

# COURT OF APPEAL FOR ONTARIO

CITATION: Mendes v. Blaisdale Montessori School, 2014 ONCA 821

DATE: 20141119

DOCKET: C58972

Hoy A.C.J.O., Epstein and Hourigan JJ.A.

BETWEEN

Victoria Mendes and Richard Mendes, by his Litigation  
Guardian, Victoria Mendes

Appellants

and

Blaisdale Montessori School

Respondent

Sergio Grillone, for the appellants

Martin Smith and Desneiges Mitchell, for the respondent

Heard and released orally: November 7, 2014

On appeal from the order of Justice Frederick L. Myers of the Superior Court of Justice, dated May 26, 2014.

## ENDORSEMENT

[1] The appellants argue that the motion judge erred in the exercise of his discretion in concluding that, in this case, he could avoid the need for a trial by using the expanded fact-finding powers under Rules 20.04(2.1) and (2.2).

[2] While the appellants did not seek leave to appeal costs, they also argue that this court should interfere with the partial indemnity costs award in the amount of \$24,294 the motion judge awarded.

[3] The decision of a motion judge to exercise the new fact-finding powers under Rule 20.04(2.1) attracts deference. We are not satisfied that in deciding to exercise those powers the motion judge misdirected himself or came to a decision that is so clearly wrong that it resulted in an injustice. There is no basis to disturb his decision.

[4] Similarly, there is no reason to interfere with the costs award.

[5] This appeal is accordingly dismissed. Costs to the respondent are fixed in the amount of \$4000, all inclusive.

“Alexandra Hoy A.C.J.O.”

“Gloria Epstein J.A.”

“C.W. Hourigan J.A.”