

Federal Court



Cour fédérale

Date: 20250609

Docket: T-514-25

Citation: 2025 FC 1028

Ottawa, Ontario, June 9, 2025

PRESENT: The Honourable Mr. Justice Duchesne

BETWEEN:

**EDWARD TILLEY, ON BEHALF OF THE
ADVANCE PARTY OF CANADA, CANADA'S
CIVIC SCIENCE PARTY**

Plaintiff

and

**HIS MAJESTY THE KING, ON BEHALF OF
HIS ELECTIONS CANADA & PROVINCES**

Defendant

ORDER AND REASONS

[1] The Plaintiff has brought a motion in writing pursuant to Rules 51 and 369 of the *Federal Court Rules*, SOR/98-106 (the *Rules*) appealing an Order made by Associate Judge Horne on April 29, 2025 (the Striking Order), that struck his Statement of Claim pursuant to Rule 221(1)(a) and (c) of the *Rules* without leave to amend.

[2] For the reasons that follow, this motion and appeal are dismissed.

I. **Background**

[3] The Plaintiff commenced an action by way of Statement of Claim issued on February 11, 2025.

[4] As set out in the relief sought portion of his Statement of Claim, the Plaintiff sought:

- a) a declaration that the Defendant have violated democratic principles whether by choice or by force of Canadian legislatures and denied responsible and fair electoral competition;
- b) compensation estimated at a minimum of \$ 500 million dollars annually to ensure the o ensure the deprogramming of systemic mistraining which is now indoctrinated into Canadians after two decades of harmful ideology campaigns by corporate PAC and government funded schools and media;
- c) an electoral mandate reform Order by which the Court would mandate that ballots can only be populated by groups that are certified and monitored for Civic Science Compliance for a minimum 10-year period;
- d) that the action be heard and documented in a manner that optimizes its reuse for legal precedent in the future; and,
- e) any further relief and support for Civic Science Parties that the Court deems just and helpful to ensure a bright future for Canadians, including an Order that
 - i) puts an end to the processes that ferry feigned promises and galoots to our highest elected offices; and,
 - ii) generously funds Civic Science Parties - without 1000 citizen signature hurdles and impossible donation regulations.

[5] On March 19, 2025, the Defendant filed a motion in writing pursuant to Rule 369 of the *Rules* for an Order striking out the Plaintiff's Statement of Claim without leave to amend and for other alternative relief in the event that the pleading was not struck.

[6] Associate Judge Horne made the Striking Order on April 29, 2025, granted the Defendant's motion and struck out the Plaintiff's Statement of Claim without leave to amend. Associate Judge Horne found that the Statement of Claim did not disclose a reasonable cause of action within the meaning of Rule 221(1)(a) of the *Rules* and was scandalous and vexatious within the meaning of Rule 221(1)(c) of the *Rules*. He also found that the defects in the Statement of Claim were fundamental and could not be repaired with better drafting. He therefore refused to grant leave to amend.

[7] On May 9, 2025, the Plaintiff filed this motion in writing to appeal and set aside the Striking Order.

II. **The Motion Materials Filed**

[8] The Plaintiff filed the following materials in support of his appeal: a Notice of Motion, his affidavit sworn on May 9, 2025, with 2 attached exhibits, and written representations as required by Rule 364(1)(e) of the *Rules*. He also filed a document entitled "Factum Fertility" dated May 8, 2025, as well as two requests for legal documentation, the first being dated March 3, 2025, and the second being dated March 15, 2025.

[9] The Plaintiff has not produced any of the materials he may have filed in response to the Defendant's motion to strike his pleading, has not produced the Defendant's motion materials as they were before the Associate Judge, and did not file a copy of the Order he seeks to appeal. It follows that the Court does not have a copy of the Plaintiff's responding record and arguments that may have been before Associate Judge Horne when he considered the Defendant's motion to strike and made the Striking Order.

[10] The Defendant has filed a responding record containing his written representations and a copy of the Striking Order.

[11] The Plaintiff filed a Reply Memorandum of Fact and Law in reply to the arguments raised in the responding record.

III. Analysis

[12] An order striking a pleading pursuant to Rule 221(1) of the *Rules* is a discretionary order that is well within the jurisdiction of an associate judge.

[13] The Federal Court of Appeal clarified in *Hospira Healthcare Corporation v. Kennedy Institute of Rheumatology*, 2016 FCA 215 ("Hospira"), at para 64, that the applicable standard of review is that discretionary orders of associate judges (formerly referred to as prothonotaries) should only be interfered with when such decisions are incorrect in law or are based on a palpable and overriding error in regard to the facts. This flows from the application of the standard of review applicable to appeals set out in *Housen v. Nikolaisen*, 2002 SCC 33

(“*Housen*”) which the Federal Court of Appeal held in *Hospira* applies to appeals from orders made by associate judges.

[14] Pursuant to *Housen*, at para 8, “On a pure question of law, the basic rule with respect to the review of a trial judge’s findings is that an appellate court is free to replace the opinion of the trial judge with its own. Thus, the standard of review on a question of law is that of correctness.” A palpable and overriding error, however, is an error that is both obvious and apparent, “the effect of which is to vitiate the integrity of the reasons” (*Maximova v. Canada (Attorney General)*, 2017 FCA 230, at paragraph 5). The “palpable and overriding error” standard of review is highly deferential (*Collins v. Canada (Attorney General)*, 2023 FC 863, at para 17).

A. ***The Alleged Errors***

[15] Upon reading the Plaintiff’s written representations holistically and broadly, it appears that the Plaintiff alleges that the Associate Judge made 6 errors which are described as follow:

“The Plaintiff respectfully summarizes that this Court:

- Did - deny two requests for legal experts to format evidence (Factum/facts). One of these two example Factum is attached on Page 20.
- Did - Order a Judgment based on an explained-incomplete Statement of Claim and without a Statement of Defense and due process.
- Did - ignore the "high threshold" for Motion to Strike that it explained was important to preserve.
- Did - assure that Facts of Public Record cannot exist, and therefore cannot be recorded in the Courts Registry
- Did - explain that vexatious and unprovable Claims are "thrown in" (fabricated?) here

- Finally, the Judgment Order compels the Plaintiff to pay penalties above a documented norm of \$500 sought in other unrelated cases

[16] None of the errors suggested by the Plaintiff are errors that appear from the materials filed on this motion. Rather, the alleged and described errors reflect a misunderstanding of what a pleading such as a statement of claim is required to do in the context of an action and when the Court may legitimately strike a statement of claim without leave to amend.

[17] A statement of claim is an originating document pursuant to the *Rules*. It commences an action and is required to comply with the principles and rules of pleading that are set out in the *Rules* (*Brink v. Canada*, 2024 FCA 43, at paras 41, and 51 to 59 (*Brink*)). These rules of pleading require, pursuant to Rule 174, that “every pleading shall contain a concise statement of the material facts on which the party relies...” and, pursuant to Rule 181(1) that pleadings “contain particulars of every allegation contained therein”. Material facts that are pleaded are not to be conflated with evidence; evidence of the material facts alleged are not to be pleaded in a statement of claim (Rule 174).

[18] A statement of claim must include a pleaded cause of action. A “cause of action”, sometimes referred to as a “claim” depending on the circumstances, legislation, applicable rule or jurisdiction, may be summarized for the purposes of this Order as the basis upon which judicial redress or a remedy may be granted if specific facts are proven. It is a recognized or acceptable combination of facts and law that permits a litigant to sustain litigation and obtain a remedy that can be ordered by a court. Allegations of fact which, if proven, do not give rise to a remedy in law do not set out a cause of action. Similarly, the assertion of a remedy known in law

that is pleaded without sufficient alleged material facts in support does not set out a cause of action.

[19] As stated by the Federal Court of Appeal in *Brink* at paras 55 to 58:

[55] A statement of claim must allege and plead each constituent element of every cause of action with sufficient particularity, and each allegation must be supported by material facts. The bald assertion of conclusions does not constitute the pleading of material facts: *Mancuso*, above at para. 27; *Canadian Olympic Association v. USA Hockey, Inc.* (1997), 1997 CanLII 5256 (FC), 74 C.P.R. (3d) 348, 72 A.C.W.S. (3d) 346 (F.C.T.D.). Indeed, if the Court were to “[allow] parties to plead bald allegations of fact or mere conclusory statements of law, the pleadings would fail to perform their role in identifying the issues”: *Mancuso*, above at para. 17.

[56] What will constitute a material fact in a statement of claim in a given case is to be determined in light of the causes of action asserted and the damages sought. Plaintiffs must plead—in summary form but with sufficient detail—the constituent elements of each cause of action or legal ground raised. The pleading must tell the defendant the “who, when, where, how and what” of the actions that allegedly give rise to its liability: *Mancuso*, above at para. 19.

[57] An assessment of the sufficiency of the material facts pleaded in a statement of claim is contextual and fact-driven. There is no bright line between material facts and bald allegations, nor is there a bright line between the pleading of material facts and the prohibition on the pleading of evidence. They are, rather, points on a continuum. It is the responsibility of a motions judge, “looking at the pleadings as a whole, to ensure that the pleadings define the issues with sufficient precision to make the pre-trial and trial proceedings both manageable and fair”: *Mancuso*, above at para. 18.

[58] Plaintiffs can neither file inadequate pleadings and rely on defendants to request particulars, nor supplement insufficient pleadings to make them sufficient through particulars: *Mancuso*, above at para. 20; *AstraZeneca Canada Inc. v. Novopharm Limited*, 2010 FCA 112.

[20] The requirements of a reasonable cause of action were succinctly stated by Madame Justice Heneghan in *Oleynik v. Canada (Attorney General)*, 2014 FC 896, at para 5 as follows:

[5] According to the decision in *Bérubé v. Canada* (2009), 2009 FC 43 (CanLII), 348 F.T.R. 246 at paragraph 24, in order to disclose a reasonable cause of action, a claim must show the following three elements:

- i. allege facts that are capable of giving rise to a cause of action;
- ii. disclose the nature of the action which is to be founded on those facts; and
- iii. indicate the relief sought, which must be of a type that the action could produce and that the Court has jurisdiction to grant.

[21] As is articulated in scores of decisions from this Court as well as from other courts across Canada, a court's power to strike out pleadings that have no reasonable prospect of success because they disclose no reasonable cause of action is a valuable housekeeping measure essential to effective and fair litigation because, among others, it unclutters proceedings, weeds out hopeless claims, and ensures that those claims that have a chance of success may proceed to trial. This promotes litigation efficiency and correct results (*R. v. Imperial Tobacco Canada Ltd.*, 2011 SCC 42, at paras 17 to 20).

[22] A pleading will be struck pursuant to this Court's *Rules* when the threshold set out in Rule 221 is met. That threshold for the purposes of this appeal is whether, as set out in Rule 221(1)(a), a pleading discloses no reasonable cause of action, or as it set out in Rule 221(1)(c), a pleading is scandalous frivolous or vexatious. Significantly, the Rule 221(2) prescribes that no evidence shall be heard on a motion for an order pursuant to Rule 221(1)(a).

[23] The Court can now consider the errors alleged by the Plaintiff.

Error 1: *The alleged denial of two requests for legal experts to format evidence (Factum/facts).*

[24] There is no basis for the error as alleged by the Plaintiff as the Plaintiff has not led any evidence on this motion that the alleged requests for legal expert evidence were made or were before the Associate Judge, and there is no reference in the Striking Order to any such request having been made to the Associate Judge.

[25] In any event, as is set out in Rule 221(2) of the *Rules*, no evidence is admissible on a motion to strike a pleading pursuant to Rule 221(1)(a). The Associate Judge's decision was properly based on a review of the Statement of Claim itself. Legal expert evidence as suggested by the Plaintiff would not have been admissible or useful.

Error 2: *Order a Judgment based on an explained-incomplete Statement of Claim and without a Statement of Defense and due process.*

[26] The Plaintiff does not articulate his argument with respect to Error 2 in any detail in his written representations. There is nothing in the record on this motion that suggests that the Statement of Claim that was struck was incomplete from the Plaintiff's perspective other than his argument that it was incomplete. There is also no evidence that the Plaintiff's argument of incompleteness was ever made before the Associate Judge. The Plaintiff has not established an error, must less a reviewable error, by the Associate Judge on the basis of the incompleteness of the Plaintiff's Statement of Claim.

[27] It is a plaintiff's responsibility to ensure that his pleading is complete. The Court can properly infer that a pleading filed by a plaintiff is completed by (or for) the plaintiff to his satisfaction at the time that the plaintiff chooses to file it. Any amendments that may follow that initial filing are the plaintiff's responsibility. Arguing that one's pleading is incomplete is not a persuasive response to a motion to strike. It is also not persuasive on a motion to appeal from the order that struck the allegedly incomplete pleading.

[28] Rule 221(1) does not require a named defendant to serve and file a Statement of Defence prior to moving to strike a pleading. Rule 221(1) specifically provides otherwise by prescribing that, "On motion, the Court may, at any time, order that a pleading [...] be struck [...]".

[29] The Defendant brought a motion in writing and the Plaintiff had the opportunity to respond. There was no absence of "due process" before the Associate Judge.

[30] The Associate Judge made no error as alleged.

Error 3: Ignored the "high threshold" for Motion to Strike that it explained was important to preserve.

[31] As with the alleged Errors 1 and 2, there is nothing in the record on this motion record or in the Striking Order that suggests that the Associate Judge ignored the high threshold to be met by a moving party on a motion to strike a pleading. The Striking Order specifically notes at its paragraph 2 that the threshold to strike a claim is a high one, and at paragraph 4 that the court's

approach must be generous and err on the side of permitting a novel but arguable claim to proceed.

[32] The Associate Judge took due care and had fair regard to the allegations set out in the Plaintiff's Statement of Claim as well as their nature as political rather than legal argument prior to determining that no reasonable cause of action that fell within the jurisdiction of the Federal Court had been pleaded.

[33] The Associate Judge did not make any error as suggested by Plaintiff.

Error 4 Assure that Facts of Public Record cannot exist, and therefore cannot be recorded in the Courts Registry

[34] As with the previous alleged errors, there is nothing in the record on this motion or in the Striking Order that suggests that the Associate Judge made any order with respect to what could or could not be recorded in the court's registry. The Striking Order makes no reference to any such order. Alleged Error 4 is not established.

Error 5 Did not explain that vexatious and unprovable Claims are "thrown in"

[35] There is nothing in the record on this motion or in the Striking Order that suggests that the Associate Judge did not explain what was vexatious about the Plaintiff's Statement of Claim. Paragraph 12 of the Striking Order explains why the Associate Judge concluded that the Statement of Claim was scandalous and vexatious and sets out the legal precedent relied upon to support that conclusion. The Associate Judge made no error in doing so.

[36] The Associate Judge did not make any error as suggested by Plaintiff.

Error 6 The Striking Order compels the Plaintiff to pay penalties above a documented norm of \$500 sought in other unrelated cases

[37] As with the previous alleged errors, there is nothing in the record on this motion record that reflects any “well documented norm” of a costs order in the amount of \$ 500 in connection with a motion to strike. The Plaintiff alleged this error but has not led any evidence or argument in support of it.

[38] As set out in Rule 400(1), the Court has full discretion over the amount and allocation of costs awarded. In this case the Associate Judge applied Rules 400(4) and 407 and awarded costs in accordance with the column III of Tariff B. The Associate Judge did not make any error as alleged by Plaintiff.

IV. **Conclusions**

[39] The Associate Judge did not make any of the errors alleged by the Plaintiff. The Plaintiff’s appeal and this motion are dismissed.

[40] The Respondent has sought its costs of this motion. In accordance with Rules 400(1), 400(4) and 407 of the *Rules*, I exercise my discretion to award the Defendant and responding party his costs of this motion pursuant to Column III of Tariff B, Item 5, in the amount of \$ 1,260.00.

ORDER in T-514-25

THIS COURT ORDERS that:

1. The Plaintiff's motion is dismissed.
2. The Plaintiff is ordered to pay the Defendant his costs of this motion which are fixed at \$ 1,260.00.

"Benoit M. Duchesne"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-514-25

STYLE OF CAUSE: EDWARD TILLEY v. HMK

ORDER AND REASONS: DUCHESNE, J.

DATED: JUNE 9, 2025

**MOTION IN WRITING CONSIDERED AT OTTAWA, ONTARIO PURSUANT TO
RULES 51 AND 369 OF THE *FEDERAL COURTS RULES***

WRITTEN SUBMISSIONS BY:

Edward Tilley

FOR THE PLAINTIFF
(SELF-REPRESENTED)

Emmett Bisbee

FOR THE DEFENDANT

SOLICITORS OF RECORD:

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FOR THE DEFENDANT