

Federal Court



Cour fédérale

Date: 20210330

Docket: T-1140-19

Citation: 2021 FC 275

Ottawa, Ontario, March 30, 2021

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

TANYA REBELLO

Plaintiff

and

**THE MINISTER OF JUSTICE AND
THE ATTORNEY GENERAL OF CANADA
AND THE PRIME MINISTER OF CANADA**

Defendants

ORDER AND REASONS

UPON CONSIDERING the Plaintiff's motion in writing filed March 10, 2021 requesting the reconsideration of my Order and Reasons dated March 2, 2021 in this matter (2021 FC 192), wherein I struck the Plaintiff's Statement of Claim in its entirety and without leave to amend;

AND UPON CONSIDERING the Defendants' written submissions filed March 16, 2021, requesting the Plaintiff's motion be dismissed;

AND UPON CONSIDERING the Plaintiff's reply submissions filed March 22, 2021;

THIS COURT ORDERS THAT: the Plaintiff's motion for reconsideration is dismissed.

[1] The Plaintiff's motion for reconsideration is brought under Rule 397(1)(b) of the *Federal Courts Rules*, SOR/98-106 ("Rules"):

397 (1) Within 10 days after the making of an order, or within such other time as the Court may allow, a party may serve and file a notice of motion to request that the Court, as constituted at the time the order was made, reconsider its terms on the ground that

[...]

(b) a matter that should have been dealt with has been overlooked or accidentally omitted.

397 (1) Dans les 10 jours après qu'une ordonnance a été rendue ou dans tout autre délai accordé par la Cour, une partie peut signifier et déposer un avis de requête demandant à la Cour qui a rendu l'ordonnance, telle qu'elle était constituée à ce moment, d'en examiner de nouveau les termes, mais seulement pour l'une ou l'autre des raisons suivantes :

[...]

b) une question qui aurait dû être traitée a été oubliée ou omise involontairement.

[2] The purpose of Rule 397 is not to reverse a decision that has already been issued (*Taker v Canada (Attorney General)*, 2012 FCA 83 at para 4, citing *South Yukon Forest Corporation v Canada*, 2006 FCA 34), but to enable the Court to address inadvertent mistakes or omissions in a

judgment and ensure that the judgment reflects the intention of the issuing judge and deals with all of the issues that should have been adjudicated (*Pharmascience Inc v Canada (Minister of Health)*, 2003 FCA 333 at paras 12-15, and the cases cited therein).

[3] The Plaintiff claims that I overlooked the fact that the Plaintiff attempted to join the hearing on February 23, 2021 with respect to my March 2, 2021 Order and Reasons after the hearing had commenced, and that the Plaintiff was unable to make oral submissions because the videoconference for the hearing was “locked.”

[4] I did not overlook these issues in my March 2, 2021 Order and Reasons, wherein I recognized that the Plaintiff was unable to make oral submissions because she was not present at the hearing. I explained in my Order and Reasons that it was the Plaintiff’s responsibility to ensure she attended the hearing before it commenced and before the videoconference was “locked.”

[5] As the Plaintiff does not seek to correct an inadvertent error or omission but rather re-argues matters previously considered and rejected by the Court, I dismiss the Plaintiff’s motion for reconsideration.

[6] The Defendants request that they be awarded costs if they are successful in this motion. Considering that costs are ultimately in the discretion of the Court, I find that this motion does not warrant an award for costs.

ORDER AND REASONS IN T-1140-19

THIS COURT ORDERS that:

1. The Plaintiff's motion for reconsideration of my March 2, 2021 Order and Reasons is dismissed.
2. No costs are awarded.

"Shirzad A."

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1140-19

STYLE OF CAUSE: TANYA REBELLO v THE MINISTER OF JUSTICE
AND THE ATTORNEY GENERAL OF CANADA
AND THE PRIME MINISTER OF CANADA

MOTION IN WRITING PURSUANT TO RULE 397(1)(b) OF THE *FEDERAL COURT RULES*

ORDER AND REASONS: AHMED, J.

DATED: MARCH 30, 2021

WRITTEN SUBMISSIONS BY:

Tanya Rebello

FOR THE APPLICANT
(ON HER OWN BEHALF)

Benjamin Wong

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Toronto, Ontario

FOR THE RESPONDENT