

CITATION: *Shemar Williams v. TD Auto Finance*, 2026 ONSC 2367
COURT FILE NO.: CV-25-00749887-0000
DATE: 20260421

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Shemar Williams, Plaintiff

AND:

TD Auto Finance, Defendant

BEFORE: John Callaghan J.

COUNSEL: Self-Represented Plaintiff

Lorne J. Graburn, for the Defendant

HEARD: In Writing

ENDORSEMENT

[1] The defendant has made a request that the plaintiff's statement of claim be dismissed or stayed under r. 2.1 of the *Rules of Civil Procedure*.

[2] Rule 2.1 is intended to weed out claims which, on their face, are vexatious, frivolous or otherwise abusive. However, this rule must be used with caution. The Court of Appeal in *Scaduto v. The Law Society of Upper Canada*, 2015 ONCA 733, at para. 8, held that r. 2.1 "...should be limited to the clearest of cases where the abusive nature of the proceeding is apparent on the face of the pleading and there is a basis in the pleadings to support the resort to the attenuated process."

[3] Rule 2.1 is not meant for close calls or where the rules provide for other motions that are better suited to resolve the issue: *Simpson v. CPAO*, 2016 ONCA 806; *Tiguan Gao v. Ontario WSIB and Ontario Ombudsman*, 2014 ONSC 6100. In *Khan v. Law Society of Ontario*, 2020 ONCA 320, at para. 15, the Court of Appeal cautioned as follows:

[15] We reiterate that judges should be cautious about allowing parties to have recourse to r. 2.1 except where it is plain and obvious on the face of the pleading that the action is frivolous, vexatious or an abuse of process. There are many other remedies provided for in the *Rules of Civil Procedure* by which parties can deal with cases that are not clear on the face of the pleading.

[4] In reviewing a statement of claim under r. 2.1, it must be read generously with allowances for drafting deficiencies. That is particularly where the plaintiff is self-represented, as is the plaintiff in this case.

[5] In this case, the statement of claim alleges the plaintiff acquired a vehicle. The defendant bank appears to assert a financial interest in the vehicle. The plaintiff seeks remedies that appear to assert his ownership of the vehicle free and clear while restraining enforcement by the bank of any incumbrance it may assert. In short, the statement of claim seeks to resolve any interest the defendant bank may assert in the vehicle.

[6] On the face of it, the statement of claim does not have the hallmarks of a pleading that is frivolous, vexatious or an abuse of process. It is intelligible and clearly sets out a dispute that the plaintiff seeks the court to resolve. It may be that the claim misses the mark and there is no cause of action available to the plaintiff. However, whether the statement of claim has advanced an action that could survive a motion to strike the claim for disclosing no cause of action is not the issue on a r. 2.1 request. If the statement of claim is deficient, it may be dealt with by way of a motion. To be clear, I am not opining on the sufficiency of the statement of claim, other than I do not believe on its face that it is frivolous, vexatious or an abuse of process.

[7] On the face of this pleading, there is no reason to stay or dismiss this action pursuant to r. 2.1. The request is denied.

Callaghan J.

Date: April 21, 2026