

**CITATION:** *Hrvoic v. Hrvoic*, 2020 ONSC 1711  
**COURT FILE NO.:** CV- 1900630077  
**DATE:** 20200319

**ONTARIO SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

DAG HRVOIC, Applicant

– and –

MELISSA HRVOIC, Respondent

**BEFORE:** F.L. Myers J.

**COUNSEL:** *Daniel F. Chitiz, Alastair McNish, J.K. Hannaford, and  
Lauren Degabriele*, for the respondent

*Gregory Sidlofsky and Aaron Franks*, for the applicant

**READ:** March 19, 2020

**ENDORSEMENT**

[1] Commercial counsel and family law counsel participated in a case conference by telephone this morning.

[2] The underlying applications and action are not urgent. The parties have had a *modus vivendi* for nearly ten years since they separated. Mr. Hrvoic has brought an application to require Ms. Hrvoic to sell her shares in the family business to him. He says the business is deadlocked and the parties no longer have mutual trust and confidence. An issue arose in that proceeding as to whether Ms. Hrvoic owns 30% or 50% of the shares of the family corporations.

[3] When circumstances came to a head for Mr. Hrvoic and in his view a change was required, rather than sitting down to negotiate, on March 2, 2020, he purported to terminate Ms. Hrvoic’s employment summarily – without notice or pay in lieu – leaving her without ongoing salary, severance, or support. How he had the corporate authority to do this in light of his view

that the corporations are deadlocked due to Ms. Hrvoic's refusal to attend meetings of the board of directors is a question for others.

[4] Confronted by Mr. Hrvoic's unilateral, incendiary conduct, Ms. Hrvoic was not to be outdone. Rather than sitting down to negotiate or coming to court with an urgent support application or seeking an injunction in the corporate proceedings, she surreptitiously "borrowed" \$600,000 from the long-estranged couple's line of credit. To her knowledge that line of credit is now collateralized solely by property owned by Mr. Hrvoic.

[5] The application brought by Mr. Hrvoic to require a buyout of Ms. Hrvoic's shares in the family corporations came on for hearing before Dow J. on March 10, 2020. Ms. Hrvoic sought an adjournment to bring a motion before a Master concerning a privilege claim asserted by Mr. Hrvoic. Apparently, family law counsel to Mr. Hrvoic recently "corrected" a prior statement written to counsel opposite concerning the relative share ownership between the parties. Privilege is asserted around the circumstances of the "correction."

[6] In granting the adjournment to Ms. Hrvoic for this and other reasons, Dow J. added a term to his order requiring Ms. Hrvoic to repay \$500,000 of the \$600,000 that she "borrowed" by yesterday. She has not done so as yet. Mr. Sidlofsky rephrases the term and says that Dow J. did not so much require the return of improperly taken funds as he actually allowed Ms. Hrvoic to retain \$100,000 of improperly taken funds pending the outcome of the application.

[7] Ms. Hrvoic seeks leave to appeal from the term added by Dow J. under his discretionary authority under Rule 1.05 of the *Rules of Civil Procedure*, RRO 1990, Reg 194. She now urgently seeks a stay pending appeal of the term from which she hopes to obtain leave to appeal.

[8] The parties seem to have no appetite to cease their unilateral tactical maneuvers and to sit down to discuss disentangling their affairs in a businesslike manner. My efforts at the case conference to engage family law counsel to find a practical process with commercial counsel for an overall determination of the matter on the merits either by negotiation or a reformatting of the various pieces of litigation to focus on the substantive merits came to naught. The parties prefer instead to spend tens or hundreds

of thousands of dollars trying to impose their will on each other and to cause themselves, each other, and their children the distress of an all-out legal battle. They will eventually realize that neither can impose their will on the other and that negotiations will ultimately be required. One might have hoped that they could have been led to focus on a healthier outcome for all especially given the times. But such is apparently not to be until the parties try to take a few whacks at each other first.

[9] While the underlying litigation is not at all urgent, the parties have made the current stay pending appeal issue urgent by their unilateral acts. Ms. Hrvoic has not yet complied with Justice Dow's order, so the issue of whether the order ought to be stayed is both time sensitive and important. I note that counsel did not ask me to grant an interim stay pending the hearing of the motion for a stay pending appeal. I therefore make no assessment of the merits of the motion for leave to appeal.

[10] Mr. Hrvoic shall serve and file all evidence on which he relies by 12:00 o'clock noon on March 25, 2020 in the manner set out in my endorsement of yesterday. Ms. Hrvoic shall serve and file a sworn copy of the draft affidavit that she has filed by that time as well. Both parties will serve and file factums by 12:00 noon on March 27, 2020.

[11] The motion for a stay pending appeal will be heard by Mr. Justice Schabas at 10:00 a.m. on March 30, 2020. The Motions Coordinator will provide the coordinates of the conference line to be used for the hearing in accordance with my endorsement of yesterday as well.

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F.L. Myers J.

**Date:** March 19, 2020