Federal Court  Cour fédérale

Date: 20250205

Docket: T-3424-24

Citation: 2025 FC 230

Toronto, Ontario, February 5, 2025

PRESENT: Associate Judge John C. Cotter

BETWEEN:

HARSHPREET SINGH

Plaintiff

and

TD INSURANCE, TD INSURANCE AUTO CENTRE (MISSISAUGA), CHAVAN SANKALP (ADVISOR) ADITYA VAID (MANAGER), MIKE MINOTTI (REPAIR SHOP MANAGER), RYAN (REPAIR EXPERT) REVIN BAILIFFS INC.

Defendants

JUDGMENT AND REASONS

UPON MOTION by the defendants named as TD Insurance, Chavan Sankalp (Advisor), and Aditya Vaid (Manager) [Moving Defendants] dated January 10, 2025, and filed January 13, 2025, as part of the Moving Parties' Motion Record (defined below), for:

1. An Order striking out the Statement of Claim in its entirety without leave to amend and dismissing the action on the ground that this Honourable Court lacks jurisdiction to adjudicate the matter;

2. Costs of this motion; and

3. Such other and further relief as this Honourable Court may deem just and proper.

AND UPON reviewing and considering:

a) the motion record of the Moving Defendants filed January 13, 2025 [Moving Parties' Motion Record], including the statement of claim in this action [Claim]; and

b) the responding motion record of the defendants Mike Minotti and Ryan Stephenson filed January 21, 2025;

AND UPON noting that the plaintiff did not file a respondent's record as provided for in Rule 365 (any reference in these Reasons to a Rule is to those in the *Federal Courts Rules*, SOR/98-106), or seek an extension of time to do so;

AND UPON the hearing of the motion proceeding by video conference on January 28, 2025, and hearing and considering submissions from:

a) counsel for the Moving Defendants;

b) counsel for the defendants Mike Minotti and Ryan Stephenson; and

c) the plaintiff who is self-represented;

AND UPON considering:

[1] For the reasons set out below the Claim is struck out, without leave to amend, as disclosing no reasonable cause of action because of a lack of jurisdiction.

[2] Although the Claim is difficult to follow, it appears that it relates to: the plaintiff taking a car to a repair shop (although not entirely clear, the repair shop appears to be TD Insurance Auto Centre as the plaintiff alleges various interactions with them); his claim being denied (although it is not clear what the claim was for); TD Insurance Auto Centre intends to sell the plaintiff's car; and the plaintiff's interactions with TD Insurance Auto Centre.

[3] The relief sought by the plaintiff in paragraph 1 of the Claim is reproduced below (typographical errors as per the original):

> (a.) Plantiff contains All the evidences against the Defendants on this case.
>
> b. Plantiff claim Damages for mental Harassment and emotional distress ,anxiety attacks in complete amount of 3,100,000.00 (3.1 millions dollars)
>
> c. Pre-and-judgement interest at a rate of 5% per annum from the date of default until such time as any amounts owing are paid in full by defendants.
>
> d. Alternatively damages for not paying plantiff's rental car company issued at time of repair , credit hit, plantiff lost job&wages, Damage of plantiff's car in inspection ,in complete lump sum of $2,00,000.00. (200 thousand dollars)
>
> e. Requesting to fine each induvidual Defendant $25,000.00 (25 thousand dollars) for cheating , misleading , wrongfully denial , unprofessionalism behavior. & Donate all this money to my choice of NGO or any organisation I choose.
>
> f. Defendant Td insurance auto centre has to pay full price of the car $24600 because of Bias decision against plantiff , in all 3 step of disputes. Also for denying the order of GIO (general insurance ambud services) for second appraisel due to this This matter couldnt solve with mediator of gio.
>
> g. Attorney Fees and Court Costs :- If Plantiff win lawsuit or settle in plantiff favor , defendant has to recover all the cost of filling the suit , including attorney fees and court cost.

h. defendant Td insurance auto centre tried to sell car in the name of not paying storage fees when dispute was going on and Final verdict was not given by scco (senior complaint customer office) which is breaking of trust & bad customer service. If I did not get my car as I am emotionally attached to it as Its my first car which I bought with my hardwork money. So they have to pay additional $50,000.00 in compensation If they failed to provide my car back.

i. A written Apology letter from all body of defendant who cheated Plantiff to full fill their own Egos.

j. An investigation has to be launched against all the individual Defendant for trying to sold Plantiff car wrongfully and Full filling their own intrests.

k. Such further and other relief as counsel may advise and this honourable court may permit.

[4] The applicable rule on a motion to strike is Rule 221 which provides that:

Motion to strike	**Requête en radiation**
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	**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) discloses no reasonable cause of action or defence, as the case may be,	**a)** qu'il ne révèle aucune cause d'action ou de défense valable;
(b) is immaterial or redundant,	**b)** qu'il n'est pas pertinent ou qu'il est redondant;
(c) is scandalous, frivolous or vexatious,	**c)** qu'il est scandaleux, frivole ou vexatoire;
(d) may prejudice or delay the fair trial of the action,	**d)** qu'il risque de nuire à l'instruction équitable de l'action ou de la retarder;

(e) constitutes a departure from a previous pleading, or	**e)** qu'il diverge d'un acte de procédure antérieur;
and may order the action be dismissed or judgment entered accordingly.	Elle peut aussi ordonner que l'action soit rejetée ou qu'un jugement soit enregistré en conséquence.
Evidence	**Preuve**
(2) No evidence shall be heard on a motion for an order under paragraph (1)(a).	**(2)** Aucune preuve n'est admissible dans le cadre d'une requête invoquant le motif visé à l'alinéa (1)a).

[5] The Federal Court of Appeal in *Brink v Canada*, 2024 FCA 43 stated the following regarding the general principles on a motion to strike out a statement of claim under Rule 221(1)(a) on the basis that it does not disclose a reasonable cause of action:

> [43] […] a statement of claim should not be struck unless it is plain and obvious that the action cannot succeed, assuming the facts pleaded in the statement of claim to be true: *Hunt v. Carey Canada Inc.*, [1990] 2 S.C.R. 959, [1990] S.C.J. No. 93 at 980; *Pro-Sys Consultants Ltd. v. Microsoft Corporation*, 2013 SCC 57 at para. 63. In other words, the claim must have no reasonable prospect of success: *R. v. Imperial Tobacco Canada Ltd.*, 2011 SCC 42 at para. 17.
>
> [44] The onus is on the party who seeks to establish that a pleading fails to disclose a reasonable cause of action*: La Rose v. Canada*, 2023 FCA 241 at para. 19; *Edell v. Canada*, 2010 FCA 26 at para. 5. The threshold that a plaintiff must meet to establish that a claim discloses a reasonable cause of action is a low one: *Brake v. Canada (Attorney General)*, 2019 FCA 274 at para. 70.
>
> [45] Pleadings must, moreover, be read generously, in a manner that accommodates any inadequacies in the allegations that are merely the result of deficiencies in the drafting of the document: see *Operation Dismantle Inc. v. The Queen*, [1985] 1 S.C.R. 441, [1985] S.C.J. No. 22 at 451.
>
> [46] Motions judges should not delve into the merits of a plaintiff's argument, but should, rather, consider whether the plaintiff should

> be precluded from advancing the argument at all: *Salna v. Voltage Pictures*, LLC, 2021 FCA 176 at para. 77. Recognizing that the law is not static, motions judges must also err on the side of permitting novel, but arguable claims to proceed to trial: *R. v. Imperial Tobacco*, above at paras. 19-25; *Mohr v. National Hockey League*, 2022 FCA 145 at para. 48, leave to appeal to SCC refused, 40426 (20 April 2023).
>
> [47] That said, it must also be recognized that there is a cost to access to justice in allowing cases that have no substance to proceed. The diversion of scarce judicial resources to such cases diverts time away from potentially meritorious cases that require attention: *Mohr*, above at para. 50; *Coote v. Lawyers' Professional Indemnity Company*, 2013 FCA 143 at para. 13.

[6] Justice Pentney considered the application of the principles on a motion to strike where the plaintiff is self-represented in *Fitzpatrick v Codiac Regional RCMP Force, District 12*, 2019 FC 1040 and explained:

> [19] The Court generally shows flexibility when a party is self-represented, but this does not exempt the party from complying with the rules set out above: *Barkley v Canada*, 2014 FC 39 at para 17. The reason for this is simple – it is not fair to a defendant to have to respond to claims that are not explained in sufficient detail for them to understand what the claim is based on, or to have to deal with claims based on unsupported assumptions or speculation. Neither is it fair to the Court that will have to ensure that the hearing is done in a fair and efficient manner. A court would have difficulty ruling that a particular piece of evidence was or was not relevant, for example, if the claim is speculative or not clear. This will inevitably lead to "fishing expeditions" by a party seeking to discover the facts needed to support their claims, as well as to unmanageable trials that continue far longer than is appropriate as both sides try to deal with a vague or ever-changing set of assertions.
>
> [20] A degree of flexibility is needed to allow parties to represent themselves and to have access to the justice system; but flexibility cannot trump the ultimate demands of justice and fairness for all parties, and that is what the *Rules* and the principles set out in the cases seek to ensure.

[7] Rule 221(1)(a) may be applied if it is plain and obvious that the Federal Court lacks jurisdiction to hear a matter (*Berenguer* v *Sata Internacional - Azores Airlines, S.A.*, 2023 FCA 176 [*Berenguer*] at para 26). Further, "[t]he jurisdiction of the Federal Court is statutory. As such, the statutory basis for jurisdiction must be identified." (*Berenguer* at para 34). The Federal Court of Appeal stated the following in *Berenguer* regarding the jurisdiction of the Federal Court:

> [29] The scope of the Federal Court's jurisdiction has been considered by the Supreme Court in several decisions. The most relevant in this appeal are *Quebec North Shore Paper Co. v. Canadian Pacific Ltd.* (1976), [1977] 2 S.C.R. 1054, 9 N.R. 191 [*Quebec North Shore*]; *McNamara Construction (Western) Ltd. v. The Queen*, [1977] 2 S.C.R. 654; *Rhine v. The Queen*, [1980] 2 S.C.R. 442 [*Rhine*]; *ITO-Int'l Terminal Operators v. Miida Electronics*, [1986] 1 S.C.R. 752 at p. 766, 28 D.L.R. (4th) 641 [*ITO*]; and, most recently, *Windsor*.
>
> [30] I would also note two decisions of this Court which provide a good summary of the relevant law: *Peter G. White Management Ltd. v. Canada (Minister of Canadian Heritage)*, 2006 FCA 190 [*Peter G. White*] and *744185 Ontario Incorporated v. Canada*, 2020 FCA 1 [*Air Muskoka*].
>
> [31] As a result of this jurisprudence, the following principles are well established:
>
> > (a) Jurisdiction is subject to a three part test commonly known as the ITO test: (1) Does a statute grant jurisdiction to the Court? (2) Is there an existing body of federal law that nourishes the grant of jurisdiction and is essential to the disposition of the case? (3) Is the case based on a valid law of Canada (*ITO*).
> >
> > (b) For purposes of applying step 1 of the ITO test to s. 23 of the Federal Courts Act, the action must be created or recognized under federal law (*Windsor*).
> >
> > (c) For purposes of applying step 2 of the ITO test to a breach of contract claim, the test may be satisfied if there is a sufficiently detailed federal regulatory scheme that applies to the contract (*Rhine*).

> [32] The *Windsor* decision adds a further principle but it is not controversial in this case. The majority in *Windsor* cautioned that the ITO test is to be applied to the "essential nature of the claim" regardless of how the claim is framed in the pleading. In this case, it is clear that the claim as framed in the pleading is the same as the claim's essential nature. The claim is for breach of contract.

[8] As stated by Justice Gleeson in *Welcome v Canada*, 2024 FC 443:

> [12] Pleadings must disclose a reasonable cause of action. To do so, pleadings must (1) allege facts that are capable of giving rise to a cause of action; (2) disclose the nature of the action which is to be founded on those facts; and (3) indicate the relief sought, which must be of a type that the action could produce and the Court has jurisdiction to grant (*Van Sluytman* at para 9, citing *Oleynik v Canada (Attorney General)*, 2014 FC 896 at para 5; *Bérubé v Canada*, 2009 FC 43 at para 24, aff'd 2010 FCA 276).

[9] As noted above, the plaintiff did not file a responding motion record. At the hearing of the motion, the plaintiff in his submissions did not identify any accepted basis for jurisdiction.

[10] In any event, reading the Claim generously and considering the applicable principles regarding the jurisdiction of the Federal Court discussed above, I am unable to identify any basis for jurisdiction. Given the nature of the claims asserted and the allegations in the Claim, I find it unnecessary to engage in a more formulaic analysis on the issue of jurisdiction (*Van Sluytman v Canada*, 2022 FC 545 at paras 16-17; *Collins v Canada (Attorney General)*, 2024 FC 1250 at para 41).

[11] As a result, as there is no basis for jurisdiction, the Claim will be struck out pursuant to Rule 221(1)(a).

[12] Although Rule 221(2) provides that no evidence shall be heard on a motion for an order under paragraph (1)(a), there are exceptions. One exception is that evidence may be considered for the purposes of Rule 221(1)(a) if the issue concerns a jurisdictional question (*Berenguer* at para 26). The Moving Defendants filed affidavit evidence in support of the motion. Also, the defendants Mike Minotti and Ryan Stephenson filed the affidavit of Mike Minotti sworn January 21, 2025. However, I have reached my decision without relying on that evidence. Were I to rely on that affidavit evidence, it would support the conclusion that there is no basis for jurisdiction. The affidavit filed by the Moving Defendants includes evidence of an insurance policy issued by Security National Insurance Company to the plaintiff. The affidavit of Mike Minotti included evidence of steps taken by Collision Repair Experts to sell the plaintiff's vehicle, stating that such steps were taken under the *Repair and Storage Liens Act*, RSO 1990, c R-25. There is nothing in any of the affidavit evidence to indicate that there is any basis for jurisdiction.

[13] In order to strike a pleading without leave to amend, the defect must be one that cannot be cured by amendment (*Collins v Canada*, 2011 FCA 140 at para 26; *Simon v Canada*, 2011 FCA 6 at para 8). The defect in the Claim which has resulted in it being struck, namely an absence of jurisdiction, is not one that can be cured by amendment.

[14] Similar to the approach taken by Associate Judge Duchesne (as he then was) in *Suss v Canada*, 2024 FC 137 at para 59, this action is dismissed pursuant to Rule 168 of the *Rules*. This is because it is not possible for the plaintiff to continue this action as a result of the Claim being struck without leave to amend.

[15] Having regard to Rules 400 and 401(1), including the factors articulated in Rule 400(3), and Tariff B, and having regard to the success of the Moving Defendants on this motion, costs

are awarded to them, fixed in the total amount of $500, to be paid by the plaintiff. In making this award of costs, I have considered the affidavit evidence of the Moving Defendants regarding the correspondence their counsel sent to the plaintiff. The Moving Defendants argue that this correspondence is an offer to settle that engages Rule 420. In the January 7, 2025 letter from counsel for the Moving Defendants the pertinent portion states:

> Please be advised that you have issued the Statement of Claim in the wrong court. The Federal Court of Canada does not have jurisdiction in automobile insurance property matters. The correct court to bring this action is the Ontario Superior Court of Justice.
>
> Please confirm that you will discontinue the action in the Federal Court of Canada immediately. If you do not, we will have to bring a jurisdiction motion in the Federal Court of Canada and we will seek our costs for bringing this motion from you.

[16] This "offer" was essentially reiterated in the January 9, 2025, email to the plaintiff from counsel for the Moving Defendants.

[17] To engage Rule 420, in addition to the requirements set out in that rule, the case law is clear that the offer must, among other things, "contain an element of compromise" (*Venngo Inc. v Concierge Connection Inc. (Perkopolis)*, 2017 FCA 96 at para 87). There is no element of compromise in the supposed offer. It is more in the nature of a demand to capitulate, failing which a motion will be brought to dismiss the action and costs will be sought. The Moving Defendants did not offer any compromise. I note that at that point in the litigation, the Moving Defendants had not taken any steps that would entitle them to costs under Tariff B.

[18] No costs are awarded to the defendants Mike Minotti and Ryan Stephenson who were responding parties on this motion.

JUDGMENT in T-3424-24

THIS COURT'S JUDGMENT is that:

1. The statement of claim is struck out, without leave to amend, and this action is dismissed.

2. Costs of the motion shall be paid by the plaintiff to the Moving Defendants fixed in the total amount of $500.

"John C. Cotter"
Associate Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	**T-3424-24**
STYLE OF CAUSE:	**HARSHPREET SINGH v TD INSURANCE, TD INSURANCE AUTO CENTRE (MISSISAUGA), CHAVAN SANKALP (ADVISOR) ADITYA VAID (MANAGER), MIKE MINOTTI (REPAIR SHOP MANAGER), RYAN (REPAIR EXPERT) REVIN BAILIFFS INC.**

THE MATTER WAS HELD BY WAY OF VIDEOCONFERENCE

DATE OF HEARING:	**JANUARY 28, 2025**
JUDGMENT AND REASONS:	**COTTER A.J.**
DATED:	**FEBRUARY 5, 2025**

APPEARANCES:

Harshpreet Singh	FOR THE PLAINTIFF (SELF-REPRESENTED)
Arie Odinocki	FOR THE DEFENDANTS – TD INSURANCE, CHAVAN SANKALP AND ADITYA VAID
Leah Cummings	FOR THE DEFENDANTS – MIKE MINOTTI AND RYAN STEPHENSON

SOLICITORS OF RECORD:

Arie Odinocki	FOR THE DEFENDANTS – TD INSURANCE, CHAVAN SANKALP AND ADITYA VAID
Leah Cummings	FOR THE DEFENDANTS – MIKE MINOTTI AND RYAN STEPHENSON