

COURT OF APPEAL FOR ONTARIO

CITATION: Mouralian v. Groleau, 2024 ONCA 485

DATE: 20240614

DOCKET: C70741

Roberts, Trotter and George JJ.A.

BETWEEN

Nathalie Mouralian

Plaintiff (Appellant)

and

Isabelle Groleau

Defendant (Respondent)

Kenyah Coombs, for the appellant

Matthew Morden, for the respondent

Heard: in writing

On appeal from the order of Justice Jasmine T. Akbarali of the Superior Court of Justice, dated May 13, 2022, with reasons reported at 2022 ONSC 2925.

COSTS ENDORSEMENT

[1] On May 6, 2024, we dismissed the appeal and ordered that the respondent is entitled to her partial indemnity costs of the appeal. We invited the parties to make brief written submissions regarding the quantum within 7 days of the release of our reasons dismissing the appeal, if they could not agree. They could not. Only the respondent has filed costs submissions.

[2] The respondent submits that she should receive substantial indemnity costs of the appeal in the amount of \$11,210 based on an email offer to settle dated June 16, 2022 that the appellant did not accept. In the offer, the respondent proposed to reduce the \$12,000 costs award on the summary judgment motion to \$8,000, and, upon payment of the reduced amount, to consent to a dismissal of the appeal without costs. The respondent advised the appellant that if the offer were not acceptable, she should perfect her appeal.

[3] The respondent's offer to settle does not change our original determination that the appropriate disposition is that the respondent should receive her appeal costs on a partial indemnity basis. There are no automatic costs consequences flowing from an offer to settle made in relation to an appeal. Moreover, the respondent's offer to settle appears to be time limited. It does not justify the extraordinary award of substantial indemnity costs.

[4] Accordingly, we order that the appellant pay the respondent's partial indemnity costs in the amount of \$7,601.21 within 30 days of the release of this endorsement.

"L.B. Roberts J.A."
"Gary Trotter J.A."
"J. George J.A."