

Federal Court



Cour fédérale

Date: 20251208

Docket: T-591-24

Citation: 2025 FC 1941

Ottawa, Ontario, December 8, 2025

PRESENT: Madam Justice Conroy

BETWEEN:

**TRICIA DARLENE NOBLE, ALSO KNOWN
AS TRICIA DARLENE MCDONALD**

Applicant

and

SYNERGY CREDIT UNION LTD.

Respondent

REASONS ON COSTS AND ORDER

[1] On October 10, 2024, I provided reasons for judgment on this application pursuant to s. 14 of the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5 [PIPEDA]. Except for two relatively minor directions that the Respondent consented to, I dismissed the application: *Noble v Synergy Credit Union Ltd.*, 2025 FC 1679 [Main Judgment].

[2] For the reasons that follow, I order that the Applicant, Ms. Noble, pay the Respondent costs in the lump sum amount of \$500, inclusive of disbursements and taxes.

[3] The Applicant, Ms. Noble, represented herself at the hearing.

[4] After the hearing, but before the Main Judgment was rendered, the Applicant provided submissions on costs. The submissions attach a table and receipts for her out-of-pocket costs. Included with these receipts is an invoice from legal counsel who appears to have assisted her on the basis of a limited retainer. According to the submissions, her total out-of-pocket expenses for the application, including legal fees, are \$6,260.36.

[5] This table also includes a line-item for “Opportunity Costs for lost time pursuing [sic] the applicants [sic] interests as a self-represented litigant. The Applicant suggests, 5.37 Years/280 Weeks x 20 hours at minimum a week at \$35/hour and/or what this court deems just and appropriate.”

[6] The Main Judgment provided the following direction on costs submissions:

[116] Following the hearing, the Applicant provided her submissions on costs. If the parties cannot agree on costs, then the Respondent may file its submissions on costs within 14 days of the issuance of this judgment, and the Applicant may file any reply within 21 days of the issuance of this judgment. The costs submissions shall not exceed three pages, double spaced, excluding any bill of costs or breakdown of fees.

[7] On October 27, 2025, the Respondent filed its costs submissions. The Respondent seeks a costs award of \$1,800 based on Column 3 of Tarriff B of the *Federal Courts Rules*, SOR/98-106.

It considers the factors outlined in Rule 400(3), as follows:

- 400(3)(a) – the Respondent was substantially successful on the application.
- 400(3)(c) and (g) – the material filed by the Applicant was “especially expansive” and “required a number of hours to work through and organize a response”.
- 400(3)(k) – the Respondent underlines the importance of this factor and argued that most of the Application was “an attempt to relitigate other matters that properly belonged in another forum”.

[8] On October 30, 2025, the Applicant filed a reply to Respondent’s submissions. She argues that “the Respondent’s procedural history, repeated disregard for the Federal Courts Rules—including Rules 70–72, 81, 141, 143, 301, and 400(3)—and its failure to meet filing deadlines” renders “any award of costs in the Respondent’s favour ... unjust and contrary to the principles of fairness, and good faith”. The Applicant asserts the following:

- the Respondent’s costs submissions were due Friday, October 24, but were filed Monday, October 27, 2025;
- the Respondent did not file a Memorandum of Fact and Law as directed by the Case Management Judge leaving her unaware of the live issues until the hearing;
- the Respondent’s affidavit filed with its Motion Record included transcript excerpts from discovery questioning for an action before the Saskatchewan Court of King’s Bench [SKKB Action]. This breached the Respondent’s implied undertaking not to use information obtained from the discovery process outside of the SKKB Action;
- that Respondent counsel did not comply with an undertaking that the Applicant says he made during the hearing; and
- that Respondent counsel failed to provide the Applicant with a copy of (1) its costs submissions and (2) a December 2, 2024 letter requesting a case management meeting.

[9] On October 31, 2025, the Applicant filed a 22-page “Reply to Judgment”. The Reply to Judgment speaks to many issues but does not make submissions on costs. Amongst other things, it asks the Court to “take a fresh look” at parts of the Main Judgment, including remedies. In making this costs order, I have not taken into account the arguments raised in the Reply to Judgment.

[10] When the Federal Court renders a decision, it is *functus officio*. This means that, outside of very narrow circumstances that do not apply here, this Court does not have the jurisdiction to revisit decisions it has already rendered: *Haynes v Canada (Attorney General)*, 2023 FCA 244 at para 6; *Canadian Broadcasting Corp v Manitoba*, 2021 SCC 33 at para 32. This Court has no power to ‘take a fresh look’ at the Main Judgment.

I. Analysis

[11] The Court has broad discretion in making costs wards and may consider the factors listed in Rule 400(3) of the *Federal Courts Rules*, including “any other matter that it considers relevant” (Rule 400(3)(o)). While the Court’s discretion is broad, it must be exercised in accordance with established principles, unless the circumstances justify a different approach: *Nova Chemicals Corporation v Dow Chemical Company*, 2017 FCA 25 at para 19; *Allergan Inc v Sandoz Canada Inc*, 2021 FC 186 at para 21.

[12] The following is an analysis of the relevant factors in Rule 400(3).

[13] In the usual course, the successful party is entitled to its costs: Rule 400(3)(a). Absent specific direction from the Court, the quantum of costs payable to the successful party will be in the mid-range of Column 3, Tariff B of the *Federal Courts Rules*. The amount requested by the Respondent, \$1,800, is in this range.

[14] With the exception of the two directions noted above, the Respondent was successful.

[15] The conduct of the Respondent that led to these directions is relevant. They were occasioned by the Respondent's decision to renege on a commitment made in the context of the proceedings before the Privacy Commissioner to provide the Applicant in-person access to certain material. At the hearing, the Respondent agreed to provide the Applicant these records, to the extent it has them in its possession: Main Judgment at paras 88-95.

[16] The remaining relevant factors are considered together:

- 400(3)(c) the importance and complexity of the issues;
- 400(3)(g) the amount of work;
- 400(3)(i) any conduct of a party that tended to shorten or unnecessarily lengthen the duration of the proceeding; and
- 400(3)(k) whether any step in the proceeding was improper, vexatious or unnecessary.

[17] I find that both parties' conduct unnecessarily lengthened the proceedings (Rule 400(3)(i)).

[18] The Respondent failed to file its affidavits and Memorandum of Fact and Law on time. This resulted in the cancellation of the first scheduled hearing date. Further, based on my review of the docket, counsel for the Respondent did not respond to the Applicant's attempts to ascertain his availability for the purposes of the Requisition for Hearing (Oral Directions from Associate Judge Ring, August 6, 2025, Document ID 24).

[19] Ms. Noble's conduct also unnecessarily lengthened and complicated the proceeding. The Notice of Application sought 20 separate orders and her Memorandum of Fact and Law raised over 30 issues. Ultimately, I found the Court had jurisdiction over four of the issues she raised and considered five of the 20 orders she sought: Main Judgment at paras 3, 4, and 53.

[20] The bulk of the Notice of Application, the Memorandum of Argument, and the Applicant's affidavit evidence (which exceeded 1,000 pages) did not relate to matters under *PIPEDA*, despite her attempts to frame it as such. She sought to relitigate or collaterally attack decisions made by provincial regulators and the Saskatchewan Courts. She also sought to have this Court make findings in relation to disputes currently before the Saskatchewan Courts and provincial regulators. This conduct is improper and arguably vexatious: Rule 400(3)(k); *R v Mennes*, 2004 FC 1731 at para 77, citing *Re Lang Michener et al. and Fabian et al.*, 1987 CanLII 172 (ON SC). The Court will typically grant self-represented litigants some leeway, however, based on my review of the evidence filed by both parties in this application, this appears to be a pattern in Ms. Noble's approach to disputes with the Respondent.

[21] Vexatious conduct ordinarily results in elevated costs sanctions against the offending party. Likewise, losing a hearing date due to a party's failure to meet filing deadlines will result in cost consequences.

[22] Taking into account the factors under Rule 400(3), the submissions of the parties, the relevant facts as outlined above, and the discretion afforded to me by Rule 400, I order that the Applicant, Ms. Noble, pay the Respondent costs in the lump sum amount of \$500, inclusive of disbursements and taxes.

[23] Were it not for the Respondent's conduct as outlined above, I would have ordered Ms. Noble to pay \$1,800 in costs. That conduct included renegeing on a commitment made before the Privacy Commissioner, failing to file its materials which resulted in the cancellation of the first hearing date, and failing to cooperate for the purposes of the Requisition for Hearing. Were it not for Ms. Noble's conduct as set out above, I would have directed that each party bear its own costs. Accordingly, the amount ordered is reasonable and also takes into account the resource imbalance between the parties.

THIS COURT'S JUDGMENT IS that lump sum costs are awarded to the Respondent, payable by the Applicant, in the amount of \$500.00 inclusive of disbursements and taxes.

"Meaghan M. Conroy"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-591-24

STYLE OF CAUSE: TRICIA DARLENE NOBLE, ALSO KNOWN AS,
TRICIA DARLENE MCDONALD v SYNERGY CREDIT
UNION LTD.

**SUBMISSIONS ON COSTS CONSIDERED AT [OTTAWA/VANCOUVER] PURSUANT
TO THIS COURT'S JUDGMENT IN 2025 FC 1679**

**REASONS ON COSTS AND
ORDER:** CONROY J.

DATED: DECEMBER 8, 2025

WRITTEN SUBMISSIONS BY:

Tricia Darlene Noble, also known
as Tricia Darlene McDonald

FOR THE APPLICANT
(ON HER OWN BEHALF)

Jeffrey D. Kerr

FOR THE RESPONDENT

SOLICITORS OF RECORD:

PSM LLP
Lloydminster, Saskatchewan

FOR THE RESPONDENT