

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO
TRIAL DIVISION**

IN THE MATTER OF charges of academic dishonesty filed on July 20, 2015

AND IN THE MATTER OF the University of Toronto *Code of Behaviour on Academic Matters*, 1995,

AND IN THE MATTER OF the *University of Toronto Act, 1971*, S.O. 1971, c.56 as amended S.O. 1978, c. 88

B E T W E E N:

THE UNIVERSITY OF TORONTO

– AND –

B ■ S ■

Hearing Dates: January 27, 2016, June 28, 2016

Members of the Panel:

Ms. Sana Halwani, Barrister and Solicitor, Chair
Dr. Maria Rozakis-Adcock, Faculty Panel Member
Ms. Raylesha Parker, Student Panel Member

Appearances:

Mr. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Barristers
Ms. B ■ S ■, the Student
Ms. Yelena Goren, the Student's counsel (June 28, 2016)

Witnesses:

Dr. Laura Bisailon, Instructor of the Course HLTC05H3, U of T Scarborough
Dr. Maryam Saatian, the Student's dentist
Professor Eleanor Irwin, Dean's Designate, U of T Scarborough
Ms. B ■ S ■, the Student
Ms. A ■ G ■ K ■, the Student's mother

In Attendance:

Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Ms. Krista Osbourne, Administrative Assistant, Appeals, Discipline and Faculty Grievances (January 27, 2016)
Ms. Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances (June 28, 2016)

I. CHARGES

1. The Trial Division of the Tribunal held a hearing on January 27, 2016 to address the following charges brought by the University of Toronto (the "University") against B■■■■ S■■■■ (the "Student") under the Code of Behaviour on Academic Matters (the "Code"):

July 20, 2015 Charges:

1. On or about November 5, 2014, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such forged, altered or falsified document, namely, a University of Toronto Verification of Student Illness or Injury, dated November 4, 2014 ("Certificate #2"), which you submitted in support of your request for academic accommodations in HLTC05H3 (the "Course"), contrary to Section B.i.1(a) of the Code.
2. In the alternative to paragraph 1, by submitting Certificate #2 you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage.
3. On or about October 28, 2014, you knowingly represented as your own an idea or expression of an idea, and/or the work of another in a paper titled "Critical Reflection the Conditions of the Working Class" ("Paper") which you submitted for academic credit in the Course, contrary to section B.i.1(d) of the Code.
4. On or about October 28, 2014, you knowingly submitted the Paper containing a purported statement of fact or reference to a source which has been concocted, contrary to section B.i.1(f) of the Code.
5. In the alternative to paragraphs 3 and 4, by submitting the Paper you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage.

II. SUMMARY OF FACTS

2. Certificate #2 and the Paper are the subject of the charges at issue in this Tribunal hearing. Certificate #2 relates to charges 1 and 2 of alleged forgery, and the Paper relates to charges 3 to 5 of alleged plagiarism and concoction of sources.
3. The Student pled not guilty to all charges.

A. Background to Charges

4. The Student registered in the course, Social Determinants of Health (HLTC05H3), taught by Dr. Laura Bisailon in the fall of 2014. Dr. Bisailon has been appointed a professor at the University of Toronto Scarborough since 2013.
5. In the first class of the Course, a course outline (the “Syllabus” at Exhibit 3) was given to the students listing course requirements, assignment submission rules, and academic policies and support. The late submission policy on the Syllabus states that the deadlines for assignment are firm and “5% of [an assignment’s] total value will be subtracted per day” as late penalty.
6. The Syllabus also includes a section on academic integrity and plagiarism, and stated that “Assignments must be submitted directly to me and in hard copy. No email submissions” (emphasis in original).
7. The Paper at issue was a critical reflection assignment worth 15% of the total grade in the Course, and due on October 20, 2014.
8. The Panel heard from the following witnesses:
 - a. Dr. Laura Bisailon, Professor of the Course (HLTC05H3), U of T Scarborough;
 - b. Dr. Maryam Saatian, the Student’s dentist;
 - c. Professor Eleanor Irwin, Dean’s Designate, U of T Scarborough; and
 - d. Ms. B ■ S ■ ■ ■, the Student.

B. The Request for an Extension of Time (evidence of Dr. Bisaillon and Student)

9. It is an agreed fact that the Student did not submit a paper on the due date of October 20, 2014. Rather, the Student emailed Dr. Bisaillon on October 28, 2014 explaining her late submission was due to a recent oral surgery that “didn’t end well” for her and that she was in “severe pain” (Exhibit 4A). The email also states that the Student had asked one of her friends to drop a hard copy of her paper off for Dr. Bisaillon. No copy of the Paper was attached to this email. The evidence before the Panel was unclear as to when a pdf (emailed) version of the Paper was first received and whether Dr. Bisaillon had ever received a hard copy of the assignment. It is common ground, however, that by the latest November 5, 2014, Dr. Bisaillon had received the Paper. In any case, as the date of receipt of the Paper is not determinative of the charges at issue, this uncertainty need not be resolved.
10. Enclosed in the email of October 28, was a medical certificate dated October 20, 2014 from the Student’s dentist, Dr. Maryam Saatian (“Certificate #1”, see Exhibit 4B). Certificate #1 stated that the Student had been “unable to function at any academic level” from October 20, 2014 (“start date”) to October 21, 2014 (“anticipated end date”).
11. Further emails were exchanged between Dr. Bisaillon and the Student on October 30, 31, and November 5, 2014 (Exhibits 5 and 6A). On October 30, Dr. Bisaillon informed the Student that she still did not have her assignment, and that these assignments had already been graded and returned to other students. She further stated that “the attendance record for October 6 shows that you were not in class for viewing of the film on which the assignment was based.” She also stated that “your medical note is dated the day the assignment was due, indicating indisposition after, not before, the assignment due date.” On the basis of these factors, Dr. Bisaillon concluded that she would not accept her paper on the grounds of “fairness, reasonability, and evidence”.
12. The Student responded on October 31 claiming complications from a five-hour oral surgery:

Instead of one hour surgery which was normal take for everyone, I had to go through five hours surgery because my tooth crown was broken to pieces and my dentist didn’t know how to reach it and extract it from there. So, I had to get to hospital to remove them all at once.

13. Sometime between October 31 and November 5, Dr. Bisaillon asked the Student for a second medical note to demonstrate the Student's inability to complete the assignment prior to the due date.
14. On November 5, the Student wrote a further email to Dr. Bisaillon and attached Certificate #2, dated November 4, 2014 (see Exhibit 8), as well as a pdf copy of the Paper. As is further detailed below, Dr. Bisaillon did not end up marking the Paper as she had concerns about the authenticity of Certificate #2.

C. The Medical Certificates (evidence of Dr. Bisaillon, Dr. Saatian and Student)

Certificates #1 and #3:

15. Certificate #3 (Exhibit 7) was not submitted to Dr. Bisaillon, but rather came to light during the investigation of the Student by the Dean's Designate. This certificate was provided to another of the Student's professors.
16. Certificate #3 was dated October 16, 2014 and stated that the Student had been "unable to function at any academic level" from October 16, 2014 ("start date") to October 20, 2014 ("anticipated end date").
17. Both Certificates #1 and #3 included the name and signature of the dentist, her registration number and her business stamp. The authenticity of Certificate #1 and #3 are not in question.
18. Dr. Saatian admitted that she provided both Certificates #1 and #3 to the Student on October 20, 2014. She backdated Certificate #3 to October 16, 2014 at the Student's request as the Student claimed her severe pain had started around that time. In her testimony, Dr. Saatian was regretful about backdating Certificate #3, but it was clear that she did so in an effort to assist the Student.
19. Dr. Saatian was clear and unequivocal that she had only met the Student once in her dental office on October 20, 2014. On that date, the Student complained of severe pain but did not tell Dr. Saatian that she had recently undergone oral surgery. Dr. Saatian performed an oral examination. Dr. Saatian did not take X-rays because her X-ray machine was broken that day.

20. Dr. Saatian was also clear and unequivocal that she found no evidence of recent oral surgery, and that everything seemed normal in the Student's mouth. Dr. Saatian did notice that a wisdom tooth had been removed from the Student's mouth but the wound had healed completely which indicated that the surgery had been performed more than a year ago.
21. Dr. Rozakis-Adcock in her dissent characterises Dr. Saatian as willing to make "false claims" as to the Student's medical condition. We disagree with this characterisation. Despite not being able to identify the source of the Student's pain, Dr. Saatian signed the two certificates because she was willing to believe the Student when she said that she was in severe pain. As Dr. Saatian explained in her testimony, there is no equipment that will measure a person's pain. The Student was an acquaintance of Dr. Saatian's daughter, and Dr. Saatian understood the Student to be a good student. She therefore had no reason to disbelieve the Student's claim that she was in pain.

Certificate #2:

22. As described above, the Student submitted Certificate #2 to Dr. Bisailon via email on November 5, 2014. In that email, the Student stated that she had visited the dentist's office the day before and obtained Certificate #2. In her testimony the Student also stated that she had picked up Certificate #2 from the dentist's office. However, in her closing submissions, she contradicted both her email and prior testimony, and stated that her father had been the one to pick up Certificate #2 from the dentist's office.
23. When she received Certificate #2, Dr. Bisailon compared it to Certificate #1 and noticed some "red flags" such as differences between the certificates in the license number, handwriting, and the dentist's signature. There were also spelling errors. The comments section of the form, included the following statement: "There have been completion of oral surgery, #16 have been removed."
24. Inconsistencies in the handwriting, signature, license number, and stamp are apparent from a visual comparison of Certificate #2 to Certificates #1 and #3
25. Subsequently, Dr. Bisailon followed up her concerns by calling Dr. Saatian's office, raising the issues with her department head, and meeting with the Student on November 10, 2014. Pursuant to section C.i.(a)(2) of the Code, nothing the Student said in that meeting may be used or received in evidence against the Student.

26. Dr. Bisailon testified that she called Dr. Saatian's office once to inquire whether the information provided on the certificate matched the office's record, and was told that there was no such record of the certificate and no record of the Student visiting the dentist's office on November 4, 2014 (the date on Certificate #2).
27. Both prior to the hearing (when contacted by the office of the Dean's Designate) and during her testimony at the hearing, Dr. Saatian was clear that Certificate #2 did not come from her. She stated that she did not fill out any information on this form, and that neither the signature nor the stamp was hers. She also noted that the registration number was incorrect – it was written as "77807" when the correct number (and the number on the other two certificates) was "77087".

D. The Assignment (evidence of Professor Irwin and Student)

28. Because of her concerns with Certificate #2, Dr. Bisailon did not mark the Paper and referred the matter to the Dean's Designate, Professor Irwin. Upon receipt of the file, Professor Irwin reviewed the relevant documents, including the Paper. During her review, she noticed some peculiarities in the Paper including inconsistent spacing, consistent with cutting and pasting. Because of these flags, she conducted an online search using various phrases from the Paper.
29. Professor Irwin's search resulted in evidence of verbatim or near verbatim plagiarism from multiple online references (more than 6 sources) and identified citations to incorrect or concocted sources that together formed 30-40% of the Paper.
30. The Panel was provided with evidence of the plagiarism in the form of a highlighted copy of the Paper showing the various parts of the paper that appear to have been copied verbatim or near verbatim, as well as highlighted copies of the internet sources that were purportedly copied (Exhibits 9, including attachments A to L).
31. Although the occasional word was changed in the copied portions, it was clear from the evidence that numerous portions of the paper were copied without attribution. In addition, several parts of the paper were improperly cited, in that the Student gave credit to a source that was not the origin of the idea.

32. Professor Irwin met the Student in two meetings dated January 14 and 28, 2015 to discuss the allegations of the forged medical note and plagiarism in the Paper. The Student denied both allegations.
33. At the hearing, the Student admitted there might have been “mis-citation” and stated that she “tried her best” to cite properly. However, she did not know how to “double cite” leading to plagiarism. It was unclear from her testimony what she meant by “double cite”.
34. The Student provided no other evidence (e.g. evidence that a reference was in fact the source of a particular idea) to refute the University’s evidence on this point.

E. Student’s Claim of Oral Surgery

35. During her testimony before the Panel, the Student maintained her claim that she had a five-hour oral surgery in a dental office during reading week (October 14-17, 2014), which resulted in complications and severe pain. As explained above, Dr. Saatian testified that there was no sign of such recent trauma or wound in the Student’s mouth upon physical examination on October 20, 2014.
36. Further, the Student presented no evidence of the oral surgery to the Panel (no testimony from the oral surgeon and no medical records). During her testimony, the Student stated that she had no memory of an open wound in her mouth following the surgery and that she did not remember the name of the dentist who had performed the surgery.
37. Moreover, there was inconsistency between the Student’s email dated October 31, 2014 and her testimony with respect to whether she went to the hospital after the oral surgery had failed. The email explained to Dr. Bisailon that the Student “had to get to hospital to remove them [pieces of her broken crown tooth] all at once”. In contrast, the Student testified that she “had to” go to the hospital but that she did not in fact go to the hospital.

III. STUDENT’S REQUEST TO BRING BACK DR. BISAILLON FOR FURTHER CROSS-EXAMINATION

38. As is the normal procedure, the University called its witnesses first, including Dr. Bisailon. At the conclusion of Dr. Bisailon’s testimony – after she had been cross-examined by the Student and the Panel had been given an opportunity to ask questions – Dr. Bisailon was excused and left the hearing room.

39. During Dr. Bisaillon's testimony, the Student began to ask questions about her meeting with Dr. Bisaillon on November 10, 2014. As is set out above, privilege attaches to that meeting, but if a student attempts to lead evidence of what was said during the meeting, then he or she will waive the privilege and open him or herself up to evidence about that meeting.
40. As such, I cautioned the Student about the potential waiver of her privilege, and the consequences of that waiver. I then advised the Student that it was her choice whether or not to waive the privilege and that she could still ask those questions if she wished. At that point, the Student declined to continue with her line of questions, and moved on to another topic in her cross-examination.
41. However, during her testimony and during her cross-examination of Professor Irwin (and after Dr. Bisaillon had concluded her testimony), the Student attempted to ask questions about the November 10 meeting with Dr. Bisaillon. She also attempted to give evidence relating to her allegations that Dr. Bisaillon was motivated by racism. The University objected to these questions at least in part because the Student had not confronted Dr. Bisaillon with this evidence during cross-examination.
42. The Student told the Panel that she believed that she would have another opportunity to cross-examine Dr. Bisaillon, and asked that Dr. Bisaillon be brought back for further testimony. The University objected on the basis that the Student did in fact know how the process worked and should have asked her (additional) questions of Dr. Bisaillon when she was providing her evidence to the Panel.
43. The Panel deliberated to consider this request and agreed with the University, ruling that the Student had had ample opportunity to question Dr. Bisaillon; that the Student had seen Dr. Saatian complete her testimony and leave; and that the Tribunal process was explained on the Tribunal website.
44. Dr. Bisaillon was therefore not called back, though the Panel did allow the Student some leeway to ask Professor Irwin some questions about her allegation of racism, notwithstanding the objections of the University as to the relevance of those questions.

IV. MATTERS THAT WERE IRRELEVANT, OR COULD NOT BE DEALT WITH BY THE TRIBUNAL

45. There were a number of matters raised by the Student that were either irrelevant or not within the purview of the Tribunal.

A. Student's Complaints that She was Dealt with Unfairly by Dr. Bisaillon

46. The Student raised a complaint about the way in which Dr. Bisaillon had calculated the late penalty on the Paper.
47. There was some ambiguity in the interpretation of the late penalty imposed by Dr. Bisaillon. A plain reading of the Syllabus suggests 5% will be deducted from the assignment per day of late submission. Depending on whether the Paper was received on October 28 or November 5, the Student would have been entitled to a maximum mark of 60% or 20% on the Paper, respectively.
48. In contrast, Dr. Bisaillon interpreted the late penalty as 5% deduction of the final grade each day of late submission. In other words, submitting the assignment three days past the due date would result in a mark of zero since the Paper worth 15% of the final grade.
49. Dr. Bisaillon also seemed to indicate that she gave a 0% on the Paper because she had marked and returned the assignments of other fellow students before the Student submitted hers. There was no such policy on the Syllabus.
50. Although Dr. Bisaillon's position with respect to the late penalty may be questionable, such issues are not within the jurisdiction of the Tribunal. In addition, we note that any belief the Students may have had about unfair treatment would not justify either a forged medical note or a plagiarized assignment.

B. Student's Complaints about Harassment and Racism

51. The Student also complained that she had been unfairly targeted by Dr. Bisaillon because of her anti-Iranian sentiment. The Student's allegation was based on her interaction with Dr. Bisaillon, some lecture slides from the Course, and an alleged anti-Iranian, non-academic website that the professor created. The University objected to the evidence on the basis of relevance, but I allowed the Student some leeway to present her evidence and argument on this point.

52. In a letter to Professor Irwin dated March 30, 2015 (Exhibit 15), the Student also alleged racism, discrimination and infliction of mental harm by Professor Irwin as a result of her “baseless” and “absurd” allegations of plagiarism. The Student claimed it was unfair that she did not know about the allegations of plagiarism before her first meeting with Professor Irwin, and appeared to take issue at the hearing with the fact that Professor Irwin had investigated the possibility of plagiarism when plagiarism had not been noted by Dr. Bisailon.
53. It was clear from Professor Irwin’s testimony that her discovery of the alleged academic dishonesty was a result of her usual investigative process and not a targeting of the Student in any way. It was further clear that evidence of plagiarism was not presented to the Student in the first meeting with Professor Irwin because it had not been found at the time, but that it was presented at the second and final meeting with the Student. Like all students going through this process, the Student was given an opportunity to admit guilt with respect to both Certificate #2 and the Paper. She declined to do so.
54. In sum, we saw no evidence of racism or harassment against the Student by Dr. Bisailon, or Professor Irwin. Moreover, the Student’s allegations of harassment and racism were irrelevant to the charges or the reason they were laid. There are other avenues for the Student to pursue these allegations (such as a University equity office), and the Student has in fact made complaints to the Office of the Ombudsperson.

C. Student’s Complaints about the Process

55. In her argument at the end of the hearing, the Student made submissions that she had been treated unfairly at the decanal level. The University responded to those objections by noting that (1) those complaints should have been brought at the outset of the hearing and could not be dealt with in closing argument; and (2) that, in any case, there was no merit to those submissions.
56. We agree with the University that any such objections should have been raised at the outset of the hearing. According to section C.i.(a)11 of the Code:

Normally, decanal procedures will not be examined in a hearing before the Tribunal. A failure to carry out the procedures referred to in this section, or any defect or irregularity in such procedures, shall not invalidate any subsequent proceedings of or before the Tribunal, unless the chair of the hearing considers

that such failure, defect or irregularity resulted in a substantial wrong, detriment or prejudice to the accused. The chair will determine at the opening of the hearing whether there is to be any objection to an alleged defect, failure or irregularity.

57. I asked at the outset of the hearing if either party had any preliminary matters to be addressed, but none were raised by the Student.
58. I also noted in responding to these complaints during the hearing that the University of Toronto's website provides clear guidelines with respect to the process at an Academic Discipline Hearing.¹ The webpage points out the types of preliminary issues that could be raised by the students including adjournment requests, exclusion of witnesses, evidentiary issues or other motions.
59. I therefore ruled that the Student's complaints about the decanal process did not need to be addressed.
60. In any case, we also agree with the University that there is no merit to the complaints made by the Student about the decanal process. The Student made – as we understand them – two primary complaints about the process as follows:
 - a. She stated that the charges against her had shifted over time; and
 - b. She stated that she was not made fully aware of the alleged offences until the second meeting with Professor Irwin (because the plagiarism offence was not raised until that time).
61. The process followed with respect to the Student was the usual process, and was in line with the Code: a concern arose with a professor; that concern could not be dealt with at that level and was properly referred to the Dean's designate (Professor Irwin).
62. When Professor Irwin received the Student's file, she conducted her usual investigation (as set out above) and discovered potential plagiarism. She only raised the plagiarism with the Student at her second meeting because that is when she has completed her investigation. Professor Irwin had explored another potential offence related to whether the Student had or not watched the movie on which the Paper was based, but determined

¹ "What Happens at an Academic Discipline Hearing?", online: University of Toronto Office of Appeals, Discipline and Faculty Grievances < <http://www.adfg.utoronto.ca> >.

that this was not an academic offence and dropped the matter. Charges were eventually laid setting out both the alleged offences (forgery and plagiarism), and those charges have not changed since they were laid.

V. ARGUMENT OF THE UNIVERSITY

63. The University asked the Panel to find the Student guilty of charge 1 regarding the forged certificate and charges 3 and 4 regarding plagiarism and concoction of sources.
64. Based on the evidence outlined above, the University argued that Certificate #2 was forged by the Student to obtain an academic advantage by way of a deadline extension. The University relied on the evidence of Dr. Saatian, who admitted that she filled out and signed Certificates #1 and #3 on the same day, but had not done so for Certificate #2. Further, the University relied on the visible differences between Certificate #2 and Certificates #1 and #3, namely the handwriting, signatures, and license numbers.
65. The University argued that the Student was not a credible witness and more weight should be given to Dr. Saatian's testimony. The Student avoided answering important questions such as details about the oral surgery and blamed it on memory loss. The University argued that the Student's "remarkable" memory loss was simply a convenience so that the Student would not have to answer certain questions.
66. The University questioned whether the Student was ill or in pain when she attended at Dr. Saatian's office to request the Certificates. The University argued that there was no evidence of surgery or other causes of pain seen by Dr. Saatian; no evidence of her illness or pain other than her say-so; and that the Student's evidence should be rejected given her lack of credibility.
67. The University also noted that Dr. Saatian was a member of the public who had come forward voluntarily to provide her testimony, and that she had no reason to lie at the hearing.
68. The University also argued that the evidence provided by Professor Irwin on the plagiarised portions of the Paper and the improper citations was undisputed. The University noted that the Student had herself acknowledged how well she knew the rules of the University and that she had been here a long time. The University also noted that the Student had properly cited some of the sources in her Paper, providing evidence that

she understood how to cite sources. On this basis, the University argued that the Student had knowingly plagiarized and concocted sources.

69. The University relied on a number of authorities including two Tribunal decisions involving allegations of altered medical certificates.
70. In *University of Toronto v S [REDACTED] A [REDACTED] L [REDACTED] A [REDACTED]*, (Case#:674, January 25, 2013), there was evidence that the student had altered a medical note. Despite indicating that she would provide medical evidence to support her position, the student never did so. As a result, the Tribunal drew an adverse inference from the student's failure to deliver any medical evidence in support of her stated medical issues. The student was found guilty of forging a document.
71. The University asked the Panel to, similarly, draw an adverse inference from the Student's failure to provide any evidence that she indeed had undergone oral surgery.
72. In *University of Toronto v [REDACTED] J [REDACTED] K [REDACTED]* (Case #775, December 1, 2014), it was accepted by both parties that the student had been ill, had attended to see a doctor and had obtained a doctor's note. However, the student in that case altered the date on the medical certificate to obtain a perceived advantage. The Tribunal found that this was sufficient to find the student guilty of the charges.
73. The University relied on this second case to address any argument that the authenticity of Certificate #2 was irrelevant because Certificates #1 and #3 covered all or most of the relevant time period. The University argued that a finding that Certificate #2 was forged is all that is necessary for a finding of guilt on charges 1 or 2.

VI. ARGUMENT OF THE STUDENT

74. As noted above, the Student denied that Certificate #2 was forged, and denied that she knowingly plagiarised or concocted sources in the Paper.
75. With respect to the allegation of forgery, the Student maintained Certificate #2 was authentic and came from Dr. Saatian's dental office. She argued that the fact that Dr. Saatian had believed that she was in pain should be viewed as proof that she was indeed sick during the reading week in October 2014. The Student also argued that she had no

need to forge Certificate #2 because she already had obtained Certificate #3 (provided to a different professor), which indicated that she was ill during the relevant period.

76. The Student further argued that Dr. Saatian was not a credible witness because of her inconsistent testimony about when and the number of times that they had met. The Student also argued that because Dr. Saatian could not remember whether she had seen the Student one or two years prior, that her memory and therefore her evidence should not be trusted.
77. The Student's submissions were more equivocal with respect to the allegations of plagiarism and concocted references. The Student said she knew how to cite sources, and that she was aware of the rules about plagiarism as she had written many papers and essays during her undergraduate studies. The following excerpt from her cross-examination is clear on this point:

Q. So I'm not asking you about the critical reflection as much as the fact that [...] you were well aware of the university's policies with respect to the plagiarism; right?

A. I knew from first year.

Q. You knew that from first year. And you know what is expected with respect to using quotation marks around direct quotes?

A. I fully know.

Q. And you know what's expected with respect to citations?

A. I fully know, yes.

Q. And all of that is not news.

A. They are not news [sic].

78. However, the Student claimed she had never written any critical reflection before writing this Paper and she did not know how to relate "external sources" to "internal sources" such as the course textbook.
79. At its highest, her argument was that she "tried [her] best" to paraphrase and to cite sources, but that she made mistakes. In cross-examination, the Student went so far as to

admit that the Paper included uncited or mis-cited material from external resources. She explained that despite trying her best, she might have “mis-cited” a few references because she did not know how to “double cite”. Despite attempts made by the Panel to clarify her testimony, it was unclear to the Panel what she meant by “double cite”.

80. The Student took the position that Professor Irwin was the wrong person to review the Paper for plagiarism or concoction because she was not the course instructor.
81. The Student also stated that she would not go to the extent of plagiarising and forging a medical note for a 15% assignment, when she had been at the University for 5 years, and when she was almost at the point of graduation. She was also frustrated with the level of scrutiny given to this Paper and the medical certificates given how little the assignment was worth. And she noted that she would not be seeking help from various individuals at the University if she was guilty.
82. Although not framed this way by the Student, her argument was essentially that she did not knowingly plagiarise or concoct sources.

VII. FINDINGS OF THE MAJORITY

A. Credibility of Witnesses

83. We find a complete lack of credibility of the Student, particularly in respect of her testimony about the medical notes and surrounding circumstances. Much of the Student’s testimony in that regard is not believable. The Student claimed she had a lengthy, painful and failed oral surgery and yet she could not remember the oral surgeon’s name or the name of the clinic. She could not even say whether it was Dr. Saatian or another dentist that performed the surgery. She could not remember whether she had an open wound in her mouth after the surgery.
84. In addition, the Student attempted to mislead first Dr. Bisailon and then the Panel into believing that she went to a hospital post-surgery because the oral surgeon could not extract all the piece of a broken tooth crown. In later testimony when asked to provide a hospital record, the Student clarified that she “had to go” to the hospital but did not in fact go. The Student did not produce any evidence of the surgery and Dr. Saatian found no sign of recent surgery upon oral examination.

85. The Student also changed her testimony about who picked up Certificate #2, first indicating that she did so and then testifying that it was her father.
86. In contrast, we found Dr. Bisaillon, Dr. Saatian and Professor Irwin to be credible and forthright witnesses. Although, as explained above, it appears that Dr. Bisaillon may have improperly applied the late penalty to the Student's Paper, this potential error has little bearing on her testimony or credibility as a witness in this proceeding.
87. Dr. Saatian admitted she backdated Certificate #3 and was regretful of her actions. She also did not keep copies of the medical certificates she issued to patients, which is of concern. However, Dr. Saatian's testimony was clear and convincing regarding the fact that she did not sign Certificate #2. The Student's cross-examination did little to change our view of Dr. Saatian's credibility; rather, her answers to the Student's questions were consistent with her testimony in chief and clarified and strengthened her evidence. We also note that Dr. Saatian was not summoned. She testified as a member of the public and we do not see any motive for her to lie, particularly when her original intent in providing the medical notes was to assist the Student.
88. Professor Irwin provided forthright evidence of her meetings with the Student and of her investigation into the suspected plagiarism. We found her evidence to also be clear and convincing.

B. Certificate #2: Forgery

89. Taking all of the evidence together, we find that the University has proven overwhelmingly that Certificate #2 was forged. In particular, we are swayed by:
 - a. The multiple discrepancies between Certificate #2 and Certificates #1 and 3, which are visible on their face;
 - b. Dr. Saatian's testimony denying the authorship of Certificate #2;
 - c. Dr. Saatian's evidence that she only saw the Student once; and
 - d. The Student's implausible testimony about her purported oral surgery.
90. The inconsistencies in the Student's testimony go so far as to suggest that she had no oral surgery, and lied to Dr. Saatian to obtain Certificates #1 and #3. Although, the

legitimacy of those certificates more generally is not at issue here, I raise these inconsistencies because they go to the Student's credibility.

C. The Paper: Plagiarism and Concoction

91. Based on the evidence gathered by Professor Irwin and the lack of evidence put forward by the Student to dispute Professor Irwin's analysis, the Panel finds the University has proven these charges on a balance of probabilities based on clear and convincing evidence that the Student knowingly plagiarised and concocted sources in the Paper.
92. The Student's testimony that she simply made some mistakes does not convince us. The Student is not in first year – she had been at the University for four years when these charges arose. Her own testimony was that she was fully aware of the University's policies on plagiarism and that she fully knew how to use quotation marks and cite sources. In the face of that testimony, we find that she knowingly represented others' ideas as her own by failing to properly cite sources in the Paper and that she knowingly concocted sources.

VIII. CONCLUSION ON CHARGES

93. Following deliberation and based on the testimony of Dr. Bisailon, Dr. Saatian, Professor Irwin, and the Student, the Panel concluded that charges 1, 3 and 4 had been proven. The findings of charges 3 and 4 were unanimous, Professor Rozakis-Adcock dissented on charge 1 and provides her reasons below.
94. Given the findings of guilt, the University withdrew charges 2 and 5.

IX. SANCTION

95. The Panel reconvened several months later on June 28, 2016, to consider sanction at a hearing date that was made peremptory on the Student (for reasons that will be explained below). The Student was represented by counsel at this phase of the hearing, and counsel indicated that she had only been retained a few days before.

A. Preliminary Matter Raised at Sanction Hearing

96. As a preliminary matter, Ms. Goren, the Student's counsel sought leave to allow her client to bring a motion for an order directing the University to provide the Student with a

transcript of the first day of hearing, and asked that the sanction hearing be stayed pending resolution of that motion.

97. Ms. Goren primarily argued as follows:

- a. the audio recording from the first day of hearing was inaudible;
- b. the Office of Appeals, Discipline and Faculty Grievances (the “Office”) had “stonewalled” the Student and prevented her from obtaining a transcript;
- c. the Student did not have counsel at the first day of hearing and as a consequence had not been able to provide her own evidence effectively or cross-examine the University’s witnesses effectively;
- d. and, as a result, it would be a “travesty” to proceed to sanction under these circumstances.

98. There was an indication by counsel that she would be considering bringing a motion for reconsideration or for a hearing *de novo* after she had had an opportunity to review the transcript. She submitted that it would be “redundant and unreasonably unfair” to go ahead with the sanction phase.

99. Ms. Goren also asked to have an affidavit of the Student, which spoke to the transcript issue, entered as an exhibit. Although I agreed to do so, I also noted that counsel for the University had not seen the affidavit until the hearing, nor did she have an opportunity to cross-examine the Student on its contents.

100. I have reviewed the affidavit and much of it relates to the Student’s efforts to obtain the transcript of the first day of hearing. I find that numerous sections in the affidavit do not accord with my experience of the procedural history in this matter. For example, the Student purports to describe (at para. 11) what was argued by her paralegal at a case conference before me, and her account contradicts my recollection and notes from that case conference. As a result, we place little weight on the affidavit.

101. The University opposed the Student’s request for leave to bring a motion.

102. The Student’s request was denied because the hearing date was peremptory on the Student and because she had been given numerous opportunities to obtain the transcript well in advance of the sanction hearing.

103. With respect to not having counsel at the first day of hearing, the Student had been provided with the opportunity to retain counsel of her choice (including Downtown Legal Services, free of charge). When she advised counsel for the University that she could not retain DLS in time for the January 27 hearing, counsel for the University suggested she seek an adjournment and advised her that she did not believe the University would object. Finally, when questioned about her decision not to retain counsel at the hearing, she testified that she did not want to wait any longer to have her hearing, and that she preferred to go ahead without a lawyer because she was almost at the point of being able to graduate.
104. The University provided the Panel with a brief of correspondence in the form of an affidavit from a law clerk at Paliare Roland (Exhibit 18). The affidavit states that the brief contains all correspondence either received from, sent to, or copied to the Student or her legal representative at the time, since the first hearing date on January 27, 2016. Counsel to the University made clear that this brief was being entered into evidence not to rely on the truth of the contents of the correspondence, but as a record of the correspondence that went back and forth over this period of time.
105. Without going into every detail of the procedural rigmarole that had led to a peremptory date and the Student not having a copy of the transcript, here are the salient points:

The Student's representation and requests for adjournments

- a. The sanction hearing was originally scheduled on March 30, 2016.
- b. The Student retained a paralegal (who then subsequently obtained the assistance of counsel) in early March 2016 who requested an adjournment for various reasons including to obtain a transcript, to allow the student to be seen by a psychologist, and to bring a motion for redetermination or for a hearing *de novo*.
- c. After much back and forth, the hearing of the motion for adjournment took place by way of telephone conference on March 23, 2016, and I issued a direction adjourning the hearing to a date no later than June 30.

- d. Despite this direction and several other directions made attempting to schedule the return date, none was scheduled and the Student discharged her (first) counsel on April 4, 2016.
- e. Throughout April, despite repeated attempts by the Office and directions from me, the Student refused to cooperate in scheduling a return date, culminating in a request for a case conference from the University.
- f. The Student also refused to confirm her availability for this case conference, even after repeated emails and reminders, and so it was set down on April 29, 2016 and proceeded without her.
- g. At that case conference, dates of unavailability for the return date were canvassed with the University's counsel and I issued a direction following the case conference requesting that the Student provide her dates of unavailability in June by May 6, 2016.
- h. When the Student refused to provide dates on the basis that she did not have her documents (more on this below), I had to issue a further direction on May 8 asking for her dates by May 10, stating that I would have to set the date without her input if she did not respond, and that once set, the date would be peremptory on her.
- i. The Student then finally responded, the return date was set on June 28, 2016, and a notice of hearing was sent making this date peremptory on the Student.
- j. Around May 17, 2016, the Student retained counsel (second counsel) to assist, but discharged that counsel around June 16, 2016.
- k. The Student then retained a third counsel (Ms. Goren) a few days before the sanction hearing date.
- l. The Student therefore had ample opportunity to retain counsel, and in fact did retain counsel (twice) before the sanction hearing. As set out above, she also had ample opportunity to retain counsel before the first date of hearing, but made a conscious decision not to do so. In such circumstances, Ms. Goren's submissions that the Student had not had counsel previously and that she had just been retained ring hollow.

Documents

- m. From February to June, the Student made repeated requests of the Office and University counsel for “my documents” and was repeatedly advised that had had been provided with documentary disclosure by the University’s counsel numerous times before.
- n. For example, in May 2016, the Student was directed to provide her dates of availability by a certain date, and she replied: “This request is unrealistic, it is not possible to decide without having all my documents.”
- o. As stated, the relevant documents had been provided to her numerous times before and, in any case, were unnecessary to providing her dates of availability.

The audio recording and the transcript

- p. The Student has had a copy of the recording of the hearing since mid-February.
- q. The recording was not inaudible – I listened to several hours of the recoding, and although it was peppered with short inaudible bits, the evidence and submissions in their entirety could be clearly understood throughout.
- r. When the Student requested a transcript in March 2016, the Office approached one of its preferred court reporters to transcribe the recording of the hearing and – as is the usual course – asked the Student to deal with the reporter directly to agree to terms and provide payment.
- s. It appears that the Student and the court reporter were unable to come to terms on pricing and the Student subsequently sued the court reporter for – in her words – “taking advantage of unrepresented students” (Exhibit 21, S [REDACTED] affidavit para. 6).
- t. It also appears that the Student was able to find a second court reporter who stated that the transcript could be produced but that there would be “inaudibles”. (Exhibit 21, S [REDACTED] affidavit para. 8).
- u. Because of the many arguments being made about whether the recording was audible or could be transcribed, the Office obtained and paid for a first copy of a

transcript (in the normal course under the Rules, it is the party requesting who has to pay for a first copy).

- v. The Office advised the Student that the transcript was available for ordering on April 12, 2016 and explained in detail by email what the Student had to do to order and pay for a second copy of the transcript.
- w. These instructions included needing to accept the terms (cost, turnaround time, etc.) for ordering the transcript in writing and providing payment by way of certified cheque or money order.
- x. These instructions were repeated to the Student numerous time in writing and verbally, but the Student never complied with the instructions, instead appearing at the Office with a personal cheque on June 14, 2016 and again on June 16, 2016 (two months after she was initially advised that the transcript was ready).
- y. After this appearance she was again told how to obtain the transcript by email, but did not pursue the issue further until the hearing almost two weeks later.
- z. As such, the Student and her counsel had access to a recording from mid-February and to a transcript from mid-April. The Office did not stonewall the Student; rather the correspondence shows that they attempted to facilitate access. In fact, the Office took the step of obtaining and paying for a first copy of the transcript when that is usually the requesting party's responsibility and cost.

106. The various directions issued in this matter are included at Appendix A.

B. Evidence and Submissions on Sanction

- 107. After this preliminary matter was dealt with, the Panel heard from Professor Irwin and from the Student's mother.
- 108. Professor Irwin's testimony was provided simply to introduce into evidence the latest ROSI transcript of the Student and to show that between the first day of hearing (January 27, 2016) and the second and final day of hearing (June 28, 2016), the Student had completed a number of courses and received credit for them.

109. Professor Irwin was cross-examined by Ms. Goren primarily on the question of what the Student would have to do to graduate. Her evidence was that the Student needed to pass the Course (HLTC05H3) in which the offences arose with a high enough mark to obtain a 1.6 GPA to graduate. Ms. Goren expressed dismay that the Student would have to re-take a course with a professor whom she had accused of harassment.
110. The Student's mother provided evidence of the impact that the proceeding has had on her daughter and the family. Her testimony was very moving and it was clear that the Student's family had sacrificed to have their daughter go to University and had suffered great stress through this process.
111. However, the Student did not address the Panel. As such, she did not take responsibility, express remorse for her actions, or provide any evidence of circumstances that would mitigate her sanction.
112. Counsel for the University started her submissions by stating that she had originally intended to ask for a 3 year suspension – which is in line with other sentences for first time offenders having been found guilty of more than one offence – but that the procedural wrangling described above had caused the University to increase its request to 4 years.
113. Counsel recommended starting the suspension and notation on the date of the sanction hearing or on May 1, but not any time earlier. Ms. Harmer noted that suspensions often start on the first date of a hearing (which was January, in this case) but that because the Student had taken courses and obtained credits in the Winter term (January to April) , the suspension could not start before May 1 since the Student's academic history could not be “walked back” to January. The Panel accepted these submissions.
114. The Panel has considered the factors relevant to sanction, as set out in *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976). Each case will turn on its facts with respect to sanction; however, the Tribunal as a whole should strive for general consistency in its sanctions so that the discipline process is fair and equitable.
115. Counsel for the University provided the Panel with a number of cases involving first time offenders, forgeries/alterations of medical notes, and academic dishonesty. The cases ranged in penalty from 2 year to 5 year suspensions.

116. Counsel for the University submitted that the cases demonstrated that 2 years was a minimum sanction for a single charge involving similar offences. The cases presented in which the sanction was a 3 or 5 year suspension varied widely in their facts, and were not of great assistance to the Panel.
117. Counsel to the University argued that there was no evidence that the Student had learned from the process and no evidence of extenuating circumstances (such as psychiatric evidence). Further, counsel submitted that there were aggravating circumstances, in the form of the Student's behaviour throughout the process. Finally, counsel noted that multiple forgeries could warrant an expulsion, and in all of the circumstances a 4-year suspension was warranted.
118. The Student's counsel, Ms. Goren argued that a 4-year suspension would be unprecedented and was excessive in the circumstances.
119. Ms. Goren, made the following arguments in support of her submission that anything but a very short (6-month) suspension was unwarranted:
- a. The Student is intelligent, hard-working and "feisty", and had completed numerous courses at the University without incident. Given the opportunity to complete her degree, she would reflect positively on the University.
 - b. The Student had ongoing problems with the professor that had caused her to file a harassment charge. As noted above, the harassment allegations were not an issue that could be dealt with by the Panel.
 - c. The Student had been assessed by the dentist as being in severe pain and had obtained two other (legitimate) notes that covered most of the relevant date range.
 - d. The Paper was only worth 15% of one course and formed the basis for all three charges. The additional plagiarism and concocted sources charges raised at the decanal level constituted malicious prosecution, double jeopardy, and violated principles of natural justice. As I have addressed above, I disagree with the characterization of the process as malicious prosecution – Professor Irwin uncovered the plagiarism during her routine investigation. I also disagree

that the Paper forms the basis of the three charges. It does form the basis of two charges but not of the forgery charge – there is no “double jeopardy” here.

- e. The Student has simply been in error when she plagiarised/concocted sources and should be obligated to complete a writing course rather than getting a suspension.
- f. The Student has taken the case very seriously, defended herself because she could not afford counsel, has fought with everything that she has, and has been extraordinarily stressed through the process. The process itself is sufficient to provide for specific deterrence. I note that the Student did not address us to provide her evidence on these points.
- g. The Student is an immigrant who came to this country nine years ago, and her family has sacrificed greatly to allow her get a University degree.

120. Ms. Goren drew our attention to one case in which a Student was given a suspension of only four months (University of Toronto v. O.S., Case No. 619, June 20, 2012), and urged us to follow this case. In our view, this case is dramatically different from the one before us. In O.S. the student testified at the sanction hearing and “indicated her acceptance and respect of [the Panel’s] findings”, and the offence was characterized as “an inexplicable lapse in judgment.” It is in that context that the Tribunal found that the goal of specific deterrence had been addressed by the “ordeal of the process.” It is clear to us that when a student does not even admit wrongdoing or express remorse that the “ordeal of the process,” no matter how stressful, has not provided the specific deterrence necessary.

B. Conclusion of the Panel on Sanction

121. The Provost’s current recommendation is that a two-year suspension is an appropriate sanction for any offence involving academic dishonesty, where a student has not committed any prior offences. The recommendation is for expulsion if a student has submitted multiple forged or falsified documents to the University, unless that student has demonstrated through her or his cooperation, or otherwise, that a lesser penalty is appropriate. (Code, Appendix C, Section B)

122. In this case, the Student has been found guilty of two academic dishonesty offences (related to the Paper) and one forgery offence (related to Certificate #2). Based on the Provost's recommendation, the Student's sanction should be more than 2 years.
123. The Panel is not bound by this recommendation; however, the Panel does find that a sanction of greater than 2 years is warranted in this case.
124. The Panel took the following into account as relevant to sanction:
- a. The serious nature of the offences
 - i. Both the offences involving the certificate and the Paper involve dishonesty and call into question the Student's character.
 - ii. The forged medical certificate goes beyond the walls of the University and implicates a member of the medical profession. Providing the false Certificate #2 "undermines the integrity of the University's evaluation process and its process for accommodation of a student's legitimate medical circumstances" (see *University of Toronto and M██████ O██████* (Case No. 733, September 11, 2014).
 - iii. The fact that the Paper was only worth 15% does not detract from the fact that it involved plagiarism and concocted sources. I also adopt a comment made by the Discipline Appeals Board in the *University of Toronto v. C.A.M.* (Case No. 684, June 3, 2014): that the Student would commit this level of dishonest conduct at this stage of her career for a paper worth 15 percent of a final mark is troubling.
 - iv. The fact that the Student obtained two other medical notes does not detract from the fact that she forged a third.
 - v. The Student's own testimony and unwillingness to provide any evidence of her dental operation (as detailed above) called into question the legitimacy of the other two notes and of the alleged severe pain that her counsel would have us take into consideration.
 - b. The Student was a first time offender and participated in the process.

c. The Student had attempted to obstruct the tribunal process as detailed above see *University of Toronto v. C.A.M.* (Case No. 684, June 3, 2014).

d. The Student refused to acknowledge any wrongdoing and showed no remorse, instead blaming others for her behaviour.

125. The Panel would also note that the degree of the academic dishonesty offences (plagiarism and concocted sources) was not as egregious as we have seen in other cases. In our view, the forgery of the certificate is the more serious offence in this case.

126. Taking all of the circumstances into account, we find that a 3-year suspension is appropriate. In particular we find that the multiple offences and the Student's behaviour warrant an increase from a 2-year to a 3-year suspension. The suspension will commence on May 1, 2016.

X. ORDER OF THE PANEL

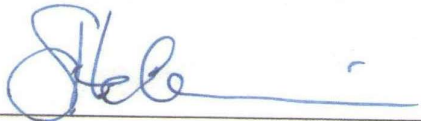
127. At the conclusion of the hearing, the Panel conferred and reserved. We now make the following decision:

a. the Student is guilty of


- i. one count of knowingly altering or falsifying a document or evidence required by the University, or uttering, circulating or making use of such forged, altered or falsified document, contrary to section B.i.1(a) of the Code;
- ii. one count of knowingly representing as one's own an idea or expression of an idea or work of another in an academic work, contrary to section B.i.1(d) of the Code; and
- iii. one count of knowingly submitting an academic work containing a purported statement of fact or reference to a source which has been concocted, contrary to section B.i.1(f) of the Code.

- b. the Student shall receive a final grade of zero in HLTC05H3 in the 2014 Fall Term;
- c. the Student shall be suspended from the University for a period of 3 years, commencing on May 1, 2016 and ending on April 30, 2019;
- d. the sanction shall be recorded on the Student's academic record and transcript to the effect that she was sanctioned for academic misconduct, for a period of 4 years from May 1, 2016 to April 30, 2020 or until her graduation from the University, whichever is earlier; and
- e. this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanctions imposed, with the name of the student withheld.

DATED at Toronto, July 21, 2016


Sana Halwani, Chair

DATED at Toronto, August 5, 2016


Raylesha Parker, Student Panel Member

XI. DISSENT OF PROFESSOR ROZAKIS-ADCOCK (as to the forgery charge only)

128. I have read the reasons of the Chair and I agree with her and Ms. Parker with respect to charges 3 and 5 (relating to plagiarism and concocted sources). I also agree with their decision as to sanction. However, I do not agree with their findings on charge 1 (relating to Certificate #2). My brief reasons follow.

129. I did not find Dr. Saatian to be a credible witness for a number of reasons. First, it appears that Dr. Saatian or her office did not keep any records of the Student's visit to her office. It is, in my view, unprofessional not to keep complete and accurate records on all patients.
130. Second, I find it very problematic that Dr. Saatian was willing to make false claims as to the Student's medical condition - i.e. her medical certificate states that the Student was in severe pain, yet, in her testimony, she claims that she only provided the medical certificate attesting to the Student's condition with the intent to assist the Student.
131. Third, Dr. Saatian also admitted to have backdated Certificate #3. In my view, when a medical professional backdates a medical certificate so that it bears a date that is earlier than the date of a patient's visit, they are acting dishonestly. This dishonesty, coupled with the concerns I have raised above, lead me to place little weight on Dr. Saatian's testimony.
132. As such, I do not believe that the University has met its burden of proving on a balance of probabilities that the Student forged Certificate #2, and would not find her guilty of this charge.

DATED at Toronto, July _29_, 2016



Maria Rozakis-Adcock, Faculty Panel
Member

APPENDIX A

From: Tracey Gameiro
To: Lily.Harmer@paliarerland.com; glynhotz@gmail.com; [REDACTED]
Cc: Lauren.Pearce@paliarerland.com; Natalia.Botelho@paliarerland.com; Christopher.Lang; Krista.Osbourne
Subject: S [REDACTED], B - Direction from Chair re Motion for Adjournment March 23, 2016
Date: Wednesday, March 23, 2016 2:17:00 PM
Attachments:

Dear Ms. Harmer, Mr. Hotz and Ms Maftoun

Direction From Chair:

Further to the Motion on Adjournment heard earlier today via conference call before the Chair, the Chair has issued the following Direction:

1. The sanction hearing shall be adjourned to a date in June 2016 to be determined, but no later than June 30, 2016;
2. By end of day on March 24, 2016, the Parties will provide the Tribunal with all dates of non-availability in June 2016 having regard to the schedules of the parties, their counsel, and any witnesses (including experts) who may be called at the sanction hearing;
3. The Tribunal will identify a mutually agreeable date and issue a Notice of Hearing advising the parties of that date as soon as is practicable;
 - a. This date shall be subject to the availability of any additional witnesses that the University may seek to call in response to any expert reports served by Ms. S [REDACTED];
 - b. The University shall make reasonable efforts to call such witnesses who are available on the date of the sanction hearing;
4. Any intervening motion(s) shall be brought promptly and shall be heard prior to the sanction hearing; in particular, if Ms. S [REDACTED] intends to bring a motion to re-open the hearing or for *de novo* hearing, she shall advise the Tribunal of that intent within three (3) business days of receiving the transcript of the January 27, 2016 hearing so that a case conference can be convened to set down a schedule for that motion;
5. If Ms. S [REDACTED] intends to rely on a psychiatrist's or other medical or expert report at the sanction hearing, or at any motion in these proceedings, she shall:
 - a. comply with the University Tribunal's Rules of Practice and Procedure, and in particular, but not limited to, rules 72, 73 and 74 regarding expert or medical witnesses;
 - b. provide to the Provost a copy of the clinical notes and records of any medical expert or treating physician for which a report has been provided not later than 10 days prior to the motion or sanction hearing as the case may be; and
 - c. ensure the attendance of the expert(s) or treating physician at the sanction

- hearing;
- d. failing any one of which she will not be entitled to rely on any report or evidence of that expert or treating physician; and
6. Ms. S [REDACTED] shall not be entitled to rely on the passage of time from March 30, 2016 to the sanction hearing date to make any argument or issue about any delay in the Tribunal proceedings.

Hearing Outcome:

I am also re-attaching the correspondence issued to the parties on February 5, 2016 regarding the outcome of the hearing held January 27, 2016; which was also then sent to Ms. Maftoun on March 11 (copy of that correspondence to Ms. Maftoun is also attached).

Best,

Tracey Gameiro, BA, JD, BEd

Associate Director

Appeals, Discipline and Faculty Grievances

Office of the Governing Council, University of Toronto

Tel: [\(416\) 946-5244](tel:(416)946-5244)

tracey.gameiro@utoronto.ca



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From: [Tracey Gameiro](#)
To: [REDACTED]; glynhotz@gmail.com
Cc: [Christopher Lang](#); Lauren.Pearce@paliareroland.com; Natalia.Botelho@paliareroland.com; [Krista Osbourne](#); lily.harmer@paliareroland.com
Subject: RE: S [REDACTED], B - Direction from Chair re Motion for Adjournment March 23, 2016
Date: Wednesday, March 30, 2016 12:04:49 PM
Attachments: [image003.png](#)
Importance: High

Dear Ms. Maftoun and Mr. Hotz,

Please see the following direction from the Chair:

"I understand that Dr. Azadian's office has provided an email stating that he is only available for 8 hours in all of June (ie. the business hours on June 24). I am surprised by this response. To be clear, the Panel can sit on an evening or weekend to accommodate Dr. Azadian's schedule, and I expect that we will only need him for 2-3 hours. A preference not to testify on an evening or weekend is not a lack of availability. Further, the Tribunal can arrange for Dr. Azadian's testimony to be provided via Skype from his home, office, or other location. I am directing counsel for Ms. S [REDACTED] to provide this direction to Dr. Azadian and to obtain an email directly from the doctor (ie not from his office staff/receptionist) confirming that he has received and read this direction, and providing his availability in June. In that email, please ask Dr. Azadian to provide specific dates and hours when he would be available either in person or via Skype (including evenings and weekends) in June."

Best,

Tracey Gameiro, BA, JD, BEd

Associate Director

Appeals, Discipline and Faculty Grievances

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From: [Tracey Gameiro](#)
To: [REDACTED]
Cc: Lily.Harmer@paliareroiland.com; [Christopher Lang](#); [Krista Osbourne](#)
Subject: RESPONSE REQUIRED
Date: Tuesday, May 03, 2016 10:11:37 AM
Attachments: [image003.png](#)

Dear Ms. S [REDACTED],

As you were advised below, the case conference scheduled for April 29, 2016 at 3:00pm proceeded in your absence.

Further to that case conference, the Chair requests that you provide the dates in June when you are **not** available for the sanction hearing in this matter.

Please provide your response by 5:00pm on Friday May 6, 2016

-

Best,

Tracey Gameiro, BA, JD, BEd

Associate Director

Appeals, Discipline and Faculty Grievances

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From: [Tracey Gameiro](#)
To: [b.s. @mail.utoronto.ca](#); [Lily.Harmer@paliarerland.com](#)
Cc: [Christopher Lang](#); [Krista Osbourne](#)
Subject: Direction from the Chair
Date: Sunday, May 08, 2016 9:32:52 PM

Dear Ms. S. [REDACTED] and Ms. Harmer,

The Chair has asked me to relay the following:

"I understand that Ms. S. [REDACTED] has refused to comply with my previous direction to provide the dates in June when she is **not** available for the sanction hearing in this matter. I also understand that she has stated that she cannot comply with this direction because she does not have "all [her] documents".

There is no reason why Ms. S. [REDACTED] should need any documents to comply with my previous direction and to cooperate in the scheduling of the sanction hearing.

In any case, as was established during the January hearing of this matter, Ms. S. [REDACTED] has been provided with the relevant documents by Ms. Harmer numerous times (both as disclosure of the University prior to the hearing and as part of a book of documents during the hearing). Ms. S. [REDACTED] has also been provided with a copy of the audio of the January hearing, as well as been offered the option to order a transcript of the hearing several weeks ago. And I now understand that Ms. Harmer has again provided all relevant documents to Ms. S. [REDACTED].

Further, I previously scheduled a telephone case conference on April 29, at which any questions or concerns Ms. S. [REDACTED] might have had about the scheduling could have been addressed. However, Ms. S. [REDACTED] failed to attend that conference despite repeated reminders.

As such, I am reiterating my direction that Ms. S. [REDACTED] provide the dates in June when she is **not** available for the sanction hearing in this matter. If she does not comply with this direction **by 5pm on Tuesday May 10**, I will have no choice but to schedule the hearing without her input as to its date. Once set, that date will be peremptory on Ms. S. [REDACTED] (which means that Ms. S. [REDACTED] will not be able to request a change to the date)."

Best,

Tracey Gameiro, BA, JD, BEd
Associate Director
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