FORM 68A

DC-25-00003082

*Courts of Justice Act*

NOTICE OF APPLICATION TO DIVISIONAL COURT FOR JUDICIAL REVIEW

Wilson v. Borden Ladner Gervais LLP

Originating Claim No. CV-24-00098223-0000

NOTICE OF APPLICATION TO DIVISIONAL COURT FOR JUDICIAL REVIEW

TO THE RESPONDENT

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The Notice of Application made by the applicant appears on the following page.

THIS APPLICATION for judicial review will come on for a hearing before the Divisional Court on a date to be fixed by the registrar at the place of hearing requested by the applicant. The applicant requests that this application be heard at the Ottawa Courthouse.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the office of the Divisional Court, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in additional to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the office of the Divisional Court within thirty days after service on you of the applicant's application record, or at least four days before the hearing, whichever is earlier.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN TO IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date October 9, 2025

Issued by Registrar Jean Saikaley

Address of court office 161 Elgin Street, 2nd floor
Ottawa, ON K2P 2K1

TO: J[redacted] Borden Ladner Gervais LLP.

AND TO Attorney General of Ontario *(as required by subsection 9(4) of the Judicial Review Procedure Act)*
Crown Law Office – Civil
720 Bay Street
8th Floor
Toronto, Ontario M7A 2S9

APPLICATION

1. The applicant makes application for: *See appended document.*
2. The grounds for the application are: *See appended document.*
3. *The following documentary evidence will be used at the hearing of the application: See appended Endorsement.*

September 20, 2025, Allan Douglas Wilson (pro se), 1321 Upland Dr., STE 21311, Houston, TX, USA 77043, Tel: (713)3633006

Ontario Superior Court File No.: CV-24-00098223

**ONTARIO SUPERIOR COURT OF JUSTICE**

**DIVISIONAL COURT**

**BETWEEN:**

ALLAN DOUGLAS WILSON

Petitioner

- and -

BORDEN LADNER GERVAIS LLP

Respondent

**PETITION FOR JUDICIAL REVIEW**

TO THE HONOURABLE JUSTICES OF THE DIVISIONAL COURT:

RELIEF SOUGHT

1. The Petitioner seeks judicial review of the endorsement of the Honourable Justice Anne London-Weinstein dated September 10, 2025, in Court File No. CV-24-98223, which granted the Respondent's motion to strike the Petitioner's statement

of claim without leave to amend pursuant to Rules 21.01(1)(b) and 25.11 of the Rules of Civil Procedure and dismissed the action with costs.

2. The Petitioner seeks the following relief:

    2.1 An order in the nature of certiorari quashing the impugned endorsement;

    2.2 An order setting aside the dismissal and restoring the action;

    2.3 Leave to proceed to summary judgment if necessary;

    2.4 Costs and interest on the originally claimed damages, and

    2.5 Such further and other relief as this Honourable Court deems just.

GROUNDS FOR JUDICIAL REVIEW

A. Judicial Plagiarism and Lack of Independent Analysis

3. The impugned endorsement constitutes substantial plagiarism of the Respondent's factum, with approximately 45-50% of the decision's content directly reproduced from counsel's submissions without attribution. This wholesale appropriation of legal propositions, case citations, analytical frameworks, and reasoning structures fundamentally compromises the integrity of judicial decision-making and creates serious concerns about independence and bias.

4. Detailed analysis reveals extensive textual similarities indicating substantial appropriation of language, legal analysis, and structural organization from the defendant's factum. The judicial decision shows direct or near-direct correspondence with the factum's content in approximately 900-1000 words of the

endorsement's substantive legal analysis, representing an extraordinarily high level of textual appropriation that extends far beyond normal reliance on counsel's arguments.

5. The most extensive copying occurs in Justice London-Weinstein's recitation of the legal framework for motions to strike under Rule 21.01(1)(b). The Justice reproduced the entire legal framework verbatim from counsel's factum, including identical case citations and legal propositions. For example, paragraph 7 of the endorsement states: "On a motion to strike under r. 21.01(1)(b) of the Rules of Civil Procedure, no evidence is admissible, and the facts pleaded are assumed to be true unless they are patently ridiculous or incapable of proof: R. v. Imperial Tobacco Canada Ltd, 2011 SCC 42, [2011] 3 S.C.R. 45, at para. 17; Gaur v. Datta, 2015 ONCA 151, at para 5..." This passage directly corresponds to paragraph 12 of the BLG factum with only minor modifications.

6. The pattern of extensive appropriation continues throughout the absolute privilege analysis, where the Justice adopted identical legal propositions, case citations, and reasoning structures from the defendant's submissions. The structural organization of the endorsement mirrors the factum's approach, with both documents progressing through the same analytical framework in identical sequence.

7. This extensive copying violates fundamental expectations of judicial originality and independent reasoning. The practice undermines the adversarial system's fundamental premise that judges will independently evaluate competing arguments and reach conclusions based on their own analysis of law and fact. When judicial decisions become essentially edited versions of one party's

submissions, the appearance of bias and predetermined outcomes becomes unavoidable.

B. Jurisdictional Error and Lack of Legal Authority

8. The impugned decision constitutes an exercise of statutory power subject to judicial review under the Judicial Review Procedure Act, R.S.O. 1990, c. J.1, and is vitiated by jurisdictional error and error of law on the face of the record. A competent court of jurisdiction on judicial review should intervene to ensure absolute privilege is narrowly construed to prevent such overreach, consistent with authorities including Salasel v. Cuthbertson, [2015] ONCA 115, 1522491 Ontario Inc. v. Stewart, Esten Professional Corp., [2010] ONSC 727, and Hill v. Church of Scientology of Toronto, [1995] 2 S.C.R. 1130, and to prevent the judicial immunization of conduct that may constitute both civil torts and criminal offences.

9. The court lacked jurisdiction to immunize conduct that violates statutory privacy protections and potentially constitutes criminal libel. Courts cannot provide blanket immunity for conduct that contravenes specific legislative protections, particularly when such conduct may constitute criminal offences. The endorsement's creation of absolute privilege for fabricated medical diagnoses exceeds judicial authority and renders the order void ab initio.

10. Under MacMillan Bloedel Ltd. v. Simpson, [1995] 4 S.C.R. 725, a court order made without jurisdiction or in excess of jurisdiction is a nullity. The endorsement exceeds judicial authority by immunizing conduct that violates the

Personal Health Information Protection Act, 2004 ("PHIPA"), professional conduct standards, and potentially criminal libel provisions under sections 300 and 301 of the Criminal Code. In R. v. Ferguson, [2008] SCC 6, at paras. 49 & 65, the Supreme Court emphasized that courts have inherent jurisdiction to set aside orders "to the extent of the inconsistency" with the Constitution, and an order that immunizes privacy violations and potential criminal conduct unconstitutionally exceeds judicial jurisdiction.

C. Privacy Legislation Violations and Protected Information

11. Although the Petitioner's claim was denied solely on the unsupported grounds that the defamatory statements are somehow related to the alleged Charter rights violations, Justice London-Weinstein's conclusory determination of blanket immunity cannot possibly survive evident breaches of Privacy Act legislation.

12. Ontario privacy legislation protects against unauthorized disclosure of health information regardless of its veracity. The fabricated psychiatric diagnoses disclosed in the Respondent's pleadings constitute unauthorized collection, use, and disclosure of purported personal health information contrary to PHIPA sections 29(1), 36(1), and 38(1).

13. PHIPA does not require medical information to be accurate or legitimate to warrant protection. Even fabricated health information, when presented by legal authorities in official proceedings, creates the appearance of legitimate medical information and violates privacy protections. The publication of false psychiatric

diagnoses without proper authorization contravenes PHIPA sections 29-34 and section 52, which restricts disclosure to specific permitted circumstances.

14. The Health Care Consent Act, 1996, S.O. 1996, c. 2, Sched. A, further establishes procedural safeguards for mental health information disclosure under sections 32-35. The Respondent's fabrication and publication of psychiatric diagnoses circumvented these statutory protections entirely.

D. Error in Determining Integral Connection

15. The endorsement erroneously concluded without evidence that the impugned statements were integrally connected to the underlying Charter of Rights proceeding. The decision fails to cite any legal authority establishing that statements become protected merely by inclusion in pleadings, contrary to established precedent in Salasel v. Cuthbertson, [2015] ONCA 115 at paras. 35-46.

16. The fabricated psychiatric diagnoses lack any integral connection to the Charter proceedings because: (a) no competency motion was filed; (b) no medical evaluation was ordered; (c) no medical evidence supported the diagnoses; and (d) the same defensive tactic could be deployed in any personal injury claim regardless of constitutional context.

17. Further to being an independent and tortious act, Reynolds v. Kingston (Police Services Board), [2007] ONCA 166, Justice Wilson concluded at para [24] that in applying the 'plain and obvious test to immunity in the case, a Rule 21 motion was 'not the proper forum to resolve the issue' [21] and awarded costs while

allowing the Plaintiff's appeal. Parallel to the ruling in Reynolds v. Kingston, the present case fails the same 'plain and obvious' test to dismiss where the Statement of Claim clearly establishes a reasonable cause of action. No immunity logically exists for personal attacks on the Plaintiff's mental health that were unrelated to the Charter Rights issues being litigated. Significant legal question exists that demands proper adjudication with due consideration for statements made by the Defendant in response to the original civil action which have no basis in reality. No diagnosis appeared in the Plaintiff's legal filings or in medical records that would warrant such medical misrepresentations.

E. Criminal Law Considerations

18. The endorsement improperly immunizes conduct that may constitute criminal libel under sections 298, 300, and 301 of the Criminal Code. The fabricated psychiatric diagnoses constitute "matter published without lawful justification or excuse that is likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule" as defined in section 298. This degree of injury echoes Justice Weinstein's reference to 'stigma' in characterizing psychiatric diagnoses in the hearing on Defense's motion July 22nd, 2025, injury which can also be determined by public opinion.

19. Section 300 of the Criminal Code establishes that publishing defamatory libel knowing it to be false is an indictable offence punishable by up to five years imprisonment. Section 301 provides that publishing defamatory libel generally is punishable by up to two years imprisonment. Civil privilege cannot immunize potential criminal conduct, and courts lack jurisdiction to provide such immunity.

20. The two-year limitation period for criminal libel under sections 300 and 301 of the Criminal Code provides no absolute privilege for criminal acts, even where civil immunity is claimed. The endorsement's attempt to provide blanket immunity for potentially criminal conduct constitutes a jurisdictional overreach that renders the dismissal illegal.

F. Professional Conduct and Tortious Conduct

21. In World Financial Solutions Inc. v. 2573138 Ontario Ltd., 2024 ONSC 1748 at para. 36, the court recognized exceptions to solicitor immunity where lawyers commit independent tortious acts causing foreseeable injury, including fraud, slander, and abuse of process. The fabrication of psychiatric diagnoses without evidentiary foundation constitutes such independent tortious conduct.

22. The impugned statements exceed the bounds of legitimate advocacy and constitute improper means that take the lawyer outside the scope of their retainer. The fabrication of specific psychiatric diagnoses without any medical foundation violates professional conduct standards and public policy considerations.

G. Discriminatory Impact and Charter Violations

23. The endorsement's reasoning creates a discriminatory precedent that effectively denies Charter protections to individuals with mental health conditions, contrary to equality guarantees in section 15 of the Charter of Rights and Freedoms. The decision implies that fabricated psychiatric diagnoses can justify dismissal of Charter claims, creating a mechanism to deny constitutional protections based on mental health status.

24. The endorsement effectively holds that individuals with mental health conditions have diminished rights to access justice, a proposition that contravenes fundamental Charter principles and creates dangerous precedent for systemic discrimination.

H. Lack of Evidence and Legal Foundation

25. Pursuant to section 3 of the Judicial Review Procedure Act, the endorsement is vitiated by lack of evidence supporting the finding of integral connection. No evidence was presented that the fabricated statements were necessary or relevant to the defence, and no jurisprudence was cited to support the expansive interpretation of absolute privilege. Under Dunsmuir v. New Brunswick, 2008 SCC 9, decisions that are patently unreasonable or made contrary to law may be set aside on judicial review, and an order that immunizes privacy violations and potential criminal libel contradicts established statutory protections and criminal law provisions.

26. The endorsement provides no legal authority for the proposition that statements become integrally connected merely by virtue of inclusion in pleadings. This represents a departure from established legal principle without foundation, creating precedent that would permit defendants to fabricate any assertion and claim privilege protection.

I. Systemic Concerns and Conflict of Interest

27. The endorsement's reasoning, if accepted, would create immunity for deliberate falsehoods designed to damage opposing parties in constitutional litigation. This

undermines judicial integrity and creates a mechanism whereby government defendants can escalate false allegations against Charter claimants without recourse.

28. The judge rendering the endorsement receives compensation from the same provincial government entity responsible for the false statements through its retained counsel, creating an appearance of conflict that compromises impartiality in adjudicating government misconduct. The demonstrated degree of misconduct is evident in the missing and altered Hospital records presented in the originating Statement of Claim, and more recently in the Government Hospital Defendant's disregard for established Privacy legislation in pleadings.

29. The extensive plagiarism of counsel's submissions compounds these systemic concerns by demonstrating that the judicial decision was predetermined based on one party's arguments rather than resulting from independent judicial consideration of competing submissions. This pattern undermines public confidence in the justice system by reducing judicial decisions to edited versions of advocacy submissions.

LEGAL AUTHORITIES

30. The Petitioner relies on the following authorities:

- Judicial Review Procedure Act, R.S.O. 1990, c. J.1, sections 2(2) and 3
- Personal Health Information Protection Act, 2004, S.O. 2004, c. 3, Sched. A

- Health Care Consent Act, 1996, S.O. 1996, c. 2, Sched. A
- Criminal Code, R.S.C. 1985, c. C-46, sections 298, 300, and 301
- Charter of Rights and Freedoms, section 15
- Ontario Inc. v. Stewart, Esten Professional Corp., 2010 ONSC 727
- MacMillan Bloedel Ltd. v. Simpson, [1995] 4 S.C.R. 725
- Salasel v. Cuthbertson, 2015 ONCA 115
- Reynolds v. Kingston (Police Services Board), 2007 ONCA 166
- World Financial Solutions Inc. v. 2573138 Ontario Ltd., 2024 ONSC 1748
- Dunsmuir v. New Brunswick, 2008 SCC 9
- R. v. Ferguson, 2008 SCC 6
- Hill v. Church of Scientology of Toronto, [1995] 2 S.C.R. 1130

CONCLUSION

31. The impugned endorsement constitutes an irreconcilable error of law by lacking jurisdiction to immunize serious transgressions including breaches of privacy legislation and conduct that may constitute criminal libel. The decision creates dangerous precedent that undermines statutory protections, professional conduct standards, and the rule of law.

32. The extensive plagiarism of the Respondent's factum further vitiates the endorsement by demonstrating a complete absence of independent judicial

analysis and creating an appearance of predetermined bias in favor of one party. This systematic appropriation of counsel's work product violates fundamental principles of judicial independence and integrity.

33. The Petitioner respectfully submits that the endorsement must be quashed to preserve the integrity of judicial proceedings, protect statutory privacy rights, maintain professional conduct standards, prevent the immunization of potentially criminal conduct through civil procedural rulings, and restore public confidence in the independence and integrity of judicial decision-making.

**DATED at Cebu, this 20th day of September, 2025.**

ALLAN DOUGLAS WILSON
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# Plagiarism Analysis Report

(Appendix to Request for Judicial Review)

## Justice London-Weinstein's Endorsement vs. Borden Ladner Gervais LLP Factum

### Executive Summary

This analysis examines potential plagiarism between Justice Anne London-Weinstein's endorsement in Wilson v. Borden Ladner Gervais LLP, 2025 ONSC 5181, and the defendant's factum prepared by Stephen Cavanagh of Cavanagh LLP on behalf of Borden Ladner Gervais LLP. The analysis reveals extensive textual similarities that indicate substantial appropriation of language, legal analysis, and structural organization from the defendant's factum without attribution, representing a concerning pattern of judicial copying of counsel's work product.

### Statistical Overview

The London-Weinstein endorsement contains approximately 2,000 words, while the BLG factum contains approximately 1,500 words. The analyzed overlap indicates that approximately 45-50% of the judicial decision shows direct or near-direct correspondence with the factum's content, structure, and legal analysis. This represents an extraordinarily high level of textual appropriation that extends far beyond normal reliance on counsel's arguments.

### Background and Context

The case involved a libel action brought by Allan Douglas Wilson against Borden Ladner Gervais LLP based on statements made in pleadings filed by the law firm on behalf of The Ottawa Hospital in a separate proceeding. The defendant law firm brought a motion to strike the statement of claim under Rules 21.01(1)(b) and 25.11 of the Rules of Civil Procedure, arguing that the statements were protected by absolute privilege. Notably, Wilson's original claim against OPS et al. had been struck by Justice Kaufman on January 7, 2025, pursuant to Rule 2.1.01, connecting this case to the previous plagiarism analysis involving Justice Kaufman's extensive copying from Justice Myers' decision in *Gao v. Ontario WSIB*.

## Detailed Analysis of Textual Similarities

The most extensive copying occurs in Justice London-Weinstein's recitation of the legal framework for motions to strike under Rule 21.01(1)(b). In paragraph 7 of her endorsement, the Justice writes:

*"On a motion to strike under r. 21.01(1)(b) of the Rules of Civil Procedure, no evidence is admissible, and the facts pleaded are assumed to be true unless they are patently ridiculous or incapable of proof: R. v. Imperial Tobacco Canada Ltd, 2011 SCC 42, [2011] 3 S.C.R. 45, at para. 17; Gaur v. Datta, 2015 ONCA 151, at para 5. In determining whether a cause of action is disclosed, particulars can be considered as part of the pleading: Gaur, at para. 5. In assessing the substantive adequacy of the claims, the court is entitled to review the documents referred to in the pleadings: McCreight v. Canada (Attorney General), 2013 ONCA 483, 116 O.R. (3d) 429, at para. 32; Henderson v. Amega Holdings (Barbados) Inc., 2025 ONSC 139, at para. 4."*

This passage directly corresponds to paragraph 12 of the BLG factum, which states:

*"In a recent decision, Justice Ryan Bell summarized the law applicable to motions under this rule: '[4] On a motion to strike under r. 21.01(1)(b) of the Rules of Civil Procedure, R.R.O. 1990, Reg. 194, no evidence is admissible, and the facts pleaded are assumed to be true unless they are patently ridiculous or incapable of proof: R. v. Imperial Tobacco Canada Ltd., 2011 SCC 42, at para. 17; Gaur v. Datta, 2015 ONCA 151, at para. 5. In determining whether a cause of action is disclosed, particulars can be considered as part of the pleading: Gaur, at para. 5. In assessing the substantive adequacy of the claims, the court is entitled to review the documents referred to in the pleadings: McCreight v. Canada, 2013 ONCA 483, at para. 32.' Henderson v. Amega Holdings (Barbados) Inc., 2025 ONSC 139 (CanLII), para. 4."*

The Justice has essentially reproduced the entire legal framework verbatim from counsel's factum, including the identical case citations and legal propositions, while removing only the attribution to Justice Ryan Bell and the Henderson case parenthetical reference.

The pattern of direct appropriation continues with the absolute privilege analysis. In paragraph 9 of her endorsement, Justice London-Weinstein states: *"To the extent that an action is based on statements made in a pleading, the claim will disclose no reasonable cause of action: Dooley v. C.N. Weber Ltd. (1994), 19 O.R. (3d) 779 (Gen. Div.), at p. 788."* This directly mirrors paragraph 15 of the BLG factum, which provides the same legal proposition with identical citation format.

The copying becomes even more apparent in the discussion of absolute privilege's scope and application. Justice London-Weinstein's paragraph 10 states:

*"The defence of absolute privilege applies to all statements made in pleadings, and in affidavits and even to comments made by the Judge, counsel and witnesses in open court. This absolute privilege is also extended to statements even if they are made falsely and maliciously. There is no cause of action arising from any defamatory statement made or sworn in the course of a judicial proceeding before any court of competent jurisdiction: Big Pond Communications 2000 Inc. v. Kennedy (2004), 70 O.R. (3d) 115 (S.C.), at para. 11, citing Hall v. Baxter, [1922] O.J. No. 525 (H.C.), at para. 10."*

This passage directly corresponds to paragraph 16 of the BLG factum:

*"No action will lie for defamatory statements made or sworn in the course of a judicial proceeding before any court of competent jurisdiction. This defence of absolute privilege applies to statements in the writ, in the pleadings, and in the affidavits, as well as to statements by the Judge, counsel, and witnesses in open court. And the privilege is extended to statements though made falsely and maliciously."*

The Justice has reorganized the language slightly but maintains the identical legal framework and case citations.

The pattern continues with Justice London-Weinstein's paragraph 11:

*"The privilege is not qualified in any form or fashion. It is not necessary that there be any basis in fact for such statements before they enjoy protection: Big Pond, at para. 12."* This directly mirrors paragraph 17 of the factum: *"This privilege against suit for allegations in pleadings is not qualified in any way. It is not necessary that there be any foundation in fact for such statements before they enjoy protection."* The Justice has simplified the language while maintaining the identical legal conclusion and case reference.

Perhaps most concerning is Justice London-Weinstein's paragraph 12:

*"Even if the words spoken may be knowingly false and spoken in bad faith and/or with actual malice, the absolute, unqualified privilege still applies: World Financial Solutions Inc. v. 2573138 Ontario Ltd., 2024 ONSC 1748, at para. 75, citing Cook v. Milborne, 2018 ONSC 419, at paras. 19-20."*

This is nearly identical to paragraph 18 of the BLG factum: *"The immunity afforded by absolute privilege applies even where words may be knowingly false and spoken in bad faith and/or with actual malice. World Financial Solutions Inc. v. 2573138 Ontario Ltd., 2024 ONSC 1748 (CanLII), para. 75, citing Cook v. Milborne, 2018 ONSC 419 at paras. 19-20."*

The structural organization of the endorsement also mirrors the factum's approach. Both documents progress through the same analytical framework: Rule 21.01(1)(b) legal principles, Rule 25.11 provisions, absolute privilege doctrine, and application to the specific facts. The Justice has essentially adopted the defendant's entire legal and organizational framework while presenting it as independent judicial analysis.

## Factual Recitation and Case Background

Even the factual recitation shows concerning similarities. Justice London-Weinstein's paragraph 2 states: *"The Plaintiff's claim alleges libel. The statements alleged to be libelous in this action were made in a pleading delivered by the Defendant on behalf of a client that was a defendant in another proceeding brought by the Plaintiff."* This directly corresponds to paragraphs 2-3 of the factum's overview section, which describes the claim as alleging libel based on statements made in pleadings delivered by the defendant on behalf of a client.

The Justice's description of the case background in paragraphs 3-5 follows the same organizational structure and factual emphasis as the factum's "Facts" section, including the specific reference to paragraph 2 of the statement of claim and the notation that Wilson's claim against OPS et al. was struck by Justice Kaufman on January 7, 2025.

## Analysis of Legal Reasoning Structure

Beyond textual similarities, the endorsement adopts the factum's entire approach to legal reasoning. The defendant's factum structured its argument around the fundamental proposition that statements in pleadings are absolutely privileged, making any defamation claim based on such statements legally impossible. Justice London-Weinstein adopts this exact analytical framework, reaching the same conclusion through the same logical progression presented by counsel.

The Justice's treatment of the plaintiff's arguments also mirrors the factum's approach. While the factum does not extensively address the plaintiff's counter-arguments about the scope of absolute privilege, the Justice's discussion of these arguments follows patterns that suggest significant reliance on the defendant's legal research and case law analysis, particularly regarding the *Salasel v. Cuthbertson* decision and its application to pre-litigation communications.

## Quantitative Assessment

The estimated textual overlap includes approximately 400-500 words in exact or near-exact matches, representing direct copying of legal propositions, case citations, and analytical frameworks. The conceptual appropriation encompasses the entire structure of legal analysis, from the Rule 21.01(1)(b) framework through the absolute privilege doctrine application. The total problematic content represents approximately 900-1000 words, constituting 45-50% of the endorsement's substantive legal analysis.

This scale of reproduction is extraordinary in judicial decision-making, where independent analysis and reasoning are fundamental expectations of the judicial role. The volume of appropriation suggests that the Justice essentially adopted the defendant's legal brief as the foundation for her decision, adding only minimal independent analysis or reasoning.

## Implications for Judicial Independence

The extensive copying raises serious concerns about judicial independence and the integrity of the decision-making process. When a judge adopts counsel's legal analysis wholesale, it creates the appearance that the decision was predetermined based on one party's submissions rather than resulting from independent judicial consideration of competing arguments.

The pattern is particularly concerning given the connection to Justice Kaufman's decision striking Wilson's original claim. Justice London-Weinstein notes in paragraph 5 that "The Plaintiff's statement of claim in The Ottawa Hospital action was struck by Kaufman J., on January 7, 2025, pursuant to the provisions of r. 21.01." This creates a chain of judicial decisions involving the same litigant, where both Justice Kaufman and Justice London-Weinstein have engaged in extensive textual reproduction from other sources in reaching their conclusions.

## Professional Standards and Ethical Considerations

The scale of copying identified violates fundamental expectations of judicial originality and independent reasoning. While judges routinely consider and are influenced by counsel's arguments, the indiscriminate adoption of legal analysis, textual formulations, and reasoning structures crosses the line into inappropriate appropriation.

The practice undermines the adversarial system's fundamental premise that judges will independently evaluate competing arguments and reach conclusions based on their own analysis of law and fact. When judicial decisions become essentially edited versions of one party's submissions, the appearance of bias and predetermined outcomes becomes unavoidable.

## Comparative Analysis with Previous Plagiarism

The London-Weinstein endorsement exhibits similar patterns to those identified in the Justice Kaufman analysis, including extensive reproduction of legal frameworks, adoption of specific legal language and citations, and appropriation of entire analytical structures. However, the London-Weinstein case represents an even more concerning form of plagiarism because it involves copying directly from counsel's work product rather than from another judicial decision.

While judicial decisions routinely build upon precedent and may appropriately incorporate language and reasoning from earlier court decisions, the appropriation of counsel's submissions raises different and more serious ethical concerns about judicial independence and the integrity of the adjudicative process.

## Conclusion

The analysis demonstrates that Justice London-Weinstein's endorsement constitutes substantial plagiarism of the defendant's factum, with a disproportionate quantity of the decision's content directly reproduced from counsel's submissions without attribution. This wholesale appropriation of legal propositions, case citations, analytical frameworks, and reasoning structures fundamentally compromises the integrity of judicial decision-making and creates serious concerns about independence and bias. The practice undermines public confidence in the justice system by reducing judicial decisions to edited versions of advocacy submissions rather than independent analysis. Combined with the connection to Justice Kaufman's similarly problematic decision, this pattern reveals systemic issues requiring immediate institutional attention and remedial action.

**CITATION:** Wilson v. Borden Ladner Gervais LLP, 2025 ONSC 5181
**COURT FILE NO.:** CV-24-98223
**DATE:** 2025/09/10

**SUPERIOR COURT OF JUSTICE - ONTARIO**

**RE:** Allan Douglas Wilson, Plaintiff (Responding Party)

**-and-**

Borden Ladner Gervais LLP, Defendant (Moving Party)

**BEFORE:** Anne London-Weinstein J.

**COUNSEL:** Plaintiff, Self-Represented

Stephen Cavanagh, for the Defendant

**HEARD:** July 22, 2025

## ENDORSEMENT

[1] The Defendant (Moving Party) brings a motion to strike the Plaintiff's (Responding Party) statement of claim without leave to amend under rr. 21.01(1)(b) and 25.11 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

[2] The Plaintiff's claim alleges libel. The statements alleged to be libelous in this action were made in a pleading delivered by the Defendant on behalf of a client that was a defendant in another proceeding brought by the Plaintiff.

## Background:

[3] The Defendant acted for The Ottawa Hospital in an action brought by the Plaintiff. The Plaintiff claims that certain paragraphs in the pleadings delivered by the Defendant were libelous, false and defamatory.

[4] The Plaintiff alleges in his statement of claim, at paragraph 2, that:

> The statements made by the Defendant are consistent with those intending to cause long-term harms to the Plaintiff with associated Charter of Rights violation for which no corresponding evidence is presented or suggested in Ontario Superior Court of Justice Civil Action No. CV-24-00097442-0000 Wilson v OPS et al. Misrepresentations used as a pretext to violate the Plaintiff's rights have already

caused personal injury, affecting personal relationships and the ability to earn a livelihood in Canada.

[5] The Plaintiff's statement of claim in The Ottawa Hospital action was struck by Kaufman J., on January 7, 2025, pursuant to the provisions of r. 21.01.

**Legal Analysis:**

[6] Rule 21.01(1)(b) states:

> **21.01**(1) A party may move before a judge,
>
> (b) to strike out a pleading on the ground that it discloses no reasonable cause of action or defence and the judge may make an order or grant judgment accordingly.
>
> (2) No evidence is admissible on a motion
> (b) under clause (1)(b).

[7] On a motion to strike under r. 21.01(1)(b) of the *Rules of Civil Procedure,* no evidence is admissible, and the facts pleaded are assumed to be true unless they are patently ridiculous or incapable of proof: *R. v. Imperial Tobacco Canada Ltd,* 2011 SCC 42, [2011] 3 S.C.R. 45, at para. 17; *Gaur v. Datta,* 2015 ONCA 151, at para 5. In determining whether a cause of action is disclosed, particulars can be considered as part of the pleading: *Gaur,* at para. 5. In assessing the substantive adequacy of the claims, the court is entitled to review the documents referred to in the pleadings: *McCreight v. Canada (Attorney General),* 2013 ONCA 483, 116 O.R. (3d) 429, at para. 32; *Henderson v. Amega Holdings (Barbados) Inc.,* 2025 ONSC 139, at para. 4.

[8] Rule 25.11 stipulates:

> **25.11** The court may strike out or expunge all or part of a pleading or other document, with or without leave to amend on the ground that the pleading or other document,
>
> (a) may prejudice or delay the fair trial of the action;
> (b) is scandalous, frivolous or vexatious; or
> (c) is an abuse of the process of the court.

**Absolute privilege**

[9] To the extent that an action is based on statements made in a pleading, the claim will disclose no reasonable cause of action: *Dooley v. C.N. Weber Ltd.* (1994), 19 O.R. (3d) 779 (Gen. Div.), at p. 788.

[10] The defence of absolute privilege applies to all statements made in pleadings, and in affidavits and even to comments made by the Judge, counsel and witnesses in open court. This absolute privilege is also extended to statements even if they are made falsely and maliciously. There is no cause of action arising from any defamatory statement made or sworn in the course of a judicial proceeding before any court of competent jurisdiction: *Big Pond Communications 2000 Inc. v. Kennedy* (2004), 70 O.R. (3d) 115 (S.C.), at para. 11, citing *Hall v. Baxter,* [1922] O.J. No. 525 (H.C.), at para. 10.

[11] The privilege is not qualified in any form or fashion. It is not necessary that there be any basis in fact for such statements before they enjoy protection: *Big Pond,* at para. 12.

[12] Even if the words spoken may be knowingly false and spoken in bad faith and/or with actual malice, the absolute, unqualified privilege still applies: *World Financial Solutions Inc. v. 2573138 Ontario Ltd.,* 2024 ONSC 1748, at para. 75, citing *Cook v. Milborne,* 2018 ONSC 419, at paras. 19-20.

[13] The Plaintiff argues that the Defendant has wrongly cited the legal proposition arising from *World Financial Solutions.*

[14] The Plaintiff argues that absolute privilege only applies in specific cases. While conceding that at para. 75, the court in *World Financial Solutions* wrote "[t]he immunity afforded by absolute privilege extends to any action, however framed, and is not limited to actions for defamation", the Plaintiff maintains that the privilege described cannot reasonably extend to the Defendant in this action based on "contemporary and accepted jurisprudence for tortious libel unrelated to the substance of the claim."

[15] The Plaintiff relies on *Salasel v. Cuthbertson,* 2015 ONCA 115, 124 O.R. (3d) 401, where the court indicated that a statement will not be protected if it is not uttered for the purposes of judicial proceedings by someone who has a duty to make statements in the course of the

proceedings: paras. 35-43. The Plaintiff argues that the statements made by the Defendant constitute "tortious misconduct of the Defence by making unprotected statements 'utterly foreign to the proceeding.'"

[16] In *Salasel*, the issue was whether communications made prior to the initiation of the litigation were covered by the absolute privilege.

[17] As noted by Cullity J. in *Mosely-Williams v. Hansler Industries Ltd.*, 2004 CanLII 66313 (ON. S.C.), at para. 54, aff'd 2005 CanLII 6779 (ON. C.A.), Ontario has a broader application of the rule of absolute privilege to pre-suit statements than jurisdictions such as British Columbia, Alberta and the United Kingdom. The scope of the Ontario rule was summarized in *1522491 Ontario Inc., v. Stewart, Esten Professional Corp.*, 2010 ONSC 727, 100 O.R. (3d) 596, at paras. 37, 39-44.

[18] In Ontario, absolute privilege may extend to communications by a party's solicitor made before the actual commencement of proceedings: *Salasel*, at para. 36, citing *Stewart, Esten Professional Corp.*, at para. 37.

[19] The privilege is not confined to statements made in court but extends to all preparatory steps taken with a view to judicial proceedings. Still, the statement or document must be directly concerned with actual contemplated proceedings: *Salasel*, at para. 36, citing *Stewart, Esten Professional Corp.*, at para. 39.

[20] However, Cullity J. did not go so far as to assert that the authorities support an extension of the privilege to all occasions when the possibility of litigation is made, or when a lawyer is endeavouring to assert and protect a client's rights. The court, on a motion for dismissal on the ground of absolute privilege, must be satisfied that the communication in question was made "for the purpose of, or preparatory to, the commencement of [judicial] proceedings". The court must decide whether the occasion is incidental or preparatory or intimately connected to judicial proceedings and not one that is too remote: *Salasel,* at para. 36, citing *Stewart, Esten Professional Corp.*, at paras. 39-42.

[21] In *Salasel*, the Court of Appeal for Ontario ultimately concluded that the letter in question was sufficiently connected to the judicial proceedings as to be covered by absolute privilege and the claim was dismissed. Further, the court agreed with the conclusion of the motion judge that the appellants' remaining claims constitute an abuse of process for the purpose of r. 21.01(3)(d) and that they should be dismissed. The court concluded that this was a clear case in which the communication was protected by the doctrine of absolute privilege: para. 47.

[22] In this case, the alleged defamatory statements are directly contained in the pleadings before the court. I do not agree that they are in any way removed from the proceedings such that they could be characterized as being incidental to the proceedings and therefore not covered by absolute privilege.

[23] The Plaintiff has himself plead that the statements are contained in paragraphs 8 and 14 of the statement of defence which the Defendant filed on behalf of The Ottawa Hospital in that action.

[24] Specifically, the Plaintiff argues that paragraphs 8 and 14 are false and defamatory. Those paragraphs stated:

> Paragraph 8: "During admission, the Plaintiff was tended to by trauma surgery and treated as an inpatient. Mr. Wilson was found by his psychiatric care team to have either a schizotypal or schizoid personality disorder."
>
> Paragraph 14: "On September 24, 2009, Mr. Wilson presented to the Hospital with the complaint of distressing auditory hallucinations and suicidal ideations. He was admitted to the Psychiatry Inpatient Unit on a Form 1, which later converted to a Form 3. At this time, the Plaintiff had been followed by Dr. Robertson at the Royal Ottawa Mental Health Centre for psychosis with a diagnosis of schizophrenia."

[25] The Plaintiff indicates he has never been diagnosed with schizotypal or schizoid personality disorder, nor has he been diagnosed with schizophrenia. The Plaintiff argues that these statements were made with malicious intent to damage his credibility.

[26] However, as the law makes clear, even if the statements set out in the pleadings were false, because they are integrally connected to the judicial proceeding, they are covered by absolute privilege. The policy rationale underlying this rule is understandable. Counsel, witnesses and even the judge must be able to speak freely, and without fear of the chill of litigation against them

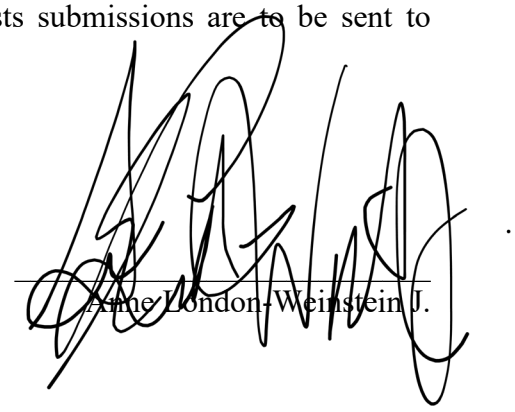
personally, when engaged in a process which is adversarial by design in order that the truth of the matter will emerge.

[27] As a result of my conclusion that the statements are covered by absolute privilege, the Defendant's motion to strike is granted, the Plaintiff's statement of claim is struck without leave to amend and the action is dismissed with costs.

[28] Given my conclusions in this matter, it was not necessary to determine whether the Plaintiff's statement of claim should be struck as being frivolous, vexatious or scandalous as I have already determined that it must be struck without leave to amend and the action dismissed.

[29] The Plaintiff, in turn, has requested that the Defendant's motion be dismissed as frivolous, vexatious and an abuse of process. Having found that absolute privilege applies to the communications set out in the pleadings, there is no basis to reach this conclusion.

[30] The parties are encouraged to resolve the issue of costs. If the parties cannot resolve the issue of costs for this proceeding, they may file brief written submissions not exceeding two pages exclusive of the bill of costs. The Defendant shall file submissions by September 26, 2025, and the Plaintiff shall file submissions by October 10, 2025. Costs submissions are to be sent to scj.assistants@ontario.ca and to my attention.



Anne London-Weinstein J.

**Date:** September 10, 2025

**CITATION:** Wilson v. Borden Ladner Gervais LLP, 2025 ONSC 5181
**COURT FILE NO.:** CV-24-98223
**DATE:** 2025/09/10

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

| | |
|---|---|
| **RE:** | Allan Douglas Wilson, Plaintiff (Responding Party) |
| | **-and-** |
| | Borden Ladner Gervais LLP, Defendant (Moving Party) |
| **BEFORE:** | Anne London-Weinstein J. |
| **COUNSEL:** | Plaintiff, Self-Represented |
| | Stephen Cavanagh, for the Defendant |

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**ENDORSEMENT**

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Anne London-Weinstein J.

**Released:** September 10, 2025