

CITATION: Cafaro v. Alloul, 2021 ONSC 4765
COURT FILE NO.: CV-20-00644176-0000
DATE: 20210622

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Gaetano Cafaro, Plaintiff

AND:

Nathalie N. Alloul, Defendant

BEFORE: Justice Mohan D. Sharma

COUNSEL: Vadim Kats and Ilya Kirtsman for the Plaintiff

Ryan Kirshenblatt for the Defendant

HEARD: June 22, 2021

ENDORSEMENT

- [1] Plaintiff sought this case conference after seeking to schedule a mediation with the defendant since September of 2020. The defendant’s counsel was delayed in responding to requests and advised that the earliest counsel was available for a mediation was February 2022.
- [2] In my view, the defendants in this case are not abiding by the direction from the Supreme Court of Canada in *Hryniak v Mauldin*, 2014 SCC 7. There is an obligation on the court and the parties to move cases through the system in a timely and affordable manner. I accept that counsel may be fully engaged on other files, but that is not a sufficient justification to delay the plaintiff’s case in excess of a year. A representative from the insurer for the defendant was also on the call. If new defence counsel must be retained to allow this case to progress in a meaningful way, that will be up to the insurer to decide.
- [3] It is also critical that parties understand the importance of mediation in our civil justice system. Mediation is not an unnecessary speedbump in our justice system that simply results in a certificate of mediation being issued so that a party can set a matter down for trial. It is a regulatory and statutory requirement under the Rules of Civil Procedure and the Insurance Act, enacted with the intention that it will achieve timely, cost-effective resolutions with active participation and agreement by the parties. It is critical that parties and their counsel approach mediation with this mindset. Otherwise, the policy intention behind these legislative instruments is thwarted with resulting burdens on litigants and the administration of justice in this province.
- [4] Accordingly, I have ordered:

- Parties to agree on mediator and mediation date, which shall be held before November 30, 2021.
- Plaintiff to provide updated medical reports to the defendants by July 14, 2021.
- Defendant to identify physician to conduct defence medical examination of plaintiff by July 14, 2021, which examination shall occur no later than October 29, 2021.

[5] If parties encounter further scheduling issues before the mediation, they may request a case conference before me by contacting my assistant.

Mohan D. Sharma J.

Date: June 22, 2021