

Federal Court  
of Appeal



Cour d'appel  
fédérale

**Date: 20120213**

**Docket: A-232-11**

**Citation: 2012 FCA 49**

**CORAM: SHARLOW J.A.  
DAWSON J.A.  
TRUDEL J.A.**

**BETWEEN:**

**ZOLTAN ANDREW SIMON**

**Appellant**

**and**

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA**

**Respondent**

Heard at Edmonton, Alberta, on February 13, 2012.

Judgment delivered from the Bench at Edmonton, Alberta, on February 13, 2012.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**TRUDEL J.A.**

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**REASONS FOR JUDGMENT OF THE COURT**

**(Delivered from the Bench at Edmonton, Alberta, on February 13, 2012)**

**TRUDEL J.A.**

[1] This is an appeal from a decision of the Federal Court [2011 FC 582] by which the respondent's motion to strike Mr. Simon's amended statement of claim was granted without leave to amend on the basis that it suffered from all kinds of procedural defects but, most importantly, that it failed to reveal any cause of action.

[2] This amended statement of claim constituted Mr. Simon's second attempt to bring an action to the Federal Court seeking various remedies and declarations. Indeed, Mr. Simon's original statement of claim was previously struck by the Federal Court by order of June 8, 2010 [2010 FC 617]. On appeal, this order was varied granting Mr. Simon leave to file an amended statement of claim or, alternatively, to seek an extension of time to file an application for judicial review. Mr. Simon chose to file the amended statement of claim which is the focus of this appeal.

[3] Despite the numerous conclusions sought by Mr. Simon in his memorandum of fact and law and his attempt to raise a constitutional question with respect to subsection 145(3) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (see Notice of Constitutional Question filed on record on October 14, 2011), the only relevant question on appeal is whether the Federal Court Judge (the Judge) erred in principle or otherwise when she struck Mr. Simon's amended statement of claim without leave to amend. We are all of the view that this appeal must fail.

[4] The Judge carefully applied herself to discern any cause of action in the amended statement of claim over which the Federal Court could have jurisdiction, but to no avail. She found it "lengthy and incomprehensible"; noting that in pith and substance, Mr. Simon's complaint is his liability to the government of British Columbia (B.C.) for welfare insurance benefits received by his first wife whom he sponsored upon her entering Canada in 1999 (reasons for judgment, at paragraph 11). Mr. Simon alleged that in 2008 and 2009, B.C. garnished funds standing to his credit in his tax account with Revenue Canada.

[5] While Mr. Simon's amended statement of claim attempts to focus on the Canada Revenue Agency's role (CRA) in the collection of the debt claimed by B.C., there can be no doubt that B.C.'s assertion of a debt claim against Mr. Simon is at the root of his legal difficulties.

[6] This being said, the Judge did turn her mind more particularly to the previous decision of this Court where it was suggested that Mr. Simon might have a claim or grounds to bring an application for judicial review against the CRA for the treatment of the appellant's monies. The Judge once again concluded that it was "plain and obvious...that the Amended Statement of Claim does not disclose a reasonable cause of action against the [Federal Crown] in respect of the actions of the CRA" (*ibidem*, at paragraph 14).

[7] Having also carefully examined the amended statement of claim and having had the benefit of Mr. Simon's oral arguments, we agree with the Judge. The appellant's pleadings are definitely deficient in factual material and particulars. Here, Mr. Simon argues that any sponsorship agreement he entered into was akin to a gentleman's agreement and not a binding contract susceptible to give rise to a debt owed to B.C. If he is wrong, he argues that his signature on the agreement is null and void. It ensues that Mr. Simon has no debt susceptible of being collected by B.C. through alleged garnishment of his monies.

[8] Once again, this ground of complaint concerns B.C. In any event, even if Mr. Simon was right that the CRA had no legislative authority to answer B.C.'s request, these general allegations by

the appellant do not fulfill the principal functions of pleadings: clear definition of the issues between litigants and fair and proper notice of the case which has to be met by the opposing party.

[9] Mr. Simon has again provided a factual narrative. However there is no cause of action to support the relief he seeks and no cause of action can be found in the scattered references he makes to various pieces of legislation of doubtful relevance to the remedies he is seeking.

[10] As a result, Mr. Simon has failed to persuade us that the Judge erred in finding that the amended statement of claim disclosed no reasonable cause of action.

[11] Therefore, the appeal will be dismissed with costs fixed at \$500, inclusive of disbursements.

"Johanne Trudel"

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-232-11

**STYLE OF CAUSE:** Zoltan Andrew Simon v. Her Majesty  
the Queen in the Right of Canada

**PLACE OF HEARING:** Edmonton, Alberta

**DATE OF HEARING:** February 13, 2012

**REASONS FOR JUDGMENT OF THE COURT BY:** (SHARLOW, DAWSON, TRUDEL  
JJ.A.)

**DELIVERED FROM THE BENCH BY:** TRUDEL J.A.

**APPEARANCES:**

Zoltan Andrew Simon ON HIS OWN BEHALF

Wendy Bridges FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Myles J. Kirvan FOR THE RESPONDENT  
Deputy Attorney General of Canada