

| | | | |
|---------------------------------------|--------------------------------|----------------|----------------------------|
| e-document | | T-2650-23-ID 1 | |
| F I L E D | FEDERAL COURT COUR FÉDÉRALE | | D É P O S É |
| December 13, 2023 13 décembre 2023 | | | |
| Vanessa George | | | |
| TOR | | 1 | |

Court file number :

FEDERAL COURT

BETWEEN

PHONG LAM

Plaintiff

-and-

LAW SOCIETY OF ONTARIO

Defendant

Statement of Claim

TO THE DEFENDANT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff.
The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the [Federal Courts Rules](#), serve it on the plaintiff's solicitor or, if the plaintiff does not have a solicitor, serve it on the plaintiff, and file it, with proof of service, at a local office of this Court

WITHIN 30 DAYS after the day on which this statement of claim is served on you, if you are served in Canada or the United States; or

WITHIN 60 DAYS after the day on which this statement of claim is served on you, if you are served outside Canada and the United States.

TEN ADDITIONAL DAYS are provided for the filing and service of the statement of defence if you or a solicitor acting for you serves and files a notice of intention to respond in Form 204.1 prescribed by the [Federal Courts Rules](#).

Copies of the [Federal Courts Rules](#), information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

TORONTO, This 13 day of December, 2023

Issued by: _____

FEDERAL COURT OF CANADA

180 Queen Street West

Toronto Ontario , M5V 1Z4

Tel : 1 800 663 2096

TO: The Defendant

Diana Miles

Chief Executive Officer

The Law Society of Ontario

130 Queen Street West

Toronto, ON M5H 2N6

Tel: 416 947 3300

Email: dmiles@lso.ca

Email: lawsociety@lso.ca

Claim

1. I, Phong Lam, the plaintiff in this matter accused the defendant LSO (Law Society of Ontario) of abuse of authority, interference into the Court Administration, conducted fraud proceedings, fabricated judgment (2023 FC 1423) to defraud the court and dismissed my claim. Such an offence constituted criminal contempt of court, against Administrative Law and Justice, violated Human Rights. This proceeding held the Chief Executive Officer Diana Miles as the Defendant responsible for the misconduct of the LSO.

2. The fabricated judgment (2023 FC 1423) contained 18 paragraphs that were created by 4 lawyers on October 25 2023. It was purposely published on the Canlii website as a genuine judgment by the LSO, spreading false judgment and perjury, illegally dismissing my claim (T-1394-23). This is the third fake judgment issued by the LSO for the last 18 months. Two previous fake judgments (2023 OHRT 707) and (2022 ONSC 2600), illegally dismissed my complaint in the Ontario Tribunal and my claim in the Superior Court of Justice.

3. The Criminal Code section (137). Fabricating Evidence to mislead the judicial proceeding might cost up to 14 years imprisoned. That means the Court considering fabricated evidence is a serious offense. Then what is the consequence for the LSO ? who is trafficking fake judgment in all courts to defraud the Court and dismissed my claim. The fabricated judgment (2023 FC 1423) that published on the Canlii website is the material evidence, proving beyond a reasonable doubt that the Law Society violated one of the most serious crimes of fraud in the Federal Court.

4. I have exchanged a lot of email arguments with the LSO counsels, Christine O'Neill and David Cass for the past 3 years, after filing a complaint on September 11 2020, regarding the misrepresentation of lawyer Cathy Braker. Until today, the Law Society is unable to resolve the complaint on just one page and no response statement. The counsels of LSO using their regular excuse "found no evidence", more "new information" and keeping silent, is the way for not taking responsibility. A complaint with the Law Society is a complaint against myself.

5. The argument became even worse after the LSO allowed the lawyers of Goldblatt Partners to make a fake judgment (2022 ONSC 2600) containing 53 paragraphs. That was published on the Canlii website on April 28 2022, illegally dismissing my claim in Ontario Superior Court on that same day. It is over 18 months and the public didn't know that was an illegal judgment, unless compared it with the statement of claim. (CV-21-00664327). The LSO failed on duty to report criminal activities to the Law Enforcement, which is causing damage to the public and destroying the justice system of Ontario.

6. One year later on May 3 2023. Another fabricated judgment (2023 OHRT 707) suddenly published on Canlii website, dismissed my human rights complaint in the Ontario Tribunal. The LSO did not respond to my email after I requested updating the complaint file and questioning about fabricated judgment, which involved lawyer Cathy Braker. The Law Society is ready to suspend or disbarred the lawyers who are faking court documents to deceive the client. However, they allowed other lawyers repeatedly fabricating judgments to defraud the Court without punishment. If that is not double standards then what is it ?

7. Followed by the appearance of the third fabricated judgment (2023 FC 1423) related to the Federal Court that described in above paragraph (2). This is the legal matter of public importance without precedent, also the interest of the Federal Court to promote the integrity and the independence of the court. Whether the LSO is able to prove a defence against this claim or they will issue another fabricated judgment to dismiss my claim. All depends on the duty of the Court Administration. I would not have to file this claim if there is a competent lawyer to report the fabricated judgment to the law enforcement for investigation.

8. At all times, the LSO said that they are “self governing”, they protect the public and they govern the lawyers in the public interest, ensuring that the people receive high standards services from the lawyers. In reality, the LSO is a private organization, they protect their private business only, the Law Society managing 60,000 lawyers in Ontario based on their business gain, holding absolute power to decide who is the client of the lawyers and who will not be represented by the lawyer. Nothing ever done in the public interest, only the LSO gained huge profits.

9. Instead of governance the Lawyers, the LSO focus on governance the Law of Ontario, extending their legal business to all levels of Ontario Judiciary, including the office of Attorney General, influence the legal proceedings of the Superior Court, encourage lawyers misleading rule of procedure and reverse Judges order, the LSO interference into the justice system causing corruption, fabricating judgment assisting the fraudsters fleeing from the justice. Agreed to pay for the fabricated judgment rather than wait for the trial. After receiving 3 fake judgments, the Plaintiff decided to file this claim against the LSO, the Law Society should be held responsible for the misconduct of the lawyers and the offense of fabricating judgment against the justice.

10. The defendant LSO responsible for the compensation cost \$480,000. That was the value of the claim (T-1394-23) which was dismissed by the fabricated judgment (2023 FC 1423) on October 25 2023. The Law Society is also responsible for the unlawful conduct stated in paragraph (1), constantly attacking my legal process during the past 5 years demonstrating malicious intention, inhuman professional conduct. Seeking punitive damages based on 30 percent annual income of the LSO should effectively deter the defendant from committing again.

The plaintiff proposed that this action be tried in Ottawa, Ontario

DATED AT TORONTO, This 13 day of December, 2023



(Signature of plaintiff)

PHONG LAM
20 Dundee Drive
North York , Ontario
M3J 1H6 Canada
Tel : 416 888 8632
phongthulam@gmail.com

Federal Court



Cour fédérale

Date: 20231025

Docket: T-1394-23

Citation: 2023 FC 1423

Toronto, Ontario, October 25, 2023

PRESENT: Mr. Associate Judge Michael D. Crinson

BETWEEN:

PHONG LAM

Plaintiff

and

MARIO SILVA AND CATHY BRAKER

Defendants

ORDER AND REASONS

[1] The plaintiff in this matter, Phong Lam (“Lam”), commenced this proceeding on July 6, 2023. The Statement of Claim (the “Claim”) amounts to a series of allegations by the plaintiff against the two defendants, Mario Silva (“Silva”) and Cathy Braker (“Braker”). Silva is alleged to be the vice chairman of the Human Rights Tribunal of Ontario (“HRTTO”). The action arises out of the HRTTO's dismissal of Lam's application against his former employer, Cleveland Range Ltd. and his former union, the United Steelworkers. Silva wrote the decision dismissing Lam's

HRT0 application as abandoned and Braker was the lawyer for the United Steelworkers Union in the HRT0 proceeding.

[2] The Claim in this matter claims \$480,000 (four hundred and eighty thousand) in damages. The Claim, as a basis for the damages claim, makes a number of bare allegations including bribery and corruption by one defendant, collusion between the two defendants, fraud, abuse of authority, and transmission and issuance of a “forgery judgment” among other allegations. While there is much repetition of the allegations in the Claim there is little to nothing in the nature of material facts to support this panoply of allegations.

[3] Each of the defendants in this matter have brought motions pursuant to rule 221 to strike the Claim without leave to amend. The defendant Braker seeks to strike the Claim on the bases that: (1) the Federal Court lacks jurisdiction to hear the matter; (2) it discloses no reasonable cause of action; and it is scandalous, frivolous and/or vexatious. Similarly, the defendant Silva seeks to strike the Claim on the bases of rule 221(1)(a), (c) and (f). Both defendants seek their costs of their motions.

[4] On September 11, 2023, the plaintiff sent an email addressed “To the Chief Administrator of the Federal Court”. However, the plaintiff did not file any responding motion record to either of the motions to strike and aside from the email submitted no evidence on the motions.

[5] While the motion of each defendant raises several bases for striking out the Claim as against each of them, two grounds that they have in common and which are sufficient to resolve this motion are based on:

[6] rule 221(1)(a) no reasonable cause of action for want of jurisdiction, and

[7] rule 221(1)(c) the claim is scandalous, frivolous and vexatious.

I. Applicable Principles on a Motion to Strike

[8] On a motion to strike out a pleading under Rule 221(1)(a), the applicable test is whether it is “plain and obvious” that the claim discloses no reasonable cause of action: see *Hunt v Carey*, 1990 CanLII 90 (SCC), [1990] 2 SCR 959, [1990] SCJ No 93 at par 32 (QL). The burden on the defendant is very high and the Court should exercise its discretion to strike only in the clearest of cases. The pleading should be read generously with allowance for inadequacies due to drafting deficiencies.

[9] The Federal Court of Canada is a statutory court that has the jurisdiction that is given to it by statute. As recently stated by the Federal Court of Appeal, “The jurisdiction of the Federal Court is statutory. As such, the statutory basis for jurisdiction must be identified.” (*Berenguer v. Sata Internacional - Azores Airlines, S.A.*, 2023 FCA 176 at para. 34). When a pleading does not disclose a reasonable cause of action falling within the jurisdiction of this Court, it does not disclose a reasonable cause of action that the Court can adjudicate (*Windsor (City) v. Canadian Transit Co.*, 2016 SCC 54, [2016] 2 S.C.R. 617 at para. 24).

[10] Those allegations that are capable of being proved must be taken as true. This rule does not apply, however, to allegations based on assumptions and speculation: *Operation Dismantle Inc v The Queen* (1985), 18 DLR (4th) 481 (SCC) at par. 486-487 and 490-491. Moreover, the Court need not accept at face value bare allegations, factual allegations which may be regarded as scandalous, frivolous or vexatious, or legal submissions dressed up as factual allegations.

[11] There is no rigid test for determining whether a pleading is scandalous, frivolous or vexatious. However, *Steiner v. Canada*, 1996 CanLII 3869 (FC) describes one such proceeding thus:

A scandalous pleading includes one which improperly casts a derogatory light on someone, with respect to their moral character. A claim is a frivolous one where it is of little weight or importance or for which there is no rational argument based upon the evidence or law in support of the claim. A vexatious proceeding is one that is begun maliciously or without a probable cause, or one which will not lead to any practical result.

II. Application to these Motions to Strike

[12] For the reasons set out in the defendant Braker's written representations at paragraphs 14 to 20 and in the defendant Silva's written representations at paragraphs 12 to 20, which I wholly adopt and make mine, I conclude that the Claim should be struck as it fails to disclose a cause of action within the jurisdiction of this Court.

[13] The Claim should also be struck on the ground that it is scandalous and vexatious. The defendant Braker was opposing counsel on Lam's application before the HRTO. Lam alleges in this proceeding that Braker obtained a fraudulent decision before the HRTO and that Braker was

also involved in a fraudulent decision issued by Justice Perrell of the Superior Court of Justice in Toronto. No factual allegations are recited in the Claim as to what role Braker played in perpetrating the alleged fraud or even what was the alleged fraud. Allegations of similar gravity are levelled by Lam against Silva including bribery and corruption and that Silva colluded with others to fabricate “fake judgments”. Again, no factual allegations are recited in the Claim to provide particulars of these bald allegations.

[14] Lam provided no responding motion record to oppose the motions brought by Braker and Silva. It appears from the Claim that any unsuccessful judicial outcome for Lam is alleged to be a fraud or a fake judgment. Such allegations are mere speculation, opinion and assumptions but it is clear in law that a “cause of action must lie on material facts and not on assumptions.”

(*Chavali v Canada*, 2011 FCT 268 at para.21).

[15] The plaintiff's claim is scandalous and vexatious because it improperly impugns the moral character of each of the defendants alleging one or the other or both engaged in fraudulent conduct and bribery, without any foundation in fact or reason. The Claim is also scandalous in that it alleges, without basis that a previous judgment of the Superior Court of Justice of Ontario was a forgery. The plaintiff's claim lacks merit or any rational basis for the allegations.

[16] In my view, no amendment can be made to the pleading to cure these radical defects.

[17] As for costs of the motion, I see no reason to deviate from the general rule that costs should follow the event. While an elevated scale of costs may have been justified in light of the

scandalous and vexatious allegations made, each of the defendant's requested a more conservative amount of \$500 in costs.

[18] Upon reviewing the material filed, including the plaintiff's email and upon noting that the plaintiff did not file any responding motion record.

ORDER

THIS COURT ORDERS that:

1. The Statement of Claim is struck out, without leave to amend.
2. Costs of these motions, hereby fixed in the amount of \$500 for the defendant Braker and \$500 for the defendant Silva, shall be paid forthwith.

"Michael D. Crinson"

Associate Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1394-23

STYLE OF CAUSE: PHONG LAM v MARIO SILVA AND CATHY
BRAKER

**MATTER CONSIDERED AT TORONTO, ONTARIO WITHOUT PERSONAL
APPEARANCE OF THE PARTIES**

ORDER AND REASONS: CRINSON A.J.

DATED: OCTOBER 25, 2023

SOLICITORS OF RECORD:

PHONG LAM

FOR THE PLAINTIFF

TRIBUNALS ONTARIO LEGAL
SERVICES

Brian A. Blumenthal
Valerie Crystal

FOR THE DEFENDANT, MARIO SILVA

GOLDBLATT PARTNERS LLP
Charles Sinclair
Geetha Philipupillai

FOR THE DEFENDANT, CATHY BRAKER