

# IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Lover-Peace v. Erickson*,  
2025 BCSC 687

Date: 20250411  
Docket: S241172  
Registry: Vancouver

Between:

**Rose Lover-Peace**

Plaintiff

And

**Constable Bryce Erickson, Constable Leo Corcoran, John/Jane Doe #1,  
John/Jane Doe #2, John/Jane Doe #3, John/Jane Doe #4, John/Jane Doe #5,  
and Minister of Public Safety and Solicitor General for His Majesty the King in  
Right of the Province of British Columbia**

Defendants

Before: The Honourable Madam Justice Sharma

## Reasons for Judgment

The Plaintiff, appearing in person:

R. Lover-Peace

Counsel for the Defendant Minister of Public  
Safety and Solicitor General for His Majesty  
the King in Right of the Province of British  
Columbia:

Y. Chen

Place and Date of Trial/Hearing:

Vancouver, B.C.  
March 26, 2025

Place and Date of Judgment:

Vancouver, B.C.  
April 11, 2025

[1] This judgment addresses two applications that were set to be heard together:

- a) An application filed by the defendant Minister of Public Safety and Solicitor General (the “Minister”) seeking to strike the notice of civil claim (“NOCC”), without leave to amend; and,
- b) An application for summary judgment pursuant to R. 9-6(2) and R. 9-6(5)(a) of the *Supreme Court Civil Rules* filed by the plaintiff.

[2] The plaintiff is a self-represented litigant whose previous name was Emotions Universe. The allegations in the NOCC focus on the plaintiff being detained at the Burnaby RCMP location, and his treatment while there.

[3] The Minister has filed evidence confirming that the plaintiff was detained on an arrest warrant related to a criminal charge of harassment, and held for a few days at the Burnaby detachment.

[4] The plaintiff has previously filed two actions against the Minister and other defendants regarding the same or similar allegations about his detention as those set out in the NOCC. The first action (*Universe v. Burnaby RCMP Custody Officers*, Vancouver S235332) was filed July 27, 2023. The Minister set down an application to strike that claim to be heard on December 20, 2023. At the request of the plaintiff, that hearing was adjourned to February 7, 2024, for a full day. However, on December 21, 2023, the plaintiff filed a notice of discontinuance against all defendants.

[5] The second action (*Universe v. Erickson*, Vancouver S238680) was filed on December 21, 2023. On February 20, 2024, the plaintiff filed a notice of discontinuance.

[6] Although both applications were heard at the same time, I find it convenient and appropriate to address the Minister’s application first.

**Legal Principles for Striking a Claim**

[7] The Minister applies to strike the NOCC pursuant to Rules 3-1, 3-7, 9-5(1), and the inherent jurisdiction of this Court. The Minister’s position is that, among other things, the NOCC is confusing, repetitive and violates the rules for drafting pleadings. The Minister’s position is that one cannot discern what material facts are being pleaded to support the legal claims, which are also unclear.

[8] Rule 3-1(2) sets out requirements for a notice of civil claim:

3-1(2) A notice of civil claim must do the following:

- (a) set out a concise statement of the material facts giving rise to the claim;
- (b) set out the relief sought by the plaintiff against each named defendant;
- (c) set out a concise summary of the legal basis for the relief sought;
- (d) set out the proposed place of trial;
- (e) if the plaintiff sues or a defendant is sued in a representative capacity, show in what capacity the plaintiff sues or the defendant is sued;
- (f) provide the data collection information required in the appendix to the form;
- (g) otherwise comply with Rule 3-7.

[9] Rule 3-7 address the content of pleadings generally, and the following sections are relevant:

3-7(1) A pleading must not contain the evidence by which the facts alleged in it are to be proved.

...

(9) Conclusions of law must not be pleaded unless the material facts supporting them are pleaded.

[10] Rule 9-5(1) permits the court to strike pleadings on the grounds set out in sub-paras. (a)–(d):

9-5(1) At any stage of a proceeding, the court may order to be struck out or amended the whole or any part of a pleading, petition or other document on the ground that

- (a) it discloses no reasonable claim or defence, as the case may be,

- (b) it is unnecessary, scandalous, frivolous or vexatious,
- (c) it may prejudice, embarrass or delay the fair trial or hearing of the proceeding, or
- (d) it is otherwise an abuse of the process of the court,

and the court may pronounce judgment or order the proceeding to be stayed or dismissed and may order the costs of the application to be paid as special costs.

[11] The test under Rule 9-5(1)(a) is that a pleading can be struck when it is plain and obvious assuming the facts pleaded are true that the claim discloses no reasonable cause of action, or has no prospect of success: *Hunt v. Carey Canada Inc.*, [1990] S.C.R. 959 at 979, 1990 CanLII 90; *R. v. Imperial Tobacco Canada Ltd.*, 2011 SCC 42; and *Watchel v. British Columbia*, 2020 BCCA 100 at para. 30.

[12] Madam Justice Adair provided a helpful and thorough explanation of the function of pleadings and how that relates to the requirements in Rules 9-5(1) and 3-1(2) in *Johnston v. Rykon Construction Management Ltd.*, 2020 BCSC 572:

[6] For the reasons that follow, I am striking the amended notice of civil claim with leave to the plaintiffs to apply to amend. Although the main argument today was based on Rule 9-5(1)(a), I prefer to ground my decision in the other subsections of Rule 9-5(1).

[7] The ultimate function of pleadings is to clearly define the issues of fact and law to be determined by the court. The issues must be defined for each cause of action relied upon by the plaintiff. That process is begun by the plaintiff stating, for each claim, the material facts, that is, those facts necessary for the purpose of formulating a complete cause of action. A notice of civil claim must plead the causes of action in such a way that the defendant may know the case it has to meet and that clear issues of fact and law are presented for the court. See Mr. Justice K. J. Smith’s often-cited decision in *Homalco Indian Band v. British Columbia* (1998), 25 C.P.C. (4th) 107 (B.C.S.C.), at paras. 5 to 11.

[8] Pleadings are intended to define and limit the issues in order to promote fairness, judicial economy and exposition of the truth. The rules governing pleadings exist to support and facilitate that end. Defining and limiting the issues must be done so that the court understands the dispute, and the parties have fair notice of the case to be met and the remedies to be sought. Pleadings are the foundation on which the case rests, and they shape the scope of relevance for both discovery and trial.

[9] Rule 3-1(2) requires that a notice of civil claim must set out “a concise statement of the material facts giving rise to the claim,” [underlining added] and “a concise summary of the legal basis for the relief sought” [underlining added], and must otherwise comply with Rule 3-7.

[10] The requirements in Rule 3-1(2) that a notice of civil claim set out a concise statement of the material facts giving rise to the claim and set out a concise summary of the legal basis for the relief sought are mandatory and directed to promoting clarity. The word “concise” is defined in *The Oxford English Dictionary*, (11th ed. Revised) as “giving information clearly and in a few words.” Thus, both brevity and clarity are important in a pleading.

[11] The requirement that the statement of material facts and the summary of the legal basis be “concise” emphasizes the importance of stating clearly everything that is necessary, but not more. Going beyond a concise statement or summary creates the risk that what is essential will get lost in the superfluous. It is not conducive to defining and limiting the issues in the case. It is incompatible with the goal of the efficient resolution of issues on their merits: see Rule 1-3. The court or the adverse party should not have to hunt through many paragraphs to find the concise statement of the essential elements of a claim.

[12] Rule 3-7(1) brings home the point that a material fact is different than evidence and that evidence must not be pleaded.

[13] A material fact is one that is essential in order to formulate a complete cause of action. If a material fact is omitted, a cause of action is not sufficiently pleaded and liable to be struck out. See ***Skybridge Investments Ltd. v. Metro Motors Ltd.***, 2006 BCCA 500, at para. 9.

[14] The distinction between a material fact and an evidentiary fact is discussed by K. J. Smith J.A. in ***Jones v. Donaghey***, 2011 BCCA 6. A material fact is a disputed fact that, when resolved, will have legal consequences as between the parties to the dispute (para. 9). Mr. Justice Smith continued, at para. 18:

[18] . . . [A] material fact is the ultimate fact, sometimes called “ultimate issue”, to the proof of which evidence is directed. It is the last in a series or progression of facts. It is the fact put “in issue” by the pleadings. Facts that tend to prove the fact in issue, or to prove another fact that tends to prove the fact in issue, are evidentiary or “relevant” facts.

[15] A necessary pleading of material facts is not to be left to inference to be deduced from the form in which the pleading is framed. The defendant is entitled to know the case it is being called upon to meet. See ***Wyman and Moscrop Realty Ltd. v. Vancouver Real Estate Board*** (1957), 8 D.L.R. (2d) 724 (B.C.C.A.).

...

[17] A claim may only be struck under Rule 9-5(1)(a) if it is plain and obvious, assuming the facts pleaded are true, that the claim discloses no reasonable cause of action, has no reasonable prospect of success, or is certain to fail: see ***R. v. Imperial Tobacco Canada Ltd.***, 2011 SCC 42, at para. 17. No evidence is admissible on an application under Rule 9-5(1)(a). A motion to strike for failure to disclose a reasonable cause of action proceeds on the basis that the facts pleaded are true, unless they are manifestly incapable of being proven: ***Imperial Tobacco***, at para. 22.

[18] While the power to strike a claim that has no reasonable prospect of success is a very valuable tool, it must be used with care. The approach must be generous and err on the side of permitting a novel but arguable claim to proceed to trial. See ***Imperial Tobacco***, at paras. 20-21. However, it is incumbent on the claimant to clearly plead the facts upon which it relies in making its claim: ***Imperial Tobacco***, at para. 22. A failure to plead a material fact necessary to state a complete cause of action means that no reasonable claim has been pleaded.

...

[21] Under Rule 9-5(1)(b), a pleading is unnecessary or vexatious if it does not go to establishing the plaintiff's cause of action, if it does not advance any claim known in law, where it is obvious that an action cannot succeed, or where it would serve no useful purpose and would be a waste of the court's time and public resources. If a pleading is so confusing that it is difficult to understand what is pleaded, it may also be unnecessary, frivolous, or vexatious. An application under this subrule, as well as the other subrules (c) and (d), may be supported by evidence.

[22] An "embarrassing" pleading, as contemplated by Rule 9-5(1)(c), is one that is so irrelevant that to allow it to stand would involve useless expense and would also prejudice the trial of the action by involving the parties in a dispute apart from the issues: see, for example, ***Keddie v. Dumas Hotels Ltd.***(1985), 62 B.C.L.R. 145 at 147 (C.A.).

[23] Abuse of process under Rule 9-5(1)(d), or the court's inherent jurisdiction, is a flexible doctrine. It allows the court to prevent a claim from proceeding where to do so would violate principles of judicial economy, consistency, finality and the integrity of the administration of justice.

[24] In a case that involves multiple defendants and multiple causes of action, it remains necessary for the plaintiffs to identify with precision what material facts (not evidence), what causes of action, and what relief they are advancing against which defendant(s). Neither a defendant nor a trier of fact should have to parse through a notice of civil claim and either cobble together or speculate about what cause of action is being advanced against which defendant.

[25] It is well established that a plaintiff has an obligation to clearly plead the material facts on which the plaintiff relies in making the claim. Pleadings must enable the court, within a reasonable time and review of the pleading, to find the cause of action and the material facts on which the cause of action is based. It is not for the court to articulate for a litigant a comprehensible and legally recognizable cause of action. Pleadings that do not meet these minimum requirements fail to satisfy the requirements of the ***Rules*** and are an abuse of the court's process.

[Emphasis in original.]

[13] The court of appeal's judgment in *Mercantile Office Systems Private Limited v. Worldwide Warranty Life Services Inc.*, 2021 BCCA 362, is also helpful:

- [21] Pleadings are foundational. They guide the litigation process. This is true in relation to the discovery of documents, examinations for discovery, many interlocutory applications and the trial itself.
- [22] Pleadings also give effect to the underlying policy objectives of the *Rules*, which are to ensure the litigation process is fair and to promote justice between the parties: *Wong v. Wong*, 2006 BCCA 540 at paras. 22–23. They enable the parties and the court “to ascertain with precision the matters on which parties differ and the points on which they agree; and thus to arrive at certain clear issues on which both parties desire a judicial decision”: *1076586 Alberta Ltd. v. Stoneset Equities Ltd.*, 2015 BCCA 182 at para. 55, citing D.B. Casson & I.H. Dennis, eds, *Odgers’ Principles of Pleading and Practice in Civil Actions in the High Court of Justice*, 21st ed (London: Stevens & Sons, 1975) at 75–76.
- [23] For the court, pleadings serve the ultimate function of defining the issues of fact and law that will be determined by the court. In order for the court to fairly decide the issues before them, the pleadings must state the material facts succinctly: *Sahyoun v. Ho*, 2013 BCSC 1143 at paras. 15–22; *Shoolestani v. Ichikawa*, 2018 BCCA 155 at para. 30; *Weaver v. Corcoran*, 2017 BCCA 160 at para. 63. They must be organized in such a way that the court can understand what issues the court will be called upon to decide: Frederick M. Irvine, ed., *McLachlin & Taylor, British Columbia Practice*, 3rd ed, vol 1 (Markham, Ont.: LexisNexis Canada Inc., 2006) (loose-leaf updated 2021) at 3–6; *Simon v. Canada (Attorney General)*, 2015 BCSC 924 at paras. 17–18, *aff’d* 2016 BCCA 52.
- [14] Where pleadings suffer from a large number of deficiencies, the court may identify patterns of deficiencies instead of identifying with precision every flaw. This was explained in *Sahyoun v. Ho*, 2017 BCCA 96:

[22] Finding that it was impossible to delineate every flaw in each of the claims as it related to each defendant, the judge instead identified patterns of deficiencies. Those included: (1) the failure to be clear and concise in pleadings that are “impenetrable and often incomprehensible”; (2) the inability to identify which plaintiff advances what cause of action against which defendant; (3) pleading evidence in a “running narrative” rather than material facts, contrary to R. 3-7(1); and (4) the failure to advance recognized causes of action against many defendants, specifically in circumstances where (a) there is no duty owed, (b) there is no recognized cause of action, (c) the claim is an impermissible collateral attack, and (d) the defendants are protected by statutory or other immunities. The judge also noted that many or possibly all of the claims were statutorily barred by the expiry of the applicable limitation period. In the result, he concluded the amended pleading should be struck for the following reasons:

[144] Striking a pleading under R. 9-5(1) is a draconian remedy that is only granted in egregious circumstances. With that said, it plays a central role in ensuring that parties comply with the *Rules*, and it provides the court with a necessary mechanism to ensure such compliance. Absent access to R. 9-5(1), the court’s ability to control

the content and form of pleadings is diminished, the broader objects of the *Rules* such as efficiency, timeliness, and cost-effectiveness are undermined, and considerable unfairness may be imposed on opposing litigants.

[145] In this case, all of these considerations are engaged. This action was commenced more than six years ago. The Amended Pleading [the August 26, 2013 pleading] is the fifth pleading that Dr. and Mrs. Sahyoun have drafted and delivered to the defendants. The earlier hearing that gave rise to the Pleading Reasons, together with this hearing, has occupied seven days of court time. Dr. and Mrs. Sahyoun have been provided with as much guidance, through the correspondence and submissions of counsel, and through the Pleadings Reasons, as is possible. In the Pleading Reasons, I declined to strike a pleading that was then before me and decided, instead, to provide Dr. and Mrs. Sahyoun with a further opportunity to rectify the numerous deficiencies that existed in that earlier pleading.

[146] Such efforts and such opportunities have effectively been wasted. The Amended Pleading remains a thoroughly unworkable and deficient document. It continues to offend each subparagraph of R. 9-5(1). This is so in the many and varied ways that I have described.

[147] Furthermore, I consider that the defendants have lived under a cloud of allegations, related to distant wrongs, that in many cases could scarcely be more severe in nature, for long enough.

[148] I am satisfied that providing Dr. and Mrs. Sahyoun with a further opportunity to address the inadequacies of the Amended Pleading will not yield a different result. I am also satisfied there are no lesser measures available to me that would properly balance the various interests that I have described.

### **Analysis**

[15] The Minister submits the NOCC in this action fails to comply with Rule 3-1(2) and Rule 3-7 for numerous reasons. The Minister also argues the NOCC is confusing, rambling, convoluted and incomprehensible to the degree that one cannot gain a clear understanding of the claims being made. For that reason, the Minister submits it should be struck pursuant to Rule 9-5(1). The Minister adds that the NOCC reads as a narration of events and not a pleading. As such, the Minister submits, “the facts pleaded are based purely on assumptions or wild speculations or are incapable of proof”, which justifies subjecting those allegations of fact to scrutiny: *Grosz v. Royal Trust Corporation of Canada*, 2020 BCSC 128 at para. 58.

[16] I agree the NOCC suffers from numerous flaws, and that it must be struck. I find the flaws are overwhelming, and rather than delineate each one, I will identify the pattern of deficiencies.

[17] One major flaw throughout the document is failure to set out a concise statement of the material facts giving rise to a legal claim. It is difficult to discern what allegations of fact are connected to which legal claim.

[18] Particularly confusing and problematic is that “Part 1: Statement of Facts” of the NOCC is an amalgam of irrelevant material, legal argument, evidence and allegations of facts. The most obvious examples are described below:

- a) irrelevant facts, for example, para. 4 on pages 2–3 contains procedural history of the discontinued actions and this action;
- b) legal basis for the claims and/or legal argument, for example, at paras. 5, 8, 10 (opening paragraph on page 4), 11, and 12 (opening paragraph on page 6);
- c) it includes evidence throughout many paragraphs, for example, paras. 9, 10(1)–10(8), and 12(1)–12(20);
- d) it reproduces reference to evidence by repeating precise words of documents or used in conversations, for example, at paras. 9(2)–(6), and other places;
- e) It contains legal argument, for example, at paras. 5, 8, and 10.

[19] Part 3 of the NOCC (Legal Basis) is almost entirely a list of cases with extracts reproduced, which is not a proper form of pleading.

[20] Inflammatory claims are made without any specificity, such as para. 12.(1) where the plaintiff alleges he was subjected to “brutal torture of severe psychological injury, and terrified physical harm, and severe humiliation to the plaintiff’s dignity and self-esteem”. It may be that specifics are contained elsewhere in the NOCC, but a

defendant “should not be required to divine the claim(s) being made against them” or “have to guess what it is they are alleged to have done”: *Sahyoun* at para. 19.

[21] I emphasize that the examples I have given above do not exhaust all of the flaws in the NOCC.

[22] For all those reasons, the NOCC is struck because it is non-compliant with Rules 3-1 and 3-7. I also find it appropriate to strike the claim under Rule 9-5(1)(b) because of the nature and number of its defects. Since this is the third iteration of the plaintiff’s NOCC, I also find the NOCC is an abuse of the court’s process and should be struck pursuant to Rule 9-5(1)(d).

[23] As noted, the first claim filed by the plaintiff was discontinued after the Minister agreed to adjourn its application to strike that claim at the plaintiff’s request. The Minister’s application was set to be heard on December 20, 2023, but on December 13, 2023, the Minister consented to adjourn that hearing. The plaintiff discontinued that action and filed the second action on December 21, 2023.

[24] The plaintiff has previously been declared a vexatious litigant by this Court: *Universe v. Forslund*, 2021 BCSC 812. While that is not determinative as to whether leave should be granted to amend with regard to this NOCC, I find it relevant.

[25] Given all of the foregoing, I am not persuaded that allowing an opportunity to amend will cure the defects in this claim. Accordingly, the claim is struck without leave to amend.

“Sharma J.”