

SUPREME COURT OF YUKON

Citation: *CDG v Family and Children Services (Yukon Government)*, 2026 YKSC 7

Date: 20260129
S.C. No. 24-A0021
Registry: Whitehorse

BETWEEN

C.D.G.

PLAINTIFF

AND

Family and Children Services (Yukon Government),
Norm Welch, Jessica Taylor, Brenda Anstey

DEFENDANTS

Before Justice J.R. Groves

Appearing on his own behalf

C.D.G.

Counsel for the Defendants

I.H. Fraser
S. Leary

REASONS FOR DECISION

INTRODUCTION

[1] By way of Amended Notice of Application dated September 25, 2025, the defendants, Family and Children Services (Yukon Government) (hereinafter referred to as "Yukon Government"), applies on behalf of all the named defendants to strike, what I will in these reasons refer to as the "Final Amended Statement of Claim". They also seek an order for costs.

[2] The history of the Final Amended Statement of Claim is somewhat lengthy and non-traditional. The original Statement of Claim was filed on March 6, 2024. An Amended Statement of Claim was filed on July 22, 2024. A further Amended Statement of Claim, the noted Final Amended Statement of Claim, was filed on September 15, 2025.

[3] It is in this Final Amended Statement of Claim that the plaintiff seeks what can only be classified as a number of unique prayers for relief, as well as a number of tort and employment-related claims. It is this unique combination of claims that the defendants seek to strike.

[4] On the last two pages of the Final Amended Statement of Claim, the following is noted. The plaintiff claims as follows:

1. I would like a written apology for myself, or aggravated damages for failure to apologize over a protracted period of time.
2. I am seeking damages made for defamation of character.
3. I am seeking damages made for misfeasance of public office.
4. I am seeking damages for pain, suffering and humiliation.
5. I want Norm Welch, Brenda Anstey, Jessica Taylor, Aryn Macphail, Leannne Kayseas, Jennifer Tanasychuck, and Tracy Burns to be reprimanded and have an admonishment recorded in their files.
6. I am seeking damages for the delay of the advancement of my career within the government.
7. I am seeking damages for wrongful dismissal.
8. I am seeking damages for negligence, fraudulent misrepresentation, malfeasance in public office.
9. I am seeking an independent review of all First Nations, Inuit and Metis families associated with Family and Children Services to determine whether inaccuracies exist in other families' files.
10. I am seeking damages for lost wages plus interest that would have accrued.

11. I am seeking cost of this action.

(Outline of the Applicant, Part II at para. 1)

Through a series of case management applications before me and others, there have been a number of efforts made by the Court to address concerns about the prolix nature of the pleadings, and to clarify the claims that the plaintiff, who is self-represented, is advancing.

[5] The self-represented plaintiff is seemingly articulate and capable, and it would appear that he is receiving at least some legal advice in regard to his action.

[6] In this Application, pursuant to a motion filed on September 25, 2025, the Yukon Government, on behalf of the Family and Child Services and the three named defendants who are employees of the Yukon Government, seek to strike the entirety of the plaintiff's claim.

BACKGROUND FACTS

[7] Noting as I do that the plaintiff is self-represented and is clearly trying his best to set out his concerns, it is a general concern that the Final Amended Statement of Claim is unduly complex and contains a number of details which do not fall within the realm of material facts which are usually pled to support a claim in law.

[8] As an example, the Final Amended Statement of Claim begins, in an introductory way, with concerns about the Canadian government's Residential School Program and their relationship with First Nations, Inuit and Metis people.

[9] While this is no doubt a concern to the plaintiff, as it may and likely is to many others in society, both specifically and generally, this concern does not appear to relate to the claim the plaintiff proposes to advance, and notably is not particularly germane to

the actions alleged by the Yukon Government and the three individual employees of the Yukon Government.

[10] It is important to note, however, in any application to strike pleadings, the court starts with the assumption that the facts in the pleadings are correct and provable. I will start from that assumption in my analysis.

[11] As for the facts, and this is overly general and perhaps not completely accurate, again because of the difficulty in reviewing what is set out in the Final Amended Statement of Claim, it would appear that the plaintiff began working in early September 2018 as a Child Protection Social Worker in Whitehorse for the Yukon Government, specifically for Yukon Family and Child Services. He states that later that month, again in September 2018, he fled a domestic violence relationship with his then-wife. He states his then-wife made a false claim of domestic violence against her, by him, and against their children, by him. He claims that other child protection social workers arrived at his home and removed his children based on what he views as a false report of violence towards a child or children. The two persons apparently conducting this investigation are two of the named defendants, Brenda Anstey and Jessica Taylor.

[12] In the Final Amended Statement of Claim, the plaintiff states that he was kept away from his children completely and he was not even offered supervised visits, supervised access being what he viewed as a common practice in like situations. He states further that by October 2018, one month later, the file was closed as there was found to be no child abuse as a result of investigations.

[13] He then states, surprisingly and concerningly, that he was only granted supervised visits to his children for a year and a half, he says, until he was able to prove that he was not a danger to his children.

[14] Although it is not stated the date at which he left his employment, noting as I do that he began in September 2018, he states in his Final Amended Statement of Claim that on October 19, 2020, he attempted to return to work, but two individuals, including the defendant, Norm Welch, prohibited him from doing so because he had not had, as of yet, a 'return to work meeting'.

[15] Again, and although it is not clearly stated, it appears he was off work for a time, and that he was at least initially not allowed to return to work, and then in March 2021, he received a letter of dismissal. He also states that his foster parent eligibility was revoked, both in British Columbia and in the Yukon. He further states that he sought the assistance of his union and was told that the reasons for his firing were false, but he could not prove it at the time.

[16] Perhaps as a result or consequence of union intervention and assistance, the plaintiff claims that a level three arbitration of his grievance related to his termination was held on June 15, 2021, and that as a result of a determination there, he was "to be reinstated, made whole and commended for my work as a dedicated father and foster parent".

[17] He then says in November 2021, he was stripped of his rights to see his foster children (that is the first mention it appears of foster children). He then deposes of a letter being placed in "his file". He indicates that he put forward a complaint about the false abuse substantiation, he says, is in that letter being put in his file. During this

complaint process, he had further interaction with Norm Welch, whom, he says, insisted that the letter of reprimand remain in the file. It remains unclear to me from reading the balance of the Final Amended Statement of Claim as to whether or not that issue has ultimately been resolved, but it appears from representations made in court that it was eventually removed.

[18] As a result of the seemingly difficult employment relationship and involvement of the Family and Child Services branch of the Yukon Government, the plaintiff states that he has been diagnosed with complex Post Traumatic Stress Disorder, major depression and panic disorders, which, he states, is at least “partly” due to what Family and Child Services did to him. It is unclear from the Final Amended Statement of Claim as to whether or not he is still working for the Yukon Government, but from his representations in court that appears to be the case.

LEGAL FRAMEWORK AND ANALYSIS

[19] A generous reading of the Final Amended Statement of Claim suggests that the plaintiff is advancing a number of claims against a defendant or defendants. These include employment-related claims, a negligence claim, a fraudulent misrepresentation claim, and a misfeasance or malfeasance claim, all which appear to be directed at the actions of the Yukon Government or its employees perhaps. Additionally, he has raised the spectre of a defamation claim, seemingly related to the letter that he says was placed in his file, or perhaps based on what was said in the grievance process he advanced. Finally, he argues that the Court should require in this litigation that an apology be issued, that the Court reprimand the Government of Yukon, and that the Court order an Independent Review of all “Family and Children Services” with First Nations, Inuit and Metis families.

[20] I note a number of legal principles associated with this Application. It is clear that the test for striking pleadings under Rule 20(26)(a) of the Supreme Court of Yukon *Rules of Court* sets a high standard or high bar for such an application. As noted in the recent case of *Emery v. Yukon Association of Education Professionals*, 2025 YKSC 26 ("Emery"), it must be "...plain and obvious that the claim has no reasonable prospect of success...". As pointed out by counsel for the Yukon government, *Atlantic Lottery Corp Inc v Bobstock*, 2020 SCC 19 reminds judges hearing such applications that it is important if the court is satisfied that the high bar has been reached, and there is no reasonable prospect of success, in other words, if the claim is doomed to fail, that courts should dismiss the action at an early stage. As such, the real issue is – are the claims advanced in this litigation, as plead, doomed to fail.

[21] In regard to employment-related claims, the plaintiff was employed in a unionized work environment and was able through his union and through the arbitration process associated with his unionized environment, to litigate his concerns about his unjust dismissal and the actions of his supervisor. The law, in my view, is clear that when one is in a unionized work environment, then one has the opportunity to advance one's concerns through an arbitration grievance or other process, and the Supreme Court of the Yukon should decline to take jurisdiction: *Emery*. As such, I have concluded that the plaintiff's employment-related claims, as plead, are doomed to fail and must be dismissed.

[22] As for the defamation claims, and again relying on *Emery*, that case stands for the additional proposition that courts should decline to hear defamation claims when those concerns arise in the context of a unionized employment relationship. Based on

that principle, and the further concern about a lack of articulation of the actual statements that are alleged to be defamatory, I have concluded that the defamation claims advanced by the plaintiff are bound to fail and must be dismissed.

[23] Turning to the concerns raised in the pleadings about the actions of the various persons employed by the Yukon Government, acting under the Yukon child protection legislation, I note, as pointed out in the Yukon Government's submissions, that a pleading of bad faith is required to overcome the statutory immunity found in s. 181 of the *Child and Family Services Act*, SY 2008, c 1 ("CFSAs"). This high bar of requiring an allegation of bad faith, and ultimately proving bad faith, was clearly intended by the Legislature to prohibit those unsatisfied with the action of child protection workers from the opportunity to sue successfully, unless a high bar of bad faith can be proven. The pleadings do not sufficiently set out the actions undertaken, nor do they provide any basis for a determination of bad faith. As such, the CFSAs protects the defendant Yukon Government workers and no successful claim against them can be advanced. As such, those claims must all be dismissed as they are bound to fail.

[24] As for the allegations of negligence, in order for a negligence claim to proceed, it is necessary for a plaintiff to prove that there is a private law duty of care owed to him by the person he sues. In regards to the concerns which appear to be articulated in the Final Amended Statement of Claim, the plaintiff has not made any allegation to establish that the Yukon Government owes the plaintiff a general private law duty of care, nor do the pleadings reflect that the individuals who were performing a child protection function under the applicable Yukon legislation, the CFSAs, owe a private law

duty to the plaintiff. As such, I have concluded that the claims of negligence are bound to fail and must be dismissed.

[25] As for the claim of fraudulent or negligent misrepresentation, the law in this area is best articulated in *Queen v Cognos Inc.*, [1993] 1 SCR 87, where it is noted that in order to establish a claim in misrepresentation, it is necessary to plead that the defendant had the requisite intent to either deceive the plaintiff, or that there was detrimental reliance by the plaintiff on the fraudulent or negligent misrepresentation. No such pleading exists. As such, this claim is also bound to fail and must be dismissed.

[26] Further, as noted above, one reading of the pleadings could suggest that there was misfeasance, or malfeasance, by those who held public office as employees of the Yukon Government. As noted in *Odhavji Estate v Woodhouse*, 2003 SCC 69, in order to establish a claim for misfeasance or malfeasance in public office, it is necessary to plead that there was either an intent to injure the plaintiff, deliberate unlawful conduct while exercising a public function, and an awareness of that unlawful conduct. That does not appear to be pled. There are no material facts alleged to support this. As such, that claim, as it may be being advanced, is bound to fail and must be dismissed.

[27] The Final Amended Statement of Claim asks for a written apology. It does not say for what exactly, or who is to advance this apology, although perhaps one can assume that it is required or requested of one or all of the defendants. I know of no Rule, principle in statute or in the common law that allows the court to order such an apology. It is simply not something courts do. It is simply not something the law, as I understand it, contemplates. A claim with no basis in law cannot succeed, is bound to fail, and must be dismissed.

[28] Finally, the Final Amended Statement of Claim appears to request of the court an order that there be an Independent Review of the actions of the Yukon Government in regard to their dealings with the plaintiff in both the child protection investigation and the placing of a letter in his file. Additionally, the Final Amended Statement of Claim appears to ask of the court that the individual parties and the Yukon Government be reprimanded. No law is advanced to support the existence of an obligation or ability of the court to require the issuance of reprimands or to direct an Independent Review of government action as is also requested. Both of these requests are simply not something that courts can do. There is no legal basis for such a request. As such, those claims must also be dismissed as they are bound to fail.

CONCLUSION

[29] While I have some sympathy for the concerns and feeling of the plaintiff in regard to the allegations he has raised (which of course are not proven and are emphatically denied), it would simply be inappropriate to allow the claim he now advances to continue as pled. He has been urged to amend his claim, to seek legal advice, and he has attempted to amend on at least two occasions. Still, the claim remains prolix, confusing, and hard to follow.

[30] In summary, his claims related to the actions of Norm Welch and the Yukon Government are claims related to his employment. The allegations of defamation also seem to arise in a strictly employment-related context. As a unionized employee, his remedy is through the grievance process in his collective agreement, a remedy he appears to have accessed successfully.

[31] His claims against the Yukon Government and the defendants, Jessica Taylor and Brenda Anstey, relate to the removal of his children from his care and are most

unfortunate, but on the issue of liability and remedy for that, the Yukon Legislature has spoken, and I conclude that absence bad faith, no remedy is available to him or for that matter anyone, who has a negative interaction with child protection workers as a result of a false complaint. The pleadings do not articulate bad faith conduct.

[32] Finally, the plaintiff seeks several remedies - an apology, an Independent Review of government action – all of which have no foundation in law, and are beyond the scope of the court's jurisdiction.

[33] In these reasons I have determined that 9 of his 11 articulated claims are without merit, bound to fail and must be dismissed. His final two claims, for damages and for costs, are without foundation as the substance of his claim is found to be without merit.

[34] I order that his claim in its entirety be dismissed. The defendants are normally entitled to costs, but recognizing the difficult circumstances I can glean as articulated in the Final Amended Statement of Claim, I will fix those costs at a nominal \$250.00.

Groves J.