

DHARAMJIT SINGH LL.B

Barrister and Solicitor

1013 Wilson Avenue, Suite 201
Toronto, Ontario, M3K1G1
Tel : ~~(416) 568 7466~~
Fax : (416) 630 7472

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Canadian Judicial Council
150 Metcalfe Street
Ottawa, Ontario
K1A 0W8

Attention: Mr. Norman Sabourin
Executive Director and Senior General Counsel
Canadian Judicial Council

Email: nsabourin@judicom.gc.ca

Dear Mr. Sabourin

Re: Complaint against Chief Justice of Ontario Warren K. Winkler, Court of Appeal for Ontario Judges, Rosenberg J.A., Goudge J.A., Feldman J.A., Divisional Court for Ontario Judge, J.D. McCombs J., and Ontario Superior Court Master, Master McAfee.

Please be advised that I am filing a formal complaint against all the above-mentioned Judges and Master for Judicial Corruption and Case Fixing, pursuant to the "Complaints Procedures" approved by the Canadian Judicial Council effective 14 October 2010. I am aware that Masters are appointed by the Provincial Government and as such you may not have jurisdiction to deal with the complaint against Master McAfee. Nevertheless, I have included her in this complaint as it is inter-related to the conduct of the other mentioned Judges. Her conduct may probably have to be reviewed in another forum.

Before proceeding to the gist of my complaint I would like to digress a little bit and call your attention to the remarks made by Right Honorable Beverley McLachlin, presented at the Empire Club of Canada Toronto, on March 8, 2007. In her remarks she stated:

"Let me begin by asserting that Canada has a strong and healthy justice system. Indeed, our courts and justice system are looked to by many countries as exemplary. We have well-appointed courtrooms, presided over by high qualified judges. Our judges are independent and deliver impartial justice, free of fear and favour. The Canadian Judicial Council, which I head, recently issued an information note on the judicial appointments process in which it affirmed these long standing-principles on which our justice system is based. Canadian can have confidence that judges are committed to rendering judgment in

accordance with the law and based on the evidence. Corruption and partisanship are non-issues. In all these things, we are fortunate indeed.”

Many years ago I would have believed in her remarks, but now my faith in the Judiciary has been shattered. I do not even believe that our Judiciary is truly independent. I do believe that most judges are honest, sincere and have a great sense of integrity, however this does not mean that corruption does not exist in our judiciary. It exists, just like in any other profession. I will demonstrate what I have just said with irrefutable evidence which is the subject matter of my complaint. I will also demonstrate that our Judiciary is not entirely independent. When no one is watching, the Government does assert its influence over the Judiciary to achieve its objectives. I will also show how it is done. When a crooked decision is needed for a political or any other reason, the Chief Justice of Ontario has a group of crooked judges he knows he can rely on (I can only speak about Ontario).

Now, I will provide you with the facts giving rise to this complaint. The gist of the complaint has to do with a case whereby I was and still am representing the Plaintiff. The case is Nazir Ghany v. Federal Express Canada Ltd etal (Court file No 07-Cv-342097PD3), which was commenced in the Ontario Superior Court of Justice on October 19, 2007. This case is essentially a whistleblower case.

The subject matter of this complaint has to do with a motion that was brought by the Plaintiff to Amend the Statement of Claim and to add parties in the Ontario Superior Court of Justice. Master Mc Afee presided over this matter and she dismissed the motion almost in its entirety. This matter was then appealed by the Plaintiff and the appeal was heard by Justice J.D. McCombs and he also dismissed the appeal. The Plaintiff then sought leave to appeal his decision and the three Judges of the Ontario Court of Appeal mentioned above, denied leave.

It is my submission that the conduct of all the Judges and Master in dealing with this matter was very deceptive, not according to the Rule of Law and with utter disregard to the prevailing law such that it has brought the Administration of Justice into disrepute. Their only objective was to decimate the Plaintiff's case at whatever costs so that the case will never see the light of day. They were all handpicked to do this dirty job. The reason for this is that there was very sensitive information in the motion record which if made public would have caused a huge embarrassment to the current Government and many heads would have fallen. I propose to deal with this sensitive information before providing a detailed analysis of the Judges and Master's misconduct.

The details of this sensitive information have already been the subject matter of an online article published by a Journalist by the name of Bill Conroy. The name of this article is "Real threat to U.S. national security may be along northern border". Attached herewith as exhibit 'A' is the said article. I am also attaching herewith the Affidavit of Susan Foster and the deposition of Susan Foster which is made referenced to in this article, as exhibit "B" and "C" respectively. I had been contacted by a number of local journalists who were interested in publishing the same, here in Canada, but at the last minute things would fall apart and they will just either mysteriously vanish or they could not get the

permission of their Chief Editors to publish it here. It is as though someone "behind the scene" who has control over the mainstream media is/was preventing any publication of the same, here in Canada. Is our media really independent? They would rather do stories about an escaped monkey at Ikea then stories such as "escapees" contained in the GTS update document referred to in the article by Bill Conroy which affects our national security. From the Governments perspective, it prefers the public being entertained with monkey stories then being fed with real news lest they wake up from their slumber and realize that their rights have been trampled on and the security of the nation has been compromised by the very Government that is suppose to protect it.

From the above-mentioned article it is clear that the C-TPAT (Customs Trade Partners Against Terrorism) that was established post 9/11 and has been lauded by the Government as a great success is actually a sham and a dismal failure. It may as well, be called Customs Trade Partners For Terrorism (C-TPFT). This is the information that the Canadian and US Government would not like the public to become aware of. In reality C-TPAT has not made us safer, it has in fact undermined ours as well as US national security. If anything, the Government is more interested in favouring Giant Corporations as opposed to caring for the security of our nation. Had this information become public it would have raised far more questions than answers such as:

- a) Was the Government aware of these ongoing illegal activities? Why no action was taken against FedEx for its role in these serious violations? Why only smaller corporations and individuals are the only ones who get prosecuted for C-TPAT and other Customs violations? The fact of the matter is that the Government is aware of these ongoing illegal activities as it has already been brought to its attention but instead of taking any action it just chooses to remain acquiescent about it. The matter of our Government and other burecrauts being in bed with giant corporations such as FedEx should come as no surprise as it has been a matter of great discussion in Parliament in the past. Ironically, it was the Honourable Jason Kenney and Ms Deborah Grey of the then Reform party that first raised this issue. Attached herewith as exhibit "D" is an Edited Hansard Report Number 008 dated Wenesday, October 1, 1997, which proves my point. The very party that raised this issue is now dodging it, albeit the Reform party is now the Conservative Party. Attached herewith as Exhibit "E" is also a recent Toronto Sun article dated Oct 17, 2011, where some anonymous CBSA officers complained that they are under pressure from Courier Giants (largest being FcdEx and UPS) to expedite parcels since goods must be delivered by strict deadlines or the service provided by some firms are free;
- b) To what extent has our Government's acquiescence to all these illegal activities undermine our commitment to the various treaties to which we are signatory to, such as non-proliferation of arms?;
- c) To what extent has our Government's acquiescence to all these illegal activities compromised the safety of our soldiers? In a recent article by Wayne Risher, entitled "FedEx pays civil fines to settle allegations it violated export

regulations", dated Jan 5 2012 (attached herewith as exhibit "F"), it came to light that some export violations are detrimental to our and US national security and also there is a link with these violations and the Improvised Explosive Devices used against our very soldiers in Iraq and Afghanistan. Is our Government's acquiescence compromising the safety of our soldiers?;

- d) Post 9/11, a Business Roundtable Security Task force was set up to help the private sector protect and defend the nation's (US) critical infrastructure against threats of terrorism. Ironically, Frederick W. Smith, chairman, president and CEO of FedEx Corporation was named as Chairman of this Task force sometime in 2005. Attached herewith as exhibit "G" is a press release by Initiative Press Release confirming his appointment. In this article it is stated that "FedEx inspires its more than 240,000 employees and contractors to remain "absolutely positively" focused on safety, the highest ethical and professional standards and the needs of their customers and communities." Would it not have been a huge embarrassment to Canada and US if this sensitive information became public and the public became aware that on the one hand Fred Smith was the security task force chairman and on the other FedEx is/was involved in the very activities which were/are undermining national security? It is like getting a cat to guard the mice.;
- e) Why are the Government and the CBSA (Canadian Border Service Agency) not interested in prosecuting FedEx and collecting the fines, penalties and GST which would amount to hundreds of millions of dollars if not billions at the expense of the taxpayer? Are some people being paid for this massive cover-up?; and
- f) What happened to the Government's mandate on being tough on crime? Is there a distinction between white collar and blue collar crime? Are Giant Corporations such as FedEx above the law?

I will now discuss as to how the Judiciary at all three levels (Ontario Superior Court of Justice, Ontario Divisional Court and Ontario Court of Appeal) through its deceptive conduct fixed the case of Nazir Ghany in an attempt to further the cover-up.

As mentioned earlier, the subject matter of the complaint has to do with a motion that was brought by the Plaintiff, Nazir Ghany. The motion was for adding of parties (Frederick W. Smith and David J. Bronczek) and adding allegations in support of Nazir Ghany's claims for retaliatory discharge/discipline/reprisal and in support of his other claims including those for punitive damages.

I first propose to deal with the adding of the allegations as this will demonstrate with irrefutable evidence that Nazir Ghany's case was fixed at all three levels of the court. To demonstrate this, I do not even have to go through all the evidence that was before all the three courts. Just an analysis of the decisions made at all three levels of the court and case law suffice. Most interestingly, it will also become evident that Justice J.D. McCombs of the Divisional Court tried his very best to write a decision in support of the Defendants

on this issue but could not (because no sane judge, lawyer, professor or any person with a legal background be it in Canada, USA or the whole of the Commonwealth write a decision in support of a decision that was reached without regard to the principles of stare decisis). This is because Master McAfee in supporting the Defendants on this issue had not only disregarded case law of the Supreme Court of Canada but she had hung her deceptive hat on a case of the Superior Court of Justice of Ontario which had been overruled on appeal by the Ontario Court of Appeal. What Justice McComb could not fix, he just deceptively swept it under the carpet.

For Justice McComb, to have used this deceptive tactic he must have had the foreknowledge that the Chief Justice had enough of corrupt judges to cover his back should this matter be pursued further to the Court of Appeal. Otherwise, it would have been foolish for him to have done what he did. I did bring this deception to his attention when signing the draft order with respect to his decision but alas, he still had no qualms in signing the order. When the matter was pursued to the Court of Appeal the Judges at the Court of Appeal did exactly that i.e. covered up the deception of Justice McComb by refusing leave so that the "Sun of Truth" will not shine on the evils done by Justice McComb in the gloom of night.

With respect to the issue of adding of the parties I would submit there is cogent evidence that even on this issue, all three levels of the court deliberately and deceptively sided the proposed Defendants with utter disregard of the law.

Adding of Allegations- Proposed amendments not necessitating the addition of a party

Attached herewith as exhibit "H" was the proposed Amended Statement of Claim which was the subject matter of the motion before Master McAfee, the Ontario Divisional Court and the Ontario Court of Appeal. Attached herewith as exhibit "I" is the Master's decision with respect to this motion. The subject matter of this portion of the complaint has to do with the manner with which the courts dealt with the issues raised with respect to Para 13(ii) of Master MacAfee's decision (Proposed amendments not necessitating the addition of a party).

I will now deal with what happened at the Divisional Court first, as it is more informative as to how judicial deception was carried out in this matter. Attached herewith as exhibit "J" is the decision of Justice J.D. McComb dated April 20, 2010 and exhibit "K" the Factum of the Appellant (Nazir Ghany). Just a mere glance/comparison of both these exhibits, one will realize that Justice J.D. McCombs decision stinks of deception and so foul is the smell that it will get one's head spinning.

I did not know that Justice J.D McCombs was also a magician and he had a magician's hat and that he could make things disappear into thin air just like a rabbit. A perusal of the factum (Para 26) will show that there were six issues before him i.e. 26(a) to 26 (F). Justice J.D McCombs dealt only with 26(a) and used his magician hat to vanish the issues raised from 26(b) to (f). This is what I meant earlier that what he could not fix he just

deceptively made it disappear. These very same issues were before Master MacAfee and she deceptively ignored all the arguments raised by the Plaintiff and also ignored all the relevant case law. She strained herself very hard to craft a decision in favour of the Defendants. A perusal of the factum (Para 45 to 65) sufficeth to show how flawed was her decision. She even ignored the Supreme Court of Canada's decision in Whiten v. Pilot Insurance Co. and poised herself instead to rely on the Ontario Superior Court case of Gnanasegaram v. Allianz. She did work very hard to desperately find in favour of the Defendants on these issues, but unfortunately she made a grievous error because this very same case had been overturned by the Court of Appeal (see Para 54 of factum). Further, the Master could not explain (I respectfully submit nobody can) why these allegations(44.1 to 44.9) would not be relevant to the Negligent Misrepresentation, Breach of Contract, Intentional Infliction of Mental or Emotional cause of actions and Punitive damages. So what she could not fix she just deceptively swept it under the carpet so that nobody reading her decision will know that these issues were before her.

Adding of Parties

I will now deal with how the court dealt with this issue. Unlike the clear cut deception mentioned above, what Master MacAfee did on this issue was what can be characterize as a disingenuous attempt to fashion her decision in such a way in support of the proposed defendants. You see, Frederick Smith, the CEO of FedEx and David Bronzcek had to be protected at all costs. Had they been allowed into the action all the illegal activities done by Federal Express Canada, in Canada would have been exposed. All three courts were privy to the irrefutable evidence that every single hub of Federal Express were engaged in illegal activities. A summary of the evidence of the illegal activities and involvement of both these two proposed defendants was before all three courts and a summary of this is provided at para 19 to para 25 of the factum. Had they been allowed into the action they would have been subjected to cross examination on a later date and it would have been a disaster for the Government as the true colours of the C-TPAT programme would have been revealed and the matter of the Government's acquiescent of these illegal activities exposed.

Master MacAfee could not find any good case to base her decision on so she relied on the "Jama decision". Her arguments on this issue are so seriously flawed. A perusal of the factum (Para 27 to Para 44) sufficeth to reveal the flaws.

What is astounding is that what she is basically saying is that CEOs who live in US and use their subsidiaries in Canada to carry out large scale illegal activities should be spared from lawsuits. They should be allowed to focus on their work. What the court did here is to elevate these two individuals as individuals who are above the law and I thought Justice was supposed to be blind. The government had been aiding and abetting FedEx in its illegal activities by failing to take the necessary action but are the courts now not guilty of the same? It is interesting to note that neither Justice McCombs nor Justice McAfee even mentioned anything about the evidence of all the illegal activities that was before them. They would not even approach this evidence with a six feet pole. Post 9/11, the public has been advised to be vigilant and report any suspicious activities. Does our

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August institution not then have a duty to report ongoing illegal activities to the appropriate authorities? Instead of doing so, they did the very opposite i.e. cover up for FedEx. If C-TPAT is an anti-terrorist measure, and by attempting to cover up these illegal activities which are contrary to C-TPAT, is one not, then guilty of aiding and abetting terrorism?

I will now go to Justice McCombs decision on this matter in the Divisional Court. After deceptively sweeping all the other issues under the carpet he now had to deal with just this one issue. A perusal of his decision and the comparison of the factum before him on this issue clearly shows his decision is so flawed and deceptive. Judges are supposed to give reasoned decision. Can this decision be called a reasoned decision? Did he even dare to analyze the Appellant's position and factum? He just avoided it as he did not know how to deal with it lest his deception became apparent. He just regurgitated the same thing what Master MacAfee had stated. Can someone please tell me where in the proposed pleadings is there anything at all about operations beyond Canada? Show me just one sentence. This is an outright lie.

Further he states that "The evidence provides no basis at all to support the appellant's allegation that they were complicit in, much less masterminded, a scheme to retaliate against him for blowing the whistle on alleged wrongdoings and wrongdoers within FedEx Canada." This is laughable. Was the Plaintiff to provide all the evidence in support of the proposed allegations? Was this a trial? It is trite law that at this stage you are suppose to take the allegations as true. Further, despite the foregoing there was overwhelming evidence to the contrary (see Para 19 to Para 25) so much so that it appears that Justice McCombs was dazzled by it and could not see the evidence or he chose not to see the evidence as he needed to protect the FedEx and the Government's lies.

Access of Justice

Right Honorable Beverley McLachlin, in her remarks presented at the Empire Club of Canada Toronto, on March 8, 2007 also dealt with the issue of access of justice. Was Nazir Ghany accorded justice? He was just an ordinary employee and he was just trying to do the right thing. It is not easy to take on a giant corporation such as FedEx as they have deep pockets. The courts here have not only robbed him of justice but have punished him. He had to pay costs in the sum of \$10,000.00 for Master McAfee's decision which was mostly reached without regards to the principle of stare decisis which goes to the very heart of our legal jurisprudence.. He was then ordered to pay costs in the sum of \$5,000.00 by Justice McCombs who through deception swept under the carpet most of the issues. He was also ordered to pay costs in the sum of \$1,000.00 by the Court of Appeal despite having all the grounds for leave, in an deceptive attempt to cover Justice McCombs back. Attached herewith as exhibit "L" is the decision of the Ontario Court of Appeal refusing leave.

The deception that occurred in the Divisional Court should by itself have been a valid ground to allow leave to appeal for otherwise how can it be said justice was served.

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Justice must not only be done but it has got to be seen to be done. Can it be said that justice can be seen to be done in this instance. This was an obvious deception on the part of the Ontario Court of Appeal. Obviously the court did not have to give reasons and they did not. I challenge the court that if there was no deception on its part then please provide written reasons as to why leave was refused. It is obvious that these three judges will not be able to do it. I attach herewith as exhibit "M" the **Amended** Notice of Motion that was before the Court of Appeal. I also attached herewith as exhibit "N" the Application for Leave to Appeal and exhibit "M" a Reply to Factum of Responding Parties. A perusal of all this documents will justify my point.

Post Nazir Ghany's Case


As can be seen the wheels of justice grinded to a halt in this case and the rule of law was totally ignored. The legal bandwagon had been derailed and something had to be done to put it back on track and to get the wheels of justice moving again. This was finally done in the subsequent case of Covelli v. Sears. Attached herewith as exhibit "O" are the decisions of both the Divisional Court and Ontario Superior Court of Justice whereby the issue addressed by Master MacAfee in the Nazir Ghany's case resurfaced again.

A perusal of both these decisions will clearly show that Master MJ Sproat and Justice Dambrot in addressing this issue got the wheels of justice moving again and got the legal bandwagon running again. I do not say this with any disrespect to both Master MJ Sproat and Justice Dambrot as they were only doing the right thing. They were not privy to what actually had transpired in the Nazir Ghany's case and neither would they have known about the deception that had occurred such that it became a vehicle of new turbulence in the settled waters of our legal jurisprudence.

Due to what had transpired in Nazir Ghany's case, I often ponder how many other cases had been fixed in the past or will get fixed in the future. There is no way of knowing because unlike this case, in most instances corrupt judges can get away with it, as judges do have some flexibility in drafting judgments and they can craft their decisions in disingenuous ways, particularly when it involves issues of discretion.

These are my submissions and I now rest my case with a quote:

"Experience hath shown that even under the best forms [of Government] those entrusted with power have, in time, and by slow operations, perverted it into tyranny." Thomas Jefferson, Bill for the More General Diffusion of Knowledge (1778).

Yours truly,

Dharamjit Singh

Copied and distributed to some legal organizations, public interest groups and associations.