

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

COURT CANADA LTD.

Plaintiff

- and -

HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF ONTARIO,
REPRESENTED BY THE MINISTRY OF THE ATTORNEY GENERAL FOR THE PROVINCE
OF ONTARIO

Defendant

REPLY

1. The Plaintiff denies all allegations except those which are expressly admitted. A blanket denial of the allegations in the Statement of Defence is appropriate in this case because the Defence is replete with false and misleading statements. The Defendant, not having a valid defence on the merits, has chosen subterfuge and obfuscation over the truth.
2. The Defendant repeats and relies on the allegations in its Statement of Claim.

Proposed Deployment of OSCAR Into Other Court Divisions

3. At the time the parties entered into the Agreement, they anticipated the expansion of OSCAR beyond the Estates and Commercial Courts and prior to the Defendant's breach of the

Agreement, the Plaintiff was preparing to deploy OSCAR in other divisions of the Superior Court of Justice. Although the Defendant now claims otherwise, it is well aware that the parties throughout 2009 and 2010 were working toward the deployment of OSCAR beyond the Estates and Commercial Courts.

4. One example of the Defendant's flagrant misrepresentation of the truth is paragraph 19 of the Defence. In that paragraph, the Defendant states that "Section 2.0 of the RFP stipulates that the potential use of [OSCAR] would be limited to the civil divisions of the Superior Court of Justice at two locations in Toronto – 393 and 330 University Avenue." Section 2.0 contains no such stipulation.

5. Section 2.0 in fact states the following: "The Superior Court of Justice, Civil, Civil (Other) and Family, Toronto Region, has two court locations, 393 and 330 University Avenue, Toronto...The SCJ Toronto Region now wishes to expand the Court Scheduling System (CSS) to other courts as described the above with a possibility of further expansion Province-wide".

6. Another example of the Defendant's attempt to mislead is its assertion that the deployment of OSCAR in the Commercial List was on a "trial" basis. The deployment of OSCAR in the Commercial List took place after the Agreement was entered into. The "trial" period of OSCAR was in Estates Court and occurred before the Agreement was entered into. As the Request for Proposal states "At the present time there is a pilot project for electronic booking of Estates motions and applications".

7. The Plaintiff pleads that deployment of OSCAR beyond 393 and 330 University Ave. was a term of the Agreement.

OSCAR's Performance

8. Prior to the delivery of the Defence, the Defendant praised the OSCAR system. The Defendant now, for the first time, asserts that there were inefficiencies in the OSCAR system. It also asserts, again as a first, that the Commercial List bar did not utilize OSCAR. This is also untrue.

Interference with OSCAR in the Commercial Court

9. The Defendant's initial explanation for failing to schedule Commercial Court hearings in OSCAR was inadvertence. Now, in its Defence, it asserts that it did not do so because of a "new method of booking". This allegation is an attempt to cover up the Defendant's sabotage of OSCAR which sabotage was in furtherance of the Defendant's sudden decision in March of 2010 not to proceed with the deployment of OSCAR in the other Court divisions of the Toronto Region.

10. As for the Commercial Court's deletions of matters already scheduled in OSCAR, it is unclear to the Plaintiff whether the Defendant is claiming that those deletions were also part of the purported "new method of booking" or whether the Defendant has a different excuse for this.

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