

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

IAN BRON

Plaintiff

and

**ATTORNEY GENERAL OF CANADA, JOANNE ST-ONGE,
GERALD FRAPPIER, MARC GREGOIRE and LAUREEN KINNEY**

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Dated:

ISSUED BY: _____

ADDRESS OF COURT OFFICE:

161 Elgin Street
Ottawa, Ontario
K2P 2K1

TO: ATTORNEY GENERAL OF CANADA
Justice Building
239 Wellington Street
Ottawa, Ontario
K1A 0H8

AND TO: JOANNE ST-ONGE
Director, Marine Security Regulatory Affairs
Transport Canada
Marine Security
Place de Ville, 330 Sparks St.
Ottawa, ON K1A 0N5

AND TO: GERALD FRAPPIER
Director General
Canadian Nuclear Safety Commission
Director General's Office
280 Slater St.
Ottawa, ON
K1P 5S9

AND TO: MARC GREGOIRE
Assistant Deputy Minister, Safety and Security
Transport Canada
Safety and Security Group
Place de Ville, 330 Sparks St.
Ottawa, ON K1A 0N5

AND TO: LAUREEN KINNEY
Director General, Marine Security
Transport Canada
Safety and Security Group
112 Kent St.
Ottawa, ON K1A 0N5

1. The plaintiff claims:

a) as against the defendants Joanne St-Onge, Gerald Frappier, Marc Grégoire and Lauren Kinney:

i. a declaration that the defendants conspired to injure the plaintiff;

ii. a declaration that the defendants intentionally caused mental distress to the plaintiff;

iii. alternatively, a declaration that the defendants negligently caused mental distress to the plaintiff;

iv. alternatively, a declaration that the defendants abused their positions of power over the plaintiff;

b) as against the defendants Marc Grégoire and Lauren Kinney:

i. a declaration that these defendants intentionally interfered with the plaintiff's economic interests;

ii. alternatively, a declaration that these defendants defamed the plaintiff;

c) as against the defendant Joanne St-Onge:

i. a declaration that the defendant defamed the plaintiff;

d) as against the defendant the Attorney General of Canada:

- i. a declaration that the defendant is vicariously liable for the actions of its employees Joanne St-Onge, Gerald Frappier, Marc Grégoire and Laureen Kinney;
- e) as against all defendants:
- i. a declaration that the defendants breached their fiduciary duty towards the plaintiff;
 - ii. a declaration that the defendants have been negligent in the exercise of their statutory and common law duty owed to the plaintiff, as an employee, to permit him to properly discharge his employment duties;
 - iii. General damages in the amount of \$3,000,000.00;
 - iv. Special damages in an amount to be determined before trial with respect to past and continuing medical expenses, loss of pension earnings, and loss of salary and career advancement earnings;
 - v. Aggravated and punitive damages in the sum of \$1,000,000.00;
 - vi. Pre-judgment and post-judgment interest in accordance with the *Courts of Justice Act*;
 - vii. Costs on a substantial indemnity basis, together with the applicable Goods and Services Tax;
 - viii. Such further and other relief as this Honourable court may deem just.

THE PARTIES

2. The plaintiff Ian Bron is a 41 year-old resident of the City of Ottawa and is a member of the federal public service, previously holding the position of Chief, Marine Security Regulatory Affairs, and currently holding the position of Principal Consultant, Program Evaluation and Performance Measurement Services at Government Consulting Services.
3. The defendant, the Attorney General of Canada, is the representative of the federal Crown and is named pursuant to Section 23(1) of the *Crown Liability and Proceedings Act*.
4. The defendant Joanne St-Onge (“St-Onge”) is a resident of the City of Ottawa and at all material times was an employee of the Department of Transport Canada and a supervisor of the plaintiff in her capacities as the Acting Director, and later as the Director, of Regulatory Affairs in Marine Security.
5. The defendant Gerald Frappier (“Frappier”) is a resident of the City of Ottawa and was an employee of the Department of Transport Canada and a supervisor of the plaintiff in his capacity as the Director General of Security and Emergency Preparedness and later as Director General of Marine Security.
6. The defendant Marc Grégoire (“Grégoire”) is a resident of the City of Ottawa and at all material times was an employee of the Department of Transport Canada and a supervisor of the plaintiff in his capacity as the Assistant Deputy Minister, Safety and Security.
7. The defendant Lauren Kinney (“Kinney”) is a resident of the City of Ottawa and at all material times was an employee of the Department of Transport Canada and a supervisor of the plaintiff in her capacity as the Director General of Marine Security.

Whistle Blowing Report

8. The plaintiff commenced an acting position as Chief, Marine Security Regulatory Affairs with Transport Canada in November of 2004, and the plaintiff was confirmed as permanent Chief in March of 2005.

9. As Chief of Marine Security Regulatory Affairs, the plaintiff's responsibilities included oversight of the planning, development and maintenance of the marine security regulatory framework; policy analysis of national and international issues and developments in marine security; consultation with stakeholders and international partners; and the development of regulatory impact analysis statements and publication of new or amended regulations. Additionally, the plaintiff:
 - a) advised senior management on marine security issues,
 - b) responded to internal and external queries regarding the marine security regulatory framework,
 - c) supervised various employees with respect to performance evaluations, training and career development,
 - d) performed duties as assigned by the Director, Marine Security Regulatory Affairs; and
 - e) in conjunction with marine security policy and operations personnel, the plaintiff assisted in the resolution of issues arising with respect to the operational implementation of the marine security framework.

10. The plaintiff recognized mismanagement, misconduct, and harassment in the Marine Security Directorate, as detailed below.

11. The mismanagement was affecting the Directorate's regulatory development and enforcement, and the plaintiff had serious security concerns that Canadians, the economy and the environment were at risk.

12. In keeping with his responsibilities as Chief of Marine Security Regulatory Affairs, the plaintiff was obliged to raise his concerns.
13. The plaintiff prepared a document entitled “*Report to the Auditor General of Canada Concerning the Management of Transport Canada’s Marine Transportation Security Framework*” (“the plaintiff’s Report”), which raised a number of security concerns, including:
 - a) Gaps in the marine security regulatory framework which are not being appropriately addressed, and which could result in a lack of authorized screening at marine facilities; certain vessels not being covered by security regulations; and certain vessels and marine facilities able to suspend security procedures; and
 - b) Improper implementation of security regulations, including lack of training and resources to implement the security regulations, a lack of domain awareness in the marine transportation sector, and a failure to create or foster a security culture in the marine transportation sector. The plaintiff also provided specific examples of decisions, actions and inaction by Transport Canada Marine Security management which undermine the security of the marine transportation system and create or perpetuate direct or indirect risk to life and the environment.
14. On or about December 12, 2006, the plaintiff forwarded his Report to the Minister of Transport, Auditor General, Public Service Integrity Office, and the Chair of the Standing Senate Committee on National Security and Defence.
15. The defendants St-Onge, Frappier, Kinney and Grégoire were referenced in the plaintiff’s Report.

Background to the plaintiff's Report

16. From in or about November of 2004 to in or about June of 2005, a number of employees repeatedly approached the plaintiff and reported concerns that their superior, the defendant St. Onge, was engaging in harassment and mismanagement in the workplace (“Concerned Employees”).

17. The Concerned Employees expressed security related concerns, including:
 - a) gaps were created during an accelerated drafting of marine security regulations;
 - b) certain members of management ignored important information they perceived to be at odds with management perspectives and thereby potentially jeopardized the security framework;
 - c) sensitive information was routinely disclosed to stakeholders who did not have appropriate security clearances or background checks.

18. The Concerned Employees also complained about unethical management practices, including management's:
 - a) acceptance of drinks and expensive meals from industry stakeholders and favouring certain parties in regulatory consultation over others;
 - b) inappropriate and intimate personal relationship between the defendants St-Onge and Frappier, and a resulting negative affect on decision-making and the work environment;
 - c) derogatory and inappropriate references to colleagues, including comments of a personal nature;
 - d) demand that employees respond to inappropriate requests, including fetching coffee, and arranging personal appointments and spousal travel;
 - e) use of foul language;

- f) travel which did not have genuine operational requirements, and granting training as an incentive rather than for appropriate career development and operational purposes; and
- g) poor planning and impractical expectations leading to heavy and unpredictable workloads, causing stress in personal lives.

19. The plaintiff was obliged to raise the issues brought to him by the Concerned Employees directly with the defendant St-Onge, and he did so in or about February of 2005 and again in May of 2005.

20. The defendant St-Onge told the plaintiff that she would attempt to improve her work practices and her behaviour towards Marine Security Staff.

21. By June of 2005, the concerns referred to at paragraphs 17 and 18 regarding the defendant St-Onge's behaviour had not been addressed and the use of a neutral mediator was suggested to address these concerns. The defendant St-Onge rejected the use of a mediator for all of the issues raised by the Concerned Employees. Instead, the defendant St-Onge alleged that the plaintiff was the source of the complaints and that any mediation should be with respect to the plaintiff and his actions.

22. After the plaintiff raised concerns with the defendant St-Onge, the plaintiff was the focus of retaliation, including derogatory comments, refusal to continue to accommodate the plaintiff's diagnosis of Crohn's Disease, exclusion from meetings, refusal to consider the plaintiff for Acting Director appointments, and specious accusations of threatening behaviour on the part of the plaintiff.

The Plaintiff's Meeting with the Defendant Frappier in August of 2005

23. In or about early August of 2005, the plaintiff met with the defendant Frappier to discuss issues raised by the Concerned Employees with respect to the defendant St-Onge and workplace harassment and competencies.

24. Due to workplace stress, the plaintiff required a medical leave and was absent from work for three (3) weeks in August of 2005.
25. In or about early September of 2005, the plaintiff wrote to the defendant Frappier to again outline concerns with respect to the defendant St. Onge. The defendant Frappier dismissed the concerns raised by the plaintiff and failed or refused to further investigate.
26. As a result of resistance and concentrated attacks on the plaintiff personally, the plaintiff saw that his future had been compromised with Marine Security, so he accepted an internal secondment outside of the Marine Security Directorate to the Security and Emergency Preparedness Directorate.
27. Also in September, the plaintiff was absent from work for one (1) further week on medical leave due to workplace stress.

Plaintiff's Continuing Efforts to Address Workplace Mismanagement

28. In or about October of 2005, the plaintiff consulted with the Transport Canada Integrity Officer regarding the Concerned Employees' complaints.
29. In or about December of 2005, the Transport Canada Integrity Officer refused to address the plaintiff's concerns and redirected the plaintiff to the defendants Frappier and Grégoire.
30. In January of 2006, the plaintiff suffered a prolonged and severe exacerbation of a pre-existing medical condition. In February of 2006, the plaintiff was diagnosed with work-related depression.
31. In or about May of 2006, the defendant Kinney was appointed Director General of Marine Security. In a further effort to have concerns about the management of

- the Marine Security Directorate addressed, the plaintiff submitted a summary of issues to the defendant Kinney.
32. The plaintiff and the defendant Kinney met in late May of 2006 and the plaintiff raised issues of mismanagement, ethical misconduct, and harassment which compromised the marine security regulatory framework.
 33. By letter dated June 23, 2006, the defendant Kinney informed the plaintiff that the defendant Frappier had investigated the complaints and found that any issues were a personal conflict between the plaintiff and the defendant St-Onge. Further, the defendant Kinney prohibited the plaintiff from contacting any Transport Canada Marine Security Directorate staff members.
 34. In or about July of 2006, the plaintiff and other employees filed a group harassment grievance against the defendant St-Onge.
 35. As a result of continued resistance and concentrated attacks on the plaintiff personally, the plaintiff now saw that his future had been compromised with Transport Canada generally, and that a return to the Marine Security Directorate would result in further reprisals, so he accepted an external position at Government Consulting Services in Public Works and Government Services Canada.
 36. Prior to accepting the external position, the plaintiff, in accordance with his duties as a civil servant, released the comprehensive and detailed Report referred to at paragraph 13 above. In addition, the plaintiff continued to make himself available to assist in any investigation.
 37. Following the delivery of the plaintiff's Report, senior members of Transport Canada Safety and Security Group went into caucus for a number of days and

conspired to retaliate, discredit and attack the plaintiff in order to undermine his credibility and the veracity of the Report.

Transport Canada's Retaliatory Actions Against the Plaintiff

38. On or about December 19, 2006, Jean Barrette, Jim Marriott and the defendant St-Onge filed a joint harassment complaint against the plaintiff, containing accusations which had not been directly raised with the plaintiff, as required by policy.

39. The defendant Grégoire wrote to the plaintiff's new supervisor, Karen Walker, and:

- a) alleged that the plaintiff had incurred a serious breach in security in issuing the plaintiff's Report;
- b) advised that the plaintiff would be investigated;
- c) suggested that corrective measures may be implemented; and
- d) asked Ms. Walker to restrict the plaintiff from accessing Transport Canada documentation.

40. The defendant Grégoire's actions, at paragraph 38, were designed to harm the plaintiff directly and to have a detrimental effect on the plaintiff's future career.

41. In or about late December, the plaintiff received notice from the defendant Grégoire that the plaintiff's conduct was under investigation, could result in disciplinary action or termination of employment, and may be subject to administrative and/or legal actions by Transport Canada. Further, the defendant Grégoire prohibited the plaintiff from entering Transport Canada premises.

42. By this time the plaintiff realized the concerns within his Report were being dismissed. To protect himself from further reprisals, the plaintiff extended the disclosure of his Report to the Public Service Integrity Officer and the plaintiff

asked for assistance in defending himself against Transport Canada's retaliatory actions.

43. In early January of 2007, the plaintiff complained to the Privacy Commissioner of Canada in regard to the defendant Grégoire's disclosure of allegations to the plaintiff's supervisor Karen Walker.
44. The defendant Kinney was named in the plaintiff's Report and nonetheless was mandated in February of 2007 to conduct a review of issues arising from the plaintiff's Report.
45. In or about February of 2007, the plaintiff received notice that the defendant Frappier was threatening a civil suit if certain allegations were not withdrawn from the plaintiff's Report.
46. In or about March of 2007, the plaintiff received notice from the defendant Grégoire that an investigation would be undertaken into the plaintiff's conduct, which Barrette, Marriott, and the defendant St-Onge alleged to include aggressive looks, condescending tone and malicious smiles.
47. During the period of February to April of 2007, the plaintiff was absent from work for seven (7) weeks on medical leave due to work-related stress.
48. During the spring of 2007, Transport Canada continued its investigation into the harassment complaints Barrette, Marriott, and the defendant St-Onge made against the plaintiff. The plaintiff attended an investigatory meeting with his union labour representative and after a series of questionable statements, which raised a perception of bias, the plaintiff declined further participation.
49. As a result of the retaliatory actions of the Defendants, the Plaintiff has been forced out of his chosen career path for which he has the requisite training and

experience. His future career advancement and related economic benefits have been seriously compromised and detrimentally impacted.

Abuse of Statutory Authority

50. The plaintiff pleads that each of the individual defendants owe him a fiduciary duty because of their positions of power over the plaintiff as superiors and managers in Transport Canada, and that this fiduciary duty includes the duty:
- a) to provide a harassment free and healthy work environment;
 - b) not to impede the plaintiff from carrying out his statutory mandated duties;
 - c) not to abuse the power and authority invested in them as superiors to the plaintiff; and
 - d) not to recklessly disregard the plaintiff's mental and physical health.
51. The plaintiff states that the individually named defendants breached fiduciary duties owed to the plaintiff by using their discretion as supervisors and managers to impede the plaintiff's career and further their own careers, and they have done so unlawfully.
52. The defendants Frappier, Grégoire, Kinney and St-Onge acted deliberately and dishonestly in their failure or refusal to investigate the plaintiff's allegations of misconduct, harassment and mismanagement.
53. The plaintiff states that the defendant Grégoire failed in his duty under the Government of Canada's *Policy on the Prevention and Resolution of Harassment in the Workplace* and *Values and Ethics Code for the Public Service*, to provide a complaint process free of reprisal, and to comply with the spirit and the specific requirements of the policies.
54. Further, the defendant St-Onge acted maliciously towards the plaintiff by filing harassment complaints against the plaintiff after the plaintiff released his Report.

The actions of the defendant St-Onge were motivated by an intent to punish the plaintiff for raising concerns in the workplace and for having disclosed allegations of wrongdoing.

55. In addition, the defendants Grégoire and Kinney acted unlawfully in commencing an investigation into complaints made against the plaintiff, without first acting to address the plaintiff's earlier complaints of harassment, mismanagement, and misconduct.

56. The plaintiff submits that the individually named defendants knew or ought to have known that they were: abusing their statutory authority by acting beyond the scope of that authority, acting not in the best interest of the Crown, and acting in a manner that would cause the plaintiff to suffer the damages described below.

57. The plaintiff further pleads that the defendants acted with a purpose of causing the plaintiff to leave his position in Marine Security at Transport Canada.

Conspiracy to Injure

58. The plaintiff submits that the individually named defendants conspired and acted in concert to injure the plaintiff.

59. The plaintiff submits that the defendants Frappier, Grégoire, Kinney and St-Onge acted in tacit agreement by their continued and deliberate failure to address the plaintiff's complaints of misconduct, harassment and mismanagement.

60. The plaintiff pleads that the defendants Kinney and Grégoire colluded in a conspiracy to harass, discredit and intimidate the plaintiff following the issuance of the plaintiff's Report.

61. The defendant Grégoire assigned responsibility for the investigation into the plaintiff's Report to the defendant Kinney, despite the defendant Kinney being

clearly identified in the contents of the report. Also, the defendant Kinney presided over the first-level hearing of the plaintiff's group grievance, despite her involvement in the above-noted issues.

62. The defendants Kinney and Grégoire pursued administrative actions designed to punish the plaintiff for his Report, instead of acting to address the concerns raised by the plaintiff.

Intentional or Negligent Infliction of Mental Distress

63. The individually named defendants targeted the plaintiff for raising concerns in the workplace, with the intention of distressing the plaintiff to the extent that the plaintiff would be compelled to leave the employ of the Marine Security Directorate at Transport Canada.

64. The defendants knew or ought reasonably to have known that their initial failure or refusal to investigate the plaintiff's claims would result in physical and emotional distress to the plaintiff.

65. The defendants Grégoire and Kinney knew or ought reasonably to have known that prohibiting the plaintiff from contacting Transport Canada staff and from entering its premises would result in emotional distress to the plaintiff.

66. The defendant Grégoire knew or ought reasonably to have known that the disclosure of allegations against the plaintiff to his current supervisor would result in emotional distress to the plaintiff.

67. The plaintiff was diagnosed with work-related depression in November of 2005.

68. The plaintiff further pleads that the defendants had been made aware of his disability (Crohn's Disease) since in or about July of 2003, and that the defendants knew that work-related stress would exacerbate his disability. The

plaintiff submits that his diagnosis has worsened since the defendants began their campaign against him.

69. In the alternative, the plaintiff submits that the defendants' negligence in dealing with his complaints had a foreseeable or probable consequence of emotional and physical harm to the plaintiff.

70. As a result of the defendants' intentional or negligent infliction of mental distress, the plaintiff suffered the damages described above and below.

Intentional Interference with Economic Relations

71. The plaintiff submits that the defendant Grégoire undertook an intentional interference with the plaintiff's economic relations by communicating unproven allegations against the plaintiff to the plaintiff's supervisor Karen Walker, and as a result, the defendant Grégoire is liable for the damages described below.

72. The plaintiff had already suffered loss of promotion and development opportunities by having to leave the employ of the Marine Security Directorate, and the defendant Grégoire sought to further hinder the plaintiff's career by communicating unproven allegations to the plaintiff's current supervisor

73. The defendants Grégoire and Kinney's knew or ought reasonably to have known that prohibiting the plaintiff from contacting Transport Canada staff and from entering its premises would have a tangible impact on the plaintiff's employment at Government Consulting Services, as it would prevent him from accepting contracts at Transport Canada.

Defamation

74. The defendant Grégoire's correspondence to the plaintiff's supervisor Karen Walker, dated December 21, 2006, was defamatory as it attacked the character

and reputation of the plaintiff, the allegations were untrue, and the communications resulted in the damages described below.

75. In communications with Ms. Walker, the defendant Grégoire:

- a) advised that the plaintiff was under investigation and implied severe and fundamental misconduct on the part of the plaintiff;
- b) asked for Ms. Walker's collaboration in implementing corrective measures and thereby suggested that allegations of misconduct had been proven;
- c) advised that the plaintiff had engaged in an open distribution of his Report without regard for the procedures to disseminate such information, and thereby suggested that the plaintiff had engaged in random and indiscriminate distribution of his Report.

76. The plaintiff also submits that the defendant Kinney has repeatedly stated that the plaintiff was alone in his concerns of harassment, misconduct and mismanagement, despite the fact that others employees raised complaints and the plaintiff was asked by other employees to represent them in raising concerns in the workplace.

77. Further, the plaintiff submits that the defendant St-Onge sought to characterize the plaintiff as an unstable and threatening individual by repeating her baseless allegations of physical intimidation and threatening behaviours.

DAMAGES

78. Because of the defendants' actionable conduct as set out above, the plaintiff has suffered damages, including:

- a) emotional trauma, including a diagnosis of work-related depression in 2005, and also including a reduced ability to focus on work

responsibilities and on private work contracts valued at \$20,000 per annum;

- b) physical trauma through an exacerbation of his disability and an increased frequency in migraine attacks;
- c) deterioration in his enjoyment of family and home time;
- d) loss of promotion and development opportunities within the Marine Security Directorate at Transport Canada;
- e) damage to his professional and personal reputation.

79. In consequence of the foregoing, the plaintiff is entitled to special and general damages.

80. Further, the defendants' actions constituted an outrageous and wanton disregard of the plaintiff's rights, and are so egregious as to entitle the plaintiff to an award of punitive, exemplary and aggravated damages.

81. The Plaintiff proposes that this action be tried at the City of Ottawa.

**JEWITT MORRISON &
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