IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Mehta v. Trinity Western University,* 2024 BCSC 1108

Date: 20240521
Docket: S240907
Registry: Vancouver

Between:

Urvishkumar Mukeshkumar Mehta

Plaintiff

And

Trinity Western University
22500 University Dr
City of Langley Township
British Columbia V2Y1Y1,
Mr Mark President Husband, and Mr Todd Provost Martin

Defendants

Before: The Honourable Madam Justice Sharma

Oral Reasons for Judgment

In Chambers

The Plaintiff, appearing in person:	U. Mehta
Counsel for the Defendants:	A.S. Cochrane
Place and Date of Hearing:	Vancouver, B.C. May 21, 2024
Place and Date of Judgment:	Vancouver, B.C. May 21, 2024

[1] **THE COURT:** The defendants Trinity Western University, Mark Husband, and Todd Martin, have brought an application seeking to strike the notice of civil claim pursuant to Rule 9-5 of the *Supreme Court Civil Rules,* B.C. Reg. 168/2009. In the notice of application, the defendants have set out the relevant litigation background.

[2] Rule 9-5(1) allows a court at any stage of a proceeding to strike out a pleading on one of a number of grounds including: it discloses no reasonable claim; it is unnecessary, scandalous, frivolous, or vexatious; it may prejudice, embarrass, or delay a fair trial or hearing; or it is otherwise an abuse of the court process.

[3] In *Simon v. Canada (Attorney General)*, 2017 BCSC 1438, this court stated that the various provisions of Rule 9-5 apply all together to deal with cases where pleadings are "[s]o overwhelmed with difficulty that it is simply not possible of fully identify all of the specific inadequacies that exist, or to categorize those difficulties into the specific subparagraphs": *Simon* at para. 53, citing *Sahyoun (Committee of) v. Ho*, 2015 BCSC 392 at para. 64. In *M.P.W. v. City of Victoria*, 2019 BCSC 1448, the court confirmed the necessity of a margin of lenience to people who represent themselves because they are not lawyers, but that does not relieve them of an obligation to comply with the rules or the law: para. 20.

[4] The standard test for striking a pleading comes from *R. v. Imperial Tobacco Canada Ltd.*, 2011 SCC 42:

> [17] The parties agree on the test applicable on a motion to strike for not disclosing a reasonable cause of action under r. 19(24)(a) of the *B.C. Supreme Court Rules*. This Court has reiterated the test on many occasions. A claim will only be struck if it is plain and obvious, assuming the facts pleaded to be true, that the pleading discloses no reasonable cause of action: *Odhavji Estate v. Woodhouse*, 2003 SCC 69, [2003] 3 S.C.R. 263, at para. 15; *Hunt v. Carey Canada Inc.*, 1990 CanLII 90 (SCC), [1990] 2 S.C.R. 959, at p. 980. Another way of putting the test is that the claim has no reasonable prospect of success. Where a reasonable prospect of success exists, the matter should be allowed to proceed to trial: See, generally, *Syl Apps Secure Treatment Centre v. B.D.*, 2007 SCC 38, [2007] 3 S.C.R. 83; *Odhavji Estate; Hunt*; *Attorney General of Canada v. Inuit Tapirisat of Canada*, 1980 CanLII 21 (SCC), [1980] 2 S.C.R. 735.

[5] The defendants also cite *Fowler v. Canada (Attorney General),* 2012 BCSC 367, which talks about the applicable standard reconfirming that the purpose of the rules is to enforce the fundamental obligation to plead material facts that disclose a reasonable cause of action: para. 55. Pleadings have to concisely state facts, including material facts. They cannot state merely conclusions of law and evidence.

[6] Mr. Mehta's notice of civil claim does not meet the applicable standard. I have read the pleading. It is not long or prolix. It is, however, entirely unclear. The pleading does not appear to assert what he actually wants out of this lawsuit. Among other things, he has based it on the *Constitution Act, 1982*, Schedule B to the *Canada Act 1982* (UK), 1982, c. 11, s. 93, the *College and Institute Act*, R.S.B.C. 1996, c. 52, and the *Indian Act*, R.S.C., 1985, c. I-5. I cannot see how the first and last of those apply here.

[7] The relief that he seeks has to do with something that is unknown to me, the “cost of student accountability and responsibility”. He seeks a decision be reported to the Ministry of Education, which normally we do not do, but then he cites the “MLA and Foreign Parliamentarian” and other things.

[8] Mr. Mehta was suspended and then expelled from Trinity Western University, and he has a complaint about that. I assume he has the right to bring some sort of challenge to those decisions, but that is not what this particular notice of civil claim does. I find that it does not disclose any cause of action and for that reason, it has no chance of success.

[9] I further find the notice of civil claim is embarrassing in the sense of it not containing any allegations that can validly go to trial. It appears to raise a number of irrelevant items. Most importantly, as I said, it does not achieve what Mr. Metha wants it to do based on his statements today. He believes he has received and appealed his expulsion, and that the university has not responded to him. Counsel for the university believes that it has responded. I make no finding on that issue. However, this pleading does not raise that issue and is simply not one that is capable of being tried in court.

[10] For all those reasons, I am striking his notice of civil claim.

[11] Counsel for the defendants, Ms. Cochrane, asked that I dispense with the need for Mr. Mehta's signature on today's order and another order. She pointed out that Mr. Mehta has not signed an order that was granted by Justice Kirchner. Mr. Mehta does not agree with what Justice Kirchner ordered. I am aware that in-person litigants sometimes are reluctant to sign orders because they did not succeed in obtaining the relief they wanted. However, so long as the order is drafted accurately, it should be entered.

[12] I will pause and ask Mr. Mehta about his intentions before I rule on the signature issue.

[SUBMISSIONS FROM PARTIES ON SIGNATURE ISSUE]

[13] THE COURT: Mr. Metha has told me he did not sign the order relating to the hearing before Justice Kirchner. He explained that he disagrees with what Ms. Cochrane has written on it. I have reviewed the order as drafted and find that it is accurate.

[14] With regard to both orders, I do grant an order to dispense with the need for Mr. Mehta's signature because I am concerned that it would be unduly difficult to get his cooperation. Ms. Cochrane will draft the orders, and they will be checked by the registry.

[SUBMISSIONS FROM PARTIES ON COSTS]

[15] THE COURT: The defendants sought their costs today. I asked Mr. Mehta for his position, and he repeated again his consistent position that the Court should not have gone ahead with one application today, when there was another one he wanted heard at the same time. He stated his firm belief that it was improper to hear the two applications separately. He declined to address costs. I am going to assume he does not want to pay costs because of his view that I was wrong to proceed with only one of the applications.

[16] The normal rule is that a successful applicant is entitled to its costs. There was no reason suggested to me why the defendants should not be entitled in this case. I have not been directed to any facts or circumstances, nor have I received submissions to depart from that rule. I grant the defendants their costs, but it should be at the lowest scale (Scale A) because this matter was not complicated in the sense that it was less than the level of ordinary difficulty.

"Sharma J."