

FEDERAL COURT OF APPEAL

B E T W E E N :

JOHN TURMEL

Appellant
(Moving Party)

and

HIS MAJESTY THE KING

Respondent
(Respondent to the Motion)

RESPONDENT'S MOTION RECORD

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Appellant (Moving Party)

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MOTION RECORD INDEX

TAB	Document	Page No.
1	Judgment and Reasons of the Federal Court in <i>Attorney General of Canada v John C Turmel</i> (T-962-22), dated November 9, 2022	1-22
2	Notice of Appeal, issued December 9, 2022	23-41
3	Direction of the Federal Court of Appeal, dated March 6, 2023	42-43
4	Excerpts from the Notice of Motion and Written Representations of the Respondent in support of its Federal Court of Appeal Vexatious-Litigant Motion	44-50
5	Reasons for Order of the Federal Court of Appeal, dated June 15, 2023	51-57
6	Order of the Federal Court of Appeal, dated June 15, 2023	58-59
7	Affidavit of Lisa Minarovich, sworn June 29, 2023	60-66

Exhibits

	A.	Respondent's Letter to the Federal Court of Appeal, dated February 6, 2023	62-63
	B.	Respondent's Letter to the Federal Court of Appeal, dated February 28, 2023	64-66
8		Written Representations of the Respondent, dated July 4, 2023	67-75

TAB 1



Date: 20221109

Docket: T-962-22

Citation: 2022 FC 1526

Ottawa, Ontario, November 9, 2022

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

JOHN C. TURMEL

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Attorney General of Canada [AGC] has brought an application under s 40 of the *Federal Courts Act*, RSC 1985, c F-7 for an Order declaring John C. Turmel to be a vexatious litigant. The AGC asks that Mr. Turmel be prohibited from instituting or continuing litigation in this Court without leave, and proposes the imposition of additional measures to regulate his

conduct before this Court. These measures include the payment of all outstanding costs awards and a prohibition on providing assistance to other litigants.

[2] As required by s 40(2) of the *Federal Courts Act*, the AGC's delegate has consented to this application in writing.

[3] Mr. Turmel has instituted numerous meritless and repetitive proceedings before this Court, the Federal Court of Appeal, the Ontario Courts, and the Supreme Court of Canada. He has brought proceedings for improper purposes, frequently sought to re-litigate matters decided previously, made scandalous allegations against members of the courts and other parties, refused to follow the *Federal Courts Rules*, SOR/98-106 [Rules], and failed to pay costs orders.

[4] Despite having no qualifications or apparent ability to practise law, Mr. Turmel has developed litigation "kits" comprising templates for court documents, and has recruited others to "flood the courts" with these documents.

[5] Mr. Turmel responded to this application without the benefit of legal advice or representation. He did not challenge the evidence relied on by the AGC through cross-examination, or adduce any evidence of his own. At the hearing of the application, he continued to express contempt for the judiciary, maintaining that any judge who disagrees with him is simply wrong.

[6] Mr. Turmel does not object to the imposition of a leave requirement before commencing further proceedings in this Court. He says he is unlikely to develop further litigation “kits” unless the government imposes new vaccination mandates.

[7] For the reasons that follow, Mr. Turmel is declared to be a vexatious litigant. He must pay all outstanding costs awards issued by this Court, and obtain leave before instituting or continuing any litigation in this Court. He is also prohibited from aiding or abetting others to initiate proceedings in this Court.

II. Background

[8] According to the affidavit evidence submitted by the AGC, Mr. Turmel has instituted at least 67 court proceedings since 1980. This includes 20 claims and applications in this Court, 13 appeals to the Federal Court of Appeal [FCA], 18 applications and appeals in the Ontario courts, and 17 applications for leave to appeal to the Supreme Court of Canada [SCC]. The proceedings have concerned a wide range of legal issues, and have been almost entirely unsuccessful.

[9] Mr. Turmel’s proceedings have been dismissed as failing to disclose reasonable causes of action, as wholly unsupported by evidence, as attempts to re-litigate matters previously decided, or as otherwise frivolous and vexatious and abuses of process.

A. *Proceedings Commenced by Mr. Turmel*

[10] Mr. Turmel's numerous legal proceedings may be divided into the following categories.

(1) Banking Proceedings

[11] In 1981, Mr. Turmel filed an unsuccessful application in this Court for an order that the Bank of Canada cease and desist the "genocidal practice of interest" (T-896-81). Both the FCA (A-136-81) and the SCC (17314) dismissed Mr. Turmel's attempts to appeal.

[12] In 1982, the County Court of Ontario allowed an action by the Toronto Dominion Bank against Mr. Turmel, and granted judgment in the amount of \$2,813.19. After unsuccessfully appealing to the Ontario Court of Appeal [ONCA], Mr. Turmel also unsuccessfully sought leave to appeal to the SCC based on the assertion that the interest charged by banks violates natural, biblical or criminal laws (18329).

(2) Elections Proceedings

[13] Mr. Turmel is a perennial candidate in municipal, provincial and federal elections, and holds the Guinness World Record for the most elections contested and lost. He has commenced numerous court proceedings related to his candidacy in these elections.

[14] Mr. Turmel has instituted 12 proceedings against the Canadian Radio-Television and Telecommunications Commission and several broadcasters concerning their allocation of free political broadcast time or his exclusion from broadcasted debates. Of these proceedings, 11 were dismissed (T-5329-80, T-2883-83, T-2884-83, T-1516-84, 300/84, T-798-85, T-799-85, T-1716-87, T-1717-87, A-451-07 and 09-A-19) and one was stayed for non-payment of court costs (1827/90). Mr. Turmel's appeals to the FCA were dismissed or abandoned (A-912-80, A-13-84, A-955-84), and his applications for leave to appeal to the SCC were dismissed (19099 and 33319).

[15] In 2015, Mr. Turmel brought an action in this Court for a declaration that the expense audit provisions of the *Canada Elections Act*, SC 2000, c 9, infringed his right under s 3 of the *Canadian Charter of Rights and Freedoms* [Charter] to participate as a candidate in federal elections (T-561-15). The action, an appeal to the FCA (A-202-16), and an application for leave to appeal to the SCC (37646) were all dismissed.

(3) Gaming Proceedings

[16] Mr. Turmel has commenced multiple legal proceedings in relation to Canada's gaming laws. In 1981, he unsuccessfully applied to this Court for an Order compelling the Crown to prosecute the retail chain Simpsons-Sears for selling playing cards, which Mr. Turmel alleged were prohibited gaming devices (T-3-81).

[17] In 1993, Mr. Turmel was criminally charged for keeping a gaming house and subsequently convicted by the Ontario Court of Justice (93-18193). His appeal to the ONCA (C21516) and application for leave to appeal to the SCC (25610) were both dismissed.

(4) Canadian Broadcasting Corporation Proceedings

[18] In 2010, Mr. Turmel brought two libel actions against the Canadian Broadcasting Corporation in the Ontario Superior Court of Justice [OSCJ] (CV-10-48 and CV-699-2010) arising from his appearance on the television program Dragon's Den. The actions, appeals to the ONCA (CFN 52849 and C53732), and an application for leave to appeal to the SCC (34882) were all dismissed.

(5) Cannabis Proceedings

[19] Mr. Turmel has brought or helped others to bring numerous constitutional challenges to Canada's cannabis laws. In 2001, Mr. Turmel was charged with contempt for violating a publication ban issued by the Quebec Superior Court (550-01003994). Mr. Turmel also brought a motion for a declaration that the marihuana prohibitions in the *Controlled Drugs and Substances Act*, SC 1996, c 19 [CDSA], infringed s 7 of the Charter, which was dismissed.

[20] In 2002 and 2003, Mr. Turmel brought two unsuccessful applications in the OSCJ for Orders declaring that the marihuana provisions of the CDSA were unconstitutional (573/3003

and 133-2003). The applications, appeals to the ONCA (C39740 and C39653), and an application for leave to appeal to the SCC (30570) were all dismissed.

[21] In 2003, Mr. Turmel was charged with possession of marihuana for the purposes of trafficking. In the course of his prosecution, he brought three applications in the OSCJ challenging the constitutionality of the CDSA marihuana provisions. These applications, the appeals to the ONCA (C40127, C44587, C44588) and applications for leave to appeal to the SCC (32011 and 32012) were all dismissed. Mr. Turmel was ultimately convicted, and all of his attempts to appeal, together with related motions, were dismissed by the ONCA (C45295, M45479, M45751) and the SCC (32013 and 37064).

[22] Mr. Turmel frequently purports to provide legal assistance to others charged with marihuana offences. Between 2008 and 2014, at least four accused persons relied on court materials or legal strategies developed by Mr. Turmel to bring applications challenging the constitutionality of the CDSA marihuana provisions. The OSCJ dismissed each of these applications.

(6) COVID-19 Proceedings

[23] In January 2021, Mr. Turmel filed a claim in this Court alleging that Canada's COVID-19 public health measures infringed the Charter (T-130-21). He asserted that COVID-19 was an "imaginary plague", and the resulting deaths were greatly exaggerated by an "evil cabal" that includes the World Health Organization. On July 21, 2021, Prothonotary Mandy Ayles (as she

then was) struck Mr. Turmel's claim without leave to amend. Subsequent appeals of this decision were dismissed by both this Court and the FCA (A-286-21).

[24] On February 16, 2022, Mr. Turmel filed a claim challenging the constitutionality of Canada's vaccination requirements for air travellers (T-277-22). This Court struck the claim without leave to amend.

B. *Mr. Turmel's Litigation Kits*

[25] Since 2014, Mr. Turmel has prepared and distributed litigation "kits" comprising templates for initiating legal claims. These have been used by other litigants to file more than 800 claims, nearly all of which have been dismissed or are in the process of being dismissed as failing to disclose reasonable causes of action, or as otherwise frivolous, vexatious or abuses of process. Several of these litigants are subject to costs awards, many of which remain unpaid.

[26] Mr. Turmel candidly admits that his litigation kits are ineffective. According to the AGC:

In still other [social media] posts, Mr. Turmel acknowledges that his kit proceedings lack merit, but explains why he nevertheless brings them. In a 2014 post, he acknowledged that his challenge to the *Marihuana Medical Access Regulations* had been rendered moot by the repeal of those regulations, but explained that he was proceeding with his challenge "to smear [Health Canada] with their own dirt. These are malevolent government gremlins and I'm about to really light a fire under their asses."

In another post concerning the Turmel Kit 150-gram claims, Mr. Turmel explained that "People ask me why I keep fighting so many loser fights. It's because I love ruining the careers of the judges and Crowns who get added to the History Wall of MedPot

shame.” After this court struck the Turmel Kit MMAR-MMPR claims, Mr. Turmel similarly used social media to announce that he would appeal, noting that “Sure, the chances are slim but I enjoy exposing judicial failures to their bosses.”

[27] Mr. Turmel also admits that he encourages plaintiffs to use his litigation kits to “flood the courts”. According to the AGC:

In social media posts, Mr. Turmel has described his development and distribution of litigation kits as part of an intentional strategy to overwhelm the courts and the Crown. He invites plaintiffs to “clog up,” “flood,” “swamp,” “semi-paralyze” or “ream out” the Federal Court registry with a “tidal wave” or “avalanche” of claims or requests for documents.

In a July 2016 post promoting the Turmel Kit [marihuana] juice and oil claims, Mr. Turmel explained that “The real winning power is once again what freaked out both the Crown and the Registry last time, the volume.” In a December 2018 post concerning a proposed challenge to the *Criminal Code* drug-impaired driving provisions, he similarly explained that “There is only [one] way to fight back and that’s through mass action in the courts.”

In other posts, Mr. Turmel uses militaristic or violent language to characterize his litigation strategy. He describes himself as a “guerilla lawyer” and invites his kit users (whom he has described as an “army of goldstars,” in reference to the gold-coloured seal placed on Federal Court claims) to “sap the defences” of the court and Crown and file claims and “get in on the kill.”

[28] Using Mr. Turmel’s kits, litigants have filed or attempted to file hundreds of substantially identical proceedings challenging various aspects of Canada’s medical cannabis regulatory regime, including:

- (a) 315 actions, including one by Mr. Turmel (T-488-14), challenging the former *Marihuana Medical Access Regulations* and *Marihuana for Medical Purposes Regulations*;
- (b) 19 motions for extensions of time to appeal the decision of this Court in *Allard v Canada*, 2014 FC 1260;
- (c) nine actions, including one by Mr. Turmel (T-1932-18), for declarations that the CDSA infringes s 7 of the Charter by failing to provide access to cannabis juice and oil for medical purposes;
- (d) 393 actions challenging the processing time for registration with Health Canada to produce cannabis for personal medical use;
- (e) 36 actions challenging the 150-gram public limit on public possession and shipping of cannabis for medical purposes;
- (f) four actions challenging the requirement for annual healthcare practitioner authorization to use cannabis for medical purposes;
- (g) one action challenging Health Canada's rejection of a plaintiff's application for registration to produce cannabis for personal medical use; and

- (h) one action challenging the production site requirements for producing cannabis for personal medical use, and one action challenging criminal record requirements.

[29] Of these roughly 770 proceedings, at least 657 were struck or dismissed by the Federal Courts. The remainder were discontinued, not accepted for filing, or remain subject to outstanding requests by the AGC for dismissal.

[30] Mr. Turmel has also developed litigation kits to challenge Canada's COVID-19 public health measures. Similar to Mr. Turmel's claim in T-130-21, one kit instructs plaintiffs to allege that Canada's COVID-19 mitigation measures infringe the Charter. Based on this kit, approximately 80 self-represented plaintiffs have filed substantially identical claims in this Court. These were stayed pending the outcome of Mr. Turmel's appeal of T-130-21 to the FCA, which was dismissed on October 4, 2022 (*Turmel v Canada*, 2022 FCA 166).

[31] Similar to his claim in T-277-22, another one of Mr. Turmel's kits instructs litigants to challenge the constitutionality of Canada's vaccination requirements for air travellers. This Court has struck eight substantially identical claims based on this kit.

C. *Mr. Turmel's Comments on Social Media*

[32] Mr. Turmel frequently uses social media to insult the intelligence or integrity of judges who dismiss his proceedings or those commenced by users of his litigation kits. He calls judges

“imbeciles”, and alleges that those who have dismissed his cannabis or COVID-19 kit claims have “blood on their hands” or “deserve death row for what they have done.”

[33] In January 2017, after this Court struck claims based on one of his litigation kits, Mr. Turmel alleged in a social media post that one of the plaintiffs had cancer and was medically authorized to use cannabis, but the “Judge said that's not enough. Wanted to see her X-rays, maybe give her a feel for those tumors before Doubting Thomas would believe.”

[34] In another instance, after the FCA stayed a proceeding based on Mr. Turmel’s litigation kit concerning the public possession and shipping limit of medical cannabis, Mr. Turmel observed: “I feel sad for what [the judge] has done to punish 7,000 sick people. Because that’s the number who will benefit when we strike the cap. God’ll get him.”

III. Issues

[35] This application raises the following issues:

- A. Should Mr. Turmel be declared a vexatious litigant?
- B. If so, what restrictions are appropriate?

IV. AnalysisA. *Should Mr. Turmel be declared a vexatious litigant?*

[36] Subsection 40(1) of the *Federal Courts Act* provides as follows:

Vexatious proceedings

40 (1) If the Federal Court of Appeal or the Federal Court is satisfied, on application, that a person has persistently instituted vexatious proceedings or has conducted a proceeding in a vexatious manner, it may order that no further proceedings be instituted by the person in that court or that a proceeding previously instituted by the person in that court not be continued, except by leave of that court.

Poursuites vexatoires

40 (1) La Cour d'appel fédérale ou la Cour fédérale, selon le cas, peut, si elle est convaincue par suite d'une requête qu'une personne a de façon persistante introduit des instances vexatoires devant elle ou y a agi de façon vexatoire au cours d'une instance, lui interdire d'engager d'autres instances devant elle ou de continuer devant elle une instance déjà engagée, sauf avec son autorisation.

[37] This provision empowers the Court to prevent one litigant from squandering judicial resources through duplicative proceedings and pointless litigation by declaring them to be vexatious (*Canada (Attorney General) v Ubah*, 2021 FC 1466 [*Ubah*] at para 24, citing *Simon v Canada (Attorney General)*, 2019 FCA 28 [*Simon*] at paras 15-16). As Justice David Stratas explained in *Simon*, courts are community property, not a private resource meant to advance the interests of one (at paras 9-10):

Litigants have a right of access to this community property and the Court's resources: *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59, [2014] 3 S.C.R. 31. For most litigants, the usual regulatory measures in the Rules suffice. For some, tougher regulatory measures are needed: *Fabrikant v. Canada*, 2018 FCA 171; *Fabrikant v. Canada*, 2018 FCA 206; *Fabrikant v. Canada*, 2018 FCA 224. Further, in the cases of a select few, the nature and quality of their behaviour, the actual or likely recurrence of that behaviour in multiple proceedings, and the harm they cause to other litigants and the Court make a vexatious litigant declaration necessary: *Olumide* at para. 24.

[38] While “vexatiousness” does not have a precise meaning, its indicia may include: (a) instituting frivolous proceedings; (b) making scandalous or unsupported allegations against opposing parties; (c) re-litigating settled issues; (d) unsuccessfully appealing decisions; (e) ignoring court orders and rules; and (f) refusing to pay outstanding cost awards (*Olumide v Canada*, 2016 FC 1106 at para 10). Mr. Turmel exhibits all of these indicia.

[39] The courts have dismissed virtually all of the proceedings brought by Mr. Turmel and his kit users. Common reasons for dismissal are that the claims failed to disclose reasonable causes of action, were scandalous, frivolous, vexatious or abuses of process, or were unsupported by evidence.

[40] Mr. Turmel and his kit users have frequently attempted to re-litigate matters. For example, in *Turmel v Canada*, 2022 FC 732, this Court struck Mr. Turmel's constitutional challenge to Canada's vaccination requirements for air travellers because the matter had been decided in a previous claim, and declared his second challenge to be an abuse of process. The

Court also expressed concern about the boilerplate nature of the statement of claim (at paras 9, 11-12).

[41] Mr. Turmel and his kit users have often brought identical motions for interlocutory relief, claiming that the impugned legislative provisions violate their Charter rights. These motions have all been dismissed, as have Mr. Turmel's numerous appeals.

[42] In his social media posts, Mr. Turmel admits that he has filed materials for others, that his litigation kits lack merit, and that his goal is to "flood the registry" with claims. He has frequently made disparaging remarks about opposing parties and the courts.

[43] Mr. Turmel has failed to comply with court orders. He has been charged with contempt for violating a publication ban issued by the Quebec Superior Court, and he has frequently shown disregard for court rules and timelines.

[44] Rule 119 of the Rules states that an individual may act in person or be represented by a solicitor in a proceeding. Mr. Turmel nevertheless purports to make legal submissions on behalf of others, despite not being a solicitor and in defiance of numerous admonitions from the courts not to engage in this behaviour.

[45] Not only are Mr. Turmel's litigation kits ineffective; they have also caused direct harm to the legal and financial interests of those who have used them. In a post on social media, Jeff Harris, one of Mr. Turmel's "lead plaintiffs", wrote the following:

People put their faith in you to help and you never do. you spout lies and nonsense but when the Crown does it-you cry foul...way too funny. you think you're such a big deal and so important. just because you're a loser?? i guess we should be aware of something like you [...]

too bad you didn't cover all the costs. I had to pay some myself. you knew there was more to pay but you said nothing to me after your cheques ran out. nice try claiming you paid it all...another LIE!

[sic throughout]

[46] Mr. Turmel has paid just one of the many costs orders issued against him, in the amount of \$100. The remaining accumulated sum of \$18,453.04 remains unpaid. An additional 22 cost orders totalling \$16,362.82 awarded against his kit users remain unpaid. In social media posts, Mr. Turmel has told kit users that “It’s okay to skip out on costs” and remarked, “I’d forgotten about all the times I stiffed them on costs.”

[47] The test for vexatiousness is if “the litigant’s ungovernability or harmfulness to the court system and its participants justify a leave-granting process for any new proceedings” (*Simon* at para 18). Mr. Turmel is a vexatious litigant. His conduct is both ungovernable and harmful, and requires the imposition of restrictions on his conduct before this Court.

B. *What restrictions are appropriate?*

[48] The AGC asks that Mr. Turmel be required to obtain leave before instituting new proceedings in this Court. In addition, the AGC proposes that this Court: (a) make leave conditional on payment of Mr. Turmel’s outstanding costs; (b) prohibit Mr. Turmel from

preparing court materials or assisting others with their proceedings; and (c) order that no proceedings be instituted using materials prepared by Mr. Turmel, except with leave.

[49] This Court has plenary jurisdiction to impose additional requirements as may be necessary to prevent abuses of process (*Ubah* at para 44; *Canada (Attorney General) v Fabrikant*, 2019 FCA 198 [*Fabrikant*] at para 2). Vexatiousness comes in many shapes and sizes, and each vexatious litigant may require the Court to impose different measures (*Fabrikant* at para 45):

In cases such as this, a vexatious litigant order should try to do the following:

- Bar vexatious litigants from litigating themselves, litigating through proxies, and assisting others with their litigation.
- Rule on the issue whether the vexatious litigant's pending cases should be discontinued; if so, describe the manner in which they may be resurrected and continued.
- Prevent the Registry from spending time on unnecessary communications and worthless filings.
- Permit access to the Court by leave, and only in the narrow circumstances permitted by law where access is necessary and the respondent has respected the procedural rules and previous court orders; in such cases, ensure that interested persons have the opportunity to make submissions.
- Empower the Registry to take quick and administratively simple steps to protect itself, the Court and other litigants from vexatious behaviour.
- Preserve the Court's powers to act further, when necessary, to adjust the vexatious litigant order, but only in accordance with procedural fairness.
- Ensure that other judgments, orders and directions, to the extent not inconsistent with the vexatious litigant order, remain in effect and can be enforced.

[50] Some litigants may require “certain safeguards and restrictions” to discourage them from finding other ways to continue their vexatious conduct (*Badawy v 1038482 Alberta Ltd (IntelliView Technologies Inc)*, 2019 FC 504 at para 121). In *Ubah*, Justice Christine Pallotta prohibited a vexatious litigant from preparing documents intended to be filed in this Court for any person other than himself, and from filing or otherwise communicating with the Court except on his own behalf (at paras 50-51):

Also, I agree with the AGC that it is essential to implement restrictions to prevent Mr. Ubah from litigating by proxy—a key reason why Mr. Ubah's conduct is harmful and ungovernable. Mr. Ubah is not a lawyer. He is not bound by rules of professional conduct or accountability. Yet his conduct in these matters resembles the conduct of a lawyer.

Preventing litigation by proxy is one of the aims of a vexatious litigant order, as set out in *Fabrikant* at paragraph 45. The consequence of restrictions on Mr. Ubah's ability to litigate by proxy is that the proceedings where this appears to be the case should not continue except with leave of the Court. [...]

[51] I am satisfied that similar restrictions are appropriate here. In addition, Mr. Turmel should be prohibited from seeking leave to commence new proceedings until all of his outstanding costs awards are paid in full. I note that a similar requirement was imposed by Chief Justice Marc Noël of the FCA in *Potvin v Rooke*, 2019 FCA 285 at paragraph 8.

[52] The AGC asks that these restrictions apply equally to the commencement of new proceedings in the FCA. This remedy was granted by Justice Roger Hughes in *Lawyers' Professional Indemnity Company v Coote*, 2013 FC 643 [*Coote FC*]. In a subsequent proceeding, *Coote v Canada (Human Rights Commission)*, 2021 FCA 150 [*Coote FCA*], Justice Stratas

observed that the Order of Justice Hughes “prohibited the appellant from directly or indirectly instituting or continuing any proceedings in the Federal Court of Canada and in this Court except with leave of a judge of the Federal Court” [emphasis original] (at para 3). The AGC therefore maintains that this Court has jurisdiction to impose restrictions on the institution of new proceedings in the FCA.

[53] In *Stukanov v Canada (Attorney General)*, 2022 FC 1421, Justice Glennys McVeigh declined to impose restrictions on a vexatious litigant’s ability to institute new proceedings in the FCA: “Regarding the Federal Court of Appeal request, this Court cannot make such an order and the Respondent must seek that separately from the Federal Court of Appeal” (at para 2). The AGC notes that the decision does not contain any detailed discussion of the jurisdictional implications of this remedy, but the same may be said of *Coote FC* and *Coote FCA*.

[54] While *Coote FCA* may be taken as an implicit endorsement of this Court’s capacity to impose restrictions on the commencement of proceedings in the FCA, I am left in some doubt whether this Court’s jurisdiction extends to the regulation of matters before the FCA. I therefore decline to impose restrictions on Mr. Turmel’s conduct before the FCA. In the event that the Judgment in this application is appealed, the FCA may wish to provide further guidance on this jurisdictional question.

[55] In all other respects, the relief requested by the AGC should be granted.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. John C. Turmel is declared to be a vexatious litigant pursuant to s 40 of the *Federal Courts Act*.
2. Mr. Turmel is prohibited from instituting new proceedings in this Court, or continuing any proceedings previously instituted by Mr. Turmel, except with leave of the Court.
3. Any application by Mr. Turmel for leave to institute or continue a proceeding must, in addition to satisfying the criteria in s 40(4) of the *Federal Courts Act*, demonstrate that all outstanding costs awards against Mr. Turmel in this Court have been paid in full.
4. Mr. Turmel is prohibited from preparing, distributing, or in any way disseminating court documents, including template documents, for use by others in proceedings before this Court.
5. Mr. Turmel is prohibited from assisting others with any proceedings before this Court, including by filing materials, or purporting to represent them, or communicating with the Court on their behalf.

6. No further proceedings may be instituted in this Court using originating documents, including template documents, which are in any way prepared, distributed or disseminated by Mr. Turmel, except with leave of the Court.

7. Costs of this application are awarded against Mr. Turmel in the all-inclusive sum of \$500.00.

“Simon Fothergill”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-962-22

STYLE OF CAUSE: ATTORNEY GENERAL OF CANADA v JOHN C. TURMEL

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: OCTOBER 19, 2022

JUDGMENT AND REASONS: FOTHERGILL J.

DATED: NOVEMBER 9, 2022

APPEARANCES:

Jon Bricker

FOR THE APPLICANT

John C. Turmel
(on his own behalf)

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Toronto, Ontario

FOR THE APPLICANT

TAB 2

(SEAL)

FCA No. A-265-22
FCC No: T-962-22

FEDERAL COURT OF APPEAL

Between:

John Turmel

Appellant
Respondent

AND

Her Majesty The Queen

Respondent
Applicant

NOTICE OF APPEAL

Pursuant to Rule 337

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant appears on the following page.

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard at Toronto.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341 prescribed by the Federal

Courts Rules and serve it on the appellants solicitor, or where the appellant is self-represented, on the appellant, WITHIN 10 DAYS of being served with this notice of appeal. IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the order appealed from, you must serve and file a notice of cross-appeal in Form 341 prescribed by the Federal Courts Rules instead of serving and filing a notice of appearance.

Copies of the Federal Courts Rules information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: Dec 9 2022

D. MIRI - REGISTRY OFFICER (09-DEC-2022)

Issued by: _____

(Registry Officer)

TO: Attorney General for Canada
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APPEAL

1. THE APPELLANT APPEALS to the Federal Court of Appeal from the Nov 9 2022 decision Federal Court Justice Fothergill who wrote:

[3] Mr. Turmel has instituted numerous meritless and repetitive proceedings before this Court, the Federal Court of Appeal, the Ontario Courts, and the Supreme Court of Canada. He has brought proceedings for improper purposes, frequently sought to re-litigate matters decided previously, made scandalous allegations against members of the courts and other parties, refused to follow the Federal Courts Rules, and failed to pay costs orders.

[4] Despite having no qualifications or apparent ability to practice law, Mr. Turmel has developed litigation kits comprising templates for court documents, and has recruited others to "flood the courts" with these documents.

[5] Mr. Turmel.. continued to express contempt for the judiciary, maintaining that any judge who disagrees with him is simply wrong.

[6] Mr. Turmel does not object to the imposition of a leave requirement before commencing further proceedings in this Court. He says he is unlikely to develop further litigation "kits" unless the government imposes new vaccination mandates.

[7] For the reasons that follow, Mr. Turmel is declared to be a vexatious litigant. He must pay all outstanding costs awards issued by this Court, and obtain leave before instituting or continuing any litigation in this Court. He is also prohibited from aiding or abetting others to initiate proceedings in this Court.

II. Background

[8] According to the affidavit evidence submitted by the AGC, Mr. Turmel has instituted at least 67 court proceedings since 1980.... The proceedings have concerned a wide range of legal issues, and have been almost entirely unsuccessful.

[9] Mr. Turmel's proceedings have been dismissed as failing to disclose reasonable causes of action, as wholly unsupported by evidence, as attempts to re-litigate matters previously decided, or as otherwise frivolous and vexatious and abuses of process.

A. Proceedings Commenced by Mr. Turmel

[10] Mr. Turmel's numerous legal proceedings may be divided into the following categories.

(1) Banking Proceedings

[11] In 1981, Mr. Turmel filed an unsuccessful application in this Court for an order that the Bank of Canada cease and desist the "genocidal practice of interest" (T-896-81). Both the FCA (A-136-81) and the SCC (17314) dismissed Mr. Turmel's attempts to appeal.

2. No judge accepted that foreclosing on farmers who fail to pay back 11 when banks only printed 10 was a physical impossibility resulting in genocide of the poor. And since I use math to determine fairness, judges who determine fairness by "trial and error" must be wrong to disagree.

3. The Court continued:

[12] In 1982, the County Court of Ontario allowed an action by the Toronto Dominion Bank against Mr. Turmel, and granted judgment in the amount of \$2,813.19. After unsuccessfully appealing to the Ontario Court of Appeal [ONCA], Mr. Turmel also unsuccessfully sought leave to

appeal to the SCC based on the assertion that the interest charged by banks violates natural, biblical or criminal laws (18329).

4. And then published an Anti-Foreclosure Stiff-The=Bank kit showing others how to stall their evictions by arguing the same.

5. The Court continued:

(2) Elections Proceedings

[13] Mr. Turmel is a perennial candidate in municipal, provincial and federal elections, and holds the Guinness World Record for the most elections contested and lost. He has commenced numerous court proceedings related to his candidacy in these elections.

[14] Mr. Turmel has instituted 12 proceedings against the Canadian Radio-Television and Telecommunications Commission and several broadcasters concerning their allocation of free political broadcast time or his exclusion from broadcast debates. Of these proceedings..

6. No judge found that getting zero time violated the Broadcast Act regulation that free broadcast time partisan political debates must be shared by all rival candidates on an "equitable basis quantitatively and qualitatively." In 2009, the Supreme Court of Canada in *Turmel v. C.R.T.C.* struck that legislation so media may now exclude candidates from partisan political debates.

7. The Court continued:

[15] In 2015, Mr. Turmel brought an action in this Court for a declaration that the expense audit provisions of the Canada Elections Act, SC 2000, c 9, infringed his

right under s 3 of the Canadian Charter of Rights and Freedoms [Charter] to participate as a candidate in federal elections (T-561-15). The action, an appeal to the FCA (A-202-16), and an application for leave to appeal to the SCC (37646) were all dismissed.

8. Elections Canada had not changed the auditor fee refund since my first election in 1979 when \$250 was enough. 40 years later, it did not cover the auditor's fee. So I tried to strike the \$250 cap and Judge Phelan suggested I save \$10 a month out of my pension so I'd be able to afford my democratic right to run. After a presentation to the Parliamentary Committee, the law was changed so no auditor was needed for campaigns with expenses less than \$10K| So Parliament found it unfair enough to fix even after the court had not.

9. The Court continued:

(3) Gaming Proceedings

[16] Mr. Turmel has commenced multiple legal proceedings in relation to Canada's gaming laws. In 1981, he unsuccessfully applied to this Court for an Order compelling the Crown to prosecute the retail chain Simpsons-Sears for selling playing cards, which Mr. Turmel alleged were prohibited gaming devices (T-3-81).

[17] In 1993, Mr. Turmel was criminally charged for keeping a gaming house and subsequently convicted by the Ontario Court of Justice (93-18193). His appeal to the ONCA (C21516) and application for leave to appeal to the SCC (25610) were both dismissed.

10. When the Crown would not charge me when I allowed anyone

to be the bank against me, they charged me with possession of the gambling device, the deck of cards. So I tried to charge Simpsons with possessing gambling devices to show the injustice of making me the last person ever charged with possession of a deck of cards.

11. The Court continued:

[17] In 1993, Mr. Turmel was criminally charged for keeping a gaming house and subsequently convicted by the Ontario Court of Justice (93-18193). His appeal to the ONCA (C21516) and application for leave to appeal to the SCC (25610) were both dismissed.

12. The judge changed the law to convict me contrary to the Strict Interpretation of Criminal Statues, but there it is in the Criminal Code, a judge changed the meaning of the word "gain" to mean "win" without Parliament to convict me.

13. The Court continued:

(4) Canadian Broadcasting Corporation Proceedings
[18] In 2010, Mr. Turmel brought two libel actions against the Canadian Broadcasting Corporation in the Ontario Superior Court of Justice [OSCJ] (CV-10-48 and CV-699-2010) arising from his appearance on the television program Dragon's Den. The actions, appeals to the ONCA (CFN 52849 and C53732), and an application for leave to appeal to the SCC (34882) were all dismissed.

14. When Dragons Den made fun of me after chopping my 15 minute presentation to 1 with me speaking for 15 seconds, I sued for defamation and CBC had to give me the whole 15 minutes which I posted to show who made fun of whom:

20110602 KingofthePaupers on Dragons Den for Brantford Bucks
10% Royalty <http://www.youtube.com/watch?v=UV0L2hyqAZc>

13. The Court continued:

(5) Cannabis Proceedings

[19] Mr. Turmel has brought or helped others to bring numerous constitutional challenges to Canada's cannabis laws. In 2001, Mr. Turmel was charged with contempt for violating a publication ban issued by the Quebec Superior Court (550-01003994).

14. Discovering Health Canada hid those who died while awaiting their permits in the "dormant" file seemed important enough to publish and try to stop. This is the only time I ever ignored a court order.

15. The Court continued:

Mr. Turmel also brought a motion for a declaration that the marihuana prohibitions in the Controlled Drugs and Substances Act, SC 1996, c 19 [CDSA], infringed s 7 of the Charter, which was dismissed.

[20] In 2002 and 2003, Mr. Turmel brought two unsuccessful applications in the OSCJ for Orders declaring that the marihuana provisions of the CDSA were unconstitutional (573/3003 and 133-2003). The applications, appeals to the ONCA (C39740 and C39653), and an application for leave to appeal to the SCC (30570) were all dismissed.

[21] In 2003, Mr. Turmel was charged with possession of marihuana for the purposes of trafficking. In the course of his prosecution, he brought three applications in the OSCJ challenging the constitutionality of the CDSA

marihuana provisions. These applications, the appeals to the ONCA (C40127, C44587, C44588) and applications for leave to appeal to the SCC (32011 and 32012) were all dismissed. Mr. Turmel was ultimately convicted, and all of his attempts to appeal, together with related motions, were dismissed by the ONCA (C45295, M45479, M45751) and the SCC (32013 and 37064).

16. My appeal resulted in the Crown staying the last 4,000 remaining possession charges. Now that the medical benefits of marijuana are truly established, can trying to abolish its prohibition be considered frivolous or meritless?

17. The Court continued:

22] Mr. Turmel frequently purports to provide legal assistance to others charged with marihuana offences. Between 2008 and 2014, at least four accused persons relied on court materials or legal strategies developed by Mr. Turmel to bring applications challenging the constitutionality of the CDSA marihuana provisions. The OSCJ dismissed each of these applications.

18. <http://SmartestMan.Ca/wins> lists the other 80 wins where charges were withdrawn or the accused were given sweet deals to plead to lesser charge with no criminal records.

19. The Court continued:

(6) COVID-19 Proceedings

[23] In January 2021, Mr. Turmel filed a claim in this Court alleging that Canada's COVID19 public health measures infringed the Charter (T-130-21). He asserted that COVID-19 was an "imaginary plague", and the

resulting deaths were greatly exaggerated by an "evil cabal" that includes the World Health Organization. On July 21, 2021, Prothonotary Mandy Aylen (as she then was) struck Mr. Turmel's claim without leave to amend. Subsequent appeals of this decision were dismissed by both this Court and the FCA (A-286-21).

20. The Court ruled that:

- WHO comparing the Covid CFR mortality to the Flu IFR mortality to exaggerate the threat a hundredfold wasn't a fact;
- Wuhan finding zero asymptomatic transmission out of 10 million tested was not a fact;
- CTV announcing only 166 deaths not in long-term-care in Canada was not a fact;
- CDC changing the death certificate guidelines from "dead from covid" to "dead with covid" so accidents, suicides and murders, other co-morbidities count as Covid was not a fact;
- Setting PCR tests too sensitive was not a fact;
- Lancet and NEJM publishing bogus anti-HCQ data and Bill Gates Oxford test killing 32 times more patients than in France by over-dosing the patients with 9.6 times the France dosage was not a fact.

And the fact I had not personally suffered any restriction on me while the other plaintiffs' actions were stayed was reason to strike my claim to declare any restrictions based on a false alarm unconstitutional.

21. The Court continued:

[24] On February 16, 2022, Mr. Turmel filed a claim challenging the constitutionality of Canada's vaccination requirements for air travellers (T-277-22).

This Court struck the claim without leave to amend.

22. My claim had been struck because there was then no restriction on me and now that there was a restriction on me, this action has been deemed to be relitigation.

B. Mr. Turmel's Litigation Kits

[25] Since 2014, Mr. Turmel has prepared and distributed litigation "kits" comprising templates for initiating legal claims. These have been used by other litigants to file more than 800 claims, nearly all of which have been dismissed or are in the process of being dismissed as failing to disclose reasonable causes of action, or as otherwise frivolous, vexatious or abuses of process. Several of these litigants are subject to costs awards, many of which remain unpaid.

[28] Using Mr. Turmel's kits, litigants have filed or attempted to file hundreds of substantially identical proceedings challenging various aspects of Canada's medical cannabis regulatory regime, including:

(a) 315 actions, including one by Mr. Turmel (T-488-14), challenging the former Marihuana Medical Access Regulations and Marihuana for Medical Purposes Regulations;

(b) 19 motions for extensions of time to appeal the decision of this Court in *Allard v Canada*, 2014 FC 1260;

(c) nine actions, including one by Mr. Turmel (T-1932-18), for declarations that the CDSA infringes s 7 of the Charter by failing to provide access to cannabis juice and oil for medical purposes;

(d) 393 actions challenging the processing time for registration with Health Canada to produce cannabis for

personal medical use;

(e) 36 actions challenging the 150-gram public limit on public possession and shipping of cannabis for medical purposes;

(f) four actions challenging the requirement for annual healthcare practitioner authorization to use cannabis for medical purposes;

(g) one action challenging Health Canada's rejection of a plaintiff's application for registration to produce cannabis for personal medical use; and

(h) one action challenging the production site requirements for producing cannabis for personal medical use, and one action challenging criminal record requirements.

24. (b) The Allard decision grand-fathered the grow permits of all exemptees but not the possession permits. So half of Canada's 36,000 medpot patients could no longer possess what they could grow. The kit let them seek to have their permits back because their doctor had prescribed cannabis and Health Canada had authorized them. Proof of permit was deemed insufficient when the court wanted to see their medical files and their actions were dismissed.

25. The Court continued:

[26] Mr. Turmel candidly admits that his litigation kits are ineffective. According to the AGC:

In still other [social media] posts, Mr. Turmel acknowledges that his kit proceedings lack merit... noting that "Sure, the chances are slim but I enjoy exposing judicial failures to their bosses."

26. I have never said my kits lacked merit and slim chance

of finding a judge does not mean no chance. I don't refile to show the judges who are wrong, I refile to find a judge who will be right.

27. The Court continued:

[27] Mr. Turmel also admits that he encourages plaintiffs to use his litigation kits to "flood the courts".

28. I explain it is better to flood the Crown than to flood Ottawa streets to get Ottawa's attention.

29. The Court continued:

[32] Mr. Turmel frequently uses social media to insult the intelligence or integrity of judges who dismiss his proceedings or those commenced by users of his litigation kits. He calls judges "imbeciles", and alleges that those who have dismissed his cannabis or COVID-19 kit claims have "blood on their hands" or "deserve death row for what they have done."

30. Paragraph 78 of my Memorandum says:

78. Applicant alleges I referred to judges as "imbeciles." I had asked whom posterity will rule to be the imbecile in the matter, (me or the judge?) I had said one of us was, not that the judge was."

31. The Court continued:

IV. Analysis

A. Should Mr. Turmel be declared a vexatious litigant?

[38] While "vexatiousness" does not have a precise meaning, its indicia may include: (a) instituting

frivolous proceedings;

32. I have not yet heard of one frivolous proceeding. Trying to delay foreclosure wasn't; trying to legalize casinos wasn't; trying to decriminalize cannabis wasn't; trying to get 18,000 patients their medical permits back wasn't; trying to strike the 150 gram cap preventing hi-dosers from leaving home wasn't; trying to call off mandates for vaccines for a false alarm wasn't; not one frivolous proceeding that I am not proud of initiating.

33. The Court continued:

(b) making scandalous or unsupported allegations against opposing parties;

34. Saying Bill Gates murdered his patients to discredit HCQ and enable Emergency Use Authorization may seem scandalous but was supported by the data.

35. The Court continued:

(c) re-litigating settled issues;

36. Using the same facts to litigate the new air travel ban on me was not relitigating the claim against any restriction. The only issue I did relitigate was when judges kept finding that my getting zero broadcast time was equitable as I kept seeking a judge who would find not.

37. The Court continued:

(d) unsuccessfully appealing decisions;

38. There is no law against appealing whether successful or not.

39. The Court continued:

(e) ignoring court orders and rules; and

40. I only ever ignored a court order once. And how could I get away with ignoring court rules?

41. The Court continued:

(f) refusing to pay outstanding cost awards (Olumide v Canada, 2016 FC 1106 at para 10). Mr. Turmel exhibits all of these indicia.

42. It's not being able to pay rather than refusing to pay. When I could pay, I did pay. But I was examined about costs and showed enough impecuniosity that they gave up trying to collect.

43. The Court continued:

[41] Mr. Turmel and his kit users have often brought identical motions for interlocutory relief, claiming that the impugned legislative provisions violate their Charter rights. These motions have all been dismissed, as have Mr. Turmel's numerous appeals.

44. Most of those motions were only dismissed after Health Canada hopped to it to grant the permits to mooten the motion hearings. They weren't dismissed on the merits, but on the Respondent satisfying the interim relief sought.

45. The Court continued:

[42] In his social media posts, Mr. Turmel admits that he has filed materials for others,

46. I have filed the documentation of others for them, online and live. There is no law preventing someone from filing documentation for others live, why would there be for others online?

47. The Court continued:

[43] Mr. Turmel has.. shown disregard for court rules and timelines.

48. I have missed a few deadlines and needed extensions of time mostly granted but after more than 40 years know better than to disregard court rules.

49. The Court continued:

[44] Rule 119 of the Rules states that an individual may act in person or be represented by a solicitor in a proceeding. Mr. Turmel nevertheless purports to make legal submissions on behalf of others, despite not being a solicitor and in defiance of numerous admonitions from the courts not to engage in this behaviour.

50. How can I purport to make legal representations for others? I can't trick the courts into thinking I'm a lawyer. I ask to be a McKenzie friend to make it easy for the court and have often had success before lower courts, courts of appeal, and even the Supreme Court of Canada once.

51. The Court continued:

[45] Not only are Mr. Turmel's litigation kits ineffective; they have also caused direct harm to the legal and financial interests of those who have used

them. In a post on social media, Jeff Harris, one of Mr. Turmel's "lead plaintiffs", wrote the following:

People put their faith in you to help and you never do. you spout lies and nonsense but when the Crown does it-you cry foul...way too funny. you think you're such a big deal and so important. just because you're a loser?? i guess we should be aware of something like you [.] too bad you didn't cover all the costs. I had to pay some myself. you knew there was more to pay. but you said nothing to me after your cheques ran out. nice try claiming you paid it all...another LIE ! [sic throughout]

52. I did cover all the Harris' costs up to when he refused to continue filing the Supreme Court of Canada documentation I had prepared for him. I paid \$2,500 for his last proceeding before the Federal Court of Appeal at \$200 a month. So I paid all his costs until he quit and refused to file.

53. The Court continued:

[46] Mr. Turmel has paid just one of the many costs orders issued against him, in the amount of \$100. The remaining accumulated sum of \$18,453.04 remains unpaid. An additional 22 cost orders totalling \$16,362.82 awarded against his kit users remain unpaid. In social media posts, Mr. Turmel has told kit users that "It's okay to skip out on costs" and remarked, "I'd forgotten about all the times I stiffed them on costs."

54. Just tough talk from a pauper who can't afford to pay.

55. The Court continued:

[47] The test for vexatiousness is if "the litigant's ungovernability or harmfulness to the court system and its participants justify a leave-granting process for any new proceedings" (Simon at para 18). Mr. Turmel is a vexatious litigant. His conduct is both ungovernable and harmful, and requires the imposition of restrictions on his conduct before this Court.

56. I only initiated 5 different actions in the past 8 years even if with many participating victims. None of the issues was frivolous and none were vexatious. And given no further such actions are foreseen unless Canada aggrieves me and many more, there is no reason for any restrictions on my access to the court.

Dated at Brantford on Dec 9 2022



For the Appellant/Respondent
John C. Turmel, B. Eng.,
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FCA No. _____

FCC No: T-962-22

FEDERAL COURT OF APPEAL

Between:

John Turmel

Appellant

Plaintiff

AND

His Majesty The King

Respondent

Applicant

NOTICE OF APPEAL

For the Appellant/Respondent

John C. Turmel, B.Eng.,

68 Brant Ave.,

Brantford, N3T 3H1,

519-753-5122 Cell: 519-209-1848

johnturmel@yahoo.com

TAB 3



TO : APPEAL REGISTRY
FROM : WEBB J.A.
DATE : March 6, 2023
RE : *A-265-22: John Turmel v. His Majesty the King*

DIRECTION

Mr. Turmel was declared a vexatious litigant in the Federal Court by the Judgment of that Court dated November 9, 2022. This appeal is Mr. Turmel's appeal from that Judgment.

By letter dated February 6, 2023, the respondent requested that this appeal continue as a specially managed proceeding pursuant to Rule 384 of the *Federal Courts Rules*, SOR/98-106.

In a subsequent letter dated February 28, 2023, the respondent asked to have its request for case-management considered on an expedited basis. The reason cited for the expedited basis is that the appellant served the respondent with his memorandum of fact and law in this appeal on February 28, 2023. As a result, the respondent's memorandum of fact and law in this appeal must be filed on or before March 30, 2023.

The only remaining steps to be completed to have Mr. Turmel's appeal heard are:

- serving and filing the respondent's memorandum of fact and law (Rule 346(2));
- filing the book or books of authorities (Rule 348); and
- serving and filing the requisition for hearing (Rule 347).

Given the few steps remaining in this appeal, there is no apparent justification for continuing this appeal as a specially managed proceeding.

Rather than indicate any concerns with respect to Mr. Turmel's appeal, the respondent indicates that the justification for treating this appeal as a specially managed proceeding is the respondent's proposed motion for an order to declare Mr. Turmel a vexatious litigant in this Court. Simply indicating that a motion will be brought in an appeal cannot justify having that appeal continue as a specially managed proceeding.

The respondent has not yet brought the motion referred to above. There is no indication that the Attorney General will be seeking to prevent Mr. Turmel from continuing his appeal to this Court. Therefore, the respondent's memorandum of fact and law in this appeal will still be required to be filed by March 30, 2023. This memorandum will address whether the Federal Court erred in finding that Mr. Turmel is a vexatious litigant in that Court, not whether he should be declared to be a vexatious litigant in this Court.

There is nothing to indicate why any issues arising from the respondent's proposed motion would need to be addressed as part of a specially managed proceeding and could not be addressed in the normal course.

The respondent's request to have this appeal continue as a specially managed proceeding is denied.

“WWW”

TAB 4

Court File Number: A-265-22

FEDERAL COURT OF APPEAL

B E T W E E N :

JOHN TURMEL

Appellant
(Respondent to the Motion)

and

HER MAJESTY THE QUEEN

Respondent
(Moving Party)

NOTICE OF MOTION

TAKE NOTICE THAT the respondent, the Attorney General of Canada (incorrectly named as “Her Majesty the Queen”), will make a motion to the Federal Court of Appeal under rule 369.2 of the *Federal Courts Rules*.

THE MOTION IS FOR an Order:

- (a) that no further proceedings may be instituted, and that any proceeding previously instituted, other than the present appeal, may not be continued, by the appellant, John Turmel, in the Federal Court of Appeal, except with leave of the Court;
- (b) that any application by John Turmel for leave to institute or continue proceedings in the Federal Court of Appeal must, in addition to satisfying the criteria in s. 40(4) of the *Federal*

Courts Act, demonstrate that all outstanding costs awards against John Turmel in the Federal Court of Appeal have been paid in full;

- (c) prohibiting John Turmel from preparing, sharing, distributing or in any way disseminating court documents, including template documents, for use by others in proceedings before the Federal Court of Appeal;
- (d) prohibiting John Turmel from assisting others with their proceedings in the Federal Court of Appeal, including by filing materials or by purporting to represent or communicate with the Court on their behalf;
- (e) that no further proceedings may be instituted in the Federal Court of Appeal using originating documents, including template documents, that are in any way prepared, shared, distributed or disseminated by John Turmel, except with leave of the Court;
- (f) for costs of \$500; and
- (g) for such other relief as counsel may advise and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

- (a) the appellant, John Turmel, has persistently instituted vexatious proceedings and has conducted proceedings in a vexatious manner;
- (b) since 1980, Mr. Turmel has personally instituted at least 70 proceedings in the courts of Ontario, the Federal Court, the Federal Court of Appeal, and the Supreme Court of Canada;
- (c) since 2014, other individuals have also filed more than 800 Federal Court claims, as well as numerous motions, appeals and applications for leave to appeal, based on litigation materials or “kits” prepared, distributed and promoted by Mr. Turmel;
- (d) Mr. Turmel’s proceedings, and the proceedings based on his litigation kits, have been consistently dismissed as meritless;
- (e) Mr. Turmel has personally brought, and has encouraged others to bring, proceedings for improper purposes;

- (f) in his own proceedings and in materials prepared for use by others, Mr. Turmel frequently attempts to re-litigate issues that have already been decided;
- (g) in his own proceedings and in materials prepared for use by others, Mr. Turmel uses pleadings to make bald, unsubstantiated and intemperate or scandalous allegations against the Crown or other parties;
- (h) Mr. Turmel frequently expresses disregard, and at times outright contempt, for the Federal Courts, including individual Justices and the Registry;
- (i) Mr. Turmel frequently disregards court rules and orders;
- (j) Mr. Turmel persistently fails to comply with costs orders and encourages others not to pay costs orders;
- (k) the requested order will promote the integrity of this Court's processes, and prevent Mr. Turmel from continuing to conduct, and from encouraging others to conduct, proceedings in an abusive and vexatious manner that is harmful to the court system and its participants;
- (l) *Federal Courts Act*, [RSC 1985, c F-7](#), s [40](#), [44](#);
- (m) the plenary jurisdiction of this Court
- (n) *Federal Courts Rules*, [SOR/98-106](#), s [369.2](#); and
- (o) such further and other grounds as counsel may submit and this Honourable Court may accept.

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

- (a) the Affidavit of Lisa Minarovich, sworn May 31, 2022; and
- (b) the Affidavit of Lisa Minarovich, sworn April 27, 2023.

April 27, 2023



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Appellant (Respondent to the Motion)

Court File Number: A-265-22

FEDERAL COURT OF APPEAL

B E T W E E N :

JOHN TURMELAppellant
(Respondent to the Motion)

and

HER MAJESTY THE QUEEN¹Respondent
(Moving Party)**WRITTEN REPRESENTATIONS OF THE RESPONDENT, THE
ATTORNEY GENERAL OF CANADA**

¹ The Attorney General of Canada has requested in its Memorandum of Fact and Law that the title of proceedings be amended to name the Attorney General of Canada as the sole and proper respondent to this appeal. *Federal Courts Rules*, [SOR/98-106](#), s [297](#) [*“Federal Courts Rules”*]

allegations against judges and other parties, ignored court orders and rules, and refused to pay costs awards.³¹

25. The Application Judge ordered that Mr. Turmel obtain leave before instituting or continuing proceedings in the Federal Court, and made leave conditional on Mr. Turmel first paying all outstanding Federal Court costs. He also prohibited Mr. Turmel from assisting others with their Federal Court proceedings, including by preparing or distributing court documents, and ordered that no Federal Court proceedings may be instituted using originating documents prepared by Mr. Turmel, except with leave.³² However, the Application Judge declined a request by Canada to make these measures applicable to Federal Court of Appeal proceedings, as the jurisprudence left him in some doubt as to whether the Federal Court had jurisdiction to grant this relief.³³

26. Mr. Turmel now appeals the Federal Court decision to this Court.³⁴ All materials in the appeal have been filed, and the appeal is currently awaiting hearing. In the interim, Canada brings the present motion in writing for an order declaring Mr. Turmel vexatious in the Federal Court of Appeal.³⁵

C. THE ATTORNEY GENERAL OF CANADA'S CONSENT

27. The Attorney General of Canada has consented to the bringing of this motion in accordance with s. 40(2) of the *Federal Courts Act*.³⁶

³¹ Application Decision, paras [3-5](#), [38](#), [40](#), [42-44](#), [46](#), MR, Vol 8, Tab D10, p 2081, 2093-95

³² Application Decision, paras [7](#), [48](#), [51](#), MR, Vol 8, Tab D10, p 2082, 2095-97

³³ Application Decision, paras [52-54](#), MR, Vol 8, Tab D10, p 2097-98

³⁴ Notice of Appeal, issued December 9, 2022, MR, Vol 8, Tab D11, p 2103

³⁵ *Federal Courts Rules*, s [369.2](#)

³⁶ Consent of the Attorney General of Canada dated February 3, 2023, MR, Vol 1, Tab B, p 6; *Federal Courts Act*, s [40\(2\)](#)

TAB 5

Federal Court of Appeal



Cour d'appel fédérale

Date: 20230615

Docket: A-265-22

Citation: 2023 FCA 140

Present: LASKIN J.A.

BETWEEN:

JOHN TURMEL

Appellant

and

HIS MAJESTY THE KING

Respondent

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on June 15, 2023.

REASONS FOR ORDER BY:

LASKIN J.A.



Date: 20230615

Docket: A-265-22

Citation: 2020 FCA 140

Present: LASKIN J.A.

BETWEEN:

JOHN TURMEL

Appellant

and

HIS MAJESTY THE KING

Respondent

REASONS FOR ORDER

LASKIN J.A.

[1] On November 9, 2022, the Federal Court (2022 FC 1526, Fothergill J.) made an order under section 40 of the *Federal Courts Act*, R.S.C. 1985, c. F-7, declaring the appellant, John Turmel, to be a vexatious litigant. The order also, among other things, prohibits Mr. Turmel from instituting new proceedings in the Federal Court, continuing any proceedings previously instituted by him in the Federal Court, except with leave of the Court, and preparing, distributing

or disseminating court documents, including template documents, for use by others in Federal Court proceedings.

[2] The Attorney General of Canada sought to have the order framed so as to apply equally to proceedings in this Court. The Federal Court declined that request, on the basis that the case law left the motion judge “in some doubt” whether the jurisdiction of the Federal Court extends to matters before this Court (2022 FC 1526 at paras. 52-54). In doing so, the motion judge suggested that if the order he was granting was appealed, this Court might wish “to provide further guidance on this jurisdictional question”.

[3] Mr. Turmel has appealed to this Court from the order of the Federal Court. I understand that the appeal is ready to be scheduled for hearing.

[4] The Attorney General now moves in this Court for the same relief in relation to proceedings in this Court as he obtained in relation to Federal Court proceedings in the order under appeal. In compliance with the requirement in subsection 40(2) of the *Federal Courts Act*, the Attorney General, through the then Acting Assistant Attorney General, has consented in writing to the bringing of the motion. The Attorney General has filed a substantial record, describing Mr. Turmel’s conduct that has led to the bringing of the application. Mr. Turmel has not filed a response to the motion.

[5] For the reasons set out below, the order sought is granted.

[6] Subsection 40(1) of the *Federal Courts Act* provides in the following terms for the making of a vexatious litigant order:

40 (1) If the Federal Court of Appeal or the Federal Court is satisfied, on application, that a person has persistently instituted vexatious proceedings or has conducted a proceeding in a vexatious manner, it may order that no further proceedings be instituted by the person in that court or that a proceeding previously instituted by the person in that court not be continued, except by leave of that court.

40 (1) La Cour d'appel fédérale ou la Cour fédérale, selon le cas, peut, si elle est convaincue par suite d'une requête qu'une personne a de façon persistante introduit des instances vexatoires devant elle ou y a agi de façon vexatoire au cours d'une instance, lui interdire d'engager d'autres instances devant elle ou de continuer devant elle une instance déjà engagée, sauf avec son autorisation.

[7] As this Court recently stated in *Feeney v. Canada*, 2022 FCA 190 at para. 20 (some internal citations omitted),

vexatious litigant orders may be based on various, non-exhaustive, criteria [...]. In *Olumide*, Stratas J.A. referred to these criteria as “hallmarks of vexatious litigants” or “badges of vexatiousness” [...]. These “hallmarks” include the following (*Olumide v. Canada*, 2016 FC 1106 at para. 10):

- a) being admonished by various courts for engaging in vexatious and abusive behaviour;
- b) instituting frivolous proceedings (including motions, applications, actions, and appeals);
- c) making scandalous and unsupported allegations against opposing parties or the Court;
- d) re-litigating issues which have been already been decided against the vexatious litigant;
- e) bringing unsuccessful appeals of interlocutory and final decisions as a matter of course;

f) ignoring court orders and court rules; and

g) refusing to pay outstanding costs awards against the vexatious litigant.

[8] The record on this motion shows that Mr. Turmel displays several of the hallmarks of a vexatious litigant. Among other things,

he has personally brought numerous meritless proceedings, almost all of which have been dismissed for reasons that include the absence of a reasonable cause of action, that they were scandalous, frivolous, and vexatious or an abuse of process;

he appeals virtually all of his litigation losses, and regularly seeks leave to appeal to the Supreme Court of Canada from the dismissal of his appeals, often seeking reconsideration when his leave to appeal applications fail;

he regularly attempts to re-litigate previously decided issues;

he uses pleadings to make unsubstantiated and intemperate remarks about other parties and the judges who dismiss his proceedings;

he disregards court orders, rules and timelines; and

he has numerous unpaid costs orders.

[9] In addition to bringing his own proceedings, he has, beginning in 2014, developed litigation “kits” consisting of template court materials challenging among other things the constitutionality of aspects of Canada’s medical cannabis regulatory regime and COVID-19 mitigation measures, and distributed them for others to use in instituting proceedings in the Federal Courts. Individuals have filed or attempted to file hundreds of proceedings using these kits, including 40 appeals to this Court. He has described them as part of a deliberate strategy to overwhelm the courts and the Crown. He describes himself as a “guerilla lawyer”, uses military

language in describing his litigation tactics and encourages his kit users to file claims and “get in on the kill”.

[10] The evidence in the record overwhelmingly shows that a vexatious litigant order is called for to govern Mr. Turmel’s access to this Court. It also shows that to achieve its purposes, the order must extend beyond Mr. Turmel himself to include his assistance and encouragement to others to bring proceedings in this Court.

[11] I will, accordingly, make an order, substantially in the terms sought by the Attorney General:

- (a) that no further proceedings may be instituted, and that any proceedings previously instituted, other than the present appeal, may not be continued, by John Turmel in the Federal Court of Appeal, except with leave of the Court;
- (b) that any application by John Turmel for leave to institute or continue proceedings in the Federal Court of Appeal must, in addition to satisfying the criteria in s. 40(4) of the *Federal Courts Act*, demonstrate that all outstanding costs awards against John Turmel in the Federal Court of Appeal have been paid in full;
- (c) prohibiting John Turmel from preparing, distributing or in any way disseminating court documents, including template documents, for use by others in proceedings before the Federal Court of Appeal;

- (d) prohibiting John Turmel from assisting others with their proceedings in the Federal Court of Appeal, including by filing materials or by purporting to represent or communicate with the Court on their behalf;
- (e) that no further proceedings may be instituted in the Federal Court of Appeal using originating documents, including template documents, that are in any way prepared, distributed or disseminated by John Turmel, except with leave of the Court;
- (f) that John Turmel pay to the Attorney General costs of this motion fixed at \$500.

[12] Since the question whether a vexatious litigant order made by the Federal Court can extend to proceedings in the Federal Court of Appeal is not a live issue in this proceeding, I will offer only the following brief comment on the question. Since the coming into force of the *Courts Administration Act*, S.C. 2002, c. 8, the Federal Court of Appeal and the Federal Court are two separate and distinct superior courts: see *Federal Courts Act*, sections 3 and 4. It would be unusual if an order of one court could, absent express statutory language (such as language providing for appeals from one court to the other) bind the other. Subsection 40(1) of the *Federal Courts Act* appears to have been drafted, using expressions such as “that court” and “devant elle”, with a view to limiting the effect of a vexatious proceedings order to proceedings in the court that made it.

“J.B. Laskin”

J.A.

TAB 6

Federal Court of Appeal



Cour d'appel fédérale

Date: 20230615

Docket: A-265-22

Ottawa, Ontario, June 15, 2023

Present: LASKIN J.A.

BETWEEN:

JOHN TURMEL

Appellant

and

HIS MAJESTY THE KING

Respondent

ORDER

THIS COURT ORDERS that:

1. No further proceedings may be instituted, and any proceedings previously instituted, other than the present appeal, may not be continued, by John Turmel in the Federal Court of Appeal, except with leave of the Court.

2. Any application by John Turmel for leave to institute or continue proceedings in the Federal Court of Appeal must, in addition to satisfying the criteria in s. 40(4) of the *Federal Courts Act*, demonstrate that all outstanding costs awards against John Turmel in the Federal Court of Appeal have been paid in full.
3. John Turmel is prohibited from preparing, distributing or in any way disseminating court documents, including template documents, for use by others in proceedings before the Federal Court of Appeal.
4. John Turmel is prohibited from assisting others with their proceedings in the Federal Court of Appeal, including by filing materials or by purporting to represent or communicate with the Court on their behalf.
5. No further proceedings may be instituted in the Federal Court of Appeal using originating documents, including template documents, that are in any way prepared, distributed or disseminated by John Turmel, except with leave of the Court.
6. John Turmel shall pay to the Attorney General of Canada costs of this motion fixed at \$500.

“J.B. Laskin”

J.A.

TAB 7

FEDERAL COURT OF APPEAL

B E T W E E N :

JOHN TURMEL

Appellant
(Moving Party)

and

HIS MAJESTY THE KING

Respondent
(Respondent to the Motion)

AFFIDAVIT OF LISA MINAROVICH

I, LISA MINAROVICH, of the City of Brampton, in the province of Ontario, SWEAR THAT:

1. I am a Paralegal in the Department of Justice assigned to the above-noted file, and as such have knowledge of the matters deposed in this affidavit.
2. On February 6, 2023, counsel for the respondent, the Attorney General of Canada (incorrectly named as “His Majesty the King”) wrote a letter to the Federal Court of Appeal to request that this appeal continue as a specially managed proceeding pursuant to Rule 384 of the *Federal Courts Rules*. Attached hereto and marked as Exhibit “A” is a copy of this letter.

3. On February 28, 2023, counsel for the respondent wrote a further letter to the Federal Court of Appeal, requesting that the Court expedite the respondent's previously submitted request that this appeal continue as a specially managed proceeding. Attached hereto and marked as Exhibit "B" is a copy of this letter.

SWORN remotely by LISA
MINAROVICH at the City of Brampton,
in the province of Ontario, before me at
the City of Toronto, in the province of
Ontario, on June 29, 2023, in accordance
with O. Reg. 431/20, *Administering Oath
or Declaration Remotely*



A Commissioner for Taking Affidavits in
the Province of Ontario

Addison Leigh
(LSO#: 84934W)



LISA MINAROVICH

This is **Exhibit “A”** mentioned and referred to in the Affidavit of Lisa Minarovich, SWORN remotely at the City of Brampton, in the province of Ontario, before me at the City of Toronto, in the province of Ontario, on June 29, 2023, in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner for Taking Affidavits
in the Province of Ontario



**Department of Justice
Canada**

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**Ministère de la Justice
Canada**

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Telephone/Téléphone: 647-256-7473
Fax/Télécopieur: 416-973-0809
Email/Courriel: Jon.Bricker@justice.gc.ca

February 6, 2023

VIA ELECTRONIC FILING

Federal Court of Appeal
180 Queen Street West
Toronto, Ontario M5V 1Z4
FCARegistry-CAFGreffe@cas-satj.gc.ca

Dear Registry,

Re: John Turmel v Her Majesty the Queen, Court File No. A-265-22

I am writing on behalf of the respondent, the Attorney General of Canada (incorrectly named as “Her Majesty the Queen,” and hereinafter referred to as “Canada”), to request that the above-noted appeal continue as a specially managed proceeding pursuant to Rule 384 of the *Federal Courts Rules*.

Canada intends to bring a motion in the course of this appeal for an order under s. 40 of the *Federal Courts Act* declaring the appellant, John Turmel, a vexatious litigant in the Federal Court of Appeal, and for other consequential relief.

Canada intends to seek procedural directions or orders concerning this motion, including directions or orders concerning the evidence to be used, the format of written representations, the hearing of this motion, and the timetable for these steps. In addition, Canada intends to request an order amending the style of cause in this matter to correctly name the respondent.

Canada requests that this matter continue as a specially managed proceeding, and that the Chief Justice assign a judge pursuant to Rule 383.1, to act as case management judge to consider these requests for procedural relief.

Sincerely,

Jon Bricker
Senior Counsel, National Litigation Sector

cc John Turmel, Appellant

This is **Exhibit “B”** mentioned and referred to in the Affidavit of Lisa Minarovich, SWORN remotely at the City of Brampton, in the province of Ontario, before me at the City of Toronto, in the province of Ontario, on June 29, 2023, in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner for Taking Affidavits
in the Province of Ontario



**Department of Justice
Canada**

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February 28, 2023

VIA ELECTRONIC FILING

Federal Court of Appeal
180 Queen Street West
Toronto, Ontario M5V 1Z4
FCRegistry-CAFGreffe@cas-satj.gc.ca

Dear Registry,

Re: John Turmel v Her Majesty the Queen, Court File No. A-265-22

I am writing on behalf of the respondent, the Attorney General of Canada (incorrectly named as “Her Majesty the Queen,” and hereinafter referred to as “Canada”), to request that the Court kindly expedite Canada’s previously submitted request for case-management in this matter.

By letter dated February 6, 2023, Canada advised of its intention to bring a motion for an order declaring the appellant a vexatious litigant in the Federal Court of Appeal (the “Motion”), and requested that the appeal continue as a specially managed proceeding in order that Canada could seek procedural directions or orders concerning this motion.

Specifically, Canada intends to seek directions or orders:

1. Setting a timetable for the Motion;
2. Granting Canada leave to rely for the Motion on the affidavit evidence filed in the Federal Court proceeding;
3. Granting Canada leave to serve and file a joint Memorandum of Fact and Law and Written Representations addressing both the appeal and the Motion;
4. That the Motion be heard orally, together with the underlying appeal; and
5. Amending the style of cause to correctly name the respondent.

On February 28, 2023, the Appellant served Canada with his Memorandum of Fact and Law in the underlying appeal. As a result, Canada’s responding Memorandum of Fact and Law is currently due on March 30, 2023.

As the procedural directions or orders that Canada intends to seek would affect the content and timing of Canada's Memorandum, Canada requests that the Court now kindly expedite Canada's previously submitted request for case management.

Sincerely,



Jon Bricker
Senior Counsel, National Litigation Sector

cc John Turmel, Appellant

TAB 8

FEDERAL COURT OF APPEAL

B E T W E E N :

JOHN TURMEL

Appellant
(Moving Party)

and

HIS MAJESTY THE KING

Respondent
(Respondent to the Motion)

**WRITTEN REPRESENTATIONS OF THE RESPONDENT,
THE ATTORNEY GENERAL OF CANADA**

PART I – OVERVIEW

1. This Court should not reconsider its recently issued order regulating the appellant’s access to the Federal Court of Appeal. Reconsideration is available only where an order does not accord with the reasons given, the court has overlooked a matter that it should have addressed, or the order contains clerical mistakes, errors or omissions. None of these circumstances is present in this case.

2. The appellant, John Turmel, alleges that this Court should not have granted a vexatious-litigant order while his appeal of a similar Federal Court order is outstanding. However, there is no reason in law why this Court could not grant a vexatious-litigant order while it considers his appeal. Mr. Turmel also relies for his reconsideration motion on his own mistake in failing to respond to Canada’s vexatious-litigant motion. However, reconsideration is not available to correct errors by a party.

PART II – STATEMENT OF FACTS

A. The Federal Court Vexatious-Litigant Order

3. By decision dated November 9, 2022, the Federal Court declared Mr. Turmel a vexatious litigant in that court (the “Federal Court Vexatious-Litigant Order”). The Federal Court Vexatious-Litigant Order, which was issued pursuant to s. 40 of the *Federal Courts Act* and the Court’s plenary powers, prohibits Mr. Turmel from instituting or continuing any proceedings in the Federal Court except with leave, sets conditions for obtaining this leave, and includes measures that regulate Mr. Turmel’s ability to assist others with their Federal Court proceedings.¹

4. Mr. Turmel has appealed the Federal Court Vexatious-Litigant Order to this Court.² All materials in this appeal have been filed, and the appeal is ready to be scheduled for hearing.³

B. The Federal Court of Appeal Vexatious-Litigant Order

5. On February 6, 2023, the respondent to the appeal, the Attorney General of Canada (incorrectly named as “His Majesty the King,” and hereinafter “Canada”),⁴ wrote to this Court to request that the appeal continue as a specially managed proceeding. Canada’s letter explained that it intended to bring a motion in the course of the appeal for an order declaring Mr. Turmel a vexatious litigant in this Court, and

¹ Judgment and Reasons of the Federal Court in *Attorney General of Canada v John C Turmel* (T-962-22), dated November 9, 2022, paras 7, 49 and Judgment **Respondent’s Motion Record (“RMR”), Tab 1, p 20-21**; *Federal Courts Act*, [RSC 1985, c F-7](#), s [40\(1\)](#)

² Notice of Appeal, issued December 9, 2022, **RMR, Tab 2**

³ Reasons for Order of the Federal Court of Appeal, dated June 15, 2023 (“Federal Court of Appeal Vexatious-Litigant Reasons”), para 3, **RMR, Tab 5, p 53**

⁴ The Attorney General of Canada has requested in its Memorandum of Fact and Law filed in the underlying appeal that the title of proceedings be amended to name the Attorney General of Canada as the sole and proper respondent to this appeal.

requested case management in order that Canada could seek procedural directions or orders concerning this motion.⁵

6. Canada sent a further letter to this Court on February 28, 2023. This letter requested that the Court expedite Canada’s previously submitted request for case management as the deadline for its Memorandum was approaching, and Canada wished to seek leave in advance of this deadline to file a joint Memorandum of Fact and Law and Written Representations addressing both the appeal and its motion. The letter also advised of Canada’s intention to seek a direction or order in case management that its motion be heard orally, together with the appeal.⁶

7. By direction dated March 6, 2023, this Court denied Canada’s request to have the appeal continue as a specially managed proceeding. In doing so, Webb J.A observed that he did not see the need for case management or any reason why Canada’s motion “could not be addressed in the normal course,” which in the Federal Court of Appeal, is a motion in writing (the “March 6 Direction”).⁷

8. Canada accordingly proceeded to prepare its vexatious-litigant motion as a motion in writing under Rule 369.2 of the *Federal Courts Rules*.⁸ Canada served and filed its motion on April 27, 2023. Mr. Turmel did not file a response to the motion.⁹

9. On June 15, 2023, this Court granted Canada’s motion (the “Federal Court of Appeal Vexatious-Litigant Order”). The Federal Court of Appeal Vexatious-Litigant

⁵ Respondent’s Letter to the Federal Court of Appeal, dated February 6, 2023, **RMR, Tab 7A, p 63**

⁶ Respondent’s Letter to the Federal Court of Appeal, dated February 28, 2023, **RMR, Tab 7B, p 65-66**

⁷ Direction of the Federal Court of Appeal, dated March 6, 2023 (“March 6 Direction”), **RMR, Tab 3, p 42-43**

⁸ Notice of Motion and Written Representations of the Respondent in support of its Federal Court of Appeal vexatious-litigant motion, **RMR, Tab 4, p 63**; *Federal Courts Rules*, [SOR/98-106](#), s [369.2](#) (“*Federal Courts Rules*”)

⁹ Federal Court of Appeal Vexatious-Litigant Reasons, para 4, **RMR, Tab 5, p 53**

Order prohibits Mr. Turmel from instituting or continuing any proceedings in this Court (other than the present proceeding), except with leave. Like the Federal Court Vexatious-Litigant Order, the Federal Court of Appeal Vexatious-Litigant Order also sets conditions for obtaining this leave, and includes measures regulating Mr. Turmel's ability to assist others with their proceedings in this Court.¹⁰

PART III – POINTS IN ISSUE

10. The sole issue on this motion is whether this Court should reconsider the Federal Court of Appeal Vexatious-Litigant Order.

PART IV – SUBMISSIONS

11. This Court should not reconsider the Federal Court of Appeal Vexatious-Litigant Order. Rule 397 of the *Federal Courts Rules* provides that the Court may reconsider the terms of an order 1) if it does not accord with the reasons given for it, 2) if a matter that should have been dealt with has been overlooked or accidentally omitted, or 3) to correct clerical mistakes, errors or omissions.¹¹ None of these circumstances is present in this case.

A. The Federal Court of Appeal Vexatious-Litigant Order accords with the reasons given for it

12. The Federal Court of Appeal Vexatious-Litigant Order is entirely consistent with the reasons given for it. In his reasons granting the order, Laskin J.A. observed that Mr. Turmel displays many of the hallmarks of a vexatious litigant, and that the evidence “overwhelmingly shows that a vexatious litigant order is called for” to

¹⁰ Order of the Federal Court of Appeal, dated June 15, 2023 (“Federal Court of Appeal Vexatious-Litigant Order”), **RMR, Tab 6, p 58-59**

¹¹ *Federal Courts Rules*, s [397](#)

regulate his access to, and ability to assist others with, their Federal Court of Appeal proceedings.¹²

13. The reasons also listed the specific terms whereby the Court would regulate Mr. Turmel's access and ability to assist others, which terms are repeated almost verbatim in the Federal Court Vexatious-Litigant Order.¹³ There can be no suggestion in these circumstances but that the order accords with the reasons given for it.

B. The Court has not overlooked or accidentally omitted a matter that should have been dealt with

14. Mr. Turmel has not shown that this Court overlooked or omitted a matter that it should have addressed in the Federal Court of Appeal Vexatious-Litigant Order. He alleges in written representations that it was "premature" for the Court to rule on Canada's motion while his underlying appeal, which concerns similar issues, was still outstanding.¹⁴ However, Mr. Turmel has identified no reason in law why this Court could not rule on Canada's motion while it considers the underlying appeal.

15. To the extent Mr. Turmel is suggesting that the Federal Court of Appeal Vexatious-Litigant Order somehow binds this Court in the underlying appeal, this argument mischaracterizes the order's effect. The Federal Court of Appeal Vexatious-Litigant Order regulates Mr. Turmel's access to this Court but does not address the issue on appeal, which is whether the Federal Court made a reviewable error in regulating his access to that court. Moreover, even if the Federal Court of Appeal Vexatious-Litigant Order purported to address the issue on appeal (which it does not), a prior decision by a single judge of this Court is not binding on a full panel.¹⁵

¹² Federal Court of Appeal Vexatious-Litigant Reasons, para 10, **RMR, Tab 5, p 56**

¹³ Federal Court of Appeal Vexatious-Litigant Reasons, para 11, **RMR, Tab 5, p 56-57**; Federal Court of Appeal Vexatious-Litigant Order, **RMR, Tab 6, p 58-59**

¹⁴ Appellant's Written Representations, para 6, **Appellant's Motion Record, p 6**

¹⁵ *Apotex Inc v Canada (Health)*, [2017 FCA 160](#), para [16](#)

16. In any event, if Mr. Turmel felt that it was premature for the Court to grant Canada's motion, it was open to him to oppose the motion or request that it be adjourned. He failed to do so. Just as a party cannot use Rule 397 to re-argue an issue, they should not be permitted to use it to raise an issue they could have but failed to raise earlier.¹⁶

17. Mr. Turmel now explains that he did not respond to Canada's motion because he was under the mistaken belief that it would be heard orally together with his appeal. However, it is unclear on the facts how Mr. Turmel could have arrived at this belief given the March 6 Direction and the clear indicators in Canada's motion record that the motion was brought in writing.¹⁷ In any event, even if Mr. Turmel was under this mistaken belief, Rule 397 is available only to correct errors by the Court, and not errors by a party.¹⁸

C. The Federal Court of Appeal Vexatious-Litigant Order does not contain clerical, mistakes, errors or omissions

18. Finally, the Federal Court of Appeal Vexatious-Litigant Order does not contain any mistakes, errors or omissions of a clerical nature. To the extent that Mr. Turmel relies for his reconsideration motion on his own mistake in failing to respond to Canada's motion, this is not a mere clerical error, and rule 397 is again unavailable to correct errors by a party.¹⁹

¹⁶ *Sharma v Canada (Revenue Agency)*, [2020 FCA 203](#), para [3](#)

¹⁷ March 6 Direction, **RMR, Tab 3, p 42-43**; Notice of Motion and Written Representations of the Respondent in support of its Federal Court of Appeal vexatious-litigant motion, **RMR, Tab 4, p 44, 50**; *Federal Courts Rules*, [SOR/98-106](#), s [369.2](#) (“*Federal Courts Rules*”)

¹⁸ *Campbell River Harbour Authority v Acor (Vessel)*, [2010 FC 844](#), para [16](#) (“*Campbell River*”)

¹⁹ *Campbell River*, para [18](#)

PART V – ORDER SOUGHT

19. Canada requests that the motion for reconsideration be dismissed. It also requests costs on an elevated basis. In granting the Federal Court of Appeal Vexatious-Litigant Order, this Court observed that Mr. Turmel frequently brings meritless proceedings, attempts to re-litigate previously decided issues, and appeals or seeks reconsideration when he is unsuccessful in these proceedings. The present motion is a further example of this vexatious conduct. Canada submits that elevated costs are appropriate in these circumstances, and requests that these costs be fixed at \$2,000.²⁰

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated at Toronto this 4th day of July, 2023.



Jon Bricker / Addison Leigh
Of Counsel for the Respondent (Respondent
to the Motion)

ATTORNEY GENERAL OF CANADA

Department of Justice Canada
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120 Adelaide St. West, Suite 400
Toronto, Ontario M5H 1T1

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addison.leigh@justice.gc.ca

²⁰ *Federal Courts Rules*, s [400\(3\)\(k\)\(i\),\(o\)](#)

PART VI – LIST OF AUTHORITIES

Apotex Inc v Canada (Health), [2017 FCA 160](#)

Campbell River Harbour Authority v Acor (Vessel), [2010 FC 844](#)

Sharma v Canada (Revenue Agency), [2020 FCA 203](#)

PART VII – STATUTES AND REGULATIONS

Federal Courts Act, [RSC 1985, c F-7](#), s [40\(1\)](#)

Federal Courts Rules, [SOR/98-106](#), s [397](#), [400\(3\)\(k\)\(i\),\(o\)](#)