IN THE MATER OF A DISPUTE BETWEEN:

The University of Toronto

and

The University of Toronto Faculty Association

(Association Grievance: Discrimination in Salary)

Before: William Kaplan

Appearances

For the University: Catherine Peters
Hicks Morley
Barristers & Solicitors

For UTFA: Emma Phillips
Mary-Elizabeth Dill
Goldblatt Partners
Barristers & Solicitors

The matters in dispute proceeded by written submissions.

Background

On June 4, 2019, the University of Toronto Faculty Association (the Association), filed an Association Grievance alleging, among other things, a violation of Article 9, the no-discrimination provision of the *Memorandum of Agreement*:

> Specifically, UTFA grieves that there exists a systemic, persistent, pervasive and significant gender pay gap at the University of Toronto, as well as a pay gap on the basis of other equity grounds such as racialization, creed, Indigenous identity, gender expression, gender identity, ability, and/or sexual orientation. This discrimination in compensation affects faculty and librarians who identify as female and non-male (hereinafter "female members"), and who identify as members of other equity-seeking communities. The affected groups include full-time and part-time faculty and librarians, including those who are in the tenure steam and teaching stream, as well as those with Contract Limited Term Appointments (CLTAs).

This grievance proceeded to mediation. An agreement was reached that partially resolved the grievance – as it affected Librarians (subject to a caveat in the Minutes of Settlement not relevant to this award). However, the remaining matters in dispute will proceed to hearing before the Grievance Review Panel (GRP).

In the meantime, the Association made an extensive production request. The University objected and that objection proceeded to mediation following which the parties entered into a November 12, 2019 *Framework Agreement Regarding Production Issues.* Among the production being sought was employment equity survey data (the data – as is set out in more detail below).

On December 13, 2019, the University advised the Association that the data was privileged for various legal reasons including that in collecting this information, undertakings of confidentiality and anonymity were extended to participating faculty

members. In addition, the value of the data, even if disclosed, was questionable given methodological issues that would inevitably arise should an attempt be made to analyze it to determine whether there was compensation discrimination and, if so, what the appropriate remedy for that might be.

The Association disagreed and another mediation was convened on May 19, 2020. On July 3, 2020, a *Memorandum of Agreement* was signed. Some further disclosure followed while discussions ensued, including about whether a purpose-built survey should be undertaken to resolve outstanding production requests: in particular, for the data. In mid-November 2020, the Association informed the University that it did not agree that a purpose-built survey would resolve the production request. The Association renewed its production request:

> All existing demographic data … including gender identity, Indigenous identity, race, sexual orientation, disability and any other data collected, and;
>
> The data underlying the University of Toronto Employment Equity Report 2016-2017 (with respect to UTFA members) using the same identifiers as in the A1 data.

The Question to be Answered

Stated somewhat simply, the question to be answered is whether the Association is entitled to the data identified in this production request: self-identification data that has been collected through the University's employment equity survey linked to faculty members' unique individual identifiers in the A1 data. The Association is not seeking the actual survey responses or the names of any faculty members. What the Association is

asking for is the demographic data, including gender identity, indigenous identity, race, sexual orientation, disability and any other information, gathered together as a field in the spreadsheet of salary data that it receives, and has received for decades. The Association says this material should be disclosed while the University says it should not, for a variety of reasons including, most prominently, the commitment it made to faculty members when it requested the data from them, a commitment that the faculty members relied upon when they disclosed their personal information and one that the University wishes to honor.

It should be noted that this outstanding issue has been put before me pursuant to a January 20, 2021 agreement between the parties. Also worth mentioning is that the parties are in complete agreement that faculty members should be equitably compensated without regard to their gender identity, sexual orientation, ability, indigeneity, race and ethnicity. This dispute is not about shared values; it is over the scope of production.

The Commitment

Before turning to the submissions of the parties, it is useful to set out what survey participants are told before they complete, or not, the survey; in other words, what the University describes as the commitment it is making to them:

Our commitment to confidentiality is foundational to the integrity of the survey data and you can be assured that:

1. The Employment Equity information you provide will be stored in a strictly confidential Employment Equity database and will not be used for any other purpose.

2. The information you provide on the questionnaire is accessible only to those individuals whose job it is to enter the data and / or to produce the Employment Equity reports. No one else can access this information.

3. The data you provide will be stored in a strictly confidential employment equity database and will not be used for any other purpose.

4. The only identification on the questionnaire is your personnel number. This is required by legislation. The personnel number will only be used to track completion and return rates and to link your response to other data about your position in order to be able to report on trends over time in various employment groups – for example, the proportion of Sessional Lecturers in the various designated groups.

5. Reporting is done by 14 broad designated employment equity occupational groups across all three campuses.

6. No information about groups of three or less is reported to ensure anonymity. Only summary reports will be released. No individual will be identified.

7. You may update your information at any time by submitting a new survey response on Employee Self-Service (ESS).

This Commitment to Confidentiality applies to and binds anyone who may be dealing with the survey information or process.

…

The data collected in the Employment Equity Survey … will only be reported upon in aggregate and it will aggregated in a way that ensures no individual can be identified.

Association Submissions

In the Association's view, its proportionate and measured production request needed to be considered in context: the context of a grievance where the Association has alleged that the University violated Article 9 of the *Memorandum of Agreement* by engaging in a pattern of systemic and pervasive discrimination in compensation that has negatively impacted faculty who identify as female and/or as a member of an equity-seeking group. The data was required to determine whether faculty members were being

underpaid based on their membership in an equity-seeking group, and to then remedy that discrimination based on the results of the analysis.

When it received the data, the Association intended to provide it to its expert witness, a statistician, who would prepare an expert report for consideration by the GRP. Any data referred to in the expert report would be presented in an aggregated and anonymized fashion that would preclude individual identification. All necessary and appropriate confidentiality measures would be put into place to ensure the data was kept strictly confidential. The Association was perfectly able, and obviously willing, to ensure that confidentiality was maintained.

Indeed, the Association had strict policies and an established track record of keeping confidential what was to be kept confidential including A1 salary data.
There was virtually zero risk that the data could be used to identify particular faculty members. For such a breach to occur, an unauthorized individual would have to obtain access to the raw data, and then carefully comb through it to either determine whether they could identify a faculty member based on their personal pre-existing knowledge, or they would have to conduct laborious research to determine who an anonymized individual might be.

The Association also took issue with the University's claim that the data was somehow, and in some way, legally privileged. To make out that claim, the University had to establish certain preconditions of a governing legal test (the test):

> the communications must originate in a *confidence* that they will not be disclosed;
>
> the element of *confidentiality* must be essential to the full and satisfactory maintenance of the relation between the parties;
>
> the *relation* must be one which in the opinion of the community ought to be sedulously *fostered*; and
>
> the *injury* that would inure to the relation by the disclosure of the communications must be *greater than the benefit* thereby gained for the correct disposal of the litigation.
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> (emphasis in the original: *Slavutych v. Baker* [1976 1 SCR 254 at 15]

In the Association's view, the University could not meet the requirements of the test.

To be sure, the Association agreed, the information was confidential: it originated in confidence. There was an expectation that it would not be disclosed. However, the element of confidentiality must be essential to the full and satisfactory maintenance of the relationship between the parties, and it was not. Unlike the types of relationships where this privilege generally arises (doctor-patient, for example), the employer-employee relationship was not premised on confidentiality, especially so where the employee was represented by a representative, in this case, the Association. There was no "public good" to be had in sedulously fostering this employer-employee relationship, particularly in a context where the Association needed access to the data to right

longstanding wrongs for faculty members: salary anomalies based on prohibited grounds that violated the no-discrimination provision of the *Memorandum of Agreement*, generally applicable law and public policy.

Likewise, when the interests were balanced, in terms of the injury that would inure to the relation by the disclosure assessed against the benefit to be gained for the correct disposal of the litigation, there really was no contest. The Association did not agree that disclosure would cause injury; it actually disagreed. Confidentiality could be maintained. Besides, whatever injury might occur to the relation by ordering disclosure would pale in comparison to the deleterious consequences of not doing so. The benefit to be gained was enormous: for individual faculty members, for the faculty as a whole, for the University community and for advancing employment equity more generally. Any claim that the data would be of little probative value could, likewise, not be sustained: data linking faculty compensation with equity-seeking identity was clearly relevant. Whether small sample sizes might limit the reliability of a regression analysis of the data was a different question, but it was one that was separate and apart from arguable relevance and the Association's legal entitlement to disclosure. At the end of the day, the matter had to be addressed by applying the test in a commonsense fashion, and that led to a disclosure order, together with the imposition of appropriate safeguards.

Such a result, the Association observed, was hardly anomalous: adjudicators regularly order the disclosure of confidential records together with any necessary safeguards. The

Association noted that it was the representative of faculty, and it was seeking information about its own members in an Association grievance alleging a breach of Article 9 – the no-discrimination provision. Disclosure was necessary for effective representation: to ensure that the Association was able to advance and defend the equality rights of historically marginalized members. The Association was entitled to the information it needed to do its job: representing faculty members.

The fact of the matter was that various tribunals have regularly ordered production of confidential records where the records are arguably relevant and where their probative value outweighed any privacy interests said to be at stake. While the University communicated various assurances about purpose, confidentiality, anonymity, access and use of the data, those assurances were always subject to law and to the authority of the GRP to issue appropriate orders. This was also not a case of first impression. The Ontario Human Rights Tribunal and other tribunals and courts across the country have repeatedly made it clear that broad disclosure is both necessary and appropriate in cases of systemic discrimination – which was exactly this case.

The Association, it submitted, was entitled to present its case with adequate information and documentation, and this was nowhere more important than in a human rights case. The mere assertion that personal or confidential information was contained in records was not a bar to the otherwise governing law requiring disclosure of everything that was arguably relevant. To be sure, a confidentiality commitment had

been made – but that situation was not unique and if privilege was asserted to prevent disclosure, all of the elements of the test had to have been met, and failing that, disclosure had to be granted unless precluded from some other reason not present here. Disclosure of the data was actually necessary to give effect to the primary purpose underlying its collection: advancing employment equity at the University of Toronto – a shared goal – and one that was required by the case law. For all these reasons and others, the Association asked that its request be granted.

University Submissions

What Was Being Sought?

In the University's submission, the appropriate starting point was understanding what was being sought. Although the two production requests were stated somewhat differently, the target was the same: employment equity survey data (the data). The data consists of self-identification data that the University collects from faculty members through the employment equity survey process (the survey): it is the data used by the University to prepare its annual Employment Equity Reports; the actual individual survey results, which, while not linked by name, are linked to an individual unique identifier and to other employment data about individual faculty members.

The data was obtained from faculty members who are periodically asked to fill out the survey responding to a number of questions about whether they self-identify as a member of one or more equity-seeking groups. While the questions have varied over

time, faculty members are asked to disclose information about their gender identity, sexual orientation, visible and non-visible disabilities, Indigenous/Aboriginal identity, and racial and ethnic origin. Employers may ask questions like these only for specific and limited equity-advancing principles. Participation in the survey, in whole or in part, was completely voluntary. As the survey questions make clear, faculty members are asked to disclose their most personal information, including information that would not be visible to others (non-visible disabilities and sexual orientation, to give two examples).

When a faculty member is asked to complete the survey – and before deciding whether to participate or not – they are told about the following:

the purpose for which the data are collected;

the confidentiality of the data collected;

the anonymity of the data collected;

who will have access to employees' individual survey responses; and

the permitted use and disclosure of the data collected.

The data, albeit stated extremely broadly, was collected for use by the University so that it can diversify its workforce and address the under-representation of women and other equity-seeking groups by the collection of information that informs the development and implementation of programs and initiatives to increase representation and foster employment equity. Survey participants are promised confidentiality. The data would be carefully stored, made available under strict conditions to a very limited cohort – people

who have the job of entering the data and/or to produce the Employment Equity Reports – and would not be used for any other purpose. An express undertaking was made to employees that while their survey responses would be linked to their personnel number, that their personnel number would only be used to track completion and return rates and to link their response to their position and broad employment groupings to enable reporting on trends within those groupings. Not only was confidentiality promised, so too was anonymity: "no individual will be identified." The data was reported in the annual Employment Equity Report but aggregated in a manner that did not allow for individual identification. That aggregated information was also made available to the University community and general public.

Principled Reasons Why The Data Should Not be Disclosed

In the University's submission, survey participants were made a promise – the commitment – and based on that promise they disclosed their most personal information. Disclosing the data, the University pointed out, meant breaking the promises – and they were plural – concerning purpose, confidentiality, anonymity, access and use – the very promises that were extended to secure the informed consent that led the faculty member to answer the questions in the first place

Quite clearly, the data consists of highly sensitive personal information collected from faculty members – faculty members who were given undertakings that the information they provided would be confidential, anonymous and used only for specific purposes.

Faculty members who participated in the survey provided their voluntary and informed consent based on the representations that were made to them. Faculty members were not told at the time they provided their consent that the data would be available to or used by the Association. Notably, the Association's representative role was somewhat less than what was advanced in its submissions. While the Association had specified information entitlements under the *Memorandum of Agreement,* those entitlements did not include the data.

The danger of a confidentiality breach, while minimized by the Association, was also significant. The University did not doubt that the data would be handled carefully and professionally by the Association and its representatives. However, if the A1 data – already significantly augmented because of previous productions – was linked with the data, some faculty members would become readily, if not immediately, identifiable. And once a person – someone who agreed to disclose their most personal information because of a confidentiality promise that was made and someone who was quite possibly already vulnerable and marginalized – was identified, or easily identifiable, their most sensitive personal information would be accessible to others without their consent and in breach of the commitments that were made. This outcome was possible in small units and in large departments, as numerous University examples illustrated. In this circumstance, not only would the University have broken a promise, but that broken promise could easily cascade with faculty members and others in the University community refusing to participate in the survey in the future, thereby depriving the

University of the information it needed to dismantle barriers and improve employment equity. This chilling effect of ordering disclosure needed to be borne in mind.

The University was also of the view that the data, if disclosed, would not meaningfully assist in determining whether discrimination in compensation existed and what remedies should be implemented. Disclosure would be harmful, but would also serve no useful purpose because the data could not be effectively used for conducting a comparative analysis to determine whether members of equity-seeking groups were subject to discrimination, and moreover, to provide information on how to remedy it.

The data was obtained from a voluntary census requiring self-identification: the survey. The data could not be used to conduct a meaningful multivariate analysis, which was required to uncover compensation discrimination. The data was not a full data set. The data was not generalizable to the faculty population as a whole. The sample sizes were too small to support a meaningful comparative analysis. The survey questions themselves provided multiple options allowing for self-identification in multiple categories, making interpretation problematic. And even when assuming for the sake of argument that the data did provide some useful comparative information, and further assuming that some evidence was found of differences in compensation attributable to membership in an equity-seeking group, the data would be of virtually no use in designing and implementing an effective remedy for affected faculty members. This was

true for a number of reasons, including the response rate possibly limiting the cohort in any remedial pool, among other issues identified by the University in its submissions.

Legal Reasons Why The Data Should Not Be Disclosed

The law, the University submitted, was clear.

The University carefully reviewed numerous authorities, all of which stood for the principle that in cases where the production was being sought to enable the party seeking it to determine if the records requested could have some potential relevance to the case at hand – which was what was happening here – the application of the governing criteria led to an order rejecting the production request, which, the University argued, should also happen here. In marked contrast, the University pointed out that none of the Association authorities, while purportedly applying principles of general application, had anything to do with the production of employment equity data where confidentiality promises had been made and where disclosure could readily lead to the identification of specific individuals and consequent harm: actual harm could be caused by disclosure. The University urged me to follow the cases that it advanced.

The data was also privileged, as application of the test established. The communications originated in a confidence that they would not be disclosed. It was crystal clear that the University made a commitment of confidentiality about what (limited) uses could and

would be made of the data and how it would be carefully protected. Faculty members relied on this and related commitments. There was a relationship of trust and confidence between the University and faculty members. Confidentiality was essential to the maintenance of that relationship. Notably, the Association was not a party to that relationship. If faculty members lost trust in the University, and its confidentiality commitments, the University would not be able to effectively collect the data and pursue its employment equity initiatives, not to mention the harm that would inure to the relationship itself.

This relationship of trust and confidence was, moreover, one that needed to be sedulously fostered. A disclosure order setting aside the commitments that were made could, and likely would, cause irreparable harm to the relationship and undermine the central goal of the data collection. The injury that would inure to the relationship if disclosure were to occur was demonstrably greater than any benefit that might be gained, bearing in mind the possible exposure of the most confidential of individual information in circumstances where the data would serve no useful purpose in advancing the case and/or any remedy. Any fair balancing of interests in the application of this test favoured rejecting the Association request.

At the end of the day, in assessing the evidence and arguments, the University urged me to bear in mind what exactly was taking place: the Association was seeking production of the data so that it could conduct an exploratory analysis directed at determining

whether there was evidence of discrimination. The context was a case where the Association had no tangible evidence that there was discrimination in compensation affecting members of equity-seeking groups. Nevertheless, the University was being asked to hand over information that was gathered only after it made strict promises about its confidentiality. This was a clear case where production was being sought to find evidence, but doing so required the complete breach of confidentiality undertakings that were made. In any balancing of interests, and in these circumstances, disclosure should not be permitted. Add to that the methodological deficits in the data – as earlier identified – and the case against the Association's request became even more compelling.

Decisiona

Having carefully considered the submissions of the parties, it is my view that the data must be disclosed.

This is a production motion. It has nothing to do with the merits, which will, in due course, proceed before the GRP. There is no doubt that the data is arguably relevant. But for the University's claim of privilege, disclosure would, absent exceptional circumstances not present here, be almost routine even though the information is highly personal and confidential and only given following a confidentiality commitment.

There is no privilege preventing disclosure.

While the information is confidential, that is not a conclusive barrier to production. Confidential information is regularly ordered produced. To serve as a bar to production, the information must not only be confidential – which it clearly is – but the element of confidentiality must be essential to the relationship between the parties, which it is not. Doctor-patient, priest-parishioner, lawyer-client, are types of relationships in which this privilege normally applies. The employer-employee relationship is important; sometimes it is even fiduciary, but it is not normally one in which confidential communications attract legal privilege. There is nothing here to "sedulously foster" from a community perspective or otherwise.

However, even if it were determined that the information was confidential and that the element of confidentiality was essential to the full and satisfactory maintenance of the relation between the parties, and if the relationship were one that in the opinion of the community ought to be sedulously fostered, the privilege claim would still fail under the test because any harm to the relationship – the employer-employee relationship – must be considered against the benefit to be gained from the correct disposal of the litigation.

Article 9 of the *Memorandum of Agreement* is as follows:

No Discrimination

The parties agree that there shall be no discrimination, interference, restriction, or coercion exercised or practised toward any faculty member or librarian in respect to salaries, fringe benefits, pensions, rank, promotion, tenure, reappointment, dismissal, research or other leaves, or any other terms and conditions of employment by reason of age, race, creed, colour, disability, national origin, citizenship, religious or political affiliation or belief, sex, sexual orientation, gender identity, gender expression, marital status or family status, place of residence, membership or activity in the Association, or any activity pursuant to the principles of academic freedom set out in Article 5, as well as any other ground included in or added to the Ontario *Human Rights Code*.

This provision memorializes a shared value. The grievance may be successful. It may be partially successful. It may fail. But there is no doubt about the benefit to be gained by the correct disposal of the litigation. That can only happen if the disclosure request is granted. The necessary balancing leads to only one result: ordering disclosure, especially since there is no other legal bar, or over-riding reason, not to do so. Certainly, the fact that individuals have the right to pursue individual claims of salary discrimination, while true, ignores the objective reality of the resources that would be required that effectively bars such proceedings. Moreover, and more importantly, the allegation of discrimination is systemic and that requires the Association to bring it forward.

In reaching this result, there is no intention to be cavalier about the interests involved, including the University's understandable desire to keep its promises. Faculty members disclosed the information having been promised confidentiality. One can readily understand the University's desire to stand by its commitment; however, it cannot prevent disclosure where the data is arguably relevant and fundamental human rights

issues are in play. Disclosure is part of ensuring a full and fair hearing on the question of whether there is discrimination in compensation. Getting to the truth is paramount and actually advances shared goals. Facilitating that process with a normative production order far outweighs any individual interests that might possibly be at stake. Speculative harm, when muscular measures can be put into place to minimize risk, is simply not sufficient to decline the request separate and apart from whether a case for privilege has been established (which it has not).

Voluntary informed consent, as a legal construct, is factually and legally irrelevant to this part of the proceeding. The Association represents the faculty in this Association grievance. It is clearly arguing a case on their behalf and for their benefit. Considerations of privacy and confidentiality must be seen through this applicable lens: the Association, by definition, is acting in the interests of its membership. The Association has an incontrovertible interest in ensuring that compensation, which it negotiates, is equitable and non-discriminatory. The grievance alleges systemic discrimination. It would be an extraordinary outcome to deny the Association access to demographic information about faculty members when that information is being sought for the singular purpose of redressing salary inequities.

I do not accept that disclosure will cause irreparable harm. There is no reason to believe that the order in this award, with its stringent and granular requirements, will chill or otherwise inhibit any future faculty participation in the survey (or that of any other

member of the University community). It is not imaginable that any faculty member will consider the University culpable for a breach of trust in the circumstances of this case. Disclosure has been ordered by operation of law together with strong safeguards to ensure confidentiality. It is equally hard to imagine, again subject to the specific terms of this order, how anonymized aggregated data in an expert report could or would impair the confidence of any faculty member in the University, especially when the purpose of the expert report, and the future GRP proceeding, is to remedy faculty salary discrimination.

Cases of this kind are quasi-constitutional; they are as important as they are complex. The data analysis is extremely sophisticated, requiring a review of patterns in the aggregate and over time. All relevant information needs to be considered and should be considered unless there is a legal reason not to do so. In this case, having examined all of the submitted materials – the written briefs, the attachments and the authorities – I am left concluding that there is no legal bar to the production request. Indeed, the request is normative and appropriate.

The University may turn out to be correct. It is within the realm of possibility that the data ordered disclosed will not support a robust and meaningful comparative analysis capable of determining whether any discrimination in compensation exists, and if it does, what remedy should be granted. The University pointed to some methodological issues, but that is a matter for the Chair and panel of the GRP hearing the case to decide

after they have considered the evidence, not a matter that could possibly be fairly determined at this stage in the process. The concerns may be valid, but they are premature.

A related comment is in order. While the University has expressed the view that the Association was seeking the data to see whether it had a case, that is not a submission I can accept. We know that there is a case. How do we know this? Because the University, unilaterally, when agreement with the Association could not be reached, and following its own equity study, adjusted the salaries of tenured female professors. The adjustment was not satisfactory to the Association, but the adjustment establishes that there was a wrong that needed a remedy. Likewise, the parties agreed at mediation to significant adjustments in the female Librarian ranks. The Association may or may not succeed – but this not a fishing expedition.

As the University notes in its submissions, the data being sought "could jeopardize the confidentiality and anonymity of their responses." Stated somewhat differently, by linking the data to the A1, it becomes easier to identify individuals, but the fact is, as the University also notes, "the Association is not seeking to have individual faculty members' survey responses produced in a form which expressly identifies by them." Add to that the Association's commitment not to do so – as is reflected in decades of experience where when the Association agreed to keep something confidential it kept it confidential – the case for ordering disclosure becomes even more compelling.

There are other reasons for ordering the disclosure. Doing so may actually advance the primary purpose for which the data was collected: to provide for the design and implementation of measures to ensure that there is no salary discrimination among faculty by understanding the scope of the problem – assuming for the sake of argument that the Association is successful in establishing that salary discrimination exists – and then designing an appropriate and carefully calibrated remedial response. While the commitment made to faculty members is being disturbed by this order, the architecture that is being put into place has been deliberately designed to ensure the highest possible degree of confidentiality.

Accordingly, and for the foregoing reasons, the Association's disclosure request is granted subject to the following:

1. Production is ordered for the sole purpose of this litigation before the GRP and may not be used or disclosed for any other purpose (the implied undertaking rule).
2. This production order is reciprocal.
3. Both parties must specify in writing before production takes place the names of their representatives including legal counsel and experts to whom the data will be produced and the measures that they will be putting into place, both electronic and otherwise, to ensure security and confidentiality. Representatives, including legal counsel and experts, will sign a confidentiality agreement as

mutually agreed. This agreement will include their contractual commitment and undertaking to keep the data secure and strictly confidential, their agreement not to copy, reproduce or transmit the data except for the purposes of this litigation, and their agreement not to disclose the data except as is strictly necessary for the purposes of this litigation. All data that is put before the GRP must be in aggregate form and the parties are directed to have a case conference prior to either party introducing such evidence to ensure this order is complied with.

4. Should either party become aware of any action by anyone that might affect the strict confidentiality that accompanies this order, it must be immediately and fully disclosed to the other party.
5. Following the conclusion of this litigation all of the disclosed data must be destroyed or returned according to a protocol to be agreed upon by the parties.
6. This order may be amended by the GRP or as agreed upon by the parties.

Conclusion

Accordingly, and for the foregoing reasons, the production order is granted.

DATED at Toronto this 14th day of June 2021.

"William Kaplan"

William Kaplan