you have that kind of an attitude?

23 270. Q. Of course not. Because a lawyer is entitled
24 to be in the room. Unlike the three strangers that are
25 sitting here, that you have brought in deliberate

1 defiance of you being informed they can't be here?

2 A. I object to your characterization. It's a
3 mischaracterization of the situation.

O

4 271. Q. Turn to paragraph 21 of your Affidavit of
5 August 25th please? It's on page 5. So not page 21,
6 paragraph 21, page 5?

7 A. Okay. Start again. It's not page 21. We're
8 going to page 5?

9 272. Q. Yeah. Paragraph 21. "I am married to a
10 person of colour and have two daughters who are persons
11 of colour". Do you see that?

12 A. No, which paragraph?

13 273. Q. Five -- 21 rather, page 5?

14 A. Yes, it says I am married to a person of
15 colour.

16 274. Q. And have two daughters who are persons of
17 colour?

18 A. That is true.

19 275. Q. You are not married to a black person.
20 Correct?

21 A. I am married to a person of colour.

22 276. Q. You put that ---

23 A. That's what it says in the Affidavit ---

24 277. Q. Yeah, and I'm asking you ---

25 A. And that's what I'm saying.

1 278. Q. I'm asking you are you married to a black
2 person?

3 A. I'm telling you I'm married to a person of
4 colour. And if you don't know what that means, you can
5 go a Google search or you can look it up in a dictionary.

6 279. Q. Your wife is Marie Terese Wang?

7 A. You've already asked me that question. *R*

8 280. Q. That is your wife's name?

9 A. You have already asked me that question. *R*

10 281. Q. You explain to me the relevance of paragraph
11 21 to the issue of setting a date for mandatory mediation
12 and appointing Jim Chadwick as the mediator. Explain the
13 relevance of that?

14 A. Okay. You have been accusing me of racist
15 statements without a factual basis. And you do it
16 repeatedly. And this speaks to the question of your
17 accusation of me and your characterization of me as being
18 racist. So it is relevant.

19 282. Q. Do you understand the difference between
20 someone who makes a racist statement and somebody who is
21 a racist? Do you understand they are different? Can I
22 get you to agree to that?

23 A. Maybe you could explain it to me.

24 283. Q. No, no. I'm asking the questions here. Do
25 you understand the difference between a racist statement

1 and a person who is a racist. Yes or no?

2 A. It is the same difference as saying of
3 someone that they in a specific circumstances have acted
4 as a subservient person, versus characterizing their
5 whole character as being that way. It's the same
6 difference.

7 284. Q. Is that your answer?

8 A. Yes.

9 285. Q. Complete answer?

10 A. What, do you want more clarification?

11 286. Q. No, I want to know that you have fully given
12 your answer to that question, what I just heard?

13 A. Well, if it's satisfactory to you then it's
14 complete.

15 287. Q. Okay. Paragraph 38 of your August 25th
16 Affidavit which you'll find on page 7 of your record?

17 A. Paragraph which?

18 288. Q. Thirty eight?

19 A. Yes.

20 289. Q. You list a number of media articles. Then at
21 the second sentence after that list you say, "Many more
22 similar media articles appeared in cities across Canada".

23 Do you see that?

24 A. Yes.

25 290. Q. I want you to produce those many more similar

1 media articles that appeared in the cities across Canada,
2 please?

3 A. No, they are publicly available on the
4 internet. I don't have them all.

5 291. Q. Are you just guessing?

6 A. I saw them on the internet.

7 292. Q. You saw them on the internet?

8 A. Yes.

9 293. Q. And how many more are we talking? Give me a
10 number?

11 A. I didn't write notes or count.

12 294. Q. Approximate?

13 A. I don't know. It's a number that's between I
14 would say between two and 10. Something like that.

15 295. Q. And you are refusing to produce them?

16 A. I told you I don't have them.

17 296. Q. In paragraph 39 you say, "I believe the media
18 articles achieve adequately balanced presentations of the
19 facts regarding the instant action". Now, let me just
20 stop there. The media articles that you are referring
21 to, those are the ones that I see in paragraph 38?

22 A. It's all of them because many were similar in
23 content.

24 297. Q. Okay. So it's the ones I'm seeing in
25 paragraph 38? The ones you are referring to in paragraph

R

1 38?

2 A. Well, as I say there are others that have
3 similar content. So it's sort of generally a
4 characterization of what the media reporting was like in
5 the main stream media in that period regarding this
6 issue. That's what I'm commenting on.

7 298. Q. And you are saying that students and other
8 university professors at the University of Ottawa or
9 elsewhere, colleagues of Professor St. Louis, these
10 articles would be freely available and would provide the
11 needed facts and to arrive at their own reasoned and
12 correct conclusions?

13 A. No, that's your mischaracterization of that
14 paragraph 39. What the paragraph actually says is that
15 there are these media articles. Here, I'll read it
16 precisely.

17 "I believe the media articles achieve
18 adequately balanced presentations of the
19 facts regarding the instant action, which
20 would allow students and university
21 colleagues of the plaintiff to find
22 additional freely-available needed facts
23 and to arrive at their own reasoned and
24 correct conclusions".

25 So I'm referring to the idea -- what I'm really

1 saying here is there are these media articles which give
2 an overview of the situation as seen by the media. And
3 that would give enough information for an informed person
4 such as a law student or professor to do a media search -
5 - to do an internet search in order to find additional
6 information, if they felt they needed it.

7 Or if they wanted it. In order to make a
8 personal opinion or a judgment about what is going on
9 here. That's what I'm saying in that paragraph.

10 299. Q. So you are not disputing the fact that some
11 of Professor St. Louis' students are going to ask her
12 questions about this libel action?

13 A. I have no idea what the students might or
14 might not do in the context of these law courses. I
15 don't -- I'm not familiar enough with the culture of
16 these classrooms, how Professor St. Louis approaches her
17 students on the first day of class. How she might meet
18 them before the first -- I don't know any of that. So I
19 can't answer a question like that.

R

20 300. Q. Okay. Are you disputing the fact that some
21 of Professor St. Louis' colleagues at the Faculty of Law
22 will discuss this libel action with her?

23 A. Again, I don't know the culture of the
24 Faculty of Law. I don't know the behaviour of these
25 colleagues. I don't know the nature of their

1 interactions, how often they meet at coffee and what they
2 do. I don't know any of these things. So I can't answer
3 a question like that.

R

4 301. Q. And ---

5 A. It's not something I know anything about.

6 302. Q. Okay. Paragraph 40. You mention that you
7 had been informed by Mireille Gervais, the Director of
8 Student Appeal Centre, Student Federation of the
9 University of Ottawa, and verily believe that she was
10 contacted by a reporter at Law Times?

11 A. Yes.

12 303. Q. That he was going to run a story about this
13 action?

14 A. Yes.

15 304. Q. What's the relevance of that?

16 A. It's relevant because it has the same kind of
17 relevance as the other media articles. But it has
18 additional relevance to those other media articles in
19 that it is in a specialized law media. So the Law Times
20 as I understand it is something that many law students
21 and professors in Canada subscribe to and get freely.

22 And it is I presume something that they trust, in
23 terms of doing good reporting. And so it is relevant in
24 the same way that additional information and other media
25 reports would be relevant. In that it's a source of

1 information for independent thinkers to make up their
2 mind about what is going on here.

3 305. Q. Why is Mireille Gervais communicating with
4 you about this libel action?

5 A. I have -- Mireille Gervais is the Director of
6 the Student Appeal Centre. So this libel action involves
7 her significantly. As part of the material circumstances
8 and facts of this action.

9 And I have approached Mrs. Gervais to ask her to
10 be -- potentially in the future to act as a witness
11 regarding background information and material facts in
12 this case. So we have communications.

13 306. Q. I would like you to produce those
14 communications?

15 A. Which ones?

16 307. Q. Any emails, anything that is a record.
17 Obviously you can't produce an oral communication unless
18 someone tape recorded it. But any records?

19 A. This was an oral communication we are
20 referring to in Affidavit paragraph 40.

21 308. Q. I was speaking about your discussion as to
22 approaching her to be a witness. My question is prompted
23 out of an answer you just gave me?

24 A. Yes, and so I'll write that down as something
25 that I need to verify. Do you want all records ---

1 309. Q. Between you and Ms Gervais about this libel
2 action?

3 A. Yes, and that is something that I think
4 normally would come out in discovery.

5 310. Q. Oh, it certainly would. But you've brought
6 it up ---

7 A. Which is why ---

8 311. Q. --- in this Affidavit?

9 A. Allow me to continue my sentence please. I
10 had been saying that discoveries is something useful if
11 you want to go into mediation. You have been today
12 asking me several questions that are essentially
13 discovery type questions.

14 Which I think reaffirms my point that discoveries
15 is very useful if you want to go into productive and
16 successful mediation.

17 312. Q. Every question I have asked you relates to
18 your Affidavit sir, which you put in to oppose the Motion
19 that is about to be heard by the Court.

20 A. That is your position and affirmation ---

21 313. Q. That's cross examination.

22 A. I have explained that I need to look into
23 that.

24 314. Q. Okay. Did she agree to be a witness?

25 A. That's not something I need to answer.

1 And you probably know that that's the case. Do
2 you agree that's not something I need to answer?

3 315. Q. I wouldn't have asked you the question if I
4 didn't expect an answer to it. I'm just not arguing with
5 you?

6 A. Do you agree that I don't have to answer that
7 question?

8 316. Q. No, you should be answering the question.
9 Answer the question?

10 A. Do you agree that I'm not obliged to answer
11 this question?

12 317. Q. I can't force you to answer it sir, but I can
13 bring a Motion ---

14 A. Within the law and the procedures, do you
15 agree that I don't have to answer that question?

16 318. Q. You gave an answer. You raised the fact that
17 you asked her to be a witness. And you put that into
18 evidence. And I can ask you a question arising out of
19 that. Period?

20 A. Do you agree that I don't need to answer the
21 question?

22 319. Q. Are you listening to me?

23 A. I'm asking you a question.

24 320. Q. Are you listening to me?

25 A. You refuse to answer, that's fine.

1 321. Q. You have a heading above the paragraph 40
2 involving Mireille Gervais that says, Public disclosure
3 cannot be stopped. What are you talking about?

4 A. You misread that title. It says, Public
5 discourse cannot be stopped.

6 322. Q. I'm sorry. Thank you. Public discourse
7 cannot be stopped. What are you talking about?

8 A. That is a title to a section. And I'm
9 referring to the fact that it is -- this whole section is
10 paragraphs 40 and 41 of the Affidavit. So let me just
11 see what those are about.

12 Yeah. It's just a title to organize the content.

13 Paragraph 41 says that the public record of pleadings of
14 this Motion contain all the content of the blog posts at
15 issue in the action.

16 And so I'm just saying that it's all out there
17 for anyone such as law students and colleagues who want
18 to consult and make up their own idea about this case.
19 All that information is available there.

20 323. Q. Mr. Rancourt, it's you that is putting it out
21 to the world at large. The only public documents that
22 should exist in this private litigation between you and
23 Professor St. Louis, are the pleadings and the Motion
24 Records. Okay?

25 You have chosen to post on your website, on your

1 blog, communications between me and you for the world to
2 see. And I want to know why you are doing that?

3 A. Okay. Can we -- that is not part of the
4 cross examination ---

5 324. Q. Yes, public discourse cannot be stopped. It
6 can be stopped if you stop posting information on the web
7 that you shouldn't be posting. Because this is
8 litigation sir?

9 A. Can I reply please?

10 325. Q. Please?

11 A. You are mischaracterizing the situation.
12 Several people have posted many things including lawyers
13 who have posted all kinds of information about this case.
14 You have tried to characterize it that I'm the only
15 person posting anything.

16 326. Q. You are not listening to me. You are not
17 listening to me sir?

18 A. I'm telling you that I disagree with your
19 characterization.

20 327. Q. Our email exchanges to use a specific
21 example, are not filed in a Court file, and you are
22 posting them?

23 A. Yes, I did post that.

24 328. Q. And that's for the world to see?

25 A. Yes, it's on the internet.

1 329. Q. And you are trying to generate public
2 discourse by doing that. Aren't you?

3 A. No, that's your characterization.

4 330. Q. What are you doing it for?

5 A. It's called transparency.

6 331. Q. It's called litigation sir?

7 A. It's called transparency. And I believe that
8 your behaviour in those emails, it's healthy for the
9 public to see.

10 332. Q. Really?

11 A. Yes. In our society as part of public
12 discourse it is a healthy thing. You have a reason to
13 hide it.

14 333. Q. It's litigation. It's not subject to the
15 open court principle. This is private litigation. Do
16 you understand that sir?

17 A. I don't recall you putting anything, any
18 opposition like that, any motion forward or any
19 opposition in the Statement of Claim about this.

20 334. Q. Because sir, your conduct will be used
21 against you as evidence for malice, aggravated damages
22 and punitive damages?

23 A. I seem to have heard that already.

24 335. Q. Yeah?

25 A. And you affirmed today that you would not go

1 there any more.

2 336. Q. You just told me why didn't I object. I'm
3 warning you and warning you and warning you. And giving
4 you fair notice when you do these things and break the
5 rules, I intend to use it as evidence against you?

6 A. --- any more today. We have agreed to that.
7 Please respect our agreement.

8 337. Q. So does that end your answer on my questions
9 about why you are posting non pleadings in this action on
10 various websites for the world to see. Does that
11 complete your answer?

12 A. I disagree with your characterization that is
13 in your question. We are not -- if you are going to ask
14 questions about these things, we are going to have to be
15 specific, posting by posting. We are going to have to
16 look at whether I was the one who did the posting or not.

17 We are going to have to look at all of these
18 questions. And for today, it's going to have to relate
19 directly to the Affidavit that you are cross examining me
20 on.

21 338. Q. On your U of O Watch, when I go on there and
22 you have ---

23 A. Is this about the Affidavit?

24 339. Q. I'm -- the question -- you just said to me
25 something about who did the posting and who didn't. So

1 I'm asking you, did you post everything I see on the U of
2 O Watch?

3 A. I'm not going to answer that.

R

4 340. Q. Why not?

5 A. Because I don't believe I need to answer
6 that.

7 341. Q. Well, Mr. Rancourt I'm not going to argue
8 with you. Let's move on. Paragraph 43?

9 A. Do you believe that I have an obligation to
10 answer that following the rules and the law?

11 342. Q. Absolutely. You just referred to some people
12 didn't post things. Other people posted things ---

13 A. A lot of things posting on the internet.

14 343. Q. I want to know what you posted?

15 A. I do not own the internet.

16 344. Q. No kidding. Did you post what I see about
17 this action including my emails to you on your U of O
18 Watch?

19 A. That does not relate to the Affidavit ---

20 345. Q. Did you? You just gave an answer that
21 referred to some people posting things you don't post?

22 A. It was an explanation of -- it was a counter
23 to the way you were characterizing things.

24 346. Q. I'm not arguing with you. We'll come back
25 another day?

1 A. I'm not arguing with you Mr. Dearden.

2 347. Q. We'll come back another day. You most
3 certainly are sir. Paragraph 43 please?

4 A. Sorry?

5 348. Q. Paragraph 43 of your Affidavit of August 25th
6 which you are going to find on page 8 of your record. It
7 says, "I believe that I have a right to be covered in the
8 instant action by the University of Ottawa's CURIE
9 liability insurance policy"?

10 A. Yes.

11 349. Q. And CURIE stands for what again?

12 A. I believe it's just from memory, I don't
13 remember what it stands for.

14 350. Q. What is it?

15 A. It is the -- it is -- I don't know how the
16 corporation is defined and who runs it like a cooperative
17 type of thing. But it's a standard insurance for
18 universities in Ontario possibly Canada.

19 351. Q. And you took the position with this
20 organization, this CURIE that they should be covering
21 your defence costs and I guess damages in this libel
22 action?

23 A. No, I did not. I took the position that the
24 university should recognize that I should be covered by
25 their insurance policy. And I asked them to recognize

1 that and to do the necessary in order to ensure that it
2 happens.

3 352. Q. Okay. What are you disputing about what I
4 just said? You said that you have a right to be covered.

5 Does covered not mean your legal bills, your legal fees
6 and damages in this case?

7 A. What you said is that -- you mischaracterized
8 the situation. And you said I have taken the position
9 with CURIE that I was entitled to their coverage. I said
10 no, I did not do that.

11 I took the position with the University of Ottawa
12 that I was entitled to be covered by their insurance
13 policy. And asked them to do the necessary so that that
14 occurs. I'm sure you can appreciate the difference.

15 353. Q. Which comes to the same conclusion that you
16 want some insurance policy, forget whose it is. But you
17 want some insurance policy to cover lawyer's fees to
18 defend you in this action and any damages that might be
19 awarded in this action. Would that be correct on what
20 covered means?

21 A. This means -- the reason this is in the
22 Affidavit is that the Rules of Procedure state that if
23 there is an insurance that is possibly libel in this
24 case, that it possibly needs to cover the Defendant. And
25 that a representative of that insurance company must be

1 at the mandatory mediation.

2 That's why this is in the Affidavit. So this is
3 an issue that is still unresolved. But it might be
4 resolved soon.

5 354. Q. How's that?

6 A. I've indicated that in my Factum which I'm
7 sure you have read.

8 355. Q. Where?

9 A. I don't remember. But anyway, this is not
10 about the Factum is it?

11 356. Q. Well, you just raised the Factum sir. So you
12 are going to deal with the Factum?

13 A. No, I said I have already answered that
14 question. It's in the Factum. So I'm not answering the
15 question.

R

16 357. Q. You just said it sir. So show me in the
17 Factum what you were referring to, that the issue was
18 going to be resolved soon?

19 A. I don't want to talk about the Factum.

20 358. Q. Because in fact it's not true that the issue
21 is going to be resolved soon. Is it? Because the
22 university has rejected your coverage. So tell me how
23 it's going to be resolved soon?

24 A. I don't want to answer that question.

R

25 359. Q. Has the university rejected your coverage?

1 A. I don't want to answer your question. All of
2 the evidence is in my Affidavit. The letters are there.
3 I'm not -- it's completely transparent.

R

4 360. Q. Because you are considering suing the
5 university and/or CURIE for not covering you. Aren't
6 you?

7 A. I don't want to answer that question.

R

8 361. Q. Why?

9 A. Well, it's an option obviously. These things
10 have a way of getting themselves resolved. Even by a
11 simple exchange of letters. I have communicated in the
12 past with the university.

13 362. Q. We'll get to what they said to you, which was
14 an outright denial of coverage. They agreed with CURIE
15 telling you you're not covered. We'll get to that in a
16 second.

17 The paragraph of your Factum that you couldn't
18 find is on page 91 of your record under the heading Issue
19 of Defendant's liability insurance. And the last
20 sentence of paragraph 43 says, "The Defendant expects to
21 make an action and/or motion in this matter of liability
22 insurance". So you have page 91 in front of you,
23 paragraph 43?

24 A. It's not that I couldn't find it. I didn't
25 look for it. I don't want to talk about the Factum.

1 363. Q. You expect to commence a legal action against
2 University of Ottawa and/or CURIE for not covering you in
3 this libel action sir?

4 A. This cross examination is not about the
5 Factum.

6 364. Q. Answer the question?

7 A. I just did.

8 365. Q. I'm asking you questions that specifically
9 arise out of you yourself referencing the Factum. But
10 also in paragraph 43 you say you have a right to be
11 covered in the instant action. Okay?

12 A. Yes, and I believe that is true. If you want
13 to question that ---

14 366. Q. Are you going to commence an action to get
15 insurance coverage through the University of Ottawa
16 and/or CURIE? Because it's been denied you?

17 A. I won't answer that.

18 367. Q. Well, we'll be back here another day sir.
19 Exhibit J?

20 A. I already have answered it.

21 368. Q. Exhibit J. You told me it's an option.
22 That's what you told me?

23 A. Well, an option means an option.

24 369. Q. I'm looking for the page number for Exhibit
25 J.

R

1 MS WAGNER: Fifty five.

2 BY MR. DEARDEN:

3 370. Q. Fifty five. Okay. Turn to page number 55 in
4 the record please? You should see a page that says,
5 Liability Claim, CURIE Policy, university's
6 responsibility?

7 A. Just one second. I'm going to take a drink
8 of water.

9 371. Q. Hm hmm?

10 A. This is Exhibit J, page 55.

11 372. Q. Right. Well, Exhibit J is page 55 to 59. My
12 question for you sir is, does this Exhibit J contain all
13 of the records exchanged between you and the University
14 of Ottawa and CURIE representatives with respect to
15 whether you are entitled to insurance coverage to defend
16 this libel action?

17 A. I'm trying to remember. I'm just trying to
18 remember. I sent an email to the university recently and
19 I'm trying to remember if I mentioned it in there. Yes,
20 it does.

21 373. Q. So I have all letters, all emails, any
22 memorandum that have been exchanged between you and/or
23 the University of Ottawa, and/or any representative of
24 CURIE such as Stewart Roberts? I've got it all?

25 Which means there is no letter that you have

1 received, because this is all emails that I see on pages
2 55 to 59?

3 A. Right. I believe that's the case. But let
4 me just check the Affidavit that is -- the Affidavit
5 itself. How it cites this Exhibit J. I just need to
6 find that. Do you know which paragraph that would be?

7 374. Q. I'm looking it up myself. Around paragraph
8 43 -- 42 attached as Exhibit J?

9 A. Yes. You know, from my memory as far as I
10 know yes, that's everything. That relates directly to
11 this question of CURIE.

12 375. Q. Which is insurance coverage for your defence
13 fees and any judgement that may be rendered against you?

14 A. That's my understanding of how this policy
15 works.

16 376. Q. Okay. So if you look at page 57 of your
17 record, you get informed by Stewart Roberts that you are
18 not going to be covered?

19 A. Yes, I get informed of the position of CURIE.
20 And I had not communicated with CURIE directly or asked
21 them anything. But Mr. Roberts, Stewart Roberts has sent
22 me an email.

23 377. Q. Which we see July 8th, 2011 at 9:38 a.m.?

24 A. That is correct.

25 378. Q. So your application if I can use that term,

1 to be covered by the university's insurance is what I see
2 on page 58. That's your email of July 1st to Alain
3 Roussy, legal counsel with the University of Ottawa?

4 A. Yeah. That is not -- well okay. Just to be
5 clear on the terms. I don't think that would be called
6 an application.

7 What I'm doing there is I'm informing the
8 university that I believe I am entitled to this coverage.

9 And I'm asking them to do the necessary. In other
10 words, they are the ones I believe if I understand the
11 policy correctly, that needs to make a claim to CURIE for
12 this coverage.

13 379. Q. Are any of the emails I see in pages 55
14 through 59 redacted?

15 A. No.

16 380. Q. So then you get a response on July 8th which
17 we see on page 57 directly from Stewart Roberts and they
18 reject coverage. Right?

19 A. I'm sorry?

20 381. Q. Page 57?

21 A. Yes.

22 382. Q. July 8th, 9:38 a.m. you are informed by CURIE
23 claims manager Stewart Roberts that there is no coverage?

24 A. Didn't you just ask me about this email?

25 383. Q. Yeah, I'm just going through the sequence

1 here?

2 A. But you just asked me about this one.

3 384. Q. Yeah?

4 A. So are you repeating the same question?

5 385. Q. No?

6 A. What is your new question?

7 386. Q. You got rejected. And you didn't ---

8 A. No, this is not a rejection. This email from
9 Mr. Stewart is one that does not follow the procedure for
10 getting approved for this insurance.

11 387. Q. Come on Mr. Rancourt. Let's stop being silly
12 here, okay? He is telling you you are not covered. Do
13 you take issue with that?

14 A. Yes, I do. He does not have the authority to
15 tell me that.

16 388. Q. Okay. Fine. Next page, 56. I'm going in
17 chronological order here. On August 5th, you send an
18 email to Alain Roussy at 8:59 p.m. which I see on that
19 page. Right?

20 A. Yes.

21 389. Q. And you are demanding that the university
22 answer your question, that you didn't accept getting
23 something directly from CURIE. Right?

24 A. I'm demanding that the university be the one
25 to respond to my questions to it. And I'm informing the

1 university that it hasn't answered me yet. And that it
2 is the one that has the authority to decide whether this
3 claim will be put forward or not. Not CURIE.

4 390. Q. And then you get the response from Alain
5 Roussy on page 55 of your record that says the university
6 did not answer ---

7 A. Wait wait. Page 55 does not have an answer.
8 Sorry. I missed -- yes. Page 55, yes.

9 391. Q. May I continue sir? The email to you from
10 Alain Roussy says, the university did not answer your
11 initial email below because you received a response
12 directly from CURIE which answered your question about
13 insurance coverage.

14 "As you know, CURIE has stated that it
15 will not be in a position to defend you
16 in this matter. The University does not
17 disagree with that assessment".

18 What have you done in response to this August 17,
19 2011 email at page 55 of your record?

20 A. I have been busy with other things. I have
21 not followed that up yet.

22 392. Q. But one of your options is to sue them for
23 coverage?

24 A. I'm going to try -- I think I believe I will.
25 I need to think about it. But my next option, my next

1 immediate option is to reason with the university.

2 393. Q. How do you intend to do that?

3 A. Using reason.

4 394. Q. Yeah, I heard that. How? What are you
5 intending to do? Who are you going to approach?

6 A. At this time I haven't had a chance to think
7 about it. I don't have specific intentions at this time.

8 395. Q. Stewart Roberts told you or recommended to
9 you that you report the matter to your personal home
10 owners insurance company. Did you do that?

11 A. I don't need to answer that.

12 396. Q. It's in material that you provided at page
13 57. It's in an email that he sent you on July the 8th
14 that you included in your Affidavit. Did you do that
15 sir?

16 A. I do not deny that it's in the email. That
17 is true.

18 397. Q. Did you do that? Did you report the matter
19 to your personal home owners insurance company? You are
20 claiming that you can't afford to pay half of Jim
21 Chadwick's mediation fees. Did you report the matter to
22 your personal home owners insurance company?

23 A. Mr. Dearden are you of the legal position
24 that I am required to answer that question?

25 398. Q. Yes?

R

1 A. Well, I think you're wrong. I'll need to
2 look at that.

3 399. Q. Okay?

4 A. So we can add it to the questions here. But
5 you are going to be sending me a list of questions that
6 came up today.

7 400. Q. Can you turn to page 58 please? This is an
8 email that you sent on July 1st to Alain Roussy. And in
9 the second paragraph of that email you say ---

10 A. Are we still in Exhibit J? Is that the same
11 sequence?

12 401. Q. Yeah?

13 A. Okay.

14 402. Q. Well, I'm on page 58?

15 A. Yes.

16 403. Q. July 1st, looks like a July 1st email?

17 A. Okay.

18 404. Q. That you sent to Alain Roussy?

19 A. Yes.

20 405. Q. The second paragraph says,
21 "As the University knows, the Statement
22 of Claim was immediately (same day) made
23 public on the web and this fact was
24 quickly and widely reported in the
25 media".

1 And the reason the Statement of Claim was
2 immediately made public was because you posted it on your
3 blog. Right?

4 A. I'm not going to answer that. I don't think
5 it's relevant to this Affidavit.

R

6 406. Q. You have included this email with your
7 Affidavit sir?

8 A. Yes, I have. And I'm not going to answer
9 that question. I believe that that would be a proper
10 question for discovery. Which brings us back to the
11 question that we should be doing discovery if we are
12 going to -- that's the kind of information you need to go
13 into mediation, then you should be doing discovery.

14 407. Q. Sir, I'm not asking you these questions
15 because I need this to be in a mediation with you. I'm
16 asking you these questions as part of the cross
17 examination, for your opposition to going into a
18 mediation which I'm seeking an Order for. Okay?

19 A. Okay.

20 408. Q. So there's a big difference there?

21 A. I'm going to write this down. You want me to
22 say who has posted what regarding the Statement of Claim.

23 409. Q. No, I'm putting it to you sir that the reason
24 the Statement of Claim was immediately made public is
25 because you made it immediately public by posting it on

1 your U of O Watch blog. Right?

2 A. I'm not going to answer that. It's a complex
3 question. Has many factors. And I don't believe it's
4 relevant to this cross examination.

R

5 And if on taking advice I find that it was proper
6 to ask that question, I will answer you this week. As I
7 have said several times in this cross examination.

U

8 410. Q. Mr. Rancourt, the reason you are opposing
9 mandatory mediation as opposed to voluntary mediation is
10 because you want to have resolved whether you are covered
11 by insurance. Correct?

12 A. That is your characterization. It's -- I
13 can't answer that question without agreeing with your
14 characterization. So I think I have explained in some
15 detail and you have read it why I'm opposing this. I'm
16 opposing it for many reasons.

17 411. Q. I'm saying to you sir, one of those reasons
18 is you are trying to avoid going to mandatory mediation
19 before you can finally resolve whether CURIE and/or the
20 University of Ottawa's insurance will cover you in this
21 legal action. Correct?

22 A. No. The situation is that the Rules of
23 Procedure require that the insurer be present. Therefore
24 I am of the position that that needs to be resolved.

25 412. Q. Paragraph 43 of your Factum you say,

1 "Based on the Rules of Procedure the
2 Defendant expected to have more time to
3 resolve this difficulty before Mandatory
4 Mediation would be imposed. The
5 Defendant expects to make an action
6 and/or a motion in this matter of
7 liability insurance".

8 So you have no intention of going to a mandatory
9 mediation until there is some resolution you are
10 satisfied with as to whether you have gotten insurance
11 coverage on this claim?

12 A. That's not true. If ---

13 413. Q. It's what you say in paragraph 43 of your
14 Factum sir?

15 A. No, you added your question to that. And
16 your question is not true. The situation is that if a
17 Justice of the Peace rules that it is appropriate to go
18 to mandatory mediation without having resolved this
19 question of insurance, then of course I'll abide by that.

20 414. Q. So if we don't have to have Stewart Roberts
21 or whoever would be the representative from CURIE
22 attending mandatory mediation, you are okay with the
23 mandatory mediation?

24 A. I will be okay with whatever the Justice of
25 the Peace rules is appropriate in these circumstances.

1 415. Q. Of course you will, because you will be
2 ordered to do that?

3 A. Yes.

4 416. Q. But that's not my question. If there is no
5 issue about the need for an insurance representative to
6 attend mandatory mediation, you are prepared to go to
7 mandatory mediation?

8 A. If there was no issue about it, of course I
9 would be.

10 417. Q. Okay. Those are all my questions Mr.
11 Rancourt for now. There's a lot of outstanding questions
12 that need to be resolved. But I did see Mr. Lamontagne
13 come in at 11:00 o'clock. I suspect ---

14 A. Now, I'm going to want to consult with my
15 affiant before you start with him?

16 418. Q. No, no, no. You are not speaking to him at
17 all. He's under cross examination. You have a right to
18 be present when he is under cross examination. You can
19 be ---

20 A. My position is ---

21 419. Q. You are not acting for him sir. And I told
22 you at the beginning of this cross examination that you
23 and the three strangers in this room do not say a word to
24 him about what I just asked you about?

25 A. Now, could you listen to my position? My

1 position is this one. I will not speak to him about what
2 happened, but I do want to see him and make him feel
3 comfortable and explain ---

4 420. Q. No, no. You are not going to do that. You
5 are not talking to him at all. He is under notice to
6 attend, I saw him show up. He is out there in the
7 waiting room.

8 I'm going to the bathroom, getting another bottle
9 of water and I'm going to start my cross examination
10 right away. And you can't say anything to him. You are
11 not his lawyer. And you have been cross examined. And
12 you are not allowed to tell him about what you have been
13 cross-examined about?

14 A. That is not my goal at all. And I've already
15 said ---

16 421. Q. You are not talking to him?

17 A. --- I do not want to share anything that has
18 happened here today.

19 422. Q. You are not to speak to him sir?

20 A. I would be willing to speak to him in front
21 of you?

22 423. Q. Okay?

23 A. All right?

24 424. Q. Yeah. But you better not mention anything
25 that he might be questioned about or ---

1 A. I understand it. Okay. So I also need to go
2 to the washroom. We can sit here in front of you while I
3 talk to him.

4 425. Q. Okay. Let's resume at ten to twelve.

5 --- WHEREUPON THE EXAMINATION ADJOURNED AT THE HOUR OF
6 11:45 IN THE FORENOON.

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18 THIS IS TO CERTIFY THAT the foregoing is a
19 true and accurate transcription from the
20 Record made by sound recording apparatus to
21 the best of my skill and ability.

22

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Susan Hiltner, Court Reporter

Examination No. 11-0806.1

Court File No. 11-51657

(Ottawa-Carleton)

ONTARIO SUPERIOR COURT OF JUSTICE

B E T W E E N:

JOANNE ST. LEWIS

PLAINTIFF

- and -

DENIS RANCOURT

DEFENDANT

CROSS EXAMINATION OF DENIS RANCOURT, pursuant to an
appointment made on consent of the parties to be reported
by Cornell Catana Reporting Services, on September 6, 2011,
commencing at the hour of 9:36 in the forenoon.

APPEARANCES:

Richard G. Dearden/Wendy J. Wagner

for the Plaintiff

Denis Rancourt

representing himself

This Examination was taken down by sound recording
by Cornell Catana Reporting Services Ltd.

Tel: (613) 231-4664

1-800-893-6272
(i)

Fax: (613) 231-4605

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EXHIBIT 1: Print out from the website rancourt.academicfreedom.ca headed Letters of Support from Professors at the University of Ottawa.	23
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TRANSCRIPT ORDERED: September 6, 2011

TRANSCRIPT FINISHED: September 7, 2011

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CLAUDE LAMONTAGNE, SWORN:

CROSS EXAMINATION BY MR. DEARDEN ON AN AFFIDAVIT

SWORN AUGUST 25, 2011:

MR. RANCOURT: So you agreed that I would talk to my client in front of you.

MR. DEARDEN: He's not your client. He's a witness.

MR. RANCOURT: Sorry, not my client, my witness. You agreed to that.

MR. DEARDEN: I agreed that you could say something in front of me so long as you didn't tell Dr. Lamontagne anything about what I cross examined you on.

MR. RANCOURT: I have already stated that I would not do that. And I'd like to go off the Record in order to make these comments in front of you to Mr. Lamontagne.

MR. DEARDEN: No, I want them on the Record. Because this is highly unusual Mr. Rancourt for you to be discussing with the witness ---

MR. RANCOURT: You agreed to it and there was no question of it being on the Record.

MR. DEARDEN: Oh, I want it on the Record, so.

MR. RANCOURT: Well, I don't want it on the Record.

MR. DEARDEN: Okay then, I will cross examine you Dr. Lamontagne because I'm not letting Mr. Rancourt say

1 anything to you that is not on the Record.

2 BY MR. DEARDEN:

3 1. Q. So Dr. Lamontagne, do you have a copy with
4 you of an Affidavit that you swore on August 25th, 2011?

5 A. I do.

6 2. Q. And it's 12 paragraphs sir? Just to make
7 sure we are all on the same page?

8 A. It is.

9 3. Q. And you swore that before whom?

10 A. At the Ontario Superior Court, right there.

11 4. Q. Is it Tim Girley?

12 A. Yeah.

13 5. Q. Okay?

14 A. Well, I suppose it is. My copy doesn't have
15 his name on it.

16 MR. RANCOURT: I can provide you with a copy of
17 your Affidavit. Let me help you.

18 BY MR. DEARDEN:

19 6. Q. Oh, you don't have a sworn copy in front of
20 you. He should have a sworn copy. So if you give him
21 pages 28 and 29 of your record Mr. Rancourt?

22 MR. RANCOURT: Yes, one second. I will do that.

23 BY MR. DEARDEN:

24 7. Q. So you have an actual sworn copy in front of
25 you sir?

1 A. I do.

2 8. Q. Now sir, there are three individuals sitting
3 at the end of the table here who are strangers to me. Do
4 you know them?

5 MR. RANCOURT: Pas besoin de repondre.

6 MR. DEARDEN: Excuse me?

7 MR. RANCOURT: I'm telling him that he doesn't
8 need to answer that question.

9 BY MR. DEARDEN:

10 9. Q. Do you know them Dr. Lamontagne?

11 MR. RANCOURT: Since you have a right not to
12 answer, it would be better if you did not answer.

13 THE WITNESS: Am I -- this information question?

14 BY MR. DEARDEN:

15 10. Q. Yeah, I ---

16 A. I have the right to tell you I can't answer
17 your questions? Or am I going to be sued if I don't
18 answer.

19 MR. RANCOURT: No, no. You are not going to be
20 sued about anything.

21 THE WITNESS: Well, I'd like to hear from you.
22 Do I have to answer all your questions?

23 BY MR. DEARDEN:

24 11. Q. Sir, this is an interesting process we are in
25 because Mr. Rancourt is representing himself. But he is

1 not your lawyer.

2 So he in my opinion doesn't have any right to
3 object to any question I ask you. You can however if you
4 don't feel comfortable in answering a question I ask you,
5 don't answer it?

6 A. So I won't answer that one.

R

7 12. Q. Okay. And I'm once again asking Mr. Rancourt
8 that you would ask these strangers to leave this cross
9 examination. Because cross examinations are private.
10 They are not supposed to be here?

11 MR. RANCOURT: Yes, I disagree with you on that
12 point, as you know.

13 MR. DEARDEN: So you will refuse to do that
14 again?

15 MR. RANCOURT: I disagree with you on that point
16 as you know.

R

17 BY MR. DEARDEN:

18 13. Q. Dr. Lamontagne, so you know the public are
19 not entitled to be in a cross examination or an
20 examination for discovery?

21 A. Is that a practice or is there some
22 regulation to that?

23 14. Q. It's fact. It's because there is what is
24 known as a deemed undertaking. When you are in
25 litigation you are exchanging private information between

1 the parties that you have to give, that you wouldn't
2 otherwise give because you are in litigation.

3 But it's not available to the public until the
4 transcript is actually filed?

5 A. Is it tradition or is it something ---

6 15. Q. Absolutely?

7 A. It's tradition.

8 16. Q. It's a fact. It's the law?

9 A. It's the law.

10 17. Q. Yeah. Okay?

11 MR. RANCOURT: Mr. Dearden thank you for
12 explaining that to the people who are here. I mean I
13 think that should have been sufficient.

14 MR. DEARDEN: I'm not listening to you because
15 I'm now cross examining this witness. So please let me
16 get him done. Because I don't think it's going to take
17 very long. What you have done is not a good thing Mr.
18 Rancourt by having these three people here.

19 Not a good thing. This is not a game. This is
20 litigation. What you have published about Professor St.
21 Louis is egregious. About the most egregious defamatory
22 statements I've seen anybody in my 32 years of practice.

23 MR. RANCOURT: You are lengthening the process by
24 stating that. We had agreed that you would not do that
25 anymore.

1 BY MR. DEARDEN:

2 18. Q. Dr. Lamontagne, when did Mr. Rancourt ask you
3 to swear this Affidavit?

4 A. It's a few weeks ago. Not exact -- what
5 would you like me to ---

6 19. Q. Well, was it a couple of days before you
7 swore it on August 25th? A week before? You know,
8 approximately?

9 A. I'd say a couple of weeks before.

10 20. Q. And he called you?

11 A. Well, we're in contact. It came out of a
12 discussion that we had. It was not -- I don't remember
13 it being you know, that specific. You know, we discuss
14 regularly. And in the course of a discussion he asked me
15 if I would write an Affidavit.

16 21. Q. So your ---

17 A. And then I read the Statement of Claim and
18 said that I agreed.

19 22. Q. And you read his blogs?

20 A. And I read the blogs.

21 23. Q. Before we get to that though, you are in
22 regular contact with Mr. Rancourt?

23 A. Yes.

24 24. Q. And your discussions that you talk about that
25 are regular, is that about this libel action?

1 A. No, they are about university life in
2 general. And you know, they are discussions of
3 intellectuals of many issues.

4 25. Q. Okay. But you have discussed this libel
5 action obviously?

6 A. Well, when he asked me to write an Affidavit,
7 of course he told me about it.

8 26. Q. What emails have you exchanged with him about
9 this libel action

10 A. Very short things having to do with us
11 meeting and discussing versions of it. Versions of my
12 Affidavit.

13 27. Q. Versions of your Affidavit. Do you have a
14 copy of those emails with you today?

15 A. No.

16 28. Q. Can you make a copy of those exchanges that
17 you've had with Mr. Rancourt?

18 MR. RANCOURT: You don't have to agree to make
19 copies today. You can look into this letter. It would
20 be better.

21 THE WITNESS: The general request is that I make
22 that as a point, yeah.

23 BY MR. DEARDEN:

24 29. Q. What I'm interested in knowing is the
25 extractions that you received from Mr. Rancourt to come

1 up with the Affidavit that I'm looking at here on pages
2 28 and 29 of the record?

3 A. I think I received instructions from him.

4 MR. RANCOURT: You don't have to agree to provide
5 anything.

6 MR. DEARDEN: Will you stop interrupting please?

7 MR. RANCOURT: I'm not interrupting.

8 MR. DEARDEN: You are.

9 MR. RANCOURT: I'm not.

10 MR. DEARDEN: Okay.

11 BY MR. DEARDEN:

12 30. Q. What I'm entitled to request from you sir is
13 whatever communications, emails, letters, notes,
14 documents Mr. Rancourt provided you for the purpose of
15 preparing this Affidavit. I'm also asking you to produce
16 to me copies of drafts of this Affidavit. Either -- like
17 did he make comments on this?

18 A. Well, we discussed it. Of course we did.

19 31. Q. You discussed the contents of this Affidavit?

20 A. Yes.

21 32. Q. So do you remember how many drafts you had?

22 A. Would have two or three.

23 33. Q. Two or three drafts. Who wrote the first
24 draft?

25 MR. RANCOURT: You don't need to answer these

1 type of questions.

2 MR. DEARDEN: Mr. Rancourt, that is completely
3 improper what you have just done. Okay.

4 MR. RANCOURT: I am informing my witness ---

5 MR. DEARDEN: No, you are wrong.

6 MR. RANCOURT: --- of the fact ---

7 MR. DEARDEN: He is a witness. Let me continue
8 my cross examination sir, or I'm going to stop it and
9 come back.

10 MR. RANCOURT: We are entitled to find out the
11 legality of your broad questions ---

12 MR. DEARDEN: This is not a broad question.

13 MR. RANCOURT: --- and if required can provide
14 you with these documents later on. We are entitled to
15 find that out before we agree to doing it.

16 BY MR. DEARDEN:

17 34. Q. Dr. Lamontagne, who wrote the first draft?

18 A. I have to say that the first draft was not
19 the beginning of the process. The first draft was after
20 we had discussed what it is, according to my expertise
21 that I could say, having read the Statement of Claim.

22 So I think discussing the draft has to be placed
23 in the context of discussing the process of determining
24 what would be the draft.

25 35. Q. And please go ahead. Tell me what the

1 process was leading up to it?

2 A. The process was we discussed and he asked me
3 as a specialist what I could say, what I thought first of
4 the case. And what my understanding was and what my
5 position was. And I told him and he said, "Could you put
6 that into an Affidavit".

7 And then I said, "Of course, because I believe
8 it's the truth". So he said, "Okay. Given what you've
9 told me, I could put that in words. I have experience
10 with the case. And I have experience with the wording".

11 I must say that I don't.

12 It's my first experience with the legal system.
13 I learned a lot. So I trusted him to be faithful to what
14 I had said I could stand for.

15 And that he would provide me with the first
16 wording on which we would discuss as we you know, went
17 into the process of coming up with the final statement
18 that I would agree to represent my arguments.

19 36. Q. So he wrote the first draft?

20 A. So he wrote the words, but this was under
21 instructions from me, "You can write that down" as to
22 what he would write.

23 37. Q. Okay. So I'm asking you to produce that
24 version and then what happens? You've got something on
25 paper?

1 A. And then we exchanged drafts until I'm
2 satisfied with how the words represent what I believe I
3 can sign as being truth.

4 38. Q. Okay. And you'll have email communications?

5 A. For sure.

6 39. Q. Oral communications?

7 A. Like, "Here's my draft" and "Let's discuss"
8 and you know those kind of things.

9 40. Q. Okay?

10 A. But most of the discussions was done -- was
11 in live you know with the documents. And then ---

12 41. Q. But you guys were meeting face to face?

13 A. Yes.

14 42. Q. When you say live?

15 A. Yeah.

16 43. Q. Okay. So then we get a second draft?

17 A. And a third and -- three or four.

18 44. Q. Three or four. Okay. So what I'm asking you
19 to do is to produce for me all communications and I don't
20 think I have to explain that to you. You know, emails,
21 letters, handwritten notes. Like did you have notes?

22 A. No.

23 45. Q. Okay. Anything?

24 MR. RANCOURT: We don't have to agree to produce
25 those. We can find out if we are required to and then we

1 can produce them later once we get advice about whether
2 we are required to or not.

3 THE WITNESS: That's what I intend to do anyway.

4 BY MR. DEARDEN:

5 46. Q. I note that Mr. Rancourt keeps referring to
6 "we"?

7 A. Yeah. I think ---

8 47. Q. This was a collaborative effort. Wasn't it?

9 A. Well, of course. You know, I discussed with
10 him you know. But it was my Affidavit. You know, his
11 mandate was to help me with the wording that was
12 relevant. As I told you I have no experience with the
13 legal system and you know, the wording seemed to be
14 something important to me.

15 This is why there was many, there was a few
16 drafts. I wanted to make sure that the content, you
17 know. Denis intervened on the form, not on the content.

18 Big difference. So the content is mine. The form was
19 under some suggestions like you know, the syntax is his
20 maybe to a point.

21 But the semantics is mine. The meaning is mine.

22 He was just a counsel for making an Affidavit that had a
23 form which would be acceptable because I had no
24 experience with that.

25 48. Q. The Notice of Examination asks that you bring

1 today any documents or other records relating to your
2 Affidavit. Did you bring them?

3 A. Well, the only thing that I thought would be
4 bringable and relevant was my CV. The rest has to do
5 with my line of expertise in general.

6 I could produce -- I could write a thesis on the
7 subject and produce piles of literature on some of the
8 paragraphs that are here. But I brought to see my
9 Curriculum Vitae.

10 49. Q. What I was interested in sir, was the
11 dictionary entries that you referred to and drafts of
12 this Affidavit?

13 A. I could provide you with that. I didn't
14 bring them with me.

15 50. Q. You don't have them?

16 A. No.

17 51. Q. Can you tell me what dictionaries you
18 referred to?

19 A. Well the dictionaries were those that I found
20 of course on the internet.

21 52. Q. But which ones?

22 A. I don't have the names with me. But I
23 checked on half a dozen of them.

24 53. Q. So six dictionaries?

25 A. I could trace them back.

1 54. Q. So six dictionaries. Okay. And I'm looking
2 at paragraph 8 of your Affidavit if you want to just read
3 it?

4 A. Yes.

5 55. Q. And it says,
6 "From dictionary definitions, racist
7 communication, irrespective of the race
8 of the originator, is one where the
9 meaning and intent are to suggest or to
10 advance or to posit that some quality,
11 character or ability is intrinsically
12 attributable to race - a quality,
13 character or ability which is not prima
14 facie attributable to race, and that one
15 race is thereby inferior to the other".

16 Now, those dictionary definitions you are -- or
17 entries that you are referring to, if I'm understanding
18 you correctly you say you consulted six different
19 dictionaries on the internet?

20 A. Approximately.

21 56. Q. Approximately. So I'd like you to confirm
22 what dictionaries you looked at and give me a copy of the
23 entries that you are referring to?

24 A. Sure.

25 57. Q. But to the best of your knowledge, what was

1 the entry called? Was it racist communication? Or
2 racist as the word?

3 A. Well, racism and racist you know I checked
4 several. There was racist, there was racism. I
5 formulated it as racist communication because it's a
6 process of exchange of definitions that we were in.

7 I just chose that as the best we could express my
8 synthesis. But I synthesized what I read in those
9 entries. I didn't copy them down.

10 58. Q. Okay. So ---

11 A. So racism and racist and racist -- I don't
12 remember if I checked racist communication as such. This
13 is the wording that I picked in order to express the
14 synthesis that I made. But you know, I don't think I
15 checked racist communication. I checked racism and
16 racist.

17 59. Q. Okay?

18 A. And since the debate is about communicating
19 you know ---

20 60. Q. You think there was about six dictionaries,
21 on line dictionaries you looked at, to the best of your
22 memory now, what were they? Oxford, Webster?

23 A. The Oxford, the Cambridge, philosophy things,
24 philosophy dictionaries. I checked with the -- what's
25 that called the common free dictionary. The one that I

1 always start with.

2 61. Q. Free on line dictionary?

3 A. Free on line dictionary. And a couple of
4 other ones. I don't remember the title of those things.

5 I was more interested in you know, you go into Google
6 and the list comes down and you just click on them. And
7 you know you check various definitions.

8 I didn't pay that much attention, you know to the
9 point of remembering what entries I checked.

10 62. Q. So when you go back home and do this homework
11 that I'm giving you, how are you going to know which ones
12 you looked at?

13 A. I don't know quite frankly. I'll probably
14 you know recall memory is much more precise than you know
15 recall memory -- when you recall memory it's much weaker
16 than you know associative memory. I will probably see --
17 when I see the definition, I will probably recognize that
18 this was the one.

19 Because this is not too long ago. It's not a
20 year ago. And probably -- and also the order in which
21 those dictionaries popped up would probably be similar.

22 63. Q. What I would ask you to do doctor, is not
23 guess?

24 A. I checked into some of my own also, which I
25 know you know, I have the philosophical dictionaries and

1 the entomological dictionaries and you know.

2 64. Q. Hard copies?

3 A. Hard copies.

4 65. Q. Okay. So those you know?

5 A. Yeah.

6 66. Q. But what I don't want you to do is to guess.

7 Okay. So what you are going to provide me as to the
8 dictionaries and a copy of the entry in them, I only want
9 to know what you remember?

10 A. Okay.

11 67. Q. Okay. While we are on the topic of drafts of
12 this Affidavit that I'm examining you on here, if you
13 look at paragraph 12 which starts, "In conclusion, any
14 trier of fact faced with allegations", that's not your
15 wording is it? "... any trier of fact"?

16 It's not an expression you would use? Would it?

17 Because you've never been involved in litigation before
18 you were telling me?

19 A. That's right. This is why I was looking for
20 someone to you know can be counsel on how you call things
21 when you write an Affidavit.

22 68. Q. So Mr. Rancourt wrote those words. Didn't
23 he?

24 A. Possibly because you know, I'm not familiar
25 with that expression. I checked it and ---

1 69. Q. I appreciate sir, I appreciate sir that you
2 signed this and you agree with what's in it. But you
3 didn't write that. Did you?

4 A. You mean by that you mean "trier of fact"?

5 70. Q. Yeah?

6 A. No, I didn't write those words. I told you
7 that Denis wrote the first you know, he had the meaning I
8 wanted to put in there. We had discussed that. And we
9 had come to an agreement regarding what I wanted to say.
10 And of course he chose some words in there.

11 71. Q. Of course you had to have a discussion with
12 him about what it is you were trying to convey here. But
13 you two were discussing the concepts I see in paragraphs
14 6 through to 12, right?

15 A. The discussions were about me making him
16 understand what I could say that I thought was true. And
17 that could bear on the case. The discussions were about
18 how to best say that. But the basis of the discussion
19 was what I wanted to say. That's all I can tell you.

20 72. Q. So ---

21 A. You know, he thought that "trier of fact" was
22 the best way to express what it is I wanted to say. But
23 it is what I wanted to say. Pretty much in the same
24 sense as when I write a text and I have an idea in my
25 mind.

1 I guess being very different than the words you
2 use to say them, you go on the internet or whatever, in
3 your books, and you try to find out the best words to say
4 them. The words themselves have been provided by Denis,
5 "trier of fact" I'm saying you know. But the meaning
6 behind everything that is written here is mine.

7 And that's why we had discussions. Or else we
8 would not have had discussions. I would have just had to
9 -- I would only have had to sign whatever he wrote.
10 Which is not the case.

11 73. Q. But is it fair to say doctor that your
12 conclusion in paragraph 12, you have no idea as you sit
13 here today why a trier of fact in this libel action would
14 need to know what I see in paragraph 12?

15 A. Could you repeat that?

16 74. Q. Yeah. As we sit here today I think we can
17 come to a common agreement here that because you don't
18 know what the trier of fact is supposed to be doing in
19 this action, because you are new to the process which I
20 appreciate ---

21 A. The trier of fact is someone that puts the
22 fact to the trial. He tries a fact.

23 75. Q. If you don't know what a trier of fact is
24 supposed to be doing, okay, why are you telling the trier
25 of fact that they should be following (i) and (ii) that I

1 see in paragraph 12?

2 A. Because the trier of fact is found to be
3 analytical and analyze things. And according to -- I'm a
4 specialist of research and what I know, I think that
5 anybody who is trying to go analytically about anything,
6 should if he is addressing some concept, refer to the
7 accepted definition of the concept.

8 76. Q. Do you have any experience with libel
9 actions?

10 A. I have no experience with libel actions.

11 77. Q. Do you have any experience with the law of
12 defamation in Ontario?

13 A. I have no experience with the legal system.
14 The trier of fact cannot be doing anything else than
15 being analytical about things. He is analytical about
16 things he -- can a trier of fact disregard a definition
17 of what has been tried.

18 78. Q. In a defamation action you don't look at
19 dictionary definitions?

20 A. But don't you try to learn the meaning of
21 words?

22 79. Q. No, it's what's the ordinary meaning of words
23 that is the issue sir. But I'm not going to get you into
24 those weeds. Okay. That's ---

25 A. That's my understanding of your know ---

1 80. Q. What you got from Mr. Rancourt in terms of
2 what a trier of fact means to know or not know. Correct?
3 Is that fair?

4 A. But you have my statement ---

5 81. Q. Doctor, is that fair? What I just said?
6 That you don't know what a trier of facts issue to
7 resolve is in a libel action ---

8 A. I don't know what the practice is. I checked
9 you know what "trier of fact" means and I think I have an
10 understanding of what a trier of fact is. But I have an
11 intellectual aspect theoretical understanding of what a
12 trier of fact is. I don't have a practical ---

13 82. Q. Let's use a better, easier term, it's the
14 Judge. It's the trial Judge. But you don't have any
15 idea what a trial Judge really has to do in determining
16 whether the statements that Mr. Rancourt published on his
17 blog are defamatory or not. Is that fair?

18 A. I think it is.

19 83. Q. Okay. That's good. Sir, I'm going to show
20 you an Exhibit which is what I'll call Cinema Politica,
21 Screening Truth to Power. I'll show you that now?

22 A. What's an Exhibit?

23 84. Q. What I'll be doing after I ask you questions
24 about this document, is that we mark Exhibit No. 1 to the
25 cross examination of -- so it's like your transcript.

1 It would be a record that is part of what you are
2 saying here that is going to be put on a piece of paper.

3 Okay? So because you are mentioned in this document,
4 and I'm putting a couple of other ones to you?

5 A. Okay.

6 85. Q. And have some questions for you. So you are
7 familiar with Cinema Politica right?

8 A. Yes.

9 86. Q. Okay.

10 MR. RANCOURT: Can I have a copy of that please?

11 MR. DEARDEN: Well, you're going to have to share
12 one because I only have one.

13 MR. RANCOURT: Is he going to be able to keep
14 that copy?

15 MR. DEARDEN: We're going to make copies Mr.
16 Rancourt, of the one Exhibit we already put in with you.
17 And then the additional Exhibits for Dr. Lamontagne.

18 MR. RANCOURT: So I'm going to look at this one.

19 MR. DEARDEN: No, you ---

20 THE WITNESS: Do I have to read that?

21 BY MR. DEARDEN:

22 87. Q. You can and you can't. I'm going to take you
23 to specific passages. It's not a big deal. But if you
24 want to read the whole thing, go ahead?

25 A. Well, I'll see if I can make sense of the ---

1 88. Q. There's only two places I want to take you to
2 on this one. Maybe more. But you see at the second
3 paragraph,

4 "Denis will be joining us at a critical
5 moment of his ongoing battle with the
6 administration of the University of
7 Ottawa. Below you will find a letter
8 written by Claude Lamontagne (co-
9 organizer of the weekly Cinema Academica
10 film series at UofO) explaining the
11 current situation and asking for letters
12 of support that may be used during
13 professor Rancourt's defence".

14 So you are the Claude Lamontagne referred to
15 there?

16 A. Yes.

17 89. Q. And if you drop down to I guess it's the last
18 paragraph on that first page which reads,

19 "Despite the university ban, Rancourt is
20 still hosting the Cinema Politica event -
21 now renamed Cinema Academica - at
22 MacDonald Hall at the University of
23 Ottawa. Rancourt petitioned and received
24 the help of another professor, Claude
25 Lamontagne of the Department of

1 Psychology, to help him with the event
2 and book the room, which allowed the
3 event to continue on campus".

4 So is that you?

5 A. Yes, it is me.

6 90. Q. And you did book the room?

7 A. Yes, I did.

8 91. Q. And you helped him with the event?

9 A. Yes, I did.

10 92. Q. Okay. And if you turn the page, you see at
11 the top there it says, "Dear OCP-UCA patron"? What is
12 that?

13 A. Where is it again?

14 93. Q. Right at the top of the second page under
15 Film Credits?

16 A. Yeah, "Dear OCP-UCA patron: I write to inform
17 you".

18 94. Q. What do those initials stand for? What is
19 that acronym there?

20 A. Dear ---

21 95. Q. What's an OCP-UCA patron?

22 A. I don't know.

23 96. Q. Well, you are writing to them?

24 A. UCA is Carleton University. There were some
25 academica at Carleton U, University of Carleton.

1 97. Q. Did you write the first draft of this letter
2 that went in?

3 A. No.

4 98. Q. No? Because you signed that right?

5 A. Where?

6 99. Q. Is that your letter? If you look at the
7 bottom of the page. It says, "Sincerely, Claude
8 Lamontagne"?

9 A. Ah.

10 MR. RANCOURT: Can I look at that?

11 MR. DEARDEN: Mr. Rancourt, can you give the
12 Exhibit back to the witness because you can't say
13 anything to him. So ---

14 MR. RANCOURT: I haven't said anything.

15 MR. DEARDEN: I know, but just give him back the
16 Exhibit because you took it from him. And I want to get
17 him out of here as fast as I can. Because I've caused
18 him to wait for a bit.

19 MR. RANCOURT: Can you tell us where this Exhibit
20 is from? Who has posted it and where it's from please?
21 Who downloaded that from where.

22 THE WITNESS: I think I didn't sign that because
23 I see the OCP-UCA patron which is not -- I don't
24 remember.

25 BY MR. DEARDEN:

1 100. Q. It says "Sincerely". Do you recognize the
2 content of this letter?

3 A. Thinking back yes, I recognize the content.
4 I know what they are talking about. It's just you
5 know ---

6 101. Q. This is from the website for Cinema Politica.
7 Okay?

8 MR. RANCOURT: Which website please?

9 MR. DEARDEN: I just gave you where I got it
10 from. Okay.

11 MR. RANCOURT: There are many things called
12 Cinema Politica.

13 MR. DEARDEN: Whatever.

14 BY MR. DEARDEN:

15 102. Q. That's a letter that ---

16 A. I wrote letters you know as president of this
17 committee. That we call you know the Committee for the
18 Defence of Education. I wrote letters of this type you
19 know making -- just stating the various events in Denis'
20 adventures. It's quoted that way.

21 MR. RANCOURT: Can I just ask clarification? Are
22 you going to be providing us the origin of this Exhibit?

23 MR. DEARDEN: You mean the website address?

24 MR. RANCOURT: When it was downloaded, when it
25 dates from, and the website address and yes, precisely.

1 Because I don't recognize that myself.

2 MR. DEARDEN: I don't care what you don't
3 recognize. I'm asking the witness.

4 MR. RANCOURT: Yes. Will you be providing that
5 for this Exhibit?

6 MR. DEARDEN: I can provide you the website
7 address sure.

8 THE WITNESS: I wrote letters, several letters of
9 that type as President of this committee just informing
10 people you know during the Cinema Academica. But I you
11 know, the format of that surprises me. I didn't quite
12 recognize it.

13 BY MR. DEARDEN:

14 103. Q. Why don't you -- you are still on the second
15 page there which is "Sincerely, Claude Lamontagne".
16 That's you, right?

17 A. Oh yeah, that's me.

18 104. Q. And you say in the middle of that letter "A
19 core support committee for Denis and in defence of
20 education has been formed that I chair"?

21 A. That's right.

22 105. Q. So you are the chair of what committee?

23 A. The Committee for the Defence of Education.

24 106. Q. The Committee for the Defence of Education.

25 Who is on that committee?

1 A. Well, there has been people that have varied
2 over the years. I could trace them back. There is
3 essentially the people who have been the most involved
4 people. But follow Denis' adventures with the
5 University.

6 I'm on it, Denis is on it, Joel is on it. And
7 there were a couple of other people. At the beginning
8 there were more people than there are now, since Denis
9 has been fired and the committee has dwindled.

10 107. Q. You said Joel?

11 A. I can provide you with the names of the
12 people that were on that committee, and get it from the
13 beginning.

14 108. Q. Okay. Fair enough. Has Mr. Rancourt been on
15 that committee from its inception?

16 A. Yes.

17 109. Q. Okay. And then you say essentially, I'm
18 paraphrasing here, "Send letters to Allan Rock who is the
19 President of the University" and cc you so the letter can
20 be posted to the web. Do you see that?

21 A. Yes.

22 110. Q. And you also put a PS at the bottom of the
23 letter to put you in the cc of the letter to Allan Rock.
24 You see that at the bottom of that page?

25 A. Yes.

U

1 111. Q. So you did get responses I take it? That
2 were cc'd to you?

3 A. Yes, we got responses and posted them.

4 112. Q. Okay. So we'll mark that as Exhibit 1 to the
5 cross examination of Dr. Claude Lamontagne?

6 **EXHIBIT NO. 1:** Document entitled Cinema
7 Politica, Screening Truth to Power.

8 MR. RANCOURT: I'd like to ask a procedural
9 question, if I may Mr. Dearden. Can I ask a procedural
10 question.

11 MR. DEARDEN: Is it in any way going to influence
12 what Dr. Lamontagne might be giving an answer to?

13 MR. RANCOURT: No.

14 MR. DEARDEN: Okay.

15 MR. RANCOURT: I want to know when it is most
16 appropriate for me to re-examine my affiant. At the end
17 or after a question?

18 MR. DEARDEN: At the end of my cross examination.

19 MR. RANCOURT: Okay.

20 BY MR. DEARDEN:

21 113. Q. I'm showing you another document Dr.
22 Lamontagne which was an Exhibit to the cross examination
23 of Mr. Rancourt. You'll see under the title Call for
24 letters, that

25 "On January 7, 2009 Claude Lamontagne,

1 Professor of Psychology 3M Teaching
2 Fellow sent a request for assistance with
3 the Denis Rancourt case to all professors
4 at the University of Ottawa".

5 See that?

6 A. Yes.

7 114. Q. That's you?

8 A. Oh yeah. That I remember quite clearly.

9 115. Q. Okay. So that's accurate? What I see there?

10 A. You mean where, you mean Claude being me?

11 116. Q. Yes?

12 A. Yes.

13 117. Q. And you did send out a letter in January 2009
14 that requested assistance for Mr. Rancourt?

15 A. Yes.

16 118. Q. Okay. So let's mark that Exhibit 2 to the
17 cross examination?

18 **EXHIBIT NO. 2:** Copy of document entitled Letters
19 of Support from Professors at the University of
20 Ottawa.

21 Now I'll show you another document which is a
22 solicitation of letters from students and community
23 members. I'll just read it because I only have one copy
24 sir. "Letters stating an opinion on Denis Rancourt's
25 case should be sent to president@uOttawa.ca with a cc to

1 claude.cde@gmail.com"?

2 A. That's me.

3 119. Q. That's you. So I'll just show you that so
4 you can confirm that I accurately read that. And we'll
5 mark that as Exhibit 3 to the cross examination?

6 **EXHIBIT NO. 3:** Document entitled Letters of
7 Support from Students and Community Members.

8 MR. RANCOURT: My understanding is that this is
9 one page of a longer document.

10 THE WITNESS: Oh yeah, we got much more responses
11 than that.

12 BY MR. DEARDEN:

13 120. Q. Okay. I'm showing you a print out from U of
14 O Watch which is a blog that Mr. Rancourt authors. And
15 if you look at the last paragraph of this particular
16 document sir, it says,

17 "For more information please contact the
18 Chair of Rancourt support committee,
19 Professor Claude Lamontagne at
20 claudc.cde@gmail.com".

21 That's you?

22 A. Yes, that's me.

23 121. Q. So we'll make that Exhibit 4 to your cross
24 examination.

25 **EXHIBIT NO. 4:** Print out from U of O Watch, a

1 blog that Mr. Rancourt authors.

2 And you also did a U-tube video in support of Mr.
3 Rancourt. Correct?

4 A. Which one is it?

5 122. Q. I'm giving you an extract. Obviously we
6 can't photocopy the video itself. But the blank spot
7 you'll see it at the top of that page under the heading
8 Claude Lamontagne Speaks in Support of Denis Rancourt?

9 A. Oh yeah, I remember. This is a video of what
10 I said, I recall. Yeah, that's me.

11 123. Q. In front of Tabaret Hall and that's you?

12 A. No, no. That's not the one.

13 124. Q. Was there more than one video that you put up
14 on U-tube?

15 A. No, these are my own perception. They have
16 nothing to do with the Denis case. I guess, yeah. I'd
17 have to see which one it is though, because you know
18 there's all kinds of video that appear, that have been
19 found as you google my name I guess.

20 Which one is it that speaks in support of Denis
21 Rancourt?

22 125. Q. Just one second.

23 MR. RANCOURT: In front of Tabaret.

24 BY MR. DEARDEN:

25 126. Q. You are in front of Tabaret Hall?

1 A. Yeah, if it's me on the video you know, it's
2 me on the video.

3 127. Q. I just want you to confirm and I want to
4 enter this as Exhibit 5 to the ---

5 A. I know I have spoken publicly for Denis at
6 the Tabaret and it has been filmed. But I have to see
7 that video you know, the one we are talking about.

8 128. Q. But you are aware that a video taken of you
9 speaking out in support of Denis Rancourt has been posted
10 on U-tube?

11 A. Oh yeah. I'm not sure that I have seen some
12 of those things. I know videos have been taken of that
13 and I might have seen the videos rather than the U-tube
14 thing. But if you want to be specific about the one on
15 U-tube ---

16 129. Q. No, I just want you to confirm that you have
17 been filmed speaking out in support of Denis Rancourt?

18 A. That's right.

19 130. Q. And this is one example. Is that fair?

20 A. Oh yeah.

21 131. Q. Okay.

22 **EXHIBIT NO. 5:** Extract of video entitled Claude
23 Lamontagne Speaks in Support of Denis Rancourt.

24 And another document I'll put to you sir, for you
25 to look at is January 12, 2009 news report by Sun Media.

1 The reporter is Beth Johnston. The headline is
2 University of Ottawa bans controversial professor.

3 And the article if you look about five paragraphs
4 up from the bottom says, "Rancourt has a powerful ally in
5 psychology professor Claude Lamontagne, who has 30 years
6 experience". That's you?

7 A. It is me.

8 132. Q. And is that a fair depiction of you as a
9 powerful ally?

10 A. Oh yeah.

11 133. Q. Okay. So that will be Exhibit 6 to the
12 cross.

13 **EXHIBIT NO. 6:** Document dated January 12, 2009,
14 news report by Sun Media. The reporter is Beth
15 Johnston.

16 Now sir, would it be fair for me to say that you
17 don't have any expertise regarding the black community?

18 A. Regarding the black community. It has not
19 been a specific topic of research on me, yes.

20 134. Q. Have you ever researched racism?

21 A. Now, this is a tricky question.

22 135. Q. Okay. Let me put it more specifically so
23 that we aren't here all day. Have you ever researched
24 racism and its affects on individuals in a black
25 community?

1 A. No, I have not researched that. And I'm not
2 a specialist of that.

3 136. Q. Have you ever taught a course that deals with
4 racism?

5 A. I'll be very clear on that, and I think that
6 my answer will satisfy you. But what brought me to write
7 this Affidavit, and we are talking about something
8 crucial to my Affidavit here.

9 137. Q. Let's just answer the question first. And
10 then you can give me ---

11 A. I'm answering the question. That's my answer
12 to the question. My answer to the question is I could
13 say yes and I could say no.

14 I've not researched racism per se. But I am a
15 specialist in cognition and you can see from my Affidavit
16 that what I dwell on has to do with concepts. And racism
17 is a concept.

18 And I said what I could say as a specialist in
19 cognitive science regarding concepts. It's like asking
20 someone who is a specialist in trees, if he has ever
21 studied maples. He might not have but he studied trees.

22 I studied cognition.

23 Regarding the black community, I gave you my
24 answer no, I don't have experience with that specific
25 problem. But as we come to racism, then it's another

1 story. And this is what my understanding of what I could
2 say in my Affidavit sprung from.

3 138. Q. Have you ever -- sorry, go ahead?

4 A. I have expertise with the way in which
5 concepts are created in matters by the mind. And this is
6 what I put towards in my statement that I don't think
7 that house negro is a racist term.

8 So I think that my expertise has to do with
9 racism as much as it is a concept. But of course, I
10 don't say anywhere and I could tell you that I don't feel
11 I am a specialist on racism, if that is what you want to
12 hear.

13 139. Q. Have you ever taught a course about Malcolm
14 X's speeches?

15 A. I have never taught courses about it but I
16 have had certainly many discussions with colleagues. But
17 I never taught courses where Malcolm X was a topic at
18 hand.

19 140. Q. Did you ever write anything about Malcolm X's
20 speeches?

21 A. I didn't write anything about Malcolm Xs
22 speeches. No. But I know about him and it's part of
23 what I'm aware of as a university intellectual when I
24 discuss things with people.

25 141. Q. In paragraph 6 of your Affidavit you say that

1 the word negro is a taboo word?

2 A. Yes.

3 142. Q. What do you mean by "taboo"?

4 A. A taboo word. Well, a taboo word is in
5 researched literature and psycho linguistics and
6 cognitive science a taboo word is a word that is
7 intuitively felt by people as being forbidden in social
8 use.

9 And it has been documented quite widely as
10 arousing emotion in a significantly more powerful way
11 than other words.

12 So the taboo word is a word which is formative of
13 use. And when people use it it has an impact on those
14 that hear it.

15 143. Q. A negative promotional impact. Right?

16 A. It has -- well, it has an emotional impact
17 that is generally negative, yes.

18 144. Q. That is generally negative?

19 A. That is generally negative. Because I guess
20 -- well, let's leave it at that.

21 145. Q. And the word negro refers to a black person.

22 Correct?

23 A. Yes.

24 146. Q. And only a black person?

25 A. Yes.

1 147. Q. So why do you say the word negro is taboo?

2 A. Because it's a word that people refrain from
3 using. From my experience with other people and from
4 what the literature says about it. It is used as a taboo
5 word.

6 148. Q. Do people refrain from using the term house
7 negro?

8 A. I think so, yes. People refrain from using
9 the term house negro. But as I explained in my
10 Affidavit, this might be due to misinterpretation due to
11 the emotional impact. That's well documented of taboo
12 words.

13 149. Q. It's got a derogatory connotation. Doesn't
14 it?

15 A. What does derogatory mean. It can hurt.

16 150. Q. It can hurt. And it can hurt, we are talking
17 about the "it" is the term house negro?

18 A. Oh yes, definitely.

19 151. Q. It's not a term of endearment. Is it?

20 A. What's endearment again?

21 152. Q. It's a likeable -- I don't know what it is en
22 francais. It's certainly not a compliment is it?

23 A. Oh no, it's not a compliment. Not any more
24 than calling a woman "femme fatale" or calling President
25 Obama I give you an example, "Uncle Tom".

1 153. Q. That's an example that Mr. Rancourt gave you?

2 A. Well, didn't give it to me. I read it --
3 this is an example Rancourt uses.

4 154. Q. Okay. Sir, have you ever -- I'm showing you
5 the Motion Record, Mandatory Mediation and Appointment of
6 a Mediator. Have you ever seen this document or the
7 contents of it?

8 A. I've only read the Statement of Claim.
9 Because -- the document itself, no.

10 155. Q. Have you ever seen the Notice of Motion that
11 I have in there? Which is a legal document that is
12 asking the Court to make an Order that this case be sent
13 to mandatory mediation and that a gentleman by the name
14 of Jim Chadwick be the mediator. Have you ever seen
15 that?

16 A. No.

17 156. Q. So what relevance does your Affidavit have to
18 appointing a mediator and conducting a mandatory
19 mediation in this action?

20 A. What's the question again?

21 157. Q. What relevance does your Affidavit have to
22 whether this action should go to mandatory mediation, is
23 part one of the question?

24 A. I don't -- I don't know why it would have
25 anything to do with that. I wrote this Affidavit you

1 know, to address issues that arose from reading the
2 Statement of Claim and Denis' blog.

3 158. Q. Right. So you'll agree with me sir that you
4 didn't swear this Affidavit for the purposes of dealing
5 with any issues regarding mediation of this libel action.
6 Is that fair?

7 A. That's fair. I wrote, I signed this
8 Affidavit as having -- as representing what I could say
9 that had relevance for what I believed Denis was accused
10 of. I don't know if the term is right. Terms are tricky
11 here.

12 I wrote the Affidavit on good faith as I had as a
13 specialist an opinion on some issues that were relevant
14 to what the Statement of Claim was stating in terms of
15 you know, what Denis' intentions or whatever else were on
16 writing his blog.

17 Which essentially boils down to saying I think
18 for several reasons that using the words house negro is
19 not racist. What it would be used for, for me is open.
20 For me it's just a statement of something that someone
21 can say, can sign as being true. This is what I did.

22 I signed something which I think is true which
23 can serve in whatever way.

24 159. Q. Okay. Now I've asked you to produce various
25 documents sir. So subject to getting those productions

1 and the other information that you are going to provide
2 me, for now those are all my questions. Thank you.

3 MR. RANCOURT: I'm going to re-examine the
4 affiant. At one point in answering Mr. Dearden's
5 questions you said that I was on the Committee in Defence
6 of Education. Do you want to explain what you mean by
7 that? That I was on the committee?

8 THE WITNESS: Well, you were taking part in all
9 the you know, activities that this committee endeavoured.

10 MR. RANCOURT: Were there things that the
11 committee did that I didn't necessarily know about?

12 MR. DEARDEN: That's a leading question.

13 MR. RANCOURT: That's allowed in cross.

14 MR. DEARDEN: No, you are not crossing. It's
15 your witness.

16 MR. RANCOURT: Were there things that I didn't
17 know about that the committee did?

18 THE WITNESS: I don't recall any.

19 MR. RANCOURT: Okay. When you say that you were
20 in a video that you don't quite remember, speaking out in
21 support of me, do you remember what kinds of things you
22 would have said? How is it speaking out in support of
23 me?

24 THE WITNESS: Well, it was speaking out in
25 support of you in the usual way I speak. Which is I

1 think that you have been unjustly denied the possibility
2 of debating within the academy. You have been
3 systematically muzzled.

4 Nobody has ever wanted to discuss with you. They
5 had denied you what I think is at the heart of what we
6 call academic freedom and collegiality. The possibility
7 to debate. This is what I have been saying from the
8 beginning, and this is why I talk about you know, the
9 first booking.

10 I booked this auditorium so you could speak. And
11 I have always told everybody that I don't necessarily
12 agree and in fact I didn't agree with many of the
13 positions that you took. But that I thought debate was
14 central to university life.

15 And that things are best debated which is in line
16 with paragraph 11, that I think that differences in
17 people's understanding of whatever issue is best debated
18 in the academy. And I thought that you were denied that
19 systematically from the beginning.

20 This is what I have been trying to say and get
21 people to react to that and agree with me. And different
22 view, not in terms of what you actually said or did, but
23 in terms of allowing you to debate with the
24 administration or with whoever else wants to debate you
25 know. Because I think university is a place for debate.

1 MR. RANCOURT: So is it fair to say that your
2 support of me is based on a principle?

3 THE WITNESS: Definitely. Sure.

4 MR. DEARDEN: That was another leading question
5 Mr. Rancourt. Has nothing to do with the action.

6 MR. RANCOURT: Could you explain the principle at
7 stake here, just briefly?

8 MR. DEARDEN: I object. That has nothing to do
9 with the Motion to have a mediation date set and the
10 appointment of a mediator.

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11 MR. RANCOURT: You are the one who has brought
12 this up. I'm only re-examining. You have insisted that
13 Professor Lamontagne is a supporter. I'm trying to
14 clarify what that means for Professor Lamontagne. That's
15 what I'm doing here now. So could you ---

16 MR. DEARDEN: I object, but go ahead and put it
17 on Record.

18 MR. RANCOURT: Okay. Just very briefly what is
19 the principle at stake?

20 THE WITNESS: The principle at stake is academic
21 freedom and the role of a professor to be critical.

22 MR. RANCOURT: Would you say that that is the
23 focus of your support of me?

24 THE WITNESS: It definitely is.

25 MR. DEARDEN: Another leading question Mr.

1 Rancourt. Stop putting answers in this witness' mouth.

2 MR. RANCOURT: I'm asking him ---

3 THE WITNESS: He's not ---

4 MR. DEARDEN: He's giving you the answers.

5 THE WITNESS: Well, the whole idea you know we
6 see you coming from you know, from 20 miles. Of course
7 you are not using the term house French Canadian just
8 about you know, you are after demonstrating that I am the
9 house negro of Denis.

10 MR. DEARDEN: No, I'm not.

11 THE WITNESS: Which of course is not the case.

12 MR. DEARDEN: No, I'm not. What are you saying
13 Dr. Lamontagne?

14 THE WITNESS: It's my current hypothesis. You
15 know, you are you know -- in all the evidence, the
16 evidence that I have been close to Denis and supporting
17 Denis. Yes, I have been supporting Denis all the way
18 through.

19 And even the Affidavit is simply a good faith
20 attempt at putting my expertise at the service of
21 whatever will happen to the accusations that have been
22 levied, that have been made on Denis you know, in the
23 Statement of Claim.

24 And that I thought you know, I think I have good
25 reasons to believe that you know the use of the term

1 house negro there's nothing racist about it. This is
2 what I tried to express in my Affidavit.

3 Now my support for Denis is a support of
4 principle to what I think universities are all about.

5 And this is stated in I think the University of
6 Toronto's statement of purpose is the most obvious in
7 that case. Our job as university professors is to be
8 critical and to be radically critical.

9 MR. DEARDEN: Dr. Lamontagne ---

10 THE WITNESS: And sometimes it hurts.

11 MR. DEARDEN: Dr. Lamontagne ---

12 THE WITNESS: Being critical hurts.

13 MR. DEARDEN: I want to put on the Record, to
14 make it perfectly clear the reasons I asked you questions
15 about your support for the Defendant in this libel action
16 is because he is putting forth your Affidavit that you
17 are an expert.

18 And if you are truly an expert under our laws of
19 Ontario, you would have to be independent. And you would
20 actually have to swear a certificate that you were
21 independent.

22 So I'm trying to establish that you are not
23 independent at all. And I'm highly, highly offended by
24 you suggesting that I'm trying to make you out as a house
25 negro of Denis Rancourt. And I'm asking you to retract

1 that right now?

2 THE WITNESS: Okay. I retract it. This is just
3 a hypothesis of mine. I can retract. It's not ---

4 MR. DEARDEN: Your retraction ---

5 MR. RANCOURT: Thank you Mr. Dearden for that
6 clarification.

7 MR. DEARDEN: I'm not finished.

8 MR. RANCOURT: You are interrupting my re-
9 examination.

10 MR. DEARDEN: I'm not finished.

11 MR. RANCOURT: You are interrupting my re-
12 examination.

13 MR. DEARDEN: An expert has to be independent.
14 That's all I was trying to establish.

15 MR. RANCOURT: Thank you. Claude, at one point
16 you said that you were a powerful ally of me. How do you
17 -- what do you mean by that? A powerful ally?

18 THE WITNESS: Well, I think that it comes from
19 the fact that I have recognition in the university milieu
20 as a scholar, as a teacher.

21 You know, I have -- I am well perceived by my
22 community and I'm known at the University of Ottawa as
23 someone who is respected and valued by colleagues and
24 students. And there are explicit recognitions of that.

25 So in that sense, people don't have to you know,

1 become familiar with my ways and sit in my classes.

2 There are explicit marks of the fact that I am a
3 respected scholar and professor.

4 MR. RANCOURT: Okay.

5 THE WITNESS: I think it's in that sense that I
6 meant you know, that I'm a powerful ally.

7 MR. RANCOURT: So does it also mean that you have
8 administrative power at the university?

9 THE WITNESS: No.

10 MR. RANCOURT: Could you elaborate on that?

11 THE WITNESS: Well, I think that the word power
12 was not used in the sense of political power at all. I
13 think I have academic credibility in the academy. And we
14 are back to academic freedom. I'm an academic you know,
15 so scholarly issues is what my life is about.

16 So I don't draw -- this power is not drawn from
17 having you know, political power over anybody.

18 MR. RANCOURT: Okay.

19 THE WITNESS: I'm just a foot soldier, in other
20 words, in terms of administrative powers. But I do have
21 a large and intense following from students and
22 colleagues in terms of my academic profile.

23 MR. RANCOURT: Okay. I'd like to ask you a
24 question now about point in your Affidavit. If I could
25 just recover the copy of the Affidavit for a second?

1 MR. DEARDEN: You are asking questions arising
2 out of my questions.

3 MR. RANCOURT: Yeah.

4 MR. DEARDEN: You are not going to examine him on
5 an Affidavit you put in?

6 MR. RANCOURT: You asked him about this and I
7 want to re-examine regarding your question about this
8 point. But I want to find the point first, if you don't
9 mind?

10 MR. DEARDEN: I probably do mind and will be
11 objecting.

12 MR. RANCOURT: All right. Well, first ---

13 MR. DEARDEN: Let's get it on the Record.

14 MR. RANCOURT: Yes. Just wait a second for me to
15 find the paragraph in question. I want to clarify. Mr.
16 Dearden went at great lengths to question you about the
17 significance of a taboo word. And this was in relation
18 to paragraph 6.

19 Could you read that for yourself, just to put
20 everything in memory, paragraph 6 there?

21 THE WITNESS: Yes.

22 MR. RANCOURT: Okay. So in answering Mr. Dearden
23 you said that a taboo word is something that has a large
24 emotional impact. What is the relevance of that
25 emotional impact in terms of the expert opinion that you

1 are giving here?

2 THE WITNESS: Well, the impact of the emotional
3 -- the emotional impact of the taboo word ---

4 MR. DEARDEN: By the way, I object to the
5 question. Go ahead ---

6 MR. RANCOURT: On what grounds sir?

7 MR. DEARDEN: It's completely irrelevant.

8 MR. RANCOURT: I believe it is relevant.

9 MR. DEARDEN: We'll put it on the Record and
10 we'll deal with it later.

11 THE WITNESS: The emotional impact biases, you
12 know is a rational interpretation. It's as if for
13 instance, for the word house negro, the word negro was
14 taking its racist connotations up to the level of the
15 full expression, house negro. Which as an expression
16 means something totally different.

17 The two words together create a new meaning. And
18 this is what I'm a specialist about. So if the word
19 negro having clear racist connotations, creates an
20 emotional impact, this emotional impact could lead house
21 negro not to be interpreted as the definition stipulates.

22 MR. RANCOURT: So you are talking about if I
23 understand you correctly, an impact on cognition. Is
24 that what you are referring to?

25 THE WITNESS: Well technically cognition includes

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1 emotion. It has an impact on the cognitive processing.
2 So that you know, definitions of words are usually
3 considered purely rational.

4 So in biases the typical rational meaning that
5 words are you know, when words are defined they are
6 defined rationally. So the emotional load of the word
7 impacts on accessing the rational meaning as defined.

8 MR. RANCOURT: Okay. Now in answering one of Mr.
9 Dearden's questions, you agreed or stated, I don't
10 remember exactly how the exact wording was. But you said
11 "It can hurt". You were referring to the expression,
12 that it can hurt?

13 THE WITNESS: Yes.

14 MR. RANCOURT: Could you explain how that hurt
15 occurs? Is it directly a consequence of the stimulus or
16 you know, what are we talking about here?

17 THE WITNESS: Well, it hurts -- it can hurt in
18 various ways. But one of the ways in which we can say it
19 hurts has to do with this bias that's provoked by the
20 emotional reaction to one of the local components of the
21 expression.

22 So it hurts essentially because it's
23 misinterpreted. It's when we're hurting.

24 MR. RANCOURT: So when you ---

25 THE WITNESS: But there's several ways in which

1 it can hurt. It can be quite rightfully interpreted. I
2 mean in line with the definitions. Because no one likes
3 to be called or to be held to be at the service you know,
4 "servile", what's "servile" in English?

5 MR. RANCOURT: Servile.

6 THE WITNESS: Servile.

7 MR. DEARDEN: Servitude.

8 THE WITNESS: So this is not due to a
9 misinterpretation. This is due to a legitimate
10 interpretation of the term. And it hurts all the same.
11 So this is two different types of hurting. There's
12 probably others.

13 MR. RANCOURT: So if I understand correctly, the
14 hurt is the recipient emotional reaction?

15 THE WITNESS: Well, that's what hurting means.
16 It's you know, a hurt that would be not emotional is not
17 a hurting. Even physical hurting is emotional partly.
18 Partly sensory, partly emotional. But yes, it's
19 obviously emotional.

20 But the hurting that house negro can provoke is
21 not necessarily a hurting that comes from being biased by
22 the double word. It can but it can also hurt if it's
23 selectively interpreted.

24 MR. RANCOURT: It can hurt if you criticize?

25 THE WITNESS: Yeah, like Mr. Dearden ---

1 MR. DEARDEN: That's my name sir.

2 THE WITNESS: Mr. Dearden was hurt by my calling
3 his attempts at getting information from me as trying to
4 turn me into a negre blanc d'Amerique. House white may
5 rule America which is just ---

6 MR. RANCOURT: Could you clarify the origin of
7 that expression that you just used?

8 THE WITNESS: Negre blanc d'Amerique?

9 MR. DEARDEN: There's no need to.

10 MR. RANCOURT: It's on the Record. I'd like him
11 to clarify that.

12 MR. DEARDEN: What are you doing?

13 MR. RANCOURT: It might wrongly interpreted by a
14 reader of this Record. So I'd like him to just clarify
15 quickly?

16 MR. DEARDEN: Are you almost finished Mr.
17 Rancourt?

18 MR. RANCOURT: Yes, I am almost finished.

19 THE WITNESS: You mean negre blanc d'Amerique?

20 MR. RANCOURT: Yes?

21 THE WITNESS: Negre blanc d'Amerique. This is
22 the title -- what I understand and this is just you know,
23 loose intuitions, is that negre blanc d'Amerique was an
24 expression used by some French Canadian at some point to
25 talk about the fact that the way in which black people

1 were treated through slavery was similar to the way in
2 which French Canadians have been sort of treated in
3 Canada by the rest of Canadians.

4 MR. RANCOURT: Yeah, I just wanted to clarify the
5 origin and the meaning of that expression that just came
6 out. Thank you.

7 THE WITNESS: This is loose intuitive memory of
8 the expression. But you know, there was an emotional
9 reaction on the part of you know, Mr. Dearden. He felt
10 hurt by that.

11 MR. RANCOURT: Yes, there was.

12 THE WITNESS: And he understood legitimately the
13 words that I used. So you can be hurt by interpreting
14 legitimately, but you can also be hurt by interpreting
15 not legitimately. This is what I was cautioning about in
16 the Affidavit that I wrote.

17 MR. RANCOURT: Okay. I have another re-
18 examination question here. When you prepared this
19 Affidavit, you were -- were you aware that it was going
20 to be used for a specific purpose in the near future?

21 THE WITNESS: Yes, but I didn't clearly know
22 which one.

23 MR. RANCOURT: Okay?

24 THE WITNESS: But I was aware that there were
25 some events of a legal nature coming up and the Affidavit

1 was to be used. Of course.

2 MR. RANCOURT: Yes. Okay. Thank you.

3 THE WITNESS: But you know, mediation, trial,
4 cross examination, you know.

5 MR. RANCOURT: So at the time you don't recall
6 thinking or understanding ---

7 MR. DEARDEN: Object.

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8 Object. You are not there yet but I know you are
9 about to ask a leading question. So rethink it please so
10 that you are not giving him the answer in the question.

11 MR. RANCOURT: Okay. I'll try to word it. Did
12 you have an indication of the kind of legal process that
13 this was serving? Did you ---

14 THE WITNESS: Yes, you were you know, defamation
15 you know. You were being tried for defamation. This is
16 the word that comes to mind. I don't have the technical
17 terms, but.

18 MR. RANCOURT: Okay. But did you understand it
19 was something coming up that was immediate, that was ---

20 THE WITNESS: Definitely.

21 MR. RANCOURT: Okay. That's all my questions.

22 BY MR. DEARDEN:

23 160. Q. As I said Dr. Lamontagne, when I get the
24 information that I have asked you for, I may have other
25 questions for you in cross examination. So you may be

1 back here one more time. Any idea when you can get me
2 this information?

3 MR. RANCOURT: I'd like to point out that I think
4 we have an understanding that we are going to be
5 examining whether the affiant must provide you with that
6 information.

7 THE WITNESS: If it turns out I have to, it will
8 be done within a couple of weeks.

9 BY MR. DEARDEN:

10 161. Q. Well, we need it more than a couple of weeks
11 sir. So could I ask you ---

12 A. I thought legal processes took months?

13 162. Q. Well, I'm trying to have this Motion heard at
14 the latest October 7th. But I'll get it on earlier if I
15 can get it on. We have rights to cross examination Mr.
16 Rancourt so this is the earliest we can do cross
17 examinations. So that's it.

18 --- WHEREUPON THE EXAMINATION ADJOURNED AT THE HOUR OF 1:05
19 IN THE AFTERNOON.

20 THIS IS TO CERTIFY THAT the foregoing is a
21 true and accurate transcription from the
22 Record made by sound recording apparatus to
23 the best of my skill and ability.

24

25 Susan Hiltner, Court Reporter

Examination No. 11-0806.2

Court File No. 11-51657

(Ottawa-Carleton)

ONTARIO SUPERIOR COURT OF JUSTICE

B E T W E E N:

JOANNE ST. LEWIS

PLAINTIFF

- and -

DENIS RANCOURT

DEFENDANT

CROSS EXAMINATION OF CLAUDE LAMONTAGNE, pursuant to an appointment made on consent of the parties to be reported by Cornell Catana Reporting Services, on September 6, 2011, commencing at the hour of 11:50 in the forenoon.

APPEARANCES:

Richard G. Dearden/Wendy J. Wagner

for the Plaintiff

Denis Rancourt

representing himself

This Examination was taken down by sound recording
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DATE TRANSCRIPT COMPLETED: September 8, 2011