Federal Court of Appeal  Cour d'appel fédérale

Date: 20171030

Docket: A-48-16

Citation: 2017 FCA 213

CORAM: **WEBB J.A.**
NEAR J.A.
GLEASON J.A.

BETWEEN:

DAVID RAYMOND AMOS

Respondent on the cross-appeal
(and formerly Appellant)

and

HER MAJESTY THE QUEEN

Appellant on the cross-appeal
(and formerly Respondent)

Heard at Fredericton, New Brunswick, on May 24, 2017.

Judgment delivered at Ottawa, Ontario, on October 30, 2017.

REASONS FOR JUDGMENT BY: THE COURT

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REASONS FOR JUDGMENT BY THE COURT

I. Introduction

[1] On September 16, 2015, David Raymond Amos (Mr. Amos) filed a 53-page Statement of Claim (the Claim) in Federal Court against Her Majesty the Queen (the Crown). Mr. Amos claims $11 million in damages and a public apology from the Prime Minister and Provincial Premiers for being illegally barred from accessing parliamentary properties and seeks a declaration from the Minister of Public Safety that the Canadian Government will no longer

allow the Royal Canadian Mounted Police (RCMP) and Canadian Forces to harass him and his clan (Claim at para. 96).

[2] On November 12, 2015 (Docket T-1557-15), by way of a motion brought by the Crown, a prothonotary of the Federal Court (the Prothonotary) struck the Claim in its entirety, without leave to amend, on the basis that it was plain and obvious that the Claim disclosed no reasonable claim, the Claim was fundamentally vexatious, and the Claim could not be salvaged by way of further amendment (the Prothontary's Order).

[3] On January 25, 2016 (2016 FC 93), by way of Mr. Amos' appeal from the Prothonotary's Order, a judge of the Federal Court (the Judge), reviewing the matter *de novo*, struck all of Mr. Amos' claims for relief with the exception of the claim for damages for being barred by the RCMP from the New Brunswick legislature in 2004 (the Federal Court Judgment).

[4] Mr. Amos appealed and the Crown cross-appealed the Federal Court Judgment. Further to the issuance of a Notice of Status Review, Mr. Amos' appeal was dismissed for delay on December 19, 2016. As such, the only matter before this Court is the Crown's cross-appeal.

II. Preliminary Matter

[5] Mr. Amos, in his memorandum of fact and law in relation to the cross-appeal that was filed with this Court on March 6, 2017, indicated that several judges of this Court, including two of the judges of this panel, had a conflict of interest in this appeal. This was the first time that he identified the judges whom he believed had a conflict of interest in a document that was filed

with this Court. In his notice of appeal he had alluded to a conflict with several judges but did not name those judges.

[6] Mr. Amos was of the view that he did not have to identify the judges in any document filed with this Court because he had identified the judges in various documents that had been filed with the Federal Court. In his view the Federal Court and the Federal Court of Appeal are the same court and therefore any document filed in the Federal Court would be filed in this Court. This view is based on subsections 5(4) and 5.1(4) of the *Federal Courts Act*, R.S.C., 1985, c. F-7:

5(4) Every judge of the Federal Court is, by virtue of his or her office, a judge of the Federal Court of Appeal and has all the jurisdiction, power and authority of a judge of the Federal Court of Appeal.	**5(4)** Les juges de la Cour fédérale sont d'office juges de la Cour d'appel fédérale et ont la même compétence et les mêmes pouvoirs que les juges de la Cour d'appel fédérale.
[…]	[…]
5.1(4) Every judge of the Federal Court of Appeal is, by virtue of that office, a judge of the Federal Court and has all the jurisdiction, power and authority of a judge of the Federal Court.	**5.1(4)** Les juges de la Cour d'appel fédérale sont d'office juges de la Cour fédérale et ont la même compétence et les mêmes pouvoirs que les juges de la Cour fédérale.

[7] However, these subsections only provide that the judges of the Federal Court are also judges of this Court (and *vice versa*). It does not mean that there is only one court. If the Federal Court and this Court were one Court, there would be no need for this section.

[8] Sections 3 and 4 of the *Federal Courts Act* provide that:

3 The division of the Federal Court of Canada called the Federal Court — Appeal Division is continued under the name "Federal Court of Appeal" in English and "Cour d'appel fédérale" in French. It is continued as an additional court of law, equity and admiralty in and for Canada, for the better administration of the laws of Canada and as a superior court of record having civil and criminal jurisdiction.	**3** La Section d'appel, aussi appelée la Cour d'appel ou la Cour d'appel fédérale, est maintenue et dénommée « Cour d'appel fédérale » en français et « Federal Court of Appeal » en anglais. Elle est maintenue à titre de tribunal additionnel de droit, d'equity et d'amirauté du Canada, propre à améliorer l'application du droit canadien, et continue d'être une cour supérieure d'archives ayant compétence en matière civile et pénale.
4 The division of the Federal Court of Canada called the Federal Court — Trial Division is continued under the name "Federal Court" in English and "Cour fédérale" in French. It is continued as an additional court of law, equity and admiralty in and for Canada, for the better administration of the laws of Canada and as a superior court of record having civil and criminal jurisdiction.	**4** La section de la Cour fédérale du Canada, appelée la Section de première instance de la Cour fédérale, est maintenue et dénommée « Cour fédérale » en français et « Federal Court » en anglais. Elle est maintenue à titre de tribunal additionnel de droit, d'equity et d'amirauté du Canada, propre à améliorer l'application du droit canadien, et continue d'être une cour supérieure d'archives ayant compétence en matière civile et pénale.

[9] Sections 3 and 4 of the *Federal Courts Act* create two separate courts – this Court (section 3) and the Federal Court (section 4). If, as Mr. Amos suggests, documents filed in the Federal Court were automatically also filed in this Court, then there would no need for the parties to prepare and file appeal books as required by Rules 343 to 345 of the *Federal Courts Rules*, SOR/98-106 in relation to any appeal from a decision of the Federal Court. The requirement to file an appeal book with this Court in relation to an appeal from a decision of the Federal Court makes it clear that the only documents that will be before this Court are the documents that are part of that appeal book.

[10] Therefore, the memorandum of fact and law filed on March 6, 2017 is the first document, filed with this Court, in which Mr. Amos identified the particular judges that he submits have a conflict in any matter related to him.

[11] On April 3, 2017, Mr. Amos attempted to bring a motion before the Federal Court seeking an order "affirming or denying the conflict of interest he has" with a number of judges of the Federal Court. A judge of the Federal Court issued a direction noting that if Mr. Amos was seeking this order in relation to judges of the Federal Court of Appeal, it was beyond the jurisdiction of the Federal Court. Mr. Amos raised the Federal Court motion at the hearing of this cross-appeal. The Federal Court motion is not a motion before this Court and, as such, the submissions filed before the Federal Court will not be entertained. As well, since this was a motion brought before the Federal Court (and not this Court), any documents filed in relation to that motion are not part of the record of this Court.

[12] During the hearing of the appeal Mr. Amos alleged that the third member of this panel also had a conflict of interest and submitted some documents that, in his view, supported his claim of a conflict. Mr. Amos, following the hearing of his appeal, was also afforded the opportunity to provide a brief summary of the conflict that he was alleging and to file additional documents that, in his view, supported his allegations. Mr. Amos submitted several pages of documents in relation to the alleged conflicts. He organized the documents by submitting a copy of the biography of the particular judge and then, immediately following that biography, by including copies of the documents that, in his view, supported his claim that such judge had a conflict.

[13] The nature of the alleged conflict of Justice Webb is that before he was appointed as a Judge of the Tax Court of Canada in 2006, he was a partner with the law firm Patterson Law, and before that with Patterson Palmer in Nova Scotia. Mr. Amos submitted that he had a number of disputes with Patterson Palmer and Patterson Law and therefore Justice Webb has a conflict simply because he was a partner of these firms. Mr. Amos is not alleging that Justice Webb was personally involved in or had any knowledge of any matter in which Mr. Amos was involved with Justice Webb's former law firm – only that he was a member of such firm.

[14] During his oral submissions at the hearing of his appeal Mr. Amos, in relation to the alleged conflict for Justice Webb, focused on dealings between himself and a particular lawyer at Patterson Law. However, none of the documents submitted by Mr. Amos at the hearing or subsequently related to any dealings with this particular lawyer nor is it clear when Mr. Amos was dealing with this lawyer. In particular, it is far from clear whether such dealings were after the time that Justice Webb was appointed as a Judge of the Tax Court of Canada over 10 years ago.

[15] The documents that he submitted in relation to the alleged conflict for Justice Webb largely relate to dealings between Byron Prior and the St. John's Newfoundland and Labrador office of Patterson Palmer, which is not in the same province where Justice Webb practiced law. The only document that indicates any dealing between Mr. Amos and Patterson Palmer is a copy of an affidavit of Stephen May who was a partner in the St. John's NL office of Patterson Palmer. The affidavit is dated January 24, 2005 and refers to a number of e-mails that were sent by Mr. Amos to Stephen May. Mr. Amos also included a letter that is addressed to four

individuals, one of whom is John Crosbie who was counsel to the St. John's NL office of Patterson Palmer. The letter is dated September 2, 2004 and is addressed to "John Crosbie, c/o Greg G. Byrne, Suite 502, 570 Queen Street, Fredericton, NB E3B 5E3". In this letter Mr. Amos alludes to a possible lawsuit against Patterson Palmer.

[16] Mr. Amos' position is that simply because Justice Webb was a lawyer with Patterson Palmer, he now has a conflict. In *Wewaykum Indian Band v. Her Majesty the Queen*, 2003 SCC 45, [2003] 2 S.C.R. 259, the Supreme Court of Canada noted that disqualification of a judge is to be determined based on whether there is a reasonable apprehension of bias:

> **60** In Canadian law, one standard has now emerged as the criterion for disqualification. The criterion, as expressed by de Grandpré J. in *Committee for Justice and Liberty v. National Energy Board*, …[[1978] 1 S.C.R. 369, 68 D.L.R. (3d) 716], at p. 394, is the reasonable apprehension of bias:
>
> > … the apprehension of bias must be a reasonable one, held by reasonable and right minded persons, applying themselves to the question and obtaining thereon the required information. In the words of the Court of Appeal, that test is "what would an informed person, viewing the matter realistically and practically -- and having thought the matter through -- conclude. Would he think that it is more likely than not that [the decision-maker], whether consciously or unconsciously, would not decide fairly."

[17] The issue to be determined is whether an informed person, viewing the matter realistically and practically, and having thought the matter through, would conclude that Mr. Amos' allegations give rise to a reasonable apprehension of bias. As this Court has previously remarked, "there is a strong presumption that judges will administer justice impartially" and this presumption will not be rebutted in the absence of "convincing evidence" of bias (*Collins v.*

Canada, 2011 FCA 140 at para. 7, [2011] 4 C.T.C. 157 [*Collins*]. See also *R. v. S. (R.D.)*, [1997] 3 S.C.R. 484 at para. 32, 151 D.L.R. (4th) 193).

[18] The Ontario Court of Appeal in *Rando Drugs Ltd. v. Scott*, 2007 ONCA 553, 86 O.R. (3d) 653 (leave to appeal to the Supreme Court of Canada refused, 32285 (August 1, 2007)), addressed the particular issue of whether a judge is disqualified from hearing a case simply because he had been a member of a law firm that was involved in the litigation that was now before that judge. The Ontario Court of Appeal determined that the judge was not disqualified if the judge had no involvement with the person or the matter when he was a lawyer. The Ontario Court of Appeal also explained that the rules for determining whether a judge is disqualified are different from the rules to determine whether a lawyer has a conflict:

> **27** Thus, disqualification is not the natural corollary to a finding that a trial judge has had some involvement in a case over which he or she is now presiding. Where the judge had no involvement, as here, it cannot be said that the judge is disqualified.
>
> **28** The point can rightly be made that had Mr. Patterson been asked to represent the appellant as counsel before his appointment to the bench, the conflict rules would likely have prevented him from taking the case because his firm had formerly represented one of the defendants in the case. Thus, it is argued how is it that as a trial judge Patterson J. can hear the case? This issue was considered by the Court of Appeal (Civil Division) in *Locabail (U.K.) Ltd. v. Bayfield Properties Ltd.*, [2000] Q.B. 451. The court held, at para. 58, that there is no inflexible rule governing the disqualification of a judge and that, "[e]verything depends on the circumstances."
>
> **29** It seems to me that what appears at first sight to be an inconsistency in application of rules can be explained by the different contexts and in particular, the strong presumption of judicial impartiality that applies in the context of disqualification of a judge. There is no such presumption in cases of allegations of conflict of interest against a lawyer because of a firm's previous involvement in the case. To the contrary, as explained by Sopinka J. in *MacDonald Estate v. Martin* (1990), 77 D.L.R. (4th) 249 (S.C.C.), for sound policy reasons there is a presumption of a disqualifying interest that can rarely be overcome. In particular, a conclusory statement from the lawyer that he or she had no confidential

information about the case will never be sufficient. The case is the opposite where the allegation of bias is made against a trial judge. His or her statement that he or she knew nothing about the case and had no involvement in it will ordinarily be accepted at face value unless there is good reason to doubt it: see *Locabail*, at para. 19.

30 That brings me then to consider the particular circumstances of this case and whether there are serious grounds to find a disqualifying conflict of interest in this case. In my view, there are two significant factors that justify the trial judge's decision not to recuse himself. The first is his statement, which all parties accept, that he knew nothing of the case when it was in his former firm and that he had nothing to do with it. The second is the long passage of time. As was said in *Wewaykum*, at para. 85:

> To us, one significant factor stands out, and must inform the perspective of the reasonable person assessing the impact of this involvement on Binnie J.'s impartiality in the appeals. That factor is the passage of time. Most arguments for disqualification rest on circumstances that are either contemporaneous to the decision-making, or that occurred within a short time prior to the decision-making.

31 There are other factors that inform the issue. The Wilson Walker firm no longer acted for any of the parties by the time of trial. More importantly, at the time of the motion, Patterson J. had been a judge for six years and thus had not had a relationship with his former firm for a considerable period of time.

32 In my view, a reasonable person, viewing the matter realistically would conclude that the trial judge could deal fairly and impartially with this case. I take this view principally because of the long passage of time and the trial judge's lack of involvement in or knowledge of the case when the Wilson Walker firm had carriage. In these circumstances it cannot be reasonably contended that the trial judge could not remain impartial in the case. The mere fact that his name appears on the letterhead of some correspondence from over a decade ago would not lead a reasonable person to believe that he would either consciously or unconsciously favour his former firm's former client. It is simply not realistic to think that a judge would throw off his mantle of impartiality, ignore his oath of office and favour a client - about whom he knew nothing - of a firm that he left six years earlier and that no longer acts for the client, in a case involving events from over a decade ago.

(emphasis added)

[19] Justice Webb had no involvement with any matter involving Mr. Amos while he was a member of Patterson Palmer or Patterson Law, nor does Mr. Amos suggest that he did. Mr. Amos made it clear during the hearing of this matter that the only reason for the alleged conflict for Justice Webb was that he was a member of Patterson Law and Patterson Palmer. This is simply not enough for Justice Webb to be disqualified. Any involvement of Mr. Amos with Patterson Law while Justice Webb was a member of that firm would have had to occur over 10 years ago and even longer for the time when he was a member of Patterson Palmer. In addition to the lack of any involvement on his part with any matter or dispute that Mr. Amos had with Patterson Law or Patterson Palmer (which in and of itself is sufficient to dispose of this matter), the length of time since Justice Webb was a member of Patterson Law or Patterson Palmer would also result in the same finding – that there is no conflict in Justice Webb hearing this appeal.

[20] Similarly in *R. v. Bagot*, 2000 MBCA 30, 145 Man. R. (2d) 260, the Manitoba Court of Appeal found that there was no reasonable apprehension of bias when a judge, who had been a member of the law firm that had been retained by the accused, had no involvement with the accused while he was a lawyer with that firm.

[21] In *Del Zotto v. Minister of National Revenue*, [2000] 4 F.C. 321, 257 N.R. 96, this court did find that there would be a reasonable apprehension of bias where a judge, who while he was a lawyer, had recorded time on a matter involving the same person who was before that judge. However, this case can be distinguished as Justice Webb did not have any time recorded on any files involving Mr. Amos while he was a lawyer with Patterson Palmer or Patterson Law.

[22] Mr. Amos also included with his submissions a CD. He stated in his affidavit dated June 26, 2017 that there is a "true copy of an American police surveillance wiretap entitled 139" on this CD. He has also indicated that he has "provided a true copy of the CD entitled 139 to many American and Canadian law enforcement authorities and not one of the police forces or officers of the court are willing to investigate it". Since he has indicated that this is an "American police surveillance wiretap", this is a matter for the American law enforcement authorities and cannot create, as Mr. Amos suggests, a conflict of interest for any judge to whom he provides a copy.

[23] As a result, there is no conflict or reasonable apprehension of bias for Justice Webb and therefore, no reason for him to recuse himself.

[24] Mr. Amos alleged that Justice Near's past professional experience with the government created a "quasi-conflict" in deciding the cross-appeal. Mr. Amos provided no details and Justice Near confirmed that he had no prior knowledge of the matters alleged in the Claim. Justice Near sees no reason to recuse himself.

[25] Insofar as it is possible to glean the basis for Mr. Amos' allegations against Justice Gleason, it appears that he alleges that she is incapable of hearing this appeal because he says he wrote a letter to Brian Mulroney and Jean Chrétien in 2004. At that time, both Justice Gleason and Mr. Mulroney were partners in the law firm Ogilvy Renault, LLP. The letter in question, which is rude and angry, begins with "Hey you two Evil Old Smiling Bastards" and "Re: me suing you and your little dogs too". There is no indication that the letter was ever responded to or that a law suit was ever commenced by Mr. Amos against Mr. Mulroney. In the circumstances,

there is no reason for Justice Gleason to recuse herself as the letter in question does not give rise to a reasonable apprehension of bias.

III. Issue

[26] The issue on the cross-appeal is as follows: Did the Judge err in setting aside the Prothonotary's Order striking the Claim in its entirety without leave to amend and in determining that Mr. Amos' allegation that the RCMP barred him from the New Brunswick legislature in 2004 was capable of supporting a cause of action?

IV. Analysis

A. *Standard of Review*

[27] Following the Judge's decision to set aside the Prothonotary's Order, this Court revisited the standard of review to be applied to discretionary decisions of prothonotaries and decisions made by judges on appeals of prothonotaries' decisions in *Hospira Healthcare Corp. v. Kennedy Institute of Rheumatology*, 2016 FCA 215, 402 D.L.R. (4th) 497 [*Hospira*]. In *Hospira*, a five-member panel of this Court replaced the *Aqua-Gem* standard of review with that articulated in *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235 [*Housen*]. As a result, it is no longer appropriate for the Federal Court to conduct a *de novo* review of a discretionary order made by a prothonotary in regard to questions vital to the final issue of the case. Rather, a Federal Court judge can only intervene on appeal if the prothonotary made an error of law or a palpable and overriding error in determining a question of fact or question of mixed fact and law (*Hospira* at para. 79). Further, this Court can only interfere with a Federal Court judge's review of a prothonotary's discretionary order if the judge made an error of law or palpable and overriding

error in determining a question of fact or question of mixed fact and law (*Hospira* at paras. 82-83).

[28] In the case at bar, the Judge substituted his own assessment of Mr. Amos' Claim for that of the Prothonotary. This Court must look to the Prothonotary's Order to determine whether the Judge erred in law or made a palpable and overriding error in choosing to interfere.

B. *Did the Judge err in interfering with the Prothonotary's Order?*

[29] The Prothonotary's Order accepted the following paragraphs from the Crown's submissions as the basis for striking the Claim in its entirety without leave to amend:

> 17. Within the 96 paragraph Statement of Claim, the Plaintiff addresses his complaint in paragraphs 14-24, inclusive. All but four of those paragraphs are dedicated to an incident that occurred in 2006 in and around the legislature in New Brunswick. The jurisdiction of the Federal Court does not extend to Her Majesty the Queen in right of the Provinces. In any event, the Plaintiff hasn't named the Province or provincial actors as parties to this action. The incident alleged does not give rise to a justiciable cause of action in this Court.
>
> (…)
>
> 21. The few paragraphs that directly address the Defendant provide no details as to the individuals involved or the location of the alleged incidents or other details sufficient to allow the Defendant to respond. As a result, it is difficult or impossible to determine the causes of action the Plaintiff is attempting to advance. A generous reading of the Statement of Claim allows the Defendant to only speculate as to the true and/or intended cause of action. At best, the Plaintiff's action may possibly be summarized as: he suspects he is barred from the House of Commons.
>
> [footnotes omitted].

[30] The Judge determined that he could not strike the Claim on the same jurisdictional basis as the Prothonotary. The Judge noted that the Federal Court has jurisdiction over claims based on the liability of Federal Crown servants like the RCMP and that the actors who barred Mr. Amos

from the New Brunswick legislature in 2004 included the RCMP (Federal Court Judgment at para. 23). In considering the viability of these allegations *de novo*, the Judge identified paragraph 14 of the Claim as containing "some precision" as it identifies the date of the event and a RCMP officer acting as Aide-de-Camp to the Lieutenant Governor (Federal Court Judgment at para. 27).

[31] The Judge noted that the 2004 event could support a cause of action in the tort of misfeasance in public office and identified the elements of the tort as excerpted from *Meigs v. Canada*, 2013 FC 389, 431 F.T.R. 111:

> [13] As in both the cases of *Odhavji Estate v Woodhouse*, 2003 SCC 69 [*Odhavji*] and *Lewis v Canada*, 2012 FC 1514 [*Lewis*], I must determine whether the plaintiffs' statement of claim pleads each element of the alleged tort of misfeasance in public office:
>
> a) The public officer must have engaged in deliberate and unlawful conduct in his or her capacity as public officer;
>
> b) The public officer must have been aware both that his or her conduct was unlawful and that it was likely to harm the plaintiff; and
>
> c) There must be an element of bad faith or dishonesty by the public officer and knowledge of harm alone is insufficient to conclude that a public officer acted in bad faith or dishonestly.
>
> *Odhavji*, above, at paras 23, 24 and 28
>
> (Federal Court Judgment at para. 28).

[32] The Judge determined that Mr. Amos disclosed sufficient material facts to meet the elements of the tort of misfeasance in public office because the actors, who barred him from the New Brunswick legislature in 2004, including the RCMP, did so for "political reasons" (Federal Court Judgment at para. 29).

[33] This Court's discussion of the sufficiency of pleadings in *Merchant Law Group v. Canada (Revenue Agency)*, 2010 FCA 184, 321 D.L.R (4th) 301 is particularly apt:

> …When pleading bad faith or abuse of power, it is not enough to assert, baldly, conclusory phrases such as "deliberately or negligently," "callous disregard," or "by fraud and theft did steal". "The 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…
>
> To this, I would add that the tort of misfeasance in public office requires a particular state of mind of a public officer in carrying out the impunged action, *i.e.*, deliberate conduct which the public officer knows to be inconsistent with the obligations of his or her office. For this tort, particularization of the allegations is mandatory. Rule 181 specifically requires particularization of allegations of "breach of trust," "wilful default," "state of mind of a person," "malice" or "fraudulent intention."
>
> (at paras. 34-35, citations omitted).

[34] Applying the *Housen* standard of review to the Prothonotary's Order, we are of the view that the Judge interfered absent a legal or palpable and overriding error.

[35] The Prothonotary determined that Mr. Amos' Claim disclosed no reasonable claim and was fundamentally vexatious on the basis of jurisdictional concerns *and* the absence of material facts to ground a cause of action. Paragraph 14 of the Claim, which addresses the 2004 event, pleads no material facts as to how the RCMP officer engaged in deliberate and unlawful conduct, knew that his or her conduct was unlawful and likely to harm Mr. Amos, and acted in bad faith. While the Claim alleges elsewhere that Mr. Amos was barred from the New Brunswick legislature for political and/or malicious reasons, these allegations are not particularized and are directed against non-federal actors, such as the Sergeant-at-Arms of the Legislative Assembly of New Brunswick and the Fredericton Police Force. As such, the Judge erred in determining that

Mr. Amos' allegation that the RCMP barred him from the New Brunswick legislature in 2004 was capable of supporting a cause of action.

[36] In our view, 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. Therefore, the Judge erred in interfering to set aside the Prothonotary's Order striking the claim in its entirety. Further, we find that the Prothonotary made no error in denying leave to amend. The deficiencies in Mr. Amos' pleadings are so extensive such that amendment could not cure them (see *Collins* at para. 26).

V. Conclusion

[37] For the foregoing reasons, we would allow the Crown's cross-appeal, with costs, setting aside the Federal Court Judgment, dated January 25, 2016 and restoring the Prothonotary's Order, dated November 12, 2015, which struck Mr. Amos' Claim in its entirety without leave to amend.

"Wyman W. Webb"
J.A.

"David G. Near"
J.A.

"Mary J.L. Gleason"
J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

A CROSS-APPEAL FROM AN ORDER OF THE HONOURABLE JUSTICE SOUTHCOTT DATED JANUARY 25, 2016; DOCKET NUMBER T-1557-15.

DOCKET:	A-48-16
STYLE OF CAUSE:	DAVID RAYMOND AMOS v. HER MAJESTY THE QUEEN
PLACE OF HEARING:	FREDERICTON, NEW BRUNSWICK
DATE OF HEARING:	MAY 24, 2017
REASONS FOR JUDGMENT OF THE COURT BY:	WEBB J.A. NEAR J.A. GLEASON J.A.
DATED:	OCTOBER 30, 2017

APPEARANCES:

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Jan Jensen	FOR THE RESPONDENT / APPELLANT ON CROSS-APPEAL

SOLICITORS OF RECORD:

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