

Federal Court



Cour fédérale

Date: 20251216

Docket: T-3726-25

Citation: 2025 FC 1977

Ottawa, Ontario, December 16, 2025

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

MARIE PIA FAZIO

Plaintiff

and

THE TORONTO-DOMINION BANK

Defendant

ORDER AND REASONS

I. Overview

[1] The Defendant, The Toronto-Dominion Bank, brings a motion to strike the Plaintiff's claim pursuant to Rule 221 of the *Federal Court Rules*, SOR/98-106 (the "*Rules*").

[2] The Defendant submits that the Plaintiff's claims are not within this Court's jurisdiction.

[3] For the following reasons, I agree. The Defendant's motion to strike the Plaintiff's statement of claim is granted.

II. Background

[4] The Plaintiff, Marie Pia Fazio, maintained a banking relationship with the Defendant since October 2020.

[5] The Plaintiff's claims arise from an alleged pattern of institutional and financial misconduct. Specifically, the Plaintiff states that the Defendant failed to maintain accurate and reliable records of the Plaintiff's accounts, misrepresented its staff's positions, and failed to provide a complete transaction history. The Plaintiff also states that the Defendant's coding practices did not accurately identify fraudulent transactions, leading it to record false or omit legitimate transactions.

[6] The Plaintiff states that the Defendant's alleged actions and omissions misrepresented the Plaintiff's income from workplaces and government deposits, affecting her claim to government benefits and her emotional well being.

[7] On September 26, 2025, this alleged pattern of misconduct led the Plaintiff to file a statement of claim at this Court against the Defendant based on systemic fraud, negligent misrepresentation, misrepresentation of the position held by the Defendant's staff, and access to information under the *Personal Information Protection and Electronic Documents Act*, SC 2000,

c 5 (the “PIPEDA”). On October 3, 2025, the Plaintiff served this statement of claim on the Defendant.

[8] Between October and November 2025, the parties exchanged several emails and phone calls concerning the proceeding, including a discussion on whether the proceeding was filed at the proper court.

[9] On November 5, 2025, despite exceeding the time limit set out in Rule 204.1 of the *Rules*, this Court allowed the Defendant to file its notice of intention to respond.

[10] On November 13, 2025, the Plaintiff submitted a motion record requesting default judgement under Rule 210 of the *Rules* along with other equitable relief.

[11] On November 20, 2025, while the Plaintiff’s motion was pending, the Defendant filed a motion to strike the Plaintiff’s statement of claim pursuant to Rule 221 of the *Rules*. On December 3, 2025, the Plaintiff responded to this motion to strike.

[12] From November 28 to December 3, 2025, the parties made submissions regarding the Plaintiff’s request for directions from the Court regarding the Defendant’s communication with the Plaintiff and perceived irregularities in the Defendant’s filings.

[13] On December 9, 2025, Associate Judge Milczynski clarified through an oral direction that the motion to strike shall proceed first while the Plaintiff’s motion for default judgement is held in abeyance.

III. Preliminary Issue

[14] The Plaintiff submits that it is improper for the Defendant to claim relief from a motion to strike while it is in default and has not complied with procedures. The Plaintiff also submits that allowing the Defendant's motion to strike to precede her own motion for default judgement is procedurally improper.

[15] Examining the submissions leading to this motion to strike, I do not find it improper to proceed with an analysis of the Defendant's motion to strike. I recognize that the Defendant has not filed a statement of defence or requested an extension of time. However, oral directions from Associate Judge Milczynski are clear that the Defendant's motion should be heard first to ensure an efficient and cost-effective proceeding.

[16] In my view, Associate Judge Milczynski accurately analyzed the best use of both the parties' and this Court's scarce resources in accordance with Rule 3 of the *Rules* to allow the Defendant's motion to proceed first.

IV. Issue and Principles of a Motion to Strike

[17] The sole issue in this motion is whether this Court has jurisdiction to hear the Plaintiff's claims.

[18] To strike out a claim, it must be "plain and obvious" that the action cannot succeed (*Brink v Canada*, 2024 FCA 43 ("*Brink*") at para 43). The pleadings must be read generously

and in a way that accommodates for deficiencies that may result from mere drafting (*Brink* at para 45).

[19] I am aware that striking a statement of claim has a high threshold and that the claim must have no reasonable prospect of success (*Brink* at para 43-44; *R v Imperial Tobacco Canada Ltd*, 2011 SCC 42 at para 17). I am also mindful, however, that striking meritless actions promotes access to justice and an expeditious determination of the case that is fair to both parties (*Brink* at para 47; *Onischuk v Canada (Revenue Agency)*, 2021 FC 486 at paras 2, 18).

V. Analysis

[20] The Defendant submits that this Court lacks jurisdiction to hear the Plaintiff's claims. Specifically, it maintains that sections 17, 20 to 23 of the *Federal Courts Act*, RSC 1985, c F-7 ("*Federal Courts Act*"), cannot form a statutory basis to grant this Court jurisdiction to hear the Plaintiff's claims.

[21] In addition to the procedural arguments noted above, the Plaintiff submits that the Defendant mischaracterizes the jurisdictional grounding for her claims. In particular, the Plaintiff submits that her claims are within this Court's jurisdiction because they arise from federal legislation, such as the PIPEDA. She further submits that the Court maintains jurisdiction because the Defendant is a federally regulated institution under the *Bank Act*, SC 1991, c 46 ("*Bank Act*"). She also notes that the relief sought is within the Court's jurisdiction.

[22] I agree with the Defendant that this Court does not have the jurisdiction to hear the Plaintiff's claims. The Plaintiff's claims are not supported by any federal statute that would grant this Court jurisdiction (*ITO-Int'l Terminal Operators v Miida Electronics*, 1986 CanLII 91 at 766 (SCC)).

[23] In the Plaintiff's statement of claim, she pleads that the jurisdiction of this Court is based on sections 17, 20 to 23 of the *Federal Courts Act*. I agree with the Defendant that these sections cannot ground this Court's jurisdiction.

[24] Section 17 of the *Federal Courts Act* discusses relief against the Crown, which is not a party in this proceeding. In the Plaintiff's motion for default judgement, she submits that the Court maintains jurisdiction because this matter relates to other matters that involve federal agencies, like the Canada Revenue Agency. In my view, and considering the Plaintiff's claims, I do not find that this matter depends on this Court's findings in other proceedings.

[25] Sections 20 and 22 of the *Federal Courts Act* relate to subject matters like copyright and maritime law, which do not have any bearing on the Plaintiff's claims. Although paragraph 23(a) of the *Federal Courts Act* discusses banking-related matters like bills of exchange and promissory notes, this provision applies only where the Crown is a party to the proceeding (*Dalfen v Bank of Montreal*, 2016 FC 869 ("*Dalfen*") at para 35). Paragraph 23(c) of the *Federal Courts Act* also cannot grant this Court jurisdiction over the Plaintiff's claims. As this Court found in *Dalfen*, an individual's relationship with a national bank cannot constitute a federal work or undertaking that extends beyond provincial limits (at para 33).

[26] Moreover, the Plaintiff's claims under the PIPEDA cannot support this Court's jurisdiction. Actions contrary to the PIPEDA, like the ones alleged by the Plaintiff, proceed first to the Privacy Commissioner (s 11(1), PIPEDA). Only after receiving the Commissioner's report may a complainant apply to this Court for a hearing (s 14(1), PIPEDA; *James v Amazon.com.ca, Inc*, 2023 FCA 189 at para 2).

[27] The Plaintiff has not pleaded that she has submitted a complaint to the Privacy Commissioner. I therefore must conclude that the Plaintiff's claims under the PIPEDA cannot support this Court's jurisdiction.

[28] I further recognize that the Plaintiff describes the Defendant as an entity regulated under the *Bank Act*, which is a federal statute. I note, however, that none of the claims in this proceeding are based on offences under the *Bank Act* that would give this Court jurisdiction. The fact that an entity may be subject to federal regulation does not automatically bring any claim against the entity under this Court's jurisdiction (*Dalfen* at para 27).

[29] Lastly, I note that, because the basis for the Plaintiff's statement of claim is not within this Court's jurisdiction, the relief sought also exceeds this Court's jurisdiction.

VI. Conclusion

[30] I find that no federal statute grants this Court jurisdiction over the Plaintiff's allegations. Consequently, I strike out the Plaintiff's statement of claim in accordance with Rule 221(1)(a) of the *Rules*, without leave to amend. I will not award costs.

ORDER in T-3726-25

THIS COURT ORDERS that:

1. The Defendant's motion to strike out the Plaintiff's statement of claim is granted, without leave to amend.
2. No costs are awarded.

"Shirzad A."
Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-3726-25

STYLE OF CAUSE: MARIE PIA FAZIO v THE TORONTO-DOMINION
BANK

**MOTION IN WRITING PURSUANT TO RULE 221 OF THE *FEDERAL COURTS*
*RULES***

ORDER AND REASONS: AHMED J.

DATED: DECEMBER 16, 2025

WRITTEN SUBMISSIONS BY:

Marie Pia Fazio
(On her own behalf)

FOR THE PLAINTIFF

Christine Lonsdale
Sabih Ottawa

FOR THE DEFENDANT

SOLICITORS OF RECORD:

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FOR THE DEFENDANT