Federal Court  Cour fédérale

Date: 20190410

Docket: T-251-18

Citation: 2019 FC 436

Toronto, Ontario, April 10, 2019

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

LAWRENCE FRANKLIN GLAZER

Plaintiff

and

THE ATTORNEY GENERAL OF CANADA ON BEHALF OF HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL REVENUE

Defendant

JUDGMENT AND REASONS

I. INTRODUCTION

[1] By a Statement of Claim issued on February 12, 2018, Mr. Glazer (the "Plaintiff") commenced an action against the Attorney General of Canada (the "Defendant") seeking the following relief:

(a) That this Honourable Court find that the debt of the Applicant is statute barred from collection pursuant to Section 221(3) of the Income Tax Act [*sic*] or Section 32 of the Crown Liability and Proceedings Act [*sic*], and should be extinguished;

(b) That, in the alternative, this Honourable Court find that the debt of the Applicant would produce undue hardship to the Applicant and should be extinguished;

(c) For an Order that the Respondent be estopped from withholding Income Tax refunds and other such funds due [*sic*] the Applicant;

(d) An accounting;

(e) Such other relief as in the nature of the case may require and to the Honourable Court may seem met; and

(f) Costs of this action. [*sic*]

(g) For an Order that all withheld funds of the Applicant should be returned to the Applicant with interest or alternately applied to any current arrears that may be owed to the Respondent.

II. BACKGROUND

[2] The Defendant filed a Statement of Defence on March 13, 2018. The Defence largely sets out facts about the Plaintiff's tax debt, his failure to object to or appeal any assessments within the time limited for doing so, the application of credits due to the Plaintiff by the Federal Government to the tax debt and the application of the limitation period in section 32 of the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, to the cause of action asserted in the Statement of Claim.

[3] By Notice of Motion, filed on July 30, 2018, the Defendant seeks summary judgment pursuant to the *Federal Courts Rules*, SOR/98-106 (the "Rules"), dismissing the Plaintiff's claim in its entirety.

[4] The Defendant filed the affidavit of Ms. Traci Wool in support of this motion.

[5] Ms. Wool is employed with the Canada Revenue Agency (the "CRA") as a Resource Officer. In her affidavit, she outlined the history of the Plaintiff's income tax debt arising for the 1994, 1995 and 1996 taxation years, as well as the history of collection action taken by the CRA, including the application of tax refunds to that debt. She provided details about that collection activity in paragraphs 13 to 20 of her affidavit.

[6] Ms. Wool also referred to a Notice of Objection filed by the Plaintiff in 2013 in respect of the 2012 taxation year. She deposed that a letter dated June 12, 2013 was sent to the Plaintiff, advising that he could only object to assessments of his tax debt, not to the outstanding balance. His objection was rejected as invalid.

[7] In response to the Defendant's Motion Record, the Plaintiff filed his affidavit, affirmed on September 11, 2018. He responded to the various statements made by Ms. Wool about the tax debt and collection activity that was undertaken by the CRA.

[8] The Plaintiff stated that he did not hear from the Edmonton Tax Services officer about the "accounting issue".

[9] The Plaintiff referred to illness from December 2010 until April 2017 relating to stress of litigation and that he was on long term disability. Although eligible to claim the Federal Disability Tax Credit for 2010 until the 2018 taxation year, he did not claim that credit "as I would have been denied the benefits the government sought to provide to me".

III. SUBMISSIONS

[10] The Defendant, that is the moving party, argues that the Plaintiff does not raise a genuine issue for trial and in any event, the "case is so doubtful that it does not deserve consideration by the Court".

[11] He submits that the limitation period for collection of the tax debt has not expired, that the Court has no jurisdiction to extinguish the tax debt and there is no basis for judicial prohibition with the obligations of the Minister of National Revenue in discharging her statutory duty of administering and enforcing the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.) (the "Act").

[12] For his part, the Plaintiff argues that the tax debt is statute based. Since the debt arose prior to the enactment of subsection 222(4) of the Act in 2004. Otherwise the Plaintiff submits that the tax debt was extinguished by operation of section 32 of the *Crown Liability and Proceedings Act*, *supra*, and by operation of the *Limitation Act*, R.S.B.C. 1996, c. 266.

[13] The Plaintiff also argues that the tax debt should have been frozen as of February 2005, thereby allowing him to claim the benefit of subsection 220(3.1) of the Act.

[14] Finally, the Plaintiff argues that there are grounds to find that this tax debt should be extinguished on grounds of hardship and that this is a triable issue.

IV. DISCUSSION AND DISPOSITION

[15] The test upon a motion for summary judgment pursuant to Rule 215 is whether the pleadings disclose a "genuine issue" for trial**.** Rule 215 of the Rules provides as follows:

If no genuine issue for trial	**Absence de véritable question litigieuse**
215 (1) If on a motion for summary judgment the Court is satisfied that there is no genuine issue for trial with respect to a claim or defence, the Court shall grant summary judgment accordingly.	215 (1) Si, par suite d'une requête en jugement sommaire, la Cour est convaincue qu'il n'existe pas de véritable question litigieuse quant à une déclaration ou à une défense, elle rend un jugement sommaire en conséquence.
Genuine issue of amount or question of law	Somme d'argent ou point de droit
(2) If the Court is satisfied that the only genuine issue is	(2) Si la Cour est convaincue que la seule véritable question litigieuse est :
(a) the amount to which the moving party is entitled, the Court may order a trial of that issue or grant summary judgment with a reference under rule 153 to determine the amount; or	a) la somme à laquelle le requérant a droit, elle peut ordonner l'instruction de cette question ou rendre un jugement sommaire assorti d'un renvoi pour détermination de la somme conformément à la règle 153;
(b) a question of law, the Court may determine the question and grant summary	b) un point de droit, elle peut statuer sur celui-ci et rendre un jugement sommaire en

judgment accordingly.	conséquence.
Powers of Court	**Pouvoirs de la Cour**
(3) If the Court is satisfied that there is a genuine issue of fact or law for trial with respect to a claim or a defence, the Court may	(3) Si la Cour est convaincue qu'il existe une véritable question de fait ou de droit litigieuse à l'égard d'une déclaration ou d'une défense, elle peut :
(a) nevertheless determine that issue by way of summary trial and make any order necessary for the conduct of the summary trial; or	a) néanmoins trancher cette question par voie de procès sommaire et rendre toute ordonnance nécessaire pour le déroulement de ce procès;
(b) dismiss the motion in whole or in part and order that the action, or the issues in the action not disposed of by summary judgment, proceed to trial or that the action be conducted as a specially managed proceeding	b) rejeter la requête en tout ou en partie et ordonner que l'action ou toute question litigieuse non tranchée par jugement sommaire soit instruite ou que l'action se poursuive à titre d'instance à gestion spéciale.

[16] According to the decision in *Trevor Nicholas Const. Co. Ltd v. Canada* (2011), 328 D.L.R. (4th) 665, each case must be considered in its own context. Where the necessary facts cannot be found or there are serious issues of credibility, a matter should proceed to trial.

[17] In this case, the evidence of Ms. Wool establishes that there is an existing tax debt. That debt exists pursuant to the Act.

[18] The Plaintiff seeks to have the debt "fixed" at a certain point in time and raises the issue of a limitation defence. He argues that the tax debt is time-barred because it arose prior to the enactment of subsection 222(4) of the Act in 2004. He also relies on section 32 of the *Crown Liability and Proceedings Act, supra*, which provides as follows:

Prescription and Limitation	**Prescription**
Provincial laws applicable	**Règles applicables**
32 Except as otherwise provided in this Act or in any other Act of Parliament, the laws relating to prescription and the limitation of actions in force in a province between subject and subject apply to any proceedings by or against the Crown in respect of any cause of action arising in that province, and proceedings by or against the Crown in respect of a cause of action arising otherwise than in a province shall be taken within six years after the cause of action arose.	**32** Sauf disposition contraire de la présente loi ou de toute autre loi fédérale, les règles de droit en matière de prescription qui, dans une province, régissent les rapports entre particuliers s'appliquent lors des poursuites auxquelles l'État est partie pour tout fait générateur survenu dans la province. Lorsque ce dernier survient ailleurs que dans une province, la procédure se prescrit par six ans.

[19] The Defendant, likewise, raises a limitation argument, relying on the provisions of the Act, that is subsection 222(4), which provides as follows:

Limitation period	**Délai de prescription**
(4) The limitation period for the collection of a tax debt of a taxpayer	**(4)** Le délai de prescription pour le recouvrement d'une dette fiscale d'un contribuable :
(a) begins	**a)** commence à courir :
(i) if a notice of assessment, or a notice referred to	**(i)** si un avis de cotisation, ou un avis visé au

in subsection 226(1), in respect of the tax debt is sent to or served on the taxpayer, after March 3, 2004, on the day that is 90 days after the day on which the last one of those notices is sent or served, and	paragraphe 226(1), concernant la dette est envoyé ou signifié au contribuable après le 3 mars 2004, le quatre-vingt-dixième jour suivant le jour où le dernier de ces avis est envoyé ou signifié,
(ii) if subparagraph (i) does not apply and the tax debt was payable on March 4, 2004, or would have been payable on that date but for a limitation period that otherwise applied to the collection of the tax debt, on March 4, 2004; and	**(ii)** si le sous-alinéa (i) ne s'applique pas et que la dette était exigible le 4 mars 2004, ou l'aurait été en l'absence de tout délai de prescription qui s'est appliqué par ailleurs au recouvrement de la dette, le 4 mars 2004;
(b) ends, subject to subsection (8), on the day that is 10 years after the day on which it begins.	**b)** prend fin, sous réserve du paragraphe (8), dix ans après le jour de son début.

[20] The Plaintiff argues that this provision does not apply to him since the tax debt arose before 2004.

[21] This argument cannot succeed. According to the decision in *Collins v. Canada (Customs and Revenue Agency)* (2005), 281 F.T.R. 303 at paragraph 10, the Court said:

> […] Subparagraph 22(4)(a)(ii) overrules any limitation period that existed prior to the adoption of Bill C-30. The effect of Bill C-30 was to amend the previous 6-year limitation period that was set out in the Act.

[22] I refer also to the decisions in *Markevitch v.Canada*, [2003] 1 S.C.R. 94 and *Gibson v. Canada* (2005), 334 N.R. 288 (F.C.A**)** where the Federal Court of Appeal said the following at paragraph 11:

> The amended section 222 of the *Income Tax Act* is, to use the words of Linden J.A. in *C.I. Mutual Funds Inc. v. Minister of National Revenue (Customs and Excise)*(1999), 236 N.R. 343; 99 G.T.C. 7075 (F.C.A.), at 7076, "amply clear so as to rebut any presumption against retroactive application." The amendment was introduced as a Parliamentary response to the Supreme Court of Canada decision in *Markevich*. It sets up, at subsection (4), a ten-year limitation period in income tax matters that replaces the six-year general limitation period set out in subsection 32(1) of the *Crown Liability and Proceedings Act*. It goes on in subsection (10) to ensure that the amendment applies to any judgment made after March 3, 2004 that declares a tax debt not to be payable by a taxpayer because a limitation period ended before Royal Assent was given. Subsection (10) goes even further in deeming such tax debt to have become payable on March 4, 2004. The impugned judgment having been made on June 4, 2004, there is no doubt that the tax debt here at issue is deemed to have become payable on March 4, 2004 and that the limitation period expires on March 3, 2014.

[23] In *Thandi (Re)*, 2017 BCSC 1201, the British Columbia Supreme Court at paragraph 27 commented upon the limitation period set out in subsection 222(4) and the effect upon that limitation period when payments are made against a tax debt, as follows:

> Turning to whether the claim is barred due to the limitation period in the ITA, as noted above, the general limitation period to collect debts under s. 222(4) is 10 years for collection of a debt arising from an assessment that was issued prior to March 4, 2004. However, the limitation period can be restarted under s. 222(5). The relevant parts of that section state that a limitation period

> restarts on any day on which "the taxpayer acknowledges the tax debt" or any day on which "the Minister commences an action to collect the tax debt". […]

[24] Pursuant to subsection 222(5) of the Act, the limitation period starts again when the Minister takes "an action to collect the tax debt". Subsection 222(5) provides as follows:

Limitation period restarted	**Reprise du délai de prescription**
(5) The limitation period described in subsection (4) for the collection of a tax debt of a taxpayer restarts (and ends, subject to subsection (8), on the day that is 10 years after the day on which it restarts) on any day, before it would otherwise end, on which	**(5)** Le délai de prescription pour le recouvrement d'une dette fiscale d'un contribuable recommence à courir — et prend fin, sous réserve du paragraphe (8), dix ans plus tard — le jour, antérieur à celui où il prendrait fin par ailleurs, où, selon le cas :
(a) the taxpayer acknowledges the tax debt in accordance with subsection (6);	**a)** le contribuable reconnaît la dette conformément au paragraphe (6);
(b) the Minister commences an action to collect the tax debt; or	**b)** le ministre entreprend une action en recouvrement de la dette;
(c) the Minister, under subsection 159(3) or 160(2) or paragraph 227(10)(a), assesses any person in respect of the tax debt.	**c)** le ministre établit, en vertu des paragraphes 159(3) ou 160(2) ou de l'alinéa 227(10)a), une cotisation à l'égard d'une personne concernant la dette.

[25] According to subsections 222(1) and 164(2) of the Act, “an action to collect the tax debt” includes the application of a refund due from the Federal Government or, sometimes, from a Provincial Government, to an outstanding tax debt.

[26] Subsections 222(1) and 164(2) of the Act provides a follows:

Definitions	**Définitions**
222 (1) The following definitions apply in this section.	**222 (1)** Les définitions qui suivent s’appliquent au présent article.
action means an action to collect a tax debt of a taxpayer and includes a proceeding in a court and anything done by the Minister under subsection 129(2), 131(3), 132(2) or 164(2), section 203 or any provision of this Part. (action)	**action** Toute action en recouvrement d’une dette fiscale d’un contribuable, y compris les procédures judiciaires et toute mesure prise par le ministre en vertu des paragraphes 129(2), 131(3), 132(2) ou 164(2), de l’article 203 ou d’une disposition de la présente partie. (action)
tax debt means any amount payable by a taxpayer under this Act. (dette fiscale)	**dette fiscale** Toute somme payable par un contribuable sous le régime de la présente loi. (tax debt)
Refunds	**Remboursement**
164 (1) If the return of a taxpayer’s income for a taxation year has been made within 3 years from the end of the year, the Minister	**164 (1)** Si la déclaration de revenu d’un contribuable pour une année d’imposition est produite dans les trois ans suivant la fin de l’année, le ministre :
(a) may,	**a) peut faire ce qui suit :**
(i) before sending the notice of	**(i)** avant d’envoyer l’avis de cotisation

assessment for the year, where the taxpayer is, for any purpose of the definition refundable investment tax credit (as defined in subsection 127.1(2)), a qualifying corporation (as defined in that subsection) and claims in its return of income for the year to have paid an amount on account of its tax payable under this Part for the year because of subsection 127.1(1) in respect of its refundable investment tax credit (as defined in subsection 127.1(2)), refund all or part of any amount claimed in the return as an overpayment for the year, not exceeding the amount by which the total determined under paragraph (f) of the definition refundable investment tax credit in subsection 127.1(2) in respect of the taxpayer for the year exceeds

pour l'année — si le contribuable est, pour l'application de la définition de crédit d'impôt à l'investissement remboursable au paragraphe 127.1(2), une société admissible au sens de ce paragraphe qui, dans sa déclaration de revenu pour l'année, déclare avoir payé un montant au titre de son impôt payable en vertu de la présente partie pour l'année par l'effet du paragraphe 127.1(1) et relativement à son crédit d'impôt à l'investissement remboursable au sens du paragraphe 127.1(2) — rembourser tout ou partie du montant demandé dans la déclaration à titre de paiement en trop pour l'année, jusqu'à concurrence de l'excédent du total visé à l'alinéa c) de la définition de crédit d'impôt à l'investissement remboursable au paragraphe 127.1(2) sur le

the total determined under paragraph (g) of that definition in respect of the taxpayer for the year,

total visé à l'alinéa d) de cette définition, quant au contribuable pour l'année,

(ii) before sending the notice of assessment for the year, where the taxpayer is a qualified corporation (as defined in subsection 125.4(1)) or an eligible production corporation (as defined in subsection 125.5(1)) and an amount is deemed under subsection 125.4(3) or 125.5(3) to have been paid on account of its tax payable under this Part for the year, refund all or part of any amount claimed in the return as an overpayment for the year, not exceeding the total of those amounts so deemed to have been paid, and

(ii) avant d'envoyer l'avis de cotisation pour l'année — si le contribuable est une société admissible, au sens du paragraphe 125.4(1), ou une société de production admissible, au sens du paragraphe 125.5(1), et si un montant est réputé par les paragraphes 125.4(3) ou 125.5(3) avoir été payé au titre de son impôt payable en vertu de la présente partie pour l'année — rembourser tout ou partie du montant demandé dans la déclaration à titre de paiement en trop pour l'année, jusqu'à concurrence du total des montants ainsi réputés avoir été payés,

(iii) on or after sending the notice of assessment for the year, refund any overpayment

(iii) au moment de l'envoi de l'avis de cotisation pour l'année ou par la suite, rembourser

for the year, to the extent that the overpayment was not refunded pursuant to subparagraph (i) or (ii); and

tout paiement en trop pour l'année, dans la mesure où ce paiement n'est pas remboursé en application des sous-alinéas (i) ou (ii);

(b) shall, with all due dispatch, make the refund referred to in subparagraph (a)(iii) after sending the notice of assessment if application for it is made in writing by the taxpayer within the period within which the Minister would be allowed under subsection 152(4) to assess tax payable under this Part by the taxpayer for the year if that subsection were read without reference to paragraph 152(4)(a).

b) doit effectuer le remboursement visé au sous-alinéa a)(iii) avec diligence après avoir envoyé l'avis de cotisation, si le contribuable en fait la demande par écrit au cours de la période pendant laquelle le ministre pourrait établir, aux termes du paragraphe 152(4), une cotisation concernant l'impôt payable en vertu de la présente partie par le contribuable pour l'année si ce paragraphe s'appliquait compte non tenu de son alinéa a).

Application to other debts

(2) Instead of making a refund or repayment that might otherwise be made under this section, the Minister may, where the taxpayer is, or is about to become, liable to make any payment to Her Majesty in right of Canada or in right of a province, apply the amount of the refund or repayment to that other liability and notify the

Imputation du remboursement

(2) Lorsque le contribuable est redevable d'un montant à Sa Majesté du chef du Canada ou du chef d'une province ou est sur le point de l'être, le ministre peut, au lieu de rembourser un paiement en trop ou une somme en litige, qui pourrait par ailleurs être remboursé en vertu du présent article, imputer la somme à rembourser sur ce dont le

taxpayer of that action.	contribuable est ainsi redevable et en aviser celui-ci.

[27] By letter dated February 17, 2005, attached as Exhibit C to the affidavit of Ms. Wool, a Collection Enforcement Officer of the CRA advised the Plaintiff that the Agency would not "legally collect" the arrears for the 1994, 1995 and 1996 taxation years. That letter also advised that credits due to the Plaintiff from the Federal Government, including "Goods and Services Credit or Income Tax refunds" would be applied to those arrears.

[28] The combined operation of the provisions quoted above means that the Plaintiff's tax debt to the Defendant is not time-barred. He cannot claim the benefit of the limitation period set out in the *Crown Liability and Proceedings Act, supra* since that provision is overridden by the limitation period set out in the Act.

[29] I agree with the submissions made by the Defendant that the Plaintiff's tax debt remains "legally collectable".

[30] Section 164 of the Act allows the Minister to apply any tax overpayments and any refunds due from the Federal Government to the Plaintiff's tax debt.

[31] Although the Plaintiff referred to the *Limitation Act*, *supra*, he did not make specific arguments as to how that legislation applies or can assist him. The current *Limitation Act*, S.B.C. 2012, c. 13, provides different time frames for commencement of an action but in the absence of

specific arguments from the Plaintiff, I see no basis for considering that legislation in respect of the within Notice of Motion.

[32] The limitation arguments advanced by the Plaintiff cannot succeed. These arguments do not disclose a genuine issue for trial.

[33] Likewise, I see no genuine issue for trial with respect to the Plaintiff's request for the extinguishment of the tax debt.

[34] In his written submissions, counsel for the Defendant described four scenarios where a tax debt could be "extinguished" in whole or in part, as follows:

> 1. Subsection 220(3.1) of the *Income Tax Act* allows the Minister to waive or cancel all or any portion of any penalty or interest payable by a taxpayer; however, the Minister may not grant such relief for more than ten years (i.e., an application in 2018 could address interest since 2008 but not earlier);
>
> 2. Upon the tax debtor's successful completion of a proposal pursuant to the *Bankruptcy and Insolvency Act*;
>
> 3 Upon the tax debtor's discharge from bankruptcy; and
>
> 4. Upon the granting of a remission order by the Governor in Council, pursuant to the *Financial Administration Act*.

[35] I agree with the Defendant's argument that there is no evidence that the Plaintiff has followed any of these options. A party responding to a motion for summary judgment is obliged

to present evidence to answer the allegations of the moving party. I refer to the decision in *Watson v. Canada*, 2017 FC 321 at paragraph 22 where the Court said the following:

> In a motion for summary judgment, the moving party must establish that there is no genuine issue for trial (*Federal Courts Rules*, Rule 214). This is a heavy burden. Summary judgment will be granted only in the "clearest of cases" (*Pinder v. Canada*, 2015 FC 1376 at para 61, aff'd 2016 FCA 317). While the burden falls on the moving party, both parties must put their best foot forward (*Samson First Nation v. Canada*, 2015 FC 836 at paras 94-99, aff'd 2016 FCA 223 [*Samson First Nation*]; *Lameman* at para 11).

[36] Finally, there is the Plaintiff's request that the Minister be "estopped" from applying income tax refunds and other monies due to the Plaintiff, including monies due from the province of Alberta, to his tax debt.

[37] The answer to this prayer for relief lies in section 224.1 of the Act which provides as follows:

Recovery by deduction or set-off	**Recouvrement par voie de déduction ou de compensation**
224.1 Where a person is indebted to Her Majesty under this Act or under an Act of a province with which the Minister of Finance has entered into an agreement for the collection of the taxes payable to the province under that Act, the Minister may require the retention by way of deduction or set-off of such amount as the Minister may specify out of any amount that may be or become payable to the person by Her Majesty in	**224.1** Lorsqu'une personne est endettée envers Sa Majesté, en vertu de la présente loi ou en vertu d'une loi d'une province avec laquelle le ministre des Finances a conclu un accord en vue de recouvrer les impôts payables à la province en vertu de cette loi, le ministre peut exiger la retenue par voie de déduction ou de compensation d'un tel montant qu'il peut spécifier sur tout montant qui peut être ou qui peut devenir payable à cette personne par Sa

right of Canada. Majesté du chef du Canada.

[38] Although no evidence was submitted to support the existence of an agreement between the province of Alberta and the Federal Government about the collection of taxes payable to the province of Alberta, Ms. Wool deposed in her affidavit that “Alberta leadership rebates” were applied to the Plaintiff’s tax debt and notice of such payment was given to him.

[39] In the result, I am satisfied that on the basis of evidence submitted and the arguments resented, both written and oral, that the Defendant has met the test of showing that no genuine issue for trial arises from the Plaintiff’s Statement of Claim.

[40] The motion for summary judgment will be granted and the Statement of Claim will be dismissed in its entirety.

[41] The Defendant seeks costs upon this motion.

[42] Pursuant to Rule 400(1) of the Rules, costs lie wholly in the discretion of the Court. Having regard to the circumstances of the Plaintiff as outlined in his affidavit, in the exercise of my discretion I make no order as to costs.

JUDGMENT in T-251-18

THIS COURT'S JUDGMENT is that the Motion for Summary Judgment is granted and the Plaintiff's action is dismissed in its entirety.

In the exercise of my discretion pursuant to the *Federal Courts Rules*, SOR/98-106, I make no Order as to costs.

"E. Heneghan"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-251-18
STYLE OF CAUSE:	LAWRENCE FRANKLIN GLAZER v THE ATTORNEY GENERAL OF CANADA ON BEHALF OF HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL REVENUE
PLACE OF HEARING:	EDMONTON, ALBERTA
DATE OF HEARING:	OCTOBER 15, 2018
JUDGMENT AND REASONS:	HENEGHAN J.
DATED:	APRIL 10, 2019

APPEARANCES:

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Daniel Segal	FOR THE DEFENDANT

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