



TRANSMISSION VIA FACSIMILE AND MAIL

**PRIVATE AND CONFIDENTIAL**

February 15, 2019

Dr. Nancy Whitmore  
Registrar/CEO,  
College of Physicians and Surgeons of Ontario

**Subject: Incomplete Complaint Investigation into Ms. Mueller's conduct**

Dear Dr. Whitmore:

On January 7, 2019 I wrote to you requesting a full and formal investigation of CPSO investigator Lisa Mueller.

I have been forwarded a response from a manager Denitha Breau dated February 13, 2019 where she states,

"I have spoken with Ms. Mueller. I am satisfied with the handling of the investigation to date. I can confirm that the College did not receive any fax from Mr. Wilton on December 21, 2018".

How does this constitute a full and formal investigation? Why has a new complaint file number not been assigned and why has a proper investigation not been conducted? Where is the investigative report? What legal qualifications and training does Ms. Breau have which makes her suitable to conduct this investigation? Why would she not acknowledge that Ms. Mueller did not serve proper summons? Where is the acknowledgment that the information requests in the summons, not limited to the patient in question, were overly broad and not justified? How was it confirmed that the fax was not received when the documentation (attached) proves otherwise?

Further, why have my requests for transparency and accountability been willfully ignored? Why have I not been provided with a response to the items B-F as requested? Do they exist? Please confirm immediately.

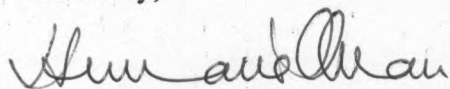
- a) A full and complete investigation into Ms. Mueller actions on this file;
- b) Copy of CPSO policy on rules and responsibilities of investigators;**
- c) Copy of CPSO policy on training and monitoring of investigators;**
- d) Copy of CPSO policy on ongoing and regular quality assurance of investigators;**
- e) Details of what external mechanisms exist for regulating/monitoring CPSO;**  
**and**
- f) Specific channels available to me in case of dispute with your internal investigation**

If I do not receive these by February 21, 2019, I will assume these policies do not exist and there are no mechanisms for College accountability.

Finally, I will be instructing Mr. Wilton to respond to the request for information, but as previously requested, all future correspondence to Mr. Wilton regarding file 0107125 must be from the College counsel only, as legal counsel is bound by professional standards and external accountability.

Please directly provide me with itemized responses to ALL the queries above no later than February 21, 2019.

Sincerely,



Humaira Khan, Chief Executive Officer

Encls: Fax confirmation dated December 21, 2108

\* \* \* Communication Result Report ( Dec. 21. 2018 1:51PM ) \* \* \*

1} Matthew Wilton &amp; Associates

Date/Time: Dec. 21. 2018 1:44PM

File No. Mode	Destination	Pg(s)	Result	Page Not Sent
2263 Memory TX	4169672616	P. 19	OK	

Reason for error  
 mm. 1) Hang up or line fail  
 . 3) No answer  
 . 5) Exceeded max. E-mail size

m. 2) Busy  
 . 4) No facsimile connection  
 . 6) Destination does not support IP-Fax



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## FACSIMILE TRANSMISSION



Number of pages transmitted (including cover page): 19



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\* Wilton Associates, a professional corporation



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## FACSIMILE TRANSMISSION

TO:	Ms. Lisa Mueller Investigator, Investigations and Resolutions	Fax No.:	416-967-2616
FIRM:	College of Physicians and Surgeons of Ontario		

Number of pages transmitted (including cover page): 19

From:	Matthew Wilton	Date:	December 21, 2018
Re:	Medicor Cancer Centres Your File No. 0107125		
Our File No:	218-409		

Original will:	Not follow by Mail	<input checked="" type="checkbox"/>
	Follow by Mail	<input type="checkbox"/>
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### Special Message:

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THE  
COLLEGE  
OF  
PHYSICIANS  
AND  
SURGEONS  
OF  
ONTARIO

In reply please quote: 0107125

February 13, 2019

*Sent via Facsimile with hard copy to follow by mail*

**PRIVATE AND CONFIDENTIAL**

Mr. Matthew Wilton  
Wilton Barristers  
65 Queen Street West, Suite 1503  
Toronto, ON M5H 2M5

Dear Mr. Wilton:

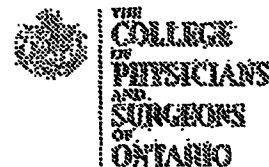
**Re: Letter dated January 7, 2019**

I have reviewed Ms. Khan's letter, along with the Investigative file. I have also spoken with Ms. Mueller. I am satisfied with the handling of the investigation to date.

I can confirm that the College did not receive any fax from Mr. Wilton on December 21, 2018.

~~Under the provisions of the Access to Information Act, the following information was provided to the requester:~~

- ~~1. The College's records regarding the investigation of the complaint filed by Ms. Khan against Dr. [redacted] on January 7, 2019.~~
- ~~2. The College's records regarding the investigation of the complaint filed by Ms. Khan against Dr. [redacted] on January 7, 2019.~~
- ~~3. The College's records regarding the investigation of the complaint filed by Ms. Khan against Dr. [redacted] on January 7, 2019.~~
- ~~4. The College's records regarding the investigation of the complaint filed by Ms. Khan against Dr. [redacted] on January 7, 2019.~~
- ~~5. The College's records regarding the investigation of the complaint filed by Ms. Khan against Dr. [redacted] on January 7, 2019.~~
- ~~6. The College's records regarding the investigation of the complaint filed by Ms. Khan against Dr. [redacted] on January 7, 2019.~~
- ~~7. The College's records regarding the investigation of the complaint filed by Ms. Khan against Dr. [redacted] on January 7, 2019.~~



Thank you for your immediate attention to this matter

Sincerely,

A handwritten signature in cursive script, appearing to read "Denitha Breau".

Denitha Breau  
Manager, Investigations and Resolutions

T: 416-967-2600 | 1-800-268-7096 ext. 766  
F: 416 967-2616

cc: Morgana Kellythorne, Amy Block



# MEDICOR CANCER

TRANSMISSION VIA FACSIMILE AND MAIL

**PRIVATE AND CONFIDENTIAL**

January 7, 2019

Dr. Nancy Whitmore  
Registrar/CEO, College of Physicians and Surgeons of Ontario

**Subject: Complaint – performance and conduct of CPSO Investigator re file number 0107125**

Dear Dr. Whitmore:

I am writing to request a full and formal investigation of CPSO investigator Lisa Mueller relating to the above-noted file number. This letter will serve as my official complaint that the highest of ethical standards was not adhered to by the CPSO investigator.

- Ms. Mueller issued a summons on October 31, 2018 under section 75(1)(c) of the Health Professions Procedural Code of the Regulated Health Professions Act, 1991 as part of an investigation of Dr. A. Khan, a physician at my clinic, initiated by a patient's daughter. The summons made a request for a broad range of confidential corporate documents not related or limited to the patient file under investigation. The summons was worded in such a way that it would require me to produce documents related to every single patient who received a specific test and every single patient who received a specific therapy.
- My legal counsel, Mr. Matthew Wilton, wrote Ms. Mueller on November 26, 2018 requesting clarification of the scope of information she was requesting. Ms. Mueller responded on November 28, 2018 stating that the complaint relates to *"a patient..."* She further stated that the investigation was *"in connection with ... care and treatment of the patient in issue..."* Ms. Mueller indicated that the information requested was to ensure compliance with conflict of interest provisions under Regulation 114/94 of the Medicine Act.
- On December 5, 2018, Ms. Mueller again wrote to Mr. Wilton stating that the required documents had not been provided within the timelines stated in the summons and provided a demand for documents within 48 hours.
- Mr. Wilton responded on December 7, 2018 and as a courtesy pointed out that the summons served by Ms. Mueller was not in keeping with the requirements of section 33 of the Public Inquiries Act and was therefore invalid. Ms. Mueller seemed to be either negligent or lacking knowledge of the law. I'm sure you would agree that as a CPSO investigator given the power of a commissioner, she has a duty to be aware of the relevant statutory requirements and show a high level of due diligence before exercising her power. The accountability to the public and profession depends on quality professionals in all areas of our health-care system.

- Mr. Wilton then offered to facilitate serving a proper summons, even though it wasn't his responsibility. He further stated: *"I still remain of the opinion that the information you are seeking is overly broad and irrelevant; and therefore my client has no legal obligation in respect of most of the information you have requested."*

Please also be aware that this letter contained documents to prove compliance with the Medicine Act with respect to conflict of interest.

- On December 10, 2018, Ms. Mueller confirmed that she would be serving a new summons in accordance with the Public Inquiries Act and accepted Mr. Wilton's offer to help her coordinate the time to serve the summons. Notwithstanding her confirmation of Mr. Wilton procedural assertion, she contradicted Mr. Wilton's legal assessment and stated *"we disagree with your assessment"* without providing any rationale. One must question if she consulted with CPSO legal counsel in this regard?
- On December 12, 2018, Mr. Wilton wrote Ms. Mueller again and asked her to provide a *"substantive response, as opposed to a rote disagreement."* He also asked Ms. Mueller to propose a suitable time the following week to serve the summons.
- Regretfully, Ms. Mueller's response on December 13, 2018 continued to be vague and noncommittal. All she stated was that *"we have outlined broadly the relevance of the information we seek. Any 'benefits' will be relevant to the investigation regardless of whether a proprietary interest was disclosed."* It appears that she determined that she has no obligation to provide any meaningful response. This is certainly not in keeping with CPSO accountability and transparency of the process.
- At this time, Ms. Mueller seemed to be uncooperative and wrote: *"...we have made our own arrangements to serve the summons and are in a position to obtain the documentation without further delay."*
- What can only be construed as an effort to intimidate and embarrass me, Ms. Mueller repeatedly attempted to serve the summons to me at my office without coordinating with Mr. Wilton. When the summons was finally served after repeated failed attempts, on December 18, 2018 at 2 PM, I not only had less than 24 hours to comply, but the summons had not been modified and still requested the broad information not limited to the patient at issue and Mr. Wilton was left out of the loop. This is a breach of civil procedure and contradicts the CPSO guiding principles.
- To keep Ms. Mueller informed of my cooperation, Mr. Wilton then left her a voicemail on December 18 indicating that he was in the process of gathering the documentation requested.



- On December 21, 2018, Mr. Wilton sent a fax which was confirmed to have been delivered to the College at 1:44 PM with the documents requested specific to the patient in question. In this fax, Mr. Wilton summarized Ms. Mueller's conduct stating:

*"Firstly, I wanted to address the manner in which you have conducted your investigation. As a gesture of good faith, I pointed out to you that you had improperly served your summons on Medicor. I was not obliged to do so. I did so in the spirit of cooperation. I also offered to make Ms. Khan available to be served with the summons. Lawyers typically take the step in order to convenience the opposing party, but also to allow their own clients to be served at a time and date that is not embarrassing for them. Instead of taking me up on my offer, you chose to serve Ms. Khan without any notice to her. This was not civil. I am attaching herewith a copy of the letter that you sent to Ms. Khan dated December 14, 2018. You know that I am acting on behalf of Medicor and Ms. Khan. You didn't extend me the necessary courtesy and send me a copy of this letter nor did you notify me as to when Ms. Khan was going to be served. I make these comments because I am concerned that you're misusing your summons power and ignoring Medicor counsel of record, and also acting in a manner that is not civil to say the least."*

- As far-fetched as it may seem on January 3, 2019, Ms. Mueller wrote to Mr. Wilton that: *"Your client has failed to appear and/or produce the information as required."* She asked me to provide the documentation immediately and threatened: *"The College will consider options available to it for non-compliance."* By failing to acknowledge Mr. Wilton's fax of December 21, 2018, her letter implies my non-cooperation. This is erroneous. Either she did not exercise due diligence in checking received faxes prior to sending off this letter or worse – intentional manipulation of the facts. A full and formal review will establish the facts.

Given the above and the issue of public trust, Ms. Mueller's actions as a College investigator must undergo rigorous scrutiny. Throughout this process, she has demonstrated:

- a) Ignorance of the laws - serving invalid summons.
- b) Abuse of authority – requested documents not limited to the patient at issue; barged ahead without providing a legal foundation or rationale for her summons despite repeated requests by my legal counsel to be specific; chose to serve summons without notice despite legal counsel's offer to facilitate such; attempted to intimidate me; reissued summons demanding the same broad information after acknowledging that the investigation was only limited to one patient; and made accusations and threatened action due to alleged noncompliance with summons.
- c) Negligent - served invalid summons and failed to check fax to confirm documents received before making accusations and threats that had no basis in fact.

The implication of using an investigator like Ms. Muller to protect the public is enormous. What if her lack of due diligence and adherence to CPSO procedures and the law results providing misinformation to the Investigations, Complaints and Review Committee and allows them to let off an unsafe doctor? What if the reverse is true? What if she manipulates evidence/facts to intimidate doctors and abuses her power during

her investigation? If she feels she can abuse her power with a member of the public like me, I can't imagine her conduct with doctors who are actually governed by CPSO.

To ensure transparency, serving the public interest and to restore faith in the CPSO's governing ability I request the following:

- a) A full and complete investigation into Ms. Mueller actions on this file;
- b) Copy of CPSO policy on rules and responsibilities of investigators;
- c) Copy of CPSO policy on training and monitoring of investigators;
- d) Copy of CPSO policy on ongoing and regular quality assurance of investigators;
- e) Details of what external mechanisms exist for regulating/monitoring CPSO; and
- f) Specific channels available to me in case of dispute with your internal investigation

Kindly ensure that I receive a response detailing your next steps with regarding A and copies of documents requested B-F by January 18, 2019.

In closing, please ensure any future correspondence to Mr. Wilton on this file is through CPSO legal counsel only.

Sincerely,



Humaira Khan, Chief Executive Officer

Encls.

1. Summons dated October 31, 2018
2. Letter from Mr. Wilton dated November 26, 2018
3. Letter from Ms. Mueller dated November 28, 2018
4. Letter from Ms. Mueller dated December 5, 2018
5. Letter from Mr. Wilton dated December 7, 2018
6. Letter from Ms. Mueller dated December 10, 2018
7. Letter from Mr. Wilton dated December 12, 2018
8. Letter from Ms. Mueller dated December 13, 2018
9. Letter from Mr. Wilton dated December 12, 2018
10. Summons dated December 14, 2018
11. Letter from Mr. Wilton dated December 21, 2018
12. Letter from Ms. Mueller dated January 3, 2019
13. Letter from Mr. Wilton dated January 3, 2019

c.c. Matthew Wilton, Marie Henein (counsel to Dr. A. Khan)

