Federal Court Cour fédérale

Date: 20260224

Docket: T-2755-24

Toronto, Ontario, February 24, 2026

PRESENT: Madam Justice Go

BETWEEN:

ALLAN BARRY LABOUCAN

Plaintiff

and

HIS MAJESTY THE KING

Defendant

ORDER AND REASONS

I. Overview

[1] Mr. Allan Barry Laboucan [Plaintiff] seeks an interlocutory injunction staying all collection activities by the Canada Revenue Agency [CRA] against him, including all third-party demands, pending final determination of the underlying action, and an order requiring the CRA to return the money seized from his stockbroker account.

[2] The Minister of National Revenue [Minister] reassessed Mr. Laboucan for the 2004-2007 and 2009-2017 taxation years. Mr. Laboucan had attempted to appeal the reassessments in the Tax Court of Canada without success.

[3] Mr. Laboucan brought an action to this Court disputing the CRA's authorities to require him to file tax returns and pay taxes. Mr. Laboucan's action invokes the *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, Schedule B to the *Canada Act 1982* (UK), 1982, c 11, the *Royal Proclamation of 1763*, and the United Nations Declaration on the Rights of Indigenous Peoples.

[4] I dismiss Mr. Laboucan's interlocutory motion for the reasons set out below.

II. Background

[5] Mr. Laboucan submits that his deceased father was born to Indigenous parents from the Cree Nation in the northern region of Alberta covered by Treaty 8, and that his great-great-great-grandfather Duncan Testawich was a signatory to Treaty 8.

[6] Treaty 8 is one of eleven treaties concluded between 1871 and 1921 between the Crown and various Indigenous peoples. Treaty 8 was signed in 1899 between the Crown and the Cree and Dene peoples in the Lesser Slave Lake and the Peace River area.

[7] Treaty 8 was negotiated on behalf of the Crown by Treaty Commissioners [Commissioners]. Mr. Laboucan alleges that during the treaty-making process for Treaty 8, the

Commissioners assured the Indigenous peoples that the Treaty did not open the way for the imposition of any tax.

[8] While acknowledging the importance of treaties as foundations for the ongoing pursuit of reconciliation, the Defendant pleads that Treaty 8 does not contain a provision exempting treaty members from taxes. Further, the Defendant argues that a large and liberal interpretation of Treaty 8 does not provide a guarantee, promise or commitment by the Crown that Treaty 8 beneficiaries would enjoy a general tax exemption or have the right to be exempt from tax at any time for any reason.

[9] The Defendant submits that in *Canada v Benoit*, 2003 FCA 236 [*Benoit*], the Federal Court of Appeal found it was not established that the Aboriginal signatories of Treaty 8 understood that the Commissioners had made a promise exempting them from taxation at any time for any reason: *Benoit* at para 118.

[10] In reply, Mr. Laboucan submits that the jurisprudence has evolved since *Benoit*, citing *Beckman v Little Salmon/Carmacks First Nation*, 2010 SCC 53; *Mikisew Cree First Nation v Canada*, 2018 SCC 40; *Ontario (Attorney General) v Restoule*, 2024 SCC 27 as demonstrating the Courts' recognition of the crown's obligation to be respectful of Indigenous People's rights.

[11] Both the text of Treaty 8 and the Commissioners' notes can be found in the following link on the Government of Canada's website: https://www.rcaanc-cirnac.gc.ca/eng/1100100028813/1581293624572.

III. Preliminary Issues

[12] The Defendant asks the Court to strike the Supplementary Affidavit filed by Mr. Laboucan from the Record.

[13] As a procedural background, by order dated December 11, 2025, Associate Judge Ring, the Case Management Judge [CMJ] for this matter, ordered Mr. Laboucan to serve his affidavits in support of his motion by December 23, 2025, and the parties to complete cross-examinations on their affidavits by January 26, 2026 [December 11, 2025 Order].

[14] Mr. Laboucan, who is self-represented, attempted to file a motion record on December 15, 2025, which was rejected for filing. On December 23, 2025, Mr. Laboucan submitted his motion record, and the document was returned with an explanation that the motion record must be filed with proof of service, and in accordance with all the steps set out in the December 11, 2025 Order.

[15] On January 20, 2026, Mr. Laboucan attempted to file and serve a Supplementary Affidavit which purports to put into evidence correspondence about ongoing collections efforts by the CRA. The exhibits are neither stamped nor true copies of the correspondence. Mr. Laboucan did not seek leave from the Court nor the Defendant’s consent to file the Supplementary Affidavit.

[16] On January 30, 2026, the CMJ issued the following direction with respect to the filing of Mr. Laboucan's documents:

> *"The motion record of the Plaintiff, Mr. Laboucan, along with proof of service tendered on January 23, 2026 were referred to the Court for directions as to filing pursuant to Rule 72 of the Federal Courts Rules as the documents contain numerous deficiencies. Mr. Laboucan also submitted an undated cover letter. Some of the key deficiencies with the motion record are that Mr. Laboucan has included a supplementary affidavit without first obtaining leave to do so, both affidavits appear to be unsworn, several documents contained in the affidavits appear to be written in Spanish with no translation, and neither the Notice of Motion nor the written representations are signed. The proof of service of the motion record is also defective as it does not contain a written acknowledgement from counsel for the Defendant confirming receipt of the documents.*
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> *In light of the fact that Mr. Laboucan, who is self-represented, has already submitted his motion record on several occasions and has had it rejected for filing for deficiencies and his current submission was tendered on the due date (January 23, 2026), and given that the hearing date for the motion is fast approaching (February 18, 2026), the Court directs that Mr. Laboucan's motion record and proof of service shall be accepted for filing, notwithstanding the deficiencies noted by the Registry.*
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> *This Direction is made without prejudice to any objections which may be raised by the Defendant, including as its form and content. The admissibility of the evidence contained in the Plaintiff's motion record, and the weight to be accorded to it, if any, shall be matters within the discretion of the Motions Judge.*
>
> *The Registry is directed to send a copy of this Direction to the Motions Judge for their awareness."*

[17] The CMJ's direction made clear that while Mr. Laboucan's documents were accepted for filing, the admissibility of the evidence contained in his motion record and the weight to be accorded, if any, are matters within my discretion.

[18] I will not strike the Supplementary Affidavit from the record in light of the CMJ's direction. I will determine the appropriate weight, if any, to be assigned to the evidence.

IV. Issues

[19] The only issue in this motion is whether the Court should grant Mr. Laboucan's motion for an interlocutory injunction.

[20] The legal test for whether an injunction should be granted is set out in *RJR-MacDonald v Canada (Attorney General)*, [1994] 1 SCR 311, 111 DLR (4th) 385 [*RJR-MacDonald*]. An injunction is warranted only if all three elements of the test are satisfied, namely: a) whether there is a serious issue to be tried; b) whether the party applying for the injunction would suffer irreparable harm if the injunction were not granted; and c) whether the balance of convenience favours the granting or denying the interlocutory injunction.

[21] As the Supreme Court of Canada explained, "[u]ltimately, the question is whether granting the injunction would be just and equitable in all the circumstances of the case:" *Google Inc v Equustek Solutions Inc*, 2017 SCC 34 at para 1. The analysis will necessarily be context specific: *Teksavvy Solutions Inc. v Bell Media Inc.* 2021 FCA 100 at para 60.

V. Analysis

[22] For the purpose of this motion, I will assume, without deciding, that there is a serious issue to be tried. The determinative issue in my view is whether Mr. Laboucan has demonstrated that he would suffer irreparable harm should the injunction be denied.

[23] Irreparable harm must be established through evidence showing that if the injunction is not granted, the moving party would suffer such harm between the date of the injunction application and the date the Court determines the underlying action on the merits. Further, the moving party must establish irreparable harm through clear and non-speculative evidence, on a balance of probabilities: *Mason v Canada (Attorney General)*, 2015 FC 926 [*Mason*] at para 23; *Human Care Canada Inc. v Evolution Technologies Inc*. 2019 FCA 11 at para 26. Allegations of harm that are merely hypothetical will not suffice: *Patry v Canada (Attorney General)*, 2011 FC 1032 [*Patry*] at para 53.

[24] Mr. Laboucan alleges that he would suffer irreparable harm because the CRA has seized $1,461.70 from and frozen his stockbroker account, which prevents him from trading stocks, a key way he earns his living. Mr. Laboucan alleges that he has approximately $120,000 in unrealized profit at risk due to market volatility. He further alleges that a client is withholding $30,000 due to CRA's demand. Mr. Laboucan submits that the harm to his financial stability and Treaty 8 rights as a descendant is not compensable by damages after the fact.

[25] At the hearing, Mr. Laboucan added that he relies on his earnings from his stock trading for living. Mr. Laboucan further added that the withheld payment, the seized fund, and the ongoing market risk, have altogether resulted in financial stress and in turn impaired his capacity to assert his treaty right.

[26] The Defendant submits, and I agree, because the nature of the harm being claimed is financial harm, "clear and compelling evidence is required because the nature of the harm allows it to be proven by concrete evidence:" *Newbould v Canada (Attorney General)*, 2017 FCA 106 at para 29.

[27] In the case before me, Mr. Laboucan proffered just two documents as evidence to substantiate the harm to his financial stability. The first document is an undated document purported to be issued by the "CEO" of Borealis, a mining company [Borealis document]. The Borealis document contains a single paragraph that reads: "Thanks brother wishing you a great 2026 too!! We can't do anything until the tax thing is rectified according to our lawyers (I got your note but according to my guy we need a letter). Let's touch base soon. Thanks for the support and make some money in '26!!"

[28] Mr. Laboucan points to the Borealis document as confirming that Borealis received a collection letter from CRA regarding amounts potentially payable to him under a contract valued at $30,000.00. However, the Borealis Document itself contains no details about what, if any payment, that Borealis may be withholding from Mr. Laboucan, or whether their decision to withhold fund is due to the collection activities of the CRA.

[29] A second document provided by Mr. Laboucan is an undated correspondence issued by a senior investment advisor assistant to Canacord Genuity Corp which states as follows:

> Dear Allan,
>
> Our compliance received the CRA letter yesterday morning and have action according to the requirement to pay $1461.70 to CRA. We have to procced [*sic*] as per the letter.
>
> Please send us a copy of the stay order when you received it & we will forward it to our Legal team for review. They will advise on to proceed with the account.

[30] I am willing to accept, for the purpose of this motion, that Mr. Laboucan's account at Canacord was frozen on or about December 5, 2025 when the amount of $1,461.70 was paid to the CRA, as he stated in his Supplementary Affidavit.

[31] However, taken together, I find the evidence Mr. Laboucan put forth falls short of demonstrating irreparable harm.

[32] While I do not expect Mr. Laboucan to provide evidence regarding all aspects of his financial situation to demonstrate irreparable harm, the absence of any concrete evidence, apart from his assertions, without more, is insufficient to satisfy the second prong of the *RJR-MacDonald* test: *Mason* at para 23.

[33] For instance, without knowing how much total income Mr. Laboucan earns from all sources, including from stock trading, the Court cannot assess the harm on Mr. Laboucan resulting from a seizure of an amount just shy of $1,500.00. While Mr. Laboucan asserts that he is under financial stress, the lack of evidence of any actual default on payment on any of his

financial debt or obligation, or evidence of an inability to cover his expenses for the necessities of life, leaves his assertion unsubstantiated.

[34] Further, I note that Mr. Laboucan has provided no evidence to substantiate his claim with regard to the $120,000 in unrealized profit, and insufficient evidence to show that his client has withheld a $30,000 payment from him.

[35] I also reject Mr. Laboucan's claim that he would suffer irreparable harm because his Treaty 8 rights as a descendant is not compensable by damages after the fact. He has not demonstrated what damage to his alleged Treaty 8 right, other than his assertion of financial harm, he would suffer, between now and the final determination of the action herein.

[36] As such, I find Mr. Laboucan fails to provide clear and non-speculative evidence to demonstrate that he would suffer irreparable harm on a balance of probabilities.

[37] Having determined Mr. Laboucan has failed to demonstrate irreparable harm, I also find the balance of convenience favours the Defendant.

[38] While I appreciate Mr. Laboucan's conviction to honour the spirit of his ancestors by challenging the authorities of the Crown to impose income tax on all descendants of Treaty 8, at this stage, I need to consider the harm to Mr. Laboucan versus harm to the Defendant, including any harm to the public interest, based on the evidence before me.

[39] There is a public interest in allowing the Minister to continue to perform a statutory duty to collect tax debts: *Patry* at para 100; *Queen v Gilbert*, 2007 FCA 254 at para 6; *Markevich v Canada*, 2003 SCC 9 at para 20. It is through the collection of taxes that the Government of Canada can pay for such needed services like health care to all Canadians. The public interest of collecting tax debts exists irrespective of whether Mr. Laboucan's action will ultimately prevail.

[40] The Defendant argues, and I agree, that Mr. Laboucan has not established sufficient potential harm to himself that would outweigh the public interest. For this reason, the balance of convenience favours the Defendant.

VI. Conclusion

[41] The Plaintiff's motion is dismissed, with costs in the cause.

ORDER in T-2755-24

THIS COURT'S ORDER is that:

1. The Plaintiff's motion for an interlocutory injunction is dismissed.

2. Costs in the cause.

"Avvy Yao-Yao Go"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-2755-24
STYLE OF CAUSE:	ALLAN BARRY LABOUCAN v HIS MAJESTY THE KING
PLACE OF HEARING:	HELD VIA VIDEOCONFERENCE
DATE OF HEARING:	FEBRUARY 18, 2026
ORDER AND REASONS:	GO J.
DATED:	FEBRUARY 24, 2026

APPEARANCES:

Allan Barry Laboucan	FOR THE PLAINTIFF (ACTING ON THEIR OWN BEHALF)
Mark Shearer	FOR THE DEFENDANT

SOLICITORS OF RECORD:

Attorney General of Canada Vancouver, British Columbia	FOR THE DEFENDANT