

This is Exhibit “ **D** ”

to the Affidavit of Denis Rancourt,

sworn before me this

 16 day of February, 2012.



 MALCOLM X: THE HOUSE NEGRO AND THE FIELD NEGRO

antihostile



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Uploaded by [antihostile](#) on Jul 24, 2006The Complete Malcolm X on DVD: <http://malcolmxfiles.blogspot.com/>

"Back during slavery, when Black people like me talked to the slaves, they didn't kill 'em, they sent some old house Negro along behind him to undo what he said. You have to read the history of slavery to understand this. There were two kinds of Negroes. There was that old house Negro and the field Negro.

And the house Negro always looked out for his master. When the field Negroes got too much out of line, he held them back in check. He put 'em back on the plantation. The house Negro could afford to do that because he lived better than the field Negro. He ate better, he dressed better, and he lived in a better house. He lived right up next to his master - in the attic or the basement. He ate the same food his master ate and wore his same clothes. And he could talk just like his master - good diction. And he loved his master more than his master loved himself. That's why he didn't want his master hurt. If the master got sick, he'd say, "What's the matter, boss, we sick?" When the master's house caught afire, he'd try and put the fire out. He didn't want his master's house burned. He never wanted his master's property threatened. And he was more defensive of it than the master was.

That was the house Negro. But then you had some field Negroes, who lived in huts, had nothing to lose. They wore the worst kind of clothes. They ate the worst food. And they caught hell. They felt the sting of the lash. They hated their master. Oh yes, they did. If the master got sick, they'd pray that the master died. If the master's house caught afire, they'd pray for a strong wind to come along. This was the difference between the two.

And today you still have house Negroes and field Negroes. I'm a field Negro."

<http://malcolmxfiles.blogspot.com/>**Category:**[News & Politics](#)

2,261 likes, 112 dislikes



As Seen On:

[reddit: the front pag...](#)

This is Exhibit “ E ”

to the Affidavit of Denis Rancourt,

sworn before me this

16 day of February, 2012.



●●● U of O law prof suing colleague over 'house negro' remark Racial reference in a blog post by Denis Rancourt at the centre of lawsuit

Monday, August 29, 2011 | Written by Ravi Amarnath |  | 

A racial reference on a blog posting is at the centre of a lawsuit between two former University of Ottawa professors.

Joanne St. Lewis, an assistant professor at the Faculty of Law, is suing former physics professor Denis Rancourt over statements he published about her on his blog.

Rancourt, who was a fully tenured professor at Ottawa before being fired in March 2009 and administered the blog "[U of O Watch](http://uofowatch.blogspot.com/)" since 2007, is being sued by St. Lewis for \$1 million. At the heart of the dispute is a February 2011 blog post by Rancourt, "Did Professor Joanne St. Lewis act as Allan Rock's house negro?"

The term "house negro" was used by civil rights activist Malcolm X in his 1963 "[Message to the Grassroots](http://teachingamericanhistory.org/library/index.asp?document=1145)" speech to describe slaves who were subservient to their white masters, and received better living conditions than their peers who worked in the fields.

The origin of the dispute between St. Lewis and Rancourt dates back to November 2008, when the Student Appeal Centre of the Student Federation University of Ottawa released a report entitled "[Misreatment of Students, Unfair Practices and Systemic Racism at the University of Ottawa.](http://www.sfuoc.ca/services/appeals/pdf/SAC%202008%20Report.pdf)"

Among other findings, the report stated "Arab, Black, and Asian men and women — these are the students that most often get accused of academic fraud."

In response to the report, University of Ottawa president Allan Rock had St. Lewis assess its findings. Her report, released Nov. 25, 2008, had 10 recommendations for the university's administration and SAC to follow up.

Rancourt was critical of the report, stating in a December 2008 post, "rather than being an independent report, and far from being of professional caliber, the St. Lewis evaluation is prima facie intended to diffuse a media and public relations image management liability for the University."

In February 2011, Rancourt released an update to the story, providing links to documents that SAC received from an access to information request, which showed correspondence between St. Lewis and members of U of O's administration prior to the release of her 2008 report.

According to Rancourt's post, the documents, "suggest[ed] that law professor Joanne St. Lewis acted like president Allan Rock's house negro when she enthusiastically toiled to discredit a 2008 SAC report about systemic racial discrimination at the university."

Rancourt stated in the post that "the term house negro was defined by Malcolm X in his famous '[The House Negro and The Field Negro](http://www.youtube.com/watch?v=znQe9nUKzvQ)' speech" — and provided a link to a video of him using the term.

In her statement of claim against Rancourt, dated June 23, 2011, St. Lewis — who has previously held positions with the Ontario Human Rights Commission and the Ontario Race Relations Directorate — is seeking \$500,000 for general damages in defamation, \$250,000 in aggravated damages, and \$250,000 for punitive damages.

She is also seeking an order from the Ontario Superior Court of Justice for Rancourt to remove the post from his site as well as an order that he publish a full and complete apology.

"The damages to professor St. Lewis increase and continue every day that the defamatory publications are available via the Internet — these defamatory statements must therefore be taken down," stated St. Lewis' counsel Richard Dearden, a lawyer with Gowling Lafleur Henderson LLP.

"The compensatory and punitive damages claimed relate to the injury to reputation caused by the defendant," he added. Rancourt defended his use of the term house negro in his blog post.

"Those who argue that the same point could have been made without using the term 'house negro' have the onus to explain why



Joanne St. Lewis is suing a now-former University of Ottawa colleague for libel over inflammatory statements in a blog post.

this racial socio-political term should not be used in circumstances where it applies," Rancourt said in an e-mail to Law Times. "Public discourse is not served by those who, in this way, would censor accepted expressions which contain taboo words.

"Those who argue for this censorship in all media circumstances are saying 'be polite' and 'be sensitive' as a first requirement, thereby effectively drawing attention away from the actions which are being criticized. It is the institutional behaviour that needs examining, not the arguable benefits of censorship or self-censorship," he added.

Rancourt issued an official statement of defence on July 22, requesting the action against him be dismissed. In the defence, Rancourt denied the allegations of racism and expressed his objection to the sentiment that it is "always unacceptable or improper for a white man to correctly use the term 'house negro' in referring to the actions of a black woman."

He added this was particularly so in a "media context of critical commentary in a matter of public interest, namely systemic racism and improper professional and institutional behaviour at a university."

Additionally, Rancourt offered a number of defences to his blog posts, including defence of truth, defence of fair comment, and defence of responsible reporting.

St. Lewis' counsel filed a reply to Rancourt's statement of defence on Aug. 5, and on Aug. 18 submitted a notice of motion for an order that mandatory mediation of the action take place in September and an order that either former Ontario Justice James Chadwick or lawyer Kevin Mullington be chosen as a mediator. Rancourt has until Aug. 29 to submit a reply factum to the notice.

None of the allegations set out in any of the pleadings or court documents have yet been proven in court.

Rancourt was a professor at the University of Ottawa for 23 years before his dismissal, which Ottawa's administration stated in a 2009 press release was motivated in part by Rancourt awarding an A+ to the students in his fourth-year physics class and Masters class in 2008. The university said it would damage the institution's reputation, but Rancourt said he was free to use any teaching method and stated this was an effort to get students to focus more on learning than on grades.

However, the case is still not wholly settled. The Association of Professors of the University of Ottawa, having Rancourt as its main witness, is currently engaged in a binding arbitration process with Ottawa administration over the status of his job. The hearings began in May and are expected to go into 2012.

This is Exhibit “ F ”

to the Affidavit of Denis Rancourt,

sworn before me this

16 day of February, 2012.



**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

JOANNE ST. LEWIS

Plaintiff

and

DENIS RANCOURT

Defendant

NOTICE OF MOTION

The Defendant, Denis Rancourt, will make a motion to the court on March 29, 2012, at 10:00 a.m., or soon after that time as the motion can be heard, or at a date and time as set under case management if applicable, 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);
- in writing as an opposed motion under subrule 37.12.1 (4);
- orally.

THE MOTION IS FOR:

1. An Order that the action be stayed or dismissed on the ground that the action is vexatious or is otherwise an abuse of process (Rule 21.01(3)(d) of the *Rules of Civil Procedure*).
2. The costs of this motion.
3. The Defendant's total costs in the action.
4. Such further and other relief as the Defendant may advise and this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

1. The Plaintiff is a tenured assistant professor in law at the University of Ottawa. The Plaintiff's counsel (a law firm partner) is a part-time professor in law at the University of Ottawa.
2. The Defendant is a tenured full professor in physics dismissed after 23 years by the University of Ottawa in 2009. The dismissal is presently in on-going binding labour arbitration between the University and the Defendant's union.
3. This defamation action, filed in June 2011, is about the Defendant's public criticisms 2008-2011 of the University of Ottawa on his long-standing "U of O Watch" blog, centrally including criticisms of the Plaintiff's work for the University. The action seeks defamation damages of \$1 million.
4. The Defendant denies that his criticism of the Plaintiff's work for the University was defamation at law (Statement of Defence) and takes the position that the action is champertous and improperly financed using public money.
5. The Court of Appeal for Ontario has defined maintenance and champerty (citing Halsbury) as:

“Maintenance may be defined as the giving of assistance or encouragement to one of the parties to litigation by a person who has neither an [legitimate] interest in the litigation nor any other motive recognised by the law as justifying his interference. Champerty is a particular kind of maintenance, namely maintenance of an action in consideration of a promise to give the maintainer a share in the proceeds or subject matter of the action.”

Buday v. Locator of Missing Heirs Inc., 1993 CanLII 961 (ON CA)

6. That an action should be stayed or dismissed as an abuse of process because it is based on a champertous agreement is established at law. When maintenance and champerty are demonstrated, the courts have ruled the remedy to be to stay or dismiss the action, including at the Court of Appeal for Ontario.
7. Following the Defendant’s request, the University of Ottawa stated in an October 25, 2011 letter to the Defendant that it is entirely funding the instant litigation.
8. The Plaintiff’s Statement of Claim (June 23, 2011) claims \$125 thousand in punitive damages to be paid to the University for a scholarship fund. Therefore, the University of Ottawa is receiving a share in the proceeds of the action which it is funding entirely.
9. The Plaintiff is refusing all discovery and to even discuss a discovery plan. (The Defendant provided an Affidavit of Documents early in the process.)
10. A need to examine the Plaintiff and witnesses for this motion (Rule 39.03) arises in part from the Plaintiff’s sustained refusal of any discovery (see above) and is necessary in order to ascertain:
 - (a) The funding agreement between the University and the Plaintiff;
 - (b) The source of the funding;
 - (c) The maintenance and champertous characteristics or circumstances of the funding;and
 - (d) The motives for entering in the funding agreement for this action.
11. Rules 1.04(3), 2.01(1), 2.03, 3.02(1), 21.01(3)(d), 29.01, 30, 34.01(d), 34.02, 34.04(1), 34.04(4)-(5), 34.05-06, 34.08(1), 34.10, and 39.03 of the *Rules of Civil Procedure*.

12. Statutes *An Act respecting Champerty, R.S.O. 1897; Class Proceedings Act, 1992; Freedom of Information and Protection of Privacy Act, R.S.O. 1990; and University of Ottawa Act, 1965.*
13. Such further and other grounds as the Defendant may advise and this Honourable Court deems just.

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

1. An affidavit of the Defendant, sworn prior to serving the Motion Record, and the exhibits attached thereto.
2. Transcripts from the oral examinations for this motion (Rule 39.03) and documents produced on examinations for this motion (Rule 34.10), from witnesses:
 - Joanne St. Lewis, Plaintiff
 - Allan Rock, President of the University of Ottawa
 - Robert J. Giroux, Chair, Board of Governors, University of Ottawa
3. Such further and other evidence as the Defendant may advise and this Honourable Court may permit.

DATED: January 5, 2012

Denis Rancourt
Defendant

[REDACTED]

TO: Richard G. Dearden
Counsel for the Plaintiff
160 Elgin Street, Suite 2600
Ottawa, ON K1P 1C3

Joanne St. Lewis (Plaintiff) – and – Denis Rancourt (Defendant)

Court File No.: 11-51657

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT OTTAWA

NOTICE OF MOTION
(Motion: Dismiss action for abuse - champerty)

Denis Rancourt

[REDACTED]
[REDACTED]
(no fax)

Defendant

FILED SUPERIOR COURT
OF JUSTICE AT OTTAWA

JAN 06 2012

DÉPOSÉ À LA COUR
SUPÉRIEURE DE JUSTICE À OTTAWA

Fax number of person on whom document is to be served:
613-788-3430 (Richard G. Dearden, LSUC #019087H)

RCP-E 4C (July 1, 2007)

This is Exhibit “ G ”

to the Affidavit of Denis Rancourt,

sworn before me this

16 day of February, 2012.

RB

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

JOANNE ST. LEWIS

Plaintiff

and

DENIS RANCOURT

Defendant

AFFIDAVIT OF SERVICE

I, **Denis Rancourt**, of the City of OTTAWA, in the Province of Ontario, AFFIRM:

1. I served the plaintiff **Joanne St. Lewis** with the **Notice of Motion (Open Court motion)** by email to both counsels on record for the Plaintiff:

- **Richard G. Dearden** -- richard.dearden@gowlings.com
- **Wendy Wagner** -- Wendy.Wagner@gowlings.com

(Gowling Lafleur Henderson LLP, 160 Elgin Street, Suite 2600, Ottawa, ON K1P 1C3.)

and to intended intervening party's lawyer:

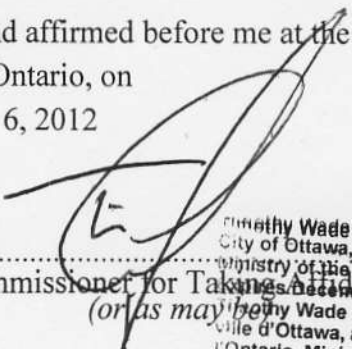
- **Peter Doody** -- pdoody@blg.com

2. The emails with attached PDF file were sent on February 6, 2012, at 9:06am.

3. I also served a paper copy of the same Notice of Motion dated February 6, 2012 to the plaintiff **Joanne St. Lewis** by hand delivery (personal service) to Helene Gravel, Receptionist to **Richard G. Dearden**, the lawyer for the plaintiff Joanne St. Lewis, at Gowling Lafleur Henderson LLP, 160 Elgin Street, Suite 2600, Ottawa, ON K1P 1C3, in front of the main reception counter.

4. The copy was given to Helene Gravel on February 6, 2012, at 2:15 pm.

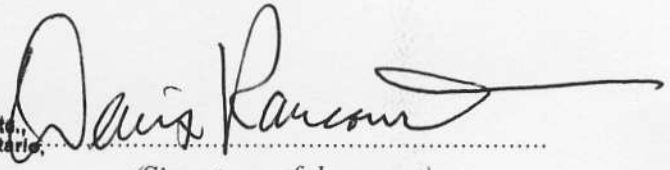
Sworn and affirmed before me at the City of
Ottawa, Ontario, on
February 6, 2012



Commissioner for Taking Affidavits
(or as may be)

.....
 Timothy Wade Ginley, a Commissioner, etc.,
 City of Ottawa, for the Government of Ontario,
 Ministry of the Attorney General.

 Timothy Wade Ginley, un commissaire, etc.,
 Ville d'Ottawa, au service du gouvernement de
 l'Ontario, Ministère du Procureur général.
 Date d'expiration: le 2 décembre 2013.



(Signature of deponent)

Joanne St. Lewis (Plaintiff) -- and -- Denis Rancourt (Defendant)

Court File No.: 11-51657

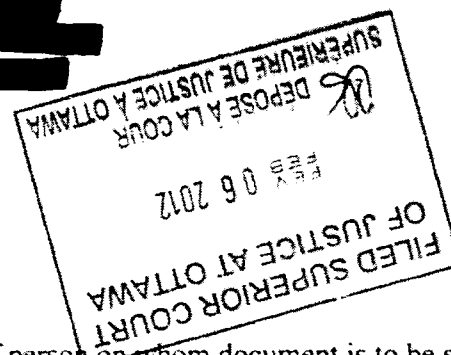
ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT OTTAWA

AFFIDAVIT OF SERVICE
(Notice of Motion)

Denis Rancourt

[REDACTED]
[REDACTED]
[REDACTED]
(no fax)

Defendant



Fax number of person on whom document is to be served:
613-788-3430 (Richard G. Dearden. LSUC #019087H)


RCP-E 4C (July 1, 2007)

This is Exhibit “ H ”

to the Affidavit of Denis Rancourt,

sworn before me this

16 day of February, 2012.



**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

JOANNE ST. LEWIS

Plaintiff

and

DENIS RANCOURT

Defendant

NOTICE OF MOTION
(Open Court motion)

The Defendant, Denis Rancourt, will make a motion to the Court at a date and time to be fixed by the Case Management Judge, to 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);
- in writing as an opposed motion under subrule 37.12.1 (4);
- orally.

THE MOTION IS FOR:

1. An Order that all out-of-court examinations of witnesses and deponents of affidavits on motions (Rules 39.03 and 39.02 of the *Rules of Civil Procedure*) in this action be open to the public, consistent with the open court principle.
2. An Order that no out-of-court examinations take place in this action until the instant motion is heard and determined.
3. An Order abridging the times for service and filing of this motion, if necessary.
4. The costs of this motion.
5. Such further and other relief as the Defendant may advise and this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

1. The open court principle enshrined in Section 2(b) of the *Canadian Charter of Rights and Freedoms* is a tenet of Canada's legal system and of Canadian democracy.
2. The question of whether the open court principle applies to out-of-court examinations of witnesses and deponents of affidavits on motions is a novel constitutional question that has not been addressed by the case law to this date.
3. Cross-examination of public record evidence is an intrinsic part of the pre-trial stage of judicial proceedings, whether conducted in the courthouse or off-site under court supervision.
4. Given the recent change in the *Rules of Civil Procedure* to augment summary judgement powers, the importance of out-of-court examinations in judicial determinations has greatly increased.

5. Nothing in the *Rules of Civil Procedure* prohibits public access to out-of-court examinations under Rule 39.02 and Rule 39.03.
6. Out-of-court examinations of witnesses and deponents of affidavits on motions are not subject to Deemed Undertaking (Rule 30), and thus fundamentally differ from Examinations for Discovery. The Defendant does not challenge that examinations for discovery are not subject to the open court principle.
7. A number of out-of-court examinations are anticipated in the present action in relation to the filed and foreseen motions.
8. Although public access to out-of-court cross-examinations of deponents occurred in this action, on October 6, 2011 Master MacLeod ordered that two re-examinations take place in private, without public access.
9. Public access to the out-of-court examinations in this action is part and parcel to the Defendant's right to a fair judicial process under Section 2(b) of the *Charter*.
10. Rules: 1.04, 3.02, 20, 30, 34, 37, 39, 39.02 and 39.03 of the *Rules of Civil Procedure*.
11. Statutes: *The Constitution Act, 1982*; *Courts of Justice Act*, R.S.O. 1990, c. C.43; *Administration of Justice Act*, R.S.O. 1990, c. A.6.
12. Such further and other grounds as the Defendant may advise and this Honourable Court deems just.

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

1. The pleadings in the action.

2. The motion records for the refusals motion heard on October 6, 2011.
3. The Master's Reasons For Decision of October 6, 2011 and the Master's Order for same.
4. The court reporter transcripts of the re-examinations of October 14, 2011.
5. Such further and other evidence as the Defendant may advise and this Honourable Court may permit.

DATED: February 6, 2012

Denis Rancourt
Defendant

[REDACTED]

TO: Richard G. Dearden
Counsel for the Plaintiff
160 Elgin Street, Suite 2600
Ottawa, ON K1P 1C3

Joanne St. Lewis (Plaintiff) – and – Denis Rancourt (Defendant)

Court File No.: 11-51657

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT OTTAWA

NOTICE OF MOTION
(Open court motion)

Denis Rancourt

[REDACTED]
[REDACTED]
[REDACTED]

(no fax)

Defendant

Fax number of person on whom document is to be served:
613-788-3430 (Richard G. Dearden, LSUC #019087H)

RCP-E 4C (July 1, 2007)

This is Exhibit “ **I** ”

to the Affidavit of Denis Rancourt,

sworn before me this

16 day of February, 2012.





Denis Rancourt <denis.rancourt@gmail.com>

Notice of Motion, Open court motion

Denis Rancourt <denis.rancourt@gmail.com>

Tue, Feb 7, 2012 at 10:32 AM

To: "Dearden, Richard" <Richard.Dearden@gowlings.com>

Cc: "Doody, Peter K." <PDoody@blg.com>, "Wagner, Wendy" <Wendy.Wagner@gowlings.com>

Dear Mr. Dearden,

1. I made personal hand-delivered service to your office of the Notice of Motion on February 6, 2012. You may consult the Affidavit of Service at the Court Registrar.
2. This open court motion relies on public record documents which are already in Court files, and on Court decisions. The Motion Record relied on (October 6, 2011 motion hearing, refusals motion) contains my affidavits that have already been extensively cross-examined by you and that you have had for many months. At this stage, I am not otherwise relying on an affidavit, as is clear in the statement of the Notice of Motion.
3. In light of the permissive language of Rule 39.01, please feel free to raise this matter at tomorrow's Case Conference.
4. Also, if I am wrong, please be so kind as to point me to the rule which requires a supporting affidavit on a motion. In this case, I will promptly correct the irregularity. But I do not see this at the moment.

Sincerely,
Denis Rancourt

On Tue, Feb 7, 2012 at 7:36 AM, Dearden, Richard <Richard.Dearden@gowlings.com> wrote:

Mr Rancourt - i do not accept service of this Notice of Motion because you have failed to include an affidavit in support of this motion.

Richard Dearden
Partner
[613-786-0135](tel:613-786-0135)
gowlings.com

From: Denis Rancourt [mailto:denis.rancourt@gmail.com]

Sent: Monday, February 06, 2012 9:07 AM

To: Dearden, Richard; Wagner, Wendy

Cc: Doody, Peter K.

Subject: Notice of Motion, Open court motion

Dear Mr. Dearden,

Please accept service of the attached Notice of Motion.

Sincerely,

Denis Rancourt

IMPORTANT NOTICE: This message is intended only for the use of the individual or entity to which it is addressed. The message may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify Gowlings immediately by email at postmaster@gowlings.com. Thank you.

This is Exhibit “ **J** ”

to the Affidavit of Denis Rancourt,

sworn before me this

 16 day of February, 2012.

 DR



Denis Rancourt <denis.rancourt@gmail.com>

For Judge Beaudoin, Case Conference of this week

Denis Rancourt <denis.rancourt@gmail.com>

Mon, Feb 6, 2012 at 3:59 PM

To: "Estabrooks, Kathy (JUS)" <Kathy.Estabrooks@ontario.ca>

Cc: "Dearden, Richard" <richard.dearden@gowlings.com>

Dear Kathy Estabrooks,

As per our conversation, please find attached documents for Judge Beaudoin.

Also, I wish to inform the Court that I will be unable to make submission about the "costs thrown away" issue before I obtain transcripts of the January 26, 2012 hearings held before the Master. These transcripts were ordered on January 27th.

Sincerely,
Denis Rancourt

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

From: **Denis Rancourt** <denis.rancourt@gmail.com>

Date: Mon, Feb 6, 2012 at 3:52 PM


Subject: Defendant's revised proposed timetables and revised list of issues

To: "Dearden, Richard" <richard.dearden@gowlings.com>, "wendy.wagner" <Wendy.Wagner@gowlings.com>, "Doody, Peter K." <PDooddy@blg.com>

please see attached.

DGR

3 attachments

 **2012-02-08=case-conference-LIST-OF-ISSUES-206.pdf**
55K **2012-02-06=Defendant-s-proposed-Timetable Open Court motion-3.pdf**
60K **2012-02-06=Defendant-s-revised-Timetable Champerty motion-3.pdf**
66K

LIST OF ISSUES

For the February 8, 2012 Case Conference

(Including further items, to the degree that time permits)

1. Case Conference submissions, guidelines.

3. Schedule for the open court motion.

4. Schedule for the champerty motion and the motion to intervene.

5. Should further discovery take place in parallel with the champerty motion?

6. If discovery proceeds in parallel with the champerty motion:
 Schedule for the Defendant's intended motion under Rule 30.06.

7. Schedule for costs thrown away motion (January 26, 2012 Case Conference).
 (Needs to be after January 26th hearing transcripts are obtained.)

DATED: February 6, 2012

Denis Rancourt
Defendant

**DEFENDANT'S PROPOSED
TIMETABLE FOR OPEN COURT MOTION**

1. Defendant's "open court motion" served: February 6, 2012
2. Responding Party's affidavit opposing the open court motion: February 13th (or as needed)
3. Facta and Motion Records filed:
(Assuming cross-examinations of affidavits are not required)
4. Argument of Defendant's open court motion:

Denis Rancourt
(Defendant)

DATE: February 6, 2012

**DEFENDANT'S REVISED PROPOSED
TIMETABLE FOR CHAMPERTY MOTION**

1. Evidence of Joanne St. Lewis opposing champerty motion: February 13st (or as needed)
2. Defendant's responding material to University of Ottawa's motion to intervene: March 5th
Exclude known schedule conflicts as needed: IPC, Arbitration, Dentist.
Some or all motion issues may be resolved prior to a hearing.
3. Argument of University of Ottawa's Motion to Intervene:
4. If granted leave to intervene, evidence of University of Ottawa opposing champerty motion:
5. Out-of-court examinations of witnesses on champerty motion:
After Open Court motion is heard and determined
6. Refusals motions and re-examinations, as needed:
7. Cross-examinations of deponents of affidavits:
After Open Court motion is heard and determined
Not single and same day for all parties
8. Refusals motions and re-examinations, as needed:
9. Facta filed:
10. Argument of champerty motion:

Denis Rancourt
(Defendant)

DATE: February 6, 2012

This is Exhibit “ **K** ”

to the Affidavit of Denis Rancourt,

sworn before me this

16 day of February, 2012.

EB

COURT FILE NO.: 11-51657

DATE: February 8, 2012

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Joanne St. Lewis v. Denis Rancourt

BEFORE: Mr. Justice Robert N. Beaudoin

Appearances:

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

Denis Rancourt: for himself

Peter Doody: for the University of Ottawa

Joseth Hickey: Observer

Hazel Gashoka: Observer

ENDORSEMENT (at Case Conference)

There are a number of issues for this conference:

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

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

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

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

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

“original signed”

Mr. Justice Robert N. Beaudoin

Date: February 8, 2012

Joanne St. Lewis (Plaintiff) – and – Denis Rancourt (Defendant)

Court File No.: 11-51657

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT OTTAWA

AFFIDAVIT
(In support of Defendant's Motion for Leave to Appeal)

Denis Rancourt

[REDACTED]
[REDACTED]
[REDACTED]

(no fax)

Defendant

Fax number of person on whom document is to be served:
613-788-3430 (Richard G. Dearden, LSUC #019087H)

RCP-E 4C (July 1, 2007)

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