Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

ISRAT KHAN

Plaintiff

and

BRAJENDRA SUTRADHAR and
MEMORIAL UNIVERSITY OF NEWFOUNDLAND

Defendants

AFFIDAVIT

I, Scott Worsfold, of the City of St. John's, in the Province of Newfoundland and Labrador, General Counsel with Memorial University of Newfoundland, MAKE OATH AND SAY:

1. I am General Counsel/Associate Vice-President (Legal)] of the defendant, Memorial University of Newfoundland ("Memorial"). As such, I have knowledge of the matters to which I depose, except where stated to be on information and belief, in which case I believe them to be true. I am a barrister and solicitor, and a member in good standing with the Law Society of Newfoundland and Labrador.

2. Memorial is a body corporate continued as a corporation under the *Memorial University Act*, RSNL 1990, c. M-7, with its principal campus and head office in St. John's, Newfoundland and Labrador.

A. The Newfoundland Action

3. On or about September 23, 2014, the Plaintiff, Israt Khan ("Ms. Khan"), commenced an action in the Supreme Court of Newfoundland and Labrador, Trial Division (General), Court File No. 2014 01G-6784 (the "Newfoundland Action"), styled *Israt Khan v. Brajendra Sutradhar and Memorial University of Newfoundland and Labrador*. A true copy of the statement of claim in the Newfoundland Action is attached hereto as **Exhibit "A"**.

4. In the Newfoundland Action, Ms. Khan alleges that:

   (a) she was at all material times a graduate student in the Master of Science program in the Faculty of Mathematics at Memorial;

   (b) Dr. Brajendra Sutradhar ("Dr. Sutradhar") was a professor of engineering employed by Memorial and one of her graduate supervisors; and

   (c) between approximately August 2007 and April 2008, while Ms. Khan was meeting with Dr. Sutradhar in his office on Memorial's campus, he sexually assaulted her on multiple occasions by, among other things, grabbing her hand for a sexual purpose, attempting to kiss her, massaging her thigh and back, and touching her in a sexual manner.

5. Ms. Khan further alleges in the Newfoundland Action that:

   (a) she was financially, academically and emotionally dependent upon Memorial and Dr. Sutradhar for the successful completion of her studies and the continuation of her student visa in Canada;

   (b) Memorial owed her common law, fiduciary and statutory duties to protect her from the assaults and to supervise and control Dr. Sutradhar;

   (c) Memorial was negligent in failing to supervise or control Dr. Sutradhar and in failing to protect her from his assaults; and

   (d) Memorial is vicariously responsible for all of Dr. Sutradhar's alleged actions.

6. Ms. Khan claims in the Newfoundland Action general damages, special damages, exemplary and punitive damages, interest, costs of the action, and such further and other relief as may be just.

7. That once served with the statement of claim for the Newfoundland Action, Memorial retained and instructed counsel and filed a defence on December 22, 2014.

8. A defence to the Newfoundland Action was filed by counsel for D. Sutradhar on October 3, 2014.

9. The Newfoundland Action remains pending and has not been dismissed, discontinued, or otherwise resolved.

B. The Ontario Action

10. On February 4, 2025, Ms. Khan issued a statement of claim in this Honourable Court, naming Dr. Sutradhar and Memorial as defendants (the "Ontario Action"). A true copy of the Ontario statement of claim is attached hereto as **Exhibit "B"**.

11. In the Ontario statement of claim Ms. Khan pleads, among other things, that:

(a) she attended Memorial from 2007 to 2014 as a student;

(b) she met Dr. Sutradhar, then a professor and employee of Memorial, in or about August 2007;

(c) on or about September 7, 2007 and on multiple occasions between the fall of 2007 and the spring of 2008, Dr. Sutradhar sexually harassed and assaulted her in his office and other campus locations by touching her hand, groping her breasts, kissing her cheek and face, touching her pregnant belly, attempting to unzip or tear her clothing, and offering her money to satisfy his sexual urges; and

(d) she complained to Memorial's Sexual Harassment Office and in August 2008 received a letter from the Acting President confirming that sexual harassment had occurred and that steps would be taken under the collective agreement.

12. Ms. Khan seeks in the Ontario Action $100,000,000 in damages, prejudgment and post-judgment interest, costs and other relief against both defendants for the tort of assault and battery and, in relation to Memorial, vicarious liability for the acts of Dr. Sutradhar.

13. Save for differences of wording, the allegations in the Ontario statement of claim arise from the same factual circumstances as the Newfoundland Action, namely the alleged course of sexual harassment and assault by Dr. Sutradhar during Ms. Khan's graduate studies at Memorial's St. John's campus in 2007–2008, and seek the same categories of damages for essentially the same harms.

14. The Ontario statement of claim pleads that this Honourable Court has jurisdiction on the basis that Dr. Sutradhar now carries on business in Ontario as a professor and researcher at Carleton University and is a member of the Statistical Society of Canada, both headquartered in Ottawa. Ms. Khan does not describe herself as a resident of Ontario.

15. Memorial has not been served with the Ontario Statement of Claim. It first became aware of the Ontario Action when on or about March 27, 2025 via letter from external counsel representing the University in the Newfoundland and Labrador action. I was advised that Ms. Khan had provided, via email, external counsel with an unissued Statement of Claim from the Province of Ontario repeating the allegations in the Newfoundland and Labrador matter. A copy of that unissued Statement of Claim was provided to me as an attachment to the letter of March 27, 2025.

16. Memorial has retained counsel and brings this motion before delivering any statement of defence.

C. Prejudice to Memorial and lack of prejudice to Ms. Khan

17. If Memorial is required to defend both the Newfoundland Action and the Ontario Action:

(a) it will be forced to duplicate documentary and oral discovery, motion practice and trial preparation in two superior courts in relation to the same 2007–2008 events;

(b) there is a real risk of inconsistent factual findings and legal conclusions regarding the alleged assaults, Memorial's duties, and the appropriate quantum of damages;

(c) Memorial faces the risk of double recovery or overlapping damages awards; and

(d) Memorial will incur two separate legal expenses for defending mirror-image claims brought by the same plaintiff in two separate jurisdictions.

18. Ms. Khan can obtain full and effective relief in the Newfoundland and Labrador Action already pending in the jurisdiction where the events took place and where Memorial is situated. Any procedural issues or amendments she wishes to pursue can be addressed by the Newfoundland Supreme Court.

19. In my respectful view, the commencement and continuation of the Ontario Action against Memorial, in addition to the longstanding Newfoundland Action, is unnecessary, duplicative, and unfairly prejudicial to Memorial.

20. I make this affidavit in support of Memorial's motion to strike or stay the Ontario Action as against it and for no improper purpose.

SWORN (or AFFIRMED) before me at the City of St. John's, in the Province of Newfoundland and Labrador, this __ day of _____ 2025.

_____
A Commissioner, etc.

_____
D. Scott Worsfold