Federal Court  Cour fédérale

Date: 20190423

Docket: T-1964-17

Citation: 2019 FC 504

Ottawa, Ontario, April 23, 2019

PRESENT: The Honourable Mr. Justice Russell

BETWEEN:

WAEL MAGED BADAWY

Plaintiff

and

1038482 ALBERTA LTD. ALSO KNOWN AS INTELLIVIEW TECHNOLOGIES INC. AND FIDELITER INC. AND BILL HEWS AND MISSING LINK BUSINESS OPERATIONS ADVISORS LTD. AND GORDON EDWARDS AND CHRISTOPHER BEADLE AND SHANE ROGERS AND FLIR SYSTEMS INC. AND FLIR SYSTEMS, LTD. AND SPARTAN CONTROLS LTD. AND CANADA150IN150 AND SCHNEIDER ELECTRIC SE AND SCHNEIDER ELECTRIC CANADA INC. AND WEST AT PELCO BY SCHNEIDER ELECTRIC AND ENBRIDGE PIPELINE INC.

Defendants

ORDER AND REASONS

I. INTRODUCTION

[1] I have before me two motions that were argued together at the hearing in Calgary on March 27, 2019. One motion is brought by IntelliView Technologies Inc., Fideliter Inc., Bill Hews, Missing Link Business Operations Advisors Ltd, Gordon Edwards, Christopher Beadle, and Shane Rogers [IntelliView Defendants or IDs] for a declaration pursuant to s 40 of the *Federal Courts Act*, RSC, 1985, c F-7 that the Plaintiff, Mr. Wael Maged Badawy, is a vexatious litigant and for various forms of auxiliary relief (Vexatious Motion). The second motion is brought by Mr. Badawy pursuant to s 51 of the *Federal Courts Rules*, SOR/98-106 appealing the order of Case Management Judge, Martha Milczynski, dated March 14, 2019 (Appeal Motion). The motions are related.

II. BACKGROUND

[2] In the underlying action, Mr. Badawy filed a statement of claim on December 15, 2017 commencing an action against 15 defendants. The statement of claim alleged that the defendants were infringing upon Mr. Badawy's ownership of numerous trademarks and patents. The claim alleged that the defendants failed to obtain Mr. Badawy's authorization prior to the usage of the intellectual property. The defendants brought motions to strike the statement of claim on the basis that it failed to disclose a cause of action. In response, Mr. Badawy filed notices of motion seeking to disqualify opposing counsel, an interlocutory injunction against the defendants to prohibit the usage of the intellectual property, and to have the motions to strike declared moot. Madam Justice McVeigh issued a judgment on July 31, 2018 which struck the statement of claim without leave to amend. Madam Justice McVeigh held that the claim failed to disclose a

reasonable cause of action and was vexatious and an abuse of process. Mr. Badawy has appealed Justice McVeigh's decision to the Federal Court of Appeal.

[3] Mr. Badawy has been an active litigant in several courts. He has engaged in proceedings in the Court of Queen's Bench of Alberta, the Alberta Court of Appeal, the Federal Court, the Federal Court of Appeal, and the Supreme Court of Canada. The genesis of Mr. Badawy's pattern of litigation appears to be a protracted and complex marital dispute with Ghada Hamdy Nafie which began in 2012.

[4] Ms. Nafie initiated divorce and matrimonial proceedings against Mr. Badawy in 2012 in the Court of Queen's Bench of Alberta. Ms. Nafie retained Waldemar Igras as her lawyer when he worked at a firm called Richmond Chickloski Igras & Moldowan LLP. Ms. Nafie remained a client of Mr. Igras when he left his previous firm and founded Igras Family Law in 2014. Mr. Badawy registered a trademark for the name "Igras Family Law." Mr. Badawy then commenced an action in the Federal Court which alleged that Mr. Igras was using the name "Igras Family Law" without authorization. Mr. Badawy also sought leave to commence a third party claim against the Alberta Law Society as well as the Alberta Law Insurance Association. This leave application was denied by an order of Prothonotary Lafrenière (as he then was). Mr. Badawy alleged that Prothonotary Lafrenière was affected by a reasonable apprehension of bias and filed a notice of motion to have the order set aside. Madam Justice Gleason dismissed the motion on January 20, 2015. Mr. Badawy's appeal of Madam Justice Gleason's decision was dismissed by the Federal Court of Appeal on June 1, 2016. The Supreme Court of Canada dismissed Mr. Badawy's application for leave to appeal on November 10, 2016. On

June 23, 2017, Justice Manson granted the defendants' motion for summary judgment in this matter.

[5] Mr. Badawy filed a second statement of claim in the Federal Court which named as defendants the Attorney General of Canada, Solicitor General of the Province of Alberta, Attorney General of the Province of British Columbia, Canadian Bar Association, Federation of Law Societies of Canada, Law Society of Alberta and Alberta Lawyers Insurance Association, as well as a number of lawyers and legal assistants who work at Igras Family Law. This statement of claim alleged that the defendants had infringed Mr. Badawy's intellectual property. On August 16, 2018, Prothonotary Milczynski ordered that the statement of claim be struck without leave to amend and dismissed the action. Justice Diner dismissed Mr. Badawy's appeal of Prothonotary Milczynski's order on November 17, 2018 (*Badawy v Canada (Justice)*, 2018 FC 1189).

[6] IntelliView Technologies Inc. [IntelliView] commenced an application in the Court of Queen's Bench of Alberta on September 13, 2018 to have Mr. Badawy declared a vexatious litigant in Alberta's judicial system. Madam Justice Campbell declared Mr. Badawy to be a vexatious litigant (*IntelliView Technologies Inc v Badawy*, 2018 ABQB 961). Mr. Badawy sought permission from the Alberta Court of Appeal to appeal the decision. The Alberta Court of Appeal denied this permission on February 19, 2019 (*IntelliView Technologies Inc v Badawy*, 2019 ABCA 66).

[7] On September 26, 2018, the Attorney General consented to the filing of this motion by the IntelliView Defendants to have Mr. Badawy declared a vexatious litigant in the Federal Court.

III. ISSUES

[8] The issue to be determined in the Vexatious Motion is the following:

1. Should Mr. Badawy be declared a vexatious litigant pursuant to s 40 of the *Federal Courts Act* and, if he is so declared, what forms of relief are appropriate?

[9] The issue to be determined in the Appeal Motion is the following:

1. Should the Court allow Mr. Badawy's appeal of Prothonotary Milczynski's order of March 14, 2019?

IV. STATUTORY PROVISIONS

[10] The following provisions of the *Federal Courts Act* are relevant to this proceeding.

Vexatious proceedings	**Poursuites vexatoires**
40 (1) If the Federal Court of Appeal or the Federal Court is satisfied, on application, that a person has persistently instituted vexatious proceedings or has conducted a proceeding in a vexatious manner, it may order that no further proceedings be instituted by the person in that court or that a proceeding	40 (1) La Cour d'appel fédérale ou la Cour fédérale, selon le cas, peut, si elle est convaincue par suite d'une requête qu'une personne a de façon persistante introduit des instances vexatoires devant elle ou y a agi de façon vexatoire au cours d'une instance, lui interdire d'engager d'autres instances

previously instituted by the person in that court not be continued, except by leave of that court.

devant elle ou de continuer devant elle une instance déjà engagée, sauf avec son autorisation.

Attorney General of Canada

Procureur général du Canada

(2) An application under subsection (1) may be made only with the consent of the Attorney General of Canada, who is entitled to be heard on the application and on any application made under subsection (3).

(2) La présentation de la requête visée au paragraphe (1) nécessite le consentement du procureur général du Canada, lequel a le droit d'être entendu à cette occasion de même que lors de toute contestation portant sur l'objet de la requête.

Application for rescission or leave to proceed

Requête en levée de l'interdiction ou en autorisation

(3) A person against whom a court has made an order under subsection (1) may apply to the court for rescission of the order or for leave to institute or continue a proceeding.

(3) Toute personne visée par une ordonnance rendue aux termes du paragraphe (1) peut, par requête au tribunal saisi de l'affaire, demander soit la levée de l'interdiction qui la frappe, soit l'autorisation d'engager ou de continuer une instance devant le tribunal.

Court may grant leave

Pouvoirs du tribunal

(4) If an application is made to a court under subsection (3) for leave to institute or continue a proceeding, the court may grant leave if it is satisfied that the proceeding is not an abuse of process and that there are reasonable grounds for the proceeding.

(4) Sur présentation de la requête prévue au paragraphe (3), le tribunal saisi de l'affaire peut, s'il est convaincu que l'instance que l'on cherche à engager ou à continuer ne constitue pas un abus de procédure et est fondée sur des motifs valables, autoriser son introduction ou sa continuation.

No appeal	**Décision définitive et sans appel**
(5) A decision of the court under subsection (4) is final and is not subject to appeal.	(5) La décision du tribunal rendue aux termes du paragraphe (4) est définitive et sans appel.

[11] The following provisions of the *Federal Courts Rules* are also relevant to this proceeding.

Appeals of Prothonotaries' Orders	**Appel des ordonnances du protonotaire**
Appeal	**Appel**
51 (1) An order of a prothonotary may be appealed by a motion to a judge of the Federal Court.	51 (1) L'ordonnance du protonotaire peut être portée en appel par voie de requête présentée à un juge de la Cour fédérale.
Service of appeal	**Signification de l'appel**
(2) Notice of the motion shall be served and filed within 10 days after the day on which the order under appeal was made and at least four days before the day fixed for the hearing of the motion.	(2) L'avis de la requête est signifié et déposé dans les 10 jours suivant la date de l'ordonnance frappée d'appel et au moins quatre jours avant la date prévue pour l'audition de la requête.

V. ARGUMENT

A. *Vexatious Motion*

(1) The IntelliView Defendants

[12] The IDs argue that Mr. Badawy has commenced vexatious proceedings in the Court of Queen's Bench of Alberta, the Alberta Court of Appeal, the Federal Court, the Federal Court of

Appeal, and the Supreme Court of Canada. Additionally, Mr. Badawy has conducted these proceedings in a vexatious manner.

[13] The IDs say that Mr. Badawy has used judicial time and resources inappropriately. In doing so, Mr. Badawy has caused various parties to incur unnecessary legal costs. Additionally, the various motions, claims, and applications commenced by Mr. Badawy have wasted inordinate amounts of time. Mr. Badawy will likely continue to engage in vexatious litigation if the Court does not declare him a vexatious litigant and provide appropriate relief.

[14] The IDs cite *Tonner v Lowry*, 2016 FC 230 [*Tonner*] in support of their argument that indicators of vexatious behaviour in the Federal Court include:

1) a propensity to re-litigate matters that have already been determined;
2) the initiation of frivolous actions or motions;
3) the making of unsubstantiated allegations of impropriety against the opposite party, legal counsel and/or the Court;
4) the refusal to abide by rules and orders of the Court;
5) the use of scandalous language in pleadings or before the Court; and
6) the failure or refusal to pay costs in earlier proceedings and the failure to pursue litigation on a timely basis.

[15] The IDs note that the Federal Court can consider and take into account a vexatious litigation designation in other jurisdictions. In the present case, the vexatious litigant declaration of the Court of Queen's Bench of Alberta should be given serious weight by the Federal Court in making an equivalent declaration within its own jurisdiction.

[16] The IDs argue that Mr. Badawy has demonstrated a significant number of indicators of vexatious behaviour. Costs are regularly awarded against Mr. Badawy and continue to be unpaid. Mr. Badawy regularly attempts to re-litigate issues which have already been decided. For example, Mr. Badawy attempted to re-litigate issues in the underlying action which have already been dismissed in the Court of Queen's Bench of Alberta. Similarly, Mr. Badawy consistently requests the same types of relief that are refused.

[17] The IDs note that Justice McVeigh struck out Mr. Badawy's statement of claim in this action without leave to amend in *Badawy v 1038482 Alberta Ltd*, 2018 FC 807. In that decision, Justice McVeigh determined that the claim was an abuse of process and a vexatious claim. In arriving at this conclusion, Justice McVeigh noted the lack of an evidentiary foundation for the claim as well as the constant filing of motions and letters for direction.

[18] The IDs argue that Mr. Badawy has also regularly made inappropriate allegations against opposing counsel. For example, Mr. Badawy has alleged that a defendant and the defendant's counsel were engaged in a conspiracy based on their common Italian heritage. Mr. Badawy has also claimed that an opposing lawyer had engaged in fraud and has attempted to unduly influence judges. Additionally, Mr. Badawy has made unsubstantiated claims of bias against judges and prothonotaries. Allegations of bias have been made by Mr. Badawy at the Federal Court, the Alberta Court of Appeal, and the Court of Queen's Bench of Alberta.

[19] The IDs say that Mr. Badawy has also consistently refused to abide by court rules and orders. Mr. Badawy has repeatedly attempted to have court orders set aside without following the

appropriate procedures. This tactic forces opposing parties to spend time and money preparing for improper motions.

[20] The IDs say that Mr. Badawy has failed to pay any of the costs or penalties awarded against him. To date, $23,316.35 in costs and penalties have been awarded against Mr. Badawy which remain unpaid.

[21] The IDs further argue that Mr. Badawy uses scandalous language in his pleadings, wilfully evades service, fails to make full and frank disclosure, and makes false representations to the court.

[22] All of these tendencies are indicators that Mr. Badawy is a vexatious litigant. Significantly, Mr. Badawy holds himself out to the public as an experienced, self-represented litigant and offers litigation coaching services to the public. Based on all of these considerations, Mr. Badawy is likely to continue to engage in vexatious litigation in the future.

[23] The IDs say that the granting of a declaration that Mr. Badawy is a vexatious litigant is appropriate in the circumstances. Designating Mr. Badawy as a vexatious litigant would protect Mr. Badawy's targets from vexatious litigation and help to relieve the overburdened judicial system. Mr. Badawy will still be able to access the Federal Court. He will simply be required to first satisfy the Court that reasonable grounds exist for the commencement of a proceeding and that the proceeding is not an abuse of process. Additionally, Mr. Badawy will be able to apply to the Court pursuant to s 40(3) of the *Federal Courts Act* to have the designation rescinded.

[24] The IDs say that Mr. Badawy was served with the motion record electronically on October 12, 2018. However, the motion record filed by Mr. Badawy on November 12, 2018 does not substantively address the IDs' grounds for vexatious conduct or their written representations. Indeed, Mr. Badawy's submissions provide further support for a declaration that he is a vexatious litigant. Mr. Badawy's submissions in these motions demonstrate yet another attempt to re-litigate settled matters, collateral challenges of prior orders, and inappropriate allegations against opposing counsel.

[25] The IDs point out that Mr. Badawy's motion record submissions contain inaccurate and misleading information. Mr. Badawy did, in fact, receive service of the motion record via email. All of the parties who received the motion record were able to access it through the links provided. Mr. Badawy's claim that Justice McVeigh disqualified Borden Ladner Gervais LLP [BLG] from making representations is false. In fact, Justice McVeigh characterized the motion to remove counsel as moot. Mr. Badawy's claim that he has a lawyer-client relationship with BLG and that the law firm holds his assets as well as confidential information is false. In reality, BLG has never acted as counsel for Mr. Badawy and has never held confidential information on his behalf.

[26] The IDs rely on Justice Campbell's decision in *IntelliView Technologies Inc v Badawy*, 2018 ABQB 961 in support of this motion. In that decision, Justice Campbell declared Mr. Badawy to be a vexatious litigant in the Alberta court system. In arriving at this conclusion, Justice Campbell referenced Mr. Badawy's prior court access restrictions, baseless lawsuits, collateral attacks, attempts at re-litigation, patterns of escalating litigation, requests for

unreasonable or impossible remedies, persistent and unsuccessful appeals, unsubstantiated allegations against counsel and judges, judge shopping, failure to follow court orders, and bad litigation intent.

[27] The IntelliView Defendants also request an order for costs of this motion.

(2) Mr. Badawy

[28] Mr. Badawy has not made any substantive submissions in response to the Vexatious Motion. Instead, Mr. Badawy advances several procedural arguments, makes allegations against opposing counsel, and reiterates his arguments in the underlying action. In, doing so, he is raising issues that have already been litigated and decided in previous proceedings.

[29] Mr. Badawy requested in his written submissions that the Vexatious Motion be struck due to lack of service and filing. With no explanation, he withdrew this ground at the oral hearing in Calgary on March 27, 2019. Alternatively, Mr. Badawy seeks to have the motion struck because the underlying action has been struck by the judgment of Justice McVeigh on July 31, 2018.

[30] Mr. Badawy argues that Justice McVeigh's July 31, 2018 decision to strike the statement of claim rendered all related motions moot. He asserts, without authority, that the IDs were required to obtain leave from the Court in order to file a motion in an action which has been

struck. He says that the IDs did not obtain leave to bring this motion and the Court should not consider it or grant the motion.

[31] Without citing any authority, Mr. Badawy argues that the IDs were also required to obtain permission from the Case Management Judge to file this motion, but failed to do so. Accordingly, the Court should not consider or grant this motion.

[32] Mr. Badawy argues that BLG, Frank Tosto, Laura Poppel, Robyn Gurofsky, and Evan Nuttall cannot appear in this motion due to section 5.2-2 of the Code of Conduct which prohibits a lawyer from appearing as a witness and advocate in the same proceeding. BLG in particular should be restrained from acting in this matter because it is in a conflict of interest, is abusing Mr. Badawy's confidential information, and because Mr. Badawy has an outstanding claim against it for $700,000. Additionally, Justice McVeigh disqualified BLG from making submissions before the Court.

[33] Mr. Badawy asks that the Vexatious Motion be dismissed and for costs.

B. *Appeal Motion*

(1) Mr. Badawy

[34] Before the Vexatious Motion was heard, Mr. Badawy filed an appeal of the March 14, 2019 order of Prothonotary Milczynski, the Case Management Judge in these proceedings, in which she refused Mr. Badawy's request to have Mr. Bill Hews answer questions

refused on cross-examination and to produce refused undertakings, and to have Ms. Christine Moggert answer questions and undertakings in written form. In addition, Mr. Badawy also appealed the Prothonotary's refusal to allow a previous motion he had brought to have BLG removed as counsel of record before the Vexatious Motion was heard.

[35] He argues before me that the answers and undertakings requested from Mr. Hews and Ms. Moggert are relevant to his position before me on the Vexatious Motion.

[36] He also argues that the Court is obliged to hear his motion to remove BLG as counsel before it hears the Vexatious Motion and that, not to do so, will allow an abuse of process by BLG.

[37] Mr. Badawy also asks for costs.

(2) The IntelliView Defendants

[38] The IDs argue that a discretionary order of a prothonotary is not subject to a *de novo* hearing and should only be interfered with when it is incorrect in law or based upon a palpable and overriding error of fact. This appeal fails on both standards.

[39] As noted in the Prothonotary's decision, a cross-examination on affidavit is not the same as an examination for discovery. The rules of relevance in a cross-examination are more limited than on an examination for discovery. A cross-examination on affidavit requires an affiant to

answer questions on matters that have been set out in the affidavit or that are relevant to the determination of the issue in respect of which the affidavit was filed.

[40] Both Mr. Hews' affidavit and Ms. Moggert's affidavit are largely procedural in nature and limited in scope. The records appended to these affidavits consist of court filed documents. These documents speak for themselves.

[41] The refused questions and undertaking requests go well beyond the scope of the issues relevant to the underlying motion and the scope of the affidavits. They were rightfully refused.

[42] The IDs say that the Prothonotary's decision is correct. The Case Management Judge made no palpable and overriding error. The decision should be upheld and the Appeal Motion dismissed with costs.

[43] The IDs also say that there is no error of law or otherwise in the Prothonotary's refusal to allow Mr. Badawy's earlier motion to be heard first. Whether this amounts to an abuse of process is raised by Mr. Badawy and argued by the IDs in the Vexatious Motion, and has been decided against Mr. Badawy on a number of prior decisions. Mr. Badawy's allegations have been made either without any evidence or citing documentation which, even a cursory examination, does not support the allegations. The allegations are, in fact, nothing more than further misrepresentations and vexatious conduct made by Mr. Badawy to subvert the Vexatious Motion, and the Prothonotary was right to refuse Mr. Badawy's request.

[44] The IDs also claim the costs of the Appeal Motion.

VI. ANALYSIS

A. *The Motions Before Me*

[45] The motion by the IDs asking the Court to declare Mr. Badawy a vexatious litigant [Vexatious Motion] and seeking appropriate relief in accordance with s 40 of the *Federal Courts Act*, was filed on October 16, 2018.

[46] The Vexatious Motion is supported, *inter alia*, by affidavits sworn by Mr. Hews and Ms. Moggert.

[47] As part of the Vexatious Motion, Mr. Badawy cross-examined Mr. Hews and Ms. Moggert on their affidavits. Mr. Hews' affidavit contains information regarding the facts related to the Vexatious Motion. Ms. Moggert's affidavit, however, does not contain substantive facts, but attaches pleadings and other documents filed in a related Court of Queen's Bench of Alberta proceeding.

[48] During the course of the cross-examinations on the two affidavits, Mr. Badawy was met with some refusals and objections. Consequently, he brought a motion in writing before Case Management Judge Milczynski dated March 4, 2019 asking that Mr. Hews answer the refused questions and undertaking, and that Ms. Moggert answer her refusals in writing.

[49] The Prothonotary denied the motion in an order dated March 14, 2019. In that order, the Prothonotary, in addition to dealing with the cross-examination issues, also dealt with a matter raised by Mr. Badawy at a case management conference where he indicated that he had filed an earlier motion to have IDs' counsel, BLG, removed and that he thought his motion should be dealt with by the Court before it heard the Vexatious Motion.

[50] The Prothonotary had previously directed that the Vexatious Motion should be heard first before any outstanding motions be dealt with, and in her order indicated that she saw no reason why she should amend her previous direction.

[51] On March 19, 2019, Mr. Badawy filed an appeal [Appeal Motion] asking that the order of the Case Management Judge of March 14, 2019 be overturned and that the Court order Mr. Hews and Ms. Moggert to answer the refused questions and produce the refused undertakings. In addition, Mr. Badawy asked that the Court order that his prior motion requesting the removal of BLG as IDs' counsel be dealt with first before the Court heard and dealt with the Vexatious Motion.

[52] I decided that the Vexatious Motion and the Appeal Motion should be heard together on March 27, 2019 in Calgary, and suggested a procedure for doing this at the March 27, 2019 hearing which both Mr. Badawy and the IDs found acceptable, and the motions were heard conjunctively.

[53] The Vexatious Motion and the Appeal Motion are intertwined. Mr. Badawy's response to the Vexatious Motion is that he is the party who is aggrieved. He made it very clear to me at the hearing of these motions that the primary question for the Court to answer is "What is the intent of this litigation?" By this, Mr. Badawy means that the real purpose of the Vexatious Motion is to deprive him of certain legal rights, and that BLG is really conducting the vexatious proceedings on its own behalf as a way of obscuring various abuses of process aimed at denying him due process and his legal rights. The questions and undertakings that were refused by Mr. Hews and Ms. Moggert were, he says, intended to elicit evidence that would establish the real, underlying purpose of the Vexatious Motion, and his prior motion seeking the removal of BLG would establish that BLG is acting for itself and not the IDs and is attempting to evade the consequences of its own abuse of process.

[54] So Mr. Badawy's basic position is that the Vexatious Motion is nothing more than a further abuse of process aimed at depriving him of his legal rights and shielding BLG from its own wrongdoing.

B. *General Remarks*

[55] In the Court of Queen's Bench of Alberta decision in *IntelliView Technologies Inc v Badawy*, 2018 ABQB 961 where Justice Campbell dealt with vexatious litigant proceedings against Mr. Badawy involving a great deal of the evidence that is now before me and similar counterclaims by Mr. Badawy, Justice Campbell made the following preliminary findings concerning Mr. Badawy's honesty:

> 31 As a first preliminary point, I conclude that Mr. Badawy is not credible. As a consequence, I put little to no weight on his affidavit evidence, unless it is corroborated in some manner. Where a statement by Mr. Badawy conflicts with that of another witness or document, I reject Mr. Badawy's evidence, unless, again, Mr. Badawy's evidence is in some manner independently supported or confirmed.
>
> 32 I come to this conclusion because Mr. Badawy is simply untruthful in his representations to the Court. He makes demonstrably false claims. I conclude he believes doing so is to his advantage.
>
> 33 In my review of this Action's materials, I identified many issues with Mr. Badawy's evidence and statements. I will illustrate that with several examples.

[56] Justice Campbell then provides a list of specific examples that demonstrate that "Mr. Badawy says he litigates in good faith. However, his conduct indicates otherwise" (at para 24). Many of these examples re-appear in the motions before me and I will refer to them later. Justice Campbell also points out that she is "not the first judge of this Court to find that Mr. Badawy is not a credible or reliable witness" (at para 58).

[57] Justice Campbell then concludes on this issue as follows:

> 61 Because of these and other false and misleading statements in Mr. Badawy's materials I conclude that he is not a credible or reliable witness.
>
> 62 As previously indicated, in the main analysis that follows, I put no weight on Mr. Badawy's affidavit evidence unless it has some independent corroboration. Where evidence conflicts, I prefer the evidence of the alternative deponent to that of Mr. Badawy.

[58] When it comes to the malicious intent of IntelliView Technologies Inc, who was the Applicant/Plaintiff in the Court of Queen's Bench of Alberta proceedings, and the conflict of interest of BLG, Justice Campbell has the following to say:

> 77 Mr. Badawy also says IntelliView's Application has no basis. He contends it is based on inadmissible material, "... used for the sole purpose to harass me, mischief me and abuse the judicial process. ...". He also indicates that IntelliView has engaged in "judge shopping", and "shopping with different justices for a better relief".
>
> 78 I reject complaints about the intent and conduct of IntelliView. Those are irrelevant to the question before me: does Mr. Badawy's litigation activity predict future abuse of the Courts' processes? I adopt the reasoning of Mandziuk J in *Alberta Lawyers Insurance Association v. Bourque*, 2018 ABQB 821 (Alta. Q.B.) at para 67 that:
>
> > ... if a judge of this Court detects one or more problem litigants, that judge is *always* authorized to take whatever steps are appropriate to respond to and address the identified issue(s). The surrounding context in which disruption to court function has emerged is irrelevant to solving that problem. [Emphasis in original.]
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> See also *Unrau v. National Dental Examining Board*, 2018 ABQB 874 (Alta. Q.B.) at para 31.
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> **E. Conflicts of Interests**
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> 79 Mr. Badawy makes numerous allegations that there are many conflicts of interest in this matter. He complains about the law firm retained by IntelliView. These issues, he says, preclude IntelliView's Application from being heard and decided.
>
> 80 I reject this allegation. The reasons for so doing are the same as the reasons for rejecting Mr. Badawy's complaints concerning IntelliView's allegedly improper intentions. Even if I were to conclude that counsel for IntelliView were somehow in a conflict of interest, I still retain the authority and obligation to respond to abusive litigation. My decision in relation to whether Mr. Badawy requires court access restrictions is an investigation of Mr. Badawy's litigation conduct and no one else.

[59] Similar malicious intent, conflict of interest and abuse of process issues are raised in the motions now before me, but what Mr. Badawy totally overlooks in Justice Campbell's findings and reasons that these issues are not a road block to the issue of his abusive litigation. Before me, Mr. Badawy has not even attempted, either in writing or in oral argument, to refute the evidence of vexatious conduct that is the basis for the Vexatious Motion. Apparently, he thinks that, in the pursuit of his malicious intent, conflict of interest and abuse of process preoccupations he is perfectly entitled to engage in whatever conduct he thinks will be effective for his purposes, and he is asking the Court to excuse him for this conduct – and no doubt permit it to continue – because he is an aggrieved man and his grievances must take precedence.

[60] There is one other general finding of Justice Campbell that goes further than any other to convince her that a simple leave application requirement will not be sufficient to restrain Mr. Badawy from vexatious conduct in the future:

> 152 Mr. Badawy is a litigant who uses legal processes with the intention to harass, harm, and intimidate. On its own, this single conclusion warrants Mr. Badawy being subject to court access restrictions. Mr. Badawy's established pattern of meritless and persistent filings and communications with the courts warrants strict and comprehensive court access restrictions beyond a simple leave application requirement.

[61] The Court of Queen's Bench of Alberta is not the only Court that has found it necessary to deal with Mr. Badawy's vexatious approach to litigation. For some years now, he has been engaging in similar conduct in the Federal Court.

[62] The record before me shows that Mr. Badawy has, over the years, made a number of unsubstantiated claims against judges and prothonotaries in proceedings in which he has been

involved. This includes Justice Hall of the Court of Queen's Bench of Alberta and Justice Martin of the Alberta Court of Appeal. See *IntelliView Technologies Inc v Badawy*, 2018 ABQB 961 at para 141. In the Federal Court action T-1289-14 that Mr. Badawy commenced on May 26, 2014 against Mr. Igras alleging that he was infringing upon a "Igras Family Law" trademark, the Court granted the defendants summary judgment on June 23, 2017 (2019 FC 619), and Mr. Badawy's claim was stuck in its entirely without leave to amend and with costs payable by Mr. Badawy. In that action, Mr. Badawy had twice applied to set aside all orders and directions of Prothonotary Lafrenière (as he then was) alleging that the prothonotary was biased. Prothonotary Lafrenière had the following to say about Mr. Badawy's bias claims when they came before him:

> The procedural history of the underlying action and counterclaim is somewhat difficult to summarize, given the volume of letters and documents submitted by the Plaintiff, many of which are quite lengthy, argumentative and repetitive...
>
> …
>
> It goes without saying that repeated requests for the same relief from the court, including requests to set aside previous orders and directions which have already been denied up to the highest level in Canada, constitutes an abuse of the Court's process.
>
> …In my view, the repeated and unfounded allegations of bias made by the Plaintiff deserve to be reprimanded by an award of costs. The Plaintiff moved for an order that I recuse myself notwithstanding that he had no evidence to support his request and that the very same allegations of bias has been repeatedly rejected by other judges on appeal. The Plaintiff appears to be engaging in some "judge shopping" or attempting to intimidate the Court into ruling in his favour. Such conduct on the part of the Plaintiff is unacceptable and should not be tolerated. Rather than focussing on the proceeding, the Plaintiff as chosen instead to go to war with the Court. The Defendants have been put to additional expense to respond to-what is clearly a frivolous, vexatious and abusive motion. In the circumstances, I conclude that the Defendants should be awarded costs in a lump sum approaching solicitor-client costs...

[Emphasis added.]

[63] When the matter came before Justice Gleason on appeal, she dismissed it with costs payable forthwith "by reasons of the completely unmeritorious nature of this motion."

[64] Mr. Badawy then appealed the decision of Justice Gleason to the Federal Court of Appeal where it was dismissed with costs at the high end of the tariff. Mr. Badawy then sought to appeal the decision of the Federal Court of Appeal to the Supreme Court of Canada when his application for leave was dismissed with costs.

[65] When it comes to groundless claims of this nature, Mr. Badawy is tenacious, to say the least.

[66] More recently, Mr. Badawy's claims in the underlying action to this motion were struck by Justice McVeigh without leave to amend. Justice McVeigh concluded that the entire Amended Statement of Claim was "vexatious and an abuse of the Court processes as evidenced by this hearing where the Plaintiff brought several confusing and baseless motions":

> [27] The entire amended Statement of Claim is vexatious and an abuse of the Court processes as evidenced by this hearing where the Plaintiff brought several confusing and baseless motions. First, the Plaintiff has provided no account of any specific conduct taken by the Defendants or their employees that could be considered a foundation for the bald allegations in the amended Statement of Claim. As there is no evidentiary foundation in the amended Statement of Claim, it is an abuse of process and can be struck.
>
> [28] Second, the evidence before the Court is that the Plaintiff is known to commence a never-ending stream of motions and letters for direction (or as occurred in this case, letters giving the Court

> directions). These never-ending matters are also an abuse of process.

C. *The Present Motions - General*

[67] When it comes to the evidence and bald assertions put forward by Mr. Badawy in the present motions, I think I have to be as equally circumspect as was Justice Campbell. I say this because, in addition to his past untruthfulness in the related Alberta actions, Mr. Badawy continues to make demonstrably false claims before me.

[68] For example, Mr. Badawy swears in his affidavit of November 12, 2018 (para 9) that is before me in these motions that on September 13, 2018, Justice Campbell determined that "the applicant BORDEN LADNER GERVAIS LLP did not serve me with the application and the two private folders sent to the Justice AND both applications are adjourned both applications for the hearing [*sic*]." The record shows that this is a patent falsehood and that on September 13, 2018, Justice Campbell granted two separate orders declaring service of the materials on Mr. Badawy to be good and sufficient, and BLG was not the "applicant" in the relevant motions. The applicant was IntelliView. This is a blatant attempt by Mr. Badawy to mislead the Court and inculpate BLG in wrongdoing in order to bolster his theory that BLG is the real culprit in these proceedings.

[69] Also, in para 9 of his affidavit, Mr. Badawy swears that "Justice Neufeld STAYED one of the applications of Borden Ladner Gervais LLP on November 2, 2018 and determined that the true purpose of these [*sic*] litigation is to gain an upper hand…." In fact, the record shows that Justice Neufeld did not make this determination. Justice Neufeld, while considering the

bankruptcy application against Mr. Badawy due to unpaid cost awards, stated that "there are many steps that can be taken short of bankruptcy if the true purpose of Intelliview is to collect the $8,000 or so dollars owed to it, as opposed to gaining an upper hand in the litigation it is involved in with Mr. Badawy." In other words, Justice Neufeld did not impugn the intention of BLG.

[70] In para 10 of his affidavit, Mr. Badawy swears that Justice McVeigh "directed to remove Borden Ladner Gervais LLP from making submissions before the Court on March 8, 2018 [*sic*]." In para 39 of his affidavit, he swears that "On 2018-03-18 Justice of the Federal Court disqualified Evans Nuttall and Frank Tosto and Borden Ladner Gervais LLP from making oral submissions for conflict of interest." This is false.

[71] This is a blatant attempt to mislead the Court into thinking that BLG and Mr. Tosto have already been found by Justice McVeigh to be in a conflict of interest in these proceedings in support of his claim that he is the aggrieved party and BLG is vexatiously litigating against him.

[72] A reading of Justice McVeigh's Judgment and Reasons of July 31, 2018 makes it abundantly clear that she did not "remove" BLG:

> [34] As I have dismissed the Plaintiff's amended Statement of Claim, his motion for removal is moot, and therefore, it is unnecessary for me to consider it. In addition, the Plaintiff has not convinced me that any counsel need to be removed.
>
> [Emphasis added.]

[73] When I drew Mr. Badawy's attention to Justice McVeigh's judgment at the hearing of these motions on March 27, 2019, he conceded nothing, but sought to discredit Justice McVeigh on the grounds that her judgment did not reflect what she had said at the hearing as recorded in the transcript. I then asked Mr. Badawy to take me to the transcript of the hearing before Justice McVeigh to show me where she had removed BLG as counsel. What the transcript shows is that, in order to avoid future problems arising from Mr. Badawy's allegations against BLG, Justice McVeigh sought a voluntary solution. She makes this clear in her judgment where she says

> [32] Counsel from BLG who is the subject of the Plaintiff's motion voluntarily did not present argument at the hearing as requested by the Court. Counsel from another firm presented their argument on the Motion to Strike.
>
> [Emphasis added.]

[74] In other words, in order to avoid delay and any problems arising from Mr. Badawy's conflict of interest allegations, Justice McVeigh asked the parties to find a voluntary solution. A voluntary solution was ready to hand because BLG, anticipating Justice McVeigh's concerns, had secured the assistance of alternative counsel, Justice McVeigh did not "remove" BLG. She did not have to and, after hearing Mr. Badawy's submissions on the conflict of interest of BLG, she makes it clear that Mr. Badawy "has not convinced me that any counsel need to be removed." In Mr. Badawy's mind this means that Justice McVeigh "directed to remove Borden Ladner Gervais…" which is the opposite of what Justice McVeigh's order actually says. In order to avoid the problems caused by this obvious contradiction, Mr. Badawy insinuated before me that Justice McVeigh is not consistent in what she did at the hearing of the motion to strike and

what she says in her order. I can find no such inconsistency. This is simply a further attempt by Mr. Badawy to discredit BLG and, collaterally, Justice McVeigh.

[75] As Mr. Badawy's false assertions again BLG build in momentum, it is easy to detect why they are being made. Mr. Badawy simply has no answer to the evidence and allegations of vexatious conduct levelled against him by the IDs. Consequently, he attempts to avoid the issue entirely. His plan of avoidance is to simply sidestep his vexatious conduct entirely with a collateral attack upon BLG, and to turn himself into the aggrieved party beset by vexatious litigation conducted by unscrupulous lawyers for nebulous reasons. This was his approach before Justice McVeigh in the motion to strike and it did not succeed, and it was similarly rejected in similar proceedings in Alberta. He is now attempting to re-litigate the same issues before me, thus demonstrating one of the prime characteristics of a vexatious litigant: the re-litigation of issues that have already been decided.

[76] Mr. Badawy's efforts in this regard continue with more false accusations in these motions. As he has in past proceedings, Mr. Badawy again asserts that:

(a) "Borden Ladner Gervais LLP are my lawyers and I have a client-solicitor relationship and I received legal advised [*sic*] on how to receive investments to my start-up company at the time in 2011" (para 11);

(b) BLG "is holding my asset and my privilege and confidential agreements within the office of Borden Ladner Gervais LLP" (para 12);

(c) BLG "received instructions from me, and delivered my assets and my various companies' and partners' assets to the Court of Alberta Queen Bench… [*sic*]" (para 12);

(d) BLG is "holding my original share certificates, my company share certificates and my partner share certificates in trust…" (para 12);

(e) BLG "transferred the share certificates to the Court based on my instructions in October 26, 2015" (para 12).

[77] These bald (perhaps brazen is more apt) assertions in Mr. Badawy's affidavit are either made with no evidence to support them, or by citing documentation that clearly does not support them. The record shows that Mr. Badawy has attempted on numerous occasions to remove BLG as counsel of record for IntelliView on the basis of an alleged solicitor-client relationship. His attempts to this effect have been repeatedly rejected.

[78] Mr. Badawy has woven his fictionalized account of his relationship with BLG from the matrimonial action involving his ex-wife. In that proceeding, the record shows that BLG was holding the IntelliView minute books that contained share certificates. BLG delivered the IntelliView Share Certificates held by Mr. Badawy, his ex-wife, and their joint company (CeTech Solutions Inc.) to the Court pursuant to a Court order issued in the matrimonial action that dealt with the division of property between Mr. Badawy and his ex-wife. BLG also agreed (on behalf of IntelliView) that it would be bound by any Court order addressing the division of shares between Mr. Badawy and his ex-wife. This was BLG's sole involvement in the matrimonial proceedings.

[79] As with past proceedings on this issue, there is no evidence to support that BLG has ever been counsel for Mr. Badawy, or that BLG has ever given Mr. Badawy legal advice or taken instructions from Mr. Badawy. Nor is there evidence to support that BLG has ever held confidential agreements for Mr. Badawy.

[80] In the present motions, Mr. Badawy's allegations regarding his relationship with BLG appear to be a ruse intended to distract the Court from the irrefutable evidence of his vexatious conduct and are, in fact, further instances of that vexatious conduct.

[81] In my general instructions to Mr. Badawy at the commencement of the hearing in Calgary, I told him that he must tell the truth and not seek to mislead the Court. He indicated to me that he understood this obligation. Yet he neither withdrew or qualified any of the above false allegations affirmed before a Commissioner for Oaths on November 12, 2018.

[82] The one assertion that he did withdraw was the allegation that he had not been served with the Vexatious Motion, but he provided no explanation as to why he had asked the Court to dismiss the Vexatious Motion for lack of service in the first place. Once again, it seems that lack of service was just another ruse raised to avoid the motion from being heard and/or to distract the Court from the merits of the case against him. Resisting service is one of the vexatious factors that the Court has been asked to consider, and the record shows that it is one of Mr. Badawy's regular tactics.

[83] Given Mr. Badawy's dishonesty in the Court of Queen's Bench of Alberta in vexatious litigant proceedings against him, and given his continuing dishonesty in the motions before me, I conclude, as did Justice Campbell, that Mr. Badawy is not credible. Hence, I put no weight on his affidavit evidence unless it is corroborated in some manner. And where a statement of Mr. Badawy conflicts with that of another witness or document, I reject Mr. Badawy's evidence unless that evidence is in some manner independently supported or confirmed.

D. *The Vexatious Motion*

[84] Section 40 of the *Federal Courts Act* reads as follows:

Vexatious proceedings	**Poursuites vexatoires**
40 (1) If the Federal Court of Appeal or the Federal Court is satisfied, on application, that a person has persistently instituted vexatious proceedings or has conducted a proceeding in a vexatious manner, it may order that no further proceedings be instituted by the person in that court or that a proceeding previously instituted by the person in that court not be continued, except by leave of that court.	40 (1) La Cour d'appel fédérale ou la Cour fédérale, selon le cas, peut, si elle est convaincue par suite d'une requête qu'une personne a de façon persistante introduit des instances vexatoires devant elle ou y a agi de façon vexatoire au cours d'une instance, lui interdire d'engager d'autres instances devant elle ou de continuer devant elle une instance déjà engagée, sauf avec son autorisation.
Attorney General of Canada	**Procureur général du Canada**
(2) An application under subsection (1) may be made only with the consent of the Attorney General of Canada, who is entitled to be heard on the application and on any	(2) La présentation de la requête visée au paragraphe (1) nécessite le consentement du procureur général du Canada, lequel a le droit d'être entendu à cette occasion de même que

application made under subsection (3).	lors de toute contestation portant sur l'objet de la requête.
Application for rescission or leave to proceed	**Requête en levée de l'interdiction ou en autorisation**
(3) A person against whom a court has made an order under subsection (1) may apply to the court for rescission of the order or for leave to institute or continue a proceeding.	(3) Toute personne visée par une ordonnance rendue aux termes du paragraphe (1) peut, par requête au tribunal saisi de l'affaire, demander soit la levée de l'interdiction qui la frappe, soit l'autorisation d'engager ou de continuer une instance devant le tribunal.
Court may grant leave	**Pouvoirs du tribunal**
(4) If an application is made to a court under subsection (3) for leave to institute or continue a proceeding, the court may grant leave if it is satisfied that the proceeding is not an abuse of process and that there are reasonable grounds for the proceeding.	(4) Sur présentation de la requête prévue au paragraphe (3), le tribunal saisi de l'affaire peut, s'il est convaincu que l'instance que l'on cherche à engager ou à continuer ne constitue pas un abus de procédure et est fondée sur des motifs valables, autoriser son introduction ou sa continuation.
No appeal	**Décision définitive et sans appel**
(5) A decision of the court under subsection (4) is final and is not subject to appeal.	(5) La décision du tribunal rendue aux termes du paragraphe (4) est définitive et sans appel.

[85] The jurisprudence is clear that, in assessing whether a s 40(1) order is warranted regard can and should be had to a litigant's behaviour in the Federal Court, but proceedings initiated in other courts may also be considered. See *Mazhero v Fox,* 2011 FC 392 at para 13 [*Mazhero*];

Savard v Canada (Attorney General), 2006 FC 46 at para 9. This is particularly important in the present case where there are many similarities, both in evidence and in issues raised, in the Court of Queen's Bench of Alberta proceedings and the present motion before me.

[86] The jurisprudence also makes it clear that prime indicators of vexatious conduct include:

(i) A propensity to re-litigate matters that have already been determined;

(ii) The initiation of frivolous actions or motions;

(iii) The making of unsubstantiated allegations of impropriety against the opposite party, legal counsel and/or the Court;

(iv) A refusal to abide by rules and orders of the Court;

(v) The use of scandalous language in pleadings or before the Court; and

(vi) The failure or refusal to pay costs in earlier proceedings and the failure to pursue litigation on a timely basis.

See, for example, *Tonner*, above, at para 20; *Mazhero*, above.

[87] It is also clear that there is nothing in s 40 that requires there to be active litigation between the parties at the time of the vexatious proceedings. This is because vexatious litigant proceedings are aimed at the litigant and not the litigation. In other words, they are separate proceedings focused on the conduct of the litigant. See, in this regard, *Canada v Nourhaghighi*, 2014 FC 254. Stratas JA, in the Federal Court of Appeal decision in *Canada v Olumide*, 2017 FCA 42 at para 36 states that a "vexatious litigant motion – a matter that has the characteristics of an application concerning matters beyond the parameters of the discontinued litigation – still exists in some way even though the action has come to an end."

[88] In the present case, Justice McVeigh struck the underlying action in her judgment of July 31, 2018, but that decision has been appealed by Mr. Badawy. In addition, Mr. Badawy has indicated in these proceedings that he has not withdrawn earlier motions to have BLG removed as counsel. Yet he still argues that the Vexatious Motion is moot. I do not agree.

[89] In accordance with s 40(2) of the *Federal Courts Act*, the moving Defendants have obtained consent of the Attorney General of Canada.

(1) The Offending Conduct

[90] The evidence is overwhelming that over the past two years in this Action, the Court of Queen's Bench of Alberta Action, and the two Igras Actions, Mr. Badawy has engaged in conduct that fits the description of many indicia of vexatious litigation. In the present action, Justice McVeigh, in her July 31, 2018 judgment described Mr. Badawy's allegations against the Defendants as scandalous, frivolous or vexatious.

[91] In the present Vexatious Motion, Mr. Badawy makes no attempt to refute or disprove the vexatious allegations levelled against him. He seeks rather to excuse himself with allegations of malicious intent, conflict of interest, and abuse of process on the part of BLG. He does this notwithstanding Justice Campbell's findings that these matters do not preclude the Court from dealing with his vexatious conduct, and the jurisprudence of this Court that vexatious litigant proceedings are separate proceedings that are aimed at the conduct of the litigant. See paragraphs 78-80 of Justice Campbell's Judgment.

[92] In my view, the same reasoning applies in the Federal Court and in the motions now before me.

[93] The specific allegations of vexatious conduct that Mr. Badawy has declined to address are set out in detail in the IDs' submissions:

> *Propensity to Re-Litigate*
>
> 23. Mr. Badawy has consistently filed applications to determine issues that have already been determined by the Court. For example, this Court has found that Mr. Badawy has consistently brought applications seeking relief identical to that requested in dismissed applications.
>
> 24. In this Action, Mr. Badawy's claim against IntelliView and the other defendants, which has been struck, dealt with many of the same issues as the QB Action, which has similarly been either struck or summarily dismissed as against the majority of the defendants by counterclaim.
>
> 25. In the Igras Action, after Mr. Badawy made several attempts to have the orders of a Prothonotary rescinded on account of bias, an Order was granted which suggested that Mr. Badawy was "judge shopping" with "no evidence to support his request and that the very same allegations of bias has been repeatedly rejected by other judges on appeal".
>
> 26. Having had the Igras Action summarily dismissed, Mr. Badawy filed the Second Igras Action, substantially duplicating the claims and allegations made in the Igras Action with a few minor differences.
>
> 27. Mr. Badawy's propensity to re-litigate may also be found in the below examples of relief consistently requested by Mr. Badawy:
>
> (a) confirmation of the representation of, and certification of the lawyer of record for various parties;
>
> (b) an order restraining BLG, Mr. Tosto and Ms. Poppel from acting against Mr. Badawy;
>
> (c) a preservation order for all assets and shares of IntelliView;

(d) summary judgment of Mr. Badawy's claims against the defendants by counterclaim in the QB Action.

Initiation of Frivolous Actions/Motions

28. Almost every action commenced by Mr. Badawy has been struck on the merits. His statement of claim in this Action was ordered struck without leave to amend or refile on July 31, 2018. As noted above, the claim was deemed to be a vexatious pleading and abuse of process. Justice McVeigh's written reasons are worth noting in detail. She states:

> The entire amended Statement of Claim is vexatious and an abuse of the Court processes as evidenced by this hearing where the Plaintiff brought several confusing and baseless motions. First, the Plaintiff has provided no account of any specific conduct taken by the Defendants or their employees that could be considered a foundation for the bald allegations in the amended Statement of Claim. As there is no evidentiary foundation in the amended Statement of Claim, it is an abuse of process.
>
> Second, the evidence before the Court is that the Plaintiff is known to commence a never-ending stream of motions and letters for direction (or as occurred in this case, letters giving the Court directions). These never-ending matters are also an abuse of process.
>
> The Court is sensitive to self-represented litigants, but this self-represented litigant is well-educated, holds a doctorate degree, and has extensive experience with a number of Canadian court systems...
>
> While he cannot be categorized as a sophisticated litigant, the Plaintiff is more than a frequent litigant across many courts. For example, within the materials is a list depicting the recorded entries on another matter the Plaintiff brought before this Court, available on the Federal Court's website in court file number 1-1289-14. The list contains 31 pages of entries regarding this somewhat similar matter in the Alberta Court of Queen's Bench. The Plaintiff s matters in this Court are shockingly long, and have been heard by prothonotaries as well as

> judges. Any party subject to the Plaintiff's legal pursuits must retain counsel and defend against these matters at great cost. There is a delicate balance between accommodating self-represented litigants and an abuse of process. This litigant and this action has tipped the scale to an abuse of process as contemplated by rule 221(1)(f) of the FCR.

29. Further in this Action, after the Honourable Justice McVeigh reserved her decision following a hearing, Mr. Badawy filed a notice of appeal seeking an order vacating orders that, in fact, had never been made. The notice of appeal was subsequently removed from the file on account of Mr. Badawy improperly attempting to appeal a direction. However, prior to that, the defendants were required to spend time and expense filing written submissions on whether there was a decision or order susceptible to appeal and respond to correspondence written by Mr. Badawy to this Court which contained factual inaccuracies and improper or irrelevant comments about legal counsel.

30. The facts underlying the Igras Action and the Second Igras Action speak for themselves. In the Igras Action, Mr. Badawy sought leave to file a third party claim against the Alberta Law Society and the Alberta Law Insurance Association. Mr. Badawy's application was denied, with the Prothonotary noting that "...the law is clear that third party claims must be connected with the original action. By no stretch of the legal imagination can the Plaintiff's claim against the Law Society of Alberta and Alberta Lawyers Insurance Association that they failed to protect the public, deceived the public and promoted malpractice be found to reasonably relate to .the defendants' counterclaim against the Plaintiff."

Unsubstantiated Allegations of Impropriety against Opposing Counsel and the Court

31. Throughout his various actions, Mr. Badawy has regularly sought to have counsel for the various parties disqualified, without success. In this Action, Mr. Badawy alleged that Evan Nuttall, counsel for certain defendants, "departed from the truth and painted cherry-picked biased information to perverting the course of justice".

32. Similarly in this Action, Mr. Badawy appeared to allege a conspiracy between one of the defendants and defendant counsel based on common Italian heritage.

33. In the Igras Action, Mr. Badawy alleged that the defendant Waldemar Igras, a lawyer, had engaged in fraud, falsification of court documents, and "Ex-parte communication with judges to influence decisions outside Alberta Rules of Court".

34. Mr. Badawy has also made several unsubstantiated claims of bias against Justices and Prothonotaries in each of his proceedings, including but not limited to Prothonotary Lafrenière of the Federal Court of Canada, Justice Martin of the Alberta Court of Appeal, and Justice Hall of the Court of Queen's Bench of Alberta.

35. It is specifically worth noting the conduct of Mr. Badawy in the Igras Action, in which Mr. Badawy twice applied to set aside all orders and directions of the Prothonotary, alleging that he was biased. Mr. Badawy's application was dismissed by Justice Gleason, with costs payable forthwith "by reason of the completely unmeritorious nature of this motion."

36. Undeterred, Mr. Badawy appealed the decision of Justice Gleason to the Federal Court of Appeal. The Federal Court of Appeal dismissed the appeal with costs at the high end of the tariff, noting that "a review of the record does not support the appellant's contention that a person viewing the matter would think that the Federal Court is prejudiced against him... the fact that the appellant's arguments have been repeatedly unsuccessful before the Federal Court does not undermine the Court's impartiality in any way and I have not been convinced otherwise." Mr. Badawy again sought to appeal the decision of the Federal Court of Appeal to the Supreme Court of Canada. The Supreme Court dismissed Mr. Badawy's application for leave to appeal, with costs.

Refusal to Abide by Rules and Orders of the Court

37. Mr. Badawy consistently files applications which seek to circumvent the appropriate court process. For example, on several occasions, Mr. Badawy has applied to vacate or set aside previous Court orders without following the appropriate process and timelines. The respondents are forced to prepare for and appear at these applications, notwithstanding that they are improper.

38. Further, in the QB Action, Justice McCarthy struck the counterclaim against Mr. Hews, Mr. Edwards, Fideliter Inc. And Missing Link, specifically indicating in this order that "those Defendants by Counterclaim are removed from the Action." Prior to that, Master Prowse had granted BLG summary dismissal of the

counterclaim against it. Accordingly, at the time the application to strike was heard, BLG was no longer a defendant by counterclaim and therefore did not participate in the action. Notwithstanding these orders, Mr. Badawy filed an amended counterclaim and when none of the defendants by counterclaim filed amended statements of defence in response, Mr. Badawy noted them in default. The defendants by counterclaim were forced to incur expense to bring an application to set aside the clearly improperly filed noting in default. In a subsequent application, Mr. Badawy asserted, and continues to assert that since Justice McCarthy did not make any order striking any portion of the counterclaim against BLG upon hearing the application to strike, Justice McCarthy had restored the claim against BLG and rescinded the order of the master granting BLG summary dismissal, when in fact he did no such thing.

39. Further, this Action was seemingly commenced to frustrate the QB Action. The statement of claim in this Action was filed on December 15, 2017, and shortly thereafter, Mr. Badawy applied in the QB Action for a stay of that action and an order rescinding all orders obtained in the QB Action, arguing that there was an action filed in the Federal Court which was the court with exclusive jurisdiction over the trademarks and patents. That application was dismissed and the decision was upheld on appeal.

Refusal to Abide by Cost Awards

40. To date, costs or penalties that total $28,316.35 have been awarded against Mr. Badawy 18 times across the various actions described in these Submissions. The vast majority of the costs and penalties have been directed to be paid forthwith. Notwithstanding this direction, Mr. Badawy has failed to pay each and every costs and penalty award granted.

Use of Scandalous Language

41. Mr. Badawy repeatedly uses scandalous language in his pleadings, which is apparent on the face of the various motions he has filed in this Action and the other actions referenced herein. Mr. Badawy has apparently equated the enforcement of parallel proceedings in provincial court in which he was incarcerated with "torture", which was deemed by the Federal Court of Appeal to be "deprived of merit".

42. The repeated allegations made against counsel related to their alleged abuse of the Court's process, willful evasion and denial of service, failure to make full and frank disclosure, willfully acting to perjure and pervert the course of justice and

> willfully making false representations to Court also fall under this category of vexatious litigant indicia.
>
> [Emphasis in original, footnotes omitted]

[94] Mr. Badawy has made no attempt to answer or refute these allegations in his submissions before me except to repeat the same unsubstantiated allegations of impropriety against the IDs and BLG. My review of the record behind these undisputed allegations confirms that they are fair and accurate.

(2) Conclusions

[95] In my view, the IntelliView Defendants have provided overwhelming evidence to support their allegation that Mr. Badawy is a vexatious litigant under s 40 of the *Federal Courts Act*. I am also convinced, given his abuses of the process in the Federal Court, the Federal Court of Appeal, the Court of Queen's Bench of Alberta, and the Alberta Court of Appeal, that future vexatious conduct by Mr. Badawy is more than likely to continue and, indeed, that even my findings and conclusions in the present motion are unlikely to deter him. In addition to using legal proceedings to harass, harm and intimidate, Mr. Badawy has shown himself to be a tenacious abuser and waster of Court time and resources. I refer again to the findings of Justice Campbell that express my own concerns as to why the simple leave requirement in s 40 of the *Federal Courts Act* will not be sufficient to control further abusive conduct in the future, and why the Court must also invoke its right to control and protect its own processes in this case:

> 153 Mr. Badawy's litigation record is troubling. He exhibits multiple indicia of abusive litigation. I have concluded Mr. Badawy is a vexatious litigant who uses the courts to harm others. There is no doubt that unless Mr. Badawy is made subject to court

> access restrictions he will continue and escalate his abusive litigation activities. He will not stop unless steps are taken.
>
> 154 As previously indicated, Mr. Badawy's past litigation misconduct predicts abusive steps against a wide and growing range of persons and institutions that plausibly will become the targets of his meritless litigation activities. Mr. Badawy has exhibited a degree of ingenuity and planning in his abuse of court processes. Recall, he first registered intellectual property and corporate entities, then used those registrations as the fuel to drive his meritless lawsuits.
>
> 155 The usual minimal court access restriction that require the abusive litigant to obtain leave to initiate or continue litigation, is obviously warranted here. However, the scope, predicted likelihood, and plausible forms of ongoing bad litigation conduct by Mr. Badawy are such that further steps are [proportional] and warranted: *Bhamjee v. Forsdick*, at para 35; *Ewanchuk v. Canada (Attorney General)*, at para 95; *Ayangma v. Canada Health Infoway*, at para 62. For this reason, a simple leave requirement will not be adequate to control abuse of the leave application process. Rather, the circumstances of Mr. Badawy make it appropriate to require future leave applications made by Mr. Badawy be submitted by a member in good standing of the Law Society of Alberta, or another person authorized under the *Legal Profession Act*, RSA 2000, c L-8 to represent Mr. Badawy in the Court of Queen's Bench of Alberta.
>
> 156 IntelliView requests that Mr. Badawy be ordered to pay all outstanding cost and penalty awarded against him in the Alberta and Federal Court actions that involve these two parties.
>
> 157 As IntelliView intends to apply to the Federal Court seeking court access restriction orders be imposed on Mr. Badawy, no orders will be made to effectively enforce decisions of that Court. The appropriate management of Mr. Badawy in the Federal Courts is a matter better left to the Federal Court judges.

(3) Malicious Intent and Conflict of Interest

[96] Given that Mr. Badawy's allegations of malicious intent, conflict of interest and abuse of process against the IDs and BLG rest solely upon mere assertions and are not corroborated in any

convincing, acceptable manner, and are not independently supported or confirmed, like Justice McVeigh before me, I am not convinced by any such allegations. And, in any event, such matters cannot be used to prevent the Court from dealing with and proscribing his abusive and vexatious conduct.

E. *The Appeal Motion*

[97] In her order of March 14, 2019, Prothonotary Milczynski, acting as Case Management Judge, refused Mr. Badawy's request pursuant to Rules 97 and 227 that Mr. Hews answer certain refused questions put to him by Mr. Badawy at the cross-examination held on February 13, 2019. She also refused Mr. Badawy's request to produce the undertakings requested of the same cross-examination.

[98] The Prothonotary also refused Mr. Badawy's request made pursuant to Rules 97 and 227 to require Ms. Moggert to answer questions put to her by way of written interrogation and to produce undertakings.

[99] Both of these requests were dismissed by the Prothonotary for the following reasons:

> The underlying proceeding to which this motion relates is an application filed by the IntelliView Defendants pursuant to section 40 of the *Federal Courts Act* for an order declaring the Plaintiff a vexatious litigant. As part of this proceeding, Mr. Badawy conducted cross-examinations of the individuals who filed affidavits in support of the IntelliView Defendants' application, William Hews and Christine Moggert. Mr. Hews' affidavit contains information regarding the facts related to the application as well as documentary exhibits. Ms. Moggert's affidavit does not contain substantive facts, but attaches pleadings

and other documents filed in a related Alberta Court of Queen's Bench proceeding.

It is important to keep in mind that although cross-examinations are not necessarily restricted to the "four corners" of an affidavit, cross-examinations are not examinations for discovery. Questions must be relevant, arise from the facts deposed to, relate to answers provided and within the knowledge of the affiant. Questions may also go beyond those parameters if they are relevant to the determination of the issues that are before the Court. In this case, the immediate matter before the Court for determination is only the application under section 40 of the *Federal Courts Act*. The issue to be determined in the application is whether the Plaintiff's litigation activity constitutes a basis or grounds to predict future abuse of the Court's process such that he should be prohibited from commencing or continuing any proceeding without leave.

Having reviewed the questions and bases for the refusals/objections, I am satisfied that the questions and documents Mr. Badawy's seeks are not relevant and need not be provided. As noted by the IntelliView Defendants' responding written representations in respect of Ms. Moggert – she does not swear to any facts that can be reasonably challenged, as she simply attaches documents and pleadings. Many of Mr. Badawy's questions concern why certain exhibits have been included and who decided to include them. These inquiries are not relevant and Mr. Badawy can, in any event, make his submissions concerning the import or significance of the documents themselves.

With respect to the questions asked of Mr. Hews, I am also satisfied that the objections are proper. The questions and requests for undertakings are set out in Tab B of the IntelliView Defendants' written representations, and include the reason(s) for their objection/refusal. Upon review of this chart (which is not reproduced here but is attached as Appendix I to this order) and having reviewed the Plaintiff's submissions, I am satisfied that the questions/requests for undertakings need not be answered – they are outside the scope of Mr. Hews' affidavit as filed for the purposes of the underlying application and are unrelated to and/or irrelevant to the application. The questions appear to relate to IntelliView Defendants' legal counsel and an allegation that the law firm is engaged in improper conduct.

Both the Moggert and Hews affidavits are limited in their scope and purpose – they are filed in support of the application for an order declaring the Plaintiff a vexatious litigant. They include

> background facts/chronology, written materials that have been filed by the parties in other proceedings, orders and judgments issued by this Court, the Federal Court of Appeal, the Alberta Court of Queen's Bench and the Alberta Court of Appeal. Accordingly, the motion will be dismissed.

[100] In addition, the Prothonotary went on to deal with the issue of whether Mr. Badawy's previous motion to have BLG removed as counsel of record should be heard before the Vexatious Motion that is now before me:

> One matter was raised on one of case management teleconferences conducted to discuss the within application, that being the IntelliView Defendants's [*sic*] counsel, Borden Ladner Gervais LLP and the Plaintiff indicating that he had filed a motion to have the firm removed as counsel of record. The Plaintiff has filed such motion, but it was previously directed that the within application be determined first before any outstanding motions be dealt with. I note also, as was set out in the IntelliView Defendants' written representations that this matter was raised before Justice McVeigh in the within file on the motion that resulted in her order striking the Plaintiff's statement of claim without leave to amend. Justice McVeigh stated:
>
> > The Plaintiff moved to have BLG disqualified for conflict of interest reasons (in particular, for breach of the Bright Line Rule)…
> >
> > …Counsel for BLG who is the subject of the Plaintiff's motion voluntarily did not present argument at the hearing as requested by the Court. Counsel from another firm presented their argument on the Motion to Strike….
> >
> > …As I have dismissed the Plaintiff's amended Statement of Claim, his motion for removal is moot, and therefore, it is unnecessary for me to consider it. In addition, the Plaintiff has not convinced me that any counsel need to be removed.
>
> In light of the above, I see no reason to amend the earlier direction that currently outstanding motions should await the disposition of the application under section 40 of the *Federal Courts Act.*

THIS COURT ORDERS that:

1. The motion be and is hereby dismissed.

2. Costs of this motion are payable to the IntelliView Defendants. The parties may make written submissions regarding quantum, no longer than 2 pages in length, within 10 days of the date of this Order.

[101] As Mr. Badawy makes clear in his Notice of Motion and Written Representations for the Appeal Motion, his complaint is that the "answers and the Undertakings requested are very relevant to evidence of the abuse of process and will advance the position of the Respondent to dismiss or stay this motion."

[102] It is clear from Mr. Badawy's affidavit that he is seeking evidence that will support his malicious intent, conflict of interest, and abuse of process arguments against the IDs and BLG. In doing so, he repeats and relies upon the unfounded assertions he has made in other proceedings: that BLG is in conflict, that it previously provided him with legal advice, that it does not represent IntelliView, that it has been disqualified by Justice McVeigh from making submissions, and is holding his privileged and confidential materials.

[103] In addition, he attempts a new tack by trying to discredit BLG generally by assertions that "Borden Ladner Gervais LLP is part of the current issue facing the current Canadian government involving SNC Lavalin…." No attempt is made to relate this to the proceedings before me. It is a crude attempt at a smear of BLG that reveals nothing except that Mr. Badawy has no real answer to the vexatious litigant proceedings brought against him and will resort to any desperate measure now that he has been confronted with the legal implications of his past behaviour.

[104] In addition, there are other allegations of impropriety set out in Mr. Badawy's motion materials that are not supported by any evidence or that refer to documentation that does not support those allegations.

> His submissions for this motion are replete with either irrelevant allegations, or allegations that Mr. Badawy has brought previously before this Court and other courts without success. For example, at BLG's successful application for summary judgment in the Court of Queen's Bench of Alberta, Mr. Badawy raised the same issues. In that case, in addition to summarily dismissing the counterclaim Mr. Badawy filed against BLG and others, Madam Justice Hughes reviewed the test to restrain counsel from acting and the indicia indicative of a solicitor-client relationship. Justice Hughes concluded that she could not find that any solicitor/client relationship ever existed between BLG and Mr. Badawy, nor could she find that there was a near client relationship.

[105] Mr. Badawy made the same argument before Justice McVeigh in the strike motion for this action and failed to convince her that "any counsel need to be removed."

[106] In addition, there are numerous inaccuracies throughout Mr. Badawy's Motion Record for the Appeal Motion and further blatant attempts to mislead the Court. For example, in para 17 of his Written Submissions he suggests that there is an appeal before the Alberta Court of Appeal "to restrain Borden Ladner Gervais LLP" that "will be heard once the Respondent hires a lawyer or the pending appeal of the order of Judge Campbell is granted." The record is clear that his application for leave to appeal Justice Campbell's vexatious litigant order was heard on January 30, 2019 and denied pursuant to written reasons dated February 19, 2019.

[107] As with the Vexatious Motion, I find that Mr. Badawy is not a credible witness and so I give no credence to his affidavit evidence unless it is corroborated in some manner, and where a

statement of Mr. Badawy conflicts with that of another witness or document, I reject Mr. Badawy's evidence unless it is in some manner independently supported or confirmed.

F. *The Law*

[108] The law is clear that an appeal from a discretionary order of a prothonotary is not subject to a *de novo* hearing and should only be interfered with if such a decision is incorrect in law or is based on a palpable and overriding error of fact. See *Hospira Healthcare Corp v Kennedy Institute of Rheumatology*, 2016 FCA 215 at para 64.

[109] The Hews and Moggert affidavits are largely procedural in nature and limited in scope, and the records appended consist of Court filed documents which speak for themselves.

[110] As noted by Prothonotary Milczynski, cross-examinations on affidavits in motions are not examinations for discovery and the immediate matter before the Court is whether Mr. Badawy's litigation activity "constitutes a basis or grounds to predict future abuse of the Court's process such that he should be prohibited from commencing or continuing any proceedings without leave."

[111] Having myself now reviewed the questions and bases for the refusals and objections, I too am satisfied that the documents Mr. Badawy seeks are not relevant to the Vexatious Motion and need not be produced, and that the questions and requests for undertakings put to Mr. Hews need not be answered because they are also outside the scope, and are unrelated or irrelevant to,

the Vexatious Motion. The decision of the Prothonotary on these issues is, in my view, correct in law and is not based upon a palpable and overriding error of fact.

[112] The Prothonotary's confirmation that the Vexatious Motion should be determined first inevitably follows from her finding that "the immediate matter before the Court for determination is only the application under s 40 of the *Federal Courts Act*." Mr. Badawy's attempts to divert the Court away from that issue by re-litigating old malicious intent, conflict of interest and abuse of process issues on the part of the IDs and BLG, do not, as Justice Campbell made clear in her decision on similar issues, respond to Mr. Badawy's abusive and vexatious litigation in this Court which requires Court intervention.

[113] In any event, as part of my consideration of the evidence and assertions made in these motions, I have examined Mr. Badawy's claims of malicious intent, conflict of interest and abuse of process by the IDs and BLG and – like others before me – find them to be entirely unconvincing and groundless.

[114] In deciding to confirm that the Vexatious Motion should be heard first, Prothonotary Milczynski was correct in law and did not base her decision upon any palpable and overriding error of fact. Mr. Badawy's Appeal Motion must be dismissed.

G. *Conclusions*

[115] In my view, the IDs have established a well-founded case for egregious vexatious litigation on the part of Mr. Badawy under s 40 of the *Federal Courts Act*. This is a case that

Mr. Badawy has failed to answer and that he has simply attempted to subvert with unsubstantiated and irrelevant allegations of malicious intent, conflict of interest and abuse of process.

[116] It is obvious that, unless the Court intervenes – as the Court of Queen's Bench of Alberta had to intervene – Mr. Badawy will tenaciously continue his vexatious conduct into the future. In fact, it is my view that an order under s 40 is unlikely to deter Mr. Badawy. He has consistently demonstrated that, as far as he is concerned, no previous Court ruling is a bar to his vexatious conduct and, as Justice Campbell points out in her decision, "Mr. Badawy has been both persistent and creative in his attempts to resist and harass opposing parties, their counsel, and third parties." This is why, in addition to the usual leave requirement, Justice Campbell concluded there was a need to impose further appropriate court access restrictions and set them out in her order. Court access restrictions were also ordered and imposed against Mr. Badawy by Martin JA of the Alberta Court of Appeal in *Nafie v Badawy* (21 May 2015), Calgary 1401-0098-AC (ABCA).

H. *Remedies and Costs*

[117] In the present case, the IDs have asked me to consider, in addition to the leave requirement under s 40, that I order the payment of unpaid costs to date, as well as appropriate Court access restrictions and full indemnity costs for the present motions.

(1) Section 40 Declaration

[118] In accordance with s 40 if the *Federal Courts Act*, I am satisfied that Mr. Badawy has persistently instituted vexatious proceedings and has conducted proceedings in a vexatious manner and is likely to continue this vexatious conduct in the future, so that the IDs have established the need for an order of the Court that no further proceedings may be instituted by Mr. Badawy, and no proceedings previously instituted by Mr. Badawy, may be continued except by leave of the Court.

(2) Access Restrictions

[119] I am also of the view that a simple declaration under s 40 will not prevent Mr. Badawy from continuing his vexatious conduct into the future. He has consistently demonstrated that no Court ruling will deter him from repeating his vexatious conduct and he has been, as both Justice Campbell and I have found, "both persistent and creative in his attempts to resist and harass opposing parties, their counsel, and third parties." In addition, however, Mr. Badawy has shown himself to be a prodigious abuser of Court resources. His conduct regarding resistance to, and denial of, service in the present Vexatious Motion, and the way he uses Court processes to resist and manipulate his opponents is entirely consistent with similar conduct in the past. He puts both the Court and his opponents to an inordinate amount of trouble and expense in any way he can find to inconvenience them and obtain an advantage. In the Vexatious Motion, for example, he continued to claim that he had not been properly served until the actual hearing on March 27, 2019 in Calgary when he abruptly dropped his non-service objections without any explanation as to why he had resisted service in the first place, used Court resources over the

issue, and put the IDs to the trouble of providing evidence as to what had actually occurred with regard to service. This was an act of litigious spite that is consistent with his past conduct.

[120] There is also evidence before me, as there was before Justice Campbell, that Mr. Badawy has provided, and may continue to provide, advice and services to other self-represented litigants. Justice Campbell dealt with Mr. Badawy's denials of this fact in her decision at paras 51-57 in which she cited such denials as a further instance of Mr. Badawy's dishonesty before the Court and that he is not a credible witness.

[121] My general conclusion is that Mr. Badawy is likely to find other ways to continue his vexatious conduct in the Federal Court and that certain safeguards and restrictions are required to, at least, discourage this. I have included them in my order.

(3) Prior Unpaid Cost Awards

[122] One of the indicia of Mr. Badawy's vexatious conduct is his refusal to pay the many costs awards made against him in the course of his vexatious litigation. He forces his targets to incur the costs of defending themselves and, when they do this successfully, his refuses to pay the costs awarded against him. The evidence before me is that Mr. Badawy has failed to pay each and every cost and penalty awarded against him in this Court, even when he has been directed to do so forthwith. There is no evidence before me that Mr. Badawy cannot pay these costs and he has offered no explanation for his refusal to do so. While they go unpaid Mr. Badawy is simply being allowed to continue his vexatious conduct. In this case, his unpaid costs are no more than a

"continuing aspect" of his abusive and vexatious conduct that will persist unless and until he is made to pay them.

[123] In my view, even if I order Mr. Badawy to pay the costs and penalties awarded against him in the Federal Court, he is, if past conduct is a guide, unlikely to pay them. However, his failure to do so will, at least, allow the parties entitled to them to consider what legal options they deem appropriate, given that Mr. Badawy's refusal to pay costs is nothing more than a continuation of his vexatious and abusive conduct in this Court.

(4) Costs in the Present Motions

[124] As I have made clear in my reasons, it is my view that Mr. Badawy has chosen not to address the instances of vexatious conduct that are levelled against him. Instead, he has attempted to sidestep the vexatious issues with accusations of malicious intent, conflict of interest and abuse of process against the IDs and BLG, which issues have been addressed in previous proceedings and for which there is no acceptable evidence before me. Even his Appeal Motion is based upon these issues and his attempt to avoid or delay the Vexatious Motion with spurious considerations that have already been addressed and which, in the end, are not material to his own vexatious conduct. This approach to both motions is, in my view, scandalous, reprehensible and outrageous conduct that requires Mr. Badawy to make forthwith full indemnity for costs to the IntelliView Defendants for both the Vexatious Motion and the Appeal Motion.

ORDER IN T-1964-17

THIS COURT ORDERS that

1. The Plaintiff, Wael Maged Badawy, is hereby declared to be a vexatious litigant pursuant to s 40 of the *Federal Courts Act*;
2. Pursuant to s 40 of the *Federal Courts Act*, Wael Maged Badawy, is hereby prohibited from commencing, instituting or continuing any further proceedings in the Federal Court except by leave of the Federal Court properly obtained in accordance with this order;
3. For purposes of this order, "proceeding" shall mean any action, claim, application, motion, appeal or any other proceeding over which the Federal Court has jurisdiction, and shall include any proceeding instituted, commenced or continued on his own behalf or on behalf of any other legal person or estate;
4. Wael Maged Badawy must describe himself in any motion for leave or document to which this Order applies as "Wael Maged Badawy," and not by using initials, an alternative name structure, or a pseudonym;
5. To commence or continue any proceeding in the Federal Court of Canada, Wael Maged Badawy shall submit a motion to the Chief Justice of the Federal Court of Canada, or his or her designate:
    (i) The Chief Justice, or his/her designate, may, at any time, direct that notice of a motion to commence or continue a proceeding be given to any other person;
    (ii) Any such motion shall be made in writing;
    (iii) Any such motion to commence or continue any proceeding must be accompanied by an affidavit:

a) attaching a copy of the Order restricting Wael Maged Badawy's access to the Federal Court of Canada;

b) attaching a copy of the proceeding that Wael Maged Badawy proposes to commence, issue, file or continue;

c) deposing fully and completely to the facts and circumstances surrounding the proposed proceeding, so as to demonstrate that the proceeding is not an abuse of process, and that there are reasonable grounds for it;

d) indicating whether Wael Maged Badawy has ever sued some or all of the defendants or respondents previously in any jurisdiction or Court and, if so, providing full particulars;

e) undertaking that, if leave is granted for the authorized proceeding, the Order granting leave to proceed, and the affidavit in support of the Order will promptly be served on the defendants or respondents; and

f) undertaking to diligently prosecute the proceeding in accordance with applicable *Federal Courts Rules*;

(iv) The Chief Justice, or his/her designate, may:

a) give notice of the proposed proceeding and the opportunity to make submissions, if they so choose, to:

1. the involved potential parties;
2. other relevant persons identified by the Court; and
3. the Attorney General of Canada;

b) respond to and dispose of the motion in writing; and

c) hold the motion in open Court where it shall be recorded;

6. Leave to commence or continue any proceeding in the Federal Court may be given on conditions, including the posting of security for costs, and proof of payment of all prior cost awards;
7. A motion that is dismissed may not be made again, directly or indirectly;
8. A motion to vary or set aside this Order must be made on notice to any person as directed by the Court;
9. Wael Maged Badawy is prohibited from:
    a. providing legal advice, preparing documents intended to be filed in this Court for any person other than himself, and filing or otherwise communicating with this Court, except on his own behalf; and
    b. acting as an agent, next friend, McKenzie Friend (from McKenzie v McKenzie, [1970] 3 All ER 1034 (UK CA), or any other form of representative in court proceedings before the Federal Court of Canada;
10. The Clerks and Officers of the Federal Court of Canada shall refuse to accept or file any documents or other materials from Wael Maged Badawy, unless:
    a. Wael Maged Badawy is a named party in the action in question; and
    b. if the documents and other materials are intended to commence or continue any proceeding, Wael Maged Badawy has been granted leave to take that step by the Court.
11. Any fee waivers granted to Wael Maged Badawy by the Clerks or Officers of the Federal Court of Canada are revoked;

12. The Clerks or Officers of the Federal Court of Canada shall refuse any fee waiver application by Wael Maged Badawy unless Wael Maged Badawy has a court order which authorizes that step;
13. The Chief Justice of the Federal Court of Canada, or his/her designate may, on their own authority, vary the terms of this Order in relation to the requirements, procedure or any preconditions to obtain leave to initiate or continue litigation in the Federal Court of Canada;
14. Wael Maged Badawy is hereby ordered to pay forthwith all outstanding court-ordered costs and penalties in this proceedings and other proceedings in the Federal Court that he is, or has been, involved in;
15. The IntelliView Defendants shall have the costs of both the Vexatious Motion and the Appeal Motion on a solicitor and client, full indemnity basis, payable forthwith.

"James Russell"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1964-17
STYLE OF CAUSE:	WAEL MAGED BADAWY v 1038482 ALBERTA LTD. ALSO KNOWN AS INTELLIVIEW TECHNOLOGIES INC. ET. AL.
PLACE OF HEARING:	CALGARY, ALBERTA
DATE OF HEARING:	MARCH 27, 2019
ORDER AND REASONS:	RUSSELL J.
DATED:	APRIL 23, 2019

APPEARANCES:

Wael Maged Badawy	FOR THE PLAINTIFF, ON HIS OWN BEHALF
Evan Nuttall Robyn Gurofsky Laura Poppel	FOR THE DEFENDANTS, 1038482 ALBERTA LTD. ALSO KNOWN AS INTELLIVIEW TECHNOLOGIES INC., FIDELITER INC., BILL HEWS, MISSING LINK BUSINESS OPERATIONS ADVISORS LTD., GORDON EDWARDS, CHRISTOPHER BEADLE AND SHANE ROGERS

SOLICITORS OF RECORD:

Borden Ladner Gervais LLP Calgary, Alberta	FOR THE DEFENDANTS, 1038482 ALBERTA LTD. ALSO KNOWN AS INTELLIVIEW TECHNOLOGIES INC., FIDELITER INC., BILL HEWS, MISSING LINK BUSINESS OPERATIONS ADVISORS LTD., GORDON EDWARDS, CHRISTOPHER BEADLE AND SHANE ROGERS
McCarthy Tétrault LLP Toronto, Ontario	FOR THE DEFENDANT, ENBRIDGE PIPELINE INC.
Smart & Biggar Calgary, Alberta	FOR THE DEFENDANTS, SCHNEIDER ELECTRIC SE, SCHNEIDER ELECTRIC CANADA INC. AND WEST AT PELCO BY

SCHNEIDER ELECTRIC

Dentons Canada LLP Edmonton, Alberta	FOR THE DEFENDANT, SPARTAN CONTROLS LTD.
Brownlee LLP Edmonton, Alberta	FOR THE DEFENDANT, CANADA 150IN150
Norton Rose Fulbright Canada LLP	FOR THE DEFENDANTS, FLIR SYSTEMS INC. AND FLIR SYSTEMS, LTD.