

**CITATION:** Duncan v. Buckles, 2021 ONSC 1158  
**COURT FILE NO.:** CV-18-594616  
**DATE:** 20210216

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

<b>BETWEEN:</b>	)	
	)	
TINA JAYNE DUNCAN	)	
	)	
Plaintiff	)	
– and –	)	<i>Gwendolyn L. Adrian, for the</i>
	)	Plaintiff
	)	
MARNEE BUCKLES and	)	
ROBERT LEPP aka BOB LEPP	)	
	)	
Defendants	)	
	)	
	)	<i>Robert Lepp, in person</i>
	)	
	)	<i>John Philpott, for the Peggy Lepp</i>
	)	
	)	
	)	<b>HEARD:</b> February 11, 2021

**FL Myers J:**

**REASONS FOR JUDGMENT**

**This Motion**

- [1] Once upon a time, people who believed in fairy tales, and destroyed their lives on quixotic quests, could be dismissed quaintly as tilting at windmills. In 2021 however, modern fairy tales are called conspiracy theories. People who subscribe to them can harness the overwhelming power of the internet and untiringly harass the targets of their quests.
- [2] One commonality that has not changed, is peoples’ ability to see themselves as fulfilling a purportedly higher purpose rendering them accountable only

to the one true and supreme moral authority that they recognize i.e. themselves.

[3] Such is the case of Robert Lepp. He views himself as partly a whistle blower exposing municipal corruption in his town and partly a mischievous troll who relishes taunting online those whom he perceives to be out to get him. Along the way, he has ruined his marriage, caused himself to suffer a heart attack, been arrested 7 times, and spent over \$50,000 on legal fees that he can ill afford. He also has been found by Favreau J. to have undertaken a relentless campaign against the plaintiff defaming her maliciously with statements that were “completely unfounded”.

[4] Favreau J. ordered Mr. Lepp to stop defaming the plaintiff.

[5] He has not obeyed the court’s order.

[6] He justifies his conduct relying on the Charter of Rights. He writes:

I still have my Charter Rights to my opinions and I blogged my opinion that Ms Duncan did finally admit the many lies in her Plaintiff’s Claim.

[7] Mr. Lepp reminds the court that under s. 1 of the Charter, the rights and freedom set out in the Charter are subject to “reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society”.

[8] Most of us can be excused for thinking that it is the role of the independent judiciary and the courts to assess the constitutionality of laws and breaches of the Charter. Not Mr. Lepp. He believes that he is the final authority on the validity of laws. He ignored the court’s order because he decided that “Justice Favreau was not demonstrably justified to remove my rights”.

[9] Mr. Lepp spent several hours explaining to me in detail the very high price he has paid due to the unlawful conspiratorial acts of a number of people in municipal government whose wrongdoing he has exposed. He says they are out to get him. I do not know and it is not my role in this hearing to decide if Mr. Lepp is correct. That issue will be decided in the criminal courts and elsewhere.

[10] In this proceeding, Mr. Lepp has connected the plaintiff to his conspiracy by deciding that she has an illicit connection to the Mayor of their town. As far as I can tell, the evidence supporting that belief is that she had an

election sign on her lawn supporting the Mayor when no one else on her street did.

[11] As I will discuss, Mr. Lepp takes facts that objectively mean something different, and decides that they are proof of a truth that only he divines and must expose to the world no matter the cost to himself or to others who get in his way.

[12] But Mr. Lepp is not a law unto himself. Like all of us, he is bound by the laws of Canada and Ontario as they are stated by the courts and not as he wishes them to be.

[13] For the reasons that follow, I find that the plaintiff has proven beyond a reasonable doubt that Mr. Lepp has knowingly and intentionally breached the order of Favreau J. and as such is guilty of contempt of court.

[14] Mr. Lepp will have a chance to purge his contempt as I will explain to him at the end of these reasons. I truly hope that he will understand that he must obey the law, purge his contempt, and end his unlawful behaviour.

### **Ms. Duncan's Fence**

[15] Ms. Duncan and Ms. Buckles are next door neighbours. Ms Buckles' house is located very close to the lot line that separates the properties.

[16] Ms. Duncan decided to erect a gate across her driveway to enclose her back yard to keep her puppy from escaping.

[17] Ms. Duncan put up a post for her gate that was almost touching Ms. Buckles' house. It was several inches onto Ms. Buckles' property. Ms. Buckles objected. Ms. Duncan removed the post. But she realized that if she just put the gate post on her side of the lot line, there would be a gap where the dog could escape between the post and Ms. Buckles' house. So, Ms. Duncan built a fence on her own property that paralleled the lot line to keep her puppy in her yard.

[18] Ms. Buckles became very upset because the fence was so close to her house that it ran in front of her windows and made access to her gas line very difficult. She sought assistance from the town without avail.

### **Ms. Buckles hires Mr. Lepp**

[19] Mr. Lepp became known to Ms. Buckles because he had been engaged in his own dispute with the town in order to get it to fund a local dog park.

While engaging with the town, he looked for sources of municipal revenue to fund the dog park. He says he discovered significant wrongdoing in the letting of municipal contracts. He says that he discovered and disclosed that very substantial amounts of licensing and education tax revenue that should have been received by the town had been wrongfully given away to friends of various municipal politicians or public servants. The amount of revenue that was wrongly given away was far more than was needed for his proposed dog park.

[20] Mr. Lepp disclosed his allegations on social media.

[21] Mr. Lepp ultimately succeeded in obtaining the funding of the dog park. That is how Ms. Buckles heard of him. She retained him to help her enlist the aid of the town to act against Ms. Duncan's fence.

[22] Mr. Lepp commenced a blogging campaign advocating for Ms. Buckles and criticizing the town and Ms. Duncan.

[23] Ms. Duncan retained counsel who served a libel notice on Mr. Lepp on February 9, 2018.

[24] Ms. Duncan then became a co-conspirator.

### **The Defamation**

[25] I will only deal with the merits briefly as they are fully resolved in the decision of Favreau J. dated May 25, 2020, reported at 2020 ONSC 3219.

[26] Ms. Buckles took Ms. Duncan to Small Claims Court to seek damages for the encroachment of Ms. Duncan's fence on Ms. Buckles' property. The evidence before the Small Claims Court judge was that the fence posts and fencing were all completely on Ms. Duncan's side of the lot line. Ms. Buckles' expert witness, who admitted that he had no personal involvement in the testing or report to which he testified, expressed the belief that the concrete into which the fence posts had been set may cross the lot line underground.

[27] The Small Claims Court judge found in favour of Ms. Duncan and dismissed Ms. Buckles' claim of trespass. He held:

Now with the fence there, it's an even tighter squeeze perhaps, but **I'm satisfied that the fence in question is on the defendant's side of the property.** The town did not object. The town found that defendant had every right to have a fence on her property, it was on her side of the property and the town approved it, and I don't think this court should interfere with that.

\* \* \*

I agree with the defence that the encroachment, **if any**, of a concrete or cement pad in which post sits is minimal, of no consequence, it is subterranean and I'm not going to consider that as far as damages is concerned, nominal or otherwise.

[28] The judge held that the fence is on Ms. Duncan's side of the property. He did not make a finding on the balance of probabilities that the concrete under the ground encroached. But he said that even if it did, it was minimal and was not a basis to provide legal relief to Ms. Buckles.

[29] Mr. Lepp disagrees. He says that the Small Claims Court does not have jurisdiction to grant a formal declaration of title. He believes that its jurisdiction is confined to assessing damages. What he does not understand is that in assessing Ms. Buckles' claim for damages, the court necessarily had to decide if Ms. Buckles had proven facts that entitled her to damages i.e. had Ms. Duncan erected a fence that trespassed on Ms. Buckles' land.

[30] The judge found that Ms. Duncan did not commit any actionable wrong. Justice Favreau held that the judge found that the fence was legal. As between Ms. Buckles (and her agents) and Ms. Duncan, this finding is binding, conclusive, and final.

[31] In giving her evidence at Small Claims Court, Ms. Duncan said that she understood that her initial gate post was unlawfully built and therefore she removed it. She mentioned that in sinking the posts for her fence, her trades hit stones or concrete under her driveway. A tradesman said it was "probably footings or something possibly from - from the house next door because being so close to my property line where would - 47 Wells Street foundation be - which was possibly underneath."

[32] Mr. Lepp stretches this statement to form a belief that Ms. Duncan admitted knowing that her fence was illegal. She did no such thing.

[33] The location of the initial gate post that was removed has nothing at all to do with the location of the later fence posts. Mr. Lepp has no idea if the concrete or stones that were hit were actually footings from Ms. Buckles' house. He does not know if they were connected to a prior structure or to construction of the driveway. Nor does he know if the stones had been initially laid partly or wholly on Ms. Duncan's side of the lot line when Ms. Buckles' house was built decades ago. He does not know if they might have migrated as Ms. Buckles' house settled.

[34] In short, objectively speaking, the fact that a tradesman says he hit some concrete or stones as he was digging says nothing about the lawfulness of the placement of the fence posts. It is certainly not an admission of illegality or of knowing illegality by Ms. Duncan.

[35] Mr. Lepp has decided that in her testimony Ms. Duncan admitted that her posts were knowingly placed on Ms. Buckles' side of the lot line, that her case was a lie, her testimony that her fence was lawfully on her own side of the lot line was an admitted lie, and that she is fundamentally a liar. None of that is in the transcript. It is all a creation of Mr. Lepp's mind.

[36] During her testimony, Ms. Duncan also lamented that had Ms. Buckles agreed to allow her initial gate to remain, then she never would have needed to build the fence to align with the posts inside the lot line. Mr. Lepp has twisted her lament to claim that Ms. Duncan has admitted that she only built the fence to spite Ms. Buckles for asserting of her rights against the initial gate post. He calls the fence a "spite fence" as a result. That was plainly not what she said.

[37] As noted above, due to Ms. Duncan supporting the Mayor in an election, Mr. Lepp began alleging that Ms. Duncan was receiving preferential treatment from the town because of improper political connections.

[38] Mr. Lepp made all of these allegations online. He did not stop after he received the plaintiff's libel notice.

[39] Ms. Duncan sued.

[40] Mr. Lepp was noted in default. He does not accept the legitimacy of Justice Schabas's decision to refuse to set aside the noting in default. He appealed but let the appeal lapse. He remains incensed that Schabas J. declined to hear his anti-SLAPP motion because he was noted in default. Mr. Lepp did not know that a party who has been noted in default is not allowed to bring any motions under Rule 19.02 (1)(b). He made clear to me that Schabas J did not hear his motion because the judge knew nothing about libel or anti-SLAPP law. I do not think that my indication to Mr. Lepp that Schabas J. is one of Canada's most experienced and leading authorities on defamation law made any impact on his view.

[41] Justice Favreau's described Mr. Lepp's conduct as follows:

[62] After he was contacted by Ms. Buckles, Mr. Lepp immediately undertook a relentless campaign against Ms. Duncan and her fence. As reviewed above, he implied that she deliberately broke the law, that she misused political connections, that she was a liar and that she was motivated by vindictiveness. After Ms. Duncan gave Mr. Lepp notice under the *Libel and Slander Act*, he redoubled his campaign. He continued to attack Ms, Duncan and sought to undermine her lawyers. He continued these efforts after the claim was commenced, and even after Ms. Buckles lost her Small Claims Court action and that Court found that the fence was lawful. Mr. Lepp had no personal stake in the situation, yet he took Ms. Buckles's cause on as though it were his own, and maliciously pursued Ms. Duncan. He had no motive other than what appears to be a history of disagreement with the Town's politics. His actions were malicious and completely unfounded.

[42] Favreau J. went on to find that in view of Mr. Lepp's relentless and malicious pursuit of Ms. Duncan, a permanent injunction was warranted. She held:

[67] Accordingly, an injunction is granted requiring Mr. Lepp to remove all blogposts, YouTube videos or internet content he has made that refer to Ms. Duncan, her fence and her property,

including comments made by others on these online posts. He is also to permanently refrain from publishing any defamatory statements about Ms. Duncan in the future, including on the internet and on any online platform.<sup>1</sup>

### **Mr. Lepp's Disobedience**

- [43] Mr. Lepp has removed all of his posts from prior to the date of the decision. He did so belatedly. But it is done and I do not find a basis to hold him in contempt for his tardiness at this time. However, his conduct in removing the prior internet posts may be an issue relevant to the need to bring this motion and therefore to costs.
- [44] Favreau J. also prohibited Mr. Lepp from “publishing any defamatory statements about Ms. Duncan in the future, including on the internet and on any online platform”. In a wonderful example of self-delusion, Mr. Lepp argues that he understands the spirit of the order to be that he is not to defame Ms. Duncan by posting anything that is untrue. Since he believes everything that he posts is true, despite the Small Claims Court judge and Favreau J. finding to the contrary, he does not see himself as doing anything contrary to the order.
- [45] In addition, as noted above, Mr. Lepp believes that despite the order of Favreau J., he has a Charter right to quote testimony given at the Small Claims Court trial and to post any opinion that he says he holds on that testimony. I know why he thinks this as a matter of defamation law. But a defence to a possible future claim of defamation does not excuse ignoring a direct court order. Plus, as will be seen, despite his protestations, he does not quote Ms. Duncan's testimony and then comment on it. He recites his twisted spins of her testimony and then repeats his malicious slurs.

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<sup>1</sup> As the order was made early in the pandemic, the court staff were not then entering formal orders. At para. 77 of her reasons, Favreau J. expressly held that the order was effective immediately without any need for a formal order to be signed.

[46] This might suggest that Mr. Lepp might have been confused about the meaning of Justice Favreau's order when she enjoined him from defaming Ms. Duncan. It is well understood that for there to be a contempt of court, the order in issue must be clear and unequivocal. *Carey v. Laiken*, 2015 SCC 17 (SCC) at paras 32 to 35.

### **The Order is Clear and Unequivocal**

[47] However, the order was both clear and unequivocal. Favreau J. set out plainly and expressed exactly what she found to be defamatory and hence prohibited:

*The impugned words were defamatory*

[40] Cumulatively, the public statements made by Mr. Lepp about Ms. Duncan would negatively impact her reputation:

- a. His statements suggested that she intentionally acted unlawfully;
- b. His statements suggested that she received preferential treatment from the Town because of an improper political connection;
- c. He directly stated that she was a liar; and
- d. He used a number of direct derogatory terms such as that she was rude and vindictive.

[48] Under the heading "The impugned words were defamatory", Favreau J. told Mr. Lepp precisely which words she determined to be defamatory. She repeated each in her summary paragraph, no. 62, that is set out above.

[49] He is not confused. He just disagrees and therefore feels justified in ignoring the findings and order.

### **Mr. Lepp Admits he Knew of the Order**

[50] Under the *Carey* decision, proof of contempt of court requires that the person charged must have actual knowledge of the court order. Mr. Lepp made a clear concession on this point when Ms. Adrian turned to it in her submissions.

### **Mr. Lepp Intentionally Breached the Order Repeatedly**

- [51] The final step in proving contempt is to show that the person intentionally breached the order. It does not matter whether he wanted to breach the order or not. He does not have to set out to breach the order. It is enough for him to have intentionally done things that are prohibited by the order.
- [52] As each of the acts relied upon is a voluntary act by Mr. Lepp – either sending an email or uploading a blog post to the internet - his intention is not really in issue. He sent each email and uploaded his blogs intentionally. The only real issue is whether they violated the prohibition contained in Justice Favreau’s order.
- [53] In an email published to a number of people on August 17, 2020, Mr. Lepp repeated his allegation that Ms Duncan had undertaken illegal acts and admitted her lies in Small Claims Court. These were listed as defamatory statements by Favreau J. at paras. 40 (a) and (c) and therefore violate the injunction in para. 67 of her reasons.
- [54] In a blog post dated August 30, 2020, Mr. Lepp says that Ms. Duncan admitted to her trespass in Small Claims Court. He said that the Small Claims Court judge “declared the trespass” and that Ms. Duncan continues to “litigate those lies”.<sup>2</sup> Calling Ms. Duncan a liar was listed as a defamatory statement by Favreau J. at para. 40 (c) and therefore violated the injunction in para. 67 of her reasons.
- [55] In an email to numerous people dated September 4, 2020, Mr. Lepp said that Ms. Duncan lied and she knew her fence trespassed. In court, he wrote, she admitted that she had lied all along. These were listed as defamatory statements by Favreau J. at paras. 40 (a) and (c) and therefore violated the injunction in para. 67 of her reasons.
- [56] I note for good measure that in this email, Mr. Lepp also alleges that Ms. Duncan bought off Schabas J. and her lawyer bought off Favreau J.

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<sup>2</sup> I note in passing that this statement makes quite questionable the truthfulness of Mr. Lepp’s submission before me that he did not believe that there was any trespass considered at the Small Claims Court and that Small Claims Court judges cannot declare trespass. But the credibility of Mr. Lepp’s submissions is not an issue in determining contempt.

- [57] In a letter to members of Ms. Adrian's firm dated October 2, 2020, Mr. Lepp stated that Ms. Duncan admitted she lied and that everything in her suit was a lie in the Small Claims Court. He stated that Ms. Duncan was a long time friend of the Mayor and he is the reason that the fence was not inspected by the town. These were listed as defamatory statements by Favreau J. at paras. 40 (a), (b), and (c) and therefore violated the injunction in para. 67 of her reasons.
- [58] In a blogpost date October 16, 2020, Mr. Lepp commented on an article in the Toronto Star about the case written by prominent real estate lawyer Robert Aaron. He said that Ms. Duncan constructed a "spite fence" and knowingly trespassed. These were listed as defamatory statements by Favreau J. at paras. 40 (a) and (d) and therefore violated the injunction in para. 67 of her reasons.
- [59] In an email dated October 16, 2020 to numerous people, including the Toronto Star, he repeated his "spite fence" accusation. Mr. Lepp repeated his accusation that Ms. Duncan knew that her fence was illegal when she built it. These were listed as defamatory statements by Favreau J. at paras. 40 (a) and (d) and therefore violate the injunction in para. 67 of her reasons.
- [60] Mr. Lepp sent counsel for Ms. Duncan and others a copy of his email dated November 4, 2020 sent to others that repeats the "spite fence" statement and says that Ms. Duncan "**used her friendship of Mayor...to get [a bylaw officer] to NOT inspect her fence**" [Emphasis in original].
- [61] Mr. Lepp also wrote:

Duncan testified in Small Claims she had been lying all along.  
Adrian ASKED her ion [sic] she lied and she admitted she lied.

- [62] This is an example of Mr. Lepp's submission that all he has done is quoted the transcript and commented on it. But this is not a quote from the transcript. Ms. Adrian never asked Ms. Duncan if she lied. Ms. Duncan never admitted she lied. It is all Mr. Lepp's extrapolation to fit his conspiracy theory.
- [63] Mr. Lepp's statements in this email were listed as defamatory statements by Favreau J. at paras. 40 (a), (b), (c) and (d) and therefore violated the injunction in para. 67 of her reasons.
- [64] In a letter dated November 18, 2020 to lawyers in Ms. Adrian's office, Mr. Lepp repeated twice his allegations that Ms. Duncan acted unlawfully knowingly, she is lying, that the fence was built out of spite, and that she received improper political help due to her friendship with the Mayor. These were listed as defamatory statements by Favreau J. at paras. 40 (a), (b), (c) and (d) and therefore violated the injunction in para. 67 of her reasons.
- [65] In a blog post dated December 4, 2020, Mr. Lepp repeats his allegations that Ms. Duncan lied and that she received improper assistance from the town due to her friendship with the Mayor. These were listed as defamatory statements by Favreau J. at paras. 40 (b) and (c) and therefore violated the injunction in para 67 of her reasons.

### **Finding of Contempt of Court**

- [66] The Supreme Court of Canada makes clear in *Carey* that contempt of court is reserved for serious cases. It should not be the go-to remedy. I have the discretion to decide that I will not hold Mr. Lepp in contempt if I decide that doing so would be overkill, unwarranted, or unjust in the circumstances.
- [67] While I deal with issues concerning Mr. Lepp's judgment debtor examination below in this way, I do not think it is appropriate to exercise discretion to refrain from finding contempt in relation to Mr. Lepp's continued online harassment of the plaintiff in breach of Justice Favreau's order. It has to stop. The injunction and findings of Justice Favreau have not been sufficient to end Mr. Lepp's quest against Ms. Duncan and her fence as yet. I see no alternative but a contempt conviction to try to bring home to Mr. Lepp the supremacy of the law and the need to comply with the court's orders.

- [68] The plaintiff has proven beyond a reasonable doubt each of the three elements of contempt of court. I therefore find Mr. Lepp in contempt of the order of Favreau J. for each of the publications referred to in the prior section of this decision.
- [69] Ms. Adrian is to arrange a case conference before me on notice to Mr. Lepp to discuss the process for sentencing.

### **Mr. Lepp has a Chance to Make Amends**

- [70] The law of contempt of court has two purposes – maintaining respect for the Rule of Law and enforcing court orders.
- [71] Prior to sentencing, the law gives people who have been found in contempt a chance to “purge their contempt” or to try to make amends and thereby reduce the sentence for their unlawful acts.
- [72] Mr. Lepp can purge his contempt by showing that he accepts and respects the law – even if he disagrees with it – and that he will comply with the order of Favreau J.
- [73] As to respect for the Rule of Law, I invite Mr. Lepp to apologize formally for violating the order of Justice Favreau. He does not have to embrace the order, agree with it, or like it. I am not interested in his opinion. What he needs to do to purge his contempt firstly, is to accept that the law applies to him. To demonstrate that, the court expects Mr. Lepp to apologize for his disobedience and pledge to obey the order of Favreau J. as I have explained it in this decision.
- [74] I need to see that Mr. Lepp understands that it is not up to him to decide that he can publish words that he thinks are true if they are prohibited by the injunction. It is not up to him to decide whether the Charter of Rights invalidates Justice Favreau’s order. What he is required to do is to be bound by the order and obey it, completely, in letter and in spirit.
- [75] The second purpose of contempt that I mentioned above is to compel obedience to the order. In addition to an apology, prior to sentencing, to purge his contempt, Mr. Lepp needs to demonstrate that he is complying fully with the order. He needs to take down every remaining internet post that he has posted at any time whether before or after May 25, 2020 that contains any of the defamatory words listed by Favreau J.
- [76] He needs to do that quickly.

- [77] Plus, he needs to refrain from posting or publishing any further statements about Ms. Duncan that violate the order.
- [78] I will take into account in sentencing whether Mr. Lepp has purged his contempt in these or other ways.
- [79] Move on Mr. Lepp. Please.

### **Examination in Aid of Execution**

- [80] Justice Favreau also ordered Mr. Lepp to attend for examination in aid of execution at a date and time picked by Ms. Adrian.
- [81] Mr. Lepp made a mockery of the examination although he was aided by the plaintiff's approach. A witness does not have to stay to midnight nor take a picture of the serial number on his washing machine. I have previously commented on the palpable dislike between Ms. Adrian and Mr. Lepp. While I make no finding, I invite Ms. Adrian to consider if a senior litigator's time is best spent doing a JD exam.
- [82] But Mr. Lepp needs to understand that he is required to stay at the examination during business hours until it is completed. It should run from 10:00 a.m. to 11:30 a.m. and then from 11:45 a.m. to 1:00 p.m. and then from 2:00 p.m. to 3:15 p.m. and finally from 3:30 p.m. to 5:00 p.m. These times may be amended on mutual consent. If it does not finish by 5:00 in the afternoon, he will have to come back.
- [83] Mr. Lepp also does not get to withhold relevant information. He is required to give the fullest disclosure of his assets, liabilities, revenue, and expenses for the past several years including all transfers of property of any nature and kind. That includes business and personal. He is required to produce his income tax returns including all back-up schedules and invoices, statements, or other documents referred to or relied upon in them. He is required to provide his notices of assessment.
- [84] It does not matter if assets might be exempt from seizure. Just because Mr. Lepp thinks an asset is exempt does not necessarily make it so. It does not matter if others also have title. It does not matter if the plaintiff wants personal information like his Social Insurance Number or his Drivers' License Number. Identification helps find assets. The plaintiff is entitled to ask for any and all information that is relevant to her search for assets to liquidate in order to pay Mr. Lepp's outstanding judgments.

- [85] I accept that the first examination got off on the wrong foot. I also accept that Mr. Lepp takes some pleasure in giving Ms. Adrian the run-around.
- [86] It is premature for me to consider a contempt order. But, I do order Mr. Lepp to produce to the plaintiff before March 12, 2021, a copy of all documents listed in Schedule "A" to the undated Notice of Motion found at page 7 of the plaintiff's motion record (page A720 on Caselines).
- [87] I also order Mr. Lepp to reattend for further examination including, without limitation, to answer the questions listed in Schedule "B" to the Notice of Motion starting at page 8 of the motion record (Page A721 on Caselines) except for the following questions that do not have to be answered from that list: 946, 953, 970, 1027, 1070, 1074, 1084, and all questions from 1084 to 1194 inclusive. Mr. Lepp shall also answer all questions listed as "under advisement" and as "undertakings".
- [88] The examination will take place before April 1, 2021. Mr. Lepp is to take it seriously. He is required to answer every proper question fully and truthfully.
- [89] Lest there be any doubt, this order is to be complied with in letter and in spirit regardless of what Mr. Lepp thinks about its validity or correctness.

**Peggy Lepp**

- [90] The plaintiff sought an order allowing her to examine Mr. Lepp's spouse Peggy Lepp in aid of execution as an alternative form of relief. I adjourn that request pending the outcome of the renewed examination in aid of Mr. Lepp. If Mr. Lepp continues to decline to answer questions or defers answers to Ms. Lepp, in addition to any other relief that might be available against Mr. Lepp, an examination of Ms. Lepp remains a possibility. Although Mr. Lepp says that they are divorcing, whether they are truly adverse in interest remains to be seen.
- [91] If Ms. Lepp provides the plaintiff's counsel with an email address for service that is not her business email, then Ms. Adrian is directed to use the alternative that Ms. Lepp provides. However, if Ms. Lepp does not

provide an alternative by February 18, 2021, then Ms. Adrian is free to use Ms. Lepp's business email for valid service despite my earlier direction.

[92] If Mr. Philpott is staying on the record for Ms. Lepp, I would expect service upon him to suffice.

[93] The costs of Mr. Philpott's attendance are reserved to the judge who next hears this matter after the examination in aid of execution of Mr. Lepp. If no further motions are needed after that examination, then Ms. Lepp or the plaintiff may bring the outstanding issue of costs before me.

**Costs**

[94] The costs of this motion are reserved and will form part of the sentencing proceeding.

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FL Myers J

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**SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

TINA JAYNE DUNCAN

Plaintiff

– and –

MARNEE BUCKLES and ROBERT LEPP  
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Defendants

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**REASONS FOR JUDGMENT**

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FL Myers J

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