CANADA
PROVINCE OF QUEBEC
DISTRICT OF QUEBEC
File no. 200-17-037621-257

SUPERIOR COURT

JACQUELINE SANDERSON,

Plaintiff;

-vs-

Me Sébastien Dyotte et al.,

Defendants;

APPLICATION OF THE PLAINTIFF TO DISMISS THE APPLICATIONS TO DISMISS OF THE DEFENDANTS
(Section 51 of the *Code of Civil Procedure*)

TO ONE OF THE JUDGES OF THE SUPERIOR COURT OF THE DISTRICT OF QUEBEC, THE PLAINTIFF RESPECTFULLY SUBMITS THE FOLLOWING:

Lack of Sworn Statement of the Defendants

1. The Plaintiff submits that the applications to dismiss are abusive as they are not supported by affidavit as required by the jurisprudence of the Superior Court;

2. During the management conference of September 18, 2025, Justice Samson implicitly acknowledged that only a motion to dismiss under section 168 of Code of Civil Procedure can be filed without an affidavit because the moment the defendant attempts to adduce new evidence with a motion to dismiss, an affidavit is required;

3. This is the reason that Justice Samson suspended the preparation of a protocol and did not fix any examination dates;

4. The Plaintiff submits that one of the faults committed by Me Teasdale on behalf of the Quebec Bar in the file of Michael Lacoste was in relation to these submissions made to Justice Hussain as confirmed in the minutes of the hearing of December 5, 2023, a copy of which is filed herewith as **Exhibit M-1**;

5. The case relied on by Me Teasdale was *Mailloux v. Collège des médecins du Québec*, 2021 QCCA 794. However, this case does not in any manner deal with the issue of whether or not an affidavit is necessary for a motion to dismiss. This case only states that the plaintiff, who was a doctor, did not allege the bad faith of the syndic. The Plaintiff in the present case alleges the bad faith of both Me Dyotte and Me Thibault;

6. Me Teadale further submitted that she did not do an affidavit in that case either, however, if the plaintiff did not raise the issue in first instance, it is not surprising that it was not dealt with by Justice Manon Savard of the Court of Appeal;

7. The Plaintiff acknowledges that pursuant to section 51 of the CCP, a defendant can submit facts not already in the record to be considered by the judge, however, such facts require an affidavit. The Plaintiff further submits that simply because the defendants are the Quebec Bar and the Attorney General of Quebec, the judge cannot overlook these procedural irregularities;

8. The fact that the Plaintiff was not entitled to examine the Defendants removed her right to discovery and as a result she was unable to gather additional evidence, including internal communications, documents, and information in the possession of the Defendants relevant to the allegations of bad faith, abuse of power, defamation, malicious prosecution, and misrepresentations to the Court;

9. The Plaintiff respectfully submits that where a Defendant seeks dismissal pursuant to section 51 of the CCP based on facts not already in the record, article 101 C.C.P. requires sworn evidence. The distinction between a motion relying solely upon the face of the pleadings under section 168 C.C.P. and a motion relying upon additional contested facts under section 51 C.C.P. cannot be ignored;

10. In *Roussy c. Henrichon*, 2023 QCCS 11, the Superior Court expressly recorded the objection that a motion seeking dismissal failed to comply with article 101 C.C.P. because it was not supported by a sworn declaration, namely that the motion "*ne respecte pas les exigences de l'article 101 du Code de procédure civile n'étant pas appuyée d'une déclaration sous serment*". Justice Pinsenault added at paragraph 66 the following:

> [66] En l'espèce, il appert que la demande en rejet de la défenderesse repose, incontestablement, sur des faits dont la preuve n'est pas au dossier, par conséquent, elle aurait dû être appuyée du serment de la défenderesse.

11. More importantly, in *Goulet c. Bluteau*, 2024 QCCS 724, the Superior Court held that where a proceeding alleges facts not already in the record and is unsupported by a sworn declaration, such facts are simply not proven pursuant to article 101(3) C.C.P. The Court held at paragraph 80 as follows:

> [81] Cette demande en cours d'instance repose sur des faits dont la preuve n'est pas au dossier et devait obligatoirement être appuyée d'une déclaration sous serment [30].

12. In the present matter, the Defendants rely extensively on facts outside the pleadings, including allegations concerning abuse, prior proceedings, motive, intent, the finality of judgments, and procedural history, while simultaneously refusing the Plaintiff the right to discovery and failing to support said allegations through sworn evidence;

Reliance on Non-Final Judgments and Absence of *Chose Jugée*

13. The Plaintiff further submits that the Defendants improperly rely upon judgments that are either not final, remain under appeal, are subject to judicial review, or do not constitute **chose jugée** as against the Plaintiff;

14. The Defendants rely upon the judgment of Justice Demers dated September 16, 2025 notwithstanding that said judgment remains contested and is currently the subject of proceedings before the Supreme Court of Canada. Consequently, the findings contained therein cannot be treated as final or determinative for purposes of the present proceeding. Moreover, the stenographic notes of the hearing before Justice Demers and the short recording filed as exhibits are definite proof that Justice Demers had a reasonable apprehension of bias;

15. Similarly, the Defendants rely upon the judgment of Justice Marcotte dismissing permission to appeal. However, said judgment was rendered solely in the context of an application for leave to appeal pursuant to article 30(3) C.C.P. and did not determine the merits of the present civil action. Moreover, there is an application for leave to appeal that was filed before the Supreme Court on May 4, 2026;

16. The Defendants further improperly rely upon proceedings involving *Michael Lacoste-Méthot c. Procureur général du Québec et al.* as if determinative of the present matter. However, the Plaintiff was not a party to said proceeding but acted solely as legal counsel for Mr. Michael Lacoste-Méthot. There is therefore no identity of parties, no identity of legal capacity, and no identity of cause sufficient to give rise to *chose jugée* as against the Plaintiff. Furthermore, although both matters arise from a common factual matrix, the causes of action are fundamentally different. Mr. Lacoste-Méthot principally sought damages arising from alleged breaches of his *Charter* rights in the context of his criminal proceedings, particularly his right to counsel of choice. By contrast, the Plaintiff in the present matter seeks, *inter alia*, damages analogous to malicious prosecution, abuse of process, bad faith, and defamation arising from the initiation and continuation of disciplinary proceedings against her, which she alleges were used to prevent her from representing Mr. Lacoste-Méthot and thereby breached both his right to counsel in his criminal proceedings and the Plaintiff's rights in the context of the disciplinary process. Such claims can only fully crystallize following the conclusion of disciplinary proceedings and related appeals. Indeed, Justice Hussain himself questioned why the Plaintiff had not waited until the conclusion of the disciplinary proceedings before instituting such proceedings, a fact already cited by the Plaintiff in her Re-Amended Application;

17. The Plaintiff further submits that the disciplinary matter involving Me Sophie Gratton remains under judicial review and therefore cannot be treated as finally adjudicated. Moreover, disciplinary proceedings are not binding upon the Superior Court in a civil action for damages. Conduct may constitute a civil fault notwithstanding the absence of disciplinary sanctions and vice versa;[1]

<u>Necessity of Filing the Present Action to Preserve Prescription</u>

18. The Plaintiff acknowledges that certain aspects of the present proceeding, particularly allegations analogous to malicious prosecution and abuse of process, may only fully crystallize following the conclusion of disciplinary proceedings against the Plaintiff because the action is in essence an action for malicious prosecution;

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1 *J.V. v. E.D.*, 2024 NBKB 216 at pages 6 -7.

19. The AGQ in essence argued that the lawyer for the prosecution in the Lacoste matter, Me Pilote, simply made a complaint to the Quebec Bar. However, this is not exactly accurate. A complainant also is responsible in an action for malicious prosecution. Me Pilote knew that the conflict of interest had ceased but continued to induce the court in error to pretend that the conflict subsisted. This is the exact definition of malicious prosecution. The Plaintiff did her final term paper on the issue and explains the applicable jurisprudence therein, a copy of which is filed as **Exhibit M-2**;

20. Me Pilote was a witness at the disciplinary proceedings of the Plaintiff, therefore, until the disciplinary proceedings are finalized, the fault cannot be crystallized let alone prescribed;

21. However, the Plaintiff was required to institute the present proceeding in May 2025 because claims grounded in defamation are subject to a prescription period of one year. Had the Plaintiff delayed the institution of proceedings until the conclusion of all appeals and related proceedings, the defamation component of the claim, including allegations concerning “La Méthode Sanderson” and allegations of querulous conduct, risked becoming prescribed;

22. Consequently, the Plaintiff acted prudently and reasonably in preserving her legal rights while reserving the right to amend and particularize aspects of the action as related proceedings become final;

Constitutional Issue Concerning the Combined Operation of Section 51 and 30(3) C.C.P.

23. The Plaintiff respectfully submits that the present motions raise a constitutional issue concerning the combined operation of section 51 and paragraph 30(3) C.C.P., particularly where proceedings are summarily dismissed before a litigant receives a meaningful hearing on the merits;

24. The Plaintiff does not argue that there exists a constitutional right to appeal. Rather, the Plaintiff submits that sections 23 and 24 of the *Quebec Charter of Human Rights and Freedoms*, together with the principles of procedural fairness and natural justice, guarantee a meaningful right to be heard in first instance;

25. The constitutional concern arises where:
    a. proceedings are summarily dismissed as abusive pursuant to article 51 C.C.P.;
    b. the litigant is denied examinations, documentary disclosure, and a full evidentiary hearing;
    c. material legal issues allegedly remain unresolved or are not substantively addressed;
    d. appellate review thereafter depends upon discretionary leave under article 30(3) C.C.P.; and
    e. serious legal errors may never receive meaningful scrutiny even when there

is an apparent injustice.

26. The Court of Appeal has repeatedly recognized the exceptional caution required before dismissing proceedings as abusive, noting that such dismissal effectively constitutes the “capital punishment” of civil procedure;

27. In *Brazil c. Boileau*, the Court of Appeal granted leave to appeal because the impugned judgment presented “une certaine faiblesse” and risked causing a denial of justice. The Court emphasized the prudence required before summarily dismissing proceedings as abusive;

28. However, the criteria governing leave under article 30(3) C.C.P. are inconsistently articulated and applied in practice;

29. In proceedings before Justice Guy Cournoyer in *Michael Lacoste-Méthot c. Procureur général du Québec et al.*, the applicable inquiry was framed as whether the issues “dépassent l’intérêt des parties et méritent l’attention de la Cour” rather than whether serious legal error or risk of injustice existed (Exhibit P-11);

30. Similarly, in *Robichaud v. Hadd*, 2024 QCCA 1297, another judgment of Justice Cournoyer in which Justice Demers rendered the judgment in first instance, leave to appeal was refused notwithstanding an alleged apparent weakness because the matter did not sufficiently surpass the interests of the parties;

31. The seriousness of this inconsistency became particularly apparent in *Olongo c. Dollarama*, 2026 QCCA 279, where Justice Marcotte summarized the conditions governing leave to appeal under article 30(3) C.C.P. to a self-represented litigant by referring only to the three express statutory criteria without reference to the jurisprudential criterion recognizing leave where an impugned judgment presents an apparent weakness giving rise to a risk of injustice;

32. Later that same day, during the Plaintiff’s own hearing, the Plaintiff expressly raised the omission made during the *Olongo* hearing and Justice Marcotte acknowledged that the criterion concerning apparent weakness and risk of injustice did in fact form part of the applicable legal framework under article 30(3) C.C.P., thereby confirming that the summary of the applicable conditions provided to Mr. Olongo had been incompletely provided by Justice Marcotte;

33. The Plaintiff respectfully submits that this inconsistency is constitutionally significant. If a litigant whose proceeding has been summarily dismissed under article 51 C.C.P. may be denied leave notwithstanding alleged serious legal error because different criteria are emphasized, omitted, or inconsistently applied by the Court of Appeal, the litigant risks permanently losing any meaningful opportunity to be heard on the merits contrary to sections 23 and 24 of the *Quebec Charter*, the principles of natural justice and procedural fairness which form part of the constitutionally protected framework of the Canadian justice system;

34. The Plaintiff therefore submits that before summarily dismissing the present proceeding, this Honourable Court must determine the constitutional issue

concerning the combined operation and application of articles 51 and 30(3) C.C.P.

FOR THE AFOREMENTIONED REASONS MAY IT PLEASE THIS TRIBUNAL TO:

GRANT the present aplication;

DISMISS the Defendants' motions to dismiss;

DECLARE that the constitutional validity and/or constitutional application of section 51 and paragraph 30(3) of the *Code of Civil Procedure* is properly raised in the present proceeding;

DECLARE that, in the circumstances of the present case, the combined operation and application of section 51 and paragraph 30(3) of the *Code of Civil Procedure*., if interpreted so as to permit the summary dismissal of proceedings without sworn evidence, without examinations, without meaningful documentary disclosure, and without any meaningful opportunity to challenge serious legal error, infringes the Plaintiff's right to a fair hearing, procedural fairness, and natural justice protected by sections 23 and 24 of the *Quebec Charter of Human Rights and Freedoms* and the constitutional framework of the Canadian justice system;

ALLOW the Plaintiff to proceed to examinations and documentary disclosure;

RESERVE the Plaintiff's right to amend the proceedings following the conclusion of disciplinary proceedings, judicial reviews, and appeals;

THE WHOLE with legal costs.

CARIGNAN, June 8, 2026

Jacqueline Sanderson

Ms. Jacqueline Sanderson
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SWORN DECLARATION

I, the undersigned, **JACQUELINE SANDERSON** having a place of business at 3 Place Ville Marie, Suite 400, Montreal (Quebec), declare that:

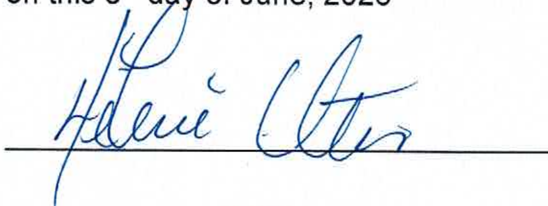
1. I am the Plaintiff in the present case;

2. I confirm that all the facts mentioned in the present application are true.

AND I HAVE SIGNED AT CARIGNAN

JACQUELINE SANDERSON

Declared solemnly before me at the City of Carignan
on this 8th day of June, 2026



NOTICE OF PRESENTATION

To Me Alexandra Teasdale of Clyde & Co.
Me Marc-Olivier Doré
Me Alexandra Barkany

PLEASE TAKE NOTICE THAT the present application shall be presented at the Palais de Justice of Quebec on June 10, 2026.

CARIGNAN, June 8, 2026

Jacqueline Sanderson

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APPLICATION TO DISMISS THE MOTIONS TO DISMISS OF THE DEFENDANTS

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