

Federal Court



Cour fédérale

Date: 20171024

Docket: T-1218-17

Citation: 2017 FC 947

Ottawa, Ontario, October 24, 2017

PRESENT: The Honourable Mr. Justice Brown

BETWEEN:

SAJJAD ASGHAR

Plaintiff

and

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Defendant

JUDGMENT AND REASONS

I. Nature of the Matter

[1] This is a motion for an interlocutory injunction brought by the Plaintiff against the Defendant, which was heard together with an application by the Defendant to strike the Plaintiff's action as disclosing no reasonable cause of action and being frivolous and vexatious, both motions having been heard in Toronto on September 26, 2017. The Plaintiff represented himself.

II. Facts

[2] The Plaintiff's action is contained in his Statement of Claim which includes the following (various legal citations added or corrected):

The plaintiff's (sic) claim:

**word constitution entails all the relevant Canadian and international law and obviously the underlying *Constitution Act*.

**words proxy and/or pawn mean/s a person, a group, a department or a party being used by the defendant hiding and supervising in the background.

**Worthy court may make a note of this that this claim speaks about the defendant run organized crime network across the board comprising several Government and sub-government tiers, the municipal departments and the public operating outside the constitution as an organized crime ring. This distinction must be understood before jumping to rash conclusions.

**immigration and refugee protection act covers only between 2000-2004 time frame of this claim yet is the underlying act in toto.

**terms organized crime, organized terrorism and international organized crime have been interchangeably used.

Declarations that:

Conspiracy, The defendant has conspired with the United States Government against the plaintiff on the contrary to The *Constitution Act*, 1982, Schedule B to the *Canada Act* 1982 (UK), 1982, c 11 [the *Constitution*]; the *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act*, 1982, being Schedule B to the *Canada Act* 1982 (UK), 1982, c 11 [the *Charter*], the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 [the *Human Rights Act*], the *Canadian Multiculturalism Act*, R.S.C., 1985, c. 24 [the *Multiculturalism Act*], the *Citizenship Act*, R.S.C., 1985, c.

C-29 [the *Citizenship Act*] and the *Criminal Code*, R.S.C., 1985, c. C-46 [*Criminal Code*], etc.

The defendant is harboring a network of organized terrorists inside Canada working against the plaintiff on the contrary to the *Constitution*, the *Charter*, the *Human Rights Act*, the *Multiculturalism Act*, the *Citizenship Act* and the *Criminal Code*.

The defendant has targeted the security of life, all essential services and their quality, general quality of life and good life, constitutional rights etc. of the plaintiff by conducting supervised international organized crime directly and via hired proxy network since 2007 contrary to the *Constitution*, the *Charter*, the *Human Rights Act*, the *Multiculturalism Act*, the *Citizenship Act*, etc.

Defendant and its hired proxy network have supervised and allowed unlawful assemblies and lawful assemblies turning unlawful under supervised organized crime targeting the plaintiff on the contrary to the *Constitution*, the *Charter*, the *Human Rights Act*, the *Multiculturalism Act*, the *Citizenship Act* and the *Criminal Code*, etc.

Defendant has abused federal departments such as Canada Border Services Agency (CBSA), Immigration Canada and Canadian Intelligence (CSIS) to target the plaintiff as part of the United States conspired organized crime scheme against the *Constitution*, the *Charter*, the *Human Rights Act*, the *Citizenship Act*, the *Multiculturalism Act*, etc.

Defendant and its hired proxy network have obstructed and sabotaged plaintiff's life, all professional and social opportunities and have smothered plaintiff's fundamental rights to life, good life and security of life on the contrary to the *Constitution*, the *Charter*, the *Human Rights Act*, the *Citizenship Act*, the *Multiculturalism Act*, etc.

Defendant and its hired proxy network have conducted hate organized crime targeting the plaintiff and have caused fear of safety and security of life on the contrary to the *Constitution*, the *Charter*, the *Human Rights Act*, the *Citizenship Act*, the *Multiculturalism Act*, etc.

Defendant and its hired proxy network have conducted and permitted hacking via information technology, use of injurious magic and spirits for theft and causing severe body pains and injury, public and departmental illegal surveillance on the plaintiff contrary to the *Constitution*, the *Charter*, the *Human Rights Act*,

the *Citizenship Act*, the *Multiculturalism Act* and the *Criminal Code*, etc.

Defendant has caused misfeasance, malfeasance and nonfeasance in the public offices contrary to the *Constitution*, the *Charter*, the *Human Rights Act*, the *Citizenship Act*, the *Multiculturalism Act*, the civil code and the *Criminal Code*, etc.

Fraud, citizenship and immigration fraud and breach of the original immigration agreement by the defendant on the contrary to the *Constitution*, the *Citizenship Act* and the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 [IRPA].

Malicious falsehood by the defendant contrary to the *Constitution Act*.

Discrimination by the defendant, its departments and the hired proxy network contrary to the *Constitution*, the *Charter*, the *Human Rights Act*, the *Citizenship Act*, the *Multiculturalism Act*, etc.

Stop on livelihood by the defendant and hired proxy network as part of organized crime scheme contrary to the *Constitution*, the *Charter*, the *Human Rights Act*, the *Citizenship Act*, the *Multiculturalism Act* and the *Criminal Code*, etc.

Stop on love life, finding a wife of choice and lawfully making a family by the defendant and hired proxy network as part of international organized crime scheme contrary to the *Constitution*, the *Charter*, the *Human Rights Act*, the *Citizenship Act*, the *Multiculturalism Act* and the *Criminal Code*, etc.

Religion based targeting by the defendant and hired proxy network as part of organized crime scheme contrary to the *Constitution*, the *Charter*, the *Human Rights Act*, the *Citizenship Act*, the *Multiculturalism Act* and the *Criminal Code*, etc.

Negligence by the defendant and hired proxy network as part of organized crime scheme contrary to the *Constitution*, the *Charter*, the *Human Rights Act*, the *Citizenship Act*, the *Multiculturalism Act* and the *Criminal Code*, etc.

Defamation and loss of reputation by the defendant and hired proxy network as part of organized crime scheme, planning and distribution of data and information contrary to the *Constitution*, the *Charter*, the *Human Rights Act*, the *Citizenship Act*, the *Multiculturalism Act* and the *Criminal Code*, etc.

Defendant has breached the *Constitution*, the *Citizenship Act*, the *Immigration and Refugee Protection Act*, the *Charter*, the *Human Rights Act*, the *Multiculturalism Act*, the *Criminal Code* and *IRPA*, etc.

[3] The Plaintiff requests an interlocutory injunction containing the following relief:

1. stopping the defendant, its departments, its agents, vicarious liabilities, sub-tiers, civilians in the public men-women-kids-animals-machines, all terrorists/organized crime network that includes provincial, municipal police (OPP, TPS etc), employers etc. who are committing organized crime from interfering, targeting and ganging up against the plaintiff and a thorough investigation and reporting under a commission ordered by the worthy court.
2. stopping the management and all staff present and past associated or affiliated in any capacity with the Louisiana Tech University and residents of the town of Ruston, Louisiana, USA from entering Canada and more specifically a radius of 200 miles within the vicinity of the plaintiff especially criminals Dean Student Life Dickie Crawford, Housing Head Clerk Sam Speed, Administrator Jim King, FBI agent Ben Marriott, Professor Hisham Hegab, Griffin(female) etc, any priests, pastors, missions or Christian church affiliations from Ruston, Louisiana all inclusive keeping plaintiff's fundamental rights, safety and security of life in perspective.
3. monitoring all United States incoming and outgoing calls from and to the defendant's offices, including departments and also from and to the Toronto Police Service divisions and branches and the civilians living within 200 miles of the plaintiff. This monitoring would include the radio frequency and within department communication of the Toronto Police Service, Toronto Fire, EMS and Ontario Provincial Police. Besides this, monitoring of the OPP and Toronto Police Service vehicles within the vicinity and area of movement of the plaintiff as well as the exact coordinates of on foot cops. This includes going through records of calls and emails since 2006 until today. Investigation by the commission as in (i).
4. stopping defendant, police and other Government departments (defendant and other colluding sub-tiers) including all civilians and especially negroes, Chinese/mandarin, sri lankans and white males and females in the areas of downtown Toronto, Bay-

Bloor and Yorkville, Yonge-Eglinton and Yonge-Sheppard-Finch neighborhoods and the city of Toronto in general and within the vicinity of plaintiff's area of movement from snitching, pawning, stalking, bullying, committing street organized crime, attacking and conducting unlawful assemblies and supervised organized crime targeting the plaintiff including a thorough investigation conducted by the commission as in (i) above.

5. Restraining all Aerospace, Mechanical Engineering and engineering software employers from committing organized crime and professional misconduct, false job postings, targeting and discrimination attack on the plaintiff within the Toronto and the Greater Toronto areas including a thorough investigation and reporting by the commission as in (i).

6. stopping the white female prostitution ring in the Toronto and Greater Toronto areas being supervised by the defendant and the Toronto Police Service from snitching, running surveillance, marshalling, removing attractive women, activating attractive white female curfew, building dating and entertainment regimens under the mafia, canvassing, recruiting, bribing, setting up, arranging dates, introducing randoms, sabotaging and attacking the love life of the plaintiff including a thorough investigation by the commission as in (i). These bribed everyday white females are not hookers in real life and have nothing to do with any call girl business.

7. arranging personalized and essential Government financial assistance/stipend immediately by the defendant @ roughly \$23,000/month net and tax free meeting the amenities and needs of the plaintiff as per the required quality of life and good life commensurate with the qualifications and skills of the plaintiff as an Aeronautical Engineer based on \$275,000/year. This amount is partial and exact amount has been sought in the remedies section below which is non injunctive and trial dependant.

8. arranging the availability of sex of choice for the plaintiff immediately by the defendant.

9. making arrangements to introducing potential matrimonial connections and arrangements made by the defendant to facilitate making of the family of the plaintiff immediately.

10. Providing a top line Toronto based private investigative company to the plaintiff with at least two private investigators assigned to the plaintiff by the defendant.

11. ordering the defendant to publicly denounce false national character of the terrorist Canadian community in the context of the plaintiff with a court approved statement with endorsed consent of the plaintiff.

[4] In his action, and in addition to interest and costs, the Plaintiff seeks the following:

The plaintiff is seeking the following damages and other remedies from the defendant:

(i) After a non-stop orchestrated fraud on the plaintiff's self-employment and employment by the defendant and hired organized crime proxy network of federal departments, municipal police, Canadian public and Canadian employers since 2000 and especially since 2007 it does not make sense for the plaintiff to work or seek work, except until forced, from any Canadian employer including the defendant or to canvass heavily terrorist and organized crime minded Canadian public for business and self-employment keeping the safety of life of the plaintiff in perspective in the light of legally proven facts and believable facts. Plaintiff is seeking a perpetual(permanent) stipend/Government assistance of **\$275,000/year** tax free (net) from the defendant for his basic lifestyle based on his profession and qualifications. Increasing adjustments to this number would happen with market changes and time. This is the current market salary of an engineer of the plaintiff's stature. Plaintiff seeks an additional permanent stipend amount of \$2,000,000 (\$2M net) annually tax free based on obstructed and targeted self-employment. Defendant run proxy public and employer organized crime network sabotaged plaintiff's livelihood, committed premeditated and post-meditated fraud and can be and has been proven without contest. Plaintiff would have made these numbers rather comfortably in the absence of this organized crime.

(ii) Plaintiff is seeking a living space of his choice from the defendant the price of which would be upwards of **\$10,000,000 (\$10M)** at a location of plaintiff's choice, this place, its maintenance and its compatible replacement of choice when desired by the plaintiff would be perpetually paid by the defendant. This is the rough price of a residence that the plaintiff would have made rather comfortably if he was not criminally terrorized and targeted under the wings of the defendant and its proxy network.

(iii) Plaintiff is seeking a transport of choice such as *Lamborghini Avalon* which plaintiff would have earned rather

comfortably if he was not criminally obstructed and sabotaged by the defendant and its organized crime proxy network against the constitution.

(iv) Plaintiff is seeking **\$500,000,000 (\$500M)** from the defendant for immigration and citizenship fraud and for double crossing and selling plaintiff's legal rights and life to thugs from the United States without cause which is against the immigration and citizenship agreement between the plaintiff and the defendant.

(v) Plaintiff is seeking his wife from the defendant. This would entail a system that would introduce the plaintiff to several girls of his choice on a weekly and daily basis without hassle and the process may be refined based on the rules of courtship under plaintiff's instructions. Defendant's proxy organized crime network that includes Federal departments such as CBSA, Ontario Ministry of Community Safety and correctional services, Canadian Municipal Police such as TPS, other Government departments and public members of the recruited terrorist cell were and are being used to stop and target plaintiff's love life and sabotage the fundamental right to life, goodlife, finding a wife of choice and lawfully making a family which is against the fundamentals of justice in any society and violation of it is against the law. The damages and emotional injury caused by that are priceless but plaintiff is seeking only a humble amount of **\$500,000,000 (\$500M)** in general, punitive and aggravated damages besides the defendant finding plaintiff's wife and then staying on the lookout.

(vi) Plaintiff is seeking an additional payment covering lost assets, all forced debts, uncalled for arrears, outstanding bills, legal costs etc. from the defendant. That amount size will be provided by the counsel of the plaintiff at the right time.

(vii) Plaintiff is seeking seamless surveillance, security and provision of private investigative services to the plaintiff on residential premises and outside and to his family including his future family when he makes one, from the organized terrorists in Canada inside and outside the Government departments and in the public working as a proxy network.

(viii) Plaintiff is seeking an order to carry a weapon in public inside Canada for his safety.

(ix) Plaintiff is seeking \$1B in General damages.

(x) Plaintiff is seeking \$500M for roughly two decades long loss of enjoyment and deprivation of life. Plaintiff is seeking special

damages in the amount of \$1.2M for obstruction and loss of professional employment.

(xii) Plaintiff is seeking special damages for conspiracy in the amount of \$12.3M.

(xiii) Plaintiff is seeking \$500M in aggravated, punitive and exemplary damages.

(xiv) Plaintiff is seeking \$500M in damages for emotional distress.

(xv) Plaintiff is seeking \$500M in bad faith damages etc.

(xvi) Plaintiff is seeking \$500M in other compensatory damages due to the defendant emotionally, financially and socially targeting and hurting the plaintiff by not fulfilling its domestic and international duties.

(xvii) Plaintiff is seeking \$500M in negligence.

(xviii) Plaintiff is seeking \$1B in defamation and reputation loss.

(xix) Plaintiff is seeking \$500M for discrimination and violation of *Canadian Human Rights Act*.

(xx) Plaintiff is seeking \$500M for breach of *Charter*.

(xxi) Plaintiff is seeking \$500M for breach of *Multiculturalism Act*.

(xxii) Plaintiff is seeking remedy against the sources of spirits, magic and body organ and limbs attacking methods which must be investigated and busted. **Hint:** ask the terrorists defendant is harboring.

(xxiii) Remedy that an investigative commission be ordered and accounted for by and to the court quarterly.

(xxiv) Remedy that whatever order court gives the defendant to implement is accounted for and reported to the court besides an order giving plaintiff direct contacts to communicate in law enforcement and the defendant's departments.

(xxv) A permanent order that no jury from the Canadian public will ever conduct plaintiff's trial.

(xxvi) A permanent order that no Government official and/or public member from Canada will ever be allowed in as a witness against the plaintiff unless forensically and electronically proven from both inside and outside Canada.

(xxvii) A permanent order dismissing Prime Minister Justin Trudeau, Minister/Member of Parliament John McCallum and Premier Kathleen Wynne for conducting terrorism, acts of terrorism, unlawful assemblies and lawful assemblies turning unlawful including facilitation of terrorism even after repeated reporting and international organized crime via proxy network of Government departments and Canadian public besides corruption and intentional breach of the constitution and that of the criminal code. International precedent in which court asked the Prime Minister to step down for constitutional wrong is available and will be cited at the trial. A commission may be advised regarding this by the worthy court. Plaintiff asserts that this organized crime started very intensely on the plaintiff by the Stephen Harper's Government and the Bhutan/relay stick was passed to the next failure Justin Trudeau.

(xxviii) A permanent order dismissing the Police Chief Mark Saunders (negro) and ex-police Chief now MP Bill Blair from their offices being the main lynch pins of the terrorist/proxy network run by the defendant. An investigative commission may be ordered regarding this as well.

(xxix) Pre-judgment and post-judgment interests.

(xxx) Costs of this action including all taxes as determined by the worthy court at trial.

(xxxi) Such further and other relief as determined by the worthy court.

[5] The background of the Plaintiff's action is outlined at the outset of the Statement of Claim. It sets out the essence of his claim and hence I will reproduce it in full:

BACKGROUND & BREAKDOWN IN THE UNITED STATES OF AMERICA:

Plaintiff was working on PhD at Louisiana Tech University Sept 2005-May 2007. Plaintiff was life threatened, without cause, by the Federal Bureau of Investigation (FBI) terrorist (agent) Ben Marriott, Dean Student Life Dickie Crawford and Housing Head

clerk Sam Speed (Negro Descent) in May 2007 during investigative interviews. Griffin and Jim King confirmed management's enmity against the plaintiff in interviews. Later, words such as "Die", "F*** You", "We will kill you" and several other threats were painted inside the plaintiff's on campus key opened living space. Pictures of life threats were taken by the University Police and were also faxed to the White House by the Plaintiff from Ruston, Louisiana Central library in the May of 2007. FBI agent also told the plaintiff that University Management had made arrangements to implement organized crime in Canada and elsewhere. This happened few weeks before the plaintiff came back to Canada on or about May 30th, 2007 where he was threatened and indirectly life threatened by Canada Border Services Agency CBSA (*Canadian Border Crossing Agency*) Detroit-Windsor Tunnel under duress that used full names of FBI agent Ben Marriott, Dickie Crawford and Sam Speed who life threatened the plaintiff in Ruston Louisiana few weeks back. Plaintiff was sexually harassed and targeted by a female Canada Border Services Agency (*Border Crossing Agency Canada*) staff at this occasion as well in combination with a group of other staff under premeditated organized crime and conspiracy with the United States. This female was part of the prostitution ring run by the Governments of Canada and Ontario and their departments including Toronto Police Service as was revealed later and marked clearly in chapters 6, 7 and 9 of the book "Terrorism in Canada" with portions in this claim, plaintiff trusts that details available in this book would be taken into account by the worthy court. This prostitution ring comprises heavy volumes of Canadian white girls especially in the Toronto and Greater Toronto areas. Toronto has been selected due to the residence of plaintiff. Municipal Police such as Toronto Police Service is one of the supervising bodies (sub lynchpins) but the overall operation is being over seen by the defendant, please see chapter 2 of the book "*Terrorism in Canada*". A white *prostitute* in this context would entail an everyday white girl whose snatch is being filled as per the command of the supervisors by the approved men from a pool of pawns who are on the roster of the US based organized crime mafia that is using the defendant as a snitch, please see *Gummy Bear* in chapter 9 of the book. Meaning, such a Canadian white girl would only copulate in a controlled fashion since she has already succumbed her pus*y to a master which is the mafia. None of these girls are professional prostitutes or call girls. Consideration is in the form of hassle free sexual gratification, money, better jobs, free food, rents, living expenses, social convenience etc. In Louisiana, girls between 18-30 were planted on plaintiff to spy and those already associated were purchased, plaintiff was revealed spying

status by at least 2 girls when busted. Thirteen year old girls were bent over and stood naked repeatedly as plaintiff walked down the street. This all happened in the Christian mosh pit Ruston, Louisiana. Character of Canadian churches and false Christianity in Canada has been detailed in para 33 of this claim and chapter 9 of the book. Organized women terrorism by the defendant is a continuation of United States based organized crime, precedents of which are available in the legal actions already closed successfully by the plaintiff and the media in various shapes and forms such as ABC News etc. and those videos and examples will be provided to the worthy court at the trial. Besides organized crime which targeted plaintiff's personal, social, professional and love lives intense magic, spirits and ESP (mind reading) like tactics, phone tapping and other scientific gadgets were used as well. In the midst of these life threats plaintiff's Grades were changed fraudulently and plaintiff was dropped out after his research advisor defrauded grades. This matter was reported to the US President, Louisiana Governor, Louisiana University System, Ruston Mayor, Parish Police, University Police etc. in 2007. Pictures of life threats were also faxed to White House/ Washington from Ruston Central Library and these pictures were taken by the Police as well who also said "they did not need to do this", police was pointing toward the University management, Dickie Crawford, Sam Speed and the FBI. Since FBI told plaintiff that his life would be consumed and that he would be targeted in Canada which was corroborated few weeks after by the Canada Border Services Agency (CBSA), Ontario Provincial Police (OPP) and Toronto Police Service (TPS) and the Canadian public, all of whom attacked, targeted and breached the constitutional rights of the plaintiff from the entry point to everywhere, reference chapters 1, 3 and 12 of the book. The same day of arrival back to Canada from Louisiana via Detroit-Windsor border as plaintiff was driving from Windsor to Toronto he spotted several Ontario provincial and Municipal Police vehicles such as Toronto Police vehicles that closely and dangerously cut, dynamically caged and crisscrossed plaintiff's vehicle without cause and displayed a sight never seen before. This was accompanied by civilians/Canadian public such as Toronto public that included a large number of men and women who attacked this author via vehicles and otherwise verbally, abusively and by aggressively rubbing shoulders, elbows, blatantly blocking his way etc. on the sidewalks and other spots of Toronto which was rather unusual. This author also observed several people raising middle finger, getting in his face without cause, using full names of Ruston, Louisiana perpetrators and foul mouthing this author for nothing. These Canadian terrorists and organized criminals were working for the defendant a.k.a US snitch. This

harassment and persecution tremendously intensified in the following years and a partial concise account is in several chapters including chapters 2, 5, 6 etc. of the provided ebook. *Defense can purchase the ebook or paperback book if they wish.*

From Detroit-Windsor premeditated conspiracy between American and Canadian Governments had already begun on plaintiff's arrival in May 2007 and even before and is on to date. Not to mention that private use of in person meetings cannot be ignored that is being used to reduce digital footprint by the mafia. The false character of the defendant is not new and its reality before the US Government is that of a gummy bear which a kid f***s in his hand before eating it. Reference chapter 9 of the book "Terrorism in Canada".

Defendant has no integrity, self-respect, or even respect for the Constitution of Canada as already proven at the Supreme Court of Canada level in "*Khadr v Canada*" and in *Arar v Canada* etc. Defendant and the terrorist Canadian community are a disgrace to Her Majesty the Queen of England. Defendant and its recruited terrorists from the Canadian community between 2007 and today did the following to the plaintiff: collective and several attacks on the security of life police reports 228554 & 443868 – 2015,17-9007094 etc., stop on self-employment *Asghar v HK ltd 2014 etc*, stop on employment para 23-27 and ebook etc, stop on love life and finding wife of choice *asghar v Toronto Police Board et al 2010*, CBSA, *asghar v HK ltd 2014* etc, stop on the basics of living standards, attack on fundamental rights, stop on any opportunity, defamation, organized terrorism, stop on making a life lawfully, live life threats, street organized crime, ganging up, false witnesses, criminal harassment, framing via various organized crime set-ups etc.

[6] The Plaintiff states the following grounds for the action: fraud; conspiracy; misfeasance, malfeasance and nonfeasance in the public office; discrimination; organized crime; illegal stop on livelihood; illegal stop on love life; finding a wife of choice and lawfully making a family; stop on religious freedom and fundamental rights; malicious falsehood; negligence; defamation; breach of the *Human Rights Act*; breach of the *Charter*; breach of the *Citizenship Act*; and breach of the *Multiculturalism Act*.

[7] Insofar as the injunction is concerned, it is based on: breach of the *Constitution Act*; breach of the *Citizenship Act*; breach of the *Human Rights Act*; breach of the *Multiculturalism Act*; breach of the *International Covenant of Civil and Political Rights*; stop on sex and love life; stop on employment; stop on self-employment; jeopardized security of life; organized crime; threats by street gangs; and breach of the *Criminal Code*.

III. Issues

[8] There are two issues for determination:

- (a) Should the Plaintiff's Statement of Claim be struck because it raises no reasonable cause of action and is frivolous and vexatious?
- (b) Has the Plaintiff met the requirements of each part of the three part test for injunctive relief as set out by the Supreme Court of Canada in *RJR-MacDonald Inc v Canada (Attorney General)*, [1994] 1 SCR 311 [*RJR-MacDonald*] namely, that there is a serious issue to be tried, that the Applicant would suffer irreparable harm if the injunction is not granted, and that the balance of convenience lies in his favour?

IV. Analysis

Issue 1: Whether the Statement of Claim Raises no Reasonable Cause of Action and or is frivolous and vexatious

[9] As noted above, the first question is whether the Plaintiff's action should be dismissed on the grounds that his Statement of Claim raises no reasonable cause of action and or is scandalous, frivolous and vexatious.

[10] Rule 221(1) of the *Federal Courts Rules* provides that a defendant may bring a motion to strike all or some of a pleading on the following grounds:

Motion to strike

221 (1) On motion, the Court may, at any time, order that a pleading, or anything contained therein, be struck out, with or without leave to amend, on the ground that it

- (a) discloses no reasonable cause of action or defence, as the case may be,
- (b) is immaterial or redundant,
- (c) is scandalous, frivolous or vexatious,
- (d) may prejudice or delay the fair trial of the action,
- (e) constitutes a departure from a previous pleading, or
- (f) is otherwise an abuse of the process of the Court,

and may order the action be dismissed or judgment entered accordingly.

Requête en radiation

221(1) À tout moment, la Cour peut, sur requête, ordonner la radiation de tout ou partie d'un acte de procédure, avec ou sans autorisation de le modifier, au motif, selon le cas :

- a) qu'il ne révèle aucune cause d'action ou de défense valable;
- b) qu'il n'est pas pertinent ou qu'il est redondant;
- c) qu'il est scandaleux, frivole ou vexatoire;
- d) qu'il risque de nuire à l'instruction équitable de l'action ou de la retarder;
- e) qu'il diverge d'un acte de procédure antérieur;
- f) qu'il constitue autrement un abus de procédure.

Elle peut aussi ordonner que l'action soit rejetée ou qu'un jugement soit enregistré en conséquence.

[11] The well-established test to strike a pleading under Rule 221(1) of the *Federal Court Rules* as disclosing no reasonable cause of action is whether it is plain and obvious on the facts pleaded that the action cannot succeed: *Hunt v Carey Canada Inc* [1990] 2 SCR 959. This is described by Russell J in *Sivak v R*, 2012 FC 272 [*Sivak*] at para 15:

[15] The test in Canada to strike out a pleading under Rule 221 of the Rules is whether it is plain and obvious on the facts pleaded that the action cannot succeed. In this regard, the Supreme Court of Canada has noted that the power to strike out a statement of claim is a “valuable housekeeping measure essential to effective and a fair litigation.” See *Hunt v Carey Canada Inc*, [1990] 2 SCR 959 and *R v*

Imperial Tobacco Canada Ltd, 2011 SCC 42, at paragraphs 17 and 19.

[12] Pursuant to *Sivak* at para 16, the following principles are to be considered in determining whether a cause of action exists:

- (a) The material facts pled are to be taken as proven, unless the alleged facts are based on assumptive or speculative conclusions which are incapable of proof;
- (b) If the facts, taken as proven, disclose a reasonable cause of action, that is, one with some chance of success, then the action may proceed; and
- (c) The Statement of Claim must be read as generously as possible, with a view to accommodating any inadequacies in the form of the allegations due to drafting deficiencies.

See *Operation Dismantle Inc v Canada*, [1985] 1 SCR 441

[13] Snider J stated the following as to what constitutes an action that is scandalous, frivolous and vexatious in *Kisikawpimootewin v Canada*, 2004 FC 1426 [*Kisikawpimootewin*] at para 8:

[8] As stated in *Ceminchuk*, *supra*, at para. 10:

A scandalous, vexatious or frivolous action may not only be one in which the claimant can present no rational argument, based upon the evidence or law, in support of the claim, but also may be an action in which the pleadings are so deficient in factual material that the defendant cannot know how to answer, and a court will be unable to regulate the proceedings, is an action without reasonable cause, which will not lead to a practical result.

[14] A Statement of Claim containing bare assertions or bald allegations, but no facts on which to base those assertions discloses no reasonable cause of action: *Sivak* at paras 18-22:

Rule 174

[18] In *Baird v Canada* 2006 FC 205; affirmed 2007 FCA 48, a statement of claim was held to be fatally flawed where it did not specify a time when the offending activities giving rise to the causes of action took place. Nor did it specify which Crown servant did something wrong. The pleadings were allegations and conclusions, and did not provide the essential facts grounding the cause of action.

[19] In *Sunsolar Energy Technologies (S.E.T.) Inc. v Flexible Solutions International Inc.* 2004 FC 1205, this Court concluded that in order to implead corporate officers and directors, actual actions of personal conduct must be pleaded. A bare assertion of conclusion is not an allegation of material fact, nor can it support a cause of action against an individual defendant. Nor can it be pled that it is a “reasonable conclusion” that an individual was implicated to a sufficient extent to support a finding of deliberate acts. To hold otherwise is to turn an action into a fishing expedition.

[20] *Conohan v The Cooperators*, [2002] 3 FC 421, 2002 FCA 60 makes the often repeated point that it is sufficient for a party to plead the material facts. Counsel is then at liberty to present in argument any legal consequences which the facts support.

[21] The importance of pleading facts is asserted again in *Johnson v Canada (Royal Canadian Mounted Police)* 2002 FCT 917, where the Court reiterated that it is not sufficient for a claim to contain assertions without facts upon which to base those assertions. In *Johnson*, this meant that a plea of breach of agreement must allege the relevant terms that have been breached, and a plea of breach of fiduciary duty must identify the material facts alleged to give rise to the existence of the duty and the breach.

[22] *Kastner v Painblanc* (1994), 58 CPR (3d) 502, 176 NR 68 (Fed. CA) emphasizes the important general point that an action is not a fishing expedition and that a plaintiff who starts proceedings in the hope that something will turn up abuses the Court’s process.

[15] To the same effect is Rule 181 of the *Federal Court Rules*, which demands that when a particular cause of action is pleaded, the claim must contain material facts that satisfy all of the necessary elements of that cause of action:

Particulars

181 (1) A pleading shall contain particulars of every allegation contained therein, including

(a) particulars of any alleged misrepresentation, fraud, breach of trust, wilful default or undue influence; and

(b) particulars of any alleged state of mind of a person, including any alleged mental disorder or disability, malice or fraudulent intention.

Précisions

181 (1) L'acte de procédure contient des précisions sur chaque allégation, notamment :

a) des précisions sur les fausses déclarations, fraudes, abus de confiance, manquements délibérés ou influences indues reprochés;

b) des précisions sur toute allégation portant sur l'état mental d'une personne, tel un déséquilibre mental, une incapacité mentale ou une intention malicieuse ou frauduleuse.

[16] Regarding the Plaintiff's Statement of Claim, the Defendant says:

The Statement of Claim is devoid of the necessary factual foundation to establish a cause of action in negligence. Nor is it possible, based on the Claim as pleaded, to conduct the necessary analysis to determine whether liability could be established. Such an analysis is especially complicated when a government actor is involved. The Claim is instead based on a bare assertion of conclusions.

[17] With respect, I agree. The Statement of Claim is a sweeping attack on a host of entities for a host of injustices alleged by the Plaintiff to have accrued against him. His grievances range from losing employment opportunities, to not having sex or a mate, from lack of an automobile to his wishing to upgrade to a better place to live, from inadequate annual income commensurate with his alleged qualifications to generalized harassment orchestrated by the Defendant and umbrella organized crime and others. For all of these, and many others, the Plaintiff asserts that the Defendant is in law responsible. For the most part he simply states conclusions, often supported only by a book written by himself; authorship of a book does not elevate the contents

into the necessary foundation of a proper Statement of Claim, particularly where it is as self-serving as this appears to be.

[18] Moreover, many if not most of the entities mentioned in the pleadings are not proper respondents in the Federal Court. For example, he says he is harassed by individuals in Canada and the United States of America but I am not persuaded he has established the necessary nexus between them and the Federal Court. He seems to claim a lack of police protection at the municipal or provincial levels, but again, I do not see a nexus with this Court. In this connection, it is telling that at the hearing, the Plaintiff quoted extensively from a letter setting out similar wide-ranging allegations that he wrote to the Premier of Ontario; many of the matters raised in the Statement of Claim are matters of municipal and provincial jurisdiction and have nothing to do with this Court.

[19] The relief sought may also be used to test the reasonableness of the alleged causes of action, and determine if the litigation is scandalous, frivolous or vexatious. In this respect, the Plaintiff's claim for relief confirms my conclusion that the Applicant's attempt to use the processes of the Federal Court is improper.

[20] For example, he asks for the right to carry a weapon in public in Canada when nothing suggests he has that right and that if he did, that he might obtain its enforcement from this Court on the bases of his pleadings.

[21] Also by way of remedy he seeks “the availability of sex of choice” for himself; asks the Court to make arrangements to introduce “potential matrimonial connections and arrangements to facilitate making of a family” for him; seeks a perpetual (permanent) stipend/Government assistance of \$275,000/year tax free (net) for his “basic lifestyle based on his profession and qualifications” plus an additional permanent stipend of \$2,000,000 annually tax free based on “obstructed and targeted self-employment”. With respect, I am unable to see the necessary nexus for these claims against the Defendant.

[22] In addition, the Plaintiff seeks the provision of living space of his choice at a price upwards of \$10,000,000 (\$10M) at a location of his choice, including maintenance and replacement in perpetuity; he also asks for a motor vehicle of choice such as *Lamborghini Avalon* – but neither of these claims are supported in any way as against the Defendant.

[23] The Plaintiff seeks \$500Million each for immigration fraud, damages including general punitive and aggravated damages, another \$500Million each for emotional distress, bad faith, compensatory damages, negligence, discrimination, and breach of *Charter*, breach of *Multiculturalism Act* - these total \$4Billion.

[24] The Plaintiff seeks an additional \$1Billion for general damages (which he has already claimed above) plus another \$1Billion for defamation and reputation loss – totalling in the aggregate \$6Billion.

[25] These damage claims are, in my view, self-evidently frivolous and vexatious.

[26] Remarkably, in my respectful view the Plaintiff also seeks orders dismissing the Prime Minister of Canada, the Premier of Ontario, and the Toronto Police Service Chief, together with the former Chief of the Toronto Police Service (now a sitting Member of the House of Commons) from their respective offices. None of these are justified on the record on the pleadings or grounded on anything like a reasonable cause of action. They are frivolous and vexatious demands.

[27] Finally, the Plaintiff seeks an order from this Court for, in effect, a private Royal Commission to investigate his claims, but does so once again without a basis in law. This again is frivolous and vexatious in addition to lacking any reasonable basis or cause of action in support.

[28] In my view, both his allegations and the relief the Plaintiff seeks, impel the Court to conclude that this action is a proceeding detached from the legal requirements of this Court. It is not based on any reasonable cause of action, and is also both frivolous and vexatious.

[29] The allegations in the Statement of Claim are not the proper subject of an action in the Federal Court, and therefore, the Defendant's motion to strike is granted and this Statement of Claim is struck. This Statement of Claim also meets the definition set out in *Kisikawpimootewin* of an action that is scandalous, vexatious and frivolous and must be struck for that reason in addition.

[30] I see no purpose in granting leave to amend, and such leave is not granted.

Issue 2: The Tri-Partite Test for Interlocutory Injunctive Relief

[31] Having determined that the Plaintiff's action should be dismissed, it is unnecessary to deal with the claim for interlocutory injunctive relief. However, given that it was argued before me, I will do so.

[32] As noted above, the three part test for an injunction is that set out by the Supreme Court of Canada in *RJR-MacDonald* namely, that there is a serious issue to be tried, that the applicant would suffer irreparable harm if the temporary relief is not granted and that the balance of convenience lies in the applicant's favour. I will consider each of the three elements.

(i) *Serious Issue to be tried*

[33] The Defendant notes that the Plaintiff requests that the Court make an order against a number of non-parties as well as against certain objects and beings, including animals and machines that cannot have orders issued against them. Given the nature of the relief sought, the Defendant argues that the motion should be dismissed on that basis alone. I agree.

[34] In essence, my findings that there is no reasonable cause of action pleaded in the Statement of Claim, and that the action is frivolous and vexatious is sufficient to dispose of the serious issue part of the tri-partite test. I acknowledge that the serious issue test is defined in *RJR-MacDonald* to mean "non-frivolous". However, in my view this action lacks merit and does not pass the test of being non-frivolous. Therefore, the first branch of the test is not met. This finding is a sufficient basis on which to dismiss the claim for injunctive relief because to

succeed, the Applicant must meet all three parts of the test. However, I will assess the other two parts also.

(ii) *Irreparable Harm*

[35] The Defendant argues that the Plaintiff has not established irreparable harm. The Plaintiff recites various ills allegedly done to him by various parties but, the Defendant argues, the Plaintiff does not explain what harm will come to him if he is not granted the relief sought. Moreover, the Defendant argues that the Plaintiff has failed to demonstrate why interim relief is required at this time, given that he has sought similar relief in the underlying action. As was stated by Pinard J in *Rostrust Investments Inc v Canada*, 2004 FC 290 at para 4:

However, even assuming that the matter raises a serious issue, the motion must be dismissed on the ground that the plaintiffs have failed to establish that they will suffer irreparable harm if the requested temporary relief is not granted. Indeed, it is well established that it is incumbent upon the plaintiffs to prove that the harm that will be suffered is not compensable by an award of damages, and the evidence in that regard must be clear and must not be speculative.

[36] In my view the Plaintiff has not established the required irreparable harm and therefore fails to meet the second of the three tests.

(iii) *Balance of Convenience*

[37] With respect to the third part of the tri-partite test, the Defendant argues that the balance of convenience lies with the Defendant. *RJR-MacDonald* discusses “balance of convenience” in this way:

Among the factors which must be considered in order to determine whether the granting or withholding of interlocutory relief would occasion greater inconvenience are the nature of the relief sought and of the harm which the parties contend they will suffer, the nature of the legislation which is under attack, and where the public interest lies.

In my view, given the facts of the case and consideration of the public interest, the weighing of such factors results in a finding that the balance of convenience lies with the Defendant.

[38] In the absence of established harm and given the ill-conceived nature of the claims in the first place, the Court is unable to find the balance of convenience favours the Applicant over the Defendant who faces a claim devoid of merit that is, in addition, frivolous, scandalous and vexatious.

[39] In the result, the Plaintiff has failed to establish in his favour any of the three parts of the required test; therefore his request for an injunction must be dismissed.

(iv) Gender Preference for the Presiding Judge

[40] As a procedural note, before the hearing of these matters, the Plaintiff submitted a request that his motion for injunctive relief and the motion to strike and any and all subsequent matters be heard by a male judge:

Once again plaintiff seeks leave for a gender preferred – male – judge. This may appear against the human rights or Charter but is due to the nature of the case.

[41] The Plaintiff withdrew the motion at the hearing; the motion had no effect in any event.

[42] The Defendant sought costs. The Plaintiff said there should be no costs. In my view, costs should follow the normal rules and follow the event, therefore the Plaintiff shall pay the Defendant the costs of these two motions. The Respondent asked for an all-inclusive award of \$1,000.00 which I find reasonable; costs are therefore awarded to the Defendant in that amount payable by the Plaintiff forthwith.

JUDGMENT

THE JUDGMENT OF THE COURT IS THAT:

1. The motion to strike the Statement of Claim is granted and the Statement of Claim is struck without leave to amend.
2. The Plaintiff's motion for injunctive relieve is dismissed.
3. The Plaintiff is ordered to pay the Defendant the costs of these two motions fixed in the all-inclusive lump sum for fees, disbursements and taxes in the amount of \$1,000.00 forthwith.

“Henry S. Brown”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1218-17

STYLE OF CAUSE: SAJJAD ASGHAR v HER MAJESTY THE QUEEN IN
RIGHT OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 26, 2017

JUDGMENT AND REASONS: BROWN J.

DATED: OCTOBER 24, 2017

APPEARANCES:

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