

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN

Sean von Dehn

Plaintiff, Moving Party

And

The City of Ottawa, Sana Abou-Arraj, Christine Amaro and Celia North

Defendants, Respondents

---

**MOTION RECORD**

---

Date: October 5th, 2021.

Sean von Dehn  
King Sean, House von Dehn,  
Hand of Stephen,  
Kingdom of God,  
3-396 Kent Street,  
Ottawa, Ontario,  
K2P2B2

Email: [gnosticwisdom37@gmail.com](mailto:gnosticwisdom37@gmail.com)

Private counsel for plaintiff

To: The City of Ottawa,  
110 Laurier Ave West,  
Ottawa, Ontario,  
K1P1J1  
Jeremy Wright,  
LSO No.:29351D  
Telephone: (613)580-2424 Ext. 12813  
Fax: (613)560-1383  
Counsel for the Defendants, Respondents

---

## INDEX

---

INDEX	INDEX
Introduction and Overview	Tab 0
Notice of Ex-Parte Motion (Court Form)	Tab 1
Service of Notice by Way of Email - Ex-Parte Motion to Court	Tab 2
Moving Party's Ex-Parte Motion to the Court	Tab 3
Plaintiff's Email Motion (Affidavit to Court)	Exhibit E
Respondent's Email Letter to Court	Exhibit A
Plaintiff's Opposition Email to Court	Exhibit B
Court Responds to Plaintiff	Exhibit C
Court does not Reply to Respondent	Exhibit D
Court's Email Reply to Moving Party's Ex-Parte Motion	Tab 4
Email Response and Court Direction	Exhibit F
Notice of Motion is Served on the Respondent	Exhibit G
Conclusion	Tab 5
Order Requested	Tab 6
Applicable Rules of the Court	Tab 7
Relative Authorities of Law	Tab 8
Statement of Claim	Tab 9
Sally Gomer's Endorsement	Tab 10

## **Introduction and Overview:**

**Tab 0.**

This Motion Record is a chronological account of the Facts regarding this Motion to Vacate the Order made by Justice Gomery, beginning with the My ex-parte Notice of Motion to the Court, to the time I was instructed by the Court to serve Notice of this Motion upon the Respondents, and Our subsequent email exchanges leading up to the time of the Respondent's filing of materials with the Court in opposition of this Motion.

This Motion Record is a Statement of the Facts the Respondent's were charged with opposing in their Motion materials, and the exhibits in this Motion Record are the official Exhibits on this Court of Record related to this Motion. for ease of reference as cited in the Reply Factum.

**Notice of Ex-Parte Motion (Court Form)**

**Tab 1.**

**Service of Notice by Way of Email - Ex-Parte Motion to Court**

**Tab 2.**

**Moving Party's Ex-Parte Motion to the Court (Exhibit E)**

**Tab 3.**

**Exhibit E**

**Plaintiff's Email Motion (Affidavit to Court):**

**Exhibit A**

**Respondent's Email Letter to Court**



**Exhibit B**

**Plaintiff's Opposition Email to Court**

**Exhibit C**

**Court Responds to Plaintiff**

**Exhibit D**

**Court does not Reply to Respondent**

**Court's Email Reply to Moving Party's Ex-Parte Motion (Exhibit F) Tab 4.**

## **Email Response and Court Direction**

### **Exhibit F**

**Notice of Motion is Served on the Respondent**

**Exhibit G**

## **Conclusion**

**Tab 5.**

The Respondent's would like the Court to believe that there is nothing to see here. They suggest that a request to dismiss under Rule 2.1.01(6) was filed with the Registrar as provided for by the Rules - this is simply not True.

The Court of Record Will Show that no materials of any kind were filed by defense counsel on June 22nd, and the Court responded to the email letter request cited in the Respondent's affidavit to advise the moving party that the Respondent's request was not being considered by the Court because no request had been filed with the Registrar (specifically).

The endorsement made by Sally Gomery was not sanctioned by the Court. It was a deal made in private between defense counsel and the justice that the Court knew nothing about.

While defense counsel suggests their conduct and actions are provided for 'by the Rules', the Truth is that defense counsel violated Rule 1.09 in their initial pleading to the Court, and showed complete contempt for the specific direction provided by the Court regarding their email letter request, and how to properly file that request with the Registrar.

Rather than take the email direction from the Court to file a Motion with the Registrar for summary process under Rule 2.1.01(6), the Respondent chose to privately petition Justice Gomery by providing a portion of the facts favourable to their position, and in violation of the Rules of the Court.

Privately petitioning the Courts provides a serious advantage to a party to a proceeding, especially when the party has as much socio-economic influence as the City of Ottawa.

Please also note that no new materials have been added since this Notice was served upon the Respondent, all Rules of the Court and Case Law or public facing authorities in this Motion Record are the same as they were Presented to the Court in My original Motion materials.

## **Order Requested**

**Tab 6.**

The Order requested is the same as the draft Order sent to the Court with My initial email Motion to Vacate the Order made by Justice Gomery, and to recuse or suspend Justice Gomery from all further adjudication regarding case file CV-21-86803 for conflict of interest. I have also requested that the Respondents be Noted in Default and that these proceedings be stayed until appropriate legal counsel can be appointed to the city of Ottawa so that their clients have equal opportunity to a fair and impartial hearing, and are not further harmed by the contempt of Court Rules and negligence demonstrated by the legal counsel afforded to them by the City of Ottawa.

A clean draft Order Will be filed with this Motion Record, the Reply Factum, and Notice of Motion for Your convenience.



**Communications out of Court**

**1.09** When a proceeding is pending before the court, no party to the proceeding and no party's lawyer shall communicate about the proceeding with a judge or associate judge out of court, directly or indirectly, unless,

- (a) all the parties consent, in advance, to the out-of-court communication;  
or
- (b) the court directs otherwise. O. Reg. 132/04, s. 2; O. Reg. 438/08, s. 66; O. Reg. 711/20, s. 2; O. Reg. 383/21, s. 15.

**RULE 2 NON-COMPLIANCE WITH THE RULES**

**Effect of Non-Compliance**

**2.01** (1) A failure to comply with these rules is an irregularity and does not render a proceeding or a step, document or order in a proceeding a nullity, and the court,

- (a) may grant all necessary amendments or other relief, on such terms as are just, to secure the just determination of the real matters in dispute;  
or
- (b) only where and as necessary in the interest of justice, may set aside the proceeding or a step, document or order in the proceeding in whole or in part. R.R.O. 1990, Reg. 194, [r. 2.01 \(1\)](#).

(2) The court shall not set aside an originating process on the ground that the proceeding should have been commenced by an originating process other than the one employed. R.R.O. 1990, Reg. 194, [r. 2.01 \(2\)](#).

**RULE 2.1 GENERAL POWERS TO STAY OR DISMISS IF VEXATIOUS, ETC.**

## **Stay, Dismissal of Frivolous, Vexatious, Abusive Proceeding**

### ***Order to Stay, Dismiss Proceeding***

**2.1.01** (1) The court may, on its own initiative, stay or dismiss a proceeding if the proceeding appears on its face to be frivolous or vexatious or otherwise an abuse of the process of the court. O. Reg. 43/14, s. 1.

### ***Summary Procedure***

(2) The court may make a determination under subrule (1) in a summary manner, subject to the procedures set out in this rule. O. Reg. 43/14, s. 1.

(3) Unless the court orders otherwise, an order under subrule (1) shall be made on the basis of written submissions, if any, in accordance with the following procedures:

1. The court shall direct the registrar to give notice (Form 2.1A) to the plaintiff or applicant, as the case may be, that the court is considering making the order.
2. The plaintiff or applicant may, within 15 days after receiving the notice, file with the court a written submission, no more than 10 pages in length, responding to the notice.
3. If the plaintiff or applicant does not file a written submission that complies with paragraph 2, the court may make the order without any further notice to the plaintiff or applicant or to any other party.
4. If the plaintiff or applicant files a written submission that complies with paragraph 2, the court may direct the registrar to give a copy of the submission to any other party.
5. A party who receives a copy of the plaintiff's or applicant's submission may, within 10 days after receiving the copy, file with the court a written submission, no more than 10 pages in length, responding to the plaintiff's

or applicant's submission, and shall give a copy of the responding submission to the plaintiff or applicant and, on the request of any other party, to that party. O. Reg. 43/14, s. 1.

(4) A document required under subrule (3) to be given to a party shall be mailed in the manner described in subclause 16.01 (4) (b) (i), and is deemed to have been received on the fifth day after it is mailed. O. Reg. 43/14, s. 1.

*Copy of Order*

(5) The registrar shall serve a copy of the order by mail on the plaintiff or applicant as soon as possible after the order is made. O. Reg. 43/14, s. 1.

*Request for Order*

(6) Any party to the proceeding **may file with the registrar** a written request for an order under subrule (1). O. Reg. 43/14, s. 1.

*Notification of Court by Registrar*

(7) If the registrar becomes aware that a proceeding could be the subject of an order under subrule (1), the registrar shall notify the court. O. Reg. 43/14, s. 1.

## Case Law Examples

1. (*Okwuobi, supra*, at paragraphs 45-48). - “Even where an administrative tribunal lacks jurisdiction to grant the **precise** remedy sought, if it nonetheless has sufficient authority to appropriately remedy the alleged breach, it is a court of competent jurisdiction and a claimant will be required to proceed before it.”
2. (*Ward, supra*, at paragraphs 25-31). - “**Damages** are available in appropriate cases where they would serve a “**functional**” purpose in remedying a Charter violation. This requires a claimant to demonstrate that damages would further one or more of the general objects of the Charter, including those of section 24(1), namely: compensation (remedying any personal loss the claimant has suffered); **vindication (importance of upholding Charter rights); and/or deterrence (of further breaches by state actors).**”
3. (*Singh v. Canada (Minister of Employment & Immigration)*, [1985] 1 S.C.R. 177 at page 222). - “Section 24(1) does not extend the basic jurisdiction of the courts and tribunals; its applicability depends on a **jurisdictional basis external to the Charter itself.**”
4. (*Rahey, supra*, at pages 603-604; *R. v. Mills*, [1986] 1 S.C.R. 863, at page 956; *Weber v. Ontario Hydro*, [1995] 2 S.C.R. 929, at page 962; *Canada (Attorney General) v. McArthur*, [2010] 3 S.C.R. 626 at paragraph 14). - “The **superior courts of each province** have **constant and concurrent jurisdiction to hear section 24(1) applications** to ensure that there is **always a court of competent jurisdiction.**”
5. (*Doucet-Boudreau v. Nova Scotia (Minister of Education)*, [2003] 3 S.C.R. 3 at paragraph 45) - “**They are the “default” courts of competent jurisdiction.**”

**Statement of Claim**

**Tab 9.**

**Sally Gomer's Endorsement**

**Tab 10.**

