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**Richard G Dearden**  
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**BY HAND**

March 7, 2013

Right Honourable Beverley McLachlin, P.C., Chief Justice of Canada  
Supreme Court of Justice  
301 Wellington Street  
Ottawa, ON K1A 0J1

Chief Justice:

**Re: Ontario Civil Liberties Association/Denis Rancourt**

1. I am counsel for Professor Joanne St. Lewis in a libel action against Denis Rancourt in the Ontario Superior Court of Justice. Mr. Rancourt published an article on his blog (U of O Watch) that accused Professor St. Lewis of *inter alia* acting as University of Ottawa President Allan Rock's House Negro.
2. I am responding to a letter dated March 4, 2013 sent to you by Joseph Hickey on behalf of an organization that calls itself the Ontario Civil Liberties Association (OCLA). Mr. Hickey is a partisan supporter of Mr. Rancourt and his letter failed to mention a number of facts you may wish to consider in assessing his request that you launch an investigation into the Registrar's conduct and the unfounded allegation that the Registrar had an apprehension of bias against Mr. Rancourt.
3. Mr. Hickey's letter enclosed two letters from the Registrar to Denis Rancourt who represents himself when he appears in court in Professor St. Lewis' libel action. Mr. Rancourt attempted to file an application for leave to appeal to the Supreme Court of Canada a decision of Ontario Superior Court of Justice Annis that denied him leave to appeal to the Ontario Divisional Court. Mr. Rancourt had prior notice that he had to exhaust all avenues of appeal in the lower courts before seeking leave to appeal to the Supreme Court of Canada but he intentionally ignored those warnings.
4. In my respectful submission the Registrar has not done anything to warrant the "investigation" called for by Mr. Hickey. There was no reasonable apprehension of bias

on the part of the Registrar. However, the facts below certainly demonstrate the OCLA's bias in favour of Mr. Rancourt.

5. The OCLA was created by Mr. Hickey and two other individuals sometime around September 2012 and became publicly active sometime around January 2013.
6. The OCLA's founding principles dated September 18, 2012 as stated on its website (**Tab 1**) include support for hate speech and violent expression which is outside of the ambit of section 2(b) of the *Canadian Charter of Rights and Freedoms*. The OCLA's founding principles state that it supports:
  - [...]
  - all individual expression of emotions, including **hate** and love;
  - all individual expression about **criminal behaviour, including expression about child pornography, genocide, war, slavery, and serial murder;**
  - [...]
7. The executive membership of the OCLA, as stated on its website, consists of three individuals – Joseph Hickey (Executive Director), Caroline Wang (Treasurer) and Matthew Fournier (Technical Director). (**Tab 2**) Both Mr. Hickey and Ms. Wang are partisan supporters of Mr. Rancourt and Ms. Wang may be Mr. Rancourt's daughter.
8. Mr. Rancourt is involved in the OCLA's activities and is the coordinator of the OCLA's self-represented litigants working group. (**Tab 3**) In addition, almost all the material posted on the OCLA website addresses Professor St. Lewis' libel action against Mr. Rancourt. (**Tab 4**)
9. Since the libel action was commenced, Mr. Hickey has posted numerous articles in support of Mr. Rancourt on his blog "A Student's-Eye View", as well as links to articles posted by Mr. Rancourt. Mr. Hickey has attended almost all of the court proceedings in the libel action in support of Mr. Rancourt. Mr. Hickey also improperly refused to leave the examination room during a cross-examination of Mr. Rancourt that I conducted requiring me to obtain a court order prohibiting him and other supporters of Mr. Rancourt from attending future cross-examinations and examinations for discovery. (**Tab 5**)
10. Finally, in March 2012, Mr. Hickey brought a motion to intervene in support of one of the multiplicity of motions brought by Mr. Rancourt in Professor St. Lewis' libel action. Mr. Hickey's motion to intervene was denied and costs were awarded against him. (*St. Lewis v Rancourt*, 2012 ONSC 3309. (**Tab 6**))
11. Mr. Rancourt has publicly expressed his hope that the OCLA intervenes in his case at the Supreme Court of Canada to provide an independent or expert opinion. (Excerpt of Transcript: Interview with Radio-Canada, **Tab 7**). The complete lack of independence and expertise of the OCLA is palpable. The OCLA has no evidentiary or legal basis for

accusing the Registrar of having an apprehension of bias regarding the two letters he wrote Mr. Rancourt and no investigation is warranted.

Yours truly,

A handwritten signature in cursive script that reads "Richard G. Dearden".

Richard G. Dearden  
RGD/mj

cc: Joseph Hickey, Ontario Civil Liberties Association (OCLA)  
Canadian Judicial Council

OTT\_LAW\3535463\1

## **TAB 1**

## Founding Principles



There is a crying need in Ontario for a civil liberties association that stands for civil liberties.

We distinguish an individual's societal influence by expression from an individual's actuated power that derives from his/her institutional hierarchical position.

We hold that the individual's societal influence by expression, not structurally derived from the institutional and organizational hierarchy, is an absolute right, irrespective of race, gender, orientation, etc.

We believe that societal health depends on the individual's absolute right to free expression.

We defend all individual expression as an absolute right no matter how unacceptable it may appear to others.

We support individual free expression regardless of its form or content.

We oppose all state and corporate censorship, including employer gag orders on employees.

We oppose all forms of societal mobbing that have the effect of censorship.



Regarding controversial issues of the day, we support:

- all individual expression critical of any state, including Israel and Iran;
- all individual expression critical of any religion or culture, including Judaism, Islam, and Christianity;
- all individual expression critical of any sexual orientation, including straight and queer;
- all individual expression critical of both sides of the abortion conflict, including pro-life and pro-choice;
- all individual expression critical of any public policy or law, including liberal or conservative;
- all individual expression of emotions, including hate and love;
- all individual expression about criminal behaviour, including expression about child pornography, genocide, war, slavery, and serial murder;
- all individual expression critical of any person, including public figures, neighbours, and colleagues.

Sept. 18, 2012  
Ottawa, Ontario

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OCLA

## **TAB 2**



## Executive Members

### JOSEPH HICKEY – EXECUTIVE DIRECTOR



Joseph Hickey obtained a B.Sc. (*summa cum laude*) and M.Sc. (thesis nominated for the Commission on graduate studies in sciences prize) from the University of Ottawa in Ottawa, Canada.

Mr. Hickey served two terms as the elected representative for graduate students in the Faculties of Health Science, Science, Engineering, and Medicine at the University of Ottawa Senate. Mr. Hickey's work at Senate included: leading a motion to implement the Senate's first-ever set of procedural rules to govern its meetings; challenging the university administration to pay student members of governance committees at the same rate of pay received by professors and administrators for the same work; defending video recording of Senate meetings and other transparency measures; and leading a student campaign to reopen a campus-wide consultation on the university's Policy on the Prevention of Discrimination and Harassment.

Joseph Hickey has a keen interest in freedom of expression and institutional transparency, having argued before the Ontario Superior Court of Justice in defence of his *Charter* rights to free expression as a self-represented member of the public and the media, and having secured several orders from the Information and Privacy Commissioner of Ontario regarding access to information at the University of Ottawa.

Joseph can be contacted by email at [joseph.hickey@ocla.ca](mailto:joseph.hickey@ocla.ca)

### MATTHEW FOURNIER – TECHNICAL DIRECTOR



Matthew Fournier graduated with a B.Sc in physics and mathematics from the University of Ottawa in 2009. He currently is part owner and lead programmer at a small documentation services company in Ottawa, Canada.

In September of 2012, Matthew was asked to join the OCLA as Technical Director and website administrator.

Matthew can be reached by email at [matthew.fournier@ocla.ca](mailto:matthew.fournier@ocla.ca)

### CAROLINE WANG – TREASURER

Caroline Wang works as a registered dietician in Ottawa. She joined OCLA as Treasurer in October 2012.

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## **TAB 3**

# Lobbying for Resources

The OCLA will advocate for resources to be allocated for helping SRLs to be better SRLs, such as drop-in resource centers for SRLs housed in the courtrooms and equipped with computers, legal databases, small meeting rooms, and so on.

The OCLA will advocate for an Ombudsperson position to be created (possibly affiliated with the Office of the Ontario Ombudsman), to oversee the needs and complaints of SRLs, and to regularly evaluate the extent to which SRL needs are being addressed by the legal system.

[\[Top of page\]](#)



## Join Group

Contact OCLA-SLRs Workgroup Coordinator, Denis Rancourt to receive announcements about the Working Group's activities: [denis.rancourt@gmail.com](mailto:denis.rancourt@gmail.com)

### One Response to *OCLA for SRLs Working Group*



**MatthewFournier** says:

March 2, 2013 at 3:47 pm

The SRL working group sounds very important. As far as I can tell, as it stands now "all are equal before the law" but not all are equal before the lawyers.

[Reply](#)

## **TAB 4**

## OCLA

Ontario Civil Liberties Association

OCLA

### **PRESS RELEASE: OCLA calls for investigation of Supreme Court Registrar's conduct towards self-represented litigants**

Posted on [March 6, 2013](#) by [Joseph Hickey](#)

OTTAWA, March 6, 2013 – The Ontario Civil Liberties Association (OCLA) has asked Beverly McLachlin, Chief Justice of the Supreme Court of Canada, to take action on serious concerns about the conduct of the Registrar of the Supreme Court towards self-represented litigants, which deprives unrepresented parties from access to justice.

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### **COMMUNIQUÉ DE PRESSE : L'ALCO demande une enquête sur la conduite du registraire de la Cour suprême du Canada envers les parties non-représentées**

Posted on [March 6, 2013](#) by [Joseph Hickey](#)

OTTAWA, le 6 mars 2013 – L'Association des libertés civiles de l'Ontario (ALCO) a demandé à Beverly McLachlin, juge en chef de la Cour suprême du Canada, d'agir par rapport à la conduite du registraire de la Cour suprême qui prive les parties non-représentées de l'accès à la justice.

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### **Report on OCLA Launch Event**

Posted on [February 2, 2013](#) by [Joseph Hickey](#)

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#### **Recent Work**

[Mar. 4, 2013: Letter to Supreme Court of Canada Chief Justice, Beverly McLachlin](#)

[Mar. 4, 2013: Endorsement of Carleton U event: Policing the Public](#)

[Feb. 12, 2013: First meeting of OCLA for SRLs working group](#)

[Feb. 12, 2013: Invited talk in Law enforcement course at Carleton U](#)

[Feb. 5, 2013: Invited talk in Criminology course at Carleton U](#)

[Feb. 2, 2013: Newsletter about OCLA launch event](#)

[Jan. 29, 2013: Video of guest speakers at OCLA launch event](#)

[Jan. 25, 2013: OCLA launch event](#)

[Dec. 4, 2012: Press release: Ontario judge whitewashes colleague's conflict of interest](#)

[Dec. 4, 2012: Communiqué de presse : un juge ontarien nie le conflit d'intérêts de son collègue](#)

#### **Media Coverage**

[Jan. 28, 2013: « À la défense des droits civiques ontariens » \*La Rotonde\*](#)

[Jan. 25, 2013: « L'Association des libertés civiles de l'Ontario voit le jour » \*Le Droit\*](#)

[Jan. 25, 2013: Entrevue par En direct d'ici \*CJFO FM\*](#)

[Jan. 24, 2013: Reportage par \*Le midi-trente Ontario Radio\*](#)

## **TAB 5**



# A Student's-Eye View

The University of Ottawa and its Senate, from the eyes of students

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## Ottawa judge rules his colleague showed no appearance of bias

DECEMBER 1, 2012

by Student's-Eye View

*Judge who threatened Defendant with contempt then stormed out of court showed no bias against Defendant: Nov. 29 ruling.*

Justice Peter B. Annis of the *Ontario Superior Court* has ruled that his colleague, Justice Robert N. Beaudoin did not present a "reasonable apprehension of bias" in the defamation case of *St. Lewis v. Rancourt*.

Beaudoin **withdrew from the case** on July 24, 2012, after the Defendant submitted an April 24, 2012 *Ottawa Citizen* article about him in court that revealed Beaudoin had a financial relationship with the University of Ottawa and that the lawfirm representing the university in the case, Borden Ladner Gervais (BLG), had named a boardroom in honour of Beaudoin's late son.

In his ruling, Annis states:

*"It is unreasonable to suggest that the mere act of respect by a law firm towards one of its associates who was the son of a judge and whose untimely death touched the firm could indirectly cause the judge to be biased in favour of the law firm's clients. Were this to be the case, Beaudoin J. could not hear any case pleaded by Borden Ladner Gervais LLP. This is an untenable proposition that fails to recognize that lawyers are officers of the court who are required to advance their clients' interests without adopting them as their own."* [emphasis added]

Justice Annis is himself a **former partner of the BLG firm**. His ruling is available [HERE](#).

A November 30, 2012 *Ottawa Citizen* article about the judge's decision is posted [HERE](#).

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from → St. Lewis vs. Rancourt Lawsuit

← U of O Engaged in SLAPP-suit Against Former Professor – Student Senators Speak Out

Student asks President: does the University of Ottawa plan on funding a lawsuit against me? →

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Steve

December 1, 2012 2:39 pm

"Justice Annis is himself a former partner of the BLG firm." – so let me guess... we have a former BLG partner determining whether a judge, whose deceased son (was a BLG lawyer) had been given a boardroom, by BLG, in the son's name – determining with this judge could rise above any form of bias and came out with the foregone conclusion that this judge is super human and could do so. And here I thought judges, like lawyers, police officials, senior administrators must all have a higher duty and level to abide by, unlike the rest of us who are merely mortal. I'm sorry, but even the appearance of a conflict of interest at these high levels must be enough to force any senior official to recuse himself or herself from a situation that even has the whiff of impropriety. Apparently when judges are examining the actions of other judges, there doesn't seem to be any apparent perceptual issue. We have police forces examining the actions of police forces and doctors examining the actions of other doctors – all seems too cozy and too open to abuse..... even perceptually. Of course if lower beings, like blue collar workers, mothers, people with disabilities, immigrants, or students tried to examine the actions of others in their groups, the elites (read white, straight, old and male) would harangue these efforts as unethical. The higher up the food chain one moves, among elites they either don't care about ethics or somehow elite authorities self delude themselves into believing they are superhuman and can be "unbiased." Of course, being human and making choices, regardless of our sphere of life, every single one of us is subject to and operate through bias. In any event, it doesn't surprise me that one judge will give another judge a pass. Isn't that what elites do for one another – unless it's absolutely, most obviously, mind-numbingly crystal clear that wrong doing occurred? Something to ponder I suppose.....

[REPLY](#)

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ARCHIVES

[March 2013](#)

[February 2013](#)

[December 2012](#)

[July 2012](#)

[June 2012](#)

[May 2012](#)

[April 2012](#)

[March 2012](#)

[February 2012](#)

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The University of Ottawa and its Senate, from the eyes of students

[Home](#) [About](#)

## Judge Accused of Conflict of Interest Loses Decorum and Withdraws from Case

JULY 24, 2012

by Student's-Eye View

*Judge donated money to party in lawsuit in honour of deceased son, who was a lawyer at the firm now representing the party.*

A judge of the Ontario Superior Court in Ottawa threw a fit this morning and withdrew himself from a defamation case (*St. Lewis vs. Rancourt*) after the Defendant presented documents suggesting links between the judge and another party to the case.

The Defendant, Mr. Rancourt asked Justice Robert Beaudoin this morning to hear a motion that the judge recuse himself on grounds of "reasonable apprehension of bias" and "appearance of conflict of interest." Mr. Rancourt presented an **article by the Ottawa Citizen** that described the judge's efforts to memorialize his son, including a **scholarship** he donated to the Faculty of Law at the University of Ottawa, which is a party in the proceeding (Intervener). The article also stated that a boardroom had been named after Justice Beaudoin's son at the law firm **Borden Ladner Gervais**, where the son worked as a lawyer until his death, and which represented the University of Ottawa as a party before Justice Beaudoin.

After angrily yelling at Mr. Rancourt that his request for an adjournment in preparation for a motion was denied, Justice Beaudoin threatened to hold Mr. Rancourt in contempt of court. The judge called a recess and then returned to inform the parties that he would be withdrawing himself from all further proceedings in the case, not before expressing that "never in his judicial career" had he seen actions so "disgusting and provocative" as the Defendant's submission of the newspaper article, and telling the Defendant that "unfortunately" he had "succeeded" in having the judge removed from the case.

There is nothing worse that can happen to a parent than the grief of losing his own child, and Justice Beaudoin's commitment to preserving the spirit of his son is honourable. However, his comments in the courtroom and his failure to disclose his connections to the University of Ottawa and the lawfirm representing it, Borden Ladner Gervais, raise serious ethical concerns that should be reviewed by the **Canadian Judicial Council**.

\*Update: **July 27 Ottawa Citizen article about judge's recusal**. Note that the Plaintiff's lawyer, Richard Dearden, regularly represents the Ottawa Citizen.

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#### ARCHIVES

- March 2013
- February 2013
- December 2012
- July 2012
- June 2012
- May 2012
- April 2012
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- February 2012
- January 2012
- December 2011
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from  St. Lewis vs. Rancourt Lawsuit

 Judge Orders Student Senator to Pay \$3000 for "Unreasonable" E-mails sent to Senate Members  
U of O Engaged in SLAPP-suit Against Former Professor – Student Senators Speak Out 

 10 Comments [leave one](#) 



**docupeterscripttoscreen** PERSONAL

July 24, 2012 9:32 pm

Holy shit! Justice is a slippery freaking thing when the privileged call all the shots. Admiration for DGR's tenacity and refusal to get trampled. Bravo.

[REPLY](#)



**Wilfrid** PERSONAL

July 25, 2012 8:54 pm

Privileged? As opposed to a tenured professor, living in an ivory tower, that has never had to answer for his actions until recently? Give me a F...G break!!!

[REPLY](#)



**watching** PERSONAL

July 24, 2012 10:21 pm

Will DGR post the court transcript?

[REPLY](#)



**Gill** PERSONAL

July 25, 2012 6:08 pm

Conflict of interest in our Judiciary? Unheard of I tell you! How obvious can it be when 99% of family court judges rule in favour of private corporations such

as CAS.

REPLY

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➤ August 2011

➤ July 2011

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**Wilfrid** PROFESSOR

July 25, 2012 8:51 pm

Justice Beaudoin said it so well, that there is nothing really to add. The actions of Mr. Rancourt were disgusting, provocative, insulting and show a level of insensitivity that is hard to imagine. And your actions in reprinting his actions, in print, show the same, Mr. Hickey.

REPLY



**Edward Alberta** PROFESSOR

July 25, 2012 9:45 pm

Hear Hear to a review. This guy has a long and distinguished history of screwing over adversaries of his friends and should not be allowed to practice law. I have personally experienced his bias as have others...its about time.

funny how transcripts go missing.

REPLY



**Gill** PROFESSOR

July 26, 2012 11:55 am

The reasons why some believe this article to be "disgusting, provocative, insulting and showing a level of insensitivity that is hard to imagine" are easily understood by most. Unfortunately there are those imaginations that are limited. Freedom of expression is being criticised because it is being used to inform the public of the shortcomings in our judiciary. Mr. Hickey should be commended for his reporting. The courage to report such incidents may discourage other judges and authority figures from doing the same and may also get others to write such stories. There will always be those who want to limit information and criticise those who exercise their Freedom of Speech. That's not hard to imagine.

REPLY

#### Trackbacks

1. University of Ottawa Engaged in SLAPP-Suit Against Former Professor: Donations Needed « Joanne St. Lewis vs. Denis Rancourt
2. University of Ottawa Engaged in SLAPP-Suit Against Former Professor – Student Senators Speak Out | Brave New World
3. University of Ottawa Engaged in SLAPP-Suit Against Former Professor – Student Senators Speak Out | SHOAH

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# A Student's-Eye View

The University of Ottawa and its Senate, from the eyes of students

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## Student's-Eye View Intervenes for Public Observation of UofO Lawsuit

MARCH 22, 2012

by Student's-Eye View



Joseph Hickey, student Senator and author of "A Student's-Eye View" has filed and served material as an Intervenor on the Defendant's Motion for Leave to Appeal in the *St. Lewis v. Rancourt* lawsuit, to be heard on March 28 at the Ottawa Courthouse:

Intervenor's Motion Record + Affidavit: [HERE](#)

Intervenor's Factum: [HERE](#)

The Defendant's motion is to obtain permission to make an appeal of a judge's order blocking the public and the media from observing cross-examinations in the case, including the cross-examination of UofO President, Allan Rock, regarding his decision to fund all of Professor St. Lewis' legal fees using university money.

Last week, student Senator, Hazel Gashoka and I duly submitted a motion for the Senate to adopt a position in favour of transparency and public observation of the cross-examinations at its meeting of March 26, but President Rock and Vice-President of Governance, Diane Davidson instead decided to cancel the Senate's meeting and bar our motion from being heard (see: [1](#), [2](#), [3](#)).

It was to have been the last meeting of Ms. Gashoka and my terms as Senators for the 2011-2012 year.

It is hoped that more student media will join in this intervention for observation rights in this legal action, which poses questions which are central to the future of University of Ottawa.

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## Lawyer Richard Dearden Attacks Self-represented Witness: Case of St. Lewis v. Rancourt

SEPTEMBER 11, 2011

by Student's-Eye View



Richard Dearden (Gowlings LLP)

On September 6, I attended a cross-examination hearing in U. of O. Professor of Law Joanne St. Lewis' case against former U. of O. Physics Prof and critic of the university, Denis Rancourt.

Background information for the case is available at the U of O Watch blog ([link](#)), at the Academic Freedom.ca website ([link](#)), and in the mainstream media ([link-1](#), [2](#), [3](#)).

Ms. St. Lewis was present and represented by renowned defamation law lawyer Richard Dearden (Gowlings LLP). Denis Rancourt was self-represented as defendant and cross-examined on his affidavit of defense against St. Lewis' motion for an imposed and immediate mandatory mediation in the case ([link](#)). U. of O. Psychology Prof Claude Lamontagne also appeared for cross-examination on his affidavit containing his expert opinion that the term "house negro" was not racist in and of itself even when used by a white male ([link](#)). I and other members of the public were in attendance to observe the proceedings.

Mr. Dearden first attempted to block observation of the proceedings by myself and the other members of the public present, and attempted to obtain the identities of each of the observers in turn. However, Dearden refused to provide grounds for removal of observers, and instead abandoned his attempt to intimidate and exclude the public when it was clear that the observers intended to stay. Dearden threatened that the presence of members of the public at the hearing would be used for "malice purposes and aggravated damages and punitive damages" against the defendant.

Dearden proceeded to cross-examine Rancourt, going beyond an examination of the defendant's affidavit in an attempt to probe into matters beyond the scope of the cross-examination hearing.

Dearden's interrogation of the witness was aggressive and abusive, and was clearly intended to be an exercise in intimidation. He aggressively yelled at the self-defended witness on several occasions, and refused to answer "yes or no" procedural questions about the legal requirements for the self-defended witness to answer his cross-examination questions. When Rancourt correctly complained that Dearden was "badgering" him with improper questions, Dearden again attacked the defendant with the accusation that this complaint constituted malicious conduct on Rancourt's part.

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With such unethical behaviour ([link](#)) on the part of a renowned lawyer with 32 years experience while members of the public were in attendance, one wonders how Mr. Dearden would have treated the self-defended Mr. Rancourt had he been successful in excluding the public from the hearing.

Due to the serious evidence of corruption and fraud surrounding plaintiff St. Lewis' response to the Student Appeal Centre's 2008 report of systemic racism at the University of Ottawa ([link-1](#), [2](#)), the University of Ottawa has a responsibility to state if it has an involvement, monetary or otherwise, in the case of St. Lewis v. Rancourt.

Richard Dearden is also employed as a Part-time Professor in the Faculty of Law at the University of Ottawa. Mr. Dearden is teaching a "Media and Libel" law course during the Fall 2011 semester.

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Student Senators to be Hand-picked by the SFUO →

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March 2013

February 2013

December 2012

July 2012

June 2012

May 2012

April 2012

March 2012

February 2012

January 2012

December 2011

November 2011

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September 2011

August 2011



**Steve** MEMBER SINCE

September 13, 2011 11:44 am

Not surprised in the slightest about any of this. St. Lewis does the bidding of Rock (just like Houle did with the Ann Coulter nonsense) and is forced to because of an obvious power differential and then says the report is "unbiased."

How is it possible that Richard Dearden, a law professor at the University of Ottawa (even if only a part timer) can, both, represent St. Lewis, a fellow law professor and (tangentially) the University of Ottawa, more generally, without charges of conflict of interest? Should the lawyer of St. Lewis be arm's length to St. Lewis? All of this smells to high heaven! I would be pushing the University of Ottawa to divulge how it is involved in this case, even remotely (which they probably are)? This is just the latest chapter of unethical behaviour that seemingly saturates university administration at the U of O. As for the badgering and intimidation of Dearden at the hearing – that is clearly a sign of intimidation and smells of a complete lack of professionalism (which can be used against Dearden in later hearings). I sure hope the judge is reigning in

these antics of Dearden; otherwise, that could be a grounds for appeal perhaps (if it gets to that)?

More people should be pushing back against this lack of democracy at the University of Ottawa. And these behaviours are the exemplars to students of how to behave within a "democracy" like Canada.... shameful .... appalling.

REPLY

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**Joseph Hickey** PERSONAL

September 20, 2011 5:18 pm

Update, re: request for corrections from Mr. Dearden:

\*\*\*

From: Richard Dearden

To: Joseph Hickey

Date: September 19, 2011

Subject: Out of Office AutoReply: request for your corrections and comments, Student's-Eye View report

I will be out of the office until September 26th but will be checking emails periodically

\*\*\*

From: Joseph Hickey

To: Richard Dearden

Date: September 19, 2011

Subject: request for your corrections and comments, Student's-Eye View report

Dear Mr. Dearden,

This report is about you:

<http://studentseyeview.wordpress.com/2011/09/11/lawyer-richard-dearden-attacks-self-represented-witness-case-of-st-lewis-v-rancourt/>

Please provide me with any comments or corrections for posting on the blog.

Sincerely,

Joseph Hickey

REPLY

#### Leave a Reply

Theme: Vigilance by The Theme Foundry

Blog at WordPress.com



CITATION: St. Lewis v. Rancourt, 2011 ONSC 5923

COURT FILE NO.: 11-51657

MOTION HEARD: 2011/10/06

**SUPERIOR COURT OF JUSTICE - ONTARIO**

**RE:** JOANNE ST. LEWIS, Plaintiff

**AND:**

DENIS RANCOURT, Defendant

**BEFORE:** Master MacLeod

**COUNSEL:** Richard G. Dearden, for the plaintiff

Denis Rancourt, in person

No one appearing for Claude Lamontagne

**HEARD:** October 6, 2011

**REASONS FOR DECISION**

- [1] This is an action for defamation. The motion before me today is to compel answers to certain undertakings and refusals arising from cross examination of the defendant and of Claude Lamontagne who is a deponent of an affidavit.
- [2] By way of context, the affidavits themselves were sworn in opposition to a motion brought by the plaintiff to compel the defendant to participate in mandatory mediation under Rule 24.1. In fact the motion as I understand it is to abridge the time for mediation and to require the parties to use an experienced private mediator rather than a mediator from the roster. That motion (the main motion) is returnable tomorrow before a judge.
- [3] In response to the main motion, the defendant filed his own affidavit and an affidavit of Claude Lamontagne which is proffered as expert opinion. Mr. Dearden cross examined on those affidavits and brings this motion today to compel answers to certain refusals by Mr. Rancourt as well as two undertakings given by Mr. Lamontagne.
- [4] The undertakings and the first group of the refusals are in response to questions directed to the independence of Mr. Lamontagne, to his neutrality, to the instruction or information he received from Mr. Rancourt or to his qualifications to give expert opinion evidence.



party failing to comply with what he had agreed to do in a timely fashion. Claude Lamontagne shall pay costs fixed at \$350.00 payable forthwith.

- [23] The situation concerning Mr. Rancourt is more difficult. The motion was scheduled to take 1 hour and Mr. Dearden completed his submissions in half that time. The submissions of Mr. Rancourt then took until 4:30 p.m. On the other hand, of course, he will be submitting to the judge on the main motion that the entire motion – and therefore all of the costs – is improper and misguided. In the event that the judge agrees with this, it might not be reasonable for the defendant to be saddled with the costs of a motion within that motion. Of course he also argues that in the action as a whole he is the person being wronged because the action is simply an improper – and indeed unconstitutional – attempt by the University of Ottawa to muzzle free speech and criticism.
- [24] The putative rule under our current costs regime is a “pay as you go” rule in which costs are presumptively to be fixed at each stage and payable forthwith. A main purpose of this is to encourage the parties not to argue unnecessary motions and to adhere to the rules. There is however the possibility that the judge hearing the main motion will dismiss it and as I have stated earlier – without in any way pre-judging that issue or suggesting it is the correct result – in that eventuality the judge might consider it appropriate to stay my order. Thus I am awarding costs of the motion before me. The defendant shall pay the plaintiff the sum of \$3,000.00 on a partial indemnity scale. Subject to any contrary order of the judge hearing the main motion, those costs are to be paid within 30 days.
- [25] In summary an order will go as follows:
  - a. The questions but for the Law Help questions are to be answered.
  - b. All questions that called for production of documents or copies of documents are to be answered in writing by October 11<sup>th</sup>, 2011.
  - c. The witnesses are to reattend at a place and time designated by counsel for the plaintiff to answer the questions under oath and to answer reasonable follow up questions on October 14<sup>th</sup>, 2011 unless otherwise agreed.
  - d. No one but the witness, the parties, their legal counsel and the court reporter may be present at the cross examination unless otherwise agreed.
  - e. Mr. Lamontagne shall pay costs of \$350.00
  - f. The defendant shall pay costs of \$3,000.00.
  - g. This order and the costs award is subject to variation by the judge hearing the main motion if she or he considers it appropriate.

## **TAB 6**



CITATION: St. Lewis v. Rancourt, 2012 ONSC 3309  
COURT FILE NO.: 11-51657  
DATE: 2012-06-06

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Joanne St. Lewis

Plaintiff

– and –

Denis Rancourt

Defendant

Joseph Hickey

Moving Party

)  
)  
) Richard G. Dearden, for Joanne St. Lewis

)  
) Peter K. Doody, for the University of Ottawa

)  
)  
) Denis Rancourt, self-represented

)  
)  
) Joseph Hickey (Party seeking Intervener  
) Status), self-represented

)  
)  
) HEARD: (By written submissions)

**DECISION REGARDING COSTS**  
**(MOTION FOR INTERVENER STATUS OF JOSEPH HICKEY)**

**R. SMITH J.**

**Positions of Parties**

[1] The Plaintiff Joanne St. Lewis ("St. Lewis") seeks costs on a substantial indemnity basis in the amount of \$3,876.95. Alternatively she seeks costs on a partial indemnity basis in the amount of \$2,911.95. St. Lewis seeks costs on the higher scale largely due to conduct of Mr. Hickey subsequent to the motion where it is alleged he attempted to intimidate, harass and humiliate St. Lewis in order to force her to withdraw her claim for costs against him.

[2] Following the motion Mr. Hickey wrote directly to St. Lewis and copied over 70 other people and did so after being warned that the matter was *sub judice* and not to contact St. Lewis directly.

[3] The University of Ottawa also seeks costs against Mr. Hickey on a substantial indemnity scale due to his egregious conduct of attacking the persons involved in the proceeding following the hearing of his motion to intervene. Mr. Hickey accused counsel for the University of acting unethically and copied that exchange to 86 other email addresses including the President of the University of Ottawa and the Dean of the Faculty of Common Law at the University of Ottawa.

[4] Mr. Hickey submits that costs should not be awarded in the amount claimed because he is an impecunious student and as the losing party he did not reasonably expect to have to pay the amounts of costs sought.

#### **Success**

[5] In this case Mr. Hickey was unsuccessful in his motion to be added as a public interest intervener. St. Lewis and the University of Ottawa were completely successful in opposing Mr. Hickey's Motion for Intervener Status.

#### **Complexity and Importance**

[6] The issues involved in obtaining intervener status are somewhat complex and were important to the parties.

#### **Unreasonable Conduct of Any Party**

[7] Professor St. Lewis and the University of Ottawa do not complain about the conduct of Mr. Hickey at the motion where he sought intervener status. Rather, the conduct complained of is a series of personal attacks by email on counsel for the University in an attempt to have the University abandon its request for costs and also his attempt to intimidate and embarrass Professor St. Lewis by sending an email to many other individuals asking her to withdraw her claim for costs against Mr. Hickey.

[8] Copies of the emails sent by Mr. Hickey are attached to both the University of Ottawa's Reply Submissions and to St. Lewis' Reply Submissions. While Mr. Hickey is a student and is a self-represented party, his conduct in writing to the Plaintiff directly, when he was aware that she was represented by counsel, by copying the email to approximately 70 other individuals, and his conduct of accusing counsel for the University of unethical behaviour is unreasonable and inappropriate conduct.

[9] Mr. Hickey's conduct in pursuing this course of action following his unsuccessful motion to be added as an intervener is unreasonable conduct which will increase the amount of costs that would otherwise have been ordered. I further find that counsel for the University acted reasonably and fairly throughout the motion and that Mr. Hickey's allegations that counsel's conduct raised ethical questions was completely unfounded.

#### **Scale of Costs and Offers to Settle**

[10] Costs would ordinarily be ordered on a partial indemnity scale. In order to obtain an order for costs on a substantial indemnity basis a party must be found to have engaged in



scandalous, vexatious or outrageous conduct, or to have obtained a less favourable result than a Rule 49 offer to settle. Mr. Hickey submits that the normal rules regarding costs should not apply because he alleges that he is an impecunious student.

[11] In *Myers v. Toronto (Metropolitan) Police Force*, [1995] O.J. No. 1321, at paras. 19 to 22, the Divisional Court decided that it was reasonable for a Court on fixing costs to refuse to take into account the alleged impecuniosity of a party, as there is no way to determine whether a party is in fact impecunious, and also to avoid a situation in which litigants without means can ignore the rules of court with impunity.

[12] Mr. Hickey is a university student completing his Master's degree at the University of Ottawa and was elected as a member to the University of Ottawa Senate during the past year, and he publishes a blog. I take judicial notice that there is a very high probability that university students do not earn substantial sums of money while they are students but this factor is given very little weight in the circumstances.

[13] In the hearing before me Mr. Hickey argued his motion in a very reasonable and polite fashion; however, he was also aware that the two senior counsel were representing both St. Lewis and the University of Ottawa, and he had been warned in writing by counsel for St. Lewis that costs would be sought against him if he proceeded with his motion to intervene. He accepted the risk that he would be ordered to pay legal costs if he were not successful.

#### **Hourly Rates, Time Spent, Proportionality and Indemnity**

[14] Mr. Hickey does not challenge the hourly rates for experienced senior counsel or the time spent, or that the issue was complicated as the motion lasted for the whole morning, however he submits that the amount claimed is excessive.

#### **Amount the Unsuccessful Party Would Reasonably Expect to Pay**

[15] Mr. Hickey was specifically warned that, if he did not withdraw his motion for leave to intervene in Mr. Rancourt's private lawsuit with Professor St. Lewis, costs would be claimed against him in the proceeding. Notwithstanding the written notice given to him, he decided to proceed knowing the risk that costs would be awarded.

[16] I give some allowance for the fact that Mr. Hickey is a student, is self-represented, and may not have been aware of the costs that he would incur if he were to be unsuccessful in his motion.

[17] Mr. Hickey did not seek intervener status on behalf of a recognized group and did not have a special interest to represent. He ultimately agreed during the hearing that the public interest was the same as the interest represented by the press which he sought to represent. Mr. Hickey's motivation was, as he stated in his Application, to support Mr. Rancourt's open court motion which had been denied by Beaudoin J. and Master MacLeod. Mr. Hickey's actions have caused St. Lewis and the University to incur additional legal costs to respond to his motion and he must bear some costs consequences for his actions.

**Disposition**

[18] I see no reason to depart from the general rule that costs should follow the event, and considering all of the above factors I order Mr. Hickey to pay costs to Professor St. Lewis in the amount of \$2,000.00 plus HST plus disbursements of \$16.95 inclusive of HST. In addition I order Mr. Hickey to pay costs in the amount of \$1,000.00 plus HST to the University of Ottawa.

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R. Smith J.

Released: June 6, 2012

**CITATION:** St. Lewis v. Rancourt, 2012 ONSC 3309

**COURT FILE NO.:** 11-51657

**DATE:** 2012-06-06

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

Joanne St. Lewis

Plaintiff

– and –

Denis Rancourt

Defendant

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**DECISION REGARDING COSTS  
(MOTION FOR INTERVENER STATUS  
OF JOSEPH HICKEY)**

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R. Smith J.

**Released:** June 6, 2012

## TAB 7



**Extrait de l'émission radio Le midi trente Ontario, avec Caroline Bourdua, diffusée à 12h30, le jeudi 24 janvier 2013, sur les ondes de Radio-Canada.**

ANNONCEUR: De midi 30 à 13 heures, vous écoutez Le midi trente Ontario, avec Caroline Bourdua.

CAROLINE BOURDUA: Un nouvel organisme indépendant voué à la défense des libertés civiles vient de voir le jour en Ontario. C'est l'Association ontarienne des libertés civiles. La mission première est de défendre, de promouvoir la liberté d'expression des citoyens. L'organisme est présent depuis cet automne, mais va être lancé officiellement demain à Ottawa.

Mireille Langlois, vous en savez un peu plus, là, sur cette association.

MIREILLE LANGLOIS: Oui. Cette association, Caroline, va venir en aide aux personnes qui peuvent être parfois privées de moyens ou de recours pour faire valoir leur point de vue et leurs idées. Elle veut surtout accompagner les citoyens dans leur démarche, leur donner des conseils, des ressources. Et à terme, elle espère parvenir à fournir un appui juridique afin de les représenter devant un tribunal, par exemple. Mais contrairement à la Commission des droits de la personne, Caroline, l'association n'a pas le mandat d'émettre des recommandations ni non plus de décider s'il y a eu ou non

un litige. Il existe également une association canadienne des libertés civiles.

Alors la nouvelle dont il est question aujourd'hui, c'est une association ontarienne, donc précisément pour la province. Et comme l'explique le directeur exécutif de ce nouvel organisme ontarien, eh bien, cette association veut adopter une opinion beaucoup plus tranchée que les autres organisations. On l'écoute.

JOSEPH HICKEY: On est indépendant des autres associations qui sont déjà sur la scène, par exemple la CCLA, l'Association des libertés civiles du Canada. On n'est pas associés, mais nous serons heureux de travailler avec toute association qui ont le même but.

On va aller plus loin que les autres associations. Elles sont plus modérées. On prend une position plus forte sur la liberté d'expression. C'est souvent le cas dans notre système légal et corporatif en Ontario que des personnes sont punies pour leur expression, en plus que pour leurs actions. Quoi que ce soit, aux manifestations du G20 ou dans un contexte de travail où un employé est mis à la porte pour avoir critiqué leur employeur, il n'y avait pas assez de ressources, selon le cas où l'individu doit faire face à un grand pouvoir, disons la police, le gouvernement, des corporations, ou l'individu n'a juste pas de ressources. Donc, c'est un problème qui est de

plus en plus troublant en Ontario.

CAROLINE BOURDUA: C'était le directeur exécutif de l'association, Joseph Hickey. Mireille, cette association suit d'ailleurs déjà un dossier de près actuellement, c'est un litige, là, qui se passe à l'Université d'Ottawa.

MIREILLE LANGLOIS: Oui. Vous en avez peut-être déjà entendu parler, Caroline. C'est le cas de Denis Rancourt, cet ancien professeur de physique à l'Université d'Ottawa, congédié en 2009 sous prétexte qu'il avait assigné des notes frauduleuses dans un cours à ses étudiants. Selon le professeur - l'ancien professeur plutôt - il a été congédié injustement pour d'autres motifs. Le dossier va d'ailleurs être entendu prochainement par la Cour suprême du Canada, et on écoute l'ancien professeur Denis Rancourt.

DENIS RANCOURT: Les raisons réelles, je crois, sont que j'étais et je continue à être une personne très critique de la gestion de l'université et de l'exécutif de l'université. Sur un blogue, je rendais public des événements que, d'après moi, montraient un comportement non éthique, quelques fois illégal, de la part des gestionnaires et des dirigeants de l'université. Et donc, c'était pas apprécié, c'est ce que j'ai pu comprendre. Et on a choisi de m'enlever de mon poste.

MIREILLE LANGLOIS: Selon Denis Rancourt, l'Association ontarienne des libertés civiles va pouvoir, il espère, apporter un soutien essentiel.

DENIS RANCOURT: J'espère que cette association puisse amener soit une opinion indépendante, une opinion d'expert qui puisse intervenir soit à la Cour suprême ou dans mes autres cas, qui puisse peut-être faciliter qu'on me trouve un avocat, parce que présentement je suis auto-représenté. Ça m'a coûté plus de 50,000 \$ à date. Ça fait depuis 2009 que je n'ai pas d'emploi. Donc, cette association va, je pense, essayer de trouver un avocat qui accepterait de prendre la cause, parce que c'est une cause importante.

CAROLINE BOURDUA: Alors c'était le professeur - l'ancien professeur en physique à l'Université d'Ottawa, Denis Rancourt.

Mireille, c'est quelque chose que l'association envisage de faire?

MIREILLE LANGLOIS: Oui. Elle a formé un comité consultatif et étudie en ce moment les possibilités de rassembler des experts, des conseillers juridiques ou même des avocats afin de pouvoir mieux intervenir auprès des citoyens. Et en terminant, Caroline, l'association sera lancée officiellement à Ottawa demain, mais elle dit vouloir s'adresser à toute personne vivant en Ontario.



CAROLINE BOURDUA: Merci.

(Indicatif musical)

(Fin de l'enregistrement audio)

JE CERTIFIE PAR LA PRÉSENTE que, au  
meilleur de mes connaissances, ce document  
constitue une transcription fidèle de cet  
enregistrement audio.

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G R S / J. Lartigau

No. de transcription GRS: 13-0101

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Extrait de l'émission radio Le midi trente Ontario,  
avec Caroline Bourdua, diffusée à 12h30, le jeudi 24  
janvier 2013, sur les ondes de Radio-Canada.

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