T-2559-26

FEDERAL COURT

BETWEEN:

JEAN-YVES LANDRY
(ALSO KNOWN AS MARIE-SOLEIL SESHAT LANDRY)

Plaintiff
(Responding Party)

and

HIS MAJESTY THE KING

Defendant (Moving Party)

DEFENDANT'S REPLY SUBMISSIONS

(Motion to Strike)

MARIE-SOLEIL SESHAT LANDRY
1-29 Connaught Avenue
Moncton, NB EIC 3N7
Tel: 506-588-2787
Email: marielandryceo@gmail.com

Plaintiff (Self-Represented)

ATTORNEY GENERAL OF CANADA
Department of Justice Canada
Atlantic Regional Office
5251 Duke Street, Suite 1400
Halifax, NS B3J 3P1
Fax: 902-426-2329

Per: Amy Smeltzer
Tel: 902-829-7053
Email: amy.smeltzer@justice.gc.ca

Counsel for the Defendant

1. This reply to the Plaintiff's Responding Motion Record is filed on behalf of the Defendant (Moving Party) in support of the Defendant's motion to strike the Statement of Claim [Claim] pursuant to Rules 221(a), (c), (f) and 369 of the *Federal Courts Rules*.[1]

2. As a preliminary matter, the Plaintiff's Affidavits "A", "B", "C", "D", and "E" should not be considered. These affidavits introduce evidence to support the allegations made in the filed Claim, in breach of Rule 221(2),[2] which provides that no evidence shall be heard on a motion for an order under paragraph (1)(a).

3. While paragraph 5 of the Written Representations of the Plaintiff [Plaintiff's Representations] assert that the evidence is being introduced in respect to Rules 221(c) and (f) and the question of whether leave to amend should be granted, the evidence in these affidavits is not responsive to these issues. It does not address the questions of whether the action is an abuse of process because it is a collateral attack or is frivolous and vexatious because the filed Claim fails to plead material facts. Nor are Affidavits "A" to "E" mentioned in the Plaintiff's Representations on whether leave to amend should be granted. Accordingly, this evidence is not properly before the Court and any part of the Plaintiff's Representations which rely on that evidence should be disregarded.

Leave to amend is required

4. The Plaintiff acknowledges that the filed Claim is defective and seeks to replace the entire filed Claim with an Amended Statement of Claim [proposed Amended Claim] which is different from the Amended Statement of Claim served on September 15, 2026. The proposed Amended Claim seeks $2.5 million in general damages for negligence, misfeasance in public office and breaches of section 7, 9 and 11(e) of the *Charter*,[3] $750,000 in aggravated damages, $250,000 in punitive damages, and unspecified special damages. These damages are all alleged to flow from database entry errors made by an

[1] *Federal Courts Rules*, SOR/98-106, ss. 221(1) (a), (c), (f), 369.
[2] *Federal Courts Rules*, SOR/98-106, s. 221(2).
[3] *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, ss. 7, 9, 11.

RCMP civilian employee in 2016 which recorded the Plaintiff as having pleaded guilty to two charges that were in fact withdrawn and which were later corrected.

5. Asserted damages consist of:

   a. loss of liberty during about 1,000 days in custody;

   b. psychological harm and emotional distress;

   c. loss of reputation, including being treated by police, prosecutors and others as a person convicted of a sexual offence and of assault;

   d. interference with the Plaintiff's ability to find work; and

   e. legal and other out-of-pocket expenses.

6. In reply to paragraph 3 of the Plaintiff's Representations, although Rule 200 permits a party to amend its pleading, as of right, at any time before the pleadings have closed, this Rule does not apply to a pleading that is subject to a motion to strike. In such circumstances, leave to amend is required.[4] The test for leave to amend is whether the defects in the Claim can be cured by amendment.[5]

Leave to amend should not be granted

7. Leave to amend should be refused because the proposed Amended Claim does not cure the defects in the Claim or introduce any claims that are potentially viable on the facts pleaded.

The amendments are a collateral attack

8. The essence of the Claim remains a collateral attack on judicial remand and assessment orders. While paragraphs 18 and 35 of the Plaintiff's Representations assert that the claim does not seek to overturn any such orders, the proposed Amended Claim seeks an award of civil damages for the loss of liberty which was the legal effect of such orders. The

[4] *Bennett v Canada (Public Safety and Emergency Preparedness)*, 2025 FC 393 [*Bennett*] at para. 16 and cases cited therein.
[5] *Bennett* at para. 48.

collateral attack rule focuses on attacks on orders and their legal effects; an attack on the legal effects of an order is a collateral attack on the order itself.[6]

The proposed Amended Statement of Claim fails to disclose a cause of action in tort

9. The proposed Amended Claim fails to plead material facts to establish that any tortious conduct of the Defendant was the legal and factual cause of any injury to the Plaintiff or that those injuries are compensable in tort law. As such neither the torts of negligence nor misfeasance in public office are disclosed.

10. It is a requirement common to all torts that the Plaintiff must prove that the tortious conduct was the legal cause of his or her injuries, and that the injuries suffered are compensable in tort law.[7] The proposed Amended Claim does not plead material facts sufficient to meet this standard.

11. Specifically, the proposed Amended Claim pleads no material facts to establish the Plaintiff experienced a loss of liberty or that any such loss was a consequence of the database entry errors. The bare assertion that the Plaintiff was "detained before trial and, at times, under assessment orders" (para. 15) and "[b]ut for the false record, the Plaintiff would have been released, or released sooner or on less restrictive conditions, and would not have spent much of that time in custody" (para. 16) are bald, speculative, and conclusory. They do not rise to the level of material facts sufficient to disclose a cause of action. No specific order made in reliance on the erroneous database entries is identified, and the bald assertion at paragraph 14 that errors in the CPIC database "bore directly on whether her detention was necessary" pursuant to ss 515(10)(b) or (c), stops short of pleading that any decision-maker relied on these errors in refusing bail or making an assessment order. Further, any loss of liberty (and any consequences thereof) was not caused in law by the Defendant's conduct, but rather by lawful assessment and remand orders.

12. The proposed Amended Claim asserts at paragraph 17 that "The hearing dates" in various court files "will be inserted in this paragraph or provided in an appendix to the pleading"

---

[6] *Sanofi-Aventis Canada Inc. v Novopharm Ltd. (F.C.A.)*, 2007 FCA 163 at para. 110; *Toronto (City) v C.U.P.E.*, Local 79, 2003 SCC 63 at paras. 34, 56.
[7] See *Odhavji Estate v Woodhouse,* 2003 SCC 69 at para. 32.

and that the Defendant knows that dates on which relevant CPIC records were supplied to the Crown and the courts. This is insufficient to overcome a motion to strike. Leave to amend should be declined where, as here, a party is unable to specify the content of the amendments it would make and how those amendments would remedy the defect in the pleadings.[8]

13. The proposed Amended Claim also pleads no material facts that, if believed, could justify the imposition of liability on the Defendant in respect to any other damages claimed. The the proposed Amended Claim pleads no material facts as to what special damages, psychological harm and emotional distress, loss of reputation, or impairment of the ability to find work the Plaintiff experienced or how any of these harms were caused by any tortious acts, omissions or defaults of any Crown servant. To the extent these impacts were the natural consequences of the Plaintiff's lawful detention, they are therefore not compensable in tort law.

14. Further, the proposed Amended Claim does not cure the defects in the filed Claim specific to the claim of misfeasance in public office. While the scope of the allegations has been significantly narrowed and is now limited to a delay in correcting the database records between September 2023 and July 2025, no material facts are pleaded to suggest that the delay was caused by anything other than negligence. The bare fact that a database error was uncorrected for some time after being identified does not establish a cause of action in misfeasance. The tort is not directed at a public officer who inadvertently or negligently fails to adequately discharge the duties of his office.[9]

15. Finally, the proposed Amended Claim does not cure the defects in the filed Claim specific to the claim of negligence. There are no facts pleaded to establish that the "Court Section Employee" or "Records Custodians" owed the Plaintiff any duty of care or that any specific harm to the Plaintiff was foreseeable. While the Plaintiff relies on *Hill v Hamilton-Wentworth Regional Police Services Board*, 2007 SCC 41 [*Hill*], which recognizes that police owe duties of care to suspects, this decision is inapplicable. The Plaintiff was not a

[8] *Soprema Inc. v Canada (Attorney General)*, 2022 FCA 103 at para. 24.
[9] *Odhavji Estate v Woodhouse,* 2003 SCC 69 at para. 26.

suspect at the time the database entry was made, as the charges had been withdrawn, and the alleged errors were not made by a police officer, but rather a civilian.

16. In reply to paragraph 39 of the Plaintiff's Representations, it is not in the interests of justice to delay striking the Claim to permit further iterations of the Statement of Claim to be proposed after the Plaintiff receives copies of 17 court files which the Plaintiff requested on October 16, 2026. The circumstances and reasons for which the Plaintiff was refused bail or subjected to assessment orders seven to ten years ago were within the Plaintiff's knowledge and it was the Plaintiff's responsibility to plead them when commencing the action. The Plaintiff knew on June 15, 2026 that the Defendant was seeking these particulars. The Plaintiff received notice of this motion on July 6, 2026[10] but delayed making enquiries until the hearing of this motion was imminent and after being served with the Defendant's Motion Record. An action cannot be brought – or sustained – on speculation in the hope that sufficient facts may be gleaned on discovery or other means to support the allegations made in the pleadings. As noted by this Court: "Bald allegations such as these must be supported by material facts. It is not an answer to say that, given discovery, these facts can be ascertained. That is an abuse."[11]

The proposed Amended Claim discloses no Charter breach

17. The proposed Amended Claim does not cure any of the identified defects in the filed Claim regarding alleged breaches of sections 7 and 9 and fails to plead material facts to support the newly alleged breach of s. 11(e) of the *Charter*.[12] Section 11(e) states: "Any person charged with an offence has the right (e) not to be denied reasonable bail without just cause". The proposed Amended Claim does not plead basic material facts as to when and by whom reasonable bail was denied, in respect to what charges, how the refusal was without just cause, and how the denial was attributable to any person for whom the federal Crown was in law. Accordingly, no breach of s. 11(e) is disclosed on the pleaded facts.

---

[10] Plaintiff's Representations at para. 13.
[11] *AstraZeneca Canada Inc. v Novopharm Limited*, 2009 FC 1209 at para. 17, appeal dismissed, 2010 FCA 112.
[12] *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, ss. 7, 9, 11.

18. The alleged breach of s. 11(e) is also statute-barred, as the alleged denial of a fair bail hearing between 2016 and 2019 falls outside the two-year limitation period established by s. 5(1) of the *Limitation of Actions Act*, SNB 2009, c L-8.5[13] and which is applicable pursuant to s. 32 of the *Crown Liability and Proceedings Act*, RSC, 1985, c. C-50.[14]

The proposed Amended Claim discloses no basis for an award of aggravated or punitive damages

19. Since the proposed Amended Claim does not disclose a cause of action, there is no basis on which an award of aggravated or punitive damages could be awarded based on the pleaded facts and it is plain and obvious these claims could not succeed.

20. In addition, no material facts are pleaded which, if believed, could meet the high-threshold for an award of punitive damages in the amount of $250,000 or at all. At its highest, the Plaintiff's claim is that two database entry errors were made in 2016, one of which was corrected in May 2023 and other in July 2025, 22 months after the error was brought to the RCMP's attention. No material facts are pleaded that these errors were ever relied upon by any decision-maker so as to affect the Plaintiff's interests, or that the errors were made or uncorrected deliberately or with any intent to harm the Plaintiff. Punitive damages are awarded only in exceptional cases where the evidence shows that there has been high-handed, malicious, arbitrary or highly reprehensible conduct that departs to a marked degree from the ordinary standards of decent behaviour.[15] Such circumstances are not apparent on the material facts pleaded.

21. Finally, no material facts are pleaded which, if believed, could justify an award of aggravated damages in the amount of $750,000 or at all. Aggravated damages are intended to take account of intangible injuries so as to augment damages assessed under the general rules relating to the assessment of where the defendant's conduct has been particularly high-handed or oppressive.[16] Allegations of psychological and emotional harm and loss of reputation pleaded baldly, without supporting particulars, are insufficient to support a claim

---

[13] *Limitation of Actions Act*, SNB 2009, c L-8.5, s. 5(1).
[14] *Crown Liability and Proceedings Act*, RSC, 1985, c. C-50, s. 32.
[15] *Bauer Hockey Corp. v Sport Maska Inc. (Reebok-CCM Hockey)*, 2014 FCA 158 at paras. 19, 26.
[16] *Bauer Hockey Corp. v Sport Maska Inc. (Reebok-CCM Hockey)*, 2014 FCA 158 at para. 23.

for aggravated damages and will result in the allegations being struck.[17] This is the case here.

Conclusion

22. The Defendant requests that an order be made striking the Statement of Claim, without leave to amend, as it is not curable by amendment. Despite multiple attempts, the Plaintiff has failed to propose amendments that could cure the defects in the filed Claim or to plead material facts sufficient to disclose any complete cause of action against the federal Crown. In each proposed iteration of Claim, the core of the action remains a prohibited collateral attack on judicial orders and the legal effect of those orders.

ALL OF WHICH IS RESPECTFULLY SUBMITTED,

DATED at Halifax, Province of Nova Scotia this 6th day of November 2026.

ATTORNEY GENERAL OF CANADA

Department of Justice Canada
Atlantic Regional Office
5251 Duke Street, Suite 1400
Halifax, NS B3J 3P1
Fax: 902-426-2329

Per: Amy Smeltzer
Tel: 902-829-7053
Email: amy.smeltzer@justice.gc.ca

Counsel for the Defendant

TO: **REGISTRAR**
Federal Court

AND TO: **JEAN-YVES LANDRY**
(AKA MARIE-SOLEIL SESHAT LANDRY)
1-29 Connaught Avenue
Moncton, NB EIC 3N7
Tel: 506-588-2787
Email: marielandryceo@gmail.com

Plaintiff (Self-Represented)

[17] *Furfari v Pedias*, 2019 ONSC 4278 at para. 34.

PART V – LIST OF AUTHORITIES

Legislation

1. *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, ss. 7, 9, 11

2. *Crown Liability and Proceedings Act*, RSC, 1985, c. C-50, s. 32

3. *Federal Courts Rules*, SOR/98-106, ss. 200, 221, 369

4. *Limitation of Actions Act*, SNB 2009, c L-8.5, s. 5(1)

Jurisprudence

5. *AstraZeneca Canada Inc. v Novopharm Limited*, 2009 FC 1209

6. *AstraZeneca Canada Inc. v Novopharm Limited,* 2010 FCA 112

7. *Bauer Hockey Corp. v Sport Maska Inc. (Reebok-CCM Hockey)*, 2014 FCA 158

8. *Bennett v Canada (Public Safety and Emergency Preparedness)*, 2025 FC 393

9. *Furfari v Pedias*, 2019 ONSC 4278

10. *Odhavji Estate v Woodhouse,* 2003 SCC 69

11. *Sanofi-Aventis Canada Inc. v Novopharm Ltd. (F.C.A.)*, 2007 FCA 163

12. *Soprema Inc. v Canada (Attorney General)*, 2022 FCA 103

13. *Toronto (City) v C.U.P.E.*, Local 79, 2003 SCC 63