

FEDERAL COURT

B E T W E E N :

JOHN TURMEL

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

MOTION RECORD OF THE RESPONDENT/PLAINTIFF

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1. Written Representations of the Respondent/Plaintiff

For the Respondent/Plaintiff

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FEDERAL COURT OF APPEAL

B E T W E E N :

JOHN TURMEL

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

WRITTEN REPRESENTATIONS OF THE RESPONDENT/PLAINTIFF

OVERVIEW

1. Dr. Joffe of Lytton BC gave his vaxed patients D-Dimer tests and reported that 63% had new blood clots. An Ottawa U study reported that 1 in 500 double-vaxed patients had myocarditis.

2. Of over 30 million Canadians who got vaccinated since the Court found out the Covid Mortality threat was a false alarm, 20 million would be expected to now have blood clots and 60,000 would be expected to now have permanent heart problems, with most not having taken the vaccine had they known it was a false alarm over a mini-flu.

3. Of over 3 billion around the world who got vaccinated since the Court found out the Covid Mortality threat was a false alarm, 2 billion would be expected to now have permanent blood clots and 6 million would now be expected to have heart problems with most not having taken the vaccine had they known it was a false alarm over a mini-flu.

4. The pharma-cabal tricked the world's politicians into coercing their populations to take the clot shot by comparing the Covid hospitalized CFR (Case Fatality Rate) Apple to the hundredfold-too-small Flu over-all IFR (Infection Fatality Rate) Orange and the Courts helped perpetrate the mass murder by refusing to declare the false alarm.

PART I = STATEMENT OF FACTS

1. On Jan 27 2022, former Newfoundland Premier Brian Peckford filed for a declaration by judicial review T-168-22.

2. On Feb 11 2022, Maxime Bernier of the People's Party of Canada has also filed for Judicial Review T-247-22.

3. On Feb 16 2022, <http://SmartestMan.Ca/c19bscjc.pdf> is my Statement of Claim for a declaration that the air travel ban is unconstitutional because the Covid Mortality is in reaction to a hundredfold hyped false alarm.

4. All three plaintiffs allege that a Transport Canada Interim Order implementing a general requirement that air travellers be vaccinated against COVID-19 is ultra vires the Aeronautics Act, is based on errors of fact, and infringes on rights under section 6 of the Charter.

5. Defendant moves this claim should be struck without leave to amend for failing to disclose a reasonable cause of action, being an abuse of process, and being scandalous, frivolous, and vexatious.

6. Defendant argues that the plaintiff has failed to plead the necessary material facts to establish a reasonable cause of action, that instead of pleading material facts, the claim is replete with irrelevant and incomprehensible statements as well as spurious, extreme and scandalous allegations copied from a previously struck claim brought by the plaintiff.

7. If the claim is not struck without leave to amend, Defendant asks that the plaintiff should be required to post security for costs.

A. THE PREVIOUSLY STRUCK CLAIM

8. This claim is the plaintiff's second challenge to COVID-19 mitigation measures. In *John Turmel v Her Majesty the Queen* (Court File No.: T-130-21), the plaintiff challenged the Government of Canada's COVID-19 mitigation measures generally, alleging that they infringe sections 2(c) and (d), 6, 7, 8, 9, and 12 of the Charter and are not justified under section 1 of the Charter (the "Previously Struck Claim").

9. The Previously Struck Claim was struck in its entirety without leave to amend for failing to disclose a reasonable cause of action, and for being an abuse of process. The Motion Judge's decision was upheld on appeal. The plaintiff has appealed this decision to the Federal Court of Appeal, where his appeal is awaiting hearing.

B. THE CURRENT CLAIM

10. The claim challenges the now-repealed Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19, No. 52 (the "Interim Order")⁵, seeking declarations that:

(a) the Interim Order is ultra vires section 6.41 of the Aeronautics Act and is therefore of no force and effect;

(b) the Interim Order is "invalid" due to errors in fact;

(c) provisions of the Interim Order requiring most persons boarding an aircraft be fully vaccinated against COVID-19 (the "impugned Provisions") infringes section 6 of the Canadian Charter of Rights and Freedoms ("Charter") and are not justified under section 1 of the Charter.

11. The respondent/plaintiff has not received a COVID-19 vaccine.

ALLEGED FACTS

12. Defendant argues the factual allegations that form the basis of the current claim are substantially similar to, and in many cases, identical to the Previously Struck Claim but omits mention that the first action was struck for asking that "any" restriction be declared unconstitutional for violating many Charter rights and failing to cite a particular restriction whereas this action now cites the vaccine requirement for air travel for violating the S.6 Mobility Right. Plaintiff submits the importance of this detail is amplified by the fact that the Defendant has omitted to bring it to the court's attention.

13. Defendant states that while courts must generally accept the facts pleaded as true for the purposes of a motion to strike, they are not required to accept speculation, bald allegations, or conclusory statements of law dressed up as facts. Rule 181 requires particularization of every allegation, especially for allegations of malice or fraudulent intention. Plaintiffs are also not permitted to make broad allegations in hopes of later discovering facts to support them or to file inadequate pleadings and rely on the defendant to request particulars.

14. Defendant notes both claims allege that the World Health Organization is exaggerating COVID19 fatality rates... and provide several paragraphs of statistics comparing COVID19 mortality rates to those associated with the flu but does not mention the how:

WHO COMPARED COVID 3.4% CFR APPLE TO FLU 0.1% IFR ORANGE

32. On Mar 4 2020 WHO Apple-Oranged the metrics:

WHO said the latest mortality rate for the virus is 3.4%. This is well above the seasonal flu, which has a mortality rate of under 0.1%.

<https://www.thestar.com/news/gta/2020/03/11/the-novel-coronavirus-outbreak-is-threatening-to-turn-into-a-global-pandemic-heres-everything-we-know-about-covid-19.html>

15. WHO compared different mortality rates, the Flu's IFR is a hundredth of its CFR. Comparing the Covid mortality to the hundredfold-too-small IFR makes the Covid mortality a hundredfold too big. That is is a provable fact, not an allegation.

16. 2) only 1 in 230,000 Canadians have died of COVID-19.. occurs mostly in long-term care homes.

17. On Nov 15 2020, CTV reported 10,947 deaths out of 38 million Canadians had 10,781 in long-term care (98.5%) omitting the difference of only 166 deaths (1.5%) not in long-term-care. The threat of death by Covid to non-long-term-care Canadians is $166/38,000,000 = 0.00044\%$. 1 in 230,000! 99.99956% not in Long-Term-Care will not die. This computation is a provable fact, not an allegation and 98.5% of deaths occurring in Long-Term-Care is a provable fact, not an allegation.

18. 3) asymptomatic transmission of COVID-19 is rare,

19. On Jun 8 2020, WHO says with none documented yet, asymptomatic transmission is "very rare." There would be clusters of infections in the family and friends of the asymptomatic infected yet Wuhan tested 10 million and found zero were infected by an asymptomatic infected. This study is a provable fact, not an allegation.

20. 4) Both claims allege a "cover up" to "fudge the statistical Cases and Fatalities data." They refer to alleged changes by the American Centres for Disease Control and Prevention to its death certificate guidelines,

21. Defendant fails to explain what "changes" to the death certificate guidelines fudged the data. On Mar 24 2020, the CDC changed the Death Certificate guidelines from the previous 17-year standard to a new standard where even presumed not-tested Covid suspicion was raised in priority

while "bullet to the head" or "lightning strike" were lowered to secondary co-morbidities. "All deaths within 30 days of positive are Covid." Deaths have recently been reduced in various states by up to 25%. CDC said only 6% died from Covid alone. The CDC page is a provable fact, not an allegation.

22. 5) Both claims allege an effort by the mainstream media to suppress "HydroxyChloroQuine HCQ" as an alternative to "a Bill Gates-funded Oxford Recovery HCQ test", which the claims allege is "deliberate malevolence."

23. Didier Raoult lost 0.8% of his 4,000 patients in France using 1 gram and Bill Gates lost 25.7% of his 1,600 patients in the English Recovery study at Oxford using 9.6 grams. This is a provable fact and not an allegation. Overdosing by a factor of 10 to kill 32 times more patients than France is a provable statistical fact, not an allegation. That overdosing is "deliberate malevolence" and not a well-intentioned mistake is a logical conclusion.

24. 6) Both claims allege that social media platforms, such as Twitter, Facebook, Youtube, and Disqus, have "instituted draconian censorship policies,"

25. These social media platforms soon-to-be pursued in the courts for disinformation mass-murder is a provable fact, not an allegation.

26. 7) and that doctors protesting COVID-19 measures are being "defamed by Big Brother at [the Associated Press] and Facebook."

27. Doctors being suspended and losing their hospital privileges for disputing the Covid narrative is a provable fact, not an allegation.

28. 8) Both claims allege that "Covid-Mitigation restrictions include lockdowns & curfews, quarantines, mandatory masks, mandatory social distancing, mandatory vaccine, mandatory immunity card for public services."

29. That "Covid-Mitigation restrictions include lockdowns & curfews, quarantines, mandatory masks, mandatory social distancing, mandatory vaccine, mandatory immunity card for public services" is a provable fact, not an allegation.

30. 9) It alleges that "lockdown gain does not justify lockdown pain" and that lockdown measures are not supported by evidence, and have increased "suicides, murders, abuses, addictions, [and] truancy".

31. That lockdown gain did not justify lockdown pain is a now-provable fact, not an allegation.

32. 10) Both claims alleges that "such restrictions on civil liberties to mitigate a false alarm are an arbitrary, grossly disproportional, conscience-shocking violation of the Charter.

33. That restrictions on civil liberties to mitigate a false alarm are an arbitrary, grossly disproportional, conscience-shocking violation of the Charter is a logical conclusion.

34. 11) Both claims specifically refer to the Ontario government's declaration of an emergency and "Stay-At-Home" order enacted under s 7.0.1(1) of the provincial Emergency Management and Civil Protection Act, and allege that Ontario has closed schools despite only one COVID-19 death among children under 20 between January 15 and July 13, 2020.

35. That there was only 1 youth death in those 6 months is a provable fact, not an allegation.

36. 12) Both claims allege that "The Prime Minister and his Government have been dumb" and that "Restrictions on civil liberties are not warranted for a Covid threat if they are not warranted for the tenfold deadlier Flu threat."

37. That Prime Minister Trudeau got tricked by the Apple-Orange comparison is a provable fact, not an allegation. That the Prime Minister who failed Science when he took Engineering is not following science is a provable fact, not an allegation.

38. 13) Both claims ask the rhetorical question "Who benefits?" and allege that "Personal Protection Equipment producers, Skip-the-Dishes delivery come to mind but vaccine companies seem to have most to gain by an exaggerated scamdemic.

39. That the pharma-cabal has profited from the sale of vaccines for the false alarm is a provable fact, not an allegation.

40. 14) The current claim alleges that the vaccine promotion is a "scam", and alleges that the COVID-19 "clot shots" cause "micro-clots" and a number of side effects.

41. That blood flow obstructions like spikes cause clots is a provable fact, not an allegation. That all the reported heart problems are due to the spikes from the vaccine is a fact, not an allegation.

42. 15) The current claim alleges that "The pharma-cabal set off the false alarm and this court refusing to call it a false alarm is thusly as responsible for the deadly repercussions as the preacher who did not call the false alarm for the fire." It reproduces a poem referring to various members of the Court who adjudicated the Previously Struck Claim.

43. Would you have taken jab if Crown Ben Wong had Trudeau told,

Covid Mortality was over hyped by hundredfold?

Would you have taken jab if Justice Crampton had us told,

That Apple Orange were compared to hype by hundredfold

Would you have taken clot shot if Judge Ayles said: Behold
The CFR to IFR's too small by hundredfold

Would you have taken jab if Justice Zinn had us all told,

Comparing Apple Orange hyped the threat by hundredfold.

The fact that the courts' failure to declare a false alarm makes them responsible for all the world's vaccine deaths is a provable fact, not an allegation.

44. Defendant closing its eyes to these provable facts lets them argue that without any facts, there is no cause of action.

C. REGULATORY BACKGROUND

45. The Interim Order was made on January 15, 2022, pursuant to subsection 6.41(1) of the Aeronautics Act. The Interim Order was repealed and replaced with a new Ministerial Order on January 28, 2022.²⁵ The most recent Ministerial Order contains provisions that are similar to those in the Interim Order.²⁶ For example, paragraph 17.3(1) sets out the same vaccination requirements for flights departing from an aerodrome in Canada as those in the Interim Order:

17.3(1) A person is prohibited from boarding an aircraft for a flight or entering a restricted area unless they are a fully vaccinated person.

46. While the Impugned Provisions do impose a general requirement to be vaccinated to board an aircraft, paragraph 17.3(2) sets out several exceptions from this requirement, including where the individual:

- (a) has a medical inability to be vaccinated;
- (b) has a sincere religious belief opposing vaccination;
- (c) is travelling for essential medical services and treatment;
- (d) is accompanying a minor attending an appointment for essential medical services or treatment, a person with a disability, or a person requiring assistance to communicate; or
- (e) is travelling for a purpose other than an optional or discretionary purpose.

47. In such cases, a passenger who is recognized as being entitled to an exception will have to present a valid COVID-19 test in order to be permitted to board an aircraft.

1) The Claim Discloses No Reasonable Cause of Action

48. Defendant argues that since it sees no material facts, there can be no cause of action. Yet, it is the same set of facts as raised by Brian Peckford and Maxime Bernier.

49. Defendant notes that while courts must generally accept the facts pleaded as true for the purposes of a motion to strike, they are not required to accept speculation, bald allegations, or conclusory statements of law dressed up as facts. Defendant has not specified which alleged facts are speculation, bald allegations, or conclusory statements of law dressed up as facts. Regardless, only the hundredfold exaggeration of Covid Mortality threat is needed to show it's a false alarm. All other facts and conclusions are in support of that fact.

NO RIGHT TO DOMESTIC AIR TRAVEL

50. Defendant argues the claim does not allege that the plaintiff has been personally prevented from moving to, living in, or working in another Canadian province. The plaintiff does not allege that he intends to move, live, or work in another province, or that he plans to do so anytime in the near future.

51. Section 6 protects two sets of mobility rights:

- (a) the right of every Canadian citizen to enter, remain in, and leave Canada; and
- (b) the right to move to, live in, and work in any province subject to certain limitations.

52. Defendant argues S.6 does not establish a free-standing right to domestic travel in Canada. And yet Brian Peckford and Maxime Bernier argue it does. It should.

ZBARKY INTERNATIONAL TRAVEL

53. Defendant argues Plaintiff has not shown a need to travel outside of Canada and raises "Zbarsky" where Justice Norris of this Court struck a challenge to the same vaccination requirements relating to air travel that are the subject of this claim for disclosing no reasonable cause of action.

54. Zbarsky argued that the vaccination requirements, in particular paragraph 17 of the Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19, No. 54, infringed his rights under sections 2, 6, and 7 of the Charter and were not justified under section 1 of the Charter. The only personal facts plead by the plaintiff in Zbarsky were that:

- (a) he was a Canadian citizen;
- (b) he was required to travel internationally; and
- (c) he refused to receive the COVID-19 vaccine for "various health, religious, spiritual, and moral reasons."

55. Zbarsky dealt with Interim Order No 54 related to international travel, Plaintiff does not.

56. The Court in Zbarsky first noted that the Impugned Provisions did not prevent the plaintiff from boarding a flight simply because he refused to get vaccinated, noting

that "at most it imposes a conditional obligation on him: if he wishes to board an international flight departing Canada and he does not qualify for an exemption, only then must he be fully vaccinated. (emphasis in original)"

57. Defendant argues the plaintiff has failed to plead any material facts capable of establishing that his Charter rights are engaged where the Impugned Provisions only require him to be fully vaccinated "if he wishes to board an international flight departing Canada and he does not qualify for an exemption." The plaintiff has not even pleaded that he does intend to board a flight departing in Canada.

58. Zbarsky needed facts related to departing Canada. Plaintiff herein does not. S.17 of the Interim Order is titled "Vaccination - Flights departing from an Aerodrome in Canada." It does not say "from an Aerodrome in Canada departing Canada."

59. S.17.3(1) says

A person is prohibited from boarding an aircraft..
unless they are a fully vaccinated person."

60. It does not say "boarding an aircraft leaving Canada" and Plaintiff did indicate a wish to visit his brother in Quebec with a flight to Ottawa.

61. Defendant argues the claim does not allege that the plaintiff has been personally prevented from entering, remaining in, or leaving Canada. The plaintiff does not allege that he has had any intention to travel internationally during this time, or that he plans to do so

anytime in the near future. While the plaintiff alleges in an affidavit recently filed in support of a different motion that he wishes to travel to Ottawa to visit family, this is not alleged in the claim, and in any event, section 6 on its face clearly does not encompass a right to domestic travel for purposes other than work.

62. Defendant argues that while the plaintiff has plead a conclusion that he "does not qualify for any of the exemptions in s. 17(3)," this conclusion is unsupported by any material facts capable of establishing that he "would not be entitled to an exemption, that having to seek an exemption on specified grounds infringes his Charter rights, or that the existing exemptions are unconstitutionally vague or narrow."

63. Plaintiff claimed not to qualify for an exemption. He could have particularized that 17.3(2) sets out several exceptions from this requirement, including where the individual

(a) has a medical inability to be vaccinated; NO;

(b) has a sincere religious belief opposing vaccination; NO;

(c) is travelling for essential medical services and treatment; NO;

(d) is accompanying a minor attending an appointment for essential medical services or treatment, a person with a disability, or a person requiring assistance to communicate; NO; or

(e) is travelling for a purpose other than an optional or discretionary purpose. NO.

Is stating NO to qualifying for exemption five times that much better than stating NO once?

64. Defendant argues that even if section 6 encompassed a right to travel domestically, the claim does not explain why the plaintiff must travel by air and cannot travel by other methods to which the Interim Order does not apply.

65. Yes, the "plaintiff could travel by mule, horse, bicycle, automobile, train and so must not necessarily travel by air. Even if air travel "must" not be used, it is desired to be used.

66. Defendant argues the remaining allegations in the claim do not give rise to reasonable causes of action. Once facts alleged are not accepted as facts, of course, remaining allegations won't help either.

67. Defendant argues the plaintiff has not pleaded materials facts to establish that any other federal COVID-19 mitigation measure infringes any provision of the Charter.

68. Yes, plaintiff is not arguing that restrictions based on the false alarm infringe any other Charter Rights than Mobility.

69. Again Defendant notes a claim will be struck for being scandalous, frivolous, vexatious, and an abuse of process if it:

(a) is so deficient in relevant material facts that the defendant cannot know how to answer;

(b) includes statements that are irrelevant, incomprehensible, and inserted for colour;

- (c) is replete with extreme and scandalous allegations that are unsubstantiated; or
- (d) is overly-long, unwieldy and repetitive.

70. Plaintiff does not point out even one example.

71. The Previously Struck Claim was struck as an abuse of process for "pleading bare assertions but not the necessary material facts on which to base those assertions," and for being "replete with lengthy diatribes and mak[ing] scandalous and extreme allegations that are unsubstantiated, such as alleged cover-ups and conspiracies." Justice Zinn upheld this finding on appeal.

72. The claim was struck when the Court also did not accept the covid mortality hyped a hundredfold was as false alarm. Both Justice Ayles and Justice Zinn have allowed millions of Canadians to take a shot and get clots in panic over a false alarm! Even with sound procedural reasons to not declare the false alarm, judges have power to do anything that is just and warning Canadians that it's a false alarm was not too unorthodox.

73. Defendant notes that in addition to the scandalous and extreme allegations copied from the Previously Struck Claim, the plaintiff has also made new scandalous and extreme allegations against Crown servants and the Federal Court judiciary. For example: Who could have imagined anyone would top Justice Laskin's 1.6 billion souls lost but with almost 3 billion now having suffered the clot shot since this Court knew the threat was a false alarm, this error may well exceed Justice Laskin's equation of responsibility.

B. IF THE CLAIM IS NOT STRUCK, THE PLAINTIFF SHOULD BE ORDERED TO PROVIDE SECURITY FOR COSTS

74. Defendant argues if the claim is not struck in its entirety without leave to amend, Canada requests that the plaintiff be ordered to provide security for costs prior to taking any further steps in this action. Canada also requests that security be fixed at \$11,350.00, which reflects Canada's anticipated costs and disbursements of this action should it proceed.

75. Defendant notes Rule 417 provides that the Court may refuse to order security for costs if a plaintiff demonstrates impecuniosity and the Court is of the opinion that the case has merit and that the plaintiff has provided no evidence whatsoever concerning his financial circumstances, let alone evidence sufficient to establish that he cannot pay the outstanding costs awards or borrow or access funds from another source. He accordingly has not established that he is impecunious.

76. Point 14 in the Notice of Motion states that there is reason to believe the plaintiff will have insufficient assets available to pay Canada's costs. This because the Defendant has examined the Plaintiff's resources to pay costs and found insufficient resources to pursue the claims!

77. At this stage, Plaintiff can only ask as many judges as possible to declare the false alarm based on the Apple Orange hundredfold exaggeration of the threat with billions more souls at stake and let posterity rule on whether they should have used their inherent power to do what is just.

Dated at Brantford Ontario on April 18 2022

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

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File No: T-277-22

FEDERAL COURT

Between:

John Turmel

Respondent

Plaintiff

AND

Her Majesty The Queen

Applicant

Defendant

RECORD OF MOTION

For the Respondent/Plaintiff

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