Federal Court  Cour fédérale

Date: 20180413

Docket: T-72-18

Citation: 2018 FC 406

Vancouver, British Columbia, April 13, 2018

PRESENT: The Honourable Madam Justice Elliott

BETWEEN:

IVANCO KEREMELEVSKI

Plaintiff

and

UKRANIAN ORTHODOX CHURCH OF ST. MARY AND MYKHAYLO POZDYK, KATRHERINE MISKE, BILL MISKE & RCMP (ROYAL CANADIAN MOUNTED POLICE), ROB HUTCHES, MICHAEL GATT, COLIN BELL, CAROL BRADLEY, IAN MCPHAIL, Q.C. & ATTORNEY GENERAL OF CANADA AND MINISTER OF JUSTICE, JOHN DOE (1,2,3, ETC)

Defendants

ORDER and REASONS

I. The nature of the case

[1] By motion in writing filed March 16, 2018 and brought pursuant to Rule 369 of the *Federal Courts Rules*, SOR/98-106 (*Rules*), the Applicant seeks an Order setting aside the judgment of Madam Prothonotary Ring dated March 6, 2018 [the Judgment] in which the

Applicant's Statement of Claim was struck without leave to amend or in the alternative, pursuant to Rule 75 of the *Rules*, an opportunity to amend his statement of claim which was originally filed January 12, 2018.

[2] The motion is opposed by the Respondent, the Attorney General of Canada [ACG], and the Defendants, Ukrainian Orthodox Church of St. Mary [the Church], Mykhaylo Podzyk, Katerine Miske and Bill Miske [the Church Officials] on the basis that the Prothonotary committed no reviewable error in rendering the Judgment on the motion to strike the Applicant's Statement of Claim.

[3] The Applicant filed a Reply dated March 28, 2018 in which he alleges that the Prothonotary acted without jurisdiction and that the Judgment was unconscionable. The Applicant also makes allegations which are incomprehensible such as that "[t]he Crown Representatives Misconduct and/or Procedurals Irregularities and/or Harassment . . . and/or diminishing the Hearings (trial) and/or issuing lawless, and unlawful Judgement [sic] by dismissing my Statement of Claim were exercised in Bad Faith and/or Contempt of the Rules of Law constitute tort of civil conspiracy to deprive the Plaintiff Ivanco Kremelevski from his Rights under the Canada Criminal Code (Canada Act) Canadian Charter of Rights and Freedoms, Humans Rights, Civil Rights, Common Law Rights, Disability Rights, Natural & Fundamental Rights both Domestic & International, etc.".

[4] Although the current motion has not been brought under Rule 51 of the *Rules*, the Applicant, who is self-represented, is seeking to set aside the Judgment of Prothonotary Ring. In

effect, he is bringing an appeal of the Judgment and this motion will be considered on that basis. There is no detriment to the Defendants in so doing as they have argued the motion on the basis that it is an appeal of the Judgment.

II. The standard of review on appeal of the Prothonotary's decision

[5] Whether to strike all or part of a pleading, with or without leave to amend, is governed by Rule 221 of the *Rules*. It provides discretion to the Court to make such an order based on the grounds specified within the Rule. When determining an appeal from a discretionary decision of a Prothonotary, it has been established that this Court may only interfere if the Prothonotary made an error of law or based her order on a palpable and overriding error in regard to the facts: *Hospira Healthcare Corp v Kennedy Institute of Rheumatology*, 2016 FCA 215 at para 64, [2017] 1 FCR 331, leave to appeal to SCC refused, 37342 (22 June 2017).

[6] "A palpable and overriding error is one which is obvious and apparent, the effect of which is to vitiate the integrity of the reasons": *Maximova v Canada (AG)*, 2017 FCA 230 at para 5, 286 ACWS (3d) 410. In other words if the error is obvious and apparent it will constitute a palpable and overriding error thereby permitting this Court's intervention.

[7] For the reasons which follow, the Applicant's motion is dismissed with costs of $300 each to each of the AGC and the Church. The Prothonotary made no error of law in her analysis, nor did she commit any palpable and overriding errors. Despite the Applicant's efforts he has failed to point to any such error in the Judgment.

III. Background

A. *The Statement of Claim*

[8] It seems that the precipitating event which led to the Applicant issuing the Statement of Claim in this matter was that the Church issued a Notice of Trespass to the Applicant. The only statements that approach being material facts are found in paragraph 7 of the 22 page Statement of Claim:

> Ivanco was served incorrectly with a Notice of Trespass when he was not trespassing in the Church and soon after unlawful service when the Notice of Trespass dated April 26, 2014 was served on January 19, 2016, and then Police was called and I was arrested.

[9] The part of the statement of claim purporting to set out the statement of facts encompasses over twelve pages with allegations made under the headings:

> Breach of Trust, Duties & Obligations / Canadian Charter of Rights and Freedoms
>
> RCMP Members and Employee Negligence
>
> Injury and Damage
>
> Claims in Alternative
>
> Liability of the Defendants
>
> Duties Owed by Defendants to the Plaintiff
>
> Fiduciary Duties
>
> Vicarious Liability
>
> Breach of Trust
>
> The Defendant’s Breach of Duty
>
> The Defendants Misrepresentations
>
> Aggravated and Punitive Damages

Punitive Damages

Government Liability for Negligence of RCMP Members

[10] There are innumerable allegations and assertions in the Statement of Claim against the various named defendants. The particulars though are simply more bald assertions set out under various headings. For example, at paragraph 9, the Plaintiff states:

> The Defendants, jointly, or otherwise, did the following:
>
> - intentionally ignored the duty of care and trust;
> - failed to maintain the standards set out in the Canada's Criminal Code, Trespass & RCMP Acts;
> - ignored Gods [*sic*] Law and others Rules and Requirements;
> - intentionally or otherwise, were grossly negligent, failed professional practice and used excessive force to cause harm;
> - intentionally misrepresented the facts to the law enforcing agencies;
> - Submitting misstatements and acted dishonestly with deceit on January 19, 2016 causing wrongful arrest through false information;
> - the RCMP Officers at the scene ignored their duty of care and trust towards the Plaintiff, were reckless, negligent and were not concerned at all, nor were any investigations done, in the following the incorrect guidance of the Church and its members who stood in a position of trust and had deference but these were acts of bad faith;
> - failed to act as an peace officers, [*sic*] were not impartial;

[11] The entire statement of claim, other than paragraph 7, continues to make statements, assertions, allegations and, in some cases conclusions of law, that are entirely unsupported by any accompanying facts.

[12] Under the heading "Breach of Trust, Duties and Obligations / Canadian Charter of Rights and Freedoms" at paragraph 18 the Applicant claims, amongst many other allegations, that the RCMP "breached / failed to follow and/or abide by":

- the Trespass Act and its sec's 4.(b),4. (1),(c), 4.(3), (c)10(2);
- the Criminal Code of Canada section 430;
- Canadian Statute, Charter of Rights, Legal Domestic and International Covenant on Civil and Political Rights Articles 2, 9, 16, 17, 18, 19, 20, 22, 26, etc.

[13] Other allegations of failure by the RCMP range from failing to properly supervise employees, agents, or servants, to failing to adhere to s.37 of the RCMP Act and failing to properly supervise RCMP Members, Civilian Members and Public Service Employees.

[14] Under the heading "Claims in Alternative" the Applicant alleges at paragraphs 31 to 33 that the various defendants committed the torts of civil conspiracy and intentional interference with Relations which have resulted in loss and damage to the Applicant and which have deprived the Applicant from "his Rights under (Canada Act) Charters of Rights and Freedoms, Common Law Rights Property Rights, Humans Rights, Civil Rights, Disability Rights, Natural & Fundamental Rights, both Domestic & International, etc."

[15] The Church, together with the Church Officials, are alleged by the Applicant to have been "in breach of God's Laws and all of its Commandments, instructions, regulations, laws, Church Statute, and disregarded [*sic*] the Canadian Charter of Rights & Freedoms and Trespass Act, as Defense to BC Trespass Act".

[16] Nowhere in the claim does the Applicant say when, how, or where the RCMP or any of the Defendants committed any of the alleged breaches and failures. No facts, material or otherwise, are put forward to support the many allegations in the Statement of Claim.

B. *The motion record of the Applicant*

[17] The Applicant's motion record sets out as grounds for the motion that the Prothonotary used the exact words of the Respondent's lawyers. He questioned whether the Prothonotary had the authority to dismiss his claim as he had asked for a jury trial. He also claimed, as a ground for the motion, that only a judge has the jurisdiction to issue a final order dismissing his claims therefore the Prothonotary acted without jurisdiction. The Applicant also alleges as grounds for the motion that there was "OBVIOUS ERROR AND BIAS BY CONTINUOUS DISCRIMINATION AGAINST ME AND MY RIGHTS" [emphasis in original]. No details are put forward in support of that allegation.

[18] The Applicant states there is a reasonable justification for the amendment, the proposed amendment will protect the rights of all parties, there is merit to the application and no prejudice to the Respondent will arise from the prospective amendment. The Applicant refers to a prospective amendment but he did not provide a proposed amended statement of claim.

[19] In support of the grounds and allegations the Applicant relies on his affidavits of February 13, 2018 and February 15, 2018.

IV. Preliminary Objection to the February 15, 2018 Affidavit and 100 pages of exhibits

[20] The Motion Record of the Applicant in this matter contains the same materials that were before the Prothonotary. In addition however the Applicant filed an affidavit dated February 15, 2018 which was not before the Prothonotary. That affidavit purports to attach a number of documents, said to be 100 pages in total, from other court proceedings showing "frauds, forgeries, perjuries and other irregularities as well as acting outside of Jurisdictions colluding with criminal acts committing crimes in courts as a white collar crime's, [sic] all of these involved Judicial [sic] are already imp itch [sic] or they will be imp itched [sic] ASAP".

[21] The AGC objects to the filing of this affidavit as it was not before the Prothonotary. In his reply, the Applicant says that the affidavit was sworn in this Court on February 15, 2018 and "for unknown reason to me was refused to be registered".

[22] Service upon the Department of Justice was acknowledged on February 19, 2018. The Applicant says the affidavit was served before any court directions or judgments were issued. That is incorrect. On February 16, 2018, before service on the Department of Justice, the Court issued a direction which is discussed below. In this motion nothing turns on that misstatement by the Applicant; it is mentioned for completeness.

[23] There is no evidence in the court record that the February 15, 2018 affidavit was submitted with the motion materials that were considered by the Prothonotary. There is evidence of an oral direction by the Prothonotary on February 16, 2018 permitting the filing of the Reply and Affidavit of the Plaintiff that had been submitted to the Registry on February 14, 2018. That affidavit is the one which was sworn on February 13, 2018. It is re-dated to March 16, 2018 and filed in the present motion.

[24] The general rule is that when the Court reviews the decision of another decision-maker, in this case by way of an appeal, the only material which can be considered is that which was before the prior decision-maker. Specifically, when considering an appeal of a Prothonotary's Judgment, it has been held in *Gagné v Canada*, 2013 FC 331 at para 25, [2013] FCJ No 361 (QL) [*Gagné*] citing *Carten v Canada*, 2010 FC 857 at paras 19, 23-24, 192 ACWS (3d) 1125, that it is only permissible to file new evidence if it could not have been made available earlier or it will serve the interests of justice or it will assist the Court or it will not seriously prejudice the other side.

[25] It appears that the February 15, 2018 affidavit has been proffered to support the Applicant's allegations of improper conduct by various officials including, possibly, the judiciary. Attached to the affidavit is an unorganized set of documents from a variety of unrelated matters, including but not limited to:

- copies of bank statements;
- a set of court documents related to a foreclosure involving the Applicant and another person with whom he appears to have been a business partner;

- letters of reference regarding a hand writing expert and documents examiner as well as that person's Forensic Document Examination Report concluding that a signature by the apparently former business partner of the Applicant had been forged on one occasion;

- parts of various court proceedings in other courts, including an order from the Supreme Court of British Columbia that six proceedings initiated by the Applicant in that court be stayed "until such time as [the Applicant] appears voluntarily" before the Court to provide "an explanation for his conduct in court on August 5, 2008" [stay order];

- a subsequent order, in response to the Applicant's request to cancel the stay order, in which the only change made to the stay order was that the Applicant could appear before any judge of the court to explain his behaviour rather than only to the previously named specific judge;

- court documents with respect to what appears to be a personal injury claim by the Applicant in connection with a motor vehicle accident;

- copies of photos of a vehicle, presumably related to the injury;

[26] I have reviewed the challenged affidavit in order to determine whether in this motion it meets any of the criteria for being accepted as new evidence as set out in *Gagné*. The exhibits attached to the affidavit are unrelated to the matters raised in the stricken statement of claim or to the matters raised in this appeal. The affidavit does not address the No Trespass Notice or the RCMP's alleged actions. It does not appear to have any relevance whatsoever to the appeal presently brought by the Applicant.

[27] For the foregoing reasons, I find the contents of the February 15, 2018 affidavit would not assist the Court nor would it have assisted the Prothonotary. It will therefore not be considered further in this motion.

V. The Prothonotary's decision

[28] The Prothonotary set out in the Judgment extracts from the Statement of Claim and some of the many forms of relief sought by the Applicant. She referred to the wide range of claims made against the defendants, providing examples. She also noted that while the Applicant's "Statement of Claim include[d] many assertions of legal conclusions … it contains very few facts in support of those conclusions." [emphasis added]

[29] The applicable rules, set out in the Judgment, will not be set out again in this Order. Each of the findings made by the Prothonotary will be reviewed to determine whether there is any palpable and overriding error regarding the facts or an error of law exists in her analysis.

A. *The finding that no reasonable cause of action was disclosed in the statement of claim*

[30] Dealing with the substance of the motion to strike, the Prothonotary reviewed the test for striking out a Statement of Claim which she stated is whether the claim discloses no reasonable cause of action after assuming that the facts pleaded can be proven. The Prothonotary noted it is a stringent test which may be stated as determining that "the claim has no reasonable prospect of success." If a reasonable prospect exists, the claim will not be struck. That is the correct test when determining whether there is no reasonable cause of action disclosed: *Hunt v Carey Canada Inc*, [1990] 2 SCR 959, 1990 Carswell BC 216 at para 36 (WL Can).

[31] The Prothonotary also correctly noted, pursuant to Rule 221(2), that Rule 221(1)(a) does not permit any evidence to be heard when the motion to strike is based on the claim disclosing no reasonable cause of action.

[32] The Prothonotary came to the conclusion that material facts were not pled after noting the requirements of the Rules, the jurisprudence in this Court and in the Federal Court of Appeal, all of which are set out in the Judgment. They require that, rather than bare assertions or conclusions of law without factual underpinnings, the Applicant concisely state the material facts upon which he relies in support of each and every cause of action.

[33] The Prothonotary noted that in *Mancuso v Canada (National Health and Welfare)*, 2015 FCA 227 at para 19, 476 NR 219, the Federal Court of Appeal set out that a proper pleading will tell a defendant "who, when, where, how and what gave rise to its liability." She noted that the requirement to plead material facts to support a claim and the relief sought by an Applicant arises in order to permit a defendant to properly prepare their case and to allow the parties to frame the parameters of relevant evidence. The pleadings define the issues to be tried and neither the parties nor the Court should be left to speculate as to which facts support which causes of action.

[34] In the Judgment the Prothonotary provided examples of the deficient pleading. She set out part of paragraphs 7 and 14 of the Statement of Claim then identified how they failed to provide the necessary underpinning of material facts to support the assertions and conclusions. For example the Prothonotary noted that the Statement of Claim failed to mention who was involved, where events occurred, what conduct was being complained about, whether a legal duty was owed to the Applicant and what damages, if any, were caused.

[35] Paragraph 21 of the Judgment succinctly summarizes the basis upon which the Statement of Claim was struck by the Prothonotary:

> [21] Taken as a whole, the Statement of Claim fails to perform its important role in providing notice to the Defendants and defining the issues to be tried. The Defendants are left to speculate as to the "who, what, when, where and why" of the Plaintiff's allegations, and how the thirteen named Defendants are connected to the numerous claims being advanced. The Plaintiff has pled bare conclusory statements without providing the necessary factual underpinning to support those conclusions, and therefore the Statement of Claim should be struck out on the basis that it fails to disclose a reasonable cause of action.

B. *The finding that the claim was vexatious*

[36] While the no reasonable cause of action finding was sufficient to dispose of the motion, the Prothonotary also addressed the argument by the AGC that the Statement of Claim should be struck as being scandalous, frivolous or vexatious under Rule 221(1)(c) because the lack of material facts on which the Applicant based his cause of action made it impossible for the Respondent to answer it or determine whether the claims fall within the jurisdiction of this Court.

[37] The Prothonotary found that the bare assertions and bald statements throughout the Statement of Claim were vexatious because the Defendants could not possibly know how to answer them and the Court could not regulate the proceeding with such an ill-defined claim.

[38] I see no error of law in that finding and no palpable or overriding error of fact.

[39] I also note that with respect to the Church and the Church Officials that this Court does not have jurisdiction over provincial legislation such as the *Trespass Act* of British Columbia unless such jurisdiction is expressly conferred to this Court in statute: *Federal Courts Act*, RSC 1985, c F-7, s17(6). Equally so, the Prothonotary recognized that the Statement of Claim is unclear as to how claims against these defendants could fall within the jurisdiction of this Court.

[40] Once again, there is no error of law, nor any palpable and overriding error of fact, in that conclusion by the Prothonotary. The Statement of Claim, taken as a whole, was vexatious. It was without sufficient facts to make it possible for the Defendants to answer or to enable the Defendants to determine whether the claims fell within the jurisdiction of this Court.

C. *The decision not to grant leave to amend*

[41] The Prothonotary correctly identified that if a pleading is to be struck then consideration of whether or not to grant leave to amend it should be undertaken. If defects in the Statement of Claim can be cured by amendment then it will not be struck. But, where there is no scintilla of a cause of action, such as where there is no jurisdiction, then leave to amend should not be granted: *Canada (Minister of Citizenship and Immigration) v Seifert*, 2002 FCT 859 at para 12 [2003] 2 FC 83.

VI. The written submissions of the parties on this appeal

A. *The Applicant*

[42] The Applicant makes four submissions in support of his appeal as follows:

> 1. Pursuant to Rule Number 75 of the Federal Court Rules, this Honourable Court may allow a party to amend statement of claim on such terms as will protect the rights of the Applicant with no harm to the respondent.
>
> 2. It is therefore submitted that failure to allow Applicants [*sic*] to amend the Statement of Claims [*sic*] would not protect his rights but will Prejudice his claim which will not be adequately present [*sic*] before this Honourable Court.
>
> 3. It is submitted that the Respondents will not suffer any prejudice as result of the prospective amendment given the fact that they will not oppose because it's in their interest to answer on my statement of claim if they wish to.

> 4. Accordingly the applicant respectfully request that Judge from this Honourable Court to allow the applicant an opportunity to amend his Statement of Claim...

[43] Several other submissions were made in the body of the motion itself. The Applicant relies on paragraphs 7 and 8 of his statement of claim saying that they clearly state the facts and cause of action. He also submits that paragraphs 9, 11 and 12 very precisely and clearly state and plead all facts explaining how the defendants acted improperly, were biased and unprofessional and how the Civilian Review and Complaints Commissioner for the RCMP was negligent.

[44] The Applicant goes on to state that paragraphs 13, 14, 15, 18-27 and 31-35 very clearly state facts and claims against the Defendants. He adds that all duties owed to him are precisely stated and that he is being "VICTIMISED BY KANGAROO COURTS AND ITS UNPROFESSIONAL, BIASED AND CORRUPT INDIVIDUALS WHO PROTECT THE CRIMINALS FOR THEIR ACTS OF CRIME COMMITTED AGAINST HIM" [emphasis in original].

B. *The Attorney General of Canada [AGC]*

[45] The AGC submits that the Prothonotary applied the correct legal standard when considering whether to strike the statement of claim and made no error of law when she cited the lack of a proposed amendment as a factor in considering whether to grant leave to amend.

[46] The AGC also notes that the Applicant did not assert any palpable and overriding error by the Prothonotary in the application of her discretion when considering the question of whether to grant leave to amend.

[47] The AGC submits that it is clear from the Judgment that the Prothonotary reviewed the Statement of Claim before concluding it lacked sufficient material facts.

[48] The AGC submits that the new issues put forward by the Applicant such as bias and a lack of jurisdiction are not properly the subject of an appeal, are devoid of merit and ought to have been raised at first instance before the Prothonotary: *Canada (Human Rights Commission) v Taylor*, [1990] 3 SCR 892, 75 DLR (4th) 577. The jurisdiction of a Prothonotary to decide an application to strike a pleading can be found under section 12 of the *Federal Courts Act* and Rule 50 of the *Rules*.

[49] Finally, the AGC points out that there is no right to a jury trial in the Federal Court by virtue of section 49 of the *Federal Courts Act* which provides that "[a]ll causes or matters before the Federal Court of Appeal or the Federal Court shall be heard and determined without a jury."

C. *The Church and the Church Officials [the Church Respondents]*

[50] The Church Respondents adopt, endorse and support the positions advanced by the AGC. They submit that the motion materials prepared by the Applicant "are unintelligible, prolix and vexatious." They submit that the motion goes further than being ill-conceived, but amounts to an abuse of the Court's process.

[51] The Church Respondents submit that the allegations made by the Applicant in his statement of claim are substantially the same as ones he made in the British Columbia Supreme Court in which the Applicant's action was dismissed against the Church and Katharine Miske,

one of the Church Officials who is a former member of the parish council. Leave to appeal the order dismissing his claim was refused by the British Columbia Court of Appeal.

D. *Analysis*

[52] As with the statement of claim itself, the Applicant has not pointed to any fact in support of his submissions or his allegations that he has precisely and clearly stated and pleaded all facts necessary to support his claims. Every paragraph to which he refers, other than paragraph 7, contains either bald assertions, conclusions of law, or both.

[53] The Applicant has pointed to no error of law and no palpable and overriding error of fact in the Prothonotary's Judgment. I am unable to find any such errors. In my view, the Prothonotary correctly stated the test which has developed under Rule 221 to strike a pleading. She reasonably applied that test to the Statement of Claim which, as already noted, is essentially devoid of facts.

[54] The Judgment provided specific examples to the Applicant of where his pleading was deficient. In this motion, the Applicant has not specified how his claim would be amended nor has he explained how, if it was amended, a cause of action would be supported based on his Statement of Claim.

[55] There is no merit at all to the Applicant's allegations of bias and lack of jurisdiction both for the reasons put forward by the AGC and because there is no evidence of this in the Judgment.

The Applicant has produced no specifics to support those allegations while, at the same time, calling prothonotaries "puppets of Governor in Council".

[56] The Prothonotary committed no overriding and palpable error in assessing the facts before her. Having reviewed the original Statement of Claim and considering the Judgment issued by the Prothonotary, I can find no basis at all upon which to set aside the Judgment. No extricable question of law was identified by the Applicant in this motion nor does it appear that the Prothonotary committed one.

[57] Contrary to counsel's submissions, I note that the allegations against the Church Respondents do not appear to be the same as the ones made in the action in the British Columbia Supreme Court. In the motion materials counsel provided a copy of the decision relied upon. It is reported as 2013 BCCA 114, 335 BCAC 129. Leave to appeal the lower decision was indeed refused by the British Columbia Court of Appeal [BCCA] in this decision but, the underlying action as set out in that decision, was that "the dispute . . . appears to be one based on theological differences which arose from an incident in December of 2008 where Mr. Keremelevski took it on himself to interpret the rules for fasting and to allege a violation thereof by not only the priest of his church of the Ukrainian Orthodox Church of St. Mary, but with the assistance of the main defendants, as well".

[58] The events set out by the BCCA occurred eight years before the trespass notice and allegations of arrest by the RCMP that were raised in the Applicant's stricken Statement of Claim. The lack of similar allegations in the 2008 litigation to the Statement of Claim in the

current matter does not in any way diminish the other arguments made by the AGC and the Church Respondents, it simply means there is no evidence that the Plaintiff was trying to re-litigate the same issue as before.

[59] Recently the Federal Court of Appeal has confirmed that when considering the sufficiency of pleadings ""[t]he bare assertion of a conclusion upon which the court is called upon to pronounce is not an allegation of material fact". Making bald, conclusory allegations without any evidentiary foundation is an abuse of process": *Amos v Canada*, 2017 FCA 213 at para 33, 287 ACWS (3d) 261 [*Amos*] citing *Merchant Law Group v Canada (Revenue Agency)*, 2010 FCA 184 at paras 34, 321 DLR (4th) 301 citing *Canadian Olympic Association v USA Hockey Inc* (1997), 74 CPR (3d) 348, 72 ACWS (3d) 346 (FCTD).

[60] In *Amos* the Court of Appeal also dealt with allegations of bias, lack of jurisdiction over the subject matter and a statement of claim which was "fundamentally vexatious on the basis of jurisdictional concerns *and* the absence of material facts to ground a cause of action" in a matter involving the RCMP: *Amos* at para 35 [emphasis in original]. In other words, at a high level, *Amos* bears a remarkable similarity to the present matter.

[61] Whether or not the facts are similar, the conclusion in *Amos* is equally applicable in this appeal: "the Claim is made up entirely of bare allegations, devoid of any detail, such that it discloses no reasonable cause of action within the jurisdiction of the Federal Courts": at para 36.

VII. Conclusion

[62] The Prothonotary committed no error when she struck the statement of claim without leave to amend. In my view, the claim verges on gibberish. It is as if the Applicant copied strings of words containing a wide variety of legal concepts and inserted them under an assortment of headings. For example at one point, in paragraph 50 the Applicant states:

> I am asking protection of my rights according to Canadian Abridgment Act, Insurance Act, Negligence Act, The Charter and Common Law Rights, Property Rights, Canadian Charters of Rights and Freedoms (the Canada Act), The Rule of Law (5), Constitutional Rights, Constitutional Acts, Rules of (Natural) Fundamental Justice, Phrase appears in Section 2 (E) of the Canadian Bill of Rights.

[63] Inflammatory words such as "Defendants must be charged on criminal levels and found criminally responsible for their conspiracy acts of deceit, deceive, use excessive force . . . " were inserted in the Statement of Claim, presumably for effect but possibly because the Applicant was trying to claim every conceivable ground ever put forward in a courtroom, whether civil or criminal, regardless of whether there are any facts to support the claim.

[64] For the foregoing reasons, I find that there is no basis at all upon which to grant the appeal; it is denied.

VIII. Costs

[65] Each of the AGC and the Church Respondents claim costs of $300. There is no reason why costs should not be awarded to the successful parties. One of the roles of an award of costs is to dissuade plaintiffs from bringing unmeritorious actions. "Costs can also be used to sanction

behaviour that increases the duration and expense of litigation, or is otherwise unreasonable or vexatious": *British Columbia (Minister of Forests) v Okanagan Indian Band*, 2003 SCC 71 at para 25, [2003] 3 SCR 371.

[66] While the Applicant's pleading does not fit the mold of an Organized Pseudolegal Commercial Argument (OPCA) litigant as described in *Meads v Meads*, 2012 ABQB 571, 543 AR 215, his Statement of Claim and his two sets of motion materials, once as Respondent and here as Applicant, certainly are similar enough to the OPCA style to be of concern to the Court.

[67] To the extent that costs can dissuade this Applicant from further unmeritorious and vexatious claims he is to pay forthwith the sum of $300 each to each of the AGC and the Ukrainian Orthodox Church of St. Mary, notwithstanding his references to being indigent, no evidence of which was presented to the Court.

THIS COURT ORDERS that:

1. The motion/appeal is denied.

2. Costs are payable forthwith by the Applicant to the Attorney General of Canada in the amount of $300 and to the Ukrainian Orthodox Church in the amount of $300.

"E. Susan Elliott"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-72-18
STYLE OF CAUSE:	IVANCO KEREMELEVSKI v UKRANIAN ORTHODOX CHURCH OF ST. MARY AND MYKHAYLO POZDYK, KATRHERINE MISKE, BILL MISKE & RCMP (ROYAL CANADIAN MOUNTED POLICE), ROB HUTCHES, MICHAEL GATT, COLIN BELL, CAROL BRADLEY, IAN MCPHAIL, Q.C. & ATTORNEY GENERAL OF CANADA AND MINISTER OF JUSTICE, JOHN DOE (1,2,3, ETC)
PLACE OF HEARING:	VANCOUVER, BRITISH COLUMBIA
DATE OF HEARING:	APRIL 13, 2018
ORDER AND REASONS:	ELLIOTT J.
DATED:	APRIL 13, 2018

APPEARANCES:

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Sarah Stanton	FOR THE DEFENDANT ATTORNEY GENERAL OF CANADA

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