

**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 Master on January 26, 2012, at 10:00 a.m., or as soon after that time as the motion can be heard, at the Ottawa Courthouse, 161 Elgin Street, Ottawa, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard:

- in writing under subrule 37.12.1 (1) because it is on consent
- in writing as an opposed motion under subrule 37.12.1 (4)
- Orally

**THE MOTION IS FOR:**

1. An Order that this action be assigned for case management pursuant to Rule 77 of the *Rules of Civil Procedure*;
2. An Order establishing a timetable for the steps in the Plaintiff's intended summary judgment motion (to be served prior to the hearing of this motion), including setting a

date for the hearing of the summary judgment motion to take place prior to examinations for discovery in this action;

3. The costs of this motion; and
4. Such further and other relief as counsel may advise and this Honourable Court deems just.

**THE GROUNDS FOR THE MOTION ARE:**

**(a) The Libel Action**

1. The Plaintiff, Professor Joanne St. Lewis, is a tenured Assistant Professor in the Common Law Section of the Faculty of Law at the University of Ottawa who has devoted her life's work to the promotion of equality rights in the law and legal culture.
2. The self-represented Defendant, Denis Rancourt, is a former physics professor at the University of Ottawa, whose employment as a tenured professor was terminated by the University of Ottawa. Mr. Rancourt's Facebook page describes himself as an "anarchist" and his activities are described as "anarchy".
3. The Defendant publishes an internet blog entitled "U of O Watch" ([www.uofowatch.blogspot.com](http://www.uofowatch.blogspot.com)) in which he has authored a multiplicity of defamatory attacks on the Plaintiff and the President of the University of Ottawa (Allan Rock).
4. The Plaintiff's libel action claims that the Defendant has falsely and maliciously published false, racist and defamatory statements about her on his Internet blog, including that the Plaintiff:
  - (i) acted as Allan Rock's "house negro";
  - (ii) needed to be outed as a "house negro";
  - (iii) was involved in a high level cover-up of wrongdoing at the University of Ottawa;

(iv) dishonestly authored a report for the University of Ottawa that was disingenuous or deceitful for her own personal benefit.

5. The Defendant has refused to take down the defamatory publications that are the subject of this libel action and instead he has published additional false and defamatory statements about the Plaintiff.

**(b) Case Management**

6. Case management is ordered where there is a demonstrated need for the Court's intervention. Case management is intended to reduce unnecessary delay and cost, to facilitate early and fair settlement, and to bring about a prompt and just resolution of proceedings.

7. In considering whether case management is appropriate, the Court will consider: the purpose of case management; the number and type of parties and whether they are represented by counsel; and the amount of intervention by the Court that the proceeding is likely to require.

8. Case management is required in this libel action and the intended summary judgment motion. The actions of the self-represented Defendant to date have caused unnecessary costs and delays in this libel action and the Plaintiff has required the intervention of the Court.

9. Examples of the Defendant's conduct and behaviour in defending this libel action include:

(i) after pleadings were closed, the Defendant sent a request for particulars of the Statement of Claim listing 19 requests, many of which were irrelevant to the issues in this action.

(ii) the Plaintiff sought mandatory mediation prior to the exchange of documents and examinations for discovery. The Defendant did not agree, necessitating a motion by the Plaintiff (filed August 18, 2011) to compel the Defendant to participate in a mandatory mediation.

- (iii) in response to the mandatory mediation motion, the Defendant served a responding motion record on August 29, 2011, that included affidavits sworn by the Defendant and an affidavit from University of Ottawa psychology Professor Claude Lamontagne, a supporter of the Defendant. The so-called expert opinion of Professor Lamontagne was that the Defendant's publication that the Plaintiff was a "house negro" of Allan Rock was not racist.
- (iv) Cross-examinations of the Defendant and Professor Lamontagne on their affidavits were conducted on September 6, 2011. The Defendant and Professor Lamontagne refused to answer clearly relevant questions during their cross-examinations, necessitating a motion to compel answers.
- (v) The Defendant brought three of his supporters to the cross-examinations held at the offices of Cornell Catana. The Defendant was previously warned by counsel for the Plaintiff that cross-examinations were private and that only the parties and their counsel could attend. The Defendant refused to ask his supporters to leave the cross-examination room when asked to do so by counsel for the Plaintiff. Master MacLeod's Reasons for Decision dated October 6, 2011, ordered the Defendant's re-attendance for cross-examination. Master MacLeod held, "it is quite clear that there is no right of the public to attend an examination out of court at the office of the special examiner or court reporter" and that "no one but the parties and their lawyers and the reporter may be in attendance unless otherwise agreed".
- (vi) On October 6, 2011, the parties appeared before Master MacLeod who ordered the Defendant to answer a number of questions which he refused to answer during his cross-examination held on September 6, 2011. The refusals motion was scheduled for 1 hour; counsel for the Plaintiff completed submissions in less than 30 minutes. The Defendant took over 3.5 hours to argue. The Defendant was ordered to pay \$3,000 in costs on or before November 17, 2011, which to date he has not paid.

- (vii) On September 28, 2011, the Defendant served a Notice of Examination for discovery on the Plaintiff notwithstanding that the Plaintiff's mandatory mediation motion (which was filed with the court many weeks prior) sought an Order that mediation of the action take place prior to examinations for discovery. The Plaintiff was required to file a motion to strike out the Notice of Examination for discovery. The Honourable Justice Colin McKinnon struck out the Notice of Examination for discovery on October 7, 2011.
- (viii) The Defendant contested an adjournment request by the Plaintiff for the hearing of the motion for mandatory mediation (scheduled October 7, 2011), notwithstanding that the day before he had been ordered by Master MacLeod to re-attend cross-examination and provide answers improperly refused.
- (ix) On October 7, 2011, the parties appeared before Justice Colin McKinnon who ordered an adjournment of the mandatory mediation motion and struck out the Notice of Examination for discovery served by the Defendant on the Plaintiff. Justice McKinnon ordered costs against the Defendant in the amount of \$2,000.

Justice McKinnon's Endorsement stated that "it should have been patently obvious to Mr. Rancourt that to serve an appointment to discover the plaintiff in the face of a motion to the Court seeking a mandatory mediation without holding discoveries would have the effect of totally frustrating the potential merit of that motion. This motion to strike the notice of examination is allowed." Justice McKinnon ordered the Plaintiff to pay \$2,000 in costs payable forthwith in any event of the cause. The Defendant paid the \$2,000 within days of Justice McKinnon's order, notwithstanding that he swore an affidavit that he could not afford to pay the mediation fees of James Chadwick.

- (x) The Defendant re-attended his cross-examination on October 14, 2011. The Defendant refused to answer how much money he had in his chequing account which was the source of the \$2,000 in costs he paid, in that he had sworn affidavits stating that he could not afford to pay the mediation fees of James Chadwick. The Plaintiff filed another motion to compel the Defendant to answer

the question about how much money he had in his chequing account. This motion was not argued before the Master because the Defendant's offer to settle the mandatory mediation motion was accepted by the Plaintiff. The mediator for the mandatory mediation is Deidre Powell and the session is scheduled for December 6, 2011.

10. An Order fixing the date for hearing of the Plaintiff's summary judgment motion is also warranted by the Defendant's ongoing efforts to publicize the libel action and to further defame the Plaintiff and aggravate her damages, examples include:
  - (i) The Defendant's efforts to garner publicity and media attention by publishing non-pleadings (such as communications with Plaintiff's counsel) on his U of O Watch Blog, other internet blogs, Facebook and Twitter.
  - (ii) On September 16, 2011, the Defendant published a link to a blog authored by Joseph Hickey, one of the Plaintiff's supporters who was in attendance at the Defendant's cross-examination. In the blog, entitled: "Lawyer Richard Dearden attacks Self-Represented Witness: Case of St. Lewis v. Rancourt", Joseph Hickey recounts his attendance at the September 6, 2011, cross-examination of the Defendant and publishes false and defamatory statements about the Plaintiff and her counsel, falsely accusing Plaintiff's counsel of being "aggressive and abusive", "unethical," and "attacking" a witness.
  - (iii) In advance of the cross-examinations on his affidavits held September 6, 2011, the Defendant informed Plaintiff's counsel that "members of the public" would attend. Plaintiff's counsel advised that cross-examinations on affidavits in a court reporter's office are private. Certain individuals who were not parties to the action attended at the cross examination and refused to leave notwithstanding Plaintiff's counsel's objections. On October 7, 2011, Master MacLeod issued an Order to the Defendant that there is no right for the public to attend an examination out of court at the office of a court reporter and no one but the parties and their lawyers and the reporter could attend the further cross-examinations.

- (iv) On December 2, 2011, the Defendant published on his blog "Forum for discussion and debate on the lawsuit, University of Ottawa -- Joanne St. Lewis v. Denis Rançourt". The so-called Forum is a blog created by a supporter of the Defendant, Joseph Hickey. Mr. Hickey has published in this Forum the Defendant's libelous and racist publication that the Plaintiff was President Rock's "house negro".
- (v) The Defendant has published on his blog: "Author Jeff Schmidt apologizes to Professor St. Lewis" (November 23, 2011) and "Author Jeff Schmidt campaigns for just treatment of Professor Joanne St. Lewis" (November 21, 2011). In fact, the Jeff Schmidt publications defame the Plaintiff and support the Defendant.
11. A timetable for the Plaintiff's summary judgment motion that fixes the hearing dates and other steps in that motion will reduce unnecessary delay and costs and promote the most just, expeditious and cost-effective resolution to this action.
12. Rules 1.04(1)-(1.1), 3.02(1), 26.01, and 77 of the *Rules of Civil Procedure*.
13. Such further and other grounds as counsel may advise.

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

1. The Affidavit of Ryan Kennedy, sworn December 5, 2011, and the exhibits attached thereto; and
2. Such further and other evidence as counsel may advise and this Honourable Court may permit.

**DATED:** December 6, 2011

**GOWLING LAFLEUR HENDERSON LLP**  
160 Elgin Street, Suite 2600  
Ottawa, ON K1P 1C3

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

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**O**

Plaintiff's Notice of Motion, dated October 20,  
2011 (Refusals Motion #2)

**P**

Endorsements of Justice C. McKinnon, dated  
October 7, 2011

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