

Federal Court of Appeal



Cour d'appel fédérale

Date: 20160601

Docket: A-36-15

Citation: 2016 FCA 162

**CORAM: PELLETIER J.A.
NEAR J.A.
BOIVIN J.A.**

BETWEEN:

Wael Maged Badawy

Appellant

and

**WALDEMAR A. IGRAS,
WALDEMAR A. IGRAS PROFESSIONAL CORPORATION,
LAW SOCIETY OF ALBERTA, and
ALBERTA LAWYERS INSURANCE ASSOCIATION**

Respondents

Heard at Calgary, Alberta, on May 25, 2016.

Judgment delivered at Ottawa, Ontario, on June 1, 2016.

REASONS FOR JUDGMENT BY:

BOIVIN J.A.

CONCURRED IN BY:

**PELLETIER J.A.
NEAR J.A.**

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REASONS FOR JUDGMENT

BOIVIN J.A.

[1] Mr. Wael Maged Badawy (the appellant) appeals an Order of a Judge of the Federal Court (the Judge) dated January 20, 2015 (T-1289-14). In her Order, the Judge dismissed a motion from the appellant seeking to set aside the Order of a Prothonotary – acting as a Case Management Judge – issued on November 27, 2014 as well as all other Orders and Directions previously made by the Prothonotary.

[2] Upon hearing the submissions of the parties and reviewing the record, I am satisfied that the Judge's reasons addressed the issues raised by the appellant and that the Judge was right in not interfering with the Prothonotary's Order. The Judge's analysis and conclusions were neither "arrived at on a wrong basis [n]or [...] plainly wrong" (*Z.I. Pompey Industrie v. ECU-Line N.V.*, 2003 SCC 27 at para. 18, [2003] 1 S.C.R. 450) for the following reasons.

[3] First, although I agree with the appellant that his statement of claim against the respondents raises causes of action under the federal *Trade-marks Act*, R.S.C., 1985, c. T-13, the difficulty with the appellant's position is that his proposed Third Party Claim is not related to the subject matter of the Trade-mark action. As such, it does not satisfy Rule 193 of the *Federal Courts Rules*, S.O.R./98-106. Furthermore, the appellant's Third Party Claim arises from provisions of Alberta's *Legal Profession Act*, R.S.A., 2000, c. L-8 which is provincial legislation. His Third Party Claim therefore falls outside this Court's statutory jurisdiction.

[4] The appellant's equating the enforcement of parallel proceedings in a provincial court – during which he was incarcerated for contempt of court – with "torture" is, to say the least, deprived of merit. While the inconvenience caused by the need to pursue parallel proceedings in a provincial court may be seen by the appellant as unfortunate, it certainly does not amount to "cruel and unusual treatment" under the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11.

[5] Second, the appellant submits that he should have been granted leave to file an affidavit of documents under Rule 223(1) of the *Federal Courts Rules* (Discovery and Inspection).

However, this Rule clearly pertains to the timing of service and not to filing. This argument also fails.

[6] Third, the appellant alleges that the Prothonotary demonstrated bias and that his previous Orders are void. It is recalled that there is “a strong presumption that judges will administer justice impartially” (*Collins v. Canada*, 2011 FCA 140 at para. 7, [2011] 4 C.T.C. 157) and, a review of the record does not support the appellant’s contention that a person viewing the matter would think that the Federal Court is prejudiced against him (Appellant’s Memorandum of Fact and Law at para. 83). The fact that the appellant’s arguments have been repeatedly unsuccessful before the Federal Court does not undermine the Court’s impartiality in any way and I have not been convinced otherwise.

[7] Finally, despite the appellant’s insistence to the contrary and as mentioned above, this Court does not have jurisdiction to address the allegation that the Law Society of Alberta has failed in its role to regulate the profession in maintaining the integrity of its members and to protect the public.

[8] I would therefore dismiss the appeal with costs at the high end of Column III, items 14(a) and 19 of Tariff B.

“Richard Boivin”

J.A.

“I agree
J.D. Denis Pelletier J.A.”

“I agree
D.G. Near J.A.”

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-36-15

STYLE OF CAUSE: WAEL MAGED BADAWY v.
WALDEMAR A. IGRAS,
WALDEMAR A. IGRAS
PROFESSIONAL CORPORATION,
LAW SOCIETY OF ALBERTA, and
ALBERTA LAWYERS INSURANCE
ASSOCIATION

PLACE OF HEARING: CALGARY, ALBERTA

DATE OF HEARING: MAY 25, 2016

REASONS FOR JUDGMENT BY: BOIVIN J.A.

CONCURRED IN BY: PELLETIER J.A.
NEAR J.A.

DATED: JUNE 1, 2016

APPEARANCES:

Wael Maged Badawy FOR THE APPELLANT
(ON HIS OWN BEHALF)

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