

Court File No.: 11-51657

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

JOANNE ST. LEWIS

Plaintiff

- and -

DENIS RANCOURT

Defendant

NOTICE OF MOTION

The Plaintiff, Joanne St. Lewis, will make a motion to the Court on October 7, 2011, at 10:00 a.m., or as soon after that time as the Motion can be heard, at the Ottawa Courthouse, 161 Elgin Street in the City of Ottawa.

PROPOSED METHOD OF HEARING: The motion is be heard

in writing under subrule 37.12(1);

in writing as an opposed motion under subrule 37.12.1(4);

orally.

THE MOTION IS FOR:

1. An Order striking out or setting aside a Notice of Examination served by the Defendant requiring the Plaintiff to attend an examination for discovery on November 8, 2011, as an abuse of the process of the court in that the Plaintiff has a motion pending that seeks an Order that mandatory mediation of this libel action take place prior to the exchange of

affidavits of documents and the conduct of the examinations for discovery;

2. An Order abridging the time for the service and filing of the Plaintiff's Motion Record to strike out or set aside the Notice of Examination for discovery;
3. The Plaintiff's costs on this motion on a full indemnity basis payable by the Defendant forthwith; and
4. Such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

1. On August 18, 2011, counsel for the Plaintiff served the Defendant with a motion seeking an Order that mandatory mediation of this action take place prior to the exchange of affidavits of documents or the conduct of the examinations for discovery (the "mandatory mediation motion"). The mandatory mediation motion was scheduled to be heard on September 2, 2011.
2. In opposition to the Plaintiff's mandatory mediation motion, the Defendant served two of his own affidavits that he swore on August 25 and 26, 2011) and an affidavit sworn by Claude Lamontagne on August 25, 2011.
3. The parties agreed to an uncontested adjournment of the mandatory mediation motion from September 2, 2011 to October 7, 2011, so that counsel for the Plaintiff could cross-examination the Defendant and the deponent Claude Lamontagne.
4. Cross-examinations on the affidavits were conducted on September 6, 2011. During the cross-examination of the Defendant on his two affidavits, he took some questions under advisement and refused to provide answers to a number of questions. The deponent Claude Lamontagne refused to answer several questions on cross-examination and to date has not provided answers to two undertakings.
5. On September 13, 2011, counsel for the Plaintiff wrote to the Defendant providing a list of refusals, advisements and undertakings arising from the September 6, 2011, cross-examinations of the Defendant and Claude Lamontagne.

6. The Defendant responded by e-mail to counsel for the Plaintiff on September 14, 2011, maintaining his refusal to answer a number of questions asked during the cross-examinations. The Defendant's e-mail stated in part: "You need to contact affiant Associate Professor Claude Lamontagne directly."
7. On September 15, 2011, counsel for the Plaintiff sent Claude Lamontagne an e-mail attaching a list of refusals, advisements and undertakings arising out of his cross-examination. Six days later, Claude Lamontagne sent counsel for the Plaintiff an e-mail stating:

"Just a quick note to say that I am proceeding to obtain legal evaluation of your requests (Refusals/advisements to questions asked during cross-examination of Claude Lamontagne and undertakings), emailed to me on September 15. My teaching and research duties at the University are particularly heavy this term. I may be in a position to be able to respond to you within a week or so, depending on the circumstances."

In response to this email, counsel for the Plaintiff emailed Claude Lamontagne on September 24, 2011 and asked that his lawyer contact him:

"Dr. Lamontagne - can you please have your lawyer contact me next week about this matter. There is no issue that the "undertakings" you provided must be fulfilled. The information that is in dispute in this motion relates to inter alia drafts of your affidavit and communications with Mr. Rancourt. Paragraphs 3 and 4 of the Notice of Motion relate to you and this motion will be heard on October 6th at 10am before the Master."

To date, counsel for the Plaintiff has received no response from Claude Lamontagne or his lawyer to this September 24th email.

8. The Plaintiff filed a refusals motion on September 22, 2011 seeking an Order compelling the Defendant and the deponent Claude Lamontagne to answer certain questions that were taken under advisement, refused, or subject to undertakings during the cross-examinations. The refusals motion is scheduled to be heard before the Master on October 6, 2011.
9. On September 28, 2011, counsel for the Plaintiff wrote to the Defendant asking if he

would consent to the adjournment of the mandatory mediation motion:

The motion to compel you and Professor Lamontagne to answer questions asked during your cross-examinations is scheduled for October 6th. As a result, it will not be possible to argue the October 7th motion to compel you to attend a mandatory mediation prior to the exchange of affidavits of documents and the conduct of examinations for discovery. The October 7th motion must be adjourned and the earliest date available is December 7th. Please inform me whether you consent to the adjournment.

Counsel for the Plaintiff e-mailed the Defendant one hour later to inform him that the earliest date available to hear the Plaintiff's motion was December 1, 2011.

10. On September 28, 2011, the Defendant served counsel for the Plaintiff by e-mail with a Notice of Examination requiring the Plaintiff to attend an examination for discovery on November 8, 2011. Counsel for the Plaintiff responded to the Defendant as follows:

Mr. Rancourt,

1. You are well aware that I have a pending motion to compel you to attend a mandatory mediation **prior** to examinations for discovery being conducted. Accordingly, Professor St. Lewis will not be attending any examination for discovery prior to a decision being made on her mediation motion. Your refusal to answer questions directly related to matters contained in the affidavit you swore has unnecessarily delayed the argument of the mediation motion.

2. I am requesting that you withdraw this Notice of Examination. If I am required to seek to have the Notice of Examination set aside (or otherwise defend my client's non-appearance at an examination pending the hearing of her mediation motion) I am notifying you that I will seek costs against you on a full indemnity basis payable forthwith.

11. The Defendant refused to withdraw the Notice of Examination for discovery and refused to consent to an adjournment of the Plaintiff's mandatory mediation motion notwithstanding that the Master will not rule on the refusals motion until October 6th (or later if the motion is reserved). In an e-mail to counsel for the Plaintiff dated September 28, 2011, the Defendant wrote:

Mr. Dearden,

1. Thank you for acknowledging service of the Notice of Examination for

discovery.

2. I do not agree with your characterizations regarding causes of delays.

3. There is nothing in your motion to force immediate Mandatory Mediation that precludes discovery.

4. I do not withdraw the Notice of Examination for discovery.

5. I am open to changing the date of the examination for discovery to accommodate you and your client's schedule within reason, by MUTUAL agreement of a new date in November 2011. Until new dates are provided by you in view of early mutual agreement of a new date, the Notice of Examination for discovery stands with its November 8th date and time.

6. I do not agree to an adjournment of the October 7th motion (motion to force immediate Mandatory Mediation) since it is possible that it can be ruled upon, depending on the results of the October 6th (refusals motion) or independent of the results of October 6th.

7. I believe there is a probability that the matter of your motion to force immediate Mandatory Mediation can be fully resolved on October 6th or October 7th and that this would be profitable to both parties.

12. The Court has jurisdiction under Rule 25.11(c) of the *Rules of Civil Procedure* to strike out a document on the ground that the document is an abuse of the process of the court. The doctrine of abuse of process is a flexible doctrine unencumbered by specific requirements, and which engages the inherent power of the court to prevent the misuse of its procedure in a way that would be manifestly unfair to a party to the litigation before it, or would in some way bring the administration of justice into disrepute.
13. The Defendant's service of a Notice of Examination requiring the Plaintiff to attend an examination for discovery before the hearing of the Plaintiff's pending mandatory mediation motion seeking an Order that mandatory mediation of this action be conducted prior to the exchange of affidavits of documents or the conduct of the examinations for discovery is an abuse of the process of the court.
14. Rules 3.02(1), 25.11, 57.03 of the *Rules of Civil Procedure*.
15. Such further and other grounds as counsel may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Affidavit of Ryan Kennedy, sworn October 4, 2011, and the exhibits attached thereto; and
2. Such further and other evidence as counsel may advise and this Honourable Court may permit.

DATED: October 4, 2011

GOWLING LAFLEUR HENDERSON LLP
160 Elgin St. Suite 2600
Ottawa, ON K1P 1C3

Richard G. Dearden (LSUC#019087H)
Wendy J. Wagner (LSUC#46380Q)
Tel: (613) 786-0135
Fax: (613) 788-3430

Counsel for the Plaintiff Joanne St. Lewis

TO: Denis Rancourt

OTT_LAW\2935952\1

Court File No.: 11-51657

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

JOANNE ST. LEWIS

Plaintiff

- and -

DENIS RANCOURT

Defendant

AFFIDAVIT OF RYAN KENNEDY

I, Ryan Kennedy, of the City of Ottawa in the Province of Ontario MAKE OATH AND SAY :

1. I am an associate with the law firm of Gowling Lafleur Henderson LLP (“Gowlings”), solicitors for the Plaintiff, Joanne St. Lewis. As such, I have knowledge of the matters sworn to in this affidavit. Where my knowledge is based upon information and belief, I have identified the source of my knowledge and I verily believe it to be true.
2. The Defendant’s Facebook page (attached as Exhibit “A”) states that he is an anarchist, his activities are anarchy and that his religious views are atheist.
3. The Defendant, who is self-represented, describes this libel action in a Facebook posting (attached as Exhibit “B”) as “the crazy case of the defamation lawsuit against me”.
4. On August 18, 2011, counsel for the Plaintiff served the Defendant with a Notice of Motion seeking an Order that the mandatory mediation of this action take place prior to the exchange of affidavits of documents and the conduct of the examinations for discovery (the “mandatory mediation motion”). The mandatory mediation motion also seeks an Order appointing James Chadwick as the mediator, or in the alternative Kevin

Mullington. The mandatory mediation motion is attached as Exhibit "C". The mandatory mediation motion was scheduled to be heard on September 2, 2011.

5. In opposition to the Plaintiff's mandatory mediation motion, the Defendant served two of his own affidavits (sworn August 25th and 26th, 2011) and an affidavit sworn on August 25, 2011 by Claude Lamontagne, who the Defendant claims is an expert witness. Attached as Exhibit "D" to my Affidavit is the Affidavit of Denis Rancourt, sworn August 25, 2011. Attached as Exhibit "E" to my Affidavit is the Affidavit of Denis Rancourt, sworn August 26, 2011. Attached as Exhibit "F" to my Affidavit is the Affidavit of Claude Lamontagne, sworn August 25, 2011.
6. The Plaintiff's mandatory mediation motion was adjourned on consent from September 2, 2011 to October 7, 2011, so that counsel for the Plaintiff could cross-examine the Defendant and the deponent Claude Lamontagne on their affidavits. On September 6, 2011, the Defendant and the deponent Claude Lamontagne were cross-examined on their affidavits. The Defendant and the deponent Claude Lamontagne refused to answer a number of questions and to date the deponent Claude Lamontagne has not fulfilled undertakings he provided during the cross-examination.
7. On September 13, 2011, counsel for the Plaintiff sent the Defendant a list summarizing the refusals, advisements and undertakings arising out of the cross-examinations of the Defendant and the deponent Claude Lamontagne (attached as Exhibit "G").
8. The Defendant sent an email on September 14, 2011 at 8:29 p.m. to counsel for the Plaintiff maintaining his refusals regarding a number of questions asked during his cross-examination (attached as Exhibit "H"). The email stated in part:

"You need to contact affiant Associate Professor Claude Lamontagne directly."

9. Attached as Exhibit "I" to my Affidavit is an email from counsel for the Plaintiff to Claude Lamontagne sent at 1:13 p.m. on September 15, 2011, attaching a list of refusals, advisements and undertakings arising out of his cross-examination. Attached as Exhibit "J" is an email from Claude Lamontagne to counsel for the Plaintiff sent at 7:21 a.m. on

September 21, 2011, that states:

“Just a quick note to say that I am proceeding to obtain legal evaluation of your requests (Refusal/advisements to questions asked during cross-examination of Claude Lamontagne and undertakings), emailed to me on September 15.

My teaching and research duties at the University are particularly heavy this term.

I may be in a position to be able to respond to you within a week or so, depending on the circumstances.”

10. Counsel for the Plaintiff (Richard Dearden) sent an email dated September 24, 2011 at 3:48 p.m. to Claude Lamontagne (Exhibit “K”) that stated:

“Dr. Lamontagne - can you please have your lawyer contact me next week about this matter. There is no issue that the "undertakings" you provided must be fulfilled. The information that is in dispute in this motion relates to inter alia drafts of your affidavit and communications with Mr. Rancourt. Paragraphs 3 and 4 of the Notice of Motion relate to you and this motion will be heard on October 6th at 10am before the Master.”

I am informed by Richard Dearden and verily believe that to date Mr. Dearden has received no response to his email from Mr. Lamontagne or any lawyer acting on behalf of Mr. Lamontagne.

11. On September 22, 2011, the Plaintiff filed a Notice of Motion seeking an Order compelling the Defendant and the deponent Claude Lamontagne to answer the questions that were taken under advisement, refused or subject to undertakings during their cross-examinations (attached as Exhibit “L”). The refusals motion is scheduled to be heard before the Master on October 6, 2011.
12. By email dated on September 28, 2011, sent at 10:38 a.m. (attached as Exhibit “M”) counsel for the Plaintiff asked the Defendant if he would consent to an adjournment of the mandatory mediation motion:

The motion to compel you and Professor Lamontagne to answer questions asked during your cross-examinations is scheduled for October 6th. As a result, it will not be possible to argue the October 7th motion to compel

you to attend a mandatory mediation prior to the exchange of affidavits of documents and the conduct of examinations for discovery. The October 7th motion must be adjourned and the earliest date available is December 7th. Please inform me whether you consent to the adjournment.

On September 28, 2011, at 11:36 a.m., counsel for the Plaintiff emailed the Defendant indicating that the earliest date available to hear the Plaintiff's mandatory mediation motion was December 1, 2011 (attached as Exhibit "N").

13. On September 28, 2011, at 3:57 p.m., the Defendant sent counsel for the Plaintiff an email attaching a Notice of Examination addressed to the Plaintiff requiring that the Plaintiff attend an examination for discovery on November 8, 2011 (attached as Exhibit "O"). By email dated September 28, 2011 sent at 4:24 p.m. (Exhibit "P"), counsel for the Plaintiff responded to the Defendant stating:

Mr. Rancourt,

1. You are well aware that i have a pending motion to compel you to attend a mandatory mediation **prior** to examinations for discovery being conducted. Accordingly, Professor St. Lewis will not be attending any examination for discovery prior to a decision being made on her mediation motion. Your refusal to answer questions directly related to matters contained in the affidavit you swore unnecessarily delayed the argument of the mediation motion.

2. I am requesting that you withdraw this Notice of Examination. If i am required to seek to have the Notice of Examination set aside (or otherwise defend my client's non-appearance at an examination pending the hearing of her mediation motion) I am notifying you that i will seek costs against you on a full indemnity basis payable forthwith.

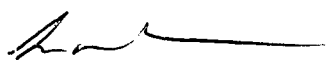
14. The Defendant refused to withdraw the Notice of Examination for discovery and refused to consent to the adjournment of the Plaintiff's mandatory mediation motion by email dated September 28, 2011 sent at 6:15 p.m. (attached as Exhibit "Q"):

Mr. Dearden,

1. Thank you for acknowledging service of the Notice of Examination for discovery.

2. I do not agree with your characterizations regarding causes of delays.

THIS IS EXHIBIT *A* TO THE AFFIDAVIT
OF *Ryan Kennedy*
SWORN BEFORE ME THIS *4th*
DAY OF *October*, 20 *11*



Kristina Melissa Mahon,
a Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 23, 2013.

Ryan, we couldn't reach you by email. Please enter a valid email address.

Enter Email Address

Update Email



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Friends (400)

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- John Andrew Akpata
- Michael Goguen
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- Daniel Cayley-Daoust
University of Ottawa
- Martin McAwhsum
University of Ottawa
- Di Marigold
- Jennifer Scharf
University of Ottawa
- Romeo Rancourt
- Peter Biesterfeld
Algonquin College
- Farrah Miranda

Report/Block

Denis Rancourt

Lives in Ottawa, Ontario From North Bay, Ontario

Philosophy

Religious Views Atheist

Political Views Anarchist

Favorite Quotations

"An education obtained with money is worse than no education at all."
--Socrates

"To succeed in the world it is not enough to be stupid, you must also be well-mannered." -- Voltaire

Arts and Entertainment

Music

 Brad Morden
 Enn Soaire Adair
 Three Little Birds

Activities and Interests

Activities Anarchy

Show Other Pages

Basic Information

About Denis Dissident former tenured physics professor who taught activism at the University of Ottawa and was subjected to a political firing in March 2009.

See the case web site: <http://rancourt.academicfreedom.ca/>

Join the FB group against my dismissal:
<http://www.facebook.com/group.php?gid=42788379628>

Networks University of Ottawa

Contact Information

Website <http://rancourt.academicfreedom.ca/>

Add Friend Message

Sponsored Story

Tracy Schroeder and Derek Schroeder like 106.9 The BEAR.



Sponsored

You've Been Kissed!



Find out who sent it. Send some love back.

Canada Government Pardons

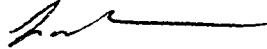
pardonswaiverscanada.org
Bill C-23 means the end of Pardons in Canada. Individuals with records should start the process before its too late. Find out more!

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Chat (10)

THIS IS EXHIBIT "B" TO THE AFFIDAVIT
OF Ryan Kennedy
SWORN BEFORE ME THIS 4th
DAY OF October, 2011



Kristina Melissa Mahon,
a Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 23, 2013.

Ryan, we couldn't reach you by email. Please enter a valid email address.

Enter Email Address

Update Email

1

Search

Ryan Kennedy Home

Ryan Kennedy



CONTRE LE RENVOI DE M.RANCOURT/ AGAINST THE DISMISSAL OF M.RANCOURT

Ask to Join Group

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LISTS

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- See all lists...

APPS

- Photos
- Notes

MORE

Friends on Chat



Denis Rancourt

This is a vital summary and invitation for the October 12th hearing, with video and links... please forward the link to friends and tell media to attend...



U OF O WATCH: Rancourt wrongful dismissal case::: University's opening arguments expected on October
uofowatch.blogspot.com

This site is devoted to transparency at the University of Ottawa, Ottawa, Canada. UofOWatch exposes institutional behaviour that is not consistent with the public good.

Share · Saturday at 12:43pm

2 people like this.



Denis Rancourt

Consider attending the Motion hearing of October 6th, 10am, Elgin Street courthouse (go to Civil Proceedings counter to find out the room number) in the crazy case of the defamation lawsuit against me... Some details about the motion are here (link). Seeking "justice"...? Self-defended but not giving up against a big machine...

St. Lewis lawsuit
rancourt.academicfreedom.ca

Denis Rancourt - AcademicFreedom.ca

Share · September 24 at 10:15pm

5 people like this.



Barbara Todish If people were EMOTIONALLY LIMITLESS HUMAN BEINGS instead of their LIMITED IDENTITIES (i.e., their gender, their races, their religions, their ethnicities, their generations, their occupations, etc., we could all do without libel suits, we might even be able 2 all live 2gether in blissful harmony, without needing law at all. Instead of what Shakespeare(?) said

September 25 at 12:40am



Barbara Todish Instead of "First kill all the lawyers!", Shakespeare(?) could have said "First "kill" all the (socially and culturally constructed) Identities!" Then there would only be truth and SHARED emotional vulnerability instead of ego, drama and IMAGE ILLUSIONS! lol

September 25 at 12:49am · 3 people



Dougie Foster so true

September 25 at 4:08pm



Denis Rancourt well... without your identities you probably would not want to show up at the Motion hearing... I'm gonna keep my identity until i get through this...

September 25 at 10:17pm



Barbara Todish PJ Proudhon said "Property is stealing". All of law is based on the flaw that we DWN anything. See if u can get this idea brought up: Ownership of ANYTHING, property, reputation, even our so-called PERSONALITIES is an ILLUSION. Instead of owning property, property owns us. Instead of OWNING our reputations, or our personalities, our IDENTITIES (our social and cultural CONSTRUCTS) OWN US! Tell the judge that all law is relative, therefore illegitimate, flawed, etc, then let out a hardy GUFF(L)AW! lol

September 26 at 1:41pm · 1 person



Joseph Hickey I'm going to this!

September 26 at 11:05pm



Denis Rancourt Latest (2011-09-30) legal submissions posted here: <http://rancourt.academicfreedom.ca/background/stlewislawsuit.html>

September 30 at 10:07pm



Denis Rancourt An additional hearing date is also set for October 7th, 10am, (Civil Counter to get room number). These will be the first actual court battles before two judges in the case.

September 30 at 10:11pm

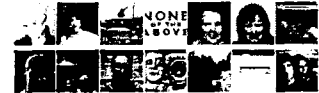


Denis Rancourt

More madness on video. No wonder they want a ban...

Members (347)

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Dave Platz

They need a profile picture.

Suggest a profile picture

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Shift your adrenaline into drive. Rent Fast Five on Rogers On Demand Ch.100. Rent new releases the same day as the video store.

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groupont.com



5 New things to do in Ottawa everyday.

Chat (13)