

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

BETWEEN:

KELLY LYNN DONOVAN

Plaintiff  
(Responding Party)

and

REGIONAL MUNICIPALITY OF WATERLOO POLICE SERVICES BOARD and

BRYAN LARKIN

Defendants  
(Moving Parties)

**FACTUM OF THE RESPONDING PARTY  
(Returnable February 22, 2021)**

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**FACTUM OF THE RESPONDING PARTY**  
**(Returnable February 22, 2021)**

**PART I – NATURE OF THE MOTION**

1. The Plaintiff first filed her Statement of Claim for breach of contract relating to her Resignation Agreement on May 9, 2018, and her Claim was amended on consent on January 16, 2019.
2. On February 13, 2019, the Defendants brought a motion to dismiss the Plaintiff's action pursuant to Rule 21.01(3)(a) of the *Rules of Civil Procedure* (the "Rules"), on the primary ground that this Honourable Court has no jurisdiction over the subject matter of the action.
3. The Honourable Justice M. Doi sided with the Defendants and ordered the Plaintiff's amended claim struck with costs.

[\*Donovan v. Waterloo Regional Police Services Board, 2019 ONSC 1212\*](#), paras. 39 – 41.

4. On October 25, 2019, the Plaintiff appealed Justice Doi's decision to the Ontario Court of Appeal. The Honourable panel allowed the Plaintiff's appeal, with cost on the appeal as well as the motion,

and granted her leave to further amend her Amended Statement of Claim against the Personal Defendant.

*[Donovan v. Waterloo Regional Police Services Board, 2019 ONCA 845](#)*, para. 21.

5. On February 19, 2020, the Defendants wrote to Justice Doi stating they believed their February, 2019, motion remained undecided, and both parties made lengthy submissions to Justice Doi on the issue.
6. On April 20, 2020, Justice Doi issued an endorsement advising the Defendants to bring a Rule 59.06(1) motion, and reserved the matter of costs to the judge hearing the motion.
7. This motion, brought by the Defendants, pursuant to Rule 21.01(3)(a) is identical to the motion brought by the Defendants on February 13, 2019, which has already been litigated.
8. This motion does not present a novel question of law. This motion is an attempt to re-litigate an issue that was traversable by the Defendants, and not traversed. The issue was relied upon by the Plaintiff and the Ontario Court of Appeal when the higher-level court issued the effective Order in this case on October 25, 2019.
9. The Defendants did not file a Statement of Defence or Notice of Intent to Defend within the prescribed time, or any counter-claim in this matter.

## **PART II – SUMMARY OF FACTS**

10. The Plaintiff was employed by the Organizational Defendant, the Waterloo Regional Police Services Board (“WRPSB”), from December, 2010, to June, 2017.
11. In February, 2011, the Plaintiff was involved in a traumatic incident at the Ontario Police College while attending Basic Constable Training.

Affidavit of Kelly Donovan sworn February 10, 2021, Motion Record of the Plaintiff/Responding Party, Tab 1 at para. 3 [Affidavit of Kelly Donovan].

12. In May, 2016, the Plaintiff attended a public meeting of the Organizational Defendant and made a disclosure in good faith of internal misfeasance. At that time, the [Police Services Act, R.S.O. 1990, c. P.15, section 58\(2\)](#), (“PSA”), did not permit a police officer to make a complaint about their own police service.
13. Following this May, 2016, disclosure the Plaintiff was investigated for misconduct resulting from a chief’s complaint, and she filed several complaints against the Defendants, including a complaint to the Human Rights Tribunal of Ontario (“HRTO”).
14. In February, 2017, the Plaintiff began a medical leave of absence which was approved by the Workplace Safety and Insurance Board (“WSIB”), claim number 30505408. The Plaintiff began intensive therapy for post-traumatic stress disorder (“PTSD”), resulting from the traumatic incident cited at paragraph 11.

Affidavit of Kelly Donovan, *supra*, para. 9, Exhibit B.

15. In May, 2017, a \$167,000,000 class action lawsuit, (CV-17-2346-00), was filed against the Organizational Defendant for systemic gender discrimination, sexual harassment and sexual assault. The Plaintiff was eligible to join the suit.
16. In June, 2017, the parties signed a Resignation Agreement, including mutual releases, and the Plaintiff’s employment ended. The Plaintiff was precluded from joining the class action lawsuit cited above. This agreement terminated several ongoing processes, including the misconduct investigation and multiple complaints the Plaintiff had filed against the Defendants. The Plaintiff withdrew her complaint to the HRTO. There was no general non-disclosure clause in the Resignation Agreement, only a confidentiality provision relating to the contents and existence of the agreement itself.

Affidavit of Kelly Donovan, *supra*, paras. 13 & 14.

Affidavit of Laura Freitag sworn February 9, 2021, Motion Record of the Defendants/Moving Parties, Tab 2, Exhibit G. [Affidavit of Laura Freitag].

17. The Plaintiff started her own business, Fit4Duty – The Ethical Standard™ to provide consulting and safe workplace reporting programs to employers. The Plaintiff continued to receive therapy for PTSD funded by WSIB, and she advocated for better statutory protections for police whistleblowers.

18. In July, 2017, the Plaintiff published a report about the retaliation police whistleblowers face when reporting wrongdoing within Ontario police services, and suggested ways that police services boards could improve governance over matters of public interest. The Plaintiff's report was distributed by email to every police services board in Ontario, including the Organizational Defendant.

Affidavit of Kelly Donovan, *supra*, paras. 16 & 17, Exhibits D & E

19. In September, 2017, the Plaintiff reattended a public meeting of the Organizational Defendant to offer training to board members to improve impartial governance.

20. In December, 2017, the Personal Defendant swore an Affidavit to defend the Organizational Defendant in the ongoing class action lawsuit, which was published and made available to the media and included confidential details of the Plaintiff's Resignation Agreement.

Affidavit of Kelly Donovan, *supra*, paras. 22 – 27.

Affidavit of Laura Freitag, *supra*, Exhibit H.

[Donovan v. Waterloo Regional Police Services Board, 2019 ONSC 1212](#), para. 33.

21. On May 9, 2018, the Plaintiff filed her original Statement of Claim for one allegation of breach of contract against the Defendants.

Affidavit of Laura Freitag, *supra*, Exhibit T.

22. On June 7, 2018, the Defendants filed a Notice of Motion, (for the motion referenced at paragraph 2 of this Factum), to be heard on February 13, 2019.

Affidavit of Laura Freitag, *supra*, Exhibit U.

23. On June 28, 2018, the Organizational Defendant filed an Application for Contravention of Settlement against the Plaintiff at the HRTO, initiating a parallel proceeding at the tribunal level, forcing the Plaintiff to fight a two-front war.

Affidavit of Kelly Donovan, *supra*, paras. 30 – 32.  
Affidavit of Laura Freitag, *supra*, Exhibit I.  
[Power Tax v. Millar, Dioguardi, 2013 ONSC 135](#), para. 26.

24. On July 10, 2018, the Plaintiff made a submission to the HRTO advising of the ongoing parallel matter in Court, and asked for an order dismissing the Organizational Defendant's Application alleging it was filed in bad faith out of retaliation. The HRTO scheduled a hearing of the Organizational Defendant's Application for February 22, 2019.

Affidavit of Kelly Donovan, *supra*, para. 33.  
Affidavit of Laura Freitag, *supra*, Exhibits J & N.

25. On July 27, 2018, the Plaintiff also filed an Application for Contravention of Settlement against the Defendants so as to not be prejudiced at the February 22, 2019, hearing. The Plaintiff's Application was essentially her Claim in this Honourable Court copied into the proper HRTO format. It has always been the preference of the Plaintiff to proceed with her Claim in this Honourable Court.

Affidavit of Laura Freitag, *supra*, Exhibit K.

26. Throughout the fall of 2018, the Plaintiff made several attempts to have the Defendant's tribunal proceeding dismissed as a retaliatory action and an abuse of process. The Plaintiff also applied to the Superior Court of Justice in Toronto to have the Organizational Defendant's proceeding dismissed for limiting freedom of expression on matters of public interest, (CV-18-00605386-0000). Despite the Plaintiff's attempts to achieve procedural fairness, the Organizational Defendant's HRTO Application proceeded full tilt.

Affidavit of Kelly Donovan, *supra*, paras. 49 & 50, Exhibit N.  
[Donovan v. \(Waterloo\) Police Services Board, 2019 ONSC 818](#).  
[Courts of Justice Act, R.S.O. 1990, c. C.43, \[CJA\] s. 137.1](#).

27. In August, 2018, the Plaintiff was informed that the Organizational Defendant had appealed her WSIB claim number 30505408, despite the release contained in the Resignation Agreement.

Affidavit of Kelly Donovan, *supra*, para. 36 & 37, Exhibit G.  
Affidavit of Laura Freitag, *supra*, Exhibit D.

28. On January 16, 2019, the Plaintiff amended her claim on consent to include the second allegation of breach of contract, (the WSIB appeal).

Affidavit of Laura Freitag, *supra*, Exhibit V.

29. The original motion in this matter was heard on February 13, 2019, and the Reasons for Judgement were released by Justice Doi on February 21, 2019.

[\*Donovan v. Waterloo Regional Police Services Board, 2019 ONSC 1212.\*](#)

30. On March 22, 2019, the Plaintiff filed her Notice of Appeal with the Ontario Court of Appeal.

Affidavit of Kelly Donovan, *supra*, para. 55, Exhibit O.

31. On April 15, 2019, the Plaintiff prepared a draft Order of Justice Doi and sent it to counsel for the Defendants who made further revisions and approved the draft Order. The Defendants did not take issue with the fact that their primary ground for bringing their motion, that Court lacked jurisdiction of the Plaintiff's claim, was not addressed in the Order.

Affidavit of Kelly Donovan, *supra*, para. 56, Exhibit P.

32. On April 23, 2019, the Plaintiff perfected her appeal, and the Defendants filed their responding material on June 21, 2019. There was no mention in the Defendants' responding material of an allegedly outstanding issue regarding the Order of Justice Doi.

33. On October 25, 2019, the parties argued the appeal before the Honourable panel at the Ontario Court of Appeal, and no oral arguments were made by counsel for the Defendants that the Ontario Court of Appeal lacked jurisdiction to hear the appeal, or that a previous issue remained undecided by the lower court.

34. The Plaintiff was successful on appeal and the Defendants were ordered to pay costs on both the motion and the appeal.



*Donovan v. Waterloo Regional Police Services Board*, 2019 ONCA 845.  
*Donovan v. Waterloo Regional Police Services Board*, 2019 ONSC 1212.

35. On January 29, 2020, the Plaintiff amended her amended Statement of Claim, pursuant to the Order of the Ontario Court of Appeal.

Affidavit of Laura Freitag, *supra*, Exhibit Y.

36. On February 18, 2020, the Defendants had not filed their Statement of Defence or Notice of Intent to Defend, as required under Rule 18.01.

37. On February 19, 2020, at 9:40 a.m., the Plaintiff sent an email to counsel for the Defendants advising that his clients were now in default and requested the document due.

Affidavit of Kelly Donovan, *supra*, para. 64, Exhibit R.

38. Two hours later, on February 19, 2020, at 11:28 a.m., Defendants' counsel sent a letter to Justice Doi to seek direction on the appropriate next step in this proceeding as the Defendants believed their jurisdiction motion remained undecided.

Affidavit of Kelly Donovan, *supra*, para. 65, Exhibit S.

39. On April 20, 2020, Justice Doi issued his Endorsement.

Affidavit of Laura Freitag, *supra*, Exhibit CC.

40. On April 27, 2020, the Plaintiff sent a letter to counsel for the Defendants outlining her position that their contemplated action, to bring a Rule 59.06(1) motion, could not succeed according to a recent decision at the Court of Appeal of Manitoba, whose Rule 59.06(1) is identical to that in *The Rules*. The Plaintiff suggested the parties consent to changes to Justice Doi's order to properly deal with the issue of jurisdiction without the unnecessary expense of another motion.

Affidavit of Kelly Donovan, *supra*, para. 67, Exhibit T.  
*Lantin et al v. Seven Oaks General Hospital*, 2019 MBCA 115, [*Lantin*].

41. On May 6, 2020, the Defendants responded to the Plaintiff's April 27<sup>th</sup> letter indicating that they believed *Lantin* is factually distinguishable from the instant proceeding, and that they would be bringing this jurisdiction motion on the basis of Rule 59.06(1).

Affidavit of Kelly Donovan, *supra*, para. 68, Exhibit U.

42. On August 31, 2020, the Defendants filed their Notice of Motion for an Order pursuant to Rule 21.01(3)(a).

43. The Plaintiff also filed a Notice of Motion to amend her pleadings, but later withdrew this Notice after the Defendants consented to the proposed amendments.

44. On December 9, 2020, the Plaintiff amended her claim once more, on consent, filing a fresh amended Statement of Claim (the “Claim”).

Affidavit of Laura Freitag, *supra*, Exhibit DD.

### **PART III – ISSUES AND THE LAW**

#### **The Fundamental Issue of Jurisdiction was Decided**

45. The primary ground cited by the Defendants in their Notice of Motion for their original motion to dismiss on February 13, 2019, was the following:

“(a) An Order dismissing the Plaintiff’s action pursuant to Rule 21.01(3)(a) of the *Rules of Civil Procedure* on the ground that this Honourable Court has no jurisdiction over the subject matter of the action;”

Affidavit of Laura Freitag, *supra*, Exhibit U.

46. On February 13, 2019, the parties presented full written and oral arguments to Justice Doi.

47. The Reasons for Judgement released by Justice Doi on February 21, 2019, do in fact address the issue of jurisdiction:

[25] Of particular note is the strongly worded privative clause at s.118(4) of the WSIA that precludes a party from restraining proceedings before the WSIB by pursuing a claim or remedy in court; *Rodrigues v. Ontario (Workplace Safety and Insurance Appeals Tribunal)*, [2008 ONCA 719](#) at para. 22. While the legislature cannot completely oust the jurisdiction of the Superior Court, which is derived under s. 96 of the *Constitution Act, 1867*, I find that s. 118(4) precludes the Plaintiff from pursuing her breach of contract claim to restrain the Board from taking part in proceedings before the WSIB involving her workers’ compensation claim under the WSIA; *Castrillo v. Workplace Safety and Insurance Board*, [2017 ONCA 121](#) at paras. 54-56, 59 and 66.

[Donovan v. Waterloo Regional Police Services Board, 2019 ONSC 1212](#), para. 25.

48. The Ontario Court of Appeal also included reference to the jurisdiction issue in their Reasons for Judgment when they considered the determination made by Justice Doi at paragraph 25 of his Reasons:

[15] And with respect to the motion judge's conclusion based on the privative clause in [s. 118\(4\)](#) of the [WSIA](#), in our view it is not plain and obvious that the appellant's action in respect of the Release would contravene the WSIB's exclusive jurisdiction to determine matters set out in [s. 118](#) of the [WSIA](#) and the privative clause contained in that section.

[Donovan v. Waterloo Regional Police Services Board, 2019 ONCA 845](#), para. 15.

49. The issue of jurisdiction was fundamental to Justice Doi's decision.

The question out of which the estoppel is said to arise must have been "fundamental to the decision arrived at" in the earlier proceeding. In other words, as discussed below, the estoppel extends to the material facts and the conclusions of law or of mixed fact and law ("the questions") that were necessarily (even if not explicitly) determined in the earlier proceedings.

[Danyluk v. Ainsworth Technologies Inc., 2001 SCC 44 \(CanLII\), \[2001\] 2 SCR 460](#), para. 24.

50. It is the Plaintiff's position that the jurisdiction issue was addressed by both the motion judge and the Ontario Court of Appeal, and is not an undecided issue. The motion judge dismissed the Plaintiff's claim for reasons including jurisdiction belonging to the WSIB. The Ontario Court of Appeal disagreed with Justice Doi's determination that WSIB had jurisdiction over the Plaintiff's claim and set aside the Order.

### **Can the Defendants Re-Litigate a Rule 21.01(3)(a) Motion?**

51. Contrary to Justice Doi's April 20, 2020, Endorsement, see paragraph 39 above, the Defendants are pursuing a duplicate Rule 21.01(3)(a) motion to re-litigate the issue of jurisdiction without presenting any new evidence that was not available to them at the hearing of the original motion. There are no extenuating circumstances requiring this Honourable Court to depart from the principle of *estoppel*, and the Defendants did not exercise reasonable diligence by raising the issue prior to February 19, 2020, (once the Defendants were considered to be in default).

52. The Defendants seek to re-litigate a claim that was decided or could have been raised in an earlier proceeding:

*Res judicata* itself is a form of estoppel and embraces both cause of action estoppel and issue estoppel. Cause of action estoppel prevents a party from relitigating a claim that was decided or *could have been raised in an earlier proceeding*.

[Emphasis added.]

[\*Minott v. O'Shanter Development Co.\*, 42 O.R. \(3d\) 321 \[1999\] O.J. No. 5](#), p.329.

53. It is well established that *res judicata* provides for finality in litigation, especially in cases where a point, fundamental to the decision, taken or assumed by the parties and traversable, has not been traversed. The Defendants' right to re-examine the motion judge's decision must be set to rest.

Very numerous authorities were referred to. In the opinion of their Lordships it is settled, first, that the admission of a fact fundamental to the decision arrived at cannot be without drawn and a fresh litigation started, with a view of obtaining another judgment upon a different assumption of fact ; secondly, the same principle applied not only to an erroneous admission of a fundamental fact, but to an erroneous assumption as to the legal quality of that fact. Parties are not permitted to begin fresh litigations because of new views they may entertain of the law of the case, or new versions which they present as to what should be a proper apprehension by the Court of the legal result either of the construction of the documents or the weight of certain circumstances. If this were permitted litigation would have no end, except when legal ingenuity is exhausted. It is a principle of law that this cannot be permitted, and there is abundant authority reiterating that principle. Thirdly, the same principle – namely, that of setting to rest rights of litigants – applies to the case where a point, fundamental to the decision, taken or assumed by the plaintiff and traversable by the defendant, has not been traversed. In that case also a defendant is bound by the judgment, although it may be true enough that subsequent light or ingenuity might suggest some traverse which had not been taken. The same principle of setting parties' rights to rest applies and estoppel occurs...

[\*Foster v. Reaume\*, 1926 CanLII 416 \(ON CA\)](#), p.1033.

54. The Defendants were not reasonably diligent in bringing forward the issue of jurisdiction. On April 15, 2019, the Plaintiff sent a draft Order to Defendants' counsel who then made revisions and approved the revised draft. The Defendants did not revise the Order to address jurisdiction, despite paragraphs 25 (see para. 47 above), and paragraph 40 of the Reasons:

[40] The Defendants' motion to strike was also brought under [Rules 21.01\(3\)\(a\)](#) and [21.01\(3\)\(d\)](#), respectively. For the reasons set out above, I am satisfied that this

motion is fairly and fully disposed of under Rule 21.01(1)(b) without the need for recourse to these other grounds.

[Donovan v. Waterloo Regional Police Services Board, 2019 ONSC 1212](#), para. 40.

55. The Defendants failed to file a motion to amend Justice Doi's Order prior to the case proceeding to the Ontario Court of Appeal.

59.06 (1) An order that contains an error arising from an accidental slip or omission or requires amendment in any particular on which the court did not adjudicate may be amended on a motion in the proceeding. R.R.O. 1990, Reg. 194, r. 59.06 (1).

*Civil Rules of Procedure*, R.R.O. 1990, Reg. 194 [the *Rules*] Rule 59.06(1).

56. In accordance with the Court of Appeal [Practice Direction Concerning Civil Appeals at the Court of Appeal for Ontario](#), section 6.3.2, the Plaintiff filed a Notice to Appeal on March 22, 2019, including a jurisdictional statement. The Defendants did not dispute the jurisdiction of the Ontario Court of Appeal to hear the Plaintiff's appeal, or the fact that Justice Doi's order was a final order.

**THE BASIS OF THE APPELLATE COURT'S JURISDICTION IS:**

- a) Section 6(1)(b) of the Courts of Justice Act, R.S.O. 1990, c. C.43.
- b) The order appealed from is a final order.
- c) Leave to appeal is not required for this appeal.

Affidavit of Kelly Donovan, *supra*, at para. 55 and Exhibit O.

57. On June 21, 2019, the Defendants filed full responding submissions to the Court of Appeal, and did not raise an outstanding issue of unanswered jurisdiction in their written submissions.

58. The Defendants had the opportunity to vary Justice Doi's order in the following ways:

- a. Amend the Plaintiff's draft Order of Justice Doi prior to approving it;
- b. File a Rule 59.06(1) motion following the March 20, 2019, Order, and prior to the Appeal;
- c. A cross-appeal seeking to set aside or vary the order appealed from, in accordance with Rule 61.07(1), of the *Rules*.

59. Had the Defendants raised the alleged unanswered issue of jurisdiction at the Ontario Court of Appeal, the Appeal Court had the power to explicitly draw inferences of fact from the evidence,

or where some substantial wrong or miscarriage of justice has occurred but it affects only part of an order, a new trial may be ordered in respect of only that part of Justice Doi's order.

[Courts of Justice Act, R.S.O. 1990, c. C.43 \[CJA\], sections 134\(4\)\(a\) and s. 134\(7\).](#)

60. It is the Plaintiff's position that, since the matter was successfully appealed, absent any objection by the Defendants of want of jurisdiction, the Order of the Ontario Court of Appeal becomes the *res judicata*.

[30] Handley JA describes the legal effect of a successful appeal this way: "When an appellate court reverses the judgment below, the former decision, until then conclusive, is avoided *ab initio* and replaced by the appellate decision, which becomes the *res judicata* between the parties" (Handley at para 2.33).

[Lantin](#), paras. 28 and 30.

### **Is a Slip-Rule Motion Available to the Defendants?**

61. The Order of the Ontario Court of Appeal, entered January 29, 2020, (the Order in effect), may not be set aside or varied under the *Rules*, subject to rules 37.14 and 59.06. The Defendants have not brought a Rule 59.06 motion to the Ontario Court of Appeal.

Affidavit of Kelly Donovan, *supra*, at para. 61 and Exhibit Q.  
*The Rules*, r. 61.16(6.1)

62. Once the issue of jurisdiction was argued at the original motion, judged by Justice Doi, and then successfully appealed by the Plaintiff, the issue was rendered beyond dispute or debate:

[7] In *Peoples Trust Company v. Atas*, [2018 ONSC 58 \(CanLII\)](#), Justice Corbett explained that finality is an important element of civil justice. A litigant is entitled to her or his day in court to obtain a just and final outcome. But then it is over. And when it is over, it is over. In the words of Justice Corbett:

#### 2. The Importance of Finality to Litigation

[14] ...Any civilized society requires a mechanism for deciding [civil] disputes. And there is no more fundamental feature to such a system than its finality: however long and elaborate the process may be, however many appeals may be available, once the process has run its course, the dispute is at an end. The matter is decided. Whether the parties disagree with results or not, they have become beyond dispute or debate.

[Massiah v. Justices of the Peace Review Council](#), 2018 ONSC 2179, para. 7.

## **Lantin et al v. Seven Oaks General Hospital, 2019 MBCA 115**

63. In a recent Manitoba Court of Appeal decision, a situation very similar to the case at bar was adjudicated, based on the *Court of Queen's Bench Rules* Rule 59.06(1):

### **Amending**

**59.06(1)** An order that,

- (a) contains an error arising from an accidental slip or omission; or
- (b) requires amendment in any particular on which the court did not adjudicate; may be amended on a motion in the proceeding.

[\*Court of Queen's Bench Rules, Man Reg 553/88\*](#) [the *QBR*], Rule 59.06(1).

64. The wording of *QBR* Rule 59.06(1) is identical to that of Rule 59.06(1) of *the Rules*, see para. 55 above.

65. In [\*Lantin et al v. Seven Oaks General Hospital, 2019 MBCA 115\*](#), the lower court's judgment was entered and appealed by Seven Oaks Hospital. Approximately one month after the Court of Appeal pronounced its decision, counsel for the plaintiff, for the first time, raised an issue that was not addressed in the lower court's original decision. The issue was regarding specific damages that were not awarded by the lower court, admittedly "through an oversight."

[\*Lantin\*](#), para. 15.

66. The plaintiff did not move for a rehearing of the appeal, or exercise any other appellate rights.

[\*Lantin\*](#), para. 18.

67. The lower court Judge granted the order to amend the original judgment and that decision was then appealed, for a second time, by Seven Oaks General Hospital.

68. In accordance with the parallels drawn in *Lantin*, the slip rule is not available to this Honourable Court as the judgment in effect has been given by a different and higher level of court having exercised its appellate jurisdiction under section 6(1) of the *CJA* to substitute its own judgment.

[\*Lantin\*](#), para. 34.  
[\*CJA, section 6\(1\)\*](#).

69. The Defendants argue that *Lantin* is factually distinguishable from the Defendants proposed Rule 59.06(1) motion, and the Plaintiff disagrees.

Affidavit of Kelly Donovan, *supra*, at para. 68 and Exhibit U.

70. It is the Plaintiff's position that the following passage in *Lantin* explicitly states that it is not the specifics of the requested change to the lower court's ruling that determine the Defendants' ability to proceed with their motion in the case at bar, but rather the Court of Appeal's determination in the Plaintiff's Appeal that makes revisiting the lower court's decision incorrect.

[27] In my view, the issue here is not whether the judge erred in determining that failing to make allowance for loss of opportunity to invest non-pecuniary damages was an oversight that fell within the ambit of the slip rule. This is not the appropriate case to chart the fine line between an oversight and an afterthought. Rather, the true question on this appeal is the correctness of the judge's conclusion that this Court's prior determination on the hospital's appeal made no difference to her ability to apply the slip rule.

[\*Lantin\*](#), para. 27.

71. It is the Plaintiff's position that deference should be given to *Lantin*, due to the similarities with the case at bar.

### **Does Court have Jurisdiction of the Plaintiff's Claim?**

72. The parties made full argument on February 13, 2019, regarding jurisdiction of the Plaintiff's claim. The Plaintiff is forced to now repeat those same arguments. It has not been alleged by the Defendants that there is new evidence on the issue of jurisdiction of the Claim, or that any information was fraudulently presented to the Court in February, 2019.

Affidavit of Kelly Donovan, *supra*, para. 70, Exhibit V.

73. As already stated by the Plaintiff in prior proceedings, her Resignation Agreement settled several ongoing procedures and was not a "human rights settlement," nor does her current Claim arise solely from an alleged breach of the [Human Rights Code, R.S.O. 1990, c. H.19](#):

[4] I have also considered *Jaffer v. York University* [2010 ONCA 654 \(CanLII\)](#), [2010] O.J. No. 4252 (C.A.), in which Karakatsanis J.A. (in speaking for



the Court) at para. 44 stated, "...whether or not a claim for breach of the duty to accommodate disabilities can proceed in the Superior Court depends upon whether or not the pleading discloses a reasonable cause of action that does not arise solely from a breach of the *Code*".

[\*Anderson v. Tasco Distributors\*, 2011 ONSC 269 \(CanLII\)](#), para. 4.

74. In signing the Resignation Agreement, the Plaintiff gave up all rights belonging to membership in the Waterloo Regional Police Association and is not a member of a police force for the purposes of sections 114 through 131 of the [\*Police Services Act, R.S.O., c. P.15\*](#), ("PSA"), and is therefore no longer eligible to participate in the arbitration process.

75. Regarding proper jurisdiction of an allegation of breach of contract pertaining to the Resignation Agreement between the Plaintiff and the Defendants, Honourable Justice Favreau wrote this on February 1, 2019, in her decision over the Plaintiff's Anti-SLAPP Application:

[51] The Board also argues that the Human Rights Tribunal has exclusive jurisdiction over issues related to the enforcement of the Resignation Agreement. A similar issue is being raised by the Board on the motion to be heard on February 13, 2019, in the context of Ms. Donovan's civil action. While it is not necessary for me to decide this issue in the context of this motion, I note that it is not clear to me that the Human Rights Tribunal has any jurisdiction over the Board's application, let alone exclusive jurisdiction. Evidently, there were many issues between the parties that led to the Resignation Agreement.

[\*Donovan v. \(Waterloo\) Police Services Board\*, 2019 ONSC 818 \(CanLII\)](#), para. 51.

76. The inherent jurisdiction of the Superior Court of Justice over the Plaintiff's claim has not been removed by legislation or by an arbitral agreement:

The basic proposition applicable to r. 21.01(3)(a) can be stated fairly simply: either the Superior Court of Justice has jurisdiction over a claim or it does not. In deciding that issue, it must be remembered that the Superior Court of Justice, as a court of inherent jurisdiction, has jurisdiction over every conceivable claim unless (i) the claim does not disclose a reasonable cause of action or (ii) the jurisdiction has been removed by legislation or by an arbitral agreement: *TeleZone Inc. v. Canada (Attorney General)*, 2008 ONCA 892, 94 O.R. (3d) 19, at para. 92, aff'd 2010 SCC 62, [2010] 3 S.C.R. 585.

[\*Skof v. Bordeleau\*, 2020 ONCA 729](#), para. 8.

77. The Defendants have asked this Honourable Court to make a redundant Order. Should the Honourable Court decide that jurisdiction of the Plaintiff's claim does not lie with Court, it is the Plaintiff's position that she has already appealed that decision, and the Ontario Court of Appeal has already overturned this exact decision. Should the Honourable Court decide that jurisdiction of the Plaintiff's claim does lie with Court, it is the Plaintiff's position that this Order already exists in the Ontario Court of Appeal Order.

### **Abuse of Process**

78. The Plaintiff is having to defend a cause of action previously litigated based on the same evidence relied upon by the Defendants at the hearing of the February 13, 2019, motion.

[32] Although there are no cases directly on point in this jurisdiction, the general principles of abuse of process dictate that the agent in this case should not be required to defend a cause of action previously litigated. The safest question to ask is whether the same evidence is needed to support the issues in both cases. It would seem that the evidence would be the same: the same evidence will be presented to show that a negligent representation was made and the same evidence will be used to show that the plaintiff relied upon the representations to his detriment.

[\*Canam Enterprises Inc. v. Coles\*, 2000 CanLII 8514 \(ON CA\)](#), para. 32.

79. Only after the Defendants were unsuccessful at the Ontario Court of Appeal, and failing to deliver a Statement of Defence or Notice of Intent to Defend within the prescribed time, did they raise an alleged outstanding issue of jurisdiction.

...To lie in the weeds until the hearing of the application and assert such a right to stop the plan of arrangement is troubling indeed and not acting in good faith. Waiting and seeing how things are going in the litigation process before springing a new theory at the last moment is not to be encouraged.

[\*Re: Mid-Bowline Group Corp.\*, 2016 ONSC 669 \(CanLII\)](#), para. 59.  
*The Rules*, r. 18.01(1).

80. The Defendants are not acting in accordance with the Endorsement of Justice Doi to bring a Rule 59.06(1) motion. They have, on their own accord, brought a duplicate Rule 21.01(3)(a) motion to relitigate the same issue that was litigated on February 13, 2019, despite their correspondences

with the Plaintiff stating they intend to bring a Rule 59.06(1) motion, (for example, see para. 41 above).

81. The Order in effect in this proceeding is that of the Ontario Court of Appeal. If the Defendants seek to amend the Order in any particular on which the court did not adjudicate, the only legal avenue available to them at this time is to bring a Rule 59.06(1) motion before the Ontario Court of Appeal, in accordance with Rule 61.16(6.1).

82. Allowing the Defendants motion to succeed would render the effective Order of the Ontario Court of Appeal moot, and require the Plaintiff to file a new appeal resulting in an abuse of process and miscarriage of justice.

In all of its applications, the primary focus of the doctrine of abuse of process is the integrity of the adjudicative functions of courts. Whether it serves to disentitle the Crown from proceeding because of undue delays (see *Blencoe, supra*), or whether it prevents a civil party from using the courts for an improper purpose (see *Hunter, supra*, and *Demeter, supra*), the focus is less on the interest of parties and more on the integrity of judicial decision making as a branch of the administration of justice.

[\*Toronto \(City\) v. C.U.P.E., Local 79, 2003 SCC 63 \(CanLII\), \[2003\] 3 SCR 77\*](#), para. 43.

83. The Plaintiff attempted to prevent the unnecessary expense of this duplicate motion in her April 27, 2020, letter to the Defendants, see para. 40.

84. The Defendants seek an Order extending the time limits to file their Statement of Defence, yet it is evident that they have spent a tremendous amount of time preparing the 755 pages of submissions for the parallel proceeding they instigated and have had ample opportunity to prepare a Statement of Defence since the Plaintiff first filed her Statement of Claim in May, 2018.

Affidavit of Kelly Donovan, *supra*, at paras. 49 & 50, Exhibit N.

### **Public Interest**

85. The bringing of this Rule 21.01(3)(a) motion created an unnecessary delay and unnecessary cost to the Plaintiff and the public. The conduct of the Defendants towards the Plaintiff, since her resignation, does not reflect the Principles set out in the [\*PSA, section 1\*](#).

86. One very important aspect of this motion is the public interest aspect of the Defendants bringing a motion they knew, or ought to have known, could not succeed. The Defendants are public officers, whose litigation is entirely funded by public funds.
87. It is widely believed in the legal community that self-represented litigants have the potential of causing unnecessary delays and expense in civil litigation. In the case at bar, it is the Defendants who have caused unnecessary delays, parallel proceedings, failed to meet the prescribed time limits for filing their Statement of Defence without reason, and failed to follow direction given in Justice Doi's April 20, 2020, Endorsement. The Plaintiff has, at all times, acted professionally and respectfully towards the Defendants and this Honourable Court.
88. Following the Plaintiff's resignation, up until September, 2020, the Organizational Defendant has paid \$386,068.97 of public funds for legal fees against the Plaintiff, (inclusive of the \$7,500 cost award, plus interest, paid to the Plaintiff following the Court of Appeal appearance). These legal expenses grew exponentially once the Organizational Defendant filed their retaliatory proceeding at the HRTO.

*Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, s. 4(1).*  
Affidavit of Kelly Donovan, *supra*, at paras. 73 & 74, Exhibit W.

89. The Plaintiff has been self-represented since filing her claim. The amount of legal fees paid by the Organizational Defendant goes to show how much time and effort the Plaintiff has had to commit to this litigation. The Plaintiff has had to forgo opportunities to replace her income in order to research and prepare legal material, and the mental stress of living in a constant state of excessive litigation and oppression has caused the Plaintiff, and her family, additional harm.

Affidavit of Kelly Donovan, *supra*, at paras. 48, 50, 72, 75, 78, 80 – 84, 91 & 94, Exhibit N.

90. The Defendants have all sworn an Oath or Affirmation to discharge their duties according to law. It is a matter of public interest that these public officers deliberately engaged in unlawful conduct

by failing to abide by the terms of the Resignation Agreement, instigated a retaliatory parallel proceeding and have brought a vexatious action to harass and oppress the Plaintiff.

[Police Services Act, R.S.O. 1990, c. P.15, O. Reg. 268/10: GENERAL, s. 1.](#)  
[Re Lang Michener et al. and Fabian et al., \(1987\) 1987 CanLII 172 \(ON SC\)](#)

91. The Defendants have spoken publicly about their understanding of PTSD and the need for treatment, yet took deliberate action, contrary to their Oath of Office, to cause the Plaintiff harm.

Affidavit of Kelly Donovan, *supra*, at paras. 41 – 43, 85 – 90, and Exhibits I, J, K, X and Y.

### **The Factual Issues Not In Dispute**

92. The Defendants do not dispute the content of the Personal Defendant’s Affidavit filed in defence of the class action lawsuit, or the release signed by the Defendants in the Resignation Agreement.

Affidavit of Laura Freitag, *supra*, Exhibit H.

93. The Defendants do not dispute that the Plaintiff’s WSIB claim was in place prior to her resignation and that on January 11, 2018, the Organizational Defendant filed a “Notice to Object” form to the WSIB to appeal the Plaintiff’s eligibility for benefits under the WSIA.

Affidavit of Laura Freitag, *supra*, Exhibits B & D.

Affidavit of Kelly Donovan, *supra*, at paras. 36 – 39, and Exhibits G & H.

94. The Defendants have publicly admitted to knowing about the PTSD presumption written into the Workplace Safety and Insurance Act, 1997, S.O. 1997, c. 16, Sched. A. The Defendants also acknowledged, prior to the Plaintiff’s resignation, that she had been exposed to a traumatic incident during her recruit training. Despite the foregoing, they still challenged whether or not the Plaintiff’s PTSD diagnosis resulted from her employment as a first responder.

Affidavit of Kelly Donovan, *supra*, at paras. 40 – 43, 85, and Exhibits I, J, K, & X.

[Workplace Safety and Insurance Act, 1997, as amended, Sections 2\(1\), 13, 14](#)

95. It has been 2 years and 9 months since the Plaintiff first filed her Claim. The Defendants have had full opportunity to argue their positions, especially considering the public funds already dispensed towards this litigation, as explained at paragraph 88, and their failure to deliver a Statement of Defence within the prescribed timeframe. There are no genuine issues requiring a trial.

[66] The Superior Court has the authority to construe the Rules of Civil Procedure liberally in order to achieve the most just, most expeditious, and least expensive result: R. 1.04(1); R. 37.13(1) and 37.13(2)(a); *Hryniak*. In my view this is the most just, expeditious, and proportionate result of this motion. For Kumon, it settles the main issue without the time and expense of a trial. For Ms. France it saves her the significant costs of a trial (including the costs of the opposing party) only to lose, but still recognizes that her claim has at least some validity in one area.

[France v. Kumon, 2014 ONSC 5890 \(CanLII\)](#), para. 66.

96. This is a straightforward, document-driven case in which the evidence is limited and not contentious. There is no evidence, not already before the Court, which will be available for trial.

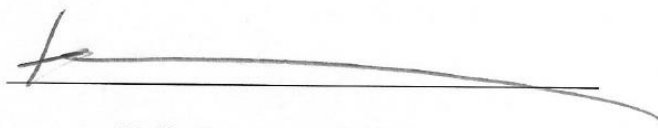
[Sweda Farms Ltd. v. Egg Farmers of Ontario, 2014 ONSC 1200, para. 33.](#)

#### **PART IV - ORDER REQUESTED**

97. Based on the foregoing, the Plaintiff seeks:

- a. An Order dismissing the Defendants' motion on the basis that the action is frivolous, vexatious and/or an abuse of process;
- b. An Order that the Defendants' motion be converted into a motion for judgment in favour of the Plaintiff, in accordance with Rule 37.13(2)(a);
- c. In the alternative, an Order that this proceeding be placed forthwith on a list of cases requiring speedy trial, in accordance with Rule 37.13(1)(a);
- d. An Order for costs of this hearing on a substantial indemnity basis fixed and payable to the Plaintiff within 30 days; and
- e. Such further and other relief as this Honourable Court deems just.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of February, 2021.



Kelly Donovan, Self-Represented

## SCHEDULE A – LIST OF AUTHORITIES

\* Authorities are hyperlinked throughout the Factum as well.

1. [\*Donovan v. Waterloo Regional Police Services Board\*, 2019 ONSC 1212.](#)
2. [\*Donovan v. Waterloo Regional Police Services Board\*, 2019 ONCA 845.](#)
3. [\*Power Tax v. Millar, Dioguardi\*, 2013 ONSC 135.](#)
4. [\*Donovan v. \(Waterloo\) Police Services Board\*, 2019 ONSC 818.](#)
5. [\*Lantin et al v. Seven Oaks General Hospital\*, 2019 MBCA 115.](#)
6. [\*Danyluk v. Ainsworth Technologies Inc.\*, 2001 SCC 44 \(CanLII\), \[2001\] 2 SCR 460.](#)
7. [\*Minott v. O'Shanter Development Company Ltd.\*, 1999 CanLII 3686 \(ON CA\).](#)
8. [\*Foster v. Reaume\*, 1926 CanLII 416 \(ON CA\).](#)
9. [\*Massiah v. Justices of the Peace Review Council\*, 2018 ONSC 2179.](#)
10. [\*Anderson v. Tasco Distributors\*, 2011 ONSC 269 \(CanLII\).](#)
11. [\*Skof v. Bordeleau\*, 2020 ONCA 729.](#)
12. [\*Canam Enterprises Inc. v. Coles\*, 2000 CanLII 8514 \(ON CA\).](#)
13. [\*Re: Mid-Bowline Group Corp\*, 2016 ONSC 669 \(CanLII\).](#)
14. [\*Toronto \(City\) v. C.U.P.E., Local 79\*, 2003 SCC 63 \(CanLII\), \[2003\] 3 SCR 77.](#)
15. [\*Re Lang Michener et al. and Fabian et al.\*, \(1987\) 1987 CanLII 172 \(ON SC\).](#)
16. [\*France v. Kumon\*, 2014 ONSC 5890 \(CanLII\).](#)
17. [\*Sweda Farms Ltd. v. Egg Farmers of Ontario\*, 2014 ONSC 1200.](#)

## SCHEDULE B – RELEVANT STATUTES

\* Listed in order of their appearance in the Factum, (all are hyperlinked in the Factum).

*Police Services Act, R.S.O. 1990, c. P.15*

### **Complaint may be made to Independent Police Review Director**

**58.** (1) Any member of the public may make a complaint under this Part to the Independent Police Review Director about,

- (a) the policies of or services provided by a police force; or
- (b) the conduct of a police officer. 2007, c. 5, s. 10.

### **Prohibition**

(2) Despite subsection (1), the following persons cannot make a complaint to the Independent Police Review Director:

1. The Solicitor General.
2. An employee in the office of the Independent Police Review Director.
3. A member or employee of the Commission.
- 4. A member or auxiliary member of a police force, if that police force or another member of that police force is the subject of the complaint.**
5. Repealed: 2009, c. 33, Sched. 2, s. 60 (1).
6. A member or employee of a board, if the board is responsible for the police force that is, or a member of which is, the subject of the complaint.
7. A person selected by the council of a municipality to advise another municipality's board under subsection 6.1 (2), if the board is responsible for the police force that is, or a member of which is, the subject of the complaint.
8. A delegate to a community policing advisory committee established under subsection 5.1 (4), if the community policing advisory committee advises the detachment commander of the Ontario Provincial Police detachment that is, or a member of which is, the subject of the complaint. 2007, c. 5, s. 10; 2009, c. 33, Sched. 2, s. 60 (1). **[emphasis added]**

*Courts of Justice Act, R.S.O. 1990, c. C.43*

### **Dismissal of proceeding that limits debate**

#### **Purposes**



**137.1** (1) The purposes of this section and sections 137.2 to 137.5 are,

- (a) to encourage individuals to express themselves on matters of public interest;
- (b) to promote broad participation in debates on matters of public interest;
- (c) to discourage the use of litigation as a means of unduly limiting expression on matters of public interest; and
- (d) to reduce the risk that participation by the public in debates on matters of public interest will be hampered by fear of legal action. 2015, c. 23, s. 3.

**Order to dismiss**

- (3) On motion by a person against whom a proceeding is brought, a judge shall, subject to subsection (4), dismiss the proceeding against the person if the person satisfies the judge that the proceeding arises from an expression made by the person that relates to a matter of public interest. 2015, c. 23, s. 3.

**Powers on appeal**

**134** (1) Unless otherwise provided, a court to which an appeal is taken may,

- (a) make any order or decision that ought to or could have been made by the court or tribunal appealed from;
- (b) order a new trial;
- (c) make any other order or decision that is considered just. R.S.O. 1990, c. C.43, s. 134 (1).

**Interim orders**

- (2) On motion, a court to which a motion for leave to appeal is made or to which an appeal is taken may make any interim order that is considered just to prevent prejudice to a party pending the appeal. 1999, c. 12, Sched. B, s. 4 (3).

**Power to quash**

- (3) On motion, a court to which an appeal is taken may, in a proper case, quash the appeal.

**Determination of fact**

- (4) Unless otherwise provided, a court to which an appeal is taken may, in a proper case,
  - (a) draw inferences of fact from the evidence, except that no inference shall be drawn that is inconsistent with a finding that has not been set aside;

**Same**

- (7) Where some substantial wrong or miscarriage of justice has occurred but it affects only part of an order or decision or some of the parties, a new trial may be ordered in respect of only that part or those parties. R.S.O. 1990, c. C.43, s. 134 (7); 1994, c. 12, s. 46 (2).

**Court of Appeal jurisdiction**

- 6** (1) An appeal lies to the Court of Appeal from,

- (a) an order of the Divisional Court, on a question that is not a question of fact alone, with leave of the Court of Appeal as provided in the rules of court;
- (b) a final order of a judge of the Superior Court of Justice, except an order referred to in clause 19 (1) (a) or an order from which an appeal lies to the Divisional Court under another Act;

Police Services Act, R.S.O. 1990, c. P.15

**Declaration of principles**

1 Police services shall be provided throughout Ontario in accordance with the following principles:

- 1. The need to ensure the safety and security of all persons and property in Ontario.
- 2. The importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*.
- 3. The need for co-operation between the providers of police services and the communities they serve.
- 4. The importance of respect for victims of crime and understanding of their needs.
- 5. The need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society.
- 6. The need to ensure that police forces are representative of the communities they serve. R.S.O. 1990, c. P.15, s. 1.

Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56

**Right of access**

4 (1) Every person has a right of access to a record or a part of a record in the custody or under the control of an institution unless,

- (a) the record or the part of the record falls within one of the exemptions under sections 6 to 15; or
- (b) the head is of the opinion on reasonable grounds that the request for access is frivolous or vexatious.

Police Services Act, R.S.O. 1990, c. P.15, O. Reg. 268/10: GENERAL

**OATHS AND AFFIRMATIONS**

**Member of the board**

1. The oath or affirmation of office to be taken by a member of the board shall be in one of the following forms set out in the English or French version of this section:

I solemnly swear (affirm) that I will be loyal to Her Majesty the Queen and to Canada, and that I will uphold the Constitution of Canada and that I will, to the best of my ability, discharge my duties as a member of the (*insert name of municipality*) Police Services Board faithfully, impartially and according to the *Police Services Act*, any other Act, and any regulation, rule or by-law.

So help me God. (*Omit this line in an affirmation.*)

**Police officer, etc.**

2. The oath or affirmation of office to be taken by a police officer, special constable or First Nations Constable shall be in one of the following forms set out in the English or French version of this section: I solemnly swear (affirm) that I will be loyal to Her Majesty the Queen and to Canada, and that I will uphold the Constitution of Canada and that I will, to the best of my ability, preserve the peace, prevent offences and discharge my other duties as (*insert name of office*) faithfully, impartially and according to law.

So help me God. (*Omit this line in an affirmation.*)

Workplace Safety and Insurance Act, 1997, S.O. 1997, c. 16, Sched. A

**Definitions**

2 (1) In this Act,

“worker” means a person who has entered into or is employed under a contract of service or apprenticeship and includes the following:

1. A learner.
2. A student.
3. An auxiliary member of a police force.
4. A member of a volunteer ambulance brigade.
5. A member of a municipal volunteer fire brigade whose membership has been approved by the chief of the fire department or by a person authorized to do so by the entity responsible for the brigade.
6. A person summoned to assist in controlling or extinguishing a fire by an authority empowered to do so.
7. A person who assists in a search and rescue operation at the request of and under the direction of a member of the Ontario Provincial Police.
8. A person who assists in connection with an emergency that has been declared by the Lieutenant Governor in Council or the Premier under section 7.0.1 of the *Emergency Management and Civil Protection Act* or by the head of council of a municipality under section 4 of that Act.
9. A person deemed to be a worker of an employer by a direction or order of the Board.
10. A person deemed to be a worker under section 12 or 12.2.

11. A pupil deemed to be a worker under the *Education Act*. (“travailleur”) 1997, c. 16, Sched. A, s. 2 (1); 1999, c. 6, s. 67 (2-4); 2002, c. 18, Sched. J, s. 5 (1); 2005, c. 5, s. 73 (2-4); 2006, c. 13, s. 4 (1); 2007, c. 3, s. 1; 2008, c. 20, s. 1; 2014, c. 10, Sched. 5, s. 1; 2017, c. 7, s. 6 (1).

### **Insured injuries**

**13** (1) A worker who sustains a personal injury by accident arising out of and in the course of his or her employment is entitled to benefits under the insurance plan. 1997, c. 16, Sched. A, s. 13 (1).

### **Posttraumatic stress disorder, first responders and other workers**

#### **Definitions**

**14** (1) In this section,

“police officer” means a chief of police, any other police officer or a First Nations Constable, but does not include a person who is appointed as a police officer under the *Interprovincial Policing Act, 2009*, a special constable, a municipal law enforcement officer or an auxiliary member of a police force; (“agent de police”)

#### **Presumption re: course of employment**

(6) For the purposes of subsection (3), the posttraumatic stress disorder is presumed to have arisen out of and in the course of the worker’s employment, unless the contrary is shown. 2016, c. 4, s. 2.

Court file no. CV-18-00001938-0000

**KELLY LYNN DONOVAN**

Plaintiff

**v. WATERLOO REGIONAL POLICE SERVICES  
BOARD, and BRYAN LARKIN**

Defendants

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**Ontario  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT BRAMPTON

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**FACTUM OF THE RESPONDING PARTY**

**(Returnable February 22, 2021)**

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