

Federal Court



Cour fédérale

Date: 20140131

**Dockets: T-1101-13
T-1325-13
T-1603-13**

Citation : 2014 FC 119

Ottawa, January 31, 2014

PRESENT: THE CHIEF JUSTICE

Docket: T-1101-13

BETWEEN:

GARY SAUVE

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

and

MONECO SOBECO

Party-to-Action

Docket: T-1325-13

BETWEEN:

GARY SAUVE

Plaintiff

and

**HER MAJESTY THE QUEEN IN RIGHT OF
CANADA**

Defendant

and

MONECO SOBECO

Party-to-Action

Docket: T-1603-13

AND BETWEEN:

GARY SAUVE

Plaintiff

and

**HER MAJESTY THE QUEEN IN RIGHT OF
CANADA**

Defendant

REASONS FOR ORDERS AND ORDERS

[1] These reasons relate to two Motions for security for costs made on behalf of the Defendant/Respondent Royal Canadian Mounted Police [RCMP], which were heard together in Ottawa on December 18, 2013. One of those Motions concerns Court file T-1101-13. The other

concerns Court files T-1325-13 and T-1603-13. For the reasons that follow, those Motions will be granted with modifications.

I. Background

[2] Mr. Sauve is a former member of the RCMP. He was dismissed from that organization after he was convicted of two counts of criminal harassment involving his former spouse.

[3] Mr. Sauve has now filed eight actions in this Court against the RCMP in respect of monies he alleges are owed to him by the RCMP, damages for harassment and other alleged wrongful acts and alleged breaches of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being schedule B to the *Canada Act, 1982 (UK), 1982, c 11 [Charter]*. He has also filed an application for judicial review (T-1101-13) that will be discussed further below.

[4] To date, Mr. Sauve has appeared in over 50 motions, case management conferences, pre-trial conferences and appeals before this Court and the Federal Court of Appeal [FCA] in connection with the above-mentioned actions and application for judicial review. In most of those proceedings, he has represented himself.

[5] In separate Endorsements to Orders granting security for costs to the Defendant in Court files T-447-10 and T-682-10, which were issued prior to the filing of the two actions mentioned in paragraph 1 above, Prothonotary Aronovitch characterized Mr. Sauve's other six actions against the RCMP as being "largely duplicative" (*Sauve v Her Majesty the Queen et al*, Docket T-447-10,

February 3, 2011 (FC) [*Sauve T-447-10*]; *Sauve v Her Majesty the Queen et al*, Docket T-682-10, February 3, 2011).

II. Preliminary matter

[6] At the outset of his oral representations during the hearing of these Motions, Mr. Sauve requested another hearing date on the basis that he did not believe that he would get a fair hearing from me. In support of this assertion, he stated that I had not listened to anything he had said the last time that he appeared before me, in mid-2011. That hearing involved an appeal of an Order issued by Prothonotary Aronovitch, which struck out Mr. Sauve's action in T-1-10 in its entirety and dismissed that action. In relatively lengthy reasons of 27 pages, I dismissed Mr. Sauve's appeal after conducting a *de novo* review, based on the fact that Prothonotary Aronovitch's decision concerned a question that was vital to the final issue in the case. In the course of my reasons for judgment, which Mr. Sauve suggested were inordinately long, I took great pains to address each of Mr. Sauve's grounds for appeal. Mr. Sauve's appeal from my judgment was dismissed by the FCA in a very short decision (*Sauvé v Her Majesty the Queen et al*, 2012 FCA 280).

[7] Apart from the matter described in the immediately preceding paragraph, Mr. Sauve was before me on one other occasion, in early 2011. That hearing concerned a motion by the Defendant in Court file T-996-09 to protect the confidentiality of certain information that had been filed with this Court and to grant certain other relief. In granting that motion, I ordered, among other things, that the non-confidential versions of certain documents that Mr. Sauve had filed be redacted for the purposes of removing (i) all references to a confidential RCMP informant, and (ii) all other

information that may enable the identity of that informant to be ascertained. In the hearing on the present Motions, Mr. Sauve did not take issue with my disposition of that matter.

[8] I declined to recuse myself from the hearing on these Motions on the basis that I do not believe that an informed and reasonable person, viewing the matter realistically and practically, and having thought the matter through, would reasonably apprehend that I may be biased against Mr. Sauve (*Committee for Justice and Liberty et al v Canada (National Energy Board) et al*, [1978] 1 SCR 369, at 394; *Wewaykum Indian Band v Canada*, [2003] 2 SCR 259, at para 74).

[9] In addition, I do not consider myself to be partial in matters involving Mr. Sauve. As reflected in the hearing transcript, I informed him of those positions and invited him to appeal this decision to the FCA should he feel otherwise, after reading these reasons.

III. Relevant Rules

[10] These Motions have been brought under Rules 416(1)(f) and, insofar as they concern Court files T-1325-13 and T-1603-13, Rule 416(1)(g) as well, of the *Federal Courts Rules*, SOR/2004-283, s 2 [Rules].

[11] Pursuant to Rule 416(1) of the Rules, the Court may order a plaintiff to give security for the defendant's costs where, among other things:

- (f) the defendant has an order against the plaintiff for costs in the same or another proceeding that remain unpaid in whole or in part,

- (g) there is reason to believe that the action is frivolous and vexatious and the plaintiff would have insufficient assets in Canada available to pay the costs of the defendant, if ordered to do so, or . . .

[12] Where the Court issues an order pursuant to Rule 416(1), the plaintiff may not take any further step in the action until the security required has been given, unless the Court orders otherwise (Rule 416(3)).

[13] Notwithstanding the foregoing, Rule 417 states that the Court may refuse to order that security for costs be given under, among other things, Rules 416(1)(f) and (g), if a plaintiff demonstrates impecuniosity and the Court is of the opinion that the case has merit.

[14] The foregoing Rules apply equally to applications in this Court (*Chaudhry v Canada (Attorney General)*, 2009 FCA 237, at para 12; Rule 415).

[15] Pursuant to Rule 400(1), the Court has full discretion over the amount and allocation of costs and the determination of by whom they are to be paid.

IV. Analysis

(a) *The RCMP's prima facie entitlement to security for costs*

[16] A defendant is *prima facie* entitled to security for costs upon demonstrating that the requirement set forth in Rule 416(1)(f) has been met, namely, that the defendant has an order against the plaintiff for costs in the same or another proceeding that remain unpaid in whole or in part (*Sauve v Her Majesty the Queen*, 2011 FC 1081, at para 14 [*Sauve 2011 FC 1081*]; *aff'd* 2012 FCA 287 [*Sauve FCA*], at para 6).

[17] In the hearing on these Motions, Mr. Sauve expressly declined to take issue with the RCMP's evidence that \$41,886.58 in costs that he was ordered to pay in numerous proceedings dating back to June 2009 in this Court and in the FCA remain unpaid. Therefore, the Defendant is *prima facie* entitled to security for costs.

(b) *Mr. Sauve's alleged impecuniosity*

[18] To meet the requirements of Rule 417, and thereby overcome the RCMP's *prima facie* entitlement to security for costs, Mr. Sauve must demonstrate (i) that he is impecunious, and (ii) that the proceedings that are the subject of these Motions have merit.

[19] When a plaintiff is self-represented, the Court should allow considerable latitude when assessing the plaintiff's pleadings, submissions and evidence. However, this latitude cannot give the plaintiff any additional rights or special dispensation (*Sauve 2011 FC 1081*, at para 28).

[20] To demonstrate impecuniosity, a high standard is expected. Specifically, full and frank disclosure is required, and the plaintiff's onus must be discharged with "robust particularity," so that there are no unanswered material questions (*Heli Tech Services (Canada) Ltd v Weyerhaeuser Company*, 2006 FC 1169, at para 8 [*Heli Tech*]).

[21] This has been underscored to Mr. Sauve on no less than three separate occasions. Most recently, in *Sauve FCA*, above, Justice Mainville stated the following:

[9] The only evidence submitted by the appellant to support his claim of impecuniosity were bald statements. A bald statement from a litigant that he does not have the means to provide security for costs is clearly insufficient to trigger the application of section 417 of the *Rules: B-Filer Inc. v. Bank of Nova Scotia*, 2007 FCA 409; 371 N.R. 292 at paras. 9 to 11; *Chaudhry v. Canada (Attorney General)*, 2009 FCA 237; 393 N.R. 67 at para. 10.

[10] Material evidence must be submitted in order to sustain a claim of impecuniosity, including complete and clear financial information presented in a comprehensible format. Tax returns, bank statements, lists of assets, and (where possible) financial statements should be submitted. Evidence of the impracticability of borrowing from a third party to satisfy the security order should also be provided. The possibility of accessing family and community resources should be considered. No material issue should be left unanswered.

[22] After noting that Mr. Sauve had provided no such evidence, Justice Mainville dismissed his appeal of the Order to provide security for costs that had been granted by Prothonotary Aronovitch

and upheld by Justice Martineau, each of whom also clearly articulated the general principles set forth above.

[23] In the Motion Records that he filed on these Motions, Mr. Sauve provided affidavit evidence which suggests, among other things, that: he has not received any employment income, disability pay, pension or other remuneration or compensation from the RCMP since his pay and benefits were suspended in 2005; he was not permitted to work in another job while he remained formally employed with the RCMP until 2010; he is impecunious, disabled and homeless; he is forced to reside with different friends on a temporary basis, or on the streets; he is totally dependent upon the generosity of friends, family and food banks; he owes many people money; he has no money, income, vehicle, property or other assets of any value; and that therefore he is unable to pay for counsel or security for costs. Mr. Sauve also included in one of his Motion Records a transcript of his sworn Cross-examination on Affidavit, dated May 29, 2009, in which he made similar statements.

[24] In addition, Mr. Sauve provided the Court with a copy of his Income Tax Return for the year 2012, in which he reported total income of -\$1,219.70, notwithstanding that he also reported rental income of \$6,600.

[25] I have a sense that Mr. Sauve's financial circumstances are very strained. However, demonstrating strained financial circumstances does not constitute a demonstration of impecuniosity for the purposes of Rule 417. I am very troubled by the fact that Mr. Sauve continues to ignore the guidance that he has been given by this Court and by the FCA regarding the

nature of the evidence that is required to demonstrate impecuniosity. As noted by the RCMP, Mr. Sauve continues to resist providing any material corroboration of his bald assertions regarding his financial situation. This includes evidence of an inability to borrow from one or more of the individuals he alleges have lent him money, including to fund the many proceedings that he has initiated against the RCMP to date, evidence to demonstrate that he has no funds in the bank or other financial assets, and evidence with respect to the value and expenses on the property from which he derives rental income.

[26] Accordingly, I have reluctantly concluded that Mr. Sauve has not satisfied his onus of providing full and frank disclosure regarding his impecuniosity. In brief, he continues to fail to provide the level of robust particularity that is required to support his claims. As a result, material questions regarding his ability to pay security for costs remain (*Heli Tech*, above), and it is not clear that the effect of the order for security for costs would preclude Mr. Sauve from advancing an otherwise meritorious claim (*Sauve FCA*, above, at para 7).

[27] In the event that I am found to have erred in concluding that Mr. Sauve has not provided sufficient evidence of his impecuniosity to overcome the RCMP's *prima facie* entitlement to security for costs, I will briefly address below the merits of the application and the two actions that are the subject of these Motions.

(c) *The merits of the proceedings*

(i) T-1101-13

[28] Court file T-1101-13 is an Application for Judicial Review. The Notice of Application for Judicial Review that was filed by Mr. Sauve on June 21, 2013 seeks, among other things, an order setting aside two “decisions,” namely, (i) the decision of an RCMP Adjudication Board, dated January 28, 2010, dismissing Mr. Sauve from the RCMP [Dismissal Decision], and (ii) a decision that Mr. Sauve alleges was made by Mr. Craig MacMillan, Assistant Commissioner and Professional Integrity Officer of the RCMP, in a letter dated April 5, 2013 [Letter]. In the Letter, Mr. Sauve was informed, among other things, that he could not grieve to the RCMP Commissioner an Order issued in January 2005 [2005 Order] suspending his pay and benefits, because he had failed to file a Level II Grievance of that Order within the prescribed time limit.

[29] The Affidavit filed by Mr. Sauve in support of his Application in T-1101-13 also appears to seek judicial review in respect of both the Dismissal Decision and the 2005 Order referenced in the Letter.

[30] I have some doubt as to whether the contents of the Letter constitute administrative action susceptible to judicial review under section 18.1(1) of the *Federal Courts Act*, RSC 1985, c F-7, as amended [Act]. This is because the Letter simply described the legal effect of Mr. Sauve’s failure to present his grievance to Level II within the prescribed time limit. It did not convey any position that affected Mr. Sauve’s legal rights, imposed any legal obligations, or caused him prejudice (*Air Canada v Toronto Port Authority et al*, 2011 FCA 347, at paras 21-42).

[31] In addition, pursuant to Rule 302, judicial review is only available with respect to a single order or decision.

[32] Moreover, Mr. Sauve's Application was filed well beyond the applicable 30-day time limit set forth in s. 18.1(2) of the Act, with respect to both the Letter and the Dismissal Decision.

[33] Finally, Mr. Sauve has not yet exhausted his available remedies in respect of the Dismissal Decision. In particular, he has not requested an extension of time for filing his appeal pursuant to section 45.14 of the *Royal Canadian Mounted Police Act*, RSC 1985, c R-10.

[34] Mr. Sauve was informed of the RCMP's position on the foregoing points in a letter dated July 15, 2013, yet he failed to address them in his written and oral submissions on these Motions.

[35] Contrary to Mr. Sauve's position, there is nothing in the Affidavit filed in support of his Application for Judicial review in Court file T-1101-13, or in the extensive exhibits thereto, which assists him with respect to the foregoing issues, including his alleged impecuniosity.

[36] Considering all of the foregoing, I am not satisfied that Mr. Sauve has adequately demonstrated, for the purposes of Rule 417, that his case in Court file T-1101-13 has merit.

(ii) T-1325-13

[37] Court file T-1325-13 is an action commenced by Mr. Sauve on August 6, 2013. In his Statement of Claim, Mr. Sauve claims approximately \$3 million in general, aggravated and punitive

damages against Her Majesty The Queen In Right of Canada and Moneco Sobeco, a party to the action, for alleged breaches of the *Charter*, various physical and mental injuries, loss of income and employment benefits and other alleged harms, all arising from his deteriorating relationship with the RCMP, including the alleged breaches of the RCMP's internal grievance and disciplinary procedures.

[38] The Statement of Claim filed by Mr. Sauve is very long, convoluted and repetitive. In summary, he alleges that the RCMP: threatened, intimidated and harassed him for several years following his suspension in February 2005; improperly suspended his pay and certain benefits at that time; failed to serve documents on his lawyer; removed his RCMP counsel just before his disciplinary hearing; intentionally kept him "cash poor" and unaware of applicable procedures over the course of various proceedings; refused to provide him with the documentation he required to obtain OHIP benefits; failed to pay interest or damages in respect of a payout of "banked Annual Leave and LTO"; failed to follow appropriate internal grievance and disciplinary procedures; failed to address his physical and mental injuries; violated the principles of procedural fairness in various ways in conducting those proceedings; failed to accommodate his physical and mental injuries during those proceedings, thereby causing him prejudice; destroyed documents after the expiration of the limitation period; terminated medical, dental and certain other benefits on August 11, 2011; failed to continue to pay his pension premiums and insurance premiums from February 2005 to August 11, 2011; and failed to pay his severance pay from June 25, 1986 until August 11, 2011.

[39] At paragraphs 4 to 85 of his Statement of Claim, Mr. Sauve also reiterates, by way of background only, and “not to relitigate,” a litany of claims that he has made in other proceedings that he has initiated in this Court.

[40] The RCMP submits that the action in T-1325-13 is bereft of any success because the allegations contained therein have already been or currently are the subject of other proceedings before this Court, or have been struck. In support of this position, the RCMP provided a helpful chart at Tab 3J of its Motion Record. The RCMP further submitted at the hearing of these Motions that any new allegations raised by Mr. Sauve in this action do not provide a basis for any cause of action.

[41] The word “merit” in Rule 417 has been defined to mean “deserving or worthy of consideration” (*Lavigne v Canada (Human Rights Commission)*, 2010 FC 1038, at paras 19-20). In my view, this is another way of saying that the case raises a serious issue to be tried. This is a higher threshold than the threshold of “plain and obvious that the claim discloses no reasonable cause of action,” which is applied in motions to strike. In my view, a higher threshold is appropriate in considering whether a case has merit, as contemplated by Rule 417, because of the purpose of that Rule, namely, to provide the Court with the jurisdiction to refuse to order that security for costs be given, in circumstances where such an order may otherwise have been issued. It also bears underscoring that, unlike on a motion to strike where the Defendant bears the burden of showing that the action is bereft of any merit, the burden under Rule 417 falls on the Plaintiff, Mr. Sauve, to satisfy the Court that the case has sufficient merit that he should be relieved from the obligation to

post security for costs. It follows that a determination that Mr. Sauve has not met that burden is not a determination that the action should otherwise be struck.

[42] For the purposes of this Motion for security for costs, I agree with the Respondent that Mr. Sauve has not demonstrated that his Statement of Claim in T-1325-13 has merit or raises a serious issue to be tried.

[43] The claims that Mr. Sauve is making in T-1325-13 against the RCMP and Moneco Sobeco for alleged breaches of the *Charter*, various physical and mental injuries, loss of income and employment benefits, alleged breaches of the RCMP's internal grievance and disciplinary procedures, and other alleged harms, appear to be largely duplicative of claims made against the RCMP and Moneco Sobeco in other actions that Mr. Sauve has filed in this Court (*Sauve T-447-10*, above; *Sauve v Canada* (T-682-10, January 16, 2013, *per* Prothonotary Tabib) [*Sauve T-682-10*]; *Sauve v Canada* (T-682-10, February 3, 2011, *per* Prothonotary Aronovitch); *Sauvé v Canada*, 2009 FC 1011 (T-996-09, October 6, 2009, *per* Mainville J.) [*Sauve T-996-09*]; *Sauve v Canada*, (T-1646-08, June 12, 2009, *per* Hansen J.) [*Sauve, T-1648-08*]).

[44] The various specific claims that Mr. Sauve has made in T-1325-13 are identified below, together with the other actions in which essentially the same claims have been advanced:

Claims made in T-1325-13	Files in which essentially the same claim is or was made
Threats, intimidation, discrimination and harassment by representatives of the RCMP following his suspension in 2005	T-1-10; T-996-09; T-447-10; T-682-10

Claims made in T-1325-13	Files in which essentially the same claim is or was made
Improper suspension of pay and certain benefits following his suspension	T-996-09; T-682-10; T-447-10; T-1-10
Failing to serve documents on his lawyer	T-447-10, T-996-09
Removal of internal RCMP counsel just before his disciplinary hearing	T-1101-13; T-447-10
Intentionally keeping him “cash poor” and unaware of applicable procedures over the course of various proceedings	T-682-10
Failure to follow appropriate internal grievance and disciplinary procedures	T-682-10
Violation of the principles of procedural fairness in various ways in conducting the internal grievance and disciplinary proceedings, including delay in holding the disciplinary hearing and conducting that hearing without Mr. Sauve or his representative being in attendance	T-1101-13; T-682-10 ; T-1646-08
Failure to continue to pay his pension premiums and insurance premiums from February 2005 to August 2011	T-996-09 (life insurance,), T-1646-08 (life insurance)
Claimed violation of sections 7, 12 and 15 of the <i>Charter</i>	T-682-10; T-996-09; T-1-10; T-1752-06; T-447-10
Violation of Mr. Sauve’s right to work and financially support his family	T-682-10; T-996-09; T-447-10
Failure to address his injuries after he was harassed, discriminated against and prejudiced over the past 6 ½ years, during which he was beaten, tortured, abused and threatened	T-1-10; T-996-09; T-447-10; T-682-10
Failure to pay interest or damages in respect of a payout of “banked Annual Leave and LTO”	T-996-09

Claims made in T-1325-13	Files in which essentially the same claim is or was made
Refusing to provide him with the documentation he required to obtain OHIP benefits	
Destruction of documents after the expiration of the limitation period	
Termination of medical, dental and certain other benefits on August 11, 2011	
Failure to pay his severance pay corresponding his alleged period of employment (June 25, 1986 to August 11, 2011).	

[45] It is an abuse of process for a plaintiff to initiate multiple legal proceedings based on the same facts or circumstances, even where prior litigation has been dismissed on procedural grounds (*Sauvé T-682-10*, above; *Sauve T-996-09*, above, at paras 25-26). Given the similarities noted above, Mr. Sauve has not satisfied the Court, as it was his burden to do, that the claims are not duplicative and therefore not an abuse of process.

[46] Some of the losses claimed in this new action appear to have been suffered after the period covered by the previous claims. However, these new losses appear to be attributable to, or rooted in, the same causes of action that were pleaded earlier. Asserting, in a new action, the same causes of action as were litigated or asserted in earlier proceedings remains, *prima facie*, an abuse of process, despite the fact that new or different damages are claimed, including in respect of subsequent time periods (*Grandview (Town) v Doering* [1975] S.C.J. No. 93; [1976] 2 S.C.R. 621 [Grandview]; *Ahani v R* (1999), 163 FTR 296, at paras 8-11 (FCTD) [Ahani]; *Singh v R* (1996), 123 FTR 241,

at paras 8-13 (FCTD); *Oak Bay Marine Group v Jackson*, [1994] 3 FC 177, 75 FTR 105, at para 13 (FCTD)).

[47] With respect to the claims reflected in the chart above that have not specifically been advanced in other proceedings initiated by Mr. Sauve in this Court, Mr. Sauve has not demonstrated or even alleged that “he could not by reasonable diligence, have put himself in a position to advance” these claims, in one of the earlier proceedings that he has initiated in this Court (*Grandview*, above, at p. 638; *Ahani*, above). On their face, these claims appear to arise out of essentially the same circumstances that form the bases for some of the claims made by Mr. Sauve in one or more of those earlier proceedings.

[48] In any event, those “new” claims are all, on their face, employment-related matters that must follow the statutory grievance process. Except in rare cases where it can be shown that the grievance process is not an adequate alternative remedy, redress by way of an action for damages does not lie for such claims, even where the plaintiff has failed to exercise his administrative recourses and may now be precluded from accessing them. Mr. Sauve’s action in T-682-10 was dismissed on these same grounds (*Sauvé T-682-10*, above), and Mr. Sauve on this Motion has not satisfied me that any circumstances exist that would justify a different result.

[49] Considering all of the foregoing, I am not satisfied that Mr. Sauve has adequately demonstrated, for the purposes of Rule 417, that his case in Court file T-1325-13 has merit.

[50] Given my conclusion above, it is not necessary to address the submissions that have been made by the Defendant with respect to Rule 416(1)(g).

(iii) T-1603-13

[51] Court file T-1603-13 is an action commenced by Mr. Sauve on September 30, 2013. In his Statement of Claim, Mr. Sauve claims approximately \$240,000 in general, aggravated and punitive damages against Her Majesty The Queen In Right of Canada, for alleged breaches of the *Charter* and a duty of care, various physical and mental injuries, loss of enjoyment of life, loss of mobility, loss of reputation and other alleged harms, all arising from a visit to his home on September 26, 2013 by Ottawa Police Services Officer Anthony Costantini and Officer Stephen McDougall, who Mr. Sauve believes was seconded to the RCMP at that time.

[52] In addition, at paragraphs 46 to 52, the Statement of Claim repeats certain allegations made by Mr. Sauve in Court file T-1325-13, which I have addressed above and therefore do not need to further discuss.

[53] For the reasons that follow, I am not satisfied that the new claims being made in Court file T-1603-13 are meritorious.

[54] As alleged in Mr. Sauve's Statement of Claim, Officers Costantini and McDougall visited Mr. Sauve at his "child's residence" the day after Mr. Sauve appeared before Justice Gagné on his motion for advance costs to fund his counsel in Court file T-1101-13.

[55] Officers Costantini and McDougall visited Mr. Sauve on that occasion to interview him about his conduct before Justice Gagné.

[56] The transcript of the hearing before Justice Gagné reflects that, in support of his motion, Mr. Sauve stated that he owes \$50,000 to a person named “Joe,” who has been funding his litigation. After he was unable to identify for Justice Gagné any evidence on this point in his motion record, Justice Gagné explained that she could not accept his statements as evidence. In response, Mr. Sauve stated that he didn’t think the hearing was going to take too long because, “when you don’t have a lawyer, you don’t have much hope, and you get – because you’re going up against a lawyer, and I’m just self represented, so I’m going to get straight to the point.”

[57] Mr. Sauve then stated that “Joe” had asked him to give the Court three lists, namely a 62-page “list of the Ottawa judges and Crowns and their addresses,” another list of “the contacts,” and a third list of “30 informants, RCMP informants.” He gave the Court the first page of the first list and the first page of the second list, which states “100 pages” at the top. He stated that he shredded the remainder of those lists, as well as the entire third list.

[58] As further reflected in the transcript of that hearing, Justice Gagné’s initial reaction to what had happened was to “take it as a threat.” Indeed, in one of the recitals to the Order that she issued dismissing the motion that Mr. Sauve had brought before her, she observed that Mr. Sauve had “explicitly threaten[ed] this Court” in an attempt to obtain one of the remedies that he had sought (Order dated November 4, 2013, Court docket T-1101-13).

[59] In my view, a reasonable person likely would have difficulty interpreting the giving of the first pages of the aforementioned documents by Mr. Sauve to Justice Gagné otherwise than as having had a threatening dimension.

[60] Accordingly, it was entirely reasonable and appropriate for Officers Costantini and McDougall to have visited Mr. Sauve at the location where he was believed to be on September 26, 2013, for the purpose of interviewing him about his conduct before Justice Gagné the preceding day and about the role that he claims “Joe” played with respect to the documents that Mr. Sauve gave to Justice Gagné. Indeed, the public would reasonably expect that such a visit would be conducted, as part of the initial steps in the investigation of what transpired before Justice Gagné the prior day. In any event, Mr. Sauve has not persuaded me that there is any merit to the claims he has made against Officers Costantini and McDougall for having so visited him for that purpose.

[61] As an aside, it is relevant to note that, after Mr. Sauve began his oral submissions on the hearing of this Motion by stating that he felt “really bad about what happened on September 25th and that he had not intended to threaten Justice Gagné, I asked him several times to provide an explanation for his conduct, or an interpretation of it, which was non-threatening in nature. He was unable to do so.

[62] Given that a reasonable person likely would interpret what transpired before Justice Gagné to have had a threatening dimension, and in the absence of an alternative explanation from Mr. Sauve, I cannot conclude that the other claims made by Mr. Sauve in T-1603-13 have merit.

This includes (i) the general claim that he has made with respect to the “words, gestures and actions” of Officers Costantini and McDougall during their interview of him, (ii) the allegation that the police took a photograph of him at the Federal Court, without his knowledge or consent, and that the photograph was shared with other officers, (iii) the way in which Officers Constantini described Mr. Sauve’s conduct before Justice Gagné, namely, as having been “threatening,” and (iv) the allegation that Officer McDougall stated to him that he had “made threats against” Justice Gagné.

[63] Likewise, I am satisfied that any causes of action that Mr. Sauve is specifically asserting with respect to the RCMP’s alleged characterization of the two pages that he provided to Justice Gagné are without merit. Although Mr. Sauve baldly asserted, at paragraph 41 of his Statement of Claim, that those two pages “are public documents containing information that is accessible to every Canadian citizen,” he was unable to identify, in the hearing of this Motion, where those documents are located in the public domain or who publishes them. Indeed, as reflected at page 58 of the transcript of the hearing, he stated that the two documents that he alleges are in the public domain are directories, and not the documents from which the two pages in question were excerpted.

[64] In summary, for the reasons given above, I am not satisfied that the various causes of action that Mr. Sauve has asserted in Court file T-1603-13 have any merit.

[65] Given the conclusion that I have reached on this point, it is not strictly necessary for me to address the submissions that have been made on behalf of the Defendant with respect to Rule 416(1)(g). Nevertheless, in the circumstances, I feel compelled to state for the record that I find that

there is reason to believe that the action in Court file T-1603-13 is frivolous and vexatious, as contemplated by that Rule.

(d) *Conclusion and exercise of discretion*

[66] Based on all of the foregoing, I am satisfied that it is appropriate to grant the Defendant's Motions for security for costs in relation to Court files T-1101-13, T-1325-13 and T-1603-13, with modifications.

[67] With respect to Court file T-1101-13, the Defendant requested that Mr. Sauve be ordered to pay security for costs in the amount of \$14,880. However, given the available evidence regarding Mr. Sauve's financial circumstances, I am not prepared to grant an order for that amount, which has been calculated on the basis of Column V of Tariff B of the Rules.

[68] I recognize that an award in accordance with Column V ordinarily would be appropriate in cases where, as here, the plaintiff has significant and longstanding unpaid orders for security for costs. Nevertheless, on the very particular facts of this case, I am not satisfied that it would be in the interests of justice to order that costs be paid in accordance with Column V in respect of Court file T-1101-13. Instead, I will exercise my discretion and order an amount for security for costs that roughly corresponds with the mid-point of the range reflected in Column III of Tariff B, namely \$5,000.

[69] With respect to Court file T-1325-13, the RCMP requested that Mr. Sauve be ordered to pay security for costs in the amount of \$30,000. Once again, that amount was calculated on the basis of Column V of Tariff B of the Rules.

[70] For essentially the same reasons as set forth at paragraph 68 above, I am not prepared to grant an order for payment of the amount requested. Instead, I will order Mr. Sauve to pay an amount of security for costs that roughly corresponds with the mid-point of the range reflected in Column III of Tariff B, namely \$12,000.

[71] With respect to Court file T-1603-13, the RCMP again requested that Mr. Sauve be ordered to pay security for costs in the amount of \$30,000, which was calculated on the basis of Column V of Tariff B of the Rules. For this matter, I have concluded that it would be entirely appropriate to grant the full amount of security for costs requested by the Defendant.

[72] I have reached this conclusion for three principal reasons. First, I have found that there is reason to believe that the action in Court file T-1603-13 is frivolous and vexatious. Second, the circumstances suggest to me that Mr. Sauve intended to intimidate the Defendant, or to “chill” the Defendant’s investigation of what transpired before Justice Gagné on September 25, 2013. Third, contrary to his statement during the hearing of this Motion that he intended to be “frank” and “forward” with the Court (Transcript, p. 62), he was very much the opposite. This is reflected in his numerous refusals to answer basic questions that I posed to him during the hearing of this Motion regarding important facts relating to the hearing that took place before Justice Gagné, which were

described in Mr. Sauve's written representations on this Motion as well as in the Statement of Claim that he filed in Court file T-1603-13.

[73] For example, Mr. Sauve repeatedly refused to explain how he thought his giving of the two pages with the names and addresses of judges and "contacts" to Justice Gagné should have been interpreted by her or by any reasonable person. He also repeatedly refused to provide an alternative explanation for what he had done that was non-threatening in nature. In addition, he refused to answer questions about those two pages, whether he knew what was contained in them, how he contacts the person he alleges asked him to provide the documents to the Court ("Joe"), where on the public record those two pages or the information contained in them could be found, and who told him of the existence of the documents that he claims are on the public record. (Transcript, pp. 43 and 47 – 67). Indeed, at one point, he stated that he was given "just two bare pages," whereas he later stated that the documents were originally given to him in an envelope, and that he shredded all but the two pages that he gave to Justice Gagné (Transcript, p. 45). Moreover, the explanation that he gave to me to the effect that he gave Justice Gagné the two pages as an afterthought, "as he was walking out" of the courtroom, was belied by the transcript of that hearing, which indicates that he wanted "to get straight to the point" by giving those two documents to Justice Gagné (Transcript of Hearing dated September 25, 2013, at p. 8, Court file T-1101-13).

[74] In my view, it would not be appropriate for the Court to exercise discretion in favour of someone who is being so unforthcoming, evasive and indeed disingenuous. Parties who are not frank and forthright with the Court cannot expect that the Court will exercise discretion in their favour.

[75] Accordingly, I am satisfied that it is appropriate to grant the full amount of the security for costs sought by the Defendant in respect of Court file T-1603-13, namely, \$30,000.

[76] I am also satisfied that it is appropriate to grant the Defendant's request that the security for costs for all three Court files which are the subject of these Motions be paid into Court within 30 days, in the case of T-1101-13, and within 90 days, in the case of T-1325-13 and T-1603-13. In addition, having regard to Rule 416(3), I am satisfied that it is appropriate to prohibit Mr. Sauve from taking further steps, including filing any further motions, in Court files T-1101-13, T-1325-13 and T-1603-13 until security for costs is paid and notice of that fact has been given to the Defendant.

[77] With respect to the costs of these Motions, the RCMP initially requested that costs be fixed at \$1,540 for the Motion in relation to Court file T-1101-13 and at \$2,000 for the Motion with respect to Court files T-1325-13 and T-1603-13. However, given that these Motions were subsequently consolidated, counsel for the RCMP acknowledged that the costs of preparing for and participating in these Motions were reduced because they had been heard together. With this in mind, I will fix the costs of these Motions, the hearing of which lasted in excess of two hours, at \$500 for each of Court files T-1101-13, T-1325-13 and T-1603-13, respectively, payable forthwith and not to be deducted from the amount of security for costs to be paid.

"Paul S. Crampton"

Chief Justice

ORDER

THIS COURT ORDERS that, in the matter of Court file no. T-1101-13:

1. The Applicant, Mr. Gary Sauve, shall pay security for costs in the amount of \$5,000.00, within thirty (30) days of the date of this order.
2. Mr. Sauve, shall not take any further steps in this application, including the bringing of any motions, until he has paid the security for costs hereby ordered. This provision shall not apply to the bringing of an appeal from this Order.
3. Mr. Sauve, shall provide notice in writing to the Respondent within twenty-four (24) hours of the above-mentioned security for costs being paid.
4. Mr. Sauve, shall, forthwith and in any event of the cause, pay to the Respondent the costs of this motion, in the fixed amount of \$500.00. Payment of these costs shall not affect the total amount of security for costs required to be paid pursuant to this order.

“Paul S. Crampton”

Chief Justice

ORDER

THIS COURT ORDERS that in the matter of Court file no. T-1325-13:

1. The Plaintiff, Mr. Gary Sauve, shall pay security for costs in the amount of \$12,000 within ninety (90) days of the date of this order;
2. Mr. Sauve, shall not take any further steps in this action, including the bringing of any motions, until he has paid the security for costs reflected above in respect of that proceeding. This provision shall not apply to the bringing of an appeal from this Order.
3. Mr. Sauve, shall provide notice in writing to the Defendant in this action, within twenty-four (24) hours of the above-mentioned security for costs being paid.
4. Mr. Sauve, shall, forthwith and in any event of the cause, pay to the Defendant, Attorney General of Canada, the costs of this Motion, in the fixed amount of \$500.00. Payment of these costs shall not affect the total amount of security for costs required to be paid pursuant to this order.

"Paul S. Crampton"
Chief Justice

ORDER

THIS COURT ORDERS that in the matter of Court file no. T-1603-13:

1. The Plaintiff, Mr. Gary Sauve, shall pay security for costs in the amount of \$30,000 within ninety (90) days of the date of this order;
2. The Plaintiff, Mr. Gary Sauve, shall not take any further steps in this action, including the bringing of any motions, until he has paid the security for costs reflected above in respect of that proceeding. This provision shall not apply to the bringing of an appeal from this Order.
3. The Plaintiff, Mr. Gary Sauve, shall provide notice in writing to the Defendant in this action, within twenty-four (24) hours of the above-mentioned security for costs being paid.
4. The Plaintiff, Mr. Gary Sauve, shall, forthwith and in any event of the cause, pay to the Defendant, Attorney General of Canada, the costs of this Motion, in the fixed amount of \$500.00. Payment of these costs shall not affect the total amount of security for costs required to be paid pursuant to this order.

“Paul S. Crampton”
Chief Justice

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1101-13

STYLE OF CAUSE: GARY SAUVE v ATTORNEY GENERAL OF CANADA
AND MONECO SOBECO

AND DOCKET: T-1325-13
STYLE OF CAUSE: GARY SAUVE v HER MAJESTY THE QUEEN IN
RIGHT OF CANADA AND MONECO SOBECO

AND DOCKET: T-1603-13
STYLE OF CAUSE: GARY SAUVE v HER MAJESTY THE QUEEN IN
RIGHT OF CANADA

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: DECEMBER 18, 2013

**REASONS FOR ORDER AND
ORDER:** CRAMPTON C.J.

DATED: JANUARY 31, 2014

APPEARANCES:

Gary Sauve (self-represented) FOR THE APPLICANT/PLAINTIFF

Agnieszka Zagorska FOR THE RESPONDENT/DEFENDANT

No one appearing FOR THE PARTY-TO-ACTION

SOLICITORS OF RECORD:

Gary Sauve (self-represented)

FOR THE APPLICANT/PLAINTIFF

William F. Pentney
Deputy Attorney General of Canada
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FOR THE RESPONDENT/DEFENDANT