

AdvocateDaily.com
 Canada's Legal Wire Service

HAVE A SERIOUSLY INJURED CLIENT?

MCLEISH ORLANDO
 LAWYERS

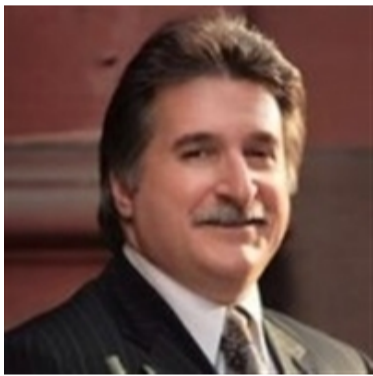
Toronto Lawyers ASSOCIATION **TLA**
 Get Informed. Get Involved. Make an Impact.

Increase your productivity by collecting CPD hours cost effectively and efficiently.

LEARN MORE

Estates & Wills & Trusts

Cases with vexatious litigants likely to increase



As more people turn toward representing themselves in court, it is also more likely that instances of individuals being declared vexatious litigants will increase, says Toronto-area estate lawyer [Charles Ticker](#).

“It is unfortunate that access to the court system is becoming increasingly more difficult for many individuals,” says Ticker.



A Superior Court judge recently declared a plaintiff who launched dozens of lawsuits in an estate dispute a vexatious litigant in a case he called “Ontario’s longest running legal drama,” *Law Times* reports. [Read Law Times](#)

William Assaf has been fighting for a bigger share of his father’s estate since Edward Assaf died in 1971, the report says. There have been more than 30 lawsuits and over 100 different court orders in the matter, according to a March 6 ruling by Justice Edward Morgan, the report continues. [Read Burton v. Assaf](#)

While Assaf has brought motions against the administrator of his father’s will, the current owners of the elder Assaf’s estate, and a lawyer involved in the case, courts in several instances have ruled his motions were meritless, *Law Times* reports.

“The order made by Justice Morgan in this case was made under s. 140(1) of the Courts of Justice Act (CJA),” says Ticker. “Such orders are extraordinary remedies and while they are not made often, there are several reported cases where these orders have been made.”

Ticker says interestingly, around the same time he heard arguments and rendered his decision in *Burton v. Assaf*, Justice Morgan heard and ruled in another case called *Yae v. Park* 2013 ONSC 1331 (released March 4), where he made an order under s. 140(1) declaring the self-represented respondent Young Park to be a vexatious litigant, preventing her from commencing any further court actions without leave of a judge of the Superior Court of Justice. [Read Yae v. Park](#)

“These orders are made to prevent litigants from continuing on with litigation and commencing proceedings where there has been a history of the litigant commencing pointless and oppressive litigation which has no reasonable prospect of success,” says Ticker.

“In the *Yae v. Park* case, the respondent had tried several times to set aside a settlement under which she had already received the settlement funds,” he adds.

“Quite often the vexatious litigant will sue or try to join counsel for the opposing party as a party defendant. In

A new kind of law firm.

You run a modern, innovative business. So do we.

CONDUIT LAW
 The evolution of law™

Hodgson Russ ATTORNEYS LLP

Offering U.S. Legal Advice for Cross-Border Clients

www.hodgsonruss.ca

DRL DATA RESCUE LABS

COMPUTER & CELL PHONE FORENSICS

UFED

the *Yae* case, the respondent wanted to add counsel for the applicant as a defendant and sue the lawyer for a billion dollars,” he says.

“As Justice Morgan observed at paragraph 14 of the *Yae* decision: ‘Nothing says vexatious like a one billion dollar claim against opposing counsel for defending their client’s rights,’” says Ticker.

“An order under s. 140(1) of the CJA does not deprive a person’s right to litigate but rather restricts the person’s right to commence proceedings without leave of a judge,” he says. “It should be noted that if the vexatious litigant does not succeed in getting leave under s. 140 (3), there is no right of appeal from the refusal order - of course, that would not stop a vexatious litigant from trying.”

[To Read More Charles Ticker Posts Click Here](#)



AdvocatePlus >

- [The Fund Library publishes Samantha Prasad's "Year-end tax tips"](#)
- [Human Rights Tribunal of Ontario awards \\$120,000 award for discrimination in hiring process](#)
- [IIROC mandatory cybersecurity breach reporting](#)
- [Join Littler LLP for its 2019 Canada Conference](#)

[View more AdvocatePlus posts](#)



	Expert Reports Family Law Valuations/Forensic Damages Quantification Fairness Opinions	M&A Financial Due Diligence Outsourced CFO Services Capital Raising Assistance Buy-Side / Sell-Side Advisory	

[HOME](#) [POSTS](#) [OPINION](#) [EVENTS/RELEASES](#) [TV](#) [PLUS](#) [ABOUT](#) [CONTACT](#) [@ADVOCATEDAILY](#)

[ADVOCATEDAILY](#)