

Federal Court



Cour fédérale

Date: 20250402

Docket: T-2129-24

Citation: 2025 FC 611

Ottawa, Ontario, April 2, 2025

PRESENT: Madam Justice Gagné

BETWEEN:

ISAAC OLUSEGUN

Plaintiff

and

HIS MAJESTY THE KING

Defendant

ORDER AND REASONS

I. Background

[1] In this motion, the Defendant seeks an order from the Court striking the Plaintiff's Amended Statement of Claim [Amended Claim], without leave to amend. The Defendant states that the Plaintiff's claim generally fails to disclose any reasonable cause of action pursuant to Rule 221(1)(a) of the *Federal Courts Rules*.

[2] On December 18, 2024, Associate Judge Catharine Moore struck, in its entirety, the Plaintiff's initial Statement of Claim [Initial Claim], with leave to amend. She found that, as drafted, the Initial Claim did not disclose a reasonable cause of action, in addition to using inflammatory and accusatory language. Here is how she summarizes the Plaintiff's claim:

[2] I start with a review of the Claim. The Plaintiff, Mr. Olusegun, claims for:

1. Special damages of \$250,000 related to missed employment opportunities;
2. General damages of \$50,000 for emotional distress;
3. Compensation of \$10,000 for damages to his professional reputation;
4. Punitive damages of \$500,000 for systemic discrimination;
5. An injunction to:
 - a. Cease discriminatory practices;
 - b. Review and implement new policies;
 - c. Form an independent monitoring body making to make regular compliance reports to this Court;
6. A declaration that the actions of the Canada Revenue Agency were discriminatory and constituted a violation of rights including as stipulated in sections 6(2)(b), 7, 15, 24 and 27 of the Charter; and,
7. Compensation for all legal expenses;
8. An order from this Court to compare all Canadian staff at the IRCC with immigrants like Mr. Olusegun's spouse.

[3] I will set out the allegations in the claim in some detail given the seriousness of this motion. Although I may not always frame the following paragraphs expressly as "allegations", none of the

statements have been proven. I am obviously not making any finding of fact.

[4] The claim alleges discrimination against Mr. Olusegun and others by the Canada Revenue Agency and others. Mr. Olusegun is a lawyer from Nigeria who has become a licensed paralegal in Canada and is currently pursuing accounting studies at Carleton University.

[5] Mr. Olusegun applied for a pool with CRA advertised as “Business and Accounting Student Opportunities”. He qualified and was offered a position, which he accepted. He alleges that the job advertisement was subsequently changed but continues to differentiate between accounting students and other students. Mr. Olusegun contends that by self-identifying through the employment equity questionnaire as Black, he was categorized as a Black immigrant and perceived as an individual who could be exploited rather than valued. The job categories in the pool were SP4, SP5, ES1 and AU-AU1. He alleges that all immigrant and minority individuals were placed into the lower SP4 category. He also alleges that he was improperly required to upload a resumé, as no experience was required for the position; however, the real purpose of the resumé was for CRA to racially profile applicants.

[6] The job positing did not ask candidates to identify their preferred job categories or desired positions. Mr. Olusegun alleges that this was to allocate positions on a discriminatory basis. More than 80 students were hired from this pool with the more desirable positions going to white students whether they studied accounting or not. Mr. Olusegun points to the situation of an Asian student who was also placed in an SP4 position and states that “this clearly demonstrates a pattern of discriminatory placement based on race.”

[7] Mr. Olusegun also takes issue with his letter of employment, which did not specify the functions, or duties of the job “despite Canada being a developed country”. The other students received similar letters. More details could be found by following a link to a CRA Directive on Terms and Conditions of Employment. Mr. Olusegun contends that this is a deliberate choice to exploit individuals like him and the material should have been appended to the letter. Since filing a complaint with the CRA, the link has become ineffective and CRA refuses to provide it.

[8] When he started with CRA in January 2024, Mr. Olusegun noticed that everyone was an immigrant. He began conducting research and, during his four-month employment period, he noticed that those who held more advantageous positions were

consistently of Caucasian descent. This led him to question the presence of systemic racism within CRA. Many white accounting students were placed in the highly sought after AU-AU1 roles. Non-qualified white individuals were assigned to better positions in SP5. He was placed in a role that did not align with his requirements and was a lesser position than he deserved solely because he is a person of colour.

[9] Mr. Olusegun resigned from a job at TD Canada Trust because of systemic discrimination and chose to pursue an undergraduate degree.

[10] Before accepting the job through the student opportunity pool, he was in five different candidate pools with the CRA. The selection process for these pools lacks diversity as it permits managers to filter candidates based on race. Candidates are filtered based on race and this mirrors the patterns of exploitation and selective racial targeting observed in student recruitment. The government uses the pool system to gather data on applicants and selectively favour certain races for job placements.

[11] He was placed in a pool for “Various Entry-level SP-05 positions within Ontario Region” and subsequently received a questionnaire asking about previous experience with CRA. This amounts to the introduction of new criteria and is a misuse of taxpayer funds. After sending correspondence to CRA leadership threatening legal action, he received what he alleges as a tailored questionnaire, which was designed to elicit positive responses and manage CRA’s legal risk.

[12] The situation of Mr. Olusegun’s spouse is further evidence of discrimination as she was offered a position at a call centre with IRCC, which no Canadian with her qualification would have been offered.

[13] Mr. Olusegun takes further issues with internal hiring policies within the CRA and points to the “Job Aid for Managers on Student Recruitment” as an example. Managers have been observed selecting individuals of colour for less desirable roles while favouring white employees for positions that enhance their career prospects. Taxpayer money is being wasted by favouring certain races over hiring based on merit and capability. It is challenging to address this issue because managers are often shielded by unions. The Job Aid also directs that Canadian citizens and permanent residents should be given priority but this is irrelevant to people of colour.

[14] Mr. Olusegun also points to the “Directive on a Discrimination-Free Workplace” and to the “Employment Equity, Diversity and Inclusion at the CRA Annual Report 2022-2023.” In March of 2024, he lodged multiple complaints with CRA leadership but no one listened. Senior management eventually responded unprofessionally and inappropriately.

[15] The government, through CRA and other agencies, is favouring some groups over others to the detriment of taxpayers. It is against section 15 of the Charter to treat him differently. The system practiced by the Canadian government is more insidious than traditional slavery. Placing him in lower-tier positions slows down his accumulation of experience and time spent in relevant roles, significantly diminishing his chances of securing a better job in the future.

[16] The CRA job positing (sic) was objectionable as it was not fair and transparent. Employment at CRA should be considered a constitutional right.

[17] The social contract between Mr. Olusegun and the government of Canada has been met by him being in school with no criminal record.

[3] On January 9, 2025, Mr. Olusegun filed his Amended Claim which is the target of the present motion to strike. Although Mr. Olusegun did not highlight the changes made to the Initial Claim, it is fair to say that the Amended Claim is based on the exact same factual background. I will therefore point to the only changes made. Mr. Olusegun now asks for:

A. A declaration that the Defendant:

- i. breached the employment contract;
- ii. engaged in negligent misrepresentation;
- iii. engaged in fraudulent misrepresentation;
- iv. violated Sections 6 and 15 of the Canadian Charter of Rights and Freedoms (Charter), resulting in loss of dignity, emotional distress and financial losses;

B. An Order requiring the Canada Revenue Agency (CRA) to implement fair, equitable, and Charter-compliant

recruitment practices with regards to mobility and equality rights;

- C. Other declarations, orders and remedies pursuant to Section 24 of the Charter to remedy the alleged Charter rights violations and to prevent continuation of the violations of Charter rights;
- D. Compensation for financial losses, emotional distress and loss of career advancement opportunities;
- E. Pecuniary and non-pecuniary damages of \$1,000,000;
- F. Punitive damages of \$700,000;
- G. Pre-judgement and post-judgement interest.

[4] Mr. Olusegun alleges that the CRA's conduct constitutes:

- A. a breach of student employment contract by fraudulently misrepresenting that candidates in the student pool would be treated fairly and equally;
- B. negligent misrepresentation of the student pool recruitment process by indicating that positions would be assigned based on merit rather than race;
- C. fraudulent misrepresentation of the job advertisements related to the full-time pools by dishonestly changing the criteria to require CRA-specific work experience after the Plaintiff was included in the full-time pools;
- D. negligent misrepresentation by failing to provide accurate and complete information during the job application and recruitment process relating to the full-time pools, resulting in unfair treatment and exclusion from being considered for higher positions;
- E. a violation of Section 15 of the Charter by distinguishing between visible minority and white candidates and discriminating against visible minority candidates by relegating them to lower-tier positions;
- F. a failure to address systemic inequalities, contrary to the organization's stated commitment to anti-racism, equity and

inclusion and undermining the principle of equality enshrined in Section 15(1) of the Charter;

G. a violation of Section 6 of the Charter by failing to provide access to equal and fair economic opportunities;

H. a breach of reasonable expectations by representing that the job advertisement and recruitment processes would be fair, transparent and treat candidates equally based on their qualifications.

[5] Finally, at paragraphs 135 to 142, the Plaintiff comments on the December 18, 2024 Order of Associate Judge Moore. These comments are totally improper and irrelevant to the claims alleged. He also alleges that he faced discriminatory treatment in other contexts that are completely unrelated to the facts presented in the Amended Statement of Claim.

II. Issues

[6] This motion raises the following issues:

A. *Whether the Plaintiff's Amended Claim should be struck out in its entirety, without leave to amend, for failing to disclose any reasonable cause of action pursuant to Rule 221(1)(a); or*

B. *In the alternative, whether the Defendant should be granted an extension to serve and file a Statement of Defence.*

III. Analysis

A. *Whether the Plaintiff's Amended Claim should be struck out in its entirety, without leave to amend, for failing to disclose any reasonable cause of action pursuant to Rule 221(1)(a)*

[7] The test that a moving party must meet to strike a pleading pursuant to Rule 221(1)(a) of the *Federal Courts Rules* is whether it is plain and obvious that the claim cannot succeed (*Hunt v Carey Canada Inc*, [1990] 2 SRC 959; 1990 CanLII 90 (SCC)). Put another way, the claim must have “no reasonable prospect of success” (*R v Imperial Tobacco Canada Ltd*, 2011 SCC 42 at para 21).

[8] On a motion to strike, the facts, as pleaded, are assumed to be true, unless they are manifestly incapable of being proven or are patently ridiculous. The question before the Court is whether the Plaintiff would have any prospect of success, even if such facts are proven to be true.

[9] The Court is mindful of the fact that that the Plaintiff is a self-represented litigant and that as such, he should be given some leeway when drafting his proceedings. However, such considerations cannot give him any additional rights or special dispensation (see *Brunet v Canada (Revenue Agency)*, 2011 FC 551, at para 10). Self-represented litigants, like all other litigants, are subject to the provisions whereby courts maintain control of their proceedings and procedures. I will review the causes of action the Plaintiff attempts to advance and assess whether his Amended Claim discloses any material facts supporting it.

(1) Misrepresentation Claims and Breach of Contract

[10] A claim of negligent misrepresentation requires a plaintiff to plead material facts capable of establishing the following (*Butt v Canada*, 2024 FC 983 at para 20, citing *Queen v Cognos*, [1993] 1 SCR 87, [1993] SCJ No 3 (SCC) at para 34):

- 1) The defendant owed the plaintiff a duty of care based on a special relation between the parties;
- 2) The defendant made an untrue, inaccurate or misleading misrepresentation;
- 3) The defendant acted negligently in making the misrepresentation;
- 4) The plaintiff relied, in a reasonable manner, on the representation; and
- 5) The plaintiff suffered some detriment as a direct result of relying on the representation.

[11] The legal test for a claim in fraudulent misrepresentation is similar but requires an element of intention to deceive (*Fitzpatrick v Codiac Regional RCMP Force, District 12*, 2022 FC 841 at para 40). The plaintiff must plead material facts capable of establishing the following:

- 1) A false statement by the defendant;
- 2) The defendant knowing the statement is false or being indifferent to its truth or falsity;
- 3) The defendant having an intent to deceive the plaintiff;
- 4) The false statement being material and the plaintiff having been induced to act; and
- 5) The plaintiff suffering damages.

[12] At paragraph 34 of her Order, regarding the Initial Claim, AJ Moore states that “[t]here are suggestions of misrepresentation in the references to the promises made in the job advertisement or perhaps to breach of contract but neither is properly articulated.”

[13] The Amended Claim identifies statements made to the Plaintiff by CRA in its job advertisements that allegedly constitute both negligent and fraudulent misrepresentations. The Plaintiff alleges that these statements were false; he states he was offered and accepted a position with the same pay and benefits as other students with the same experience as him, all classified as SP-04, and believes that he should have been assigned work typically performed by employees at the more senior SP-05 position given he is an accounting student. The Plaintiff also states that being assigned “compliance payroll” tasks, which he says are those that ought to be performed by an employee at the SP-04 level, constituted a misrepresentation by CRA. According to him, the assignment of “compliance payroll” tasks to him, as an accounting student, shows the application process was not equitable and merit-based, as advertised.

[14] These facts are certainly not sufficient to support a cause of action of fraudulent misrepresentation but could support a claim in negligent misrepresentation or breach of contract. Put differently, it is not plain and obvious, when the allegations are taken as true, that the Amended Claim is doomed to fail on negligent misrepresentation or breach of contract.

[15] As stated by AJ Moore at paragraph 39 of her Order, “if promises were made for a job offerings, which were not kept, breach of contract and negligent misrepresentation may be viable causes of action.”

(2) Charter Claims

[16] At its heart, this is a discrimination claim which, if based on the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK), 1982, c 11 (Charter)*, it should be on section 15. The Amended Claim does not disclose any material fact regarding the mobility rights provided for by section 6(2)(b) of the Charter, so this provision should not even be considered on the merits of this case.

[17] To establish a breach of section 15, a plaintiff must demonstrate: (a) the existence of a distinction based on enumerated or analogous grounds, on its face or in its impact, and (b) that such distinction imposed a burden on or denied a benefit in a manner that has the effect of reinforcing, perpetuating, or exacerbating disadvantage (*R v Sharma*, 2022 SCC 39 at para 28).

[18] The Plaintiff has now made some reference to these essential elements in the Amended Claim. Although somewhat vague, the Plaintiff does allege material facts about the situation of the people of colour in his situation and particulars about the results of the CRA's assignment of work. The Plaintiff does provide some examples, and he alleges some facts regarding the demographics of the different CRA employees who trained him and observations of students asking their manager for promotions in group meetings. He alleges that Caucasian employees are systematically being offered roles equivalent to an SP-05 classification whereas Black employees were kept at an SP-04 level. Again, these have to be taken as true at this stage and it will be for the judge hearing the merits of the case to assess whether a section 15 claim is made out.

(3) Systemic Relief

[19] The *Crown Liability and Proceedings Act*, RSC 1985 c C-50, section 22(1) prohibits the Court from granting an injunction or making an order for specific performance against the Crown in the context of actions.

[20] AJ Moore held in no uncertain terms that the systemic-style injunctive relief sought in the Initial Claim had no reasonable prospect of success. The Plaintiff maintains his request for an order requiring the CRA to implement fair, equitable recruitment practices that are compliant with the Charter. This claim is doomed to fail and will be struck.

(4) Alternative Request for Extension of Time

[21] The Defendant requests an extension of time to serve and file a Statement of Defence within 30 days from the date of this Court's decision on this motion, pursuant to Rule 8(1). It will be granted.

IV. Conclusion

[22] Given the above reasons, the Defendant's motion to strike will be granted in part. Paragraphs 1(B), 1(F), and the words "6 and" in paragraph 1(E) will be struck from the Amended Statement of Claim because they set out causes of action that are doomed to fail, namely fraudulent misrepresentation and a violation of section 6 of the Charter, and request a systemic remedy requiring specific performance of the Crown, contrary to statute.

[23] Paragraphs 73 to 78 will be struck as they relate to the claim of fraudulent misrepresentation.

[24] Paragraphs 131 to 133 will be struck as they relate to the claim of a section 6 Charter breach.

[25] Paragraphs 135 to 142 will be struck because they are irrelevant to the claims alleged.

ORDER in T-2129-24

THIS COURT ORDERS that:

1. The Defendant's Motion is granted in part;
2. Paragraphs 1(B), 1(F), 73 to 78, 131 to 133, 135 to 142, and the words "6 and" from paragraph 1(E) of the Amended Statement of Claim are struck;
3. The Plaintiff has 30 days from the present order to file a Re-Amended Statement of Claim in accordance with the present Order and Reasons;
4. The Defendant will have 30 days from the filing of the Re-Amended Statement of Claim to file its Statement of Defence;
5. Costs in the amount of \$300 are granted to the Defendant.

"Jocelyne Gagné"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-2129-24

STYLE OF CAUSE: ISAAC OLUSEGUN v HIS MAJESTY THE KING

**MOTION IN WRITING CONSIDERED AT OTTAWA, ONTARIO PURSUANT TO
RULE 369 OF THE *FEDERAL COURTS RULES***

ORDER AND REASONS: GAGNÉ J.

DATED: APRIL 2, 2025

WRITTEN REPRESENTATIONS BY:

Isaac Olusegun

FOR THE PLAINTIFF
(ON HIS OWN BEHALF)

Taylor Andreas
Alex Dalcourt

FOR THE DEFENDANT

SOLICITORS OF RECORD:

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FOR THE DEFENDANT