

Federal Court



Cour fédérale

Date: 20250217

Docket: T-2322-24

Citation: 2025 FC 301

Ottawa, Ontario, February 17, 2025

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

AHMAD MOHAMMAD

Plaintiff

and

**MCGILL UNIVERSITY,
HIS MAJESTY THE KING**

Defendants

JUDGMENT AND REASONS

[1] The Defendant, named in the Amended Statement of Claim filed by the Plaintiff as the Secretariat on Responsible Conduct of Research [the Secretariat], moves to strike the Plaintiff's Amended Statement of Claim pursuant to paragraph 221(1)(a) of the *Federal Courts Rules*, SOR/98-106 [*Rules*], without leave to amend, for failing to disclose a reasonable cause of action.

[2] The claim concerns alleged research misconduct at McGill University, the co-defendant, and the subsequent handling of the Plaintiff's complaint by both McGill University and the Secretariat. The Plaintiff seeks declaratory relief regarding research misconduct, injunctive relief compelling compliance with research integrity frameworks, and damages of \$100,000.

[3] For the following reasons, the motion to strike without leave to amend is granted.

I. Facts

[4] On September 10, 2024, the Plaintiff filed an initial Statement of Claim. The Amended Statement of Claim [the Claim] was subsequently filed on October 9, 2024.

[5] The Claim alleges misconduct in a research study conducted at McGill University, specifically concerning the classification of stimuli, attribution of authorship, and acknowledgment of prior research. The Plaintiff contends that both McGill University's inquiry into these allegations and the Secretariat's oversight were procedurally deficient and negligent.

II. Issue

[6] The issue is whether the Secretariat has met its burden of showing that the Claim should be struck without leave to amend for failing to disclose a reasonable cause of action. This motion turns on two questions: first, whether it is plain and obvious that the Claim cannot succeed; and second, whether any defects in the pleading are curable through amendment. A preliminary issue concerns the proper naming of the Secretariat in the style of cause.

III. Legal Framework

[7] Paragraph 221(1)(a) of the *Rules* gives the Court broad discretion to strike out a pleading where it discloses no reasonable cause of action. The test is whether it is “plain and obvious” that the claim cannot succeed, or alternatively, that the claim has no reasonable prospect of success: *R v Imperial Tobacco Canada Ltd*, 2011 SCC 42 at para 17 [*Imperial Tobacco*].

[8] On a motion to strike a claim, subrule 221(2) provides that no evidence is to be heard. The pleading must stand or fall on its own merits. The facts pleaded are assumed to be true unless they are manifestly incapable of being proven or are based on assumptions and speculation: *Imperial Tobacco* at para 22.

[9] Subrule 221(1) requires that in addition to determining whether the claim ought to be struck, the Court is to consider whether leave to amend should be granted. The decision to strike without leave to amend carries serious consequences and should only be made if the defects in the statement of claim are not curable by amendment: *Simon v. Canada*, 2011 FCA 6 at para 8; *Collins v. Canada*, 2011 FCA 140 at para 26.

[10] However, this Court has held that a plaintiff’s failure to either advance proposed amendments or articulate how deficiencies could be corrected may negatively affect the Court’s evaluation of whether leave to amend should be granted, particularly if the deficiencies are numerous and significant: *Sivak v Canada*, 2012 FC 272 at para 94; *Gagné v Canada*, 2013 FC 331 at para 22; *Benesch v. Canada*, 2018 CanLII 55277 at para 34.

IV. Analysis

A. *Preliminary issue of party name*

[11] The Defendant has correctly identified that actions against the federal Crown are to be taken in the name of His Majesty the King, as required by section 48 of the *Federal Courts Act*, RSC 1985, c F-7. Notwithstanding the Plaintiff's submission that the action is against the Secretariat and not Canada or the government, this amendment is procedural and required by the Court's enabling legislation. Accordingly, the Secretariat's name in the style of cause for this motion and the underlying action is changed to His Majesty the King, with immediate effect.

B. *The Claim must be struck without leave to amend*

[12] The Claim fails to meet the threshold requirements for maintaining a cause of action and exhibits deficiencies that cannot be remedied through amendment. On close examination and accepting all of the allegations as true, I find three significant defects in the Claim.

[13] First, the allegation of research misconduct at McGill University, specifically the Plaintiff's primary contention that "the stimuli presented in the research study were misclassified as mixed percepts" fails to establish the Plaintiff's legal standing. The Claim does not demonstrate any connection between the Plaintiff and the research, whether as a participant, collaborator, or affected party, which is a fundamental requirement for proceeding with the action.

[14] Second, the negligence claim against the Secretariat is unsupported by the requisite elements. The assertion that the Secretariat’s negligence in oversight allowed McGill University to mishandle the investigation consists of conclusory statements without any factual basis. The Claim does not identify a duty of care, detail a breach, or establish a causal connection between the alleged inaction and the Plaintiff’s claimed harm, all of which are essential elements for a negligence action.

[15] Third, the remedies sought are legally unsustainable. The Plaintiff’s request for a “formal acknowledgement of research misconduct” impermissibly seeks declaratory relief regarding pure questions of fact rather than legal rights: *Shot Both Sides v Canada*, 2024 SCC 12 at paras 62-69. The injunctive relief sought to “enforce full compliance with the Tri-Agency Framework” directly contravenes subsection 22(1) of the *Crown Liability and Proceedings Act*, RSC 1985, c C-50, which provides as follows:

Declaration of rights

22 (1) Where in proceedings against the Crown any relief is sought that might, in proceedings between persons, be granted by way of injunction or specific performance, a court shall not, as against the Crown, grant an injunction or make an order for specific performance, but in lieu thereof may make an order declaratory of the rights of the parties.

Déclaration de droits

22 (1) Le tribunal ne peut, lorsqu’il connaît d’une demande visant l’État, assujettir celui-ci à une injonction ou à une ordonnance d’exécution en nature mais, dans les cas où ces recours pourraient être exercés entre personnes, il peut, pour en tenir lieu, déclarer les droits des parties.

Moreover, the monetary claim for \$100,000 rests entirely on allegations lacking any particulars or demonstrated causal connection to compensable injury.

[16] To decide on whether to grant leave to amend, I need to assess whether defects in the Claim can be remedied and whether the Plaintiff has identified any concrete measures to address the deficiencies. The evidence before me supports denying leave to amend.

[17] First, the Plaintiff has neither proposed amendments nor explained how the deficiencies could be remedied. Jurisprudence is clear that such failures, especially if significant and numerous, have been deemed instrumental in denying leave to amend. Second, the identified defects go beyond mere technical or procedural shortcomings. The lack of standing, the absence of a viable cause of action, and the pursuit of legally impossible remedies render the Claim unsustainable at its core.

[18] The Plaintiff's argument that leave to amend should be granted because they have shown relevant particulars in their affidavit evidence cannot rescue this fundamentally deficient claim. None of the paragraphs of the affidavit evidence overcomes the finding that the Claim is fundamentally deficient.

[19] Taken together, I find the situation at hand meets both the plain and obvious test for striking the Claim and the rigorous standard for denying leave to amend. The Claim will therefore be struck without leave to amend.

V. Conclusion and Costs

[20] For these reasons, the Amended Statement of Claim will be struck without leave to amend, as it fails to disclose a reasonable cause of action and the defects are incurable through amendment.

[21] Pursuant to rule 400 of the *Rules*, costs are awarded to the Secretariat as the successful moving party. The quantum is fixed at \$500 to reflect both the outcome and the Plaintiff's many steps taken in non-compliance with the *Rules* and the Court's filing requirements.

JUDGMENT in T-2322-24

THIS COURT ORDERS that the motion is allowed; the Amended Statement of Claim as against the Secretariat is struck, without leave to amend; and the action as against the Secretariat is dismissed with costs payable by the Plaintiff to the Secretariat of \$500.

"Russel W. Zinn"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-2322-24

STYLE OF CAUSE: AHMAD MOHAMMAD v MCGILL UNIVERSITY,
HIS MAJESTY THE KING

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: DECEMBER 17, 2024

JUDGMENT AND REASONS: ZINN J.

DATED: FEBRUARY 17, 2025

APPEARANCES:

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