

CITATION: Peel Condominium Corporation No. 96 v. Leuzzi, 2025 ONSC 3492
COURT FILE NOS.: CV-23-3953 and CV-24-1370
DATE: 2025 06 17

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Peel Condominium Corporation No. 96, Applicant/Respondent in Cross-Application

AND:
Carmine Leuzzi, Respondent/Applicant in Cross-Application

BEFORE: M.T. Doi J.

COUNSEL: Matthew Morden, for Peel Condominium Corporation No. 96, the Applicant and Respondent to Cross-Application
Joshua Gautreau, for Carmine Leuzzi, the Respondent and Applicant in Cross-Application

HEARD: December 11 and 12, 2024

ENDORSEMENT

Overview

[1] Two applications returned before me.¹ The first application (CV-23-3953) was brought by Peel Condominium Corporation No. 96 (“PCC 96”) under s. 134 of the *Condominium Act, 1998*, SO 1998, C.19 (the “*Act*”) to have Carmine Leuzzi cease and desist from harassing any person on the condominium property and corollary relief. The cross-application (CV-24-1370) was brought by Mr. Leuzzi under s. 135 of the *Act* for an oppression remedy.

[2] As set out below, I find that the application should be granted and the cross-application should be dismissed.

The Parties

[3] PCC 96 is a condominium corporation under the *Act*. Its declaration was registered on August 10, 1986. It manages two condominium towers that each have 100 residential units. Its volunteer board exercises the responsibility of managing the corporation’s affairs, that includes directing property management and third-party contractors, among other things.² Since April 1,

2022, Synapse Property Management Inc. (“Synapse”), a licensed management services provider under the *Condominium Management Services Act, 2015*, SO 2015 c. 28, Sched. 2, has provided PCC 96 with property management services. Jeronim Dyrnishi is the principal of Synapse that has employed Dorothy Choros as PCC 96’s office administrator since April 15, 2022. Under the services contract between Synapse and PCC 96, Ms. Choros works on-site at PCC 96 for 23 hours per week. PCC 96 reportedly has stable finances with a surplus of operating funds and an adequate reserve fund.

[4] Mr. Leuzzi and his wife, Katarzyna Leuzzi, own a unit in one of PCC 96’s condominium towers. Both reside in their unit at the condominium premises.

The Evidentiary Record

a. Audio Recordings

[5] Mr. Leuzzi seeks to adduce two (2) audio recordings as narrative evidence to contextualize certain events that took place. The first is the recording that he made of PCC 96’s townhall meeting on October 18, 2023. The second is a recording of a meeting held on December 16, 2023 between PCC 96 board member Judith D’Souza, building resident Nathan Den Ouden, and unit owner Thien Le, that Mr. Leuzzi did not attend. PCC 96 submits that both recordings are hearsay.

[6] Hearsay evidence is presumptively inadmissible unless it falls under a traditional exception to the hearsay rule. This rule recognizes the difficulty in assessing the truth of a statement made outside of court as the statement is not taken under oath, the trier of fact cannot observe the maker’s demeanour in making the statement, and, most importantly, the statement is not tested by cross-examination: *R. v. Charles*, 2024 SCC 29 at para 43; *R. v. Bradshaw*, 2017 SCC 35 at paras 1, 19 and 20; *R. v. Khelawon*, 2006 SCC 7 at para 48; *R. v. Lako*, 2025 ONCA 284 at paras 43-44. That said, narrative evidence that is necessary to understand a sequence of events and is not tendered for the truth of its contents falls beyond the reach of the hearsay rule and may be permitted: *R. v. Ellis*, 2022 ONCA 535 at para 26; *R. v. Camara*, 2021 ONCA 79 at para 55.

[7] I am satisfied that the audio recording of the October 18, 2023 townhall meeting should be admitted as narrative evidence. Mr. Leuzzi attended the townhall meeting and made the recording that is helpful in understanding how the meeting unfolded in proper context. I also find that that

this recording is admissible for being narrative as circumstantial evidence as the circumstances surrounding the meeting will help in assessing the credibility and reliability of the witnesses, including Mr. Leuzzi and others, in this matter: *R. v. R.A.*, 2024 ONCA 696 at para 31, citing *R. v. Khan*, 2017 ONCA 114 at para 31, leave to appeal refused [2017] SCCA No 139; *R. v. Assoun*, 2006 NSCA 47 at para 176.

[8] Apart from my finding that the recording is admissible as narrative evidence, I find that a portion of the recording of the October 18, 2023 townhall meeting is also admissible as a party admissions exception to the hearsay rule. This exception permits a party to litigation to seek the admission of any statement by the opposing party for the truth of its contents: *MJL Enterprises Inc. v. SAL Marketing Inc.*, 2025 ONCA 120 at para 17, citing *R. v. Evans*, [1993] 3 SCR 653 at 664. As detailed below, Mr. Leuzzi offered to settle his non-smoking complaint with PCC 96 on terms that he described several times during the townhall meeting. In light of this, I find that the recording of his comments during and shortly after the meeting about settling his complaint with PCC 96 should be admitted as a party admissions exception to the hearsay rule.

[9] I do not find that the recording of the December 16, 2023 meeting between Ms. D’Souza, Mr. Den Ouden, and Mr. Le is admissible under the principled exception to the hearsay rule. This recording is clearly hearsay and presumptively inadmissible unless it falls under a traditional exception to the hearsay rule: *Lako* at para 43. Under the principled exception, a presumptively inadmissible hearsay statement can be admitted for its truth when it meet the criteria of necessity and threshold reliability on a balance of probabilities: *Charles* at para 45; *Bradshaw* at para 23. Even if a hearsay statement meets this criteria, the court has a discretion to exclude the statement where its prejudicial effect outweighs its probative value: *Bradshaw* at para 24; *Lako* at para 44.

[10] I am not persuaded that the December 16, 2023 recording meets the necessity criterion. On October 16, 2024, a process server for Mr. Leuzzi attempted to serve Ms. D’Souza with a summons to attend a virtual Rule 39.03 examination on October 18, 2024 for the purpose of having a transcript of her evidence available on the applications. However, service of the summons was not affected and she did not attend the examination. There is no evidence that any further efforts were made by Mr. Leuzzi to summons or compel her attendance for examination, or to otherwise summons Mr. Den Ouden or Mr. Le for examination. It would seem that first-hand evidence was potentially available from any or all of these witnesses but not pursued for reasons that are unclear.

A reluctance to testify will not establish unavailability, much less necessity: *R. v. F.(W.J.)*, [1999] 3 SCR 569 at para 44; *R. v. Vickers*, 2020 ONCA 275 at para 54. Moreover, as the December 16, 2023 recording was condensed (i.e., to shorten its original hours-long duration), I have concerns that the missing portions of this recording may impact its reliability. In turn, I find that allowing the December 16, 2023 recording into evidence would be risky as it lacks corroboration or any first-hand explanation of its content leaving no meaningful way to assess its truth, accuracy, or trustworthiness: *Lako* at para 48. Accordingly, I find that the December 16, 2023 recording should be excluded as its prejudicial effect would outweigh its probative value: *Lako* at para 44.

b. Affidavit Evidence from Mr. Leuzzi

[11] PCC 96 submits that portions of certain affidavits that Mr. Leuzzi filed should be struck for containing inadmissible hearsay and contentious facts.

[12] Rule 4.06(2) of the *Rules of Civil Procedure*, RRO 1990, Reg. 194, provides that an affidavit is to be confined to statements of fact within the personal knowledge of the deponent or to other evidence that the deponent could give if testifying as a witness in court, except where the rules provide otherwise.

[13] Rule 39.01(5) provides that an affidavit for use on an application may contain statements of the deponent's information and belief with respect to facts that are not contentious if the source of the information and the fact of the belief are specified in the affidavit. It follows that an affidavit for use on an application cannot contain contentious facts based on the deponent's information and belief: *TSCC No. 1724 v. Evdassin*, 2020 ONSC 1520 at para 46; *Follwell v. The King in the Right of Ontario as Represented by the Minister of Transportation*, 2024 ONSC 6136 at para 60. The permissiveness of rule 39.01(5) does not provide parties and counsel "a license for slippiness [or] laxity" or allow the improper admission of hearsay: *Haventree Bank v. Lording*, 2023 ONSC 1011 at para 6; *China Yantai Friction Co. Ltd. v Novalex Inc.*, 2023 ONSC 3424 at para 15.³

[14] As paragraph 18 and the email message attached as Exhibit F to Mr. Leuzzi's affidavit sworn December 11, 2023 purport to adduce evidence of an override of authority by a member of PCC 96's board of directors, I find that these excerpts should be struck as inadmissible hearsay on a contentious matter. This evidence seeks to attribute remarks to Ms. D'Souza, a member of PCC 96's board of directors and someone in Mr. Leuzzi's community group, who did not swear an

affidavit in this litigation about a clearly contentious matter that is offered as an example of PCC 96's board acting improperly. That said, and for reasons given earlier, I shall allow into evidence paragraph 42 of the same affidavit that sets out remarks by Mr. Leuzzi at a townhall meeting on October 18, 2023 that he recorded.⁴

[15] I find that the following portions of Mr. Leuzzi's affidavit sworn February 2, 2024 are inadmissible hearsay and should be struck. Paragraph 9 and Exhibit B to the affidavit give hearsay evidence about a police complaint that a resident, Mr. Den Ouden, made on behalf of a unit owner, Mr. Nguyen, to allege that PCC 96's directors and management engaged in improper and bad faith conduct. In addition, paragraphs 12, 13, 20 and 21 to the affidavit contain hearsay of a conversation between Ms. D'Souza, Mr. Den Ouden, and another resident, Mr. Le on December 16, 2023 in which serious allegations of improper conduct by PCC 96's board were raised. As set out earlier, I decline to admit the recording of this December 16, 2023 meeting (attached as Exhibit C to this affidavit) that Mr. Leuzzi did not attend.⁵ All of these facts are clearly contentious. No affidavit was sworn by Mr. Den Ouden, Ms. Nguyen, Ms. D'Souza, or Mr. Le to describe the police report or the conversation, respectively. Accordingly, I decline to admit any of this hearsay that raises serious and controversial allegations of wrongdoing by PCC 96 that has denied the allegations.

[16] I am prepared to allow as narrative paragraphs 18 and 19 to Mr. Leuzzi's affidavit sworn March 11, 2024 that excerpts some of what was discussed during the October 18, 2023 townhall meeting that he captured in an audio recording for which he prepared a chart of time stamps of certain statements made at the meeting.⁶ But paragraphs 20 and 21 to the affidavit seek to give hearsay of what Ms. D'Souza, Mr. Den Ouden, and Mr. Le said at the December 16, 2023 meeting that was audio recorded and time stamped.⁷ In my view, paras 20 and 21 and Exhibits E and F should all be struck as inadmissible hearsay on contentious matters that are not appropriate for affidavits on the applications.⁸

[17] Finally, I am satisfied that paras 6 and 8 to Mr. Leuzzi's affidavit sworn October 23, 2024 that describe certain messages that Mr. D'Souza sent on May 13, 14 and 20, 2024, respectively should be struck as inadmissible hearsay on contentious matters.⁹ The messages raise allegations of wrongdoing by PCC 96's board that are disputed and, therefore, controversial and inadmissible in the applications.

c. Further Affidavit from PCC 96

[18] As set out below, I decline to consider the further affidavit of Piotr Gromek affirmed December 9, 2024 and the further responding affidavit of Mr. Leuzzi sworn December 10, 2024.

[19] In his December 9, 2024 affidavit, Mr. Gromek explains that a someone named “*Carmine Leuzzi*” recently tried to “*friend*” his 25-year-old daughter for a second time on her Facebook account to connect with her on the social media networking service (i.e., as shown in a screen shot of the Facebook account). Mr. Gromek’s daughter does not know Mr. Leuzzi who, therefore, would not seem to have a legitimate reason to connect with her. Mr. Gromek suspects that Mr. Leuzzi deliberately tried to “*troll*” him by accessing the daughter’s Facebook account to post disruptive comments to upset him and members of his family shortly before PCC 96’s annual general meeting that was scheduled to take place on December 19, 2024 (i.e., just after the applications were heard on December 11 and 12, 2024). In an affidavit sworn December 10, 2024, Mr. Leuzzi responded by denying that he tried to friend Mr. Gromek’s daughter, produced screen shots of his own Facebook account showing no pending requests to friend her, and suggested that someone else must have fraudulently used his name and a fake Facebook account to connect with the daughter.

[20] The balance of Mr. Gromek’s December 9, 2024 affidavit sets out unproven allegations of wrongdoing by a person who is believed to be Mr. Leuzzi based on speculation rather than any demonstrable evidence. Mr. Leuzzi denies these allegations in his December 10, 2024 affidavit.

[21] The affidavits clearly give conflicting evidence and raise credibility issues that cannot be reconciled on the documentary record. In addition, the affidavits address speculative allegations. Given the nature of this evidence, I decline to consider it on the applications at this time.

PCC 96’s Application Should Not be Stayed

[22] For the reasons that follow, I do not accept Mr. Leuzzi’s submission that the court should stay PCC 96’s application (CV-23-3953) to have the matter proceed to mediation and arbitration under s. 132 of the *Act*.

[23] When the applications returned for hearing, Mr. Leuzzi argued that the court should stay PCC 96's application as the disputes in that matter should be referred to mediation and arbitration under ss. 132(4) of the *Act*, which provides as follows:

132(4) Every declaration shall be deemed to contain a provision that the corporation and the owners agree to submit a disagreement between the parties with respect to the declaration, by-laws or rules to mediation and arbitration in accordance with clauses (1)(a) and (b) respectively.¹⁰

[24] By enacting ss. 132(4) of the *Act*, the legislature sought to resolve disputes arising within a condominium community through the more informal procedure of mediation and arbitration: *McKinstry v. York Condominium Corp. No. 472*, 2003 CanLII 22436 (ONSC) at para 19. To attain this remedial objective, the mediation and arbitration requirement under ss. 132(4), which applies to disagreements between owners and the condominium corporation, should be given a fair, large and liberal construction: s. 10 of the *Interpretation Act*, RSO 1990, c. I.11; *McKinstry* at para 19. The court has the discretion to stay a proceeding: s. 106 of the *Courts of Justice Act*, RSO 1990, c. C.43. The following criteria are considered in deciding whether to stay a proceeding on the basis of an arbitration clause: 1) is there an arbitration agreement; 2) what is the subject matter of the dispute; 3) what is the scope of the arbitration agreement; 4) does the dispute arguably fall within the scope of the arbitration agreement; and 5) are there grounds on which the court should refuse to stay the action: *Haas v. Gunasekaram*, 2016 ONCA 744 at para 17.

[25] As explained below, I am satisfied that Mr. Leuzzi waived the application of ss. 132(4) by not raising it earlier and by consenting to have both applications heard together. I would add that neither party asked to convert the application to an action or to seek the trial of an issue.

[26] In my view, Mr. Leuzzi must be taken to have waived the application of ss. 132(4) as he raised it after responding to PCC 96's application by serving his affidavits and conducting cross-examinations. By then, it was far too late to raise the issue: *McKinstry* at para 44. Moreover, he consented to have PCC 96's application and his cross-application heard together. At the request of both parties, Tzimas J. granted a consent order dated September 18, 2024 for the applications to be heard together and for the affidavit and cross-examination evidence for each application to be used in the other. In the circumstances, I am satisfied that it would be unfair and unreasonable to

stay PCC 96's application at such a late stage after it had been readied for hearing together with Mr. Leuzzi's cross-application with the consent of both parties.

[27] Notably, Mr. Leuzzi's cross-application seeks an oppression remedy under s. 135 of the *Act* that is not subject to ss. 132(4) and, therefore, need not be referred to mediation and arbitration: *McKinstry* at paras 37-42; *Toronto Standard Condominium Corporation No. 1628 v. Toronto Standard Condominium Corporation No. 1636 et al.*, 2019 ONSC 1827 at para 64, affirmed 2020 ONCA 612; *Ryan v. York Condominium Corporation No. 340*, 2016 ONSC 2470 at para 6; *Leeds Standard Condominium Corp. No. 41 v. Fuller*, 2019 ONSC 3900 at para 33.¹¹

[28] Taking everything into account, I am satisfied that it would be unfair and impracticable to stay PCC 96's application at this time for the purpose of referring the matter to mediation and arbitration: *MDG Kingston Inc. v. MDG Computers Canada Inc.*, 2008 ONCA 656 at para 36, leave to appeal refused [2010] SCCA No. 94. Given Mr. Leuzzi's significant delay in raising the ss. 132(4) issue, and in light of his consent for PCC 96's application to be heard together with his cross-application that is not subject to ss. 132(4), I find that he effectively waived the ss. 132(4) issue. Accordingly, I decline to stay PCC 96's application at this time.

Background

[29] Rule 23.1 of the *Rules and Regulations* for PCC 96 dated May 2014 prohibits smoking in the common areas of the condominium buildings.

[30] Around mid-February 2023, Mr. Leuzzi initially complained that a lower-level neighbour, Robert Gluszak, was smoking on the balcony of his unit contrary to PCC 96's non-smoking rule. Before Mr. Leuzzi brought his complaint, PCC 96 had never received a complaint about a unit resident smoking on their balcony. Mr. Gluszak has resided at the PCC 96 building since before the non-smoking rule was introduced in May 2014. Mr. Gluszak is married to Beata Gluszak who is a volunteer director on PCC 96's board of directors. On April 15, 2023, Mr. Leuzzi submitted a written complaint to PCC 96 about second-hand smoke coming from the Guszaks' unit balcony.

[31] After Mr. Leuzzi made his complaint, PCC 96's board of directors took some time to consider the complaint and decide how to enforce the non-smoking rule. Among other things, the board considered whether the Gluszaks' unit balcony was an exclusive use common element

balcony (i.e., as distinct from other common elements in the building) that might be exempt from the non-smoking rule, and whether the balcony might be grandfathered from the non-smoking rule (i.e., on account of when the unit was purchased). As this was the first time that someone was seeking to enforce the non-smoking rule against a unit owner in respect of a unit balcony, the board sought and obtained legal advice to assist with its review of the complaint.

[32] Between April 15, 2023 (i.e., when the written complaint was submitted) and May 13, 2023 (i.e., when police attended the building, as detailed below), Mr. Leuzzi sent thirteen (13) emails to property management to demand a response to his non-smoking complaint. Among other things, Mr. Leuzzi's emails suggested that PCC 96's board was not taking his complaint seriously, or would allow Mr. Gluszak to get away with breaching the non-smoking rule due to their shared Polish ethnicity. Subsequently, Mr. Leuzzi admitted under cross-examination that he should have not made the ethnicity comment.

[33] While PCC 96's decision for Mr. Leuzzi's complaint was pending, Mr. Gluszak called police on May 13, 2023 to report that vinegar had been sprayed onto his balcony from Mr. Leuzzi's balcony. After speaking with police, Mr. Gluszak stopped smoking on his balcony.

[34] Tellingly, during a recorded phone call with police, Mr. Leuzzi advised that PCC 96's management and board were "*trying to instigate and provoke*" him, and that he intended to respond by "*drowning*" them with their own rules and regulations.

[35] On May 8, 2023, PCC 96's lawyer wrote to Mr. Leuzzi. The letter verified his second-hand smoking complaint, advised him of the procedure to follow to raise any future smoking or smoke-migration issues, and confirmed that he was correct that smoking in the common elements and exclusive use common areas of the premises was not allowed. The letter went on to state that Mr. Leuzzi reportedly had, a) poured a mixture of water and vinegar onto Mr. Gluszak's balcony on April 15, 2023, April 22, 2023, April 23, 2023, and May 1, 2023, respectively, b) used a threatening tone in speaking to a PCC 966 board member, c) made racist remarks, and d) threatened to engage in conduct to force his neighbours to sell their unit. The letter stated that his behaviour and tone were unacceptable and contrary to law, and demanded that he immediately cease and desist from engaging in inappropriate, threatening, or racist conduct towards anyone at PCC 96's premises. The letter advised that PCC 96 would not immediately seek to recover its legal fees due

to his misconduct, but that it reserved its right to do in the future if his improper conduct were to continue. After receiving this letter, Mr. Leuzzi asked to speak with PCC 96's board of directors. The board invited him to a meeting on May 17, 2023.

[36] When the May 17, 2023 meeting began, board president Piotr Gromek asked Mr. Leuzzi whether he was recording the proceedings. Mr. Leuzzi denied doing so but secretly recorded the meeting as he later disclosed. Mr. Leuzzi spoke in an “*aggressive*” tone at the board meeting, as his wife, Katarzyna Leuzzi candidly told him, as recorded and disclosed.¹²

[37] On several occasions during the board meeting, Mr. Leuzzi offered to resolve the smoking complaint if PCC 96 retracted the May 8, 2023 letter and gave him an apology. In offering to resolve his dispute with PCC 96 for the fifth time at the meeting, he stated the following:

[T]he bottom line is this, for the record ... so let's wrap up one item, officially, are we all in agreement that if you guys proceed with your lawyer [sic] in that accordance an apology and a retraction that's what we ask for we will agree as well that we will not pursue this matter so long as they abide by the smoking ...”

[38] PCC 96 accepted Mr. Leuzzi's offer to resolve the dispute and instructed its lawyer to send a formal letter of retraction and apology that was provided to him on May 19, 2023.

[39] The letter of retraction and apology dated May 19, 2023 should have resolved Mr. Leuzzi's dispute with PCC 96. However, as his own recording of the May 17, 2023 board meeting reveals, he had no intention of being bound by his offer to settle with the corporation. When Ms. Leuzzi asked Mr. Leuzzi right after the meeting, “[w]hy did you offer them that if they retract we'll go quiet?” he candidly stated, “[b]ecause they won't, the lawyer won't write that.”

[40] Despite PCC 96's letter of retraction and apology, Mr. Leuzzi remained displeased and agitated by its property management and board of directors. Between June 2023 and April 2024, he sent at least one hundred and nineteen (119) emails to PCC 96's managers, lawyers or agents, including multiple messages on some days, to demand information and immediate answers and to threaten to complain to regulators if his demands were not met.¹³ His volume of correspondence to PCC 96 significantly exceeded what other residents generally have sent to the corporation.

[41] In correspondence, Mr. Leuzzi made at least 6 references to allegations that PCC 96's directors, managers and lawyers were being investigated by police. Under cross-examination, he disclosed that a resident, Mr. Den Ouden, had made a complaint to police on behalf of a unit owner, Mr. Nguyen, for a matter that is said to be under investigation. Separately, Mr. Leuzzi called police to report a pre-authorized payment form (i.e., that Synapse had circulated for the use of unit owners to pay for their monthly common expenses) that he alleged was part of an identify theft scheme as the form had two return addresses (i.e., the correct address for the property management office, and an incorrect office address that was inadvertently left over from an outdated precedent form). Mr. Leuzzi seized upon this administrative error to allege that the payment form was part of a fraudulent scheme that he reported to police before later conceding in cross-examination that he was unaware of anyone incurring a loss from this error.¹⁴ In addition, he threatened to call police (i.e., ostensibly due to an infringement of his rights as a unit owner) after Ms. Choros posted a notice from PCC 96's swimming pool service provider to limit the number of people who could use the pool when no lifeguard was on duty.

[42] On at least 23 occasions, Mr. Leuzzi threatened to bring complaints to the Condominium Management Regulatory Authority of Ontario ("CMRAO"), the regulatory body for condominium management service providers, including Mr. Dyrnishi and Ms. Choros who worked for Synapse in PCC 96's property management office. PCC 96 concedes that Mr. Leuzzi raised the following three (3) legitimate concerns: i) Mr. Dyrnishi's improper use of an Association of Condominium Managers of Ontario ("ACMO") industry designation of Registered Condominium Manager ("RCM") after not paying ACMO annual dues; ii) the incorrect address on the pre-authorized payment form that Mr. Leuzzi reported to police; and iii) PCC 96's failure to advise its auditor that the corporation had received cash. PCC 96 asked Mr. Leuzzi to produce copies of his complaints to CMRAO but he refused to do so. CRAO responded to Mr. Leuzzi's complaints by validating one complaint and issuing a warning without taking any formal disciplinary action.

[43] On at least nine occasions, Mr. Leuzzi threatened to report PCC 96's lawyers to the Law Society of Ontario, including one occasion shortly before a townhall meeting that the corporation had scheduled for October 18, 2023. The townhall meeting chair was Bradley Chaplick, a lawyer practising condominium law with the firm of Levitt Di Lella Duggan & Chaplick LLP.

[44] On June 23, 2023, Mr. Leuzzi called for Ms. Choros to be dismissed from her employment alleging that she had left two IT contractors alone in the building management office after leaving work that day. Ms. Choros had been excused from work early that day after being upset by a verbal confrontation with Livia Fogadaoan, a unit owner, who had called Ms. Choros an expletive during the incident. Before leaving work, Ms. Choros had locked all of the filing cabinets with owner records and asked the building superintendent to monitor the management office as the contractors were still there working. Ms. Choros suspects that Mr. Leuzzi learned of the confrontation from Ms. Fogadaoan, who is a member of his community group, as he emailed Mr. Dyrnishi to advocate for Ms. Choros' termination from employment later that same evening.

[45] On July 6, 2023, Mr. Leuzzi called Chemsearch FE, one of PCC 96's third-party service providers, identified himself as PCC 96's building superintendent, and purported to instruct them to stop pending work at the building and to retrieve products that were supplied. Mr. Leuzzi and others had demanded answers to a series of formal inquiries and demanded that work not be undertaken and funds not spent on the building swimming pool or library without their approval. PCC 96's lawyer wrote to Mr. Leuzzi on July 11, 2023 asking him to cease and desist from representing himself as a member of PCC 96's board, management, or staff and contacting the corporation's service providers to interfere with its business operations or activities. Mr. Leuzzi initially denied these allegations and accused PCC 96's lawyer of harassment and professional misconduct. Subsequently, Mr. Leuzzi conceded that a recording of his call to Chemsearch FE seemed to show that he had misidentified himself and he apologized for doing so by characterizing his call as the result of an apparent misunderstanding.

[46] On July 10, 2023, Sandra Lewis, a unit owner and former PCC 96 board member, attended PCC 96's management office to make a payment and obtain a parking pass.¹⁵ While in the office, she started up a conversation with Mr. Dyrnishi, Ms. Choros, and Ms. Gluzak by asking them to identify the "*troublemaker*" who had caused a ruckus by posting notices that questioned whether PCC 96's funds were being used correctly. Mr. Dyrnishi advised that Mr. Leuzzi: a) had posted the notices (i.e., after incorrect details in a pre-authorized payment form had been circulated before the template had been rectified), b) had too much time on his hands, c) had sent numerous messages but should attend the management office to sort out issues as other unit owners did, and d) had engaged in similar conduct at his last place of residence. Mr. Dyrnishi also made a discriminatory

remark about Mr. Leuzzi's conduct and ethnicity, expressed that he would not be surprised if Mr. Leuzzi had a role in a recent break-in at his home, and shared that Ms. Choros felt stressed and threatened by Mr. Leuzzi's behaviour. Ms. Choros advised that Mr. Leuzzi's conduct made her feel unsafe. Ms. Gluszak shared that Mr. Leuzzi's non-smoking complaint had stressed herself and her family, and remarked that he had a camera pointed at the condo swimming pool. Ms. Lewis replied that Mr. Leuzzi "*needed to be careful*" given the potential concerns with taking pictures of activities at the pool, and voiced her opinion that he was causing problems for no reason. There is no evidence to suggest that any comments from the July 10, 2023 discussion were made, repeated, or shared with anyone other than Mr. Leuzzi, or that they caused him any compensable harm.

[47] Since July 26, 2023, Mr. Leuzzi has made a series of requests for PCC 96's records. The corporation fulfilled the requests but an issue arose over the cost for producing the documents. PCC 96 asked Mr. Leuzzi to pay \$60.00 for producing the records that he requested. Mr. Leuzzi provided a cheque that was returned for non-sufficient funds. PCC 96 then asked him to pay the \$60.00 plus a further \$25.00 to recoup the NSF charge. Mr. Leuzzi claims that he paid \$85.00 in cash by dropping of the money in the management office mail slot over the September 22-23, 2023 weekend when the office was closed. Nobody saw him do this. Ms. Choros claims that she never saw the funds that he claims to have left. He claims that she is lying and took the funds.

[48] On September 29, 2023, Ms. Choros brought a workplace harassment complaint against Mr. Leuzzi to PCC 96's board of directors. She claimed that he had harassed her persistently for months by keyboard bullying her with emails containing derogatory comments, personal insults, unfounded complaints, and an implicit allegation of theft (i.e., based on his uncorroborated claim that he dropped off cash at the management office) that she states is unfounded.

[49] In or around August 2023, Mr. Leuzzi contacted PCC 96's auditor to raise allegations of financial improprieties by the corporation. When the corporation asked him to disclose his communications with the auditor, he refused to produce any. Over time, the auditor for PCC 96 stopped responding to his communications.

[50] On August 1, 2023, Mr. Leuzzi sent a letter to all PCC 96 unit owners to solicit their support for an owner-requisitioned meeting to remove certain elected volunteer directors from its board of directors. In the letter, he broadly claimed that the directors had engaged in conduct unbecoming,

had not acted in the best interests of unit owners, had not followed the corporation's rules and regulations, and had not secured unit owner records and financial records. He wrote that he and his family were mistreated by PCC 96's management and certain board members, and that its board had tried to oppress and silence him. His campaign caused a stir in the building community.

[51] Mr. Leuzzi submitted two requisitions to PCC 96 to call a meeting of unit owners for a vote on removing the directors of the corporation's board. However, neither requisition had the required minimum thirty (30) valid signature to call such a meeting. PCC 96 explained why the signatures were not valid and produced redacted records to confirm same with him.¹⁶

[52] As a valid requisition for a vote meeting to remove directors from PCC 96's board was never submitted, and given the stir in the building community, the PCC 96 board called a townhall meeting for October 18, 2023. By notice dated September 25, 2023, the board advised unit owners that the purpose of the townhall meeting was to receive community feedback and answer questions. Mr. Leuzzi opposed the meeting by claiming that PCC 96 meant to use the gathering to somehow obtain "*legal discovery*" under the guise of hosting the meeting, and was critical of the board's decision to have PCC 96's lawyer, Mr. Chaplick, chair the meeting (i.e., by characterizing the meeting as a "*gravy train*" to enrich the lawyer). Mr. Leuzzi also tried to intimidate Mr. Chaplick by repeatedly threatening to report him to the Law Society of Ontario before eventually making a complaint about him to the regulator.

[53] The townhall meeting took place on the evening of October 18, 2023. Mr. Chaplick chaired the meeting and was joined by a panel made up of Mr. Dyrmishi, Ms. Choros, and six (6) directors serving on PCC 96's board. About 50 residents attended the meeting, Mr. Leuzzi was there and sat in the front row. The meeting lasted less than 20 minutes.

[54] After the townhall meeting came to order, but before Mr. Chaplick could introduce himself or set out the ground rules and the agenda for the meeting, Mr. Leuzzi interrupted, loudly stated that Mr. Chaplick acted for the corporation and not the owners, announced that Mr. Chaplick was not welcome, demanded that Mr. Chaplick leave, and interrupted Mr. Chaplick and a director who tried to speak. Mr. Leuzzi did not stop interrupting and shouted at the meeting along with others in attendance. The meeting became chaotic. Unable to moderate the meeting, Mr. Chaplick ended the session. Mr. Leuzzi continued to yell at directors.

[55] On October 20, 2023, Mr. Leuzzi brought a further complaint against Mr. Chaplick to the Law Society of Ontario.

[56] On May 1, 2024, PCC 96 conducted its annual general meeting. Its auditor, Cathy Beatty, attended the meeting to report that very serious allegations had been raised that PCC 96 had paid invoices for work that was not done. Given the extensive and far reaching nature of the allegations, Ms. Beatty advised that the auditor had been required to verify all invoices and payments for twenty-seven of PCC 96's vendors. This caused the audit to become very labour-intensive, time consuming, and expensive. Mr. Leuzzi suggested that the reason for the significantly higher audit cost was that the auditor had learned that PCC 96 had received cash payments that previously had not been disclosed to the auditor. Mr. Dymishi acknowledged that PCC 96's receipt of cash had never been disclosed to the auditor previously due to his oversight in preparing annual responses to pre-audit inquiries by the auditor, and PCC 96 conceded that his failure to do so added to the cost of the audit. But this clearly was not the only nor main reason why the audit presented at the May 1, 2024 annual general meeting had been so expensive to prepare. As Ms. Beatty advised, the major contributing factor for the significantly higher audit cost was the allegation that PCC 96 had paid for work not done that necessitated a comprehensive and time-consuming review of the invoices and payments for its twenty-seven vendors to ensure that an appropriate audit report was prepared for the corporation.

[57] I accept that Mr. Leuzzi set in motion the events that led to the comprehensive audit due to his allegations of financial impropriety by PCC 96 (i.e., that left its auditor needing more time to properly investigate the allegations). Given the need for the extensive audit work, the corporation's annual general meeting was delayed by about 6 months to await the completion of the audit, for which Mr. Leuzzi criticized PCC 96 for not conducting the annual general meeting promptly.

[58] Ultimately, the auditor found no evidence that PCC 96 had paid for work not performed. Mr. Leuzzi admitted to sending email messages to the auditor but refused to produce any of his correspondence to the auditor. He now submits that PCC 96 cannot prove that he was the instigator who raised the allegations that triggered the need for a comprehensive verification audit.

[59] Based on the foregoing, I find that: i) the auditor did not find any evidence of payments by PCC 96 for work not performed (i.e., that left Mr. Leuzzi's allegations of financial wrongdoing

unfounded); ii) earlier advice to the auditor from PCC 96's management that it did not accept cash were incorrect, resulting in a qualified audit opinion (i.e., that led the corporation to stop accepting cash from unit owners); and iii) the audit cost \$40,000.00 (i.e., nearly ten times the usual cost) due to the extensive work required to address the allegations of financial wrongdoing.

PCC 96's Application

[60] As set out below, I am satisfied that PCC 96 has established that Mr. Leuzzi engaged in a course of vexatious conduct that contravened ss. 117 and 119 of the *Act*.

[61] PCC 96 is seeking a compliance order under ss. 134(1) (*Compliance order*) of the *Act* that provides as follows:

134 (1) Subject to subsection (2), an owner, an occupier of a proposed unit, a corporation, a declarant, a lessor of a leasehold condominium corporation or a mortgagee of a unit may make an application to the Superior Court of Justice for an order enforcing compliance with any provision of this Act, the declaration, the by-laws, the rules or an agreement between two or more corporations for the mutual use, provision or maintenance or the cost-sharing of facilities or services of any of the parties to the agreement.

[62] The court has broad discretion under ss. 134(3)(a)-(c) (*Contents of order*) of the *Act* to grant a compliance order that is "*fair and equitable in the circumstances*", as set out below:

134(3) On an application, the court may, subject to subsection (4),

(a) grant the order applied for;

(b) require the persons named in the order to pay,

(i) the damages incurred by the applicant as a result of the acts of non-compliance, and

(ii) the costs incurred by the applicant in obtaining the order; or

(c) grant such other relief as is fair and equitable in the circumstances.¹⁷

[63] A compliance order and any related relief must be "*responsive*" and "*proportionate*" to the conduct being addressed: *Toronto Standard Condominium Corp. No. 1724 v. Evdassin*, 2020 ONSC 1520 at paras 64 and 66-68; *TSCC 2519 v. Emerald PG Holdings et al.*, 2021 ONSC 7222 at para 143.

[64] By virtue of ss. 117(1) (*Prohibited conditions and activities*) of the *Act*, a person may not conduct an activity in a unit or the common elements of a condominium corporation that is likely to cause injury or illness to a person, as set out as follows:

117 (1) No person shall, through an act or omission, cause a condition to exist or an activity to take place in a unit, the common elements or the assets, if any, of the corporation if the condition or the activity, as the case may be, is likely to damage the property or the assets or to cause an injury or an illness to an individual.

[65] The term “*injury or an illness to an individual*” includes psychological harm, and verbal or written forms of abuse: *York Condominium Corp No 163 v Robinson*, 2017 ONSC 2419 at paras 10 and 12; *Metropolitan Toronto Condominium Corporation 747 v Korolekh*, 2010 ONSC 4448 at para 71, *Toronto Standard Condominium Corporation No. 2395 v Wong*, 2016 ONSC 8000 at paras 39-41; *Ottawa Carleton Standard v. Friend*, 2019 ONSC 3899 at para 117; *Niagara South Condominium Corporation No. 12 v. Kore*, 2021 ONSC 8475 at paras 53-55.

[66] A condominium corporation has a legal duty under ss. 32.0.07(1) (*Duties re harassment*) of the *Occupational Health and Safety Act*, RSO 1990, c. O.1 (“*OHSA*”), to investigate and protect its workers from workplace harassment: *Friend* at para 115; *York Region Condominium Corporation No. 794 v. Watson*, 2021 ONSC 6574 at para 42; *Toronto Standard Condominium Corp. No. 2581 v. Paterno*, 2023 ONSC 4343 at para 9.

[67] The term “*workplace harassment*” is defined under s. 1 of the *OHSA* to mean:

- a) engaging in a course of vexatious comment or conduct against a worker in a workplace, including virtually through the use of information and communications technology, that is known or ought reasonably to be known to be unwelcome, or
- b) workplace sexual harassment.

[68] Subsection 32.0.07(1) of the *OHSA* provides:

- 32.0.7 (1) To protect a worker from workplace harassment, an employer shall ensure that,
- (a) an investigation is conducted into incidents and complaints of workplace harassment that is appropriate in the circumstances;
 - (b) the worker who has allegedly experienced workplace harassment and the alleged harasser, if he or she is a worker of the employer, are informed in writing of

the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation;

(c) the program developed under section 32.0.6 is reviewed as often as necessary, but at least annually, to ensure that it adequately implements the policy with respect to workplace harassment required under clause 32.0.1 (1) (b); and

(d) such other duties as may be prescribed are carried out.

[69] I am satisfied that Mr. Leuzzi felt aggrieved by PCC 96's response to his smoke-migration complaint, and particularly its May 8, 2023 letter that verified his complaint (i.e., by confirming that smoking is not allowed on balconies or other common areas) before addressing his improper conduct (i.e., by repeatedly pouring vinegar onto a neighbour's balcony, using a threatening tone towards a PCC 96 board member, uttering racist accusations, and threatening conduct to force neighbours to sell their unit) and demanded that he cease and desist from inappropriate conduct on its premises. Later, at the May 17, 2023 board meeting, Mr. Leuzzi offered to resolve his dispute with PCC 96 if it retracted its May 8, 2023 letter and apologized. By letter dated May 19, 2023, PCC 96 provided him with a written retraction and an apology. This should have ended the dispute. However, as Mr. Leuzzi candidly told his wife, and as disclosed in the May 17, 2023 recording, he did not intend to bind himself to the settlement with PCC 96 despite proposing the resolution.

[70] Over the next ten months, Mr. Leuzzi sent PCC 96's managers, lawyers or agents at least 119 email messages, and occasionally several in one day, to demand information and immediate answers while threatening to complain to regulators if his demands were not met. From the uncontradicted evidence, it is clear that Mr. Leuzzi unleashed a volume of inquiries that PCC 96 and its agents could not reasonably have answered within the timeframes as demanded. He further inflamed the situation by stating that police were investigating PCC 96's directors, managers and lawyers, and by filing a police report about a potential fraud arising from the incorrect address in the pre-authorized payment form only to later concede that he was not aware of any losses from the improper form that had been inadvertently prepared as PCC 96 explained in its uncontradicted evidence on this point. Mr. Leuzzi also threatened to call police (i.e., due to an infringement of his rights as a unit owner) after PCC 96 posted a notice from its swimming pool services provider to limit the number of people that could use the pool when no lifeguard was on duty. In addition, he threatened on multiple occasions to make complaints to the CMRAO and to the Law Society, respectively. Furthermore, Mr. Leuzzi corresponded with PCC 96's auditor to raise allegations of

financial improprieties that were later determined to be unfounded. Although he refused to disclose these communications, the auditor reported that it had been necessary to undertake a significant investigation into very serious allegations that PCC 96 had paid invoices for work not performed. PCC 96 acknowledges that three of Mr. Leuzzi's complaints to CMRAO were valid (i.e., the improper use of an industry designation, the incorrect pre-authorized payment form address that he also reported to police, and a failure to disclose the receipt of cash to the auditor), but as he refused to disclose those complaints, the corporation could not meaningfully understand or deal with his concerns. Taking everything into account, I find that Mr. Leuzzi engaged in a pattern of behaviour that was not done in good faith but for an ulterior purpose to intimidate or harass the corporation's directors, management or agents, respectively.

[71] I am satisfied that Mr. Leuzzi impersonated its building superintendent and without any authority directed one of the corporation's third-party service providers to stop pending work at the condominium building and to retrieve products that it had supplied. Mr. Leuzzi initially denied doing so and accused PCC 96's lawyer of harassment by serving him with a cease and desist letter. However, he later conceded that a recording of his call with the service provider showed that he had misidentified himself and he apologized for this. In the circumstances, I accept that PCC 96 acted reasonably and responsibly in dealing with Mr. Leuzzi's unreasonable and improper conduct.

[72] On September 29, 2023, Ms. Choros brought a workplace harassment complaint against Mr. Leuzzi to PCC 96's board of directors in which she alleged that he persistently engaged her in keyboard bullying by sending harassing emails with derogatory comment, personal insults, and unfounded complaints, among other things.¹⁸ From the record, I find that PCC 96 has shown that Mr. Leuzzi persistently levelled digital and other forms of abuse towards Ms. Choros, a staff member at the condominium building, by sending derogatory comments, insults, and unfounded complaints or allegations that were known or ought reasonably to be known to be unwelcome: *Robinson* at paras 12-14.

[73] After several failed attempts by Mr. Leuzzi to requisition a meeting of PCC 96 unit owners to vote on removing directors from the corporation's board, PCC 96's board convened a townhall meeting on October 18, 2023 to solicit feedback and answer questions from community members as the failed requisitions had caused a stir in the community. For various reasons, Mr. Leuzzi was critical of the meeting and openly expressed his disapproval when it started by loudly interrupting

the meeting chair, stating that the chair was acting for PCC 96 and not unit owners, announcing that the chair was not welcome, demanding that the chair leave, and interrupting the chair and a director who tried to speak. Mr. Leuzzi refused to stop interrupting and screamed at the directors, that led the chair to end the meeting. Although others also spoke loudly or screamed at the meeting, I am satisfied that Mr. Leuzzi deliberately acted to hijack the meeting as soon as it started.

[74] In responding to the application, Mr. Leuzzi sought to justify his criticism of PCC 96 by critiquing the corporations management or agents. However, this focus on justification misses the point. On an application brought under s. 134 of the *Act*, it is not the fact the respondent made a complaint or had grounds to do so but rather the *manner* by which the respondent behaved towards the applicant or others that is considered in deciding whether the relief sought should be granted: *Kore* at para 61. Unit owners may bring legitimate complaints forward but must do so reasonably. It is an abuse of process and harassment to make or threaten a criminal or regulatory complaint for an ulterior purpose, such as intimidation or revenge: *Emerald* at para 62.

[75] I am satisfied that Mr. Leuzzi threatened to complain about PCC 96 and its agents, and brought actual criminal and regulatory complaints for the ulterior purpose of intimidating or taking revenge against PCC 96 and its management and board by inappropriately using these processes to “*drown them in their own rules and regulations*” as he promised to do in a recorded conversation with police after pouring vinegar on his neighbour’s balcony. I further accept that Mr. Leuzzi had no intention to resolve his dispute with PCC 96 even after it wrote to him on May 19, 2023 to retract its May 8, 2023 letter and apologize in order to accept his offer to settle the dispute.

[76] I find that Mr. Leuzzi’s communications are part of a repetitive and ongoing course of conduct that was meant to discredit and harass PCC 96’s board and management at great financial cost to the corporation and little corresponding cost to himself.

[77] I am satisfied that PCC 96 is not seeking to unfairly silence Mr. Leuzzi or create a situation in which he cannot raise valid criticisms or complaints about the building, but instead is seeking to ensure that his communication are civil and appropriate. To this end, I find that PCC 96 acted reasonably and appropriately in bringing this application to address Mr. Leuzzi’s conduct so that he discontinues engaging in antisocial or degrading communications or behaviour. I am satisfied that PCC 96 had a statutory duty to protect its workers from workplace harassment: ss. 32.0.07(1)

of the *OHSA*; *Robinson* at paras 12-14. Given the nature and character of his conduct, I find that PCC 96 was required to take remedial action and responsibly brought its application under s. 134 of the *Act* to have Mr. Leuzzi refrain from engaging in uncivil or illegal behaviour.

[78] Based on all of the foregoing, I am satisfied that a compliance order should be granted for Mr. Leuzzi to cease and desist from uncivil or illegal conduct that violates the *Act*, or is likely to cause injury or harm to PCC 96's representative and agents.

The Cross-Application by Mr. Leuzzi

[79] As set out below, I am not persuaded that the oppression remedy sought by Mr. Leuzzi on the cross-application should be granted.

[80] Mr. Leuzzi is seeking an oppression remedy under ss. 135 (*Oppression remedy*) of the *Act* that provides as follows:

135 (1) An owner, a corporation, a declarant or a mortgagee of a unit may make an application to the Superior Court of Justice for an order under this section.

(2) On an application, if the court determines that the conduct of an owner, a corporation, a declarant or a mortgagee of a unit is or threatens to be oppressive or unfairly prejudicial to the applicant or unfairly disregards the interests of the applicant, it may make an order to rectify the matter.

(3) On an application, the judge may make any order the judge deems proper including,

(a) an order prohibiting the conduct referred to in the application; and

(b) an order requiring the payment of compensation.

[81] The test for oppression under s. 135 generally mirrors the oppression test under corporate law: *Noguera v. Muskoka Condominium Corporation No. 22*, 2020 ONCA 46 at para 17; *Metropolitan Toronto Condominium Corp. No. 1272 v. Beach Development (Phase II) Corporation*, 2011 ONCA 667 at paras 5-6. An oppression remedy claimant must establish: 1) the breach of a reasonable expectation; and 2) conduct that is "oppressive", "unfairly prejudicial" or "unfairly disregarding" of their interests: *Noguera* at para 17; *BCE Inc. v. 1976 Debentureholders*, 2008 SCC 69 at para 56. At its heart, the oppression remedy is equitable in nature and seeks to ensure what is "just and equitable": *Noguera* at para 18; *BCE* at para 58.

[82] The oppression remedy protects the reasonable expectations of a party. In deciding the reasonableness of an expectation under the first prong of the oppression test, the subjective expectation of the complainant is not conclusive as the reasonableness of the expectation is assessed in light of the facts of the specific case, the relationship at issue, and the entire context that may include conflicting claims and expectations: *Noguera* at para 17; *BCE* at para 62. In a case involving a condominium corporation, the relevant considerations include the condominium board's statutory duties and the conduct of the parties: *Noguera* at para 18.

[83] Under the second prong of the oppression test, the conduct must be shown to be oppressive, unfairly prejudicial, or unfairly disregarding of the claimant's interests: *Noguera* at para 17. Oppression includes coercive or abusive conduct that is burdensome, harsh and wrongful, or an abuse of power that results in an impairment of confidence in the probity with which the corporation's affairs are conducted: *Moran* at para 50. The second prong of the oppression analysis was helpfully summarized by Vermette J. in *Moran v. Peel Condominium Corporation No. 485*, 2022 ONSC 6539 at para 50 as follows:

With respect to the second prong, the courts have not drawn clear lines between any of the three statutory tests – oppression, unfair prejudice and unfair disregard – and have often found that conduct may fit into one or more of the categories. Oppression is conduct that is coercive or abusive. Oppression has also been described as conduct that is burdensome, harsh and wrongful, or an abuse of power which results in an impairment of confidence in the probity with which the company's affairs are being conducted. Unfair prejudice and unfair disregard are less rigorous tests than oppression. Unfair prejudice has been found to mean a limitation on or injury to a complainant's rights or interests that is unfair or inequitable. Finally, unfair disregard means to ignore or treat the interests of the complainant as being of no importance. [Citations omitted]

[84] The oppression remedy under s. 135 of the *Act* offers relief that is broad and flexible to ensure what is “*just and equitable*”: *Noguera* at para 18. The court must balance the objectively reasonable expectations of an applicant unit owner with the condominium board's ability to exercise judgment and secure the safety, security and welfare of all owners and the condominium's property assets. The availability of the oppression remedy largely turns on a factual analysis: *Noguera* at paras 17 and 21; *Moran* at para 48.

[85] I accept that Mr. Leuzzi had a reasonable expectation that PCC 96 would deal with him lawfully, in good faith, in a neighbourly manner, commensurate with living in a condominium

community, and in accordance with the terms of the corporations constating documents: *Couture v. TSCC No. 2187*, 2015 ONSC 7596 at para 62. The obligation of condominium directors to act honestly and in good faith has several dimensions that include, a) not abusing their position for personal gain, b) not acting to defeat the requirements of the corporation's declaration, by-laws and rules, c) not acting to defeat a unit owner's exercise of their rights, d) appropriately considering professional advice, e) considering the interests of all unit owners, f) serving the corporation selflessly, honestly and loyally, g) not acting without the proper authorization of other directors, and h) not acting to cause the operation of the board to be dysfunctional: *Ballingall v Carleton Condominium Corporation No. 111*, 2015 ONSC 2484 at para 106; *Middlesex Condominium Corporation No. 232 v. Bodkin*, 2014 ONSC 106 (Div Ct) at paras 52-59. As a general principle, directors are assumed to have acted in good faith and need not prove that they acted in good faith unless the contrary is proven: *Bodkin* at paras 52-53.

[86] I do not find that Mr. Leuzzi has established that PCC 96 dealt with him in bad faith. I am satisfied that PCC 96's management and board acted reasonably in considering Mr. Leuzzi's non-smoking complaint against his neighbour, and that the board took appropriate steps to obtain legal advice to inform its decision on how to address the complaint given the novelty of the issues that arose in relation to it. I accept that PCC 96 acted reasonably by issuing its May 8, 2023 letter to address Mr. Leuzzi's non-smoking complaint as well as his subsequent behaviour that included pouring vinegar on a neighbour's balcony, speaking in a threatening tone to a PCC 96 director, making racist remarks (i.e., that he later retracted and apologized for), and threatening to engage in conduct to force neighbours to sell their unit. By sending the May 8, 2023 letter, I am satisfied that PCC 96 reasonably asked him to cease and desist his improper conduct (i.e., to avoid further inappropriate or confrontational behaviour), which was a fair and reasonable step for the board to take to not further escalation his conflict with the neighbour. I also accept that PCC 96's subsequent decision to resolve its matter with Mr. Leuzzi by withdrawing the May 8, 2023 letter and apologizing to him was reasonably made to lower tensions and bring the matter to a close.

[87] Given Mr. Leuzzi's subsequent volume of written inquiries with PCC 96 and demands for immediate answers (i.e., and threats of regulatory complaints if his demands were not met), I find that he intended to place the corporation's management and board in a predicament by imposing expectations that were not always reasonable and often challenging at best to satisfy. In addition,

I find that his inquiries were not always made in good faith as he was disgruntled by PCC 96's handling of his earlier smoking complaint and behaviour and chose to retaliate by deliberately trying to create a difficult situation to entangle the corporation with its own rules and procedures. Nevertheless, I accept that some of his inquiries and communications raised legitimate concerns, including management's improper use of an industry designation, the incorrect address on a pre-authorized payment form, and PCC 96's failure to advise its auditor that the corporation had received cash, as PCC 96 has acknowledged.

[88] Taking everything into account, I find that PCC 96 did its best to reasonably respond to Mr. Leuzzi's many communications and inquiries in good faith by taking a balanced approach that fairly considered his rights and interests along with its operational capabilities in a just, practical, and proportionate fashion. Although the corporation did not always meet all of his demands and expectations, I am satisfied that its management and board responded reasonably in the particular circumstances of this case. To this end, I accept that PCC 96 reasonably limited the nature and scope of its responses to him given the excessive volume of his inquiries and communications and its not unlimited staff and resources. From the evidence as filed, I am not persuaded that Mr. Leuzzi was unfairly ignored, treated arbitrarily, or unduly disregarded. In my view, PCC 96 did not act unreasonably or violate Mr. Leuzzi's reasonable expectations by engaging in conduct that was oppressive, unfairly prejudicial, or unfairly disregarding of his interests: *Couture* at para 9; *Gonzales v. York Condominium Corporation No. 242*, 2024 ONSC 6372 at paras 51-52.

[89] In my view, PCC 96 responded appropriately after Mr. Leuzzi improperly tried to instruct Chemsearch FE on July 6, 2023 (i.e., to stop pending work and retrieve supplies) by sending him a cease and desist letter on July 11, 2023 to stop him from interfering with their future operations. I see nothing oppressive or unfair in how PCC 96 responded to his conduct in respect of this.

[90] Mr. Leuzzi submits that the July 10, 2023 discussion between Ms. Lewis, Mr. Dyrnishi, Ms. Choros and Ms. Gluszak revealed unfair, prejudicial and oppressive conduct by PCC 96 that satisfies the second prong of the test for an oppression remedy: *Noguera* at para 17. PCC 96's liability flows from the conduct of its board and management: *Matlock v. Ottawa-Carleton Standard Condominium Corporation*, 2021 ONSC 390 at para 31. Given that Ms. Gluszak was a director on PCC 96's board, and that Mr. Dyrnishi and Ms. Choros were part of PCC 96's management, I accept that their conduct could implicate liability for the corporation.¹⁹

[91] During the July 10, 2023 discussion, Mr. Dyrmishi identified Mr. Leuzzi as being the person or “troublemaker” who had posted notices questioning whether PCC 96’s funds had been used correctly after the wrong management office address was printed in a pre-authorized payment form due to administrative inadvertence. He stated that Mr. Leuzzi had too much time on his hands, excessively wrote to the management office instead of attending in person to work out issues as other unit owners did, and was known to have acted unreasonably at his last place of residence. In addition, he made an unflattering remark about Mr. Leuzzi, disparaged his ethnicity, and was critical of Mr. Leuzzi’s behaviour towards Ms. Choros who responded that she felt stressed and unsafe from his behaviour (i.e., as stated in her workplace harassment complaint against him). Ms. Gluszak shared that Mr. Leuzzi’s non-smoking complaint had stressed herself and her family, and expressed that his potential misuse of a camera for an improper purpose was concerning.

[92] I accept that aspects of the July 10, 2023 discussion about Mr. Leuzzi were inappropriate. Among other things, Mr. Dyrmishi described Mr. Leuzzi’s actions as meddlesome, unproductive or annoying, and also disparaged Mr. Leuzzi’s ethnicity. In addition, Ms. Gluszak’s remark about his camera was speculative and disparaging. These comments were improper and should not have been made. However, I do not find that their comments on this occasion reflected an unwillingness by PCC 96’s management or board to not respond to Mr. Leuzzi’s communications or inquiries, or to unfairly disregard or ignore his rights or interests as a unit owner as being of no importance: *Moran* at para 50. I accept that Mr. Leuzzi’s behaviour frustrated Mr. Dyrmishi, Ms. Choros and Ms. Gluszak who were venting by making intemperate remarks on this occasion. But as there is no evidence to suggest that these comments were part of a pattern of conduct, or that they were repeated on other occasions, I am persuaded that the July 10, 2023 comments were isolated and not indicative of the sort of burdensome or coercive conduct to justify an oppression remedy: *Ibid.*

[93] I do not find that Ms. Choros’ remarks on July 10, 2023 about her workplace harassment complaint against Mr. Leuzzi supports his oppression claim. As explained above, she alleges in her complaint that he harassed and bullied her. Having regard to the evidence in this matter, I am not persuaded that her July 10, 2023 comments about feeling stressed and unsafe due to his conduct were necessarily false or untrue. Furthermore, the statement in her complaint that he deserved “criminal charges” for harassing her (i.e., by allegedly following her, recording her, gaslighting her, and trying to get her fired from her employment) reflected her lay view of how her complaint

should be dealt with, and was not necessarily defamatory as he has submitted. I am not prepared to accept his assertion that she simply fabricated her accusations to intimidate him. Accordingly, I am not persuaded that Ms. Choros engaged in bad faith conduct attributable to PCC 96 (i.e., as her principal) by making her July 10, 2023 comments or submitting her workplace harassment complaint against Mr. Leuzzi. Having regard to the evidentiary record on this application, and without more, I am not prepared to accept that Ms. Choros' harassment complaint is oppressive or otherwise unfairly prejudicial of Mr. Leuzzi's rights or interests: *Noguera* at paras 17-18.

[94] Given the evidentiary record for this matter, I do not accept Mr. Leuzzi's submission that PCC 96 subjected him to a systematic pattern of bullying or intimidation. Mr. Dyrnishi reported Mr. Leuzzi to police for a breach of his privacy after Mr. Leuzzi disclosed the registered address for a corporation with the same address as Mr. Dyrnishi's residence. However, Mr. Dyrnishi's complaint to police seems to have reflected a reaction on a single occasion when the connection between the corporate address and his home may not have been readily apparent. Mr. Leuzzi relies on this and the above-mentioned July 10, 2023 discussion to establish an alleged pattern of abusive conduct or commentary against him, but there is no evidence of other such complaints or remarks to establish a pattern of behaviour that suggests PCC 96's management or board had targeted him for special treatment or consideration.

[95] Mr. Leuzzi further submits that PCC 96 acted unfairly and without clean hands by bringing its s. 134 application that he construes as more proof of an improper attempt by the corporation to bully or intimidate him instead of dealing with his valid claims and concerns in a professional way. He submits that PCC 96 unfairly maligned him for "hijacking" the October 18, 2023 townhall meeting even though others also spoke loudly or interjected the meeting (i.e., making it unfair to single him out). However, I find that he continuously interrupted the meeting chair and screamed at directors in attendance to deliberately disrupt the meeting (i.e., that was convened after he had failed to validly requisition a meeting to vote on the removal of directors from PCC 96's board) in an overly assertive and confrontational manner. On balance, after taking all of the uncontested evidence into consideration, I generally accept that PCC 96 acted fairly and reasonably towards Mr. Leuzzi, took appropriate steps to discharge its statutory obligation to address and remedy his inappropriate behaviour, and did not subject him to oppressive conduct to warrant a remedy under s. 135 of the *Act*.

[96] Accordingly, I find that Mr. Leuzzi has not established that the oppression remedy sought on the cross-application should be granted.

Outcome

[97] Based on all of the foregoing, I find that the application should be granted and the cross-application should be dismissed.

[98] The court has a wide discretion in granting a compliance order to fashion an appropriate remedy: *Emerald* at para 142, citing *York Condominium Corporation No. 137 v. Hayes*, 2012 ONSC 4590 at paras 19 and 49. In granting a compliance order and related relief, the court must ensure that the relief is responsive and proportionate to the misconduct: *Emerald* at para 143, *Evdassin* at para 67.

[99] Taking everything into account, I order the following:

- a. a declaration that Mr. Leuzzi has breached his obligations under ss. 117 and 119 of the *Act* by harassing, intimidating, and interfering with PCC 96 affairs;
- b. Mr. Leuzzi shall not harass or intimidate PCC 96's management, board, or staff, or make personalized attacks about their job security or tenure;
- c. Mr. Leuzzi shall not engage or instruct any PCC 96 third party contractors or agents about inspecting the condominium building's common elements, or soliciting quotations for the maintenance and repair of the common elements, or performing services in relation to the common elements;
- d. Mr. Leuzzi's written communication with PCC 96's management, board, or agent shall be limited to two email messages per month, and only to an email address as PCC 96 shall designate for this purpose, except in the case of an immediate threat to the safety of a person at PCC 96, imminent damage to PCC 96's property and assets, an imminent damage to his unit, damage having occurred to his unit or the appurtenant common elements, his submission of requests to PCC 96 in forms established by the *Act*, or his attendance at a meeting of PCC 96's directors by invitation and/or a meeting of unit owners, unless otherwise specifically invited in writing to communicate; and
- e. In the event of any non-compliance with this order, PCC 96 may seek to enforce compliance on a motion in the within proceedings on seven (7) day's notice.

[100] Should the parties not resolve the issue of costs of the applications, PCC 96 may deliver written costs submissions of up to 3 pages (excluding its bill of costs and any offer(s) to settle) within 15 days, and Mr. Leuzzi may deliver responding submissions on the same terms within a further 15 days. Reply submissions may not be delivered without leave.

Date: June 17, 2025

M.T. Doi J.

CITATION: Peel Condominium Corporation No. 96 v. Leuzzi, 2025 ONSC 3492
COURT FILE NOS.: CV-23-3953 and CV-24-1370
DATE: 2025 06 17

**ONTARIO
SUPERIOR COURT OF JUSTICE**

RE: Peel Condominium Corporation No.
96, Applicant/Respondent

AND:

Carmine Leuzzi, Respondent/Cross-
Applicant

BEFORE: M.T. Doi J.

COUNSEL: Matthew Morden, for Peel
Condominium Corporation No. 96

Joshua Gautreau, for Carmine
Leuzzi

ENDORSEMENT

M.T. Doi J.

DATE: June 17, 2025

¹ On September 18, 2024, Tzimas J. granted a consent order for both applications to be heard together on the week of December 9, 2024, peremptory on all parties, and further directed that the affidavit and cross-examination evidence for each application be used in both of the applications.

² PCC 96 is to have a board of seven elected volunteer directors. Due to resignations, it currently has five elected directors and one appointed director.

³ Neither party sought the trial of an issue, or otherwise sought to have the applications converted to an action: *Gordon Glaves Holdings Ltd. v. Care Corporation of Canada Ltd.*, 2000 CanLII 3913 at para 30.

⁴ See Exhibit O to Mr. Leuzzi's affidavit sworn December 11, 2023; Case Centre A2482, A2512, A2486, and A2550, respectively, to File No. CV-24-1370.

⁵ Case Centre A3718, A3742, A3719, A3719, A3760, and A3741, respectively, to File No. CV-24-1370.

⁶ Case Centre A3575 and Exhibits C and D to the affidavit sworn March 11, 2024 at Case Centre A3584 and A3585-A3587, respectively, to File No. CV-24-1370.

⁷ Case Centre A3575 and 3576, and Exhibits E and F to the affidavit sworn March 11, 2024 at Case Centre A3588 and A3589 to A3592, respectively, to File No. CV-24-1370.

⁸ Case Centre A3575, A3584, A3585 to A3587, A3588, A3589 to A3592, A3576, respectively, to File No. CV-24-1370.

⁹ Case Centre A3554 to A3555, A3555, and A3565 to A3569, respectively, to File No. CV-24-1370. PCC 96 also objected to paras 21 (along with Exhibit G) and 25 to 29 (including Exhibit I) to Mr. Leuzzi's affidavit sworn May 29, 2024 but the affidavit was not uploaded or included in his application or responding materials (i.e., in either CV-24-1370 or CV-23-3953, respectively) and, therefore, was not considered in these proceedings.

¹⁰ Subsection 132(1) of the *Act* provides as follows:

- (1) Every agreement mentioned in subsection (2) shall be deemed to contain a provision to submit a disagreement between the parties with respect to the agreement to,
- (a) mediation by a person selected by the parties unless the parties have previously submitted the disagreement to mediation; and
 - (b) unless a mediator has obtained a settlement between the parties with respect to the disagreement, arbitration under the *Arbitration Act, 1991*,
 - (i) 60 days after the parties submit the disagreement to mediation, if the parties have not selected a mediator under clause (a), or
 - (ii) 30 days after the mediator selected under clause (a) delivers a notice stating that the mediation has failed.

¹¹ Section 135 of the *Act* provides, without qualification, that an application for an oppression remedy may be made to the Superior Court of Justice: *McKinstry* at para 38.

¹² In cross-examination, Mr. Gromek testified that the only other unit owner that ever questioned the board in an aggressive or confrontational tone was Judith D'Souza, who was another volunteer director who had served on PCC 96's board of directors. According to Mr. Gromek, none of the other unit owners had been aggressive or confrontational towards the board.

¹³ On the morning of June 19, 2023, Mr. Leuzzi sent Ms. Choros a succession of nine (9) email messages between 6:31 am and 9:29 am.

¹⁴ The error arose from the use of a precedent pre-authorization payment form that had the address of a former property management office on it due to inadvertence. After PCC 96 had advised unit owners that their information continued to be held in confidence, Mr. Leuzzi called police to propagate alarming statements about the abuse of confidential information. In addition, he has publicly disparaged PCC 96 personnel.

¹⁵ PCC 96 took the position that Ms. Lewis' affidavit sworn November 15, 2023 is defective as: a) she could not identify who commissioned her affidavit, and b) she admitted that an oath was not administered to her when she signed the affidavit. However, in cross-examination on September 3, 2024, Ms. Lewis adopted the contents of the November 15, 2023 affidavit and confirmed that she had prepared its contents: Transcript of the Cross-Examination

of Sandra Lewis dated September 3, 2024, Q19-28 and 75-79, Case Centre B-1-35 to 37 and 39. Accordingly, I am satisfied that it is just and appropriate to allow her affidavit to form part of the record in this matter.

¹⁶ With respect to the first requisition, two (2) persons signed on behalf of unit 302 but only one person could validly sign the requisition for the unit, two (2) persons who signed were not unit owners and, therefore, were ineligible to sign the requisition, and four (4) requisitionists were in arrears for more than thirty days and, therefore, were not eligible to sign the requisition (n.b., PCC 96 produced redacted records of the relevant unit ledgers to verify the arrears). With respect to the second requisition, the signature attached appeared to be simply photocopies of the signatures submitted with the first requisition, and 7 of the 25 persons who signed the requisition had arrears of more than thirty days: see pp. 7-8 of the Memorandum dated July 11, 2024 from PCC 96's counsel providing Answers to Undertakings for the Cross-Examination of Mr. Gromek; Case Centre A134-A135.

¹⁷ Neither party is seeking relief under ss. 134(4) (*Order terminating lease*) of the *Act*, that does not apply in this proceeding.

¹⁸ There is a dispute over Mr. Leuzzi's claim that he dropped off cash in the management office mail slot (i.e., to pay for documents that he requested plus an NSF cheque fee). Nobody saw him drop off these funds. Ms. Choros states that she never saw any such funds. Mr. Leuzzi claimed that Ms. Choros was lying and took the funds herself. In turn, Ms. Choros complained that Mr. Leuzzi had engaged in workplace harassment by falsely accusing her of theft. Given the conflicting nature of this evidence, I decline to make any finding on it at this time.

¹⁹ Ms. Lewis was a unit owner and a former PCC 96 board director with no formal role with the corporation.