

**FEDERAL COURT**

**BETWEEN :**

**JOHN C. TURMEL**

Plaintiff  
(Responding Party)

and

**HER MAJESTY THE QUEEN**

Defendant  
(Moving Party)

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**NOTICE OF MOTION**

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**TAKE NOTICE THAT** the defendant, Her Majesty the Queen (“Canada”) will make a motion to the Court in writing under Rule 369 of the *Federal Courts Rules*.

**THE MOTION IS FOR:**

1. An order striking the claim without leave to amend; or
2. In the alternative, an order requiring the plaintiff to provide security for costs in the amount of \$11,350, and not take any further steps in the action until security for costs is provided;
3. The costs of this motion and of the action; and
4. Such further and other relief as this Honourable Court may allow.

**THE GROUNDS FOR THE MOTION ARE:****A. The claim**

5. The claim seeks declarations that Canada's COVID-19 mitigation measures unjustifiably infringe the plaintiff's rights under ss. 2, 6, 7, 8, 9, and 12 of the Charter, an order prohibiting any restrictions that are not imposed on the flu, a permanent constitutional exemption from any such restrictions, and damages for pain and losses incurred as a result of the restrictions;

**B. The Federal Court lacks jurisdiction over the claim**

1. The Federal Court lacks jurisdiction to grant the relief requested;
2. The claim alleges that the plaintiff's rights are infringed by "lockdowns & curfews, quarantines, mandatory masks, mandatory social distancing, mandatory vaccine, mandatory immunity card for public services";
3. However, the claim provides no particulars concerning the measures being challenged, and insofar as these measures exist for the general public, they are provincial and municipal measures;
4. While the federal government has adopted targeted COVID-19 mitigation measures in specific contexts, such as the requirement to wear a mask on flights, the claim in question does not allege that the plaintiff was affected by these measures;

**C. The claim does not disclose a reasonable cause of action and is frivolous and vexatious**

5. It is plain and obvious that the claim does not disclose a reasonable cause of action;
6. Insofar as the claim is challenging provincial and municipal measures, there is no reasonable cause of action against Canada;

7. Moreover, even in the event the claim challenges federal measures, the claim does not set out sufficient material facts to establish breaches of ss. 2, 6, 7, 8, 9, and 12 of the Charter;

**D. The claim is frivolous and vexatious**

8. The claim is it frivolous and vexatious;
9. The claim is prolix and repetitive, and fails to set out a concise statement of material facts capable of establishing a deprivation of any of the Charter infringements alleged;
10. The claim makes unparticularized allegation of malice and fraud;


**E. If the claim is not struck without leave to amend, the Plaintiff should be required to provide security for costs**

11. Canada has six orders against the plaintiff for costs in other proceedings, which remain unpaid;
12. The outstanding costs awards total \$13,003.39, including post-judgment interest;
13. The claim is frivolous and vexatious and there is reason to believe the plaintiff will have insufficient assets available to pay Canada's costs;
14. *Federal Courts Rules*, SOR/98-106, Rules 3, 174, 181, 182, 221, 369, 416(1)(f), 416(1)(g), and 418; and
15. Such other grounds as counsel may advise and this Honourable Court may accept.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

1. Affidavit of Deborah Telesford, affirmed May 20, 2021.

May 21, 2021

  
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**Attorney General of Canada**  
Department of Justice  
Ontario Regional Office  
120 Adelaide Street West, Suite #400  
Toronto, Ontario M5H 1T1

Per: Benjamin Wong

Tel: 647-256-0564

Fax: 416-952-4518

E-mail: benjamin.wong2@justice.gc.ca

Counsel for the Defendantt

TO: The Administrator  
Federal Court of Canada

AND TO: John C. Turmel  
50 Brant Avenue,  
Brantford, Ontario N3T 3G7

Plaintiff, self represented