Federal Court Cour fédérale

Date: 20220314

Docket: T-756-20

Citation: 2022 FC 343

Ottawa, Ontario, March 14, 2022

PRESENT: Mr. Justice Pentney

BETWEEN:

CHINEDU GIDEON UBAH

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

<u>ORDER AND REASONS</u>

[1] The Applicant, Chinedu G. Ubah, brings a preliminary motion seeking permission to bring an application under subsection 40(3) of the *Federal Courts Act*, RSC 1085, c F-7 [the *Act*], for leave to appeal the order issued February 14, 2022 removing his amended Statement of Claim from the record and dismissing his action.

[2] The background to this matter includes the following steps. On July 16, 2020, the Applicant filed a Statement of Claim alleging that various persons working for Immigration, Refugees and Citizenship Canada (IRCC) had wronged him. It is not necessary to recount these

claims in great detail because on December 10, 2020, Prothonotary Ring struck out this Statement of Claim for failing to disclose a reasonable cause of action and for being vexatious. The Applicant was granted leave to amend his Statement of Claim.

[3] The matter was stayed on February 21, 2021, pending the outcome of an application to have the Applicant declared a vexatious litigant. An Order declaring the Applicant a vexatious litigant was granted by Justice Pallotta on December 23, 2021 (2021 FC 1466). However, in that Order, Justice Pallotta specifically noted that the instant matter (Court File Number T-756-20) was being case-managed, and that a motion to strike the Applicant's Statement of Claim had been granted. She therefore indicated that "[i]f Mr. Ubah's amended statement of claim in T-756-20 is not struck out, and the proceeding is allowed to continue in whole or in part, then the Court can decide whether, in addition to case management, the proceeding should be subject to the terms of this order or other restrictions should be imposed, as the Court considers appropriate."

[4] This brings us to the subject matter of the current request. On February 14, 2022, Prothonotary Steele, having considered the submissions of the parties, ordered: "The Amended Statement of Claim filed by the Applicant should be removed from the record, and the action is consequently dismissed." Prothonotary Steele further ordered: "Any further step in this proceeding, including any appeal of this Order, shall comply with the terms of the Vexatious Litigant Order dated December 23, 2021."

[5] One of the terms of the Vexatious Litigant Order is that the Applicant obtain permission from the Court before seeking leave to institute any new proceeding or continue any previously

instituted proceeding, by bringing a preliminary motion to obtain such permission, subject to a number of restrictions as to the material he can file in support of such a request.

[6] The only question before the Court is whether to grant the Applicant permission to seek leave under subsection 40(3) of the *Act* to pursue an appeal of the Order of Prothonotary Steele. The Respondent took no position on the Applicant's request for permission, but indicated that if such permission is granted, they intend to oppose his motion for leave.

[7] This is an unusual case. As Justice Stratas noted in *Bernard v Canada (Professional Institute of the Public Service)*, 2020 FCA 211 [*Bernard*] at paragraph 4: "Vexatious litigants almost never apply for leave. As a result, this Court has never discussed the criteria for leave, aside from some brief, passing observations in a couple of cases." Although this comment refers to the process for seeking leave in the Federal Court of Appeal, the same is true for this Court, even more so in regard to the criteria to apply when a vexatious litigant seeks permission to seek leave.

[8] It is necessary, therefore, to step back and to consider this matter in light of the general purpose of the leave requirement and the additional requirement to seek permission before seeking leave in vexatious litigant proceedings, followed by a consideration of the specific circumstances here. These include the reasons why the Applicant was declared a vexatious litigant by Justice Pallotta, as well as the reasons provided by Prothonotary Steele.

A. *Vexatious litigant proceedings and the leave requirement*

[9] It is now well-recognized that vexatious litigant proceedings under section 40 of the *Act* are intended to recognize that "the Federal Courts are community property that exists to serve

everyone, not a private resource that can be commandeered in damaging ways to advance the interests of one" (*Canada v Olumide*, 2017 FCA 42 [*Olumide*] at para 17). In *Olumide*, Justice Stratas went on to describe the purposes and effects of a vexatious litigant order under section 40 of the *Act*, including that the leave requirement is a means of controlling an individual's access to the Courts and their resources. At paragraph 28 of *Olumide*, Stratas J.A. cited with approval the following description of the impact of such an order: "the only legal effect of any order under subsection 40(1) is to ensure that the claims of such litigants are pursued in an orderly fashion, under a greater degree of Court supervision than applies to other litigants (*Canada (Attorney General) v Mishra*, [2000] FCJ no 1734, 101 ACWS (3d) 72 (FCA))".

[10] In *Simon v Canada (Attorney General)*, 2019 FCA 28 [*Simon*], Justice Stratas discussed the rationale and criteria for a vexatious litigant order under section 40 of the *Act*. He noted at paragraphs 14-16 that:

> [14] Some litigants are simply ungovernable. They ignore all the rules, do not respond constructively to the considerable attention and assistance courts give to them, flout court orders, and persist in litigation doomed to fail—sometimes resurrecting it after it is struck, and then resurrecting it again and again.
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> [15] Other litigants are simply harmful. They force opposing parties to defend unmeritorious or duplicative litigation and drain the scarce and finite resources of the court by the quantity of pointless litigation, the style or manner of their litigation, their motivations, intentions, attitudes and capabilities while litigating, or any combination of these things.
>
> [16] At a certain point, enough is enough and practicality must prevail: the extra layer of regulation supplied by a vexatious litigant declaration is necessary, just and responsible. See generally *Olumide* at paras. 20-22 and 32-34.

[11] In *Simon*, the proper threshold for vexatious litigant declarations was described in this way, at paragraph 18: “The threshold is best expressed by a question: does the litigant’s ungovernability or harmfulness to the court system and its participants justify a leave-granting process for any new proceedings?”

[12] One of the common ways that courts seek to exercise an extra degree of regulation over vexatious litigants is by imposing a requirement that the person seek leave of the court before commencing any new litigation, or taking further steps in any ongoing matters. The criteria for granting leave to a vexatious litigant to commence or pursue a proceeding was recently discussed in *Bernard*. In that case, Justice Stratas noted at paragraph 5 that much guidance can be taken from the wording of subsection 40(4) of the *Act*, which provides that “the court may grant leave if it is satisfied that the proceeding is not an abuse of process and that there are reasonable grounds for the proceeding.”

[13] After observing that “abuse of process” can take many forms, Stratas J.A. states at paragraph 12 of *Bernard* that “[t]he willingness of vexatious litigants to obey the Rules, orders and directions of the Court is key. In many cases, the ungovernability of these litigants led to the finding of vexatiousness in the first place.” Turning to the second ground, Stratas J.A. finds that “[t]he Court must examine the basis for the proposed proceeding to assess its viability” (para 14).

[14] In respect of both branches of the analysis, Justice Stratas notes that the Court must take care to assess whether the vexatious litigant’s difficulties relate to their limited economic means (para 13) or because they lack the capacity to litigate effectively (para 19). These factors are important to ensure that people with legitimate claims are not barred from accessing the Court, and this includes individuals who have previously been found to be vexatious litigants (see

Simon at para 13). I note here that the Applicant does not refer to either of these factors and there is no reason to think that either are relevant in the matter before the Court.

[15] This sets the general framework for a consideration of whether permission should be granted to the Applicant to seek leave to appeal the Order of Prothonotary Steele. In applying this to the case at bar, it is necessary to review the reasons why the Applicant was found to be a vexatious litigant and then to examine the reasons for the Order of Prothonotary Steele he seeks to challenge.

B. *The Order declaring the Applicant a vexatious litigant*

[16] The Attorney General of Canada (AGC) applied for an order declaring the Applicant a vexatious litigant based on several arguments. As summarized by Justice Pallotta at paragraphs 2 and 3, the AGC alleged that he had previously been declared a vexatious litigant by the Alberta Court of Queen's Bench; that he had launched meritless and repetitive proceedings before this Court, and had drafted documents for other litigants before this Court; and that he had made unsubstantiated allegations of impropriety, mischaracterized Court findings, routinely sought reconsideration, made unnecessary motions, ignored the *Federal Courts Rules*, and incoherently framed pleadings.

[17] Justice Pallotta found that the Applicant "has conducted proceedings in a vexatious manner" (para 5). She noted that he was declared a vexatious litigant in the Alberta Courts and is subject to court-imposed restrictions in those courts (*Ubah v Canadian Natural Resources Limited*, 2019 ABQB 692; aff'd with a variation in the Order 2021 ABCA 5).

[18] Turning to the Applicant’s litigation history in this Court, Justice Pallotta noted that he was named as a plaintiff or applicant in seven proceedings, and in 11 others he was involved in a variety of ways, including seeking leave to represent some of the family members in their applications or swearing a supportive affidavit in the proceeding.

[19] It is not necessary to trace in detail all of the Court’s findings that resulted in the declaration that the Applicant is a vexatious litigant in this Court, because some of these grounds are not relevant to the within proceeding. Thus, for example, the Applicant’s involvement in the litigation of his family members before this Court is not an issue here.

[20] The vexatious litigant declaration rests on other grounds as well, however. This includes the finding that “[t]he AGC has established a number of *indicia* of vexatiousness, including that Mr. Ubah makes unsubstantiated allegations of impropriety and conspiracy, he wastes judicial resources by attempting to re-litigate matters even when they are settled, and he disregards the Rules for representing other litigants” (para 39). Pallotta J. found that the proceedings launched by the Applicant or his family members “demonstrate a pattern of making inaccurate and unsupported allegations”, including allegations that the AGC “has been illegally and oppressively influencing the decisions of visa officers abroad in a crusade to intimidate him” (para 40).

[21] The crux of the vexatious litigant findings that are most pertinent to the instant case are set out in the following passage:

> [41] Mr. Ubah’s repeated, unsubstantiated allegations and mischaracterization of the facts require opposing counsel and this Court to expend resources to respond. His unsubstantiated and inaccurate allegations made in response to this application added to

> the already significant amount of time that was required to review the record. Mr. Ubah makes unsupported allegations of impropriety, even after this Court's warning that they are inappropriate.
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> [42] The record demonstrates a pattern of repeating the same grounds and issues from one proceeding to another, bringing motions that complicate matters unnecessarily, and routinely seeking reconsideration or relitigation. In addition to a pattern of refusing to accept the finality of unfavourable decisions, there are examples in the record where Mr. Ubah has sought redress from the Court in proceedings where the outcome was favourable to the applicants.

[22] Having found that the Applicant's "conduct is both ungovernable and harmful, and justifies a leave-granting process for any new proceeding…" (para 43), Justice Pallotta then examined what restrictions were appropriate to seek to regulate his conduct before the Court.

[23] In addition to the requirement that he seek leave before instituting or continuing any proceeding, Justice Pallotta found that further restrictions were necessary. Of particular relevance for the instant matter, she ruled:

> [49] In light of Mr. Ubah's tendency to relitigate matters, I find that it is reasonable to impose a preliminary procedure of obtaining permission before he will be allowed to serve and file a full application for leave under subsection 40(3) of the *Act*, similar to the procedure set out in *Wilson*. [citing *Wilson v Canada (Revenue Agency)*, 2017 FC 817 [*Wilson*]).

[24] As was done in *Wilson*, Justice Pallotta also fixed the procedure and imposed limits on the materials the Applicant can file when seeking permission to seek leave of the Court, namely:

> a. Mr. Ubah shall bring a preliminary motion for permission to bring an application under subsection 40(3) of the *Act*, outlining the merits of the proposed proceeding or the proposed step in a previously instituted proceeding, which

motion shall be made in writing, and must include a copy of this Judgment;

b. the preliminary motion materials must comply with the *Federal Courts Rules*, SOR/98-106 [*Rules*] (including the formatting requirements), the accompanying affidavit must not exceed five pages in length, and the accompanying written representations must not exceed ten pages in length; otherwise, the materials will not be accepted for filing.

[25] The rationale for the requirement that the vexatious litigant seek permission of the Court before seeking leave was explained in *Wilson*, which involved a situation where the applicant had repeatedly sought to relitigate matters that were previously settled, and had failed to pay previous costs awards:

> [74] This added preliminary step of requiring concise materials to first seek the Court's permission for leave under s. 40(3) will, in my view, assist the concerned parties. First, the length requirement will focus Mr. Wilson in any future request made. Second, it will assist the Respondent in addressing the narrow issue of whether Mr. Wilson has raised any new matters, or is once again attempting to challenge finally decided matters.
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> [75] More focus has become necessary because, as is clear from the materials filed for this application, Mr. Wilson continues to bring repetitive proceedings before this Court, revisiting issues that have been previously decided, attempting to revive matters for which final orders have been issued, and appealing matters already exhausted. In doing so, materials can be voluminous and unclear, as has been observed in these Reasons. What results is the inevitable and unfortunate reality observed in *Olumide 2017*: a strain on the Court system to the detriment of other deserving users. On a tightly-framed preliminary motion, the Court can efficiently determine whether Mr. Wilson's rationale for seeking leave under s. 40(3) appears to have merit, or whether he is merely attempting to reopen settled matters.

[26] A similar Order was also granted in *Canada (Attorney General) v Lee*, 2019 FC 1614.

C. *The Order removing the Applicant's Amended Statement of Claim from the Court file and dismissing his claim*

[27] With this understanding of why the Applicant was declared a vexatious litigant, and why the requirement that he bring a preliminary motion seeking permission to seek leave of the Court to pursue or continue any proceeding, we turn to the reasons of Prothonotary Steele, which is what the Applicant wants to be able to challenge before this Court. Once again, it is not necessary to review the decision in great detail, since this is not the actual appeal; rather, it will be useful to describe the key findings before turning to the question of whether to grant the Applicant the permission he seeks.

[28] The issue before Prothonotary Steele was whether the Amended Statement of Claim submitted by the Applicant on December 14, 2020 should have been accepted by the Registry, and consequently whether he should be allowed to pursue his claim . After tracing the procedural history of the case, the Prothonotary noted that Rule 74 of the *Rules* permits the removal from the Court file of a document that is not filed in accordance with those *Rules*. She also found at paragraph 12 that "the Amended Statement of Claim is not in accordance with Rule 79, which requires any amendment to be properly underlined. Nothing is underlined." Prothonotary Steele continues:

> [14] In an effort to now comply with Rule 79, Mr. Ubah pleads and relies on Rule 60 to seek leave to correct the irregularities. Mr. Ubah has submitted two fully underlined proposed amended statements of claim, one that he states to be identical to the Amended Statement of Claim filed on December 14, 2020, and another that would also incorporate the text of the initial statement of claim, in addition to the December 14, 2020 changes. Both documents are entirely underlined. He also offers to make a motion to amend if necessary.

> [15] This is all very confusing.

[29] Prothonotary Steele explained that she was not inclined to exercise her discretion to allow a party to correct a procedural difficulty, for three principal reasons. First, the Applicant had been "clearly cautioned… by Prothonotary Ring in paragraphs 30 and 31 of her December 21, 2020 Order as to his obligations to comply with the Rules and the applicable jurisprudence" (para 17). Second, even if he was permitted to amend his pleadings again, "there is no clarity going forward. Which of the versions of the Amended Statements of Claim is Mr. Ubah intending to file?" (para 18). Third, "the irregularities in this case go beyond the mere absence of underlining pursuant to Rule 79" because the Applicant failed to comply with the December 10, 2020 Order (para 19).

[30] It will be recalled that Prothonotary Ring's Order of December 10, 2020 struck the Applicant's Statement of Claim, but also granted him leave to amend it to remedy the deficiencies she had identified. Instead, as Prothonotary Steele found at paragraphs 20 and 21:

> [20] By his own admission, Mr. Ubah has completely overhauled the initial Statement of Claim (paragraphs 3 and 4 of his Affidavit) and he has added new heads of claim, such as breach of fiduciary duty, intimidation, conspiracy, negligence for financial compensation, as well as claims for aggravated damages, punitive and exemplary damages and special damages. He has also substantially increased his request for financial compensation: what was initially a $50,000 claim has become a $500,000 claim as of December 14, 2020, just days after the issuance of Prothonotary Ring's Order.
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> [21] The Order of Prothonotary Ring does not grant leave to file an entirely new statement of claim, or even a "fresh as amended statement of claim" as pointed out previously. Rather, limited leave to amend was granted to allow Mr. Ubah to plead material facts relevant to his claim for defamation (Order, paragraphs 17, 30 and 31) and to add potential new causes of action relating to any

> underlying allegations of violations of the Canadian Charter of Rights and Freedoms (Order, paragraph 32). This limited leave is not in any way tantamount to permitting Mr. Ubah to commence an entirely new action.

[31] For these reasons, Prothonotary Steele concluded that the Amended Statement of Claim should not have been accepted for filing, and ordered that it be removed from the Court file.

[32] This is the Order that the Applicant wishes to challenge. In order to do so, he seeks permission of the Court.

D. *What is the test for granting permission to seek leave?*

[33] A few introductory comments are in order before analyzing the specific case before me. First, the requirement to seek the permission of the Court is an additional preliminary step before an application for leave is made under subsection 40(3) of the *Act*. In light of this, it would be inappropriate to apply the same criteria for granting permission as are applied for granting leave. As discussed above, in *Bernard*, Justice Stratas confirms that the focus of the analysis in deciding whether to grant leave is whether the proceeding is an abuse of process and whether there are reasonable grounds for the proceeding.

[34] In my view, taking inspiration from the *Wilson* decision that first imposed the additional requirement that a vexatious litigant first seek permission of the Court before applying for leave, the relevant considerations include the following:

A. Has the party seeking permission followed the procedural requirements set out in the Court's Order – both by seeking permission and by complying with the page

limits and any other restrictions that it imposed, such as the payment of previous costs awards?

B. On an initial review, is the proposed proceeding an attempt to relitigate an already settled matter, and/or is it so lacking in merit that that there is no reason to allow it to proceed further?

C. Is there any other reason, apparent from an initial review of the proposed materials or proceeding, that indicate it would be not in the public interest (including the interest of other litigants with viable claims who seek access to the Court) to allow the matter to proceed to the leave stage?

[35] A few words of clarification about the criteria, before turning to their application to the case at bar. The permission requirement is an additional step before a vexatious litigant seeks leave, and it must therefore seek to further the purposes of the vexatious litigant order itself, namely controlling the individual's access to the court system, while not duplicating the leave requirement, which also seeks to further the same purpose. The criteria are therefore intended to serve as a preliminary and initial screening of the matter.

[36] One of the common types of behaviour that can lead to a vexatious litigant order is filing extremely long materials, often duplicating earlier materials that have been filed either at earlier steps or in other proceedings. That is why the permission requirement will often include limits on the page length for the materials. Another common feature of vexatious litigants' conduct is launching an avalanche of further procedural steps or new litigation without first paying previous costs awards. The first criteria set out above is intended to ensure that any specific procedural or

costs requirements have been respected. If the vexatious litigant has not done that, it may well end the matter.

[37] The second criteria, which examines whether the request is an attempt to relitigate a previously determined matter and whether it has any merit, is not meant to duplicate the type of analysis of the merits of the claim that is called for at the leave stage, as discussed in *Bernard* at paragraphs 14-17. Rather, this is meant as a very preliminary assessment of whether the request is an attempt to resurrect something that has previously been determined, and also whether permission should be denied at this early stage because there is simply no reason to allow it to proceed any further. This step is simply meant to weed out claims that on their face merit no further attention.

[38] It is important to note that the second and third criteria are not “watertight compartments” and the analysis with respect to them may, as in the present case, be quite interwoven. As such, distinct analysis of the second and third criteria may not always be necessary.

[39] All of these criteria, and especially the second and third, are, of necessity, meant to be applied with a degree of flexibility. They must be applied in a manner that seeks to balance the requirement to exercise a degree of control over the behaviour of a vexatious litigant in this Court against the important public interest in ensuring that all persons – including individuals who have previously been declared vexatious litigants – have access to the Court to seek to protect their rights and interests (see *Peoples Trust Company v Atlas*, 2019 ONCA 359 at para 9). As Justice Stratas points out in *Bernard* at paragraph 18, “[t]he Court must remain open-minded. Vexatious litigants who have cried wolf too often in the past might actually come across a wolf one day and might genuinely need help.”

E. Applying the test - should the Applicant's request for permission be granted?

[40] The Applicant argues that he should be granted permission to seek leave to appeal Prothonotary Steele's Order on the following main grounds. He submits that the Prothonotary's decision was based on a technical issue, and that he had provided an explanation for why the Amended Statement of Claim was not underlined. He said that he had been advised by Registry staff that because his entire previous Statement of Claim had been struck, the new one did not need to be underlined. He also submits that the Defendant was not prejudiced because of the issue with the underlining, and when he was notified of the non-compliance with the Rules, he acted immediately to correct it.

[41] The Applicant also argues that the underlining issue is not a defect of the nature that engages Rule 74, citing *Collins v Canada Post*, 2020 FC 969 at paragraph 19, which in turn cites the Federal Court of Appeal's decision in *Canada (Citizenship and Immigration) v Tennant*, 2018 FCA 132, at paragraph 19. In that decision, the Court of Appeal clarifies that Rule 72 and Rule 74 fulfil different purposes. Rule 72 concerns formal defects in a document or a failure to satisfy a condition precedent for filing, while Rule 74 deals with fatal substantive defects in documents that have been filed.

[42] Based on all of this, the Applicant argues that he has demonstrated that there is strong merit in his case, and that permission should be granted to enable him to apply for leave to pursue his appeal.

[43] Applying the considerations listed above to the case at bar, I find the following: First, the Applicant has complied with the main procedural requirements of the Order because he has

brought a Preliminary Motion to seek permission to file for leave under subsection 40(3) of the *Act*. He has also complied with the page requirements imposed by the Order of Justice Pallotta. In addition, the format of his materials filed in his Preliminary Motion Record are in accordance with the *Rules*. I note in passing that there is no evidence before me relating to the non-payment of previous costs awards, and so I make no comment on that aspect of the test.

[44] The only way the Applicant has failed to comply with the Order in this proceeding is that he did not use his complete name in the style of cause. At paragraph 51 of Justice Pallotta's Order, she states that "Mr. Ubah should be required to clearly identify his involvement, and consistently use only his full name, Chinedu Gideon Ubah, in all communications with the Court." He did not do so here (he used his middle initial instead of his full name), and so I will order that the style of cause be amended, with immediate effect, to bring it into compliance with the Order. The Applicant should be on notice that in future he must comply with this aspect of the Order, or else his materials will not be accepted for filing.

[45] In substance, however, I find that the Applicant has complied with the procedural requirements, and so he has satisfied the first factor.

[46] In regard to the second and third elements, each case must be examined in light of its particular circumstances. One relevant consideration here is that while the Applicant's original Statement of Claim was struck, he was granted leave to amend it. In that regard, it is to be expected that there will be a degree of repetition between the two pleadings.

[47] A summary review of the proposed Amended Statements of Claim reveals that the Applicant has taken some steps to try to address the concerns raised by Prothonotary Ring, for

example by providing certain details regarding who allegedly communicated the allegedly defamatory message(s). To this extent, the Applicant should not be denied permission to seek leave to appeal the Order simply because there is a degree of repetition.

[48] Having said that, however, I agree with Prothonotary Steele's conclusion that "there is no clarity going forward" (para 18). The Applicant's proposed approach to his pleadings are so confusing as to be incoherent. To take one example, is it the first or second proposed Amended Statement of Claim that he intends to pursue? The second version simply appends the original to the now fully underlined proposed Amended Statement of Claim. The original version was struck because it failed to reveal the material facts necessary to support a reasonable cause of action and also because it was found to be vexatious "on the basis that it is so deficient in factual material that the Defendant cannot know how to answer, and the Court is left with a proceeding so ill-defined that it is unable to regulate the proceedings." (Order of Prothonotary Ring, December 10, 2020, para 25). This problem is compounded with the Applicant's proposed Amended Statements of Claim.

[49] In light of this, the question is whether, on an initial review of the material, the proceeding "has merit" under the second element, and related to that, under the third element whether is in the public interest that this proceeding be brought to an end now.

[50] Having examined the materials, and considered the submissions of the Applicant, I find that the Plaintiff's request is so confusing it is impossible to conclude that it "has merit", and therefore it is not in the public interest to allow this proceeding to continue. Several considerations lead me to this conclusion.

[51] On the question of whether, on an initial review the proceeding has merit, the first point to note is that it is not clear which “proceeding” is being put forward. The second version of the Amended Statement of Claim includes different grounds, unsupported allegations and intemperate language. The first version does not identify which of the paragraphs have been amended, because it is all underlined. The *Rules* do not permit a Plaintiff to pursue two different claims against a single Defendant making overlapping but distinctly different claims arising from the same facts, much less to resurrect a Statement of Claim which has previously been struck. On this basis alone, I find that the proceeding does not have merit.

[52] While the Applicant has chosen to represent himself, he is by now well experienced in this Court and has acquired some knowledge of the Court’s Rules and procedures, as evidenced by his submissions filed in support of his preliminary motion requesting permission. He was given guidance by Prothonotary Ring about the deficiencies in this original Statement of Claim, and was granted leave to amend it. Instead, he has chosen to reframe it completely, alleging new grounds, seeking new and expanded remedies, and not following the procedure set out in the *Rules* in respect of amended pleadings.

[53] Having been told, for example, that his original pleading was invalid, in part, because “the Defendant cannot know how to answer”, the Applicant now puts two different pleadings before the Court, including the one that was previously struck – but now it is presented as an attachment to his revised Statement of Claim. Rather than identifying the new parts of the proposed Amended Statement of Claim using underlining, as required by Rule 79, the Applicant has completely re-drafted his pleading, and now proposes to underline every word of it.

[54] In Prothonotary Ring's Order, it was made clear to the Applicant that one key purpose of pleadings is to define with precision the nature of the allegations and the facts that support them, because that is what fairness demands before a defendant is asked to answer a claim or a court is asked to administer and eventually hear and decide it. The Plaintiff's approach has ignored this advice, and he has not complied with the *Rules* or with the basic elements of a fair and appropriate procedure.

[55] One of the reasons that the Applicant was previously found to be "ungovernable" before the Court was that he repeatedly flouted the *Rules*. This is another example of such behaviour. Allowing this proceeding to continue to the leave stage would simply add to the Defendant's and the Court's burden, in a manner that the vexatious litigant declaration was intended to prevent. Allowing this to continue is not in the public interest.

[56] For all of these reasons, the Applicant's' Preliminary Motion for Permission to seek leave to appeal the Order of Prothonotary Steele will be denied. No costs will be awarded, because the Defendant did not take a position on the Plaintiff's request.

THE COURT THEREFORE ORDERS that:

1. The Plaintiff's Preliminary Motion for Permission to seek leave to appeal the Order of Prothonotary Steele is denied.

2. The style of cause of the within proceeding is amended, with immediate effect, to replace the name the Plaintiff with "Chinedu Gideon Ubah", as required by the Order of Justice Palotta

3. No costs are awarded.

"William F. Pentney"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-756-20
STYLE OF CAUSE:	CHINEDU GIDEON UBAH v HER MAJESTY THE QUEEN
PLACE OF HEARING:	OTTAWA, ONTARIO
DATE OF HEARING:	IN WRITING
REASONS FOR ORDER AND ORDER:	PENTNEY J.
DATED:	MARCH 14, 2022

SOLICITORS OF RECORD:

For Himself	FOR THE PLAINTIFF CHINEDU GIDEON UBAH
Attorney General of Canada Edmonton, Alberta	FOR THE DEFENDANT HER MAJESTY THE QUEEN