

CITATION: Goegler v. Royal Bank of Canada, 2024 ONSC 4496
COURT FILE NO.: CV-24-00718655
DATE: 20240814

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: ANNE GOEGLER, Applicant

– and –

ROYAL BANK OF CANADA, MARTIN BRENNAN also known as John Doe,
and HUSPHERE INTEGRATED SERVICES LTD., Respondents

BEFORE: Justice E.M. Morgan

COUNSEL: *Lorne Honickman and Laura Brown*, for the Plaintiff

HEARD: August 14, 2024

ENDORSEMENT

[1] The Applicant is a victim of fraud. The Respondent, Martin Brennan, met her on a dating app and under false pretenses convinced her to wire 290,000 Euros (\$430,000 CDN) to a bank account in the name of the corporate Respondent, Husphere Integrated Services Ltd. (“Husphere”). She now seeks to freeze what remains of those funds and obtain a tracing order so that she can eventually have all of the funds returned.

[2] Husphere has been served with all of the application material by mail at its registered corporate office. Mr. Brennan, if that is his real name, has been served by email and WhatsApp, which are the two means by which he has been communicating with the Applicant.

[3] The Respondent, Royal Bank of Canada (“Royal Bank”), has been properly served with the application materials. It has indicated to Applicant’s counsel that it takes no position on the application and does not oppose the relief being sought.

[4] I have no hesitation in finding the Applicant’s supporting affidavit to be credible. It is all too familiar a tale in the internet age of exploitative conduct by Mr. Brennan and Husphere. It fits the pattern of money paid under a mistake of fact which the Supreme Court of Canada has confirmed is repayable to the payer: *B.M.P. Global Distribution Inc. v. Bank of Nova Scotia*, [2009] 1 SCR 504.

[5] I also find that the Applicant did not intend for Husphere or Mr. Brennan to receive the benefit of the money under the circumstances that have transpired, and that neither of those Respondents provided the Applicant with any consideration for the funds: *McGuinty Law Offices v. 13819850 Canada Inc.*, 2023 ONSC 1880, at paras. 30-31. It would be inequitable to permit the recipients of the Applicant's funds to keep the money, having obtained it under false pretences: *CIBC v. Bloomforex Corp.*, 2020 ONSC 69.

[6] Counsel for the Applicant also submits that an earlier application, now discontinued, should be sealed so that the public cannot have access to its contents. That application, Court File No. CV-24-00715426-0000, contained personal information about the Applicant that should not be made available to the public given that she has already once been a victim of fraudsters.

[7] I see no reason not to grant all of the relief sought by the Applicant. Her counsel has put together a clear and thorough record and neither Mr. Brennan nor Husphere have responded with any evidence of their own. Moreover, the Royal Bank has expressed no objection to the Order sought by the Applicant.

[8] There will be an Order to go as submitted by Applicant's counsel.

Date: August 14, 2024

Morgan J.