

FEDERAL COURT

Between:

John C. Turmel

Appellant  
Plaintiff

AND

Her Majesty The Queen

Respondent  
Defendant

RECORD OF APPEAL MOTION

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For the Appellant/Plaintiff

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NOTICE OF APPEAL MOTION

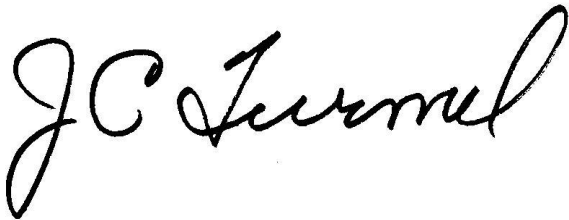
TAKE NOTICE THAT John C. Turmel moves in writing pursuant to Rule 369 to appeal for an Order overturning the May 6 2021 Order of Prothonotary Mandy Ayles, Case Management Judge, substituting an 11-week timeline for the 2-week timeline laid out in Rule 369 and compelling Canada to file a complete Motion Record forthwith and then proceed under the timeline laid out in S.369 of the Federal Court Rules.

The grounds of the appeal are that allowing a motion to be filed upon filing of Notice and Affidavits without Written Representations

- 1) does not explain how the affidavits relate to the cause;
- 2) makes it impossible for the Plaintiff to file affidavits in response without those Written Representations;
- 3) wastes time while Canadians are dying from lockdown.

AND FOR ANY ORDER abridging the time for service, filing,  
or hearing of the motion, or amending any defect of the  
motion as to form or content, or for any Order deemed just.

Dated at Brantford Ontario on May 17 2021.

A handwritten signature in black ink that reads "JC Turmel". The letters are cursive and fluidly connected.

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Benjamin Wong

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WRITTEN REPRESENTATIONS

1. In her May 6 2021 Order, Prothonotary and Case Management Judge Mandy Ayles wrote:

"The parties shall confer regarding the timetable for next steps in this proceeding and shall, by no later than May 5, 2021, provide the Court with a jointly-proposed timetable and the availability of the parties for a case management conference (in the event that the Court determines that one is required)."

2. Rule 369 has the steps for a 2-week timeline for a motion in writing:

Motions in writing

369 (1) A party may, in a notice of motion, request that the motion be decided on the basis of written representations.

(2) A respondent to a motion brought in accordance with subsection (1) shall serve and file a respondent's record within 10 days..

(3) A moving party may serve and file written representations in reply within four days after being served with a respondent's record under subsection (2).

(4) On the filing of a reply under subsection (3) or on the expiration of the period allowed for a reply, the Court may dispose of a motion in writing or fix a time and place for an oral hearing of the motion.

3. Under Rule 369, a Motion is brought when a Motion Record with Notice, Affidavits and Written Representations initiate the proceeding. Then the Respondent files a Motion Record in 10 days, then the Mover files a Reply in 4 days. 14 days, two weeks maximum.

4. I pointed out that asking for a timeline suggests the timeline deviate from the one in Rule 369. The Court had not ordered any dispensation from following the timetable set out in Rule 369 but Canada dutifully suggested a 13-week timeline which I rejected. Canada then suggested an 11-week timeline I also rejected. I asked the Court to follow the 2-week timetable in Rule 369.

5. In the May 6 2021 Order is a timeline for Canada's motion to strike for no cause of action:

ORDER

1. The Defendant shall serve their Notice of Motion and affidavit(s) by no later than May 21, 2021.
  2. The Plaintiff shall serve any responding affidavit(s) by no later than June 7, 2021.
  3. Cross-examinations, if any, shall be completed by no later than 10 days following the date the Plaintiff serves his responding affidavit(s).
  4. The Defendant shall serve and file their complete motion record by no later than 15 days from the expiration of the time to conduct cross-examinations, or, if the Plaintiff does not intend to serve an affidavit or conduct cross-examinations, 15 days from the date that the Plaintiff so advises the Defendant.
  5. The Plaintiff shall serve and file his complete motion record within 15 days of service of the Defendant's motion record.
  6. The Defendant shall serve and file their reply motion record within seven days of service of the Plaintiff's responding motion record.
- "Mandy Aylen" Case Management Judge

6. In Point 1, the Notice and Affidavits are to be filed but without a Motion Record with Written Representations explaining how the facts in the affidavits apply violating:

Rule 364 (1) a person bringing a motion shall serve a motion record... (2) containing

(b) the notice of motion;

(c) all affidavits and other material served by the moving party for use on the motion;

(e) subject to rule 366, written representations..

Rule 367 A notice of motion or any affidavit.. may be served and filed as part of the party's motion record and need not be served and filed separately.

7. The Notice, Affidavits and Written Representations of how the facts apply must be filed at the same time even if filed separately.

8. In Point 2, Plaintiff's Affidavits in Response are to be filed without having had the Written Representations explaining how the facts in the Defendant's affidavits apply. Written Representations explain how the facts relate. How can the Court expect Plaintiff to submit affidavits in response to Defendant's Affidavits when there are no Written Representations of how the Defendant's Affidavits apply?

9. In Point 3, time is allocated for examinations of the new evidence being adduced without any Written Representations of how they should apply. So we're presented with new facts but not told how they apply and must now produce affidavits with rebuttal facts to the arguments raised whose purpose has not yet been explained. "Here are our cards, we'll explain how we play them later, but pick your cards now."

10. On July 20 2018, The Honourable Mr. Justice Brown rendered a decision Citation: 2018 FC 765 in ALLAN J. HARRIS and HMTQ explaining that a Motion to Strike for no cause of action cannot include new evidence, only what's in the pleadings:

15. The moving party bears the onus of meeting the test set out by the Supreme Court of Canada in Hunt v Carey Canada Inc, 1990 2 SCR 959 Hunt: Al Omani v Canada, 2017 FC 786 per Roy J. at paras 12-16:

12 The test to strike a claim under Rule 221 sets a high bar. First, it is assumed that the facts stated in the statement of claim can be proven. The Court must be satisfied that it is plain and obvious that the pleading discloses no reasonable cause of action assuming the facts pleaded are true:..

16. On motions to strike, no evidence outside the pleadings may be considered (except in limited instances that do not apply here). This is expressly enacted by Rule 221(2) and confirmed by the authorities: Pelletier v Canada, 2016 FC1356 Pelletier per Leblanc J. at par.6:

6. As is well-settled too, no evidence outside the pleadings may be considered on such motions and although allegations that are capable of being proven must be taken as true, the same does not apply to pleadings which are based on assumptions and speculation and to those that are incapable of proof..

11. There are only 3 possible pleadings in an Action:

171. The following pleadings may be filed:

- (a) in respect of an action,
  - (i) a statement of claim, in Form 171A,
  - (ii) a statement of defence, in Form 171B, and
  - (iii) a reply, in Form 171C;

202. Pleadings are closed: (a) where a statement of defence has not been filed within the period set out in rule 204, on the expiration of that period;..

12. Pleadings all use Form 171. Only Statement of Claim Form 171A has been filed so far. Since Defendant has not filed a Form 171B Statement of Defence and Plaintiff has not filed a Form 171C Reply, the Statement of Claim is the only pleading that may be considered.

13. In Point 4, rather than the complete Motion Record with Written Representations being filed at the start to initiate the proceeding, the Written Representations are now to be filed after up to 42 days, 6 weeks, after it should have been filed. Rather than initiating the process with the complete Motion Record, the process is being initiated with only the Notice and Affidavits without any Written Representations with the Motion Record filed at the end.

14. In Point 5, with Written Representations finally filed, Respondent gets 15 days to respond and not 10.

15. In Point 6, once Plaintiff's Motion Record is filed, Mover gets 7 days more to Reply instead of 4.

16. In the April 8 Order, Prothonotary Ayles wrote:

The Court should also take into consideration the public interest in moving a proceeding forward fairly and with due dispatch..

17. With time being added at every step, a 2-week process under Rule 369 being stretched into an 11-week process, the proceeding cannot be said to be moving forward with due dispatch.

18. My Statement of Claim exposes the fraudulent statistics behind a deadly lockdown imposed on the whole world! If kids commit suicide from depression during lockdown next week, it could be said: "If only the Canadian Court had ruled it a hoax before then, they wouldn't now be dead." When lives are being lost, you can't mosey over to the fire with your bucket of water. The longer it takes to get our proof of fraud ruled on, the more deaths will be blamed on the judges and Crown Attorneys who learned of the Apple Orange comparison behind the scam and fought against stopping it.

19. <http://SmartestMan.Ca/scc3.htm> has three of my Supreme Court Memoranda from the early 1980s anti-bank era and detail far larger similar losses. In one, I explain that in 1981, 46,000 children a day were dying who would no longer have been dying if the Court had ordered the bank computers restricted to a pure service charge and the interest charge abolished. With everyone getting an interest-free credit card, that was 17 million dead kids a year, 40 million with



adults dying of poverty who would no longer be dying for lack of money.

20. I explained the "Equation of Responsibility" for those with power to stop the slaughter but who do not. Every day adds up.

#### EQUATION OF RESPONSIBILITY

I pointed out they had the might to instantaneously,  
Effect repair on our industrial capacity.  
It's just like a conveyer belt with people in a line,  
Who fall into abyss of Luciferian design.

If you could press a button and cut power to the beast,  
The belt would have momentum but you'd lose the very least.  
With the production maximized of butter, not of guns,  
We still could not get there in time for all the weakest ones.

So there would be a finite loss of souls until the day,  
When all may access credit and for life support may pay.  
But if you'd waited for a while before you used your might,  
You'd lose some extra souls for failing to so expedite.

And if you had refused to press the button to this day,  
It would, on you, the blame for every fallen soul we'd lay.  
With simple mathematics we can count the number who,  
Have perished by inaction of the men with power few.

The number of souls perishing, all due to the delay,  
Is equal to the number who do perish on that day.  
With 40,000 children dying every single day,  
Responsibility belongs to those who had the say.

Since all the judges had the power to compel the banks,  
To fix the killer program so they don't deserve our thanks.  
The number they must answer for which day to day does climb,  
Is equal to the number who have perished since that time.

Each motion was a shot on goal, a chance to fix the flaw,  
I took as many as I could but interest is law.  
Six times I went right to the top and all to no avail,  
Since they found it too hard to grasp, the motions all did fail.

The judges all ruled that they failed to see what they could do,  
They could not change the software to the service charges few.  
And though I tried a hundred times to get the software switched,  
The banking system seems to have the judges all bewitched.

I honestly believe their rulings did not pass the test,  
Because there seems to be a real conflict of interest.  
The judges may be prejudiced for they too are in hock,  
Or judges may be prejudiced by owning banking stock.

Rewrite the banking software and give the bailiffs all a rest,  
For maximum production please abolish interest.

( From <http://SmartestMan.Ca/poembank> )

20. All the judges who had the power to order the mort-gage  
death-gamble program in bank computers debugged but did not  
suggests they had a large welcoming waiting to greet them on  
the other side. Judges who said my software upgrade was "too  
esoteric" got to explain it when they met their victims. Of  
course, 40 million for 42 years is over a billion and a half  
souls needlessly lost who could have been saved.

20. Though the record losses from lockdown with record  
suicides, adult and children, record alcohol and opioid  
deaths, record abuses remain dwarfed by the 40 million a  
year from poverty over the 42 years since I sought to debug  
the software, deaths from lockdown are still big enough to  
appeal to hasten a ruling from the Court on the Apple Orange  
comparison fraud.

21. Such frauds are often difficult to grasp but once it is  
learned that we were tricked by an Apple to Orange  
comparison, we cannot become untricked. Tens of millions  
more will perish if the Covid 19 Pandemic Apple-Orange scam  
is not exposed as soon as possible.

22. As Canada has had since Jan 19 2021 to prepare,  
Appellant seeks an order compelling Canada to file a  
complete Motion Record forthwith and then proceed under the  
timeline laid out in S.369 of the Federal Court Rules.

Dated at Brantford Ontario on May 17 2021

JC Turmel

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For the Appellant/Plaintiff

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File No: T-171-21

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