

Date: 20090928

Docket: T-353-09

Citation: 2009 FC 976

Vancouver, British Columbia, September 28, 2009

PRESENT: The Honourable Mr. Justice Barnes

BETWEEN:

SOHEIL K. SHARAFABADI

Appellant (Plaintiff)

and

**HER MAJESTY THE QUEEN IN RIGHT
OF CANADA AS REPRESENTED BY THE MINISTER
OF AGRICULTURE AND AGRIFOOD CANADA (AAFC),
CANADIAN MUSTARD ASSOCIATION,
MR. STEVE FOSTER**

Respondents (Defendants)

REASONS FOR ORDER AND ORDER

[1] This is an appeal brought under Rules 369 and 51 of the *Federal Courts Rules*. The Plaintiff seeks to set aside various directions issued under case management by Prothonotary Roger L. Lafrenière and the Prothonotary's further Order granting the Defendants' motion to strike out the

Statement of Claim against Steve Foster. The Plaintiff also challenges the Prothonotary's concurrent decision by which the Plaintiff's summary judgment motion was dismissed.

[2] I accept that the appeal from the Order striking the action against Mr. Foster and dismissing the Plaintiff's motion for summary judgment raises an issue vital to the case and should, therefore, be assessed *de novo*.

[3] There is no merit to this appeal. The Prothonotary's reasons correctly state the legal principles applicable to a motion to strike in a situation where the pleadings are inadequate to support a cause of action. I can identify nothing from the Plaintiff's arguments or from my own review of the relevant documents to satisfy me that the Prothonotary erred in the application of those legal principles, nor would I have exercised my discretion any differently.

[4] The Prothonotary was also correct in dismissing the Plaintiff's motion for summary judgment filed as it was after the Defendants' motion to strike was placed before the Court.

[5] Finally, assuming without deciding that the impugned case management directions are appealable, I can identify nothing therein which is objectionable or irregular. Indeed, those directions were eminently fair and sensible in the face of the Plaintiff's rather prolix conduct.

[6] I would also be remiss if I failed to note the scandalous content of the Plaintiff's pleadings on this appeal. He has made numerous unsubstantiated allegations against the Court, opposing

counsel and the Defendants, including assertions of fraud, perjury, misrepresentation and fabrication of evidence. In these circumstances, there will be an Order for costs against the Plaintiff in favour of the Defendants, the Canadian Mustard Association and Steve Foster, in the amount of \$1000 payable forthwith.

ORDER

THIS COURT ORDERS that this appeal is dismissed with costs payable to the Defendants, the Canadian Mustard Association and Steve Foster in the amount of \$1000 payable forthwith.

“R.L. Barnes”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-353-09

STYLE OF CAUSE: SOHEIL K. SHARAFABADI v. HMQ et al.

**MOTION IN WRITING CONSIDERED AT VANCOUVER, BRITISH COLUMBIA
PURSUANT TO RULE 369**

**REASONS FOR ORDER
AND ORDER:** BARNES J.

DATED: September 28, 2009

WRITTEN REPRESENTATIONS BY:

Soheil K. Sharafabadi FOR THE APPELLANT
(self-represented)

Marlon Miller FOR THE DEFENDANT
(AAFC)

Peter Bergbusch FOR THE DEFENDANT
(Canadian Mustard Association and
Mr. Steve Foster)

SOLICITORS OF RECORD:

n/a FOR THE APPELLANT
(self-represented)

John H. Sims, Q.C. FOR THE DEFENDANT
Deputy Attorney General of Canada (AAFC)
Saskatoon, SK

Balfour Moss LLP FOR THE DEFENDANT
Barristers & Solicitors (Canadian Mustard Association and
Regina, SK Mr. Steve Foster)