

Court File No : 4-20-24

FEDERAL COURT OF APPEAL

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BETWEEN:

PUBLIC SERVICE ALLIANCE OF CANADA

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| FEDERAL COURT OF APPEAL | | D É P O S É |
| COUR D'APPEL FÉDÉRALE | | |
| F I L E D | JAN 15 2024 | |
| | Applicant | |
| | BRITNEY CHANNER | |
| TORONTO, ON | | 1 |

-and-

PAUL ABI-MANSOUR

Respondent

NOTICE OF APPLICATION

(Section 40 of the *Federal Courts Act*)

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

JAN 15 2024
January _____, 2024

JENA RUSSELL
REGISTRY OFFICER
AGENT DU GREFFE

Issued by: _____

(Registry Officer)

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APPLICATION

This is an application for a vexatious litigant order pursuant to subsection 40 (1) of the *Federal Courts Act*. The Applicant is a certified bargaining agent under several labour relations statutes, including the *Federal Public Sector Labour Relations Act*, SC 2003, c 22, s 2 ("FPSLRA"). The Respondent is, or used to be, a member of one of the bargaining units for which the Applicant is certified under the FPSLRA.

On April 9, 2018, the Respondent filed a complaint against the Applicant under section 187 of the FPSLRA, alleging the Applicant had breached its duty of fair representation to him by not supporting a grievance against his employer. On June 6, 2018, the Federal Public Sector Labour Relations & Employment Board ("FPSLREB") dismissed the complaint on the basis of the written submissions before it.

The Respondent sought judicial review of the dismissal, but the Federal Court of Appeal dismissed the application on March 8, 2023, after the Respondent unsuccessfully moved for an extension of time to file his Rule 306 affidavit. The Court dismissed the Respondent's reconsider request on June 5, 2023. The FPSLREB and the Court proceedings are collectively referred to as the "DFR Proceeding". The Respondent has repeatedly communicated his desire to seek leave to appeal the Court's decision, as recently as October 10, 2023.

Throughout the DFR Proceeding, the Applicant frequently missed deadlines, baselessly accused the FPSLREB and the Court of bias, made scandalous and unsupported allegations against the Applicant and its representatives, filed pointless motions, and relitigated previously decided matters. The Court admonished the Respondent for his behaviour, calling it abusive and vexatious, and ordered costs in the Applicant's favour, which the Respondent refuses to pay.

The foregoing proceeding was not an isolated incident, but the latest episode in the Respondent's lengthy litigation history. The Respondent frequently initiates and continues legal proceedings in a vexatious manner and none of the numerous warnings from courts or administrative tribunals have changed his behaviour. A vexatious litigant order is thus necessary to protect this Court's resources and shield innocent parties from meritless litigation.

The applicant makes application for:

- a) A vexatious litigant order against the Respondent, which would:
 - a. Declare the Respondent a vexatious litigant pursuant to subsection 40(1) of the *Federal Courts Act*;
 - b. Bar the Respondent from commencing any proceedings in this Court without first obtaining leave to do so;
 - c. Stay any proceedings initiated by the Respondent now before the Court and not continue those proceedings without leave;

- d. As part of any leave application to initiate or continue a proceeding, require the Respondent to, in addition to satisfying the criteria in subsection 40(4) of the *Federal Courts Act*, demonstrate that he has fully paid all outstanding costs awards against him in this Court; and
- b) The costs of this application.

The grounds for the application are:

- a) An additional layer of regulation supplied by a vexatious litigant order is necessary, imposing one is consistent with the purposes of vexatious litigant legislation, and the Respondent's ungovernability and harmfulness to the court system and its participants justifies a leave-grant process for new proceedings, because the Respondent, both during the DFR Proceeding and throughout his litigation history, has:
 - a. Been admonished by various courts for engaging in vexatious and abusive behaviour;
 - b. Instituted frivolous proceedings (including motions, applications, actions and appeals);
 - c. Made scandalous and unsupported allegations against opposing parties of the Court (and the Court itself);
 - d. Relitigated issues which have already been decided against him;
 - e. Unsuccessfully appealed interlocutory and final decisions as a matter of course;
 - f. Ignored court orders and court rules; and
 - g. Refused to pay outstanding costs awards.

This application will be supported by the following material:

- a) The affidavits of Sherrill Robinson-Wilson, Mariah Griffin-Angus, Eve Berthelot, and Katherine Bordeleau, including the exhibits attached thereto, which will describe the Respondent's conduct during and after the DFR proceeding;
- b) The Attorney General's consent pursuant to subsection 40(2) of the *Federal Courts Act*; and
- c) Such further and other material as counsel may advise and this Honourable Court may permit.

Dated at Toronto, this 15 day of January, 2024.



Per: Aaron Lemkow

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Solicitor for the Applicant

I HEREBY CERTIFY that the above document is a true copy of
the original issued out of / filed in the Court on the _____

day of JAN 15 2024 A.D. 20 _____

Dated this _____ day of JAN 15 2024 20 _____

