

On February 21st, 2023, the Federal Court ruled on the government's motion to strike which had been argued on January 19th, 2023.

In a nutshell, in a blatantly dishonest and disturbing decision:

1. the Court misstated the facts and law; And
2. moreover, ignored the jurisprudence, right on point to what the Court wrongfully decided;

decided to split the case as follows:

1. It struck, with prejudice, to not allow to amend the claim, the 2/3rd of the Plaintiffs who were employed by the core administration of the federal civil service, on the basis that those employees are restricted to the Federal labour scheme. In doing so, the Court ignored, **NOT** even dealt with, the Supreme Court of Canada and Ontario Court cases which clearly state that relief such as Declaratory relief, and damages and tort for misfeasance of public office **CAN** be sought in Court, even where labour arbitration can otherwise be sought. The decision simply pretends that this jurisprudence and exception **does not exist**, nor did the Court squarely address that law and the law on motions to strike.
2. With the remaining 1/3rd of the Plaintiffs, those who work for Crown Corporations, agencies, or federally regulated workers subject to the federal mandates, the Court also struck this on the specious ground, without specific justification, that the pleadings were lacking in sufficient detail. However, the Court did grant leave (permission) to amend and re-file with these Plaintiffs. Thus, the Court seems to have struck the whole thing to see what returns after an appeal to the 2/3rd and/or amended statement of claim with respect to the third.

The logical and streamlined next course of action is to appeal the entire judgment as to the entirety of the Plaintiffs and see what the Court of Appeal decides and then proceed from there.

The fee retainer of \$1,000 (\$870 + \$130 HST) covers a trial to the end in the Federal Court, including any motions, but **not appeals** to the Court of Appeal.

To proceed to an appeal to the Court of Appeal will require an additional \$200 (two hundred dollars per Plaintiff). We are filing the notice of appeal forthwith. This will take about 4-7 months to file plus perfect all the material plus argue it. At the conclusion of the appeal, if the case is lost, in whole, or in part, on appeal, and a leave application (permission to appeal to the Supreme Court of Canada), at that time, will require an additional \$100 (one hundred dollars) per Plaintiff.

This leave application is decided by a panel of 3 judges of the Supreme Court of Canada. If permission to appeal to the Supreme Court of Canada is refused, then the case will only proceed with the 1/3rd of the Plaintiffs set out above. If the permission to proceed with an appeal to the Supreme Court of Canada is granted, and a full panel of the nine judges at the

Supreme Court will orally hear the appeal. This much more extensive full appeal, at the Supreme Court of Canada, will require a further \$300 (three hundred dollars per Plaintiff).

In short to run an appeal from this judgment on the motion to strike will require;

1. \$200 for a **full** appeal to the Appeal Court up to argument:
2. if necessary, a further \$100, to bring an application for leave (permission to appeal) to the Supreme Court of Canada; And
3. if permission is granted at the Supreme Court of Canada, a further \$300 to fully prepare, file, and argue it at the Supreme Court of Canada.

It is impossible to predict how the case will travel at each juncture, and whether or not we will hit the last juncture before we continue the case, and which Plaintiffs, will still be involved.

Therefore, we will need a minimum of \$400 (\$348 + \$52 HST) and a maximum of 700 dollars (\$596 + \$104 HST) up to the end of the Supreme Court of Canada appeal, if we require and are granted permission.

The judgment of the Federal Court is not only wrong, it is offensive, in ignoring, not addressing, and flushing the applicable jurisprudence, and rule of law.

We have strong grounds of appeal.

Lastly, the fact that the Court did not strike the other 1/3rd of the Plaintiff's outright, but granted them the right to amend and re-file, is a **win** in that, taking the larger picture in proper view, the very same issue(s) and remedies sought will proceed to adjudication before the Federal Court with the 200+ Plaintiffs.