

CITATION: Ahayah v. Roefe et al., 2026 ONSC 3485
COURT FILE NO.: CV-25-3039-000
DATE: 2026 06 12

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: David Ahayah, Plaintiff

AND:

Marlon Roefe and Eric Nadler, Defendants

BEFORE: Justice Coats

COUNSEL: David Ahayah, Self Represented

Michael Saad, for the Defendants

HEARD: June 12, 2026, in writing

ENDORSEMENT

Background:

[1] On January 21, 2026, counsel for the defendants requested a stay or dismissal of the proceeding under Rule 2.1 of the *Rules of Civil Procedure*, O. Reg. 194. I directed the registrar to give notice to the parties on Form 2.1B and identified the process for written submissions.

[2] The plaintiff filed written submissions. I directed the registrar to send these to the defendants' counsel, and in response, the defendants filed written submissions.

[3] I have read and reviewed the following:

1. The Amended Claim issued June 16, 2025;
2. The plaintiff's submissions; and,
3. The defendants' submissions.

The Law:

[4] The general principles applicable under Rule 2.1 are as set out by Kamal A.J. in *Sabarros v. Morell*, 2025 ONSC 6122, at paras. 9-14:

- [9] Rule 2.1.01(1) of the *Rules of Civil Procedure* provides for a summary procedure that allows the court to dismiss a proceeding that appears on its face to be frivolous, vexatious, or an abuse of the process of the court.
- [10] Rule 2.1 must be “interpreted and applied robustly so that a motion judge can effectively exercise their gatekeeping function to weed out litigation that is clearly frivolous, vexatious, or an abuse of process”. See: *Scaduto v. The Law Society of Upper Canada*, 2015 ONCA 733, at para. 8.
- [11] It is not for close calls; it may only be used in “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”. See *Mohammad v. McMaster University*, 2023 ONCA 598, at para. 6, citing *Scaduto v. The Law Society of Upper Canada*, 2015 ONCA 733, at para. 8; *Khan v. Law Society of Ontario*, 2020 ONCA 320, at para. 6.
- [12] The Court of Appeal has also said that Rule 2.1 is an extremely blunt instrument. It is reserved for the clearest of cases, where the hallmarks of frivolous, vexatious, or abusive litigation are plainly evident on the face of the pleading. Rule 2.1 is not meant to be an easily accessible alternative to a pleadings motion, a motion for summary judgment, or a trial. See *Khan v. Krylov & Company LLP*, 2017 ONCA 625 at para. 12.
- [13] The Court may consider whether the allegations are entirely implausible. The Court may ask itself, “What if the plaintiff’s allegations are true”? See *Husain v. Craig*, [2015] O.J. No. 1300, 2015 ONSC 1754 (S.C.J.), at para. 10 and *Khan v. Krylov & Company LLP*, 2017 ONCA 625 at para. 11.
- [14] The statement of claim must be read generously, and I must assume that the assertions of fact are true unless they are obviously implausible or ridiculous. See: *Sumner v. Ottawa (Police Services)*, 2023 ONCA 140 at para. 9.

[5] At para. 19 of *Sabarros* a “frivolous” action is defined:

[19] A “frivolous” action is a proceeding that lacks a legal basis or legal merit: *Currie v. Halton Regional Police Services Board*, 2003 CanLII 7815 (Ont. C.A.), at para. 14.

[6] At para. 32 of *Sabarros* “abuse of process” is defined:

[32] A proceeding is an abuse of process when it is inconsistent with the objectives of public policy. See *Currie v. Halton Regional Police Services Board*, 2003 CanLII 7815, at paras. 16, relying on *Canam Enterprises Inc. v. Coles* (2000), 2000 CanLII 8514 (ON CA).

[7] Paragraphs 48-50 of *Sabarros* set out the types of situations Rule 2.1 is meant to address:

[48] As the Court of Appeal has stated numerous times, Rule 2.1 is not meant to be an easily accessible alternative to a pleadings motion, a motion for summary judgment, or a trial. There are many other mechanisms and 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. See *Khan v. Law Society of Ontario*, 2020 ONCA 320, at para. 15 and *Khan v. Krylov & Company LLP*, 2017 ONCA 625 at para. 12.

[49] The *Rules* specifically create different avenues to deal with cases before a trial. For example:

- a. Rule 21, rather than Rule 2.1, may be appropriate if a case reveals no cause of action or defense, but legal submissions are necessary to resolve a legal question.
- b. Rule 20, not Rule 2.1, may be appropriate if a matter requires evidence to indicate its lack of merit.
- c. Rule 25.11, rather than Rule 2.1, may be appropriate if a pleading is frivolous, abusive, scandalous, or vexatious and this is not evident on the document's face.

[50] The key consideration for a Rule 2.1 request is whether the proceeding appears to be frivolous or vexatious, or otherwise an abuse of the process of the court on the face of the pleadings.

[8] The principles to apply on a Rule 2.1.01(1) determination are set out in *Visic v. Elia Associates Professional Corporation*, 2020 ONCA 690, leave to appeal refused, 2021 CanLII 22785 (SCC), at para. 8:

[8] The following principles govern the application of r. 2.1:

- 1. Rule 2.1 must be “interpreted and applied robustly so that a motion judge can effectively exercise his or her gatekeeping

function to weed out litigation that is clearly frivolous, vexatious, or an abuse of process”: *Scaduto v. The Law Society of Upper Canada*, 2015 ONCA 733, at para. 8, leave to appeal refused, [2015] S.C.C.A. No. 488. The Rule is not for close calls — it may be used only in “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”: *Scaduto*, at paras. 8-9; *Khan v. Law Society of Ontario*, 2020 ONCA 320 (“*Khan*”), at para. 6, leave to appeal to S.C.C. requested, 39321.

2. A motion under r. 2.1 focuses on the pleadings and any submissions of the parties made under the rule. No evidence is submitted on a r. 2.1 motion: *Scaduto*, at paras. 9, 11-12. A court may, however, review reasons and pleadings from other proceedings to determine whether the case is abusive: *Khan*, at para. 9.

3. Rule 2.1 does not replace other rules in the *Rules of Civil Procedure* to strike out actions or to deal with other procedural irregularities summarily: *Khan*, at para. 7. The rule is “not meant to be an easily accessible alternative to a pleadings motion, a motion for summary judgment, or a trial”: *Khan v. Krylov & Company LLP*, 2017 ONCA 625, 138 O.R. (3d) 581, at para. 12; *P.Y. v. Catholic Children’s Aid Society of Toronto*, 2020 ONCA 98, at para. 11. The Rules provide many other remedies to address cases that are not clear on the face of the pleading: *Khan*, at para. 15.

4. The case law under r. 2.1 will continue to develop as the rule is used more widely: *Scaduto*, at para. 9.

5. A motion judge’s ruling under r. 2.1 is a discretionary decision entitled to appellate deference. Such a decision may be set aside only if the motion judge misdirected themselves or their decision was so clearly wrong as to amount to an injustice: *Khan*, at para. 10; *Penner v. Niagara Regional Police Services Board*, 2013 SCC 19, [2013] S.C.R. 125, at para. 27.

[9] The rationale for the Rule 2.1.01(1) process is set out in *Gao v. Ontario WSIB*, 2014 ONSC 6100, 37 C.L.R. (4th) 1, at paras. 6, 8:

[6] Rule 2.1 is a statutory response to a significant and longstanding problem. Vexatious proceedings can cause very substantial costs to be incurred by responding parties. They also cause inefficient and inappropriate utilization of court resources. *Knights Village Non-Profit Homes Inc. v. Chartier*, 2006 O.J. No. 4433 at para. 16.

[8] Rule 2.1 provides a summary process for a hearing in writing to determine if a proceeding ought to be dismissed where it has been identified by opposing parties or by the court as possibly falling into the categories of frivolous, vexatious or an abuse of process. The hearing process is quite quick and limited. This prevents the hearing of the motion from itself becoming a vehicle for a party who might be inclined to inflict the harms of frivolous proceedings on the opposing parties and the civil justice system. Subrule 2.1.01(3) provides the following process for the hearing of a motion under rule 2.1:

(3) Unless the court orders otherwise, an order under subrule (1) shall be made on the basis of written submissions, if any, in accordance with the following procedures:

1. The court shall direct the registrar to give notice (Form 2.1A) to the plaintiff or applicant, as the case may be, that the court is considering making the order.
2. The plaintiff or applicant may, within 15 days after receiving the notice, file with the court a written submission, no more than 10 pages in length, responding to the notice.
3. If the plaintiff or applicant does not file a written submission that complies with paragraph 2, the court may make the order without any further notice to the plaintiff or applicant or to any other party.
4. If the plaintiff or applicant files a written submission that complies with paragraph 2, the court may direct the registrar to give a copy of the submission to any other party.
5. A party who receives a copy of the plaintiff's or applicant's submission may, within 10 days after receiving the copy, file with the court a written submission, no more than 10 pages in length, responding to the plaintiff's or applicant's submission, and shall give a copy of the responding submission to the plaintiff or applicant and, on the request of any other party, to that party.

Documents Provided by Parties:

[10] The Amended Claim was issued on June 16, 2025. In para. A, the relief required, is stated to be:

- a. A command to The registrar's to schedule a another day within a seven day period to have a judicial officer acting within The Burlington, small claims court to render a finalization for defaulted case SC 23 955 and compensation: \$200,000 for obstructing justice, fraud and bias against i, mankind by doing acts of willful failure to observe due process of Law and statutes designated and designed to govern such matters, divide compensation equally between Marlon and Eric.

Marlon Roef: \$100,000

Eric Nadler: \$100,000

[11] The two defendants are judicial officers of the Burlington Small Claims Court.

[12] The thirteen paragraphs in the body of the Claim provide as follows:

1. Marlon Roefe and Eric Nadler are judicial officers of the Burlington Small Claims courthouse, miscarrying justice, they lied about articles missing from the file SC 23 955 while performing a judicial function such as “missing” proof of services.

2. The registrar working at the Burlington Small Claims Court; T Shilvers has verified the file is intact and missing nothing by way of email i received July 31st 2025 8:11AM. Who also happened to be the woman who took in all service documents

3. All the defendants were properly served Claim SC 23 955 by Kostas Paliulis with the original and amended documents to Michelle Lynn Garceau, one of the defendants dwelling with the other two defendants at 5298 Bromley Road,

4. the defendants of case SC 23 955 all failed to respond and therefore were noted in default

5. Eric Nadler signed an endorsement claiming he was unsatisfied that the original and amended claims were served; files were intact at the time and it is impossible for him to not have seen them or known about the documents of service.

6. Roefe has made an order to compel me to redo everything that has already been completed and has also placed unlawful burdens upon i to be proficient in legalese, by ordering a re-doing all my documents and including things like a TAB and paginated text.

7. i am not proficient in legalese and therefore use common language such as a man or a woman would, i am an idiot to the legal society and their practices, a tab to me is a button on a keyboard and paginated text makes no sense to me and i have no comprehension of what paginated means.

8. This claim has been default for over two years and the named wrongdoers herein are obstructing justice by finding excuses to delay this default judgment even longer.

9. There is nothing in any rules of civil procedure to suggest they have the authority to compel i to perform paginated texts or tabs. The rules are simple in regards to noting in default found in section 11.01, and i have met all criteria for a default judgment against the defendants in case file SC 23 955.

<https://www.ontario.ca/laws/regulation/980258#BK66>

10. The Supreme Court of Canada has not made any ruling or set any precedent that would give them lawful reason to prevent me from obtaining a default judgment from Roefe and Nadler, they should have provided a signature for the judgment without any delay or extra requirements.

11. The defendants in case file SC 23 955 have not to this day made any objections against any defects for unfairness, they have not asked to have the default set aside, no action at any point of the process from beginning and until this day, have been taken by Michelle, Mary Ann or Phil Garceau.

12. This process and the way the claim carried on with no reply from any one of the defence should have not taken any longer than two months.

13. The standards of a man to file a claim is not as stringent as the burdens placed upon a trained legal professional.

<https://lernalers.ca/lernx/navigating-self-represented-litigants-in-family-law-trials>

[13] The plaintiff's written response to the Rule 2.1.01 notice is as follows:

i, man require a court of record, trial by jury where i, man was created and formed by God in the Genesis account.

1. i am not a legal entity, and that which i seek is under natural, law and i maintain my inherent rights therefore i claim conusance and require i be moved to the correct side of the court where man is present.

2. the word person is defined in Canadian interpretation act as only a corporation.

3. this is not a legal matter, this is a lawful matter, i am not proficient in legalese and i do not understand legalese therefore i seek what is available to mankind

4. the man Marlon and Eric are not in proper jurisdiction as jurisdiction is also capacity and these have no proper oath, and have stepped beyond their scope of duties by discriminating against me for making comments about the legal society in a email to the burlington small claims court

5. marlon and eric have breached their duty and therefore have breached the trust of i amd the public, corrupting the ways of law, shown in the proof i hold.

6. a man cannot have absolute immunity when using a vehicle to obstruct justice causing willful harm to another man committing a criminal trespass.

7. absolute immunity applies to a a person acting within the constraints of the law as these two said above are performing a criminal act by obstructing and perverting the proper course of justice.

8. my claim is not frivolous, as a Bible believing adherent of Yasha Christ i can only do that which is honest and according to my deeply held faith.

9. the King James Bible is the Law of the land, i am a man made of the dust and dirt of the ground, and i am under Law.

10. i do not carry or use ONTARIO benefits, nor do i carry articles related to persons of CANADA and i require this, my court be moved before a jury.

11. the human rights code, although applicable to humans, does state that no belief can be interfered with unless by reason of harmful beliefs.

12. i am a man, not a person, not a human.

13. i have seen and experienced lack of jurisdiction in CANADIAN criminal courts by rejecting the all caps legal name, therefore the rules of civil procedure do not apply and i may move this, my court to trial by jury clearly showing two jurisdiction running parallel, and depending on the hat the man or woman in the black robe are wearing also helps determine immunity, which a man is not immune to recourse for doing a trespass against another man.

14. the King James Bible has revealed the truth of the commercial nature side of the courts where the legal society uses our buildings to make a financial gain. i hold the CUSIP records for a man who once acted as a superior court magistrate which verifies the Bibles authenticity showing that marlon and eric where acting in the private interests of the legal society by frustrating and obstructing my claim sc 23 955 and intimidating i to take LEGAL representation, which i reject because of scripture and my inherent capacity.

15. i am not apart of any guru organization. I do bot subscribe to the freemin or soverin citizens.

[14] In the defendants' written response to the plaintiff's submissions, the defendants submit that this is an action brought by the plaintiff against two Deputy Judges in relation to their judicial duties presiding over a Small Claims court proceeding. At its core, the plaintiff is dissatisfied with rulings made by the Deputy Judges in the course of the proceeding.

[15] The defendants further submit that judicial officers, including Deputy Judges, are immune from civil liability for acts done in the course of their judicial duties, even when the acts are alleged to have been done maliciously or in bad faith.

Analysis:

[16] The plaintiff pleads in the Amended Claim that the Deputy Judges made rulings in a Small Claims Court proceeding, court file number SC-23-955. The plaintiff disagrees with the rulings.

[17] The Amended Claim states that the plaintiff served a statement of claim on certain defendants and later noted them in default. Deputy Judge Nadler issued an endorsement stating that His Honour was not satisfied that the plaintiff had served certain documents. Deputy Judge Roefe later

ordered the plaintiff to “redo everything that has already been completed” and to paginate his documents and add tabs.

[18] The plaintiff alleges in the Amended Claim that the Deputy Judges are “obstructing justice by finding excuses to delay this default judgment even longer.”

[19] In my view, the Amended Claim is frivolous and an abuse of process. This is apparent on the face of the Amended Claim.

[20] It is well established that judicial officers, including deputy judges, have absolute immunity from civil liability for actions performed in their judicial capacity, even where there are allegations of malice or bad faith: see *Courts of Justice Act*, R.S.O. 1990 c C.43, s 82; *Morier and Boily v. Rivard*, [1985] 2 S.C.R. 716, at paras. 85-110, 112; *Raba v. Wronecki*, 2015 ONSC 20, at para. 39, *aff’d* 2016 ONCA 457; *Tsai v. Klug*, [2005] O.J. No. 2277 (Ont. S.C.), at paras. 7, 8, *aff’d* [2006] OJ No 665 (CA), leave to appeal refused [2006] S.C.C.A. No. 169, *Stroud v. MacNeish*, 2023 ONSC 7250, at paras. 13-14; *Elguindy v. Deputy Judge Aird*, 2026 ONSC 3041 (Div. Ct.), at para. 25.

Conclusion:

[21] The Amended Claim issued on June 16, 2025 shall be and the same is hereby dismissed pursuant to Rule 2.1.

Coats J.

Date: June 12, 2026

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COURT FILE NO.: CV-25-00003039-000

DATE: 2026 06 12

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

David Ahayah, Plaintiff

AND:

Marlon Roefe and Eric Nadler, Defendants

ENDORSEMENT

Coats J.

Released: June 12, 2026