

Federal Court



Cour fédérale

Date: 20240226

**Dockets: T-468-18
T-469-18**

Citation: 2024 FC 308

Ottawa, Ontario, February 26, 2024

PRESENT: The Honourable Madam Justice Ngo

BETWEEN:

TIMOTHY NOME

Plaintiff

and

**HIS MAJESTY THE KING IN RIGHT OF
CANADA**

Defendant

JUDGMENT AND REASONS

I. Overview

[1] This is a motion by the Plaintiff pursuant to Rule 51 of the *Federal Court Rules* [Rules] appealing two Orders of Associate Judge Molgat dated October 31, 2023 [Orders] dismissing the Plaintiff's two actions for delay following a status review under Rule 385(2) of the Rules.

[2] The Plaintiff asks the Court to overturn the Orders. In addition, the Plaintiff asks for:

1. an order requiring the Defendant to provide the Plaintiff all documents related to the action that the Defendant's servants shipped to the Plaintiff's spouse's residence;
2. an order permitting the Plaintiff to have access to equipment to scan or otherwise record documents relevant to the action in electronic format; and,
3. an order requiring the Defendant's servants to pay for all of the above materials and equipment.

[3] The Plaintiff states that the Associate Judge erred in fact and law in the exercise of her discretion and that the Defendant's servants caused the delays that the Associate Judge attributed to the Plaintiff.

[4] The Defendant states that the Associate Judge applied the correct legal principles to a Status Review and her Orders are entitled to deference. The Defendant also objects to the additional orders sought by the Plaintiff in this appeal.

[5] Having considered the record before Associate Judge Molgat, the applicable law and the written and oral submissions of the parties, the Plaintiff's motion is dismissed for the reasons that follow.

II. Background

[6] The Plaintiff commenced two actions against the Correctional Service of Canada [CSC] on March 12, 2018. Both of these actions, bearing file numbers T-468-18 and T-469-18 were specially managed. These two actions were dealt with simultaneously throughout the

proceedings, and were subject to the same Court orders and timelines. Accordingly, these two actions will be addressed together in this appeal and this decision.

[7] The Orders that are the subject of this appeal followed a third Notices of Status Review issued on June 5, 2023, for the Plaintiff's failure to comply with an order of December 1, 2022, and for failing to take any measure to cure his default. The December 1, 2022, order required him to serve and file a requisition for a pre-trial conference by April 17, 2023, and to serve and file a pre-trial conference memorandum by May 15, 2023.

[8] The Orders described a lengthy chronology in the proceedings, and identified the numerous times when the Plaintiff failed to comply with Court orders and timelines.

[9] I will not repeat the events that took place after the commencement of the Plaintiff's actions in March 2018. However, of relevance is that in the five years since March 2018, only examinations for discovery were completed.

[10] By the time the third Notices of Status Review was issued on June 5, 2023, the Plaintiff's undertakings provided at his examination for discovery in September 2022 had been outstanding since November 2022.

[11] It is the Plaintiff's position throughout that the delay in the proceedings and his ability to move them ahead was because he was deprived of access to his files and documents caused by CSC. As a result, this prevented him from answering his undertakings.

[12] In September 2019, CSC delivered its relevant documents in the action to the Plaintiff and his counsel.

[13] In March 2022, the Defendant provided paper copies of a shortened compendium of documents for the purposes of the Plaintiff's examination for discovery. Plaintiff's counsel, Mr. Todd Sloan, confirmed by email dated March 7, 2022, to counsel for the Defendant, Mr. Taylor Andreas, that he received the document compendium "about a week ago". Plaintiff's counsel confirmed by email dated March 10, 2022, that the Plaintiff had also received the package.

[14] On September 16, 2022, the Plaintiff's examination for discovery took place by videoconference.

[15] In October 2022, the Plaintiff was transferred from Donnacona Institution to Edmonton Institution. Boxes of documents arrived with him, which were deemed to be excessive and in violation of Commissioner's Directive No. 566-12. He was asked to sort what he wanted to keep in storage. The excess boxes were then delivered to the Plaintiff's spouse and the Plaintiff was informed that his spouse could scan his legal documents and send the USB drives to the Edmonton Institution for storage and access by the Plaintiff.

[16] On November 2, 2022, Defendant's counsel provided Plaintiff's counsel an undertakings chart from the Plaintiff's examinations for discovery. Defendant's counsel noted that there was an update due to the Court on November 30, 2022, and asked Plaintiff's counsel how much time he believed he needed to respond to the undertakings. Defendant's counsel proposed to sort out

the remaining steps from there using the intervals set out in the last timelines order from the Court. Mr. Taylor wrote to Plaintiff's counsel on November 17, 2022, and again on November 29, 2022, to follow up on his email of November 2, 2022.

[17] On November 29, 2022, Plaintiff's counsel replied and suggested January 15, 2023, for the delivery of answers to undertakings. Defendant's counsel replied and set out a proposed timetable from January 15, 2023, for the completion of further steps in the proceedings. Plaintiff's counsel agreed to this timetable.

[18] On December 1, 2022, an order was issued following the parties' joint submissions to the Court on a schedule for the next steps in both actions. The Court's order required the Plaintiff to deliver answers to his undertakings by January 15, 2023, and to serve and file a requisition for a pre-trial conference and a pre-trial conference memorandum by May 15, 2023.

[19] On January 30, 2023, Defendant's counsel wrote to Plaintiff's counsel to ask for an update on the Plaintiff's undertakings.

[20] On February 23, 2023, Plaintiff's counsel responded that the Plaintiff is "at Edmonton and has had issues receiving documents". He indicated that he had arranged to speak with the Plaintiff the next day to deal with undertakings.

[21] On March 10, 2023, Defendant's counsel wrote to Plaintiff's counsel asking if he was able to speak with the Plaintiff. Defendant's counsel indicated that the parties should provide the

Court with an update and was willing to consent to a reasonable extension if Plaintiff's counsel could propose a timetable.

[22] On March 27, 2023, Plaintiff's counsel advised that the Plaintiff "finally had the undertaking list and materials to use in responding". He advised that he would pass along the Plaintiff's responses "probably this week."

[23] On April 26, 2023, Defendant's counsel wrote to Plaintiff's counsel asking for the Plaintiff's responses to undertakings no later than May 1, 2023.

[24] On May 30, 2023, Plaintiff's counsel advised that, "another issue has arisen" with his client, and that all of his documents, including the compendium had been sent back to his home from the Edmonton Institution.

[25] On May 31, 2023, Defendant's counsel responded and indicated that one of the reasons the Plaintiff has counsel was to alleviate issues presented by the fact that being a federal inmate, it is not always possible to have access to paper copies of each document in a very voluminous collection. Defendant's counsel requested a timeframe for responses to undertakings that the parties should update the Court and that the issues be discussed at a case management conference.

[26] A Notices of Status Review was issued on June 5, 2023, in both actions. The Notices stated clearly that the Plaintiff was required to serve and file representations "stating the reasons

why the proceeding should not be dismissed for delay. The representations shall include a justification for the delay and a proposed timetable for the completion of the steps necessary to advance the proceeding in an expeditious manner.”

[27] On June 16, 2023, the Plaintiff, through his counsel, provided his submissions to the Notices of Status Review. The submissions were set out in one page, and stated that the principal reason for delay was that the Plaintiff has not provided Plaintiff’s counsel information regarding his undertakings. The Plaintiff was not able to access the documents from his file that are kept at the institution. Plaintiff’s counsel explained that one of the issues complicating the Plaintiff’s situation was due to his being transferred “in the past months” and that the files had been removed and sent to his spouse’s residence. Plaintiff’s counsel was also informed that the Plaintiff’s telephone access has been inadequate. Finally, Plaintiff’s counsel asked that the Court convene a case management conference to address the issues and “In the meantime I doubt that attempting to set a new schedule would be useful.” Plaintiff’s counsel indicated that he would continue to try to facilitate Mr. Nome’s access to the necessary documents.

[28] The Defendant filed their response to the Notices of Status Review on June 5, 2023. The Defendant asked that the actions be dismissed for delay because the Plaintiff failed to comply with the December 1, 2022, order requiring them to serve and file a requisition for a pre-trial conference by April 17, 2023, and to serve and file a pre-trial conference memorandum by May 15, 2023, and they also failed to take any measure to cure their default. The Defendant’s submissions included a copy of a “Referral Decision Sheet for Institutional Transfer (Involuntary)” dated September 8, 2022 [Referral Decision] from a paralegal with the CSC Legal

Services Unit. The Defendant's submissions also included a copy of an "Offender Grievance Response" dated June 1, 2023 [Offender Grievance Response]. Defendant's counsel received both documents by email on June 27, 2023.

[29] The Offender Grievance Response is a response by the Edmonton Institution to the Plaintiff's grievance that the deputy warden improperly directed his legal documents to be sent to his spouse. The Plaintiff's grievance was denied and the institution concluded that the policy CD-566-12 was applied appropriately. This response also described the measures the institution took in respect of the six boxes of documents that arrived with the Plaintiff to the institution and the options to sort the documents he wished to keep, among other things.

[30] On July 3, 2023, in a one-page letter, the Plaintiff replied to the Defendant's submissions on the Notices of Status Review. The Plaintiff argued that the decision *Stein v HMTK* T-1963-19 [Stein], which the Defendant had cited was distinguishable from his case. The underlying issue was whether the Plaintiff has not shown a willingness ad intent to proceed with the action. Plaintiff's counsel indicated that "to date neither the Plaintiff not (*sic*) I have been able to facilitate the return of documents relevant to the matter despite request to the institution." It was submitted that it would be inappropriate to attribute the delay on the part of the Plaintiff or Plaintiff's counsel to acquire the documents and to move ahead with the matter. Plaintiff's counsel stated, "moreover, as previously expressed, it would be difficult to establish a time-table (*sic*) until the documents are in hand." Plaintiff's counsel reiterated his request for a case conference to determine a reasonable schedule and alternatively, for him "to cross-examine the Defendant's affiant to clarify what has transpired to date."

[31] After reviewing the record and submissions of the parties, Associate Judge Molgat issued Orders dated October 31, 2023 in both proceedings, dismissing the Plaintiff's two proceedings.

III. Preliminary Issues

A. *Evidence on Appeals from Associate Judge Orders*

[32] As a general rule, appeals from Associate Judges' orders are to be decided on the material that was before the Associate Judge. New evidence may be exceptionally admitted where: (1) it could not have been made available earlier; (2) its admission will serve the interests of justice; (3) the evidence will assist the Court; and (4) its admission will not severely prejudice the other side (*Canjura v Canada (Attorney General)* 2021 FC 1022 [*Canjura*] at para 12).

[33] The record before Associate Judge Molgat as stated in her Orders was: "Plaintiff's written representations by letter dated June 16, 2023, the representations of the Defendant, including the Affidavit of Christine Yoo affirmed June 28, 2023, and the Plaintiff's letter dated July 3, 2023, in reply."

[34] Both parties filed affidavit evidence in this motion.

[35] The Defendant's motion record contained the Affidavit of Christine Yoo dated December 11, 2023. I view this affidavit to be uncontroversial because it filed the record that was before Associate Judge Molgat. Their motion record also includes copies of the Notices of Status Review and the Orders at issue.

[36] The Plaintiff filed the affidavit of Linda Leinan affirmed on December 1, 2023. This affidavit included four exhibits:

1. an email between Mr. Sloan and the CSC warden at the Edmonton Institution on November 30, 2022;
2. a letter from Mr. Sloan to the CSC warden at the Edmonton Institution dated April 21, 2023;
3. an email dated September 12 with no year stamped between Mr. Sloan and the CSC warden at the Edmonton Institution; and,
4. an email between Mr. Sloan and Defendant's counsel dated May 31 with no year stamp.

[37] Exhibit 4 is an email between Plaintiff's counsel and Defendant's counsel dated May 31, 2023, which was already included in the Defendant's submissions to the Status Review.

[38] The affidavit of Linda Leinan states that Mr. Sloan had been corresponding for more than a year with staff at the Edmonton Institution and with counsel for the Defendant on the matter of the Plaintiff's access to files. The statements made in Ms. Leinan's affidavit and the exhibits appended were not before Associate Judge Molgat when she considered the two actions on Notices of Status Review.

[39] Two of the exhibits included with the affidavit of Linda Leinan were letters authored by Mr. Sloan and exchanged with CSC in 2022, before the Notices of Status Review were issued on June 5, 2023. They were therefore available to support the Plaintiff's submissions to the Notices

of Status Review. No explanation was provided in this appeal on why these exhibits could not have been included in the Plaintiff's submissions to the Notices of Status Review.

[40] The Plaintiff, also presented an affidavit in his own name, affirmed on December 5, 2023. The Plaintiff expresses the circumstances he experienced at the institution with respect to access to his documentation. He expresses continued willingness to answer his undertakings. The statements by the Plaintiff were not before the Associate Judge in the submissions to the Notices of Status Review. However, the issues raised in this affidavit about access to documentation were.

[41] The Plaintiff made no submissions why the two affidavits and the attached documents meet the exception to the general rule in *Canjura*.

[42] The exhibits and statements in the affidavit of Linda Leinan were available to be submitted and these arguments could have been made during the Notices of Status Review process. In addition, the statements in Timothy Nome's affidavit seek to re-argue and supplement the same issues in the Notices of Status Review. This evidence will not be of assistance to the Court.

[43] Without any explanation or justification by the Plaintiff why the Court should accept this evidence or addressing the issue of prejudice to the Defendant, it would not be in the interest of justice to admit these affidavits or consider the evidence submitted through these affidavits.

[44] There is no evidence to support a deviation from the general rule and I will not admit evidence that was not before the Associate Judge. I therefore decline to accept the affidavit of Linda Leinan and the exhibits to this affidavit, except for Exhibit 4, which appears to be a duplicate of an email that was in the record before Associate Judge Molgat. I also decline to accept the affidavit of Timothy Nome.

IV. Issues and Standard of Review

[45] The issues raised in this appeal are:

1. What is the applicable standard of review in an appeal under Rule 51 of the *Rules* of an Associate Judge's decision; and,
2. Did the Associate Judge err in dismissing the proceedings for delay?

[46] The Court has broad discretion in determining the outcome of a status review (*Stein v Canada*, 2023 FC 1178 [*Stein*] at para 8, citing *Suncor Energy Inc v Canada-Newfoundland and Labrador Offshore Petroleum Board*, 2019 FC 927 at para 2).

[47] If the Associate Judge is not satisfied that the proceeding should continue, they may dismiss the proceeding, or, if they are satisfied that the proceeding should continue, they may order that it continue as a specially managed proceeding and may make an order under Rule 385 (Rule 382.1(2) of the *Rules*).

[48] On an appeal from an Associate Judge's order, the Court may only interfere if the Associate Judge made an error of law, or a palpable and overriding error regarding a question of

fact or mixed fact and law (*Hospira Healthcare Corporation v Kennedy Institute of Rheumatology*, 2016 FCA 215 [*Hospira*] at paras. 64-65, 79).

[49] The “palpable and overriding error” standard is highly deferential. Such an error must be “obvious, plainly seen and apparent, the effect of which is to vitiate the integrity of the reasons.” (*Brauer v Canada*, 2020 FC 828 at para. 17, citing *Madison Pacific Properties Inc v Canada*, 2019 FCA 19). To meet this standard, “it is not enough to pull at leaves and branches and leave the tree standing. The entire tree must fall.” (*Mahjoub v Canada (MCI)*, 2017 FCA 157 at para 61)

[50] Although the Plaintiff did not set out the applicable standard of review in his motion materials, he argued that Associate Judge Molgat’s Orders dismissing both actions was both an error of law and a palpable and overriding error that warrants this Court’s intervention.

[51] The Plaintiff stated that the error of law in the exercise of the Associate Judge’s discretion was in not determining that given the issue about lack of access to documents, no reasonable alternative was available for the Plaintiff to move the matter along. I do not agree with the Plaintiff’s argument.

[52] In her Orders, the Associate Judge correctly identified the legal test she had to address on Notices of Status Review. The law is well established that the Plaintiff must meet two criteria: 1) the reasons why the case has not moved forward faster and do they justify the delay that has occurred; and, 2) what steps is the plaintiff now proposing to move the matter forward (*Baroud v*

Canada (1998) 160 FTR 91 (TD) [*Baroud*], and affirmed in *Canada v Stoney Band*, 2005 FCA 15 at para 34).

[53] The Associate Judge correctly identified that the two questions in *Baroud* are interrelated and where there are court orders or directions that have not been complied with by the time the Notices of Status Review were issued, those outstanding matters should also be dealt with in the response to the Notices of Status Review.

[54] The Notices of Status Review also address the two questions in *Baroud* and the Plaintiff was requested to make representations addressing them. I therefore find that the Associate Judge applied the correct legal test to a Notices of Status Review and each of the factors required. She engaged with the parties' submissions and records with respect to the factors required. As such, there was no error of law warranting the Court's intervention.

[55] The principles set out in *Hospira* and the cases that follow are well established and settled law in this Court.

[56] As such, the standard of review is whether there was a palpable and overriding error in respect to the Associate Judge's Orders dismissing the two actions for delay. It is through this standard of review that I will consider the Orders on appeal.

V. Analysis

[57] Overlapping with his arguments on an error of law, the Plaintiff argued that the Orders demonstrated overriding and palpable errors in failing to consider the issue of the Plaintiff's access to documents and his grievances in relation to the lack of access to documents. The Plaintiff argued that there was insufficient account in the Orders that addressed "significant misconduct by the institution".

[58] The Plaintiff identified that the Orders only referenced the issue of access to the Plaintiff's documents in two sections, at page 6, subsections (vii) and (viii) as follows:

“(vii) in October 2022 the Plaintiff was transferred from Donnacona Institution to Edmonton Institution; he was provided with the opportunity to go through the 6 large boxes of legal documents that arrived with him (which were deemed excessive and in violation of *Commissioner's Directive No. 566-12*) to sort what he wanted to keep in storage;

(viii) the excess boxes were delivered to the Plaintiff's spouse, and the Plaintiff was informed that his spouse could scan his legal documents and send the USB drives to the Edmonton Institution for storage and access by the Plaintiff”;

[59] What the Plaintiff did not point to was the Associate Judge's consideration in her Orders that “the Plaintiff has not explained why it was necessary for him to have paper copies of all the Defendant's documents to provide answers to his undertakings when electronic copies were accessible to him, and that his counsel has had the entirety of the Defendant's productions since September 2019 and the Defendant's examination compendium since March 2022.” (Orders at page 7).

[60] By the time the Plaintiff submitted his reply to the Court dated July 3, 2023, he had already received the Offender Grievance Response dated June 1, 2023. The Defendant had also provided a copy of the Offender Grievance Response to the Court in their submissions on June 28, 2023. The Offender Grievance Response confirmed the steps the institution took for the Plaintiff to identify the documents he wished to keep at the institution as well as the offer to store any USB key of scanned documents. The response also concluded that the transfer of files was done in accordance with policy 566-12. There is no evidence on the record that the Plaintiff challenged the Offender Grievance Response dated June 1, 2023. As such, there is no evidence that supports the Plaintiff's assertions that the institution improperly withheld access to his documents.

[61] It is clear from reading the Plaintiff's submissions to the Notices of Status Review dated June 16, 2023, and July 3, 2023, that he attributed the delay to the institution withholding documentation. However, whether the institution properly or improperly sent paper documents to the Plaintiff's spouse was only one part of the story.

[62] The crucial fact remains that the Plaintiff still had access to the Defendant's productions even if the institution sent his paper copies to his spouse.

[63] Legal counsel has represented the Plaintiff from the outset of the proceedings. This is important because both he and his counsel had received the Defendant's productions throughout the proceedings. It is uncontested that his counsel has had the entirety of the Defendant's

productions since September 2019 and the Defendant's documents compendium for use at examinations for discovery since March 2022.

[64] The Plaintiff therefore still had access to the documents through other means, but provided no explanation why he could not answer his outstanding undertakings using these alternative means.

[65] The record is silent on why Plaintiff's counsel could not provide the Plaintiff with a copy of the documents that were in counsel's possession or why he could not assist the Plaintiff with the answers to undertakings. It was therefore reasonable for the Associate Judge to find that the assertion that the Plaintiff could not access documents to be an insufficient justification for the delay.

[66] In both Orders, the communications between the parties also demonstrated that after examinations for discovery were completed in September 2022, any follow-up or updates to the Court were initiated by the Defendant. The record demonstrates that Defendant's counsel was trying to move the proceedings along by prompting and requesting updates from Plaintiff's counsel on a consistent basis.

[67] It is the Plaintiff's obligation to move his actions forward, but the Defendant made those efforts instead. However, despite this, the proceedings were still not moving forward.

[68] For example, on March 27, 2023, after several communications by the Defendant’s counsel asking for updates after the Court’s order of December 1, 2023, Plaintiff’s counsel advised that the Plaintiff was working on responding to the outstanding undertakings and that he would pass them along “when I receive them. Probably this week.”

[69] Despite this assertion, on May 30, 2023 (and after further requests for information from the Defendant), Plaintiff’s counsel advised that all of the Plaintiff’s paper documents related to the proceedings had been sent to his home. Plaintiff’s counsel did not provide any explanation with respect to the outstanding undertakings that were assured in March 2023, nor did he respond to the Defendant’s requests for a timeline to provide undertakings. As such, by May 2023, six months after the answers to undertakings were initially due; the parties were no further ahead.

[70] It is clear in reading the Orders that the Associate Judge considered the Plaintiff’s explanation that he has been unable to access the documents from his institutional files in order to instruct legal counsel regarding his undertakings. However, she found that this did not constitute a justifiable explanation that accounts for his delay in moving the action forward or his non-compliance with the Order dated December 1, 2022. The record as described supports this conclusion.

[71] Accordingly, I can find no error, much less a palpable and overriding error with the Associate Judge’s conclusions that the Plaintiff did not satisfy the first part of the test in *Baroud*.

[72] I now deal with the Associate Judge's consideration of the second part of the *Baroud*. This requires consideration of the proposed measures the defaulting party proposes to take to move the matter forward.

[73] In this regard, the Plaintiff provided no proposed timetable for completion of the steps necessary to advance the proceedings in an expeditious manner as required by the Notices of Status Review. His submissions also stated that he "doubts that attempting to set a new schedule would be useful". In addition, he provided no response to the question required beyond simply requesting a case management conference in his first submission and reiterating this request in his reply.

[74] The Associate Judge found that the Plaintiff has taken no steps to advance the proceedings since the completion of examinations for discovery in September 2022; that he allowed his deadline to provide answers to his undertakings to expire, and took no steps to cure his default despite repeated inquiries from the Defendant between January 30, 2023, and May 30, 2023. These conclusions were well supported by the record before her.

[75] This was also not the first time the Plaintiff has failed to comply with an order or direction of the Court and it was the third Notices of Status Review issued in these proceedings. These are also all appropriate factors for the Associate Judge to consider on Notices of Status Review (*Stein* at paras 17 to 22).

[76] It is well established that “mere declarations of good intent and of the desire to proceed are not enough” (*Baroud* at para 5).

[77] I cannot find the Associate Judge’s conclusions to be in error, much less a palpable and overriding error that the Plaintiff did not satisfy the second part of the test in *Baroud*.

[78] Thus, there is no palpable and overriding error in the dismissal of the two actions following the Status Review.

VI. Conclusion

[79] For the reasons above, the Plaintiff’s motion is dismissed.

[80] With respect, it was clear from the submissions that the Plaintiff disagrees with the Orders. However, while the Plaintiff referenced parts of the Orders as “palpable and overriding errors”, his submissions amounted to an attempt to reargue his position on Notices of Status Review.

[81] I find that the Associate Judge was alert to the issues raised by the Plaintiff in the Notices of Status Review. She set out the chronology of events, the parties’ submissions and applied the correct legal test to the facts and the record. She properly considered the pattern of non-compliance for the case management process. There was no error warranting this Court’s intervention.

[82] The motion having been dismissed, I will not address the other relief sought by the Plaintiff, only to note that such relief is not available on a Rule 51 appeal in any event.

[83] The Defendant has asked for costs of \$500 all-inclusive if successful.

[84] I received no submissions from the Plaintiff on the issue of costs.

[85] Having been successful in challenging the Plaintiff's appeal and in consideration of the circumstances, the Defendant will be awarded costs of \$500 all-inclusive.

JUDGMENT in dockets T-468-18 and T-469-18

THIS COURT'S JUDGMENT is that

1. The Plaintiff's rule 51 Motion is dismissed.
2. The Defendant will be awarded costs of \$500 all-inclusive

"Phuong T.V. Ngo"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKETS: T-468-18 and T-469-18

STYLE OF CAUSE: TIMOTHY NOME v HIS MAJESTY THE KING IN
RIGHT OF CANADA

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: DECEMBER 13, 2023

JUDGMENT AND RESONS: NGO J.

DATED: FEBRUARY 26, 2024

APPEARANCES:

Todd Sloan FOR THE PLAINTIFF

Taylor Andreas FOR THE DEFENDANT

SOLICITORS OF RECORD:

Barristers and Solicitors FOR THE PLAINTIFF
Ottawa, Ontario

Attorney General of Canada FOR THE DEFENDANT
Ottawa, Ontario