File No. SC-19-3748 and
SC-19-2979
Consolidated Claim

SUPERIOR COURT OF JUSTICE

(TORONTO SMALL CLAIMS COURT)

BETWEEN:

Salman Abdulaziz

Plaintiff

-and-

Ryerson University

Defendant

Appearances:

Abdulaziz, S., Abdulaziz, representing himself

Murtha, S., and Mall, A. representing the defendant

Trial heard on March 8, April 25, May 9, June 22, June 24, June 28, August 10, and August 12, 2022.

REASONS FOR DECISION

L. B. Wheatley, D.J.:

Introduction

This is a claim for damages based on a dispute between the plaintiff and the defendant. The plaintiff is Salman Abdulaziz [Abdulaziz] and is a former part-time employee of the Fashion Zone at Ryerson University. The defendant is Ryerson University [Ryerson][1] a

[1] In April 2022, Ryerson University changed its name to Toronto Metropolitan University. For the purposes of this decision, I will use Ryerson University as that was the name of the institution at the relevant time, except when I refer to some witnesses' current position, I will refer to Toronto Metropolitan University.

post-secondary institution in Toronto, Ontario. Abdulaziz is claiming $25,000.00. No pre-judgment interest is claimed.

History

Abdulaziz originally commenced two actions. SC-19-2979 was brought against Seneca College and 2 personal defendants. The original claim was issued on March 15, 2019. An Amended Claim was issued on April 29, 2019.

SC-19-3748 was brought against Ryerson and 9 personal defendants. The original claim was issued on April 2, 2019. SC-19-3748 was amended at least 5 times. The most recent claim in SC-19-3748 was issued on December 2, 2019 and has 23 pages. That is the version of the claim before me at trial. At a motion heard on October 31, 2019, Deputy Judge De Lucia ordered that there would be no further amendments of pleadings without leave of the court. On December 20, 2019, Deputy Judge De Lucia made a further order stating that further to his order of October 31, 2019, it has come to his attention that Abdulaziz has filed a further amended claim on December 2, 2019, and the defendants attempted to file a further amended defence after December 2, 2019, but were denied the filing. Deputy Judge De Lucia granted leave to the defendant to file its amended defence by January 31, 2020. The costs of the motion before Deputy Judge De Lucia were reserved to the trial judge.

A settlement conference was held for both actions on June 5, 2019. At that settlement conference, Deputy Judge Anschell ordered that Abdulaziz is to serve and file an amended claim consolidating both actions into SC-19-3748.

On February 19, 2020, a trial management case conference of the consolidated action was heard. Deputy Judge Twohig ordered that all parties except Ryerson were disposed of by the amended claim filed October 15, 2019. Therefore, the only remaining defendant in the consolidated action is Ryerson. A trial date was set for April 28, 2020. However, that trial date was vacated due to the COVID-19 pandemic.

Preliminary Issues

An issue about the amount claimed arose on the first day of trial. Abdulaziz wanted to claim $35,000.00 but the claim form only claims $25,000.00. The amount of $35,000.00 is mentioned in the body of the claim, but I determined that is not sufficient to amend the claim from $25,000.00 to $35,000.00. The amount claimed is $25,000.00.

In paragraphs 53 to 64 of the claim, Abdulaziz requests a variety of remedies. On the first day of trial, I clarified that the jurisdiction of this court is limited to actions for the payment of money and actions for the recovery of personal property where the amount claimed does not exceed the prescribed amount [Section 23 of the *Courts of Justice Act,* R.S.O.1990, c.43]. Therefore, in this action the claim is for $25,000.00 in damages plus costs. The remedies requested in paragraphs 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, and 64 are not within the jurisdiction of this court.

There were 8 days of trial. On May 9, 2022, the third day of trial, Abdulaziz requested that the trial be adjourned to allow him to seek legal advice. The defendant took no position on the request of Abdulaziz. I granted the adjournment request.

On June 22, 2022, the fourth day of trial, at 9:30 a.m., I was advised that the action may have been resolved. I adjourned the matter until 1:00 p.m. At 1:00 p.m., I was advised that the action was not resolved. Abdulaziz then requested an adjournment based on health reasons. The defendant objected to the adjournment request. I granted the request for the adjournment. I ordered Abdulaziz to pay the defendant costs of $500.00 forthwith for costs thrown away on June 22, 2022. On that day, Abdulaziz also made a motion that I recuse myself based on a reasonable apprehension of bias. For oral reasons given on the record, I denied the motion.

Witnesses and Evidence

There were 7 witnesses. Abdulaziz, Robert Ott [Ott], Phillip Walsh [Walsh], Kristopher De Napoli [De Napoli] and Tanya De Mello [De Mello] testified for Abdulaziz. There was a Summons to Witness issued to Ott. Andrea Romero [Romero] and Carey Barker [Barker] testified for Ryerson.

There were 24 exhibits. Exhibit 8 is a Documents Brief of the defendant dated May 21, 2019, with 88 tabs which was admitted subject to identification and proof. Exhibit 11 is a Documents Brief of the defendant dated May 9, 2019, with 45 tabs which was admitted subject to identification and proof. Exhibit 24 is the Supplementary Document Brief of the defendant with 8 tabs admitted subject to identification and proof. In Exhibits 8 and 11, not all the documents in the 88 tabs and 45 tabs, respectively, were admitted into evidence. The documents to which I refer in these reasons were all admitted as evidence. There were other documents in Exhibits 8 and 11 which were admitted as evidence, which are all identified in the record of this trial. Exhibit 24, Tab 5 was admitted as evidence.

I have considered the testimony of the witnesses and all the documents which were admitted as evidence. I also considered the Book of Authorities of the defendant dated August 11, 2022 with15 tabs and the article submitted by the plaintiff entitled "*What is the Role of Misfeasance in a Public Office in Modern Canadian Tort Law*?" By Erika Chamberlain (2009).

The trial was completed on August 10, 2022. Judgment was reserved to be delivered in writing. I apologize for the delay in delivering these lengthy reasons for judgment.

Abdulaziz's claim will be dismissed for the reasons set out below.

Issues

In his claim, Abdulaziz lists 14 potential causes of action on page 1 of his claim. They are:

1. Harassment, intimidation, bullying and retaliation
2. Breach of confidence
3. Breach and invasion of privacy
4. Defamation [slander and libel]
5. Civil conspiracy
6. Intentional infliction of nervous shock and mental distress
7. Negligence
8. Misfeasance
9. Intrusion upon seclusion
10. Unlawful interference with economic relations
11. Injurious falsehood
12. Public disclosure of private facts
13. Breach of *Occupational Health and Safety Act* [OHSA]
14. Breach of *Freedom of Information and Protection of Privacy act* [FIPPA]

The issues to be considered are whether there is liability under any of these causes of action, and if there is liability, what are the damages.

Facts

The employment contract

Abdulaziz worked at Fashion Zone from 2016 to 2017. Fashion Zone is a department at Ryerson. Abdulaziz was a Team and Community Relations Assistant. This was a part-time contract position.

In 2016, Romero was Director, Community and Business Development, the Fashion Zone. She has worked at Ryerson since 2013. Romero testified that the Fashion Zone

is part of a zone network at Ryerson. There are 10 zones on campus. Romero was involved with the Fashion Zone in 2016 and 2017. The zones help start-up businesses. Businesses can be accepted and given space to be part of the community as a member of a zone.

Abdulaziz was interested in full-time employment. Exhibit 9 is an e-mail thread from September 18 to 20, 2016 between Abdulaziz and Romero, about Abdulaziz's interest in full-time employment. Romero did not confirm the availability of full-time employment in the email. Abdulaziz testified that Romero had told him that after four months as a part-time employee there would be an opportunity for full-time employment. In cross-examination, Romero said she did not say there was a full-time position after four months. I accept Romero's testimony on this. I find that full-time employment was not available for Abdulaziz simply because he had worked for four months part-time.

Abdulaziz's position was not renewed in 2017. Exhibit 8, tab 1 is a letter to Abdulaziz from Olga Okhrimenko, Managing Director, Fashion Zone at Ryerson University dated June 7, 2017. The letter states that Abdulaziz's contract for the position of Team and Community Relations Assistant in the Fashion Zone department will not be renewed beyond June 30, 2017.

Exhibit 8, Tab 2 is a letter to Abdulaziz from Richard Lachman [Lachman], Director, Zone Learning, dated July 7, 2017. The letter stated that Abdulaziz's contract in the Fashion Zone ended on June 30, 2017. The letter stated that Abdulaziz was provided with three weeks notice that the contract would be ending, which was more than the legal requirement. However, the letter also states that Ryerson offered a one time, lump sum payment equivalent to one month pay to Abdulaziz. Ryerson asked Abdulaziz to sign a Release and Indemnity. Abdulaziz refused the payment as he refused to sign the Release and Indemnity.

Abdulaziz does not agree that his contract was terminated as of June 30th, 2017. He thinks the date is incorrect. He thinks the contract terminated on July 31, 2017. Exhibit 12 is a letter of reference to whom it may concern dated June 14, 2017, from Ana Rankovic, HR Front Desk Assistant, stating that Abdulaziz was employed at Ryerson on

a contract basis as a Temporary Assistant in the Office of the Provost and Vice President Academic from May 1, 2017 to July 31, 2017. The letter further states that Abdulaziz has been holding contracts with Ryerson since May 30, 2016. There is no mention of Fashion Zone in this letter. Abdulaziz testified that he did not have any other positions at Ryerson at that time. His interpretation of other contracts is that they were contract extensions. Abdulaziz testified that he believes that he was given a false contract expiry. He was told that June 30, 2017, was his last day of work. Abdulaziz says that his last day of work was July 31st, 2017. I find on a balance of probabilities that Abdulaziz's contract as a Team and Community Relations Assistant in the Fashion Zone ended on June 30, 2017. The preponderance of evidence supports that date. Also, although Abdulaziz believes that this is an important contradiction, I do not believe anything turns on whether the contract ended on June 30, 2017, or July 31, 2017.

Exhibit 4 is a letter from Lachman, dated August 8, 2017. The letter confirms that Abdulaziz will be paid $13 per hour for 96 hours [$1,248.00] representing payment for 24 hours per week for the month of July. It was a one time lump sum payment and was to be issued on the pay date of August 25, 2017. Abdulaziz confirmed in his testimony that he received the payment referred to in this letter. Abdulaziz stated that this payment was to complete the contract which ended July 31, 2017. Abdulaziz declined to sign a release.

<u>After the employment contract ended and employment at Style Minions</u>

After Abdulaziz's contract was not renewed, Romero testified that she thought that Abdulaziz did not take it well that his contract was not renewed. Abdulaziz found employment with a start-up business called Style Minions. Abdulaziz joined the Style Minions team in August 2017. Style Minions is in the Ryerson Zone Learning Network but was not associated with Ryerson. Romero stated that Abdulaziz continued to contact her even though he was no longer an employee at Fashion Zone. Abdulaziz contacted Romero in person and by e-mail. He approached her most frequently in person. Abdulaziz asked her about his contract with Fashion Zone and why it was not renewed. Romero stated that Abdulaziz would approach her in the Fashion Zone public space and talk about Style Minions and then ask about employment at Ryerson.

Romero knew that Abdulaziz wanted a full-time position in the Fashion Zone. When approached, Romero would often ignore Abdulaziz. Abdulaziz was making her feel uncomfortable. Romero described Abdulaziz as persistent. Romero contacted Ott by e-mail for advice.

Ott was Chair, School of Fashion, Director, The Suzanne Rogers Fashion Institute and Director, Fashion Zone at the time. Exhibit 11, Tab 11 is an e-mail thread from April 18, 2018, to April 24, 2018. On April 18, 2018, Romero wrote to Ott. Romero reported that she found herself uneasy and uncomfortable speaking to Abdulaziz about any matters unrelated to Style Minions. The first two paragraphs of Romero's e-mail of April 18, 2018, state:

> I want to update you on the ongoing dialogue with Salman Abdulaziz. As you may know, he joined the StyleMinions {sic} team back in August of 2017, shortly after his release from the Fashion Zone.
>
> On numerous occasions, he has approached me to speak of personal issues which include employment consideration for the Fashion Zone. Most recently when news broke that Angelique joined the team, he emailed me a few times to speak, and when I did not get back to him, he bluntly interrupted me at work, asking to talk with him about an urgent matter. I asked him if it was StyleMinions {sic} related he said yes, but when I spoke to him, it was clear that his intentions were directed as to why he was not selected and reasons he should be considered for future opportunities.

Romero testified that this e-mail accurately reflects that she felt uncomfortable and borderline unsafe. Romero was working at the Fashion Zone in 2018. Ott was her direct supervisor. In cross-examination, Romero elaborated on what she meant by a blunt interruption. Romero stated that she was working, and Abdulaziz approached her and said I need to speak to you right now. This was after Romero had ignored several emails from Abdulaziz. In cross-examination, Romero was asked if she and Ott were trying to manufacture an allegation to attack Abdulaziz. She answered no.

Ott testified that he took the email from Romero of April 18, 2018, seriously. Ott's concern was the well-being and safety of Romero. Ott explained that Romero had told him that the way Abdulaziz repeatedly asked about job opportunities disturbed her. Ott believed what Romero wrote. Therefore, Ott contacted Idahosa Adaghe [Adaghe]. At

the time, Adaghe was Abdulaziz's supervisor at Style Minions. Ott shared the concern of Romero and asked Adaghe to speak with Abdulaziz. Ott wanted Abdulaziz to stop talking to Romero about employment opportunities in the Fashion Zone. Ott concluded that Abdulaziz's conduct was inappropriate as it made Romero feel uneasy and unsafe.

Ott contacted Adaghe and spoke with him on the telephone on or about April 19, 2018. On April 24, 2018, at 10:25 a.m., Adaghe sent an email to Ott stating that he had spoken to Abdulaziz about Romero's concerns and that it was not Abdulaziz's intention to put Romero in this situation of being uncomfortable. On behalf of Style Minions, Adaghe apologized to Romero and Ott about this unfortunate incident. On April 24, 2018, at 4:16 p.m. Ott sent an email to Adaghe. Ott stated that it was inappropriate for Abdulaziz to suggest that Romero should not have felt uncomfortable, and that Ott would not tolerate any interaction leading to further concern.

Exhibit 21 is a letter from Abdulaziz to Adaghe dated April 23, 2018 [also at Exhibit 8, Tab24]. In that letter, Abdulaziz states that the claim of uneasiness made by Romero and shared by Ott contains errors, omissions, inaccuracy {sic} and inconsistency {sic} and details and information from the perspective of Abdulaziz. Abdulaziz wrote that Adaghe was welcome to send that letter to Ott.

Romero testified that after the intervention by Ott in April 2018, Abdulaziz continued to contact her by e-mail and in person.

Ott had tried to resolve this informally by asking Adaghe to speak with Abdulaziz. Ott stated that if a matter cannot be resolved informally, it must be escalated to formal procedures. Exhibit 8, Tab 32 [also Exhibit 20] is a letter dated July 26, 2018, from Ott to Style Minions to the attention of Adaghe. The letter is 3 1/2 pages long and details the concerns that Ott has had about Abdulaziz. Ott decided to revoke effective immediately Abdulaziz's privileges in the Fashion Zone, with regret. Abdulaziz was not to attend at the Fashion Zone or contact any Fashion Zone employee. Ott testified that he wrote this letter due to further incidents between Abdulaziz and Romero.

Human Rights Services and Human Resources at Ryerson

Abdulaziz contacted Human Rights Services at Ryerson. Exhibit 6 is an email thread between Abdulaziz and De Mello from May 2 to May 15, 2018. De Mello was the Director of Human Rights, Office of the Vice-president, Equity and Community Inclusion at Ryerson in 2018. In her email of May 15, 2018, De Mello confirmed that Human Rights Services does not have jurisdiction with respect to Abdulaziz's concerns. De Mello testified that she referred Abdulaziz to Human Resources because Abdulaziz's complaint did not fall under Human Rights jurisdiction and there was no prima facie case.

The Human Resources department at Ryerson became involved. Abdulaziz made a Human Resources complaint against Romero. Abdulaziz had a meeting with a Human Resources consultant. In Exhibit 6, on May 15, 2018, Abdulaziz wrote to De Mello that he thought the Human Resources consultant was acting to protect his own manager and director rather than Abdulaziz.

Exhibit 8, Tab 30, is a letter to Abdulaziz from Milagros Sakuma [Sakuma], Senior Human Resources Consultant, Ryerson, dated July 19, 2018. The letter states that Ryerson investigated allegations of inappropriate workplace conduct brought forward by Abdulaziz against Romero. The letter also states that Abdulaziz’s allegations against Romero were unsubstantiated. Sakuma stated that she met with Abdulaziz on May 15, 2018 and received Abdulaziz's letter dated May 25, 2018 [which is at Exhibit 8, tab 26]. The letter from Sakuma also states that Abdulaziz's behaviour and comments were unwelcome and made Romero feel uncomfortable. Ryerson formerly requested Abdulaziz to cease the behaviours displayed and communication described in the letter from Sakuma.

Abdulaziz wrote to Barker, who was then the Director of Human Resources Consulting Services at Ryerson, on August 14, 2018, [Exhibit 8, tab 38], stating that he believed that the Human Resources Department wrongfully claimed that he is reluctant to provide evidence, referring to the letter to Abdulaziz from Sakuma dated July 19, 2018 [Exhibit 8, Tab 30]. Abdulaziz wrote to Barker stating that he can provide evidence. In

an e-mail dated August 15, 2018, to Abdulaziz at Exhibit 8, Tab 38, Barker advised Abdulaziz that Ryerson has no legal relationship with Abdulaziz and that he had a full opportunity to provide any relevant information. Barker confirmed the matter is closed. Barker testified when she wrote the email in August 2018, Abdulaziz was not an employee of Ryerson. Abdulaziz was employed by Style Minions at the time and Barker stated that any complaints should be referred to that employer.

Romero was questioned by Human Resources. At the trial, Romero could not remember all the details of her interactions with Abdulaziz at the time of the investigation. However, in cross-examination, Romero said she sent a detailed timeline of all communication dates, times, and emails to Human Resources when they were doing their investigation. Exhibit 11, Tab 16 is an e-mail from Sakuma to Romero dated July 27th, 2018. Sakuma confirms that the investigation into allegations of workplace misconduct raised by Abdulaziz against Romero has been completed and closed. Sakuma also stated that Abdulaziz's behavior and communication towards Romero were inconsistent with Ryerson's Civility and Respect Policy.

Exhibit 8, tab 80 is a Field Visit Report dated February 19, 2019, prepared by an Occupational Health and Safety Inspector, and received by Barker. Barker confirmed that is her signature on the report. The report states that the purpose of the visit was to address a complaint issued to the Ministry of Labour. The complaint was in relation to an alleged improper harassment investigation conducted by the employer. The report found that the employer had fulfilled their obligation under the OHSA relating to the allegations discussed and no orders were issued. Barker testified that the Ministry of Labour complaint was forwarded to him and that he met with the investigator. In his final argument, Abdulaziz suggested that Barker fabricated her evidence with respect to her communications with the Occupational Health and Safety Inspector. There is nothing to support that allegation. I find Barker a credible evidence witness.

Exhibit 24, Tab 5, is an email dated December 10, 2018, from Richard Lachman, Director [Zone Learning] at Ryerson to Barker. Lachman wrote that Ryerson continues to work through a situation involving Abdulaziz. This email stated that Abdulaziz continued to reach out to Fashion Zone staff including them on emails and holiday

greetings. He wrote that some staff have suggested they are starting to feel unsafe about Abdulaziz's continued persistence and presence around the Ryerson community. Barker testified that Lachman was communicating his concern that Abdulaziz was communicating even after he was asked to stop.

Exhibit 10, is a guide to civility, creating a culture of respect at Ryerson and dealing with incivility in the workplace. It was last updated in November 2016. Despite the fact that Abdulaziz believes this is a key piece of evidence, it is not. The last two sections of the document on incivility by others towards employees and incivility by employees towards others do not support a finding that the Human Resources investigation conducted and concluded was improperly performed. It also does not affect the Human Rights investigation.

Access to the Fashion Zone

Exhibit 15 is an e-mail exchange between Abdulaziz and Ott. On July 26th, 2018, Ott wrote to Abdulaziz to notify him that effective immediately Abdulaziz's access to the Fashion Zone has been revoked. Ott wrote that Adaghe has been made aware of the decision and the reasons for it. Ott directed Abdulaziz to not attend at the Fashion Zone or contact any Fashion Zone employee. Abdulaziz sent an e-mail to Ott on August 16th, 2018, stating that his ability to conduct business and livelihood activities has been impacted by this decision. Ott testified that he did not reply to this email of August 16, 2018, as Ott's email of July 26, 2018, advised Abdulaziz to direct all questions to his supervisor, Adaghe.

Romero testified that after July 26, 2018, Abdulaziz was still harassing her and would not keep the conversations only to the subject of Style Minions. Abdulaziz continued to contact her and to contact other individuals about her.

Abdulaziz contacted Seneca College [Seneca] where Romero was also working. In early 2019, Romero's chair at Seneca, Gitta Hansen, called Romerio in and showed her letters from Abdulaziz and from the Human Resources representative at Seneca. The letters from Abdulaziz said that Romero acted inappropriately against Abdulaziz. This caused Romero a lot of stress. Romero testified that it hurt her personally and

professionally. After January 2019, Abdulaziz continued to contact Romero. He called her on her personal phone and emailed her. Exhibit 8, Tab 69 is an e-mail from Abdulaziz to Romero dated January 17th, 2019. It is addressed to Romero's Seneca College e-mail address. Abdulaziz admitted he was trying to contact Romero in cross-examination, although he did not recall any phone calls to Romero after July 26, 2018. Exhibit 8, tab 73 is an e-mail from Abdulaziz to Romero at her Seneca College e-mail address dated January 21, 2019. In this e-mail he states that Romero made false allegations against him. This is another example of Abdulaziz reaching out to Romero after he was directed not to. The communication became constant and invasive, according to Romero. In cross examination, Romero said she was concerned about her physical safety. Romero ignored the emails but when Abdulaziz called her, she picked up not knowing it was him. She asked him not to call her again. Romero stated that every time Abdulaziz contacted her, she contacted campus security. Campus security referred Romero to the police. I find Romero's testimony credible.

On August 20, 2018, Abdulaziz wrote to Mohamed Lachemi [Lachemi], President and Vice Chancellor, Ryerson, by email [Exhibit 17]. The email stated that several Ryerson employees had engaged in negligence, defamation, and malice to make it appear that Abdulaziz was guilty of incivility and harassment. Abdulaziz sent a second email to Lachemi on August 20, 2018, attaching notes and evidence [Exhibit 18]. Abdulaziz asked for Lachemi's assistance. According to Abdulaziz, Lachemi did not respond to his emails.

Abdulaziz wrote an e-mail to Ott on August 26th, 2018. This e-mail as at Exhibit 11, Tab 18. Abdulaziz wrote that it is his position that the matter of the complaint by Romero had been mishandled by different employees at Ryerson. Abdulaziz maintains that the allegations made against him by Romero are false and that Romero and Ott made defamatory, malicious, and false allegations against Abdulaziz.

Exhibit 8, Tab 45 is a letter dated August 28, 2018, from Alexander D. Pettingill of Thomas, Gold, Pettingill, to Abdulaziz. Thomas, Gold, Pettingill was retained by Ryerson with respect to ongoing correspondence and communications about Abdulaziz's prior employment with the Fashion Zone. The letter states that Abdulaziz's

Fashion Zone privileges were revoked, and that Abdulaziz was no longer permitted to attend B2 level of 10 Dundas St. East, where the Fashion Zone is located. Abdulaziz was understandably upset by the letter of Pettengill. There was nothing inappropriate about that letter.

Contract with Walsh and Access to Ryerson

In 2019, Walsh was associate Dean, Faculty and Academic [Interim], Ted Rogers School of Management. Walsh hired Abdulaziz in 2019 to do case study research. In 2019, De Napoli was Senior Human Resources Consultant at Ryerson. In mid-April 2019, De Napoli contacted Walsh. He understood from Barker that there were some restrictions on Abdulaziz, and he was to confirm the type of work Abdulaziz was doing for Walsh. Walsh confirmed that Abdulaziz was working for him. De Napoli asked if Abdulaziz was required to attend the campus to perform the work. De Napoli confirmed the start and end date of the contract, and that Abdulaziz was not required to attend campus to perform the work. De Napoli provided the information to Barker. Abdulaziz had to meet with Walsh off-campus. Walsh testified that De Napoli had advised him that Abdulaziz had no access to the Ryerson campus. The contract was completed [see Exhibit 3, emails between Walsh and Abdulaziz dated May 3, 2019]. Walsh testified that he had expressed that he and Abdulaziz could do future work together. However, he also testified that he did not recall there being an opportunity for other work.

Charge of Criminal Harassment, no conviction

Exhibit 8, Tab 88 is an email dated March 12, 2019, from Mark Baird, Detective Constable, Toronto Police Service. This email confirms that Abdulaziz was arrested and charged with criminal harassment on March12th, 2019 and was released on condition that he not communicate with Romero, that he not communicate with any employee of Ryerson, that he not attend anywhere within 500 meters of Romero, that he not be found within 100 meters of Ryerson and that he not be found within 100 meters of Seneca. I accept that agreeing to conditions upon release is not an admission of guilt.

There was no trial and no conviction. Romero had made the complaint. Romero testified that she thought the charges were eventually dropped as so much time had gone by.

Ott, Chair, School of Fashion

In the summons to Ott, Abdulaziz required Ott to bring with him the termination notice received by him in April 2018 when Ryerson removed him form the Chair, School of Fashion position and the email messages sent and received by Ott that contain the plaintiff's personal information. At the trial, Abdulaziz asked Ott if he brought the termination notice given to him. Ott testified that he was not terminated from his position as Chair, School of Fashion, and that therefore there was no termination notice. The termination notice requested in the summons does not exist. At the time of the trial, Ott was the Chair of the School of Image, Toronto Metropolitan University. Ott had been the Chair, School of Fashion from 2008 to June 30, 2018, a period of 10 years. After 10 years in the position, Ott thought it was appropriate for him to resign so he did as of July 1, 2018.

Abdulaziz testified that he believes that Ott was terminated from his position as Chair, School of Fashion for cause, although Abdulaziz did not specify any reasons for the alleged termination. Abdulaziz is convinced that there is a notice of termination. Exhibit 1 is a letter dated December 2, 2021, to Abdulaziz from Janine Strain, Analyst, Information and Privacy Commissioner of Ontario [IPC]. Abdulaziz had submitted a request pursuant to *FIPPA* to Ryerson for access to several records including the notice/termination notice that was received by Ott in April 2018 when he was removed from the position of Chair, School of Fashion. Ryerson had issued a decision which stated that there are 39 records in response to this request. Full access was granted to only one record, Record 36. The remaining records were denied in full pursuant to section 65 [6] of *FIPPA*. Abdulaziz appealed Ryerson's decision to IPC. The IPC analyst contacted Ryerson to clarify what records pertained to which part of the request. Ryerson provided the information that Records 38 and 39 related to the request with respect to the notice/termination notice that was received by Ott in April 2018. In the

letter of December 2, 2021, the IPC analyst stated that it was her preliminary view that the records in question, including Records 38 and 39, are excluded from the scope of *FIPPA,* and therefore the IPC had no jurisdiction to proceed with the appeal. The IPC analyst extended Abdulaziz the opportunity to provide written submissions explaining why he believe the appeal should proceed, by December 17, 2021, failing which she would assume that Abdulaziz no longer wished to proceed with the appeal and the file would be closed. Abdulaziz never received Records 38 and 39. In his testimony, Abdulaziz stated that his interpretation of the letter from the IPC is that Ryerson admitted a notice/termination notice existed in Records 38 and/or 39 and that Ott was terminated from his position. I cannot agree with that interpretation. As Records 38 and 39 were never released, it is not possible to know what Records 38 and 39 are. Abdulaziz jumped to a conclusion which is not supported by the evidence. Exhibit 1 does not establish that there was a notice of termination. This letter from the IPC analyst in no way provides evidence that Ott was terminated from his position. I find that Ott resigned from his position as Chair, School of Fashion.

Abdulaziz believes that Ott's termination was the motivation behind Ott's behaviour against Abdulaziz. This theory has no credence as Ott resigned from his position. Ott testified in cross examination that he had no animosity toward Abdulaziz.

Hiring Freeze

When Abdulaziz was questioning Ott, Abdulaziz asked if there was a hiring freeze at the Fashion Zone from June 2017 to March 2018. Ott answered that there was not a hiring freeze explicitly. Ott stated that they were working toward balancing the operating budget. Ott maintained that he did not issue a hiring freeze directly. Abdulaziz raised this issue because he alleged on Page 3, paragraph 1 of his claim that between June 2017 and March 2018, Fashion Zone did not hire any new employees and several former employees were not replaced. Abdulaziz believes that there was a hiring freeze at the Fashion Zone as Ott did not want Abdulaziz to be at the Ryerson Fashion Zone. There is no credible evidence that there was a hiring freeze. I find that Ott did not impose a hiring freeze at Fashion Zone.

Position of the Parties

It is Abdulaziz's position that he was improperly treated by Ryerson. He believes that Ott conspired against him because Ott was terminated from his position as Chair, School of Fashion in 2018. Abdulaziz believes that is that there was a clear and calculated attack against him after Ott was removed as Chair, School of Fashion. He believes that Ott and Romero had malicious intentions and conspired against him. There were complaints made by and against Abdulaziz and he believes that Ryerson handled them improperly resulting in penalties against him. The resolution of the complaints was not fair toward Abdulaziz.

It is the defendant's position that the claim arises from a single part-time employment contract that ended in 2017. The contract was not renewed. Abdulaziz started an obsessive campaign to get a position at Ryerson. Complaints were made by Abdulaziz that were unsubstantiated. Complaints were made against Abdulaziz that were substantiated and there were actions taken consequently. Ryerson did nothing improper in dealing with these complaints.

Law and Analysis

Causes of action

To be successful in an action, there has to be a specific cause of action. In his claim, Abdulaziz lists 14 potential causes of action. I will consider whether there is liability under any of these causes of action, and if there is liability, what are the damages. In

his final argument, he did not elaborate on these causes of action in any detail. He did refer me to page 1 of his claim.

Harassment, intimidation, bullying and retaliation

In *Merrifield v Canada (Attorney General)*, 2019 ONCA 205, the court concluded that the tort of harassment is not recognized in Ontario [paragraph 43]. Although in *Caplan v Atas*, 2021 ONSC 670, the court considered the tort of harassment in internet communications [paragraph 171]. There is no actionable tort of harassment in Ontario. This case before me is not a case for a new legal remedy.

There is no cause of action for bullying or intimidation. Retaliation is used in the human rights context and does not apply here and there is no actionable tort of harassment in Ontario. There is no cause of action under this heading.

Breach of confidence

Lac Minerals Ltd v International Corona Resources Ltd., 1989 2 S.C.R. 574 was a case involving confidential information about gold mining property that the defendant learned during negotiations with the plaintiff. It is a very different set of facts than the case at bar. It does set out the test for whether there has been a breach of confidence in paragraph 10. The test requires establishing three elements: that the information conveyed was confidential, that it was communicated in confidence and that it was misused by the party to whom it was communicated.

There is no evidence before me of information that should have been held in confidence, what it was, to whom it was released and that it was misused. There is no merit to a claim under this cause of action. Information was exchanged to deal with complaints by and against Abdulaziz, but none of this information would meet the test for establishing breach of confidence.

Defamation [slander and libel]

In *Lysko v Braley*, [2006] O.J. No. 1137 (ONCA), at paragraph 91, the court stated:

> Both courts and leading authors on the law of defamation repeatedly state that pleadings in defamation cases are more important than in any other class of actions. The statement of claim must contain a concise statement of the material facts. A summary of the necessary material facts to allege a complete cause of action for defamation is found in Patrick Milmo & W.V.H. Rogers, ed., *Gatley on Libel and Slander* 10 th ed. (London: Sweet & Maxwell Limited, 2003) at 806:
>
> > *These facts are the publication by the defendant*, the words published, that they were published of the claimant, (where necessary) the facts relied on as causing them to be understood as defamatory or as referring to the claimant and knowledge of these facts by those to whom the words were published, and, where the words are slander not actionable *per se*, any additional facts making them actionable, such as that they were calculated to disparage the plaintiff in an office held by him or that they have caused special damage.
> > [Emphasis added.]

In *Harvey v. Capital One*, 2019 CanLII 69716 (Small Claims Court) at paragraph 31, the court refers to the three part test for defamation, found in *Grant et al v. Torstar et al*, [2009] 3 SCR 640 at para. 28:

> …a plaintiff is required to prove three things to obtain judgment and an award of damages: (1) that the impugned words were defamatory, in the sense that they would tend to lower the plaintiff's reputation in the eyes of a reasonable person (2) that the words referred to the plaintiff and (3) that the words were published, meaning that they were communicated to at least one person other than the plaintiff.

If the plaintiff proves all three elements, the defendant must then advance a defence to escape liability.

At paragraph 33 of *Harvey v. Capital One*, *supra,* the court refers to the defence of justification:

> To succeed, a defendant must adduce evidence showing the statement was substantially true.

In *Khan v Canada (Attorney General)*, [2009] O.J. No. 715 at paragraph 27 it states if a statement is true then there can be no defamation.

In *Byrne v Maas*, [2007] O.J. No 457, at paragraphs 5 and 6, the court found that the process of complaint to and investigation by the police are covered by absolute privilege.

Qualified privilege may also be a defence to a claim of defamation. I quote from Canadian Tort Law, 12th Ed. (Linden, Feldthusen, Hall, Knutsen, Young), Chapter 14 Defamation, 14.03, Defences:

> Qualified privilege is a conditional immunity that attaches to certain occasions deemed to be of a lesser importance than those absolutely privileged. Speech communicated on an occasion of privilege is excused from liability if made without malice.
>
> This privilege is said to arise "where the person who makes [the] communication has an interest or a duty, legal, social, or moral, to make it to the person to whom it is made, and the person to whom it is so made has a corresponding interest or duty to receive it".**47** *Adam v. Ward*, [1917] A.C. 309 at 334, *per* Lord Atkinson. Adopted in *McLoughlin v. Kutasy*, [1979] S.C.J. No. 51, [1979] 2 S.C.R. 311 (S.C.C.).
>
> Another general description is that a publication is privileged when it is "fairly made by a person in the discharge of a public or private duty, whether legal or moral, or in the conduct of his own affairs, in matters where his interest is concerned".**48** *Toogood v. Spyring* (1834), 1 Cr. M. & R. 181, 149 E.R. 1044 at 1049-1050 (Exch.), *per* Parke B.

As stated above, pleadings in defamation cases are more important than in any other class of actions. Without proper pleading in the claim, the defendant cannot know the case it has to meet and properly defend the claim. In this action, the Plaintiff's Claim fails to specify the material facts necessary in a claim for defamation. The Plaintiff's Claim does not provide particulars about the nature of the alleged defamatory statements, who made them, to whom they were made and when, nor does it state what words were allegedly published. Therefore, the claim in defamation cannot succeed.

In his testimony and final argument, Abdulaziz did identify Romero's email of April 18, 2018, quoted above on page 8, [Exhibit 11, Tab 11], as being defamatory and containing misinformation. Abdulaziz was disturbed by this email. Even if this had been properly pled as the alleged defamatory statement, I would find that it was not

defamatory. Romero was communicating to her direct manager what she felt subjectively. There was no improper language. I find that Romero wrote a truthful statement about her concerns to Ott. Even if I found the email to be defamatory, the defences of truth and qualified privilege would apply. Romero was credible. Abdulaziz has suggested that this email was a fabrication and that Ott and Romero colluded after Ott was terminated from his position. Ott was not terminated from his position. There is no evidence of fabrication or collusion.

Abdulaziz also referred to the statement to the police which was made by Romero resulting in a charge against him of criminal harassment. Again, this was not properly pled in the Plaintiff's Claim, so a claim for defamation could not succeed. I do not have evidence of the exact words of the statement. And, in any event, the defence of absolute privilege would apply to a statement to the police

Civil conspiracy

The tort of civil conspiracy is discussed in *Khan v Canada (Attorney General)*, *supra*. At paragraph 30, the court referred to *Canada Cement LaFarge Ltd v British Columbia Lightweight Aggregate Ltd.*, [1983] 1 S.C.R. 452 and the requirement to plead the tort of civil conspiracy as set out in that case. At paragraph 31 the court found that the plaintiff had failed to plead the facts required for a civil conspiracy claim. In that case the plaintiff had failed to plead the particulars as to the identities of the parties and their relationship to each other, the agreement between the alleged conspirators, the purpose of the alleged conspiracy, details of the overt acts which are alleged to have been done by each alleged conspirator and particulars of the damage suffered.

The tort of civil conspiracy must be properly pled to allow the defendant to know the case against it. In this case, the Plaintiff's Claim does not plead the particulars of the identity of the parties, their relationship to each other, and the nature of the agreement between the alleged conspirators, details of the alleged conspiracy and the overt acts which were alleged to have been done. Therefore, the claim in civil conspiracy cannot succeed. Even if the tort of civil conspiracy had been properly pleaded, Abdulaziz has

failed to prove that there was a civil conspiracy on a balance of probabilities. Abdulaziz's theory that the motive for the conspiracy was the termination of Ott from his position collapsed as I found that the evidence showed on a balance of probabilities that Ott was not terminated from his position. Ott voluntarily left his position after serving for several years in that position. Ott and Romero were both credible witnesses. The steps Ott took after the complaint by Romero were appropriate as her manager. There was no civil conspiracy.

Intentional infliction of nervous shock and mental distress

The tort of intentional infliction of mental suffering is discussed in *Prinzo v. Baycrest Centre for Geriatric Care*, 2002 CarswellOnt 2263 (OCA). At paragraph 43 of that decision, the court sets out the test for the tort. The elements of the tort of intentional infliction of mental suffering are that the conduct must be flagrant and outrageous, the conduct must be calculated to produce harm and the conduct results in a visible and provable injury.

Abdulaziz has failed to establish the elements of the tort of intentional infliction of nervous shock and mental distress. I do not find that there is evidence of any flagrant and outrageous conduct. There is no evidence of conduct calculated to produce harm. There is no evidence of a visible and provable injury. There is no medical evidence at all. This cause of action is without merit.

Negligence

Mustapha v Culligan of Canada Ltd., 2008 SCC 27, is a leading case on the tort of negligence. At paragraph 3, the court stated:

> A successful action in negligence requires that the plaintiff demonstrate (1) that the defendant owed him a duty of care; (2) that the defendant's behaviour breached the standard of care; (3) that the plaintiff sustained damage; and(4) that the damage was caused, in fact and in law, by the defendant's breach.

In determining whether an action for negligence can succeed, the plaintiff must establish that the defendant owed him a duty of care, that the defendant's behaviour

breached the standard of care, that the plaintiff sustained damage and that the damage was caused by the defendant's breach. At the relevant time, Abdulaziz was not a student of Ryerson and he ceased being an employee of Ryerson in July 2017. The defendant's contract was not renewed. Other than not renewing his contract, the actions complained about by Abdulaziz occurred after he was no longer an employee of Ryerson. Abdulaziz did not state specifically that not renewing his contract was negligent. Ryerson may have owed him a duty of care as an employee up until the summer of 2017, but not after that.

Abdulaziz did not specify exactly which actions were allegedly negligent, except that he did suggest to Barker, in the cross-examination by Abdulaziz, that the investigation by the Human Resources department at Ryerson was negligent. I did not allow Barker to testify as an expert and give opinion evidence for reasons given by me on the record. Barker did not make any adverse comments about the investigation. Barker did say that every investigation is different and has different requirements depending upon the circumstances. The conclusions of that investigation were documented in the letter of July 19, 2018, to Abdulaziz from Sakuma [Exhibit 8, Tab 30]. Even if Ryerson did owe Abdulaziz a duty of care, Abdulaziz failed to prove what the standard of care was and that there was a breach of the standard of care. Abdulaziz would have had to prove what the standard of care was with respect to the actions that he alleges were negligent. To establish the standard of care and a breach of the standard of care, objective expert evidence is usually needed. There was no evidence, expert or not, about the appropriate standard of care. There was also nothing to establish that there was a breach of the standard of care by the defendant. There was also no evidence of damages.

Misfeasance

In *Freeman-Maloy v York University*, [2005] O.J No. 1730, the issue was whether the president of York University was a holder of public office. As the court found that the president was not a holder of public office, the plaintiff's claim against the president for misfeasance in public office could not succeed. At paragraph 8, the court said the tort of misfeasance in public office can only be committed by a public body or person who was

exercising power over a citizen. To establish misfeasance in public office, the public officer must have engaged in deliberate and unlawful conduct in his capacity as a public officer and the public officer must have been aware that his or her conduct was unlawful and likely to harm the plaintiff. In paragraph 20, the court stated the core functions of a university are non-governmental. This was a motion by defendants to strike all or portions of a plaintiff's amended statement of claim. The court concluded that the fresh as amended statement of claim to be filed by the plaintiff shall not include a claim against the president of York University for misfeasance in public office. This case was appealed to the Ontario Court of Appeal, *Freeman-Maloy v. Marsden, [2006]* I.L.R. para. G-1950. The Court of Appeal found that it was not plain and obvious that the claim for the tort of misfeasance in a public office had no chance of success and that novel and unusual claims should be allowed to proceed to trial where they can be tested on a full factual record [at paragraphs 17 and 18]. The Court of Appeal did not say that the claim against the president of York University would succeed. It only stated that the claim should be allowed to proceed to trial to be fully considered on the basis of a proper factual record and in light of the other claims the appellant had asserted. This case was not determinative of the issue of whether the president of a university held a public office.

Abdulaziz provided the court an article entitled "what is the role of misfeasance in a public office in modern Canadian tort law?". This article discusses the Freeman-Maloy case at pages 596 to 597. As noted above the Ontario Court of Appeal allowed the appeal, and permitted the action to proceed, suggesting that the degree of governmental control was not necessarily determinative of the president's status. It was not "plain and obvious" that the president of the university was not a public officer for the purposes of the misfeasance in public office tort.

Abdulaziz bases his claim on the tort of misfeasance in public office on the actions of Ott, as described in testimony and on the failure of Lachemi to respond and act after he had received the emails Abdulaziz in Exhibits 17 and 18. The emails suggested that several Ryerson employees had engaged in negligence, defamation, and malice to make it appear that Abdulaziz was guilty of incivility and harassment and requested the

assistance of Lachemi. Abdulaziz submits that Ott and Lachemi held public office. I find that the functions of a university are non-governmental and that neither Ott, nor Lachemi, nor any other person at Ryerson holds a public office. Even if Ott did hold a public office, I find that Abdulaziz has not proven on a balance of probabilities that Ott engaged in deliberate and unlawful conduct in his capacity as a public officer and that Ott was aware that his conduct was unlawful and likely to harm Abdulaziz. There is no evidence to support this. Also, even if Lachemi did hold a public office, his failure to respond to Abdulaziz after the emails of August 20, 2018 [Exhibits 17 and 18] cannot be characterized as deliberate and unlawful conduct that was likely to harm Abdulaziz. Therefore, the claim based on the tort of public misfeasance cannot succeed.

Intrusion upon seclusion and Breach and Invasion of Privacy

In *Jones v. Tsige*, 2012 ONCA 32, the court confirmed the existence of a right of action for intrusion upon seclusion. This was consistent with the role of the court to develop the common law in a manner consistent with the changing needs of society. The court sets out the elements of the tort of intrusion upon seclusion in paragraphs 70 and 71. The tort is committed by one who intentionally intrudes, physically or otherwise, upon the seclusion of another or his private affairs or concerns. This type of intrusion is subject to liability to the other for invasion of privacy if the invasion would be highly offensive to a reasonable person. At paragraph 72, the court states that a claim for intrusion upon seclusion will arise only for deliberate and significant invasions of personal privacy.

In *Jones v Tsige, supra,* the Court of Appeal also considered whether the common law should recognize a separate cause of action in tort for invasion of privacy. At paragraph 15, the court stated:

> The question of whether the common law should recognize a cause of action in tort for invasion of privacy has been debated for the past one hundred and twenty years. Aspects of privacy have long been protected by causes of action such as breach of confidence, defamation, breach of copyright, nuisance, and various property rights. Although the individual's privacy interest is a fundamental value underlying such claims, the recognition of a distinct right of action for breach of privacy remains uncertain. As Adams J. stated in *Ontario (Attorney General) v.*

> *Dieleman* (1994), 117 D.L.R. (4th) 449 (Ont. Gen. Div.) at p.688, after a comprehensive review of the case law, "invasion of privacy in Canadian common law continues to be an inceptive, if not ephemeral, legal concept, primarily operating to extend the margins of existing tort doctrine."

The tort of intrusion upon seclusion is recognized to protect information that is supposed to be private. In this action, there is no allegation that information that Ryerson had was accessed or disclosed. Abdulaziz has not let any evidence that information that was accessed or disclosed. Abdulaziz was concerned that Barker knew Abdulaziz was working with Walsh. According to Abdulaziz in his final argument, that means that allegations and restrictions were obviously spread around. I do not agree. The evidence does not support Abdulaziz's argument. Abdulaziz was also concerned that the letter of July 16, 2018, [Exhibit 8, Tab 32] to him from Ott was copied to several people. This is not intrusion upon seclusion or an invasion of privacy. There was no deliberate or significant invasion of personal privacy.

The recognition of a distinct right of action for breach of privacy remains uncertain. This case before me is not a case for a new legal remedy.

Unlawful interference with economic relations

In *Bram Enterprises Ltd v AI Enterprises Ltd*., 2014 SCC 12, at paragraph 5, the court discussed the tort of causing economic loss by unlawful means. This tort will be available as a cause of action in three-party situations in which the defendant commits an unlawful act against a third party and that act intentionally causes economic harm to the plaintiff. Conduct is unlawful if it would be actionable by the third party or would have been actionable if the third party had suffered loss because of it.This tort is available as a cause of action only in three-party situations. Abdulaziz did not lead evidence of a three-party situation. There is no evidence that Ryerson took steps to unlawfully interfere with a third party or that such action would intentionally cause economic harm to Abdulaziz. Abdulaziz claimed he lost business and employment opportunities due to

the actions of Ryerson. However, there is no evidence to support that. Abdulaziz was able to complete his contract with Walsh, although they had to meet off-campus. There is no evidence that Ryerson took steps to impact Abdulaziz's business or employment opportunities. This cause of action cannot succeed.

Injurious falsehood

In *Lysko v Braley*, *supra*, paragraph 133, the court discusses the elements of the action for injurious falsehood. Injurious falsehood involves the publication of false statements, either orally or in writing, reflecting adversely on the plaintiff's business or property and intending to induce persons not to deal with the plaintiff. The statements must be shown to be untrue, that they were made maliciously, and that the plaintiff suffered special damages. Injurious falsehood usually applies in commercial contexts. The case before me is not in a commercial context. There is no evidence of a publication of false statements that reflect adversely on Abdulaziz's business or property. There is no evidence of malice. The elements of this tort have not been proven on a balance of probabilities. This cause of action cannot succeed.

Public disclosure of private facts

In *Jane Doe 72511 v Morgan*, 2018 ONSC 6607, the court discussed liability for public disclosure of private information. At paragraph 99, the court stated that to establish liability the plaintiff must prove that the defendant publicized an aspect of the plaintiff's private life, the plaintiff did not consent to the publication, the matter publicized, or its publication would be highly offensive to a reasonable person and the publication was not of legitimate concern to the public.

Abdulaziz did not establish liability for public disclosure of private facts. Abdulaziz did not specify what aspect of his private life was publicized by the Ryerson. There is no evidence to establish on a balance of probabilities that there was a publication or if there was a publication that there was no consent and that it was highly offensive and there was no legitimate concern to the public. This cause of action cannot succeed.

Breach of *Occupational Health and Safety Act [OHSA]*

Abdulaziz has not cited sections of the act that he claims have been breached. Therefore, this cause of action cannot succeed.

Breach of *Freedom of Information and Protection of Privacy act* [*FIPPA*]

Abdulaziz has not cited sections of the act that he claims have been breached. Therefore, this cause of action cannot succeed.

Damages

Abdulaziz has claimed the actions of the defendant have caused him huge inconvenience and stress and harmed his reputation and damaged his ability to find business and employment opportunities. However, he has not led evidence to prove any damages on a balance of probabilities.

Summary

It is Abdulaziz's position that he was improperly treated by Ryerson starting with the end of his contract with the Fashion Zone. There were complaints made by and against Abdulaziz and he believes that Ryerson handled them improperly resulting in penalties against him. I find that there is no evidence to support a finding on a balance of probabilities that Ryerson handled the complaints by Abdulaziz and against Abdulaziz improperly. Ryerson did not mistreat Abdulaziz. Abdulaziz states that Ryerson accepted the allegations against him, but that Abdulaziz had a higher standard of proof to meet for his allegations against others. This is not supported by the evidence. There is no evidence to support a finding that Abdulaziz was treated unfairly by Ryerson. Abdulaziz believes that Ott conspired against him because Ott was terminated from his position as Chair, School of Fashion in 2018. Abdulaziz believes that is that there was a clear and calculated attack against him after Ott was removed as Chair, School of Fashion. He believes that Ott and Romero had malicious intentions and conspired against him. There is no reliable evidence to support these conclusions of Abdulaziz. In fact, the evidence supports the defence. There was no evidence of collusion or retaliation or a reason for retaliation against Abdulaziz by Ott. There is no merit to Abdulaziz's claim.

Conclusion

Therefore, the plaintiff's claim will be dismissed.

If the parties are unable to agree on costs, brief written costs submissions of no more than three pages each, referring to any offers to settle, may be submitted by April 28, 2023, in the case of the defendant and by May 12, 2023, in the case of the plaintiff. If no submissions from the parties are received by May 12, 2023, there will be no order as to costs. The costs of the motion of October 31, 2019, before Deputy Judge De Lucia were reserved to the trial judge and may also be addressed in the written cost submissions.

I note that I ordered the plaintiff to pay the defendant costs of $500.00 forthwith for costs thrown away on June 22, 2022. These costs by the plaintiff to the defendant should have been paid already.

L. B. Wheatley, Deputy Judge

Date: April 13, 2023 - Released to Parties