

# Court of King's Bench of Alberta

**Citation: Zarate v Bank of Nova Scotia, 2026 ABKB 37**

**Date:** 20260115  
**Docket:** 2501 13072  
**Registry:** Calgary

Between:

**Robert Paul Yann Zarate**

Plaintiff

- and -

**The Bank of Nova Scotia (Scotiabank), Jean-Sébastien Perreault, His Majesty the King in Right of the Province of Nova Scotia (as represented by the Attorney General of Nova Scotia), The Town of Amherst (Nova Scotia), Constable Tom Wood, Amherst Chrysler (1999) Limited, Mike Allen (personally), John Richard (personally), John Doe(s), Jane Doe(s) (unknown individuals aiding and abetting misconduct)**

Defendants

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**Apparent Vexatious Application or Proceeding (AVAP) Notice  
of the  
Honourable Justice D.J. Reed**

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[1] On August 21, 2025, the Plaintiff, Mr. Robert Paul Yann Zarate (“**Mr. Zarate**”) filed a Statement of Claim in Action No. 2501 13072.<sup>1</sup>

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<sup>1</sup> The style of cause in the filed commencement document (now the Amended Statement of Claim discussed in this decision) contains the typographical error “The Town of Amherst [sic] (Nova Scotia)”. The style of cause as written in that document has been used for this decision.

[2] On October 1, 2025, counsel for two of the Defendants, The Bank of Nova Scotia and its employee Jean-Sébastien Perreault (“**BNS Defendants**”), wrote to the Court and asked it to review the Statement of Claim under Civil Practice Note 7 (“**CPN7**”).

[3] CPN7 sets out summary procedures, using rule 3.68 of the *Alberta Rules of Court*, Alta Reg 124/2010 (“*Rules*”), for the Court to assess a “claim, defence, action, application, or proceeding that appears on its face to be frivolous, vexatious, or otherwise an abuse of process”.

[4] After that request, Mr. Zarate then filed an Amended Statement of Claim on October 8, 2025. On October 14, 2025, counsel for the BNS Defendants requested that the Court review the Amended Statement of Claim under the same CPN7 process.

[5] There was various correspondence from the parties to the Court in October and November of 2025. On November 3, 2025, the Court confirmed the availability of a case conference pursuant to rule 4.10 of the *Rules* to address these issues. I was appointed to hear the case conference.

[6] In the time leading up to the case conference, Mr. Zarate attempted, on various dates, to have the Defendants noted in default pursuant to rule 3.36(1) of the *Rules*. All attempts by Mr. Zarate to note in default were made after the BNS Defendants had issued their letter of October 1, 2025 to the Court. None of the Noting in Default documents submitted by Mr. Zarate were accepted for filing by the Court for various reasons. As a result, no Defendants were noted in default. After Mr. Zarate had attempted noting them in default, on November 14, 2025, the Defendants Amherst Chrysler (1999) Limited, Mike Allen, and John Richard filed a Statement of Defence containing general denials. None of the other Defendants filed a defence.

[7] The parties filed written briefs in advance of the case conference as requested by the Court. On December 16, 2025, I held the case conference. All parties appeared.

[8] As part of the case conference, I heard brief oral submissions from the parties on (a) the appropriateness of engaging the CPN7 process to review the Amended Statement of Claim and (b) the purported noting in default of the Defendants by Mr. Zarate.

[9] At the conclusion of the case conference, I reserved my decision as to whether to engage the CPN7 process and granted a Case Management Order imposing an interim stay on the Action pending my decision, as well as declaring that none of the Defendants had been noted in default and that all Defendants could participate in this process.

[10] I have now reviewed and considered the Amended Statement of Claim along with CPN7. Based on my review of the facts and analysis of the law, I find the Amended Statement of Claim appears on its face to be frivolous, vexatious, or an abuse of process. I find that this is one of those exceptional cases where the “defect on the pleading is evident on its face *and* there is a reason to prefer [CPN7] to the ordinary Court procedure”: see *Trafigura Canada Limited v Hultink*, 2024 ABCA 317 at para 6, citing *Wilyman v Cole*, 2024 ABCA 41 at paras 12, 14, 20, 24 [emphasis in original] and *De’Medici v Wawanesa Mutual Insurance Company*, 2023 ABKB 210 at paras 9 and 28.

[11] The Amended Statement of Claim seeks a total of \$17,500,000.00 CAD from the Defendants. At the heart of the claim is the plea of Mr. Zarate that he, his 7 year old daughter, and wife are stranded abroad (at an undisclosed location) due to the cancellation of his Canadian passport, which he claims was directly caused by the “false criminal accusation originating from Amherst, Nova Scotia”. Mr. Zarate claims that he and his family have been displaced for more

than 847 consecutive days (as of the date of filing) in what he pleads is involuntary exile, resulting in severe emotional, financial and psychological harm which he alleges stems from the misconduct particularized in the Amended Statement of Claim.

[12] The Amended Statement of Claim appears to be grounded in criminal proceedings arising in Nova Scotia against Mr. Zarate, and the underlying events giving rise to those criminal proceedings, as well as the way those criminal proceedings have unfolded. It alleges “malicious prosecution, abuse of process, defamation, Charter violations, civil conspiracy, and associated damages” by the Defendants.

[13] The stated reason the claim is filed in Alberta is in reference to multiple proceedings apparently previously brought by Mr. Zarate in Nova Scotia. The Amended Statement of Claim alleges that Mr. Zarate has developed “a complete and well-founded lack of confidence in the impartiality of judicial and prosecutorial authorities of the Province of Nova Scotia.”

[14] The underlying background facts arise from 2018. The Amended Statement of Claim details the seizure of a 2018 Jeep Wrangler financed through the Defendant Amherst Chrysler in Nova Scotia, which was seized in the Province of Québec in January of 2020, and then sold in May of 2021. Although dates are not provided, it is clear from the Amended Statement of Claim that criminal charges were laid in Nova Scotia, in some way, around this time, against Mr. Zarate, which Mr. Zarate further alleges led to the revocation or refusal of authorities to renew his passport. Mr. Zarate pleads that certain of the Defendants defamed him in this process, and that other Defendants are vicariously liable as a result. He also pleads that there has been certain misconduct and collusion amongst the Defendants in relation to his criminal proceedings, all of which he says have led to the revocation of his passport and his current situation.

[15] I have several concerns with respect to the Amended Statement of Claim on its face:

- (a) The factual foundation and related acts plead in the Amended Statement of Claim refer to events taking place in 2018-2021 (regarding the seizure and sale of the Jeep and related proceedings, and the alleged defamatory statements and other related actions). The revocation of Mr. Zarate’s passport was more than two years prior to the filing of the claim (he pleads having been in exile for 847 days as at the date the Amended Statement of Claim was filed). These occurrences are outside of the limitation period in the *Limitations Act*, RSA 2000, c L-12.
- (b) The Court may not have jurisdiction over the parties and subject matter of the dispute. This includes jurisdiction over Mr. Zarate, several of the Defendants, and the subject matter of the claims made. Mr. Zarate pleads that he “elected” to proceed in Alberta given his dissatisfaction with his litigation experience in Nova Scotia. However, that is not sufficient reason for this Court to establish jurisdiction. Further, Nova Scotia legislation may well be applicable to some of the Defendants and the allegations in the claim, including but not limited to the *Municipal Government Act*, SNS 1998, c 18 and the *Proceedings Against the Crown Act*, RSNS 1989, c 360.
- (c) Mr. Zarate has not plead his allegations pursuant to the *Rules* or other legislation which may be applicable for a claim in Alberta, such as the *Defamation Act*, RSA 2000, c D-7.

- (d) The matters contained within the Amended Statement of Claim may be *res judicata*, a collateral attack, or an abuse of process. There appears to be ongoing and/or concluded legal proceedings in the Provinces of Nova Scotia and Québec. There are references to proceedings brought by Mr. Zarate in Nova Scotia. The vehicle in question appears to have been the subject of Québec legal proceedings. There are references to media being sued for defamation, without reference to jurisdiction (although Mr. Zarate indicated in argument this suit is in Montana, USA, I cannot have regard to this and must take the Amended Statement of Claim on its face). Mr. Zarate pleads that he has sworn an information under s. 504 of the *Criminal Code* in Newfoundland and Labrador Provincial Court against some of the Defendants. A complaint to the Chief Judge of Nova Scotia is referenced. In his representations to this Court, Mr. Zarate referred to proceedings before the Federal Court of Canada concerning his passport, which again, I specifically do not rely upon as this is not contained in the pleading. It is an abuse of process to commence a new claim in a different province/state or court to directly or indirectly attack other legal or administrative proceedings, or to seek the same or similar relief. Such efforts may be prevented through cause of action estoppel (preventing a litigant from bringing additional claims based on the same claim or cause of action) or issue estoppel (preventing a litigant from attempting to litigate or relitigate specific issues from an original claim): **864503 Alberta Inc v Genco Place Properties Ltd**, 2019 ABCA 80 at paras 22-27. Litigants are expected to follow appropriate appeal processes and to respect the results once those appeal rights are exhausted.
- (e) There is no assertion in the claim that the criminal proceedings in Nova Scotia have been terminated in Mr. Zarate's favour, such as would give rise to a malicious prosecution claim.
- (f) It is not clear how this Court would have jurisdiction to hear a claim for abuse of process arising from criminal proceedings underway in Nova Scotia.
- (g) With respect to Mr. Zarate's grievances concerning his passport, this Court does not have jurisdiction. Rather, the Federal Court has jurisdiction over such matters pursuant to the *Citizenship Act*, RSA 1985, c C-29 and the regulations thereunder, including the *Canadian Passport Order*, SI/81-86. It is unclear how the Amended Statement of Claim is "wholly independent" from any passport related claims that the Federal Court would have jurisdiction over, since Mr. Zarate seems to be seeking a declaration that his rights under the *Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982* ("*Charter*") have been violated as a result of the cancellation of his passport and monetary damages on that basis.
- (h) Mr. Zarate appears to seek impossible relief and excessive monetary damages which may be disproportionate to the harms alleged, as well as relief on behalf of non-parties. This can be indicative of a vexatious claim.

[16] Given the above, I direct the following as the next steps:

- (a) The Clerk of the Court shall file and serve this Apparent Vexatious Application or Proceeding Notice ("**AVAP Notice**") on Mr. Zarate and the Defendants.

- (b) If Mr. Zarate wishes to respond to this AVAP Notice, he must prepare a Written Submission of no more than 10 pages. In his submissions, he may wish to address, among other things, the following questions:
- (i) How are the claims in the Amended Statement of Claim not statute barred by the operation of the *Alberta Limitations Act*?
  - (ii) How does Mr. Zarate suggest there is a real and substantial connection between the subject matter of his Amended Statement of Claim and Alberta? Simply asserting that he maintains a “legal address” in the province is not a sufficient explanation to ground his claim before this Court.
  - (iii) How does this Court have jurisdiction to adjudicate claims made against His Majesty the King in Right of the Province of Nova Scotia and the Town of Amherst, Nova Scotia?
  - (iv) On what basis does this Court have jurisdiction over allegations of abuse of process in the criminal proceedings in Nova Scotia?
  - (v) On what basis does this Court have jurisdiction over allegations of malicious prosecution in criminal proceedings in Nova Scotia?
  - (vi) Even if there is jurisdiction, on what basis does Mr. Zarate ground his plea of malicious prosecution, if the criminal proceedings in Nova Scotia are ongoing and have not been terminated in his favour?
  - (vii) Mr. Zarate acknowledges that he has “exhausted all meaningful remedies” within the Province of Nova Scotia and now “elects” to litigate in “the neutral jurisdiction of Alberta” to “pursue justice”. How are his efforts before this Court not an attempt to forum shop, and litigate or relitigate the same issues that have been or are being decided by courts elsewhere?
  - (viii) What particulars, if any, are there regarding the defamation claims made beyond those contained in the Amended Statement of Claim? Particulars could include the specific words used, who published the statement, when the statement was published, where it was published, and include an explanation of how the words used were defamatory, how they were published to a third party, and how they were false.
  - (ix) To the extent not pleaded already, what is the legal basis for the vicarious liability claims made against any defendants in the Amended Statement of Claim?
  - (x) On what basis does this Court have jurisdiction to entertain the passport related and *Charter* claims alleged in the circumstances?
  - (xi) Mr. Zarate may wish to clarify his request for a declaration that the Defendants violated his *Charter* rights as it is unclear which Defendant(s) supposedly breached his rights and the purported rights at issue, and how those rights were violated.

- (xii) On what basis is the amount of monetary relief sought in the Amended Statement of Claim fair, reasonable, and appropriate? On what basis is Mr. Zarate, in his personal capacity, entitled to recover for other individuals or corporations?
- (c) Mr. Zarate must file and serve his Written Submission within 14 calendar days after receiving this AVAP Notice. The Written Submission must be emailed to my judicial assistant at the address Mr. Zarate has previously used, or delivered in hard copy to my attention, at the Calgary Court Centre, 601 – 5<sup>th</sup> Street SW, Calgary, Alberta T2P 5P7, and must be marked “To the Attention of Justice D.J. Reed”. It must also be served on all the Defendants.
- (d) If Mr. Zarate does not file and serve a Written Submission by the deadline, the Court will make a final decision on whether the Amended Statement of Claim should be struck out in whole or in part under rule 3.68 of the *Alberta Rules of Court*.
- (e) If Mr. Zarate does file and serve a Written Submission, each of the Defendants has seven days to provide a Written Reply of up to 10 pages. The Written Replies must be addressed to my attention and should be sent to the address or in the manner set out in paragraph “c” above. They must also be served on Mr. Zarate, with e-mail service being sufficient.
- (f) Once the Court receives Mr. Zarate’s Written Submission (if any) and the Defendants’ Written Replies (if any), the Court will make a final decision on whether the Amended Statement of Claim should be struck out in whole or in part under rule 3.68 of the *Alberta Rules of Court* without any further hearing.

[17] The *Alberta Rules of Court* and any case law cited herein can be accessed for free at <https://www.canlii.org/>.

[18] Further to the Case Management Order granted at the case conference, this Action continues to be subject to an interim stay pending the completion of the CPN7 process.

Heard on the 16<sup>th</sup> day of December, 2025.

**Dated** at the City of Calgary, Alberta this 15<sup>th</sup> day of January, 2026.

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**D.J. Reed**  
**J.C.K.B.A.**

**Appearances:**

Robert Paul Yann Zarate  
Plaintiff (Self-Represented Litigant)

Renee Reichelt and Heather Stock  
for the Defendant, The Bank of Nova Scotia and  
Jean-Sébastien Perreault

Glenn R. Anderson, KC  
for the Defendant, His Majesty the King in Right  
of the Province of Nova Scotia (as represented by  
the Attorney General of Nova Scotia)

Thomas Morehouse  
for the Defendant, The Town of Amherst and  
Constable Tom Wood

Terry Farrell and Lucas Doucette (articled clerk)  
for the Defendants, Amherst Chrysler (1999) Limited,  
Mike Allen and John Richard