

**FEDERAL COURT**

**BETWEEN:**

**JOHN TURMEL**

Plaintiff  
(Responding Party)

and

**HER MAJESTY THE QUEEN**

Defendant  
(Moving Party)

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**WRITTEN REPRESENTATIONS IN REPLY OF THE  
DEFENDANT**

(Motion to Strike or for Security For Costs)

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1. The plaintiff continues to reiterate allegations against third parties in his submissions (i.e. Youtube, the World Health Organization, and Bill Gates).<sup>1</sup> However, he still has not set out facts capable of establishing that any of his Charter rights have been infringed by the federal Crown.

2. The plaintiff's suggests that "it is premature to bemoan not having the facts before the facts are due," and that the necessary facts will be provided in his eventual affidavit evidence if the claim proceeds.<sup>2</sup> However, this Court has held that "... the facts must be plead in the initial claim. The question of whether those facts can be proven is a separate issue, but they must be pled nonetheless."<sup>3</sup>

3. The plaintiff also admits that "he may not exemplify all the woes cited, but I'd bet some of the other 76 plaintiffs whose actions are stayed do," and argues that "the only reason I cannot rely on their facts is because Defendant had the others stayed."<sup>4</sup> However, the Federal Court of Appeal has recently held (in the context of a claim that was similarly based on a "kit" developed by Mr. Turmel), that "facts that are applicable to another individual" cannot be used to support a claim that a plaintiff's Charter rights have been infringed."<sup>5</sup>

4. The plaintiff also now alleges he recently received an \$880 ticket for attending an anti-lockdown protest, which he alleges emgages his Charter s. 2(c) rights.<sup>6</sup> The plaintiff did not plead the facts surrounding this ticket in his claim, and does not suggest

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<sup>1</sup> See, for example, Plaintiff's factum at paras 1-5, 7-16, 22-23.

<sup>2</sup> Plaintiff's factum at para 36.

<sup>3</sup> *Sivak v R*, [2012 FC 272](#) at para 90.

<sup>4</sup> Plaintiff's factum at para 29.

<sup>5</sup> *Harris v Canada (Attorney General)*, [2019 FCA 232](#) at para 22.

<sup>6</sup> Plaintiff's factum at para 43.

that the ticket was issued by the federal Crown or pursuant to any federal legislation or measure.

5. The plaintiff alleges that he cannot afford to provide security for costs.<sup>7</sup> However, he still has not provided any affidavit evidence of his alleged impecuniosity. This Court, when ordering security for costs against a plaintiff seeking to file a claim based on the plaintiff's litigation "kits," reiterated that "the onus of proof to establish impecuniosity is high, and must be discharged with robust particularity."<sup>8</sup> Where a plaintiff "has put nothing before the Court by way of affidavit to demonstrate impecuniosity or inability to pay," for example, an affidavit stating that his own assets are insufficient to provide security or he is unable to raise the money by borrowing from friends, family, or others, a claim of impecuniosity should be rejected.<sup>9</sup>

6. To the extent that the claim is challenging the federal pre-flight testing and 14-day quarantine requirements applicable to international travellers arriving in Canada, it is also noteworthy that this Court has very recently dismissed a Charter challenge to the further requirement, which was introduced following issuance of the present claim, that international travellers stay at a government authorized accommodation or designated quarantine facility for a period of time upon arrival in Canada (the "hotel requirement").<sup>10</sup>

7. In its decision of June 18, the Court (Crampton CJ) held that these requirements did not infringe any of Charter sections 6, 7, 8, 9, or 12.<sup>11</sup> While specifically concerned with the hotel requirement, Canada submits that the Court's findings are equally applicable to the pre-flight testing and quarantine requirements referenced in the

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<sup>7</sup> Plaintiff's factum at paras 42, 54.

<sup>8</sup> *Turmel v Canada*, [2019 FC 1357](#) at para 10 [Raymond Turmel].

<sup>9</sup> Raymond Turmel at para 11.

<sup>10</sup> *Spencer v Canada (Health)*, [2021 FC 621](#) [Spencer].

<sup>11</sup> Spencer at para 299.

plaintiff's claim, and that the plaintiff has pleaded no facts that would warrant a departure from these conclusions in this case.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**

Dated at Toronto this June 29, 2021.



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**PART I – AUTHORITIES CITED**

- 1 *Harris v Canada (Attorney General)*, [2019 FCA 232](#)
- 2 *Raymond J Turmel v Her Majesty the Queen*, [2019 FC 1357](#)
- 3 *Sivak v R*, [2012 FC 272](#)
- 4 *Spencer v Canada (Health)*, [2021 FC 621](#)