

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20130910**

**Docket: A-454-12**

**Citation: 2013 FCA 203**

**CORAM: NADON J.A.  
GAUTHIER J.A.  
WEBB J.A.**

**BETWEEN:**

**VLASTA STUBICAR**

**Appellant**

**and**

**DEPUTY PRIME MINISTER AND MINISTER OF PUBLIC SAFETY  
AND EMERGENCY PREPAREDNESS**

**Respondent**

Heard at Ottawa, Ontario, on September 10, 2013.

Judgment delivered from the Bench at Ottawa, Ontario, on September 10, 2013.

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

**GAUTHIER J.A.**

Federal Court of Appeal



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**REASONS FOR JUDGMENT OF THE COURT**

**(Delivered from the Bench at Ottawa, Ontario, on September 10, 2013)**

**GAUTHIER J.A.**

[1] Vlasta Stubicar (the appellant) appeals from the Order of Tremblay-Lamer J. of the Federal Court (the Motion Judge), dated October 18, 2012 dismissing her appeal from Prothonotary Aronovitch's Order dated September 17, 2012, whereby the Prothonotary rejected the appellant's

motion for recusal based on an alleged reasonable apprehension of bias with costs of \$500 payable forthwith. The Motion Judge having dismissed the appeal, also ordered the appellant to pay costs on a solicitor-client basis forthwith.

[2] The appellant argues that in her brief reasons, the Motion Judge misstated the applicable test for reasonable apprehension of bias as formulated by the Supreme Court of Canada in *Committee for Justice and Liberty v. Canada (National Energy Board)*, [1978] 1 S.C.R. 369 at page 394.

[3] She also says that it is clear from the brief reasons of the Motion Judge, which specifically refer to “disagreement with the Prothonotary’s directions”, that the Motion Judge failed to properly consider all her arguments and the evidence supporting her motion, more particularly, the cumulative effect of the circumstances leading to the May 7, 2012 direction, its negative implication on her rights both under the Rules and at common law, and the apparent disregard for her repeated objections to the said direction and subsequent directions by the same Prothonotary.

[4] Even assuming, without deciding that the Motion Judge erred and applied a more stringent test, as argued by the appellant, and having considered the merits of the appellant’s motion before the Motion Judge *de novo*, we come to the same conclusion as the Motion Judge that the said motion is totally baseless and that such appeal had to be dismissed.

[5] Turning now to the issue of costs, as noted earlier, the Prothonotary had granted costs payable forthwith given the seriousness of the unsupported allegations made by the appellant. The Motion Judge concluded that the Prothonotary made no error in that respect. She was clearly of the

view that the appeal before her should not have been made. She says that considering the factual record that was filed, it constituted an abuse of process.

[6] The Motion Judge properly justified the special grounds on which she exercised her discretion to grant costs on a solicitor-client basis.

[7] She clearly disapproved that the appellant, a member of the bar, failed to consider the message sent by the Prothonotary that her motion, which contained serious allegations impugning on the Court's integrity, was baseless and frivolous. In the circumstances, we see no grounds to intervene with her decision.

[8] Finally, with respect to the costs of the present appeal, and having considered all the circumstances of this matter, we are satisfied that the respondent is entitled to one set of costs for this appeal and the appeal in A-482-12 in the lump sum of \$2,000.

[9] The appeal will be dismissed.

“Johanne Gauthier”

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-454-12

**STYLE OF CAUSE:** Vlasta Stubicar v. Deputy Prime  
Minister and Minister of Public Safety  
and Emergency Preparedness

**PLACE OF HEARING:** Ottawa, Ontario

**DATE OF HEARING:** September 10, 2013

**REASONS FOR JUDGMENT OF THE COURT BY:** NADON J.A.  
GAUTHIER J.A.  
WEBB J.A.

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

**APPEARANCES:**

Vlasta Stubicar ON HER OWN BEHALF  
FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

FOR THE APPELLANT

William F. Pentney FOR THE RESPONDENT