Federal Court Cour fédérale

Date: 20240220

Docket: T-165-24

Citation: 2024 FC 270

Ottawa, Ontario, February 20, 2024

PRESENT: THE CHIEF JUSTICE

BETWEEN:

REBEL NEWS NETWORK LTD and EZRA LEVANT

Applicants
(Applicants on Motion)

and

DAVID LAMETTI and
THE ATTORNEY GENERAL OF CANADA

Respondents
(Respondents on Motion)

ORDER AND REASONS

I. Introduction

[1] In this Motion, the Applicants seek interlocutory injunctive relief relating to the X account (formerly the Twitter account) of the Honourable David Lametti ("**HDL**"), pending the determination of the Applicants' underlying application for judicial review (the "**Application**").

HDL was the Minister of Justice and Attorney General of Canada from January 2019 to July 2023.

[2] Initially, the relief sought by the Applicants included a mandatory Order requiring HDL to reinstitute and/or reactivate his X account (the "**X Account**"), as well as Orders requiring him to preserve a range of data and records relating to the X Account and other communications. However, given that HDL subsequently reactivated the X Account, the Applicants underscored during the hearing of this Motion that they now simply seek an Order to preserve the data and other records relating to the X Account.

[3] In their underlying Application, the Applicants seek a variety of relief. This includes an Order to extend the above-mentioned interlocutory preservation Order indefinitely, as well as a declaration that HDL:

> […] has violated the constitutional rights of the Applicants […] under sections 2(b) and 3 of the *Charter* by deactivating his [X Account] thereby functionally blocking Mr. Levant's access to his X Account and limiting [the Applicants'] ability to, among other things, access and communicate important information, participate in public debate, express views on matters of public concern, have a voice in the deliberations of government, and bring grievances and concerns to the attention of a government representative.

[4] HDL maintains that the reactivation of his X Account alleviates any concerns that may have arisen regarding the potential loss of data associated with that account. Stated differently, he asserts that there is no longer any factual basis for the interlocutory injunctive relief sought by the Applicants. However, to "assuage any possible concerns regarding the potential destruction of information," he offered an undertaking to the Court (the "**Undertaking**"). In the

Undertaking, HDL commits to taking a variety of actions, including to transfer to Library and Archives Canada the entirety of the X Account archive within 10 days of the hearing that took place on February 13, 2024. Further to exchanges during the hearing, HDL expanded the Undertaking to include a commitment not to deactivate the X Account.

[5] Having regard to the reactivation of the X Account and the Undertaking, I find that the Applicants are unable to satisfy one of the three requirements that must be met before interlocutory injunctive relief can be granted. Specifically, the Applicants have failed to establish, on a balance of probabilities, with clear and non-speculative evidence, that they would suffer irreparable harm if the Motion is refused.

[6] The Applicants' failure to demonstrate with clear and non-speculative evidence that they will suffer irreparable harm if their Motion is denied is fatal to their Motion. Accordingly, the Motion will be dismissed.

II. The Parties

[7] The Applicant Rebel News Network Ltd. ("**Rebel News**") is a news and media company that communicates through different media, including on its website (http://www.Rebelnews.com), podcasts, YouTube videos, print media, paperback books, e-books, radio advertisements, and billboards. It describes itself as the largest independent news organization in Canada and as a tireless advocate for free expression and press freedom in Canada.

[8] The Applicant Ezra Levant is the founder and principal of Rebel News.

[9] The Respondent HDL is the immediate past Minister of Justice and Attorney General of Canada. He was also the Member of Parliament for LaSalle-Emard-Verdun from October 19, 2015, to January 31, 2024.

[10] Both the Notice of Application and the Notice of Motion filed by the Applicants identify "Canada (The Honourable David Lametti)" as a Respondent. I agree with the Attorney General of Canada ("**AGC**") that this Respondent does not exist and should be struck from the style of cause in this Motion and in the underlying Application.

[11] The Respondent AGC is the remaining party to this proceeding.

III. Background

[12] During his time as a Member of Parliament and Minister of Justice and Attorney General of Canada, HDL maintained the X Account and used it to communicate with the public.

[13] According to documentation on X's website, the grey checkmark beside HDL's name on his X Account profile and on specific posts indicates that his account has been confirmed to represent a government or multilateral organization or official.

[14] On or about January 25, 2024, the Applicants discovered that the X Account had been deactivated. They filed their underlying Application two days later.

[15] In their Application, the Applicants provide the following information with respect to X:

> 23. X, formerly Twitter, is an online, interactive social media platform that allows its users to electronically send messages of limited length visible to anyone with internet access. After creating an account, a user can view others' posts and post their own messages on the platform (formerly referred to as "tweeting" and now simply called "posting"). Users may also respond to the messages of others ("replying"), republish the messages of others ("reposting" — formerly "retweeting"), or convey approval or acknowledgment of another's message by "liking" the message. All of a user's posts — their own and others' — appear on a continuously-updated "timeline", which is a convenient method of viewing and interacting with posts.
>
> 24. Additionally, X's "Community Notes" feature is another way the public can engage with posts made by another account. A Community Note is user-added information that appears at the bottom of the X post to which it relates. As explained on X's website, the central idea behind this feature is to foster a more informed digital environment by permitting users to collaboratively annotate posts with relevant clarifications or contextual information. The website further clarifies that a Community Note is not published by majority ruling but instead by "agreement between contributors who have sometimes disagreed in their past ratings".

[16] Regarding the consequences of deactivation of an X account, the Applicants add the following:

> 28. When a user deactivates their X account, a 30-day deactivation window is triggered, after which their account becomes permanently deleted unless the user logs into their deactivated account at any point during the 30 days. Once an X account is flagged for permanent deletion, the user can no longer reactivate their account nor access any posts previously made on that account.

[17] The Applicants also assert that, by deactivating his X Account, HDL prevented them and other X users "from viewing, replying, reposting, or using the Community Notes feature on any

and all posts previously made on that X Account." They maintain that this (i) hindered public access to government information, (ii) suppressed "crucial voices in public debate on posts that can no longer be interacted with, shared, or commented on," and thereby (iii) breached their rights under subsection 2(b) and section 3 of the *Canadian Charter of Rights and Freedoms,* Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 [the "***Charter***"].

[18] On this Motion, the Applicants further allege the following:

> "If the information contained in the X Account is or becomes unavailable, it can no longer be determined by this Court whether it may form part of the Government records or other information available to the Applicants or other Canadian journalists or citizens. Should the X Account content be deleted, the rights of the Applicants may be permanently impaired and extinguished."

[19] The Applicants also expressed a particular interest in the public posts made by HDL and the direct messages on his X Account, in relation to the government's decision to implement the *Emergency Measures Act*, RSC 1985, c 22 ["***Emergencies Act***"].

IV. Issues

[20] This Motion raises the following two issues:

i. Does this Court have the jurisdiction to entertain the underlying Application?

ii. Should the Court grant the interlocutory injunctive relief sought by the Applicants?

V. Analysis

A. *Does this Court have the jurisdiction to entertain the underlying Application?*

(1) The Respondents' position

[21] The AGC maintains that the Applicants have failed to establish this Court's jurisdiction in relation to the underlying Application. HDL agrees.

[22] More specifically, the AGC states that the Applicants have not shown that, in deactivating his X Account, HDL was acting either as a federal board, commission, or other tribunal for the purposes of section 18.1 of the *Federal Courts Act*, RSC 1985, c F-7 [the "***FC Act***"] or as part of the executive branch of government, for the purposes of section 17.

[23] The AGC adds that there is no evidence that HDL or anyone acting on his behalf was acting in any executive branch capacity or in other official capacity in connection with the deactivation of the X Account. The AGC further asserts that there is no evidence that HDL exercised, or purported to exercise, jurisdiction or powers conferred by or under any federal statute, or that he made an order pursuant to the prerogative power of the Crown.

[24] The AGC states that the first branch of the test to determine whether this Court has jurisdiction in relation to the underlying Application is not met, because there has been no

statutory grant of jurisdiction by Parliament to the Court. In addition, the AGC asserts that the *Charter* does not apply to HDL's deactivation of his X Account.

(2) The Applicants' position

[25] The Applicants did not address this issue in their written submissions, perhaps because those submissions were required to be served and filed before those of the Respondents.

[26] In their oral submissions, the Applicants asserted that some of the data associated with the X Account has all of the hallmarks of being government data, and that HDL was acting in an official capacity when he deactivated the X Account. The Applicants add that this Court's jurisdiction should be interpreted broadly, to ensure that HDL is not in a position to destroy such data, now that he is no longer a Minister of the Crown.

[27] Stated differently, the Applicants maintain that the Court's jurisdiction, including under subsection 17(5) of the *FC Act*, should be interpreted as applying to elected officials after they resign, insofar as their government and ministerial data is concerned. They submit that if such jurisdiction did not exist, Ministers of the Crown could place themselves beyond the reach of the law by resigning and then destroying government data or other information that is subject to federal law, including subsection 12(1) of the *Library and Archives of Canada Act*, SC 2004, c 11 (the "***LACA***") and subsection 67.1(1) of the *Access to Information Act*, RSC 1985, c A-1 (the "***AIA***").

(3) Assessment

[28] I am troubled by the suggestion that a federal Minister of the Crown might be able to avoid the jurisdiction of this Court and the remedies available to the Court, including as they relate to the preservation of records under the *LACA*, by resigning and then taking actions that may escape the application of such federal legislation.

[29] However, I consider that the jurisdictional issues raised by the parties have not been sufficiently argued to warrant a determination on this Motion: *Skibsted v Canada (Environment and Climate Change)*, 2021 FC 301, at paras 27–29 [***Skibsted***]. Those issues are serious in nature, not only because they may result in the dismissal of the underlying Application, but also because of their potential precedential significance. In my view, the Applicants ought to have more than the single business day that they had to prepare their oral reply to the Respondents' arguments, to address those arguments.[1]

[30] In addition, the factual record has not been sufficiently developed.

[31] Moreover, it is unnecessary to determine whether this Court has the jurisdiction to entertain the underlying Application. This is because this Motion can be decided without answering that question: *Cardno v Kwantlen First Nation*, 2022 FC 1778 at paragraph 17; *Skibsted*, at paras 9 and 27; *Letnes v Canada (Attorney General)*, 2020 FC 636, at paras 7 and 30.

[1] The Respondents' arguments with respect to jurisdiction were advanced in the Motion Record of the Attorney General of Canada, which was filed at the end of the day on Friday, February 9, 2024. The hearing of the Motion took place the following Tuesday, February 13, 2024.

As this Court has recently observed, "[t]he effectiveness of interim relief would be jeopardized if it could only be issued after jurisdictional issues are settled"; and "[j]urisdictional issues […] can be intertwined with the merits of the case": *Bellegarde v Carry the Kettle First Nation*, 2023 FC 86, at para 20. That appears to be so here.

[32] Beyond the issues raised with respect to section 18.1 and subsection 17(5) of the *FC Act*, I encourage the parties to consider the jurisdiction granted to the Court pursuant to paragraph 18(1)(b) and section 44 of that legislation, in relation to declaratory and injunctive relief, respectively. Likewise, I encourage them to address each of the three components of the test for determining this Court's jurisdiction, as set forth in *ITO-International Terminal Operators Ltd v Miida Electronics Inc.*, [1986] 1 SCR 752 at 766 [***ITO***]. For greater certainty, those three components are as follows:

i. There must be a statutory grant of jurisdiction by the federal Parliament.

ii. There must be an existing body of federal law which is essential to the disposition of the case and which nourishes the statutory grant of jurisdiction.

iii. The law on which the case is based must be "a law of Canada" as the phrase is used in section 101 of the *Constitution Act, 1867*, 30 & 31 Vict, c 3, s 91.

[33] I further draw the attention of the parties to this Court's decision last week in *Hameed v Canada (Prime Minister)*, 2024 FC 242, at paras 62–108, where Justice Brown extensively discusses the jurisprudence regarding this Court's jurisdiction, including in relation to the granting of constitutional declarations.

[34] Beyond the foregoing, it behooves the Applicants to clarify whether they are seeking relief in the nature of judicial review in the underling Application, as the Respondents appear to understand. In this regard, I note that the Applicants' Notice of Application does not seek relief under section 18.1 of the *FC Act* and makes no reference to that provision or to judicial review more generally. This contrasts with the Notice of Application in Court file T-1631-19, referenced at paragraph 20 of the Notice of Application in the present proceeding. However, paragraph 20 of the Applicants' Notice of Motion refers to "this judicial review proceeding," and at paragraph 25 of that document, the Applicants rely on section 18.2 of the *FC Act*. That provision provides this Court with the power, on an application for judicial review, to make any interim orders that it considers appropriate pending the final disposition of an underlying application.

[35] In summary, for the reasons set forth above, I will refrain from determining the jurisdictional issues raised by the Respondents on this Motion. I consider that it would be more appropriate for those issues to be addressed in the underlying Application, after the parties have had an opportunity to make more fulsome submissions and to develop a better factual record.

B. *Should the Court grant the interlocutory injunctive relief sought by the Applicants?*

[36] The classic three-part test applicable to requests for interlocutory injunctive relief to preserve the *status quo* requires the Court to be satisfied that (i) there is a serious issue to be tried; (ii) the applicant would suffer irreparable harm if the request were refused; and (iii) the balance of convenience favours the applicant: *RJR-MacDonald Inc. v Canada (Attorney General)*, [1994] 1 SCR 311 at 334 [***RJR***]. Even if these elements are demonstrated, the Court retains the discretion to decline the relief sought.

[37] Where mandatory relief is sought, the first prong of the test is more stringent. It requires the applicant to demonstrate a "strong prima facie case," rather than simply a "serious issue to be tried": *R v Canadian Broadcasting Corp*, 2018 SCC 5 at para 15 [***CBC***]. This requires the applicant to establish a strong likelihood of success at trial: *CBC* at para 17.

[38] The distinction between the test applicable to prohibitive relief directed towards preserving the *status quo*, and mandatory relief, is relevant to the present proceeding because some of the relief sought by the Applicants is mandatory in nature. Specifically, in their Notice of Motion, the Applicants request an Order requiring HDL to "reinstitute and/or reactivate" the X Account. Essentially the same language is repeated in the Draft Order subsequently filed by the Applicants.

[39] Given that HDL has already reactivated the X Account, the Applicants conveyed a willingness to amend their requested relief to eliminate the mandatory relief sought. However,

the Respondents maintain that other aspects of the relief requested by the Applicants, which is addressed towards the preservation of data, records and materials relating to the X Account, contemplate the taking of specific positive actions.

[40] I recognize that relief styled as being "preservative" in nature may, in practical terms, require a certain course of action: Robert Sharpe, *Injunctions and Specific Performance*, 5th ed (Toronto: Thomson Reuters, 2017) § 1.30 [***Sharpe***].

[41] For the present purposes, it is unnecessary to dwell on this issue. This is because the three-part test for interlocutory injunctive relief is conjunctive in nature, and I have determined that the second prong of the test has not been satisfied. That prong of the test is identical for both mandatory and prohibitive injunctive relief. Specifically, it must be demonstrated that the Applicants would suffer irreparable harm if the Motion were denied. For the following reasons, the Applicants have failed to meet this test.

[42] The term "irreparable" contemplates the nature of the alleged harm, rather than its magnitude. Irreparable harm "is harm which either cannot be quantified in monetary terms or which cannot be cured, usually because one party cannot collect damages from the other": *RJR* at 341. Demonstrating that such harm will occur if the requested relief is not granted requires the Applicants to establish this on a balance of probabilities, with "clear and compelling" evidence: *Sheldon M. Chumir Foundation for Ethics in Leadership v Canada (National Revenue)*, 2023 FCA 242 at paras 6–8; *United States Steel Corporation v Canada (Attorney General)*, 2010 FCA 200 at para 7 [***US Steel***]. Stated differently, "the moving party must demonstrate in a detailed

and concrete way that it will suffer real, definite, unavoidable harm – not hypothetical and speculative harm – that cannot be repaired later": *Janssen Inc. v Abbvie Corporation*, 2014 FCA 112 at para 24; *Western Oilfield Equipment Rentals Ltd v M-I L.L.C.*, 2020 FCA 3 at para 11. See also *Bell Canada v Beanfield Technologies Inc*., 2024 FCA 28 at paras 20–25. Absent such evidence, this element of the test will not be met: *US Steel* at para 13.

[43] The Applicants have provided no such evidence.

[44] The Applicants describe the irreparable harm they are trying to prevent as follows:

> 70. Should the Data in question be deleted or destroyed, then this Court will have no ability to grant an effective order that the Data be available to the Applicants, or others. The Data will have ceased to exist, be unavailable for these proceedings, and be unavailable for any public commentary or discourse in a democratic society.
>
> 71. This deletion will occur despite the Government obligations to preserve these records under the […*LACA* and the *AIA*…]
>
> […]
>
> 75. If the Applicants are not granted the injunctive relief sought, the ability for them to review, comment on, or access the X Account or any other Data will be permanently lost.

[45] The Applicants add that in the event that this Court determines, in the underlying Application, that such permanent loss of the data associated with the X Account unjustifiably infringes their right to freedom of expression under section 2(b) of the *Charter*, no remedy will be available to correct that infringement. They maintain that this constitutes irreparable harm.

[46] However, I find that the Applicants have not established with clear and non-speculative evidence that the deletion or destruction of data or other information associated with the X Account will occur.

[47] The uncontested evidence is that HDL reactivated the X Account on or before January 29, 2024, and that this account was successfully accessed by Rosanna White, a paralegal with the Department of Justice Canada (the "**DOJ**"), on February 6, 2024, and on February 7, 2024.

[48] My understanding from HDL's written and oral submissions is that the X Account has continued to remain active since its reactivation in late January. There is no evidence to suggest otherwise, and there is no evidence of any loss of data, whether pertaining to the period during which the X Account was deactivated, or otherwise.

[49] Moreover, one of the Undertakings offered by HDL is to not deactivate the X Account "until judgment on the merits of the [underlying] Application." That Undertaking also contains the following commitments, of the same duration:

> 1) [to] provide Library and Archives Canada with full access to my government and ministerial records, for the purposes of transferring them to the Librarian and Archivist;
>
> 2) [to] transfer to Library and Archives Canada the entirety of the X Account archive;
>
> 3) [to] engage in the transfer of the records mentioned in paragraphs 1 and 2 above within 10 days of the hearing on the interlocutory injunction, which took place on February 13, 2024;

> 4) [to] confirm to this Honourable Court through my attorneys once the transfers to the Librarian and Archivist have taken place; [and]
>
> 5) [to] not make any request to the Librarian and Archivist to destroy any records obtained from me that are under their care, custody and/or control.

[50] The jurisprudence recognizes that an undertaking provided by a respondent or a defendant can obviate the need for injunctive relief, including by eliminating any irreparable harm that may otherwise have materialized: see e.g., *Tajdin v Aga Khan*, 2011 FCA 172 at para 11; *Erik v McDonald*, 2018 ABCA 112, at para 14; *Bell Canada v Rogers Communications*, [2009] OJ No 3161, at paras 43–46; *Tele-mobile Company v Bell Mobility*, 2006 BCSC 161, at paras 36–37 [***Tele-mobile***]. The rationale for this was explained in *Sharpe*, at §1.810, as follows:

> An injunction will not be granted where the defendant undertakes or otherwise satisfies the court that it is prepared to desist of the conduct complained of. There is a strong policy in the law favouring the settlement of disputes without litigation, and the principle that an injunction will not be granted simply because it does no harm to the honest and law-abiding defendant is perhaps justified by the desire to save the cost and social friction inherent in litigation.

[51] Given the reactivation of the X Account and the Undertaking, the Applicants have not demonstrated, with clear and non-speculative evidence, or indeed any other evidence, how they or anyone else will suffer irreparable harm if the injunctive relief they have requested is not granted.

[52] If there ever was any risk that any data, information or other material associated with the X Account might be destroyed, whether inadvertently or otherwise, the reactivation of that account, together with the Undertaking, have eliminated such risk.

[53] It is important to add that subsection 12(1) of the *LACA* specifically prohibits the destruction of government and ministerial records, without the consent of the Librarian and Archivist under that legislation, or that person's delegate.

[54] During the hearing of this Motion, the Applicants raised concerns regarding the transfer of the data and other information pertaining to the X Account, to Library and Archives Canada. Among other things, the Applicants noted that Library and Archives Canada is not a party to this proceeding, and they were not present to describe how they would treat the data and other information in question. The Applicants added that if something beyond HDL's control were to happen to that data, he would not be subject to any consequences.

[55] However, in their Notice of Application, the Applicants themselves requested, as an alternative to an Order requiring HDL to provide a copy of an archive of the X Account to them, an Order requiring a copy of that archive to be provided to the Librarian and Archivist of Canada.

[56] The Applicants have not identified any sound basis for the Court to be concerned about the ability of Library and Archives Canada to preserve the full archive of the X Account,

pending the determination of the underlying Application, and to then preserve and protect any ministerial records contemplated by paragraph 7(c) and subsection 12(1) of the *LACA*.

[57] The Applicants further note that the Undertaking only applies to HDL, and therefore leaves third parties such as staff in his former office to issue instructions to Library and Archives Canada, or to take other steps directed towards the destruction or modification of data, information or other material associated with the X Account. However, an affidavit sworn by Mr. Charles Stanfield, Deputy Director General, Communications Branch, DOJ, states that neither the DOJ nor any of its staff have ever been involved in the management or operation of the X Account. The Applicants have not adduced any evidence whatsoever to indicate otherwise.

[58] The Applicants tendered evidence indicating that HDL has edited posts on his Instagram account, including subsequent to the filing of their underlying Application in this proceeding. However, that account is different from the X Account. In any event, there is no evidence to suggest that the data associated with any content on the X Account that may have been edited no longer exists.

[59] It bears emphasizing that the Undertaking provides for the transfer of the *entirety* of HDL's X Account to Library and Archives Canada. In addition, following exchanges during the hearing of this Motion, HDL amended the Undertaking to include a commitment not to deactivate the X Account. This ensures that the original content of the X Account will continue to be available to the Applicants and the public, in addition to the copy of the contents of that account, which will be transferred to Library and Archives Canada.

[60] Despite all of the foregoing, the Applicants urged the Court to grant their requested injunctive relief out of an abundance of caution, as a precautionary measure. However, that is not an appropriate basis upon which to issue injunctive relief: *Tele-mobile*, at para 25.

[61] Subsequent to receiving the expanded Undertaking described at paragraph 59 above, the Applicants advised the Court that the Undertaking would be acceptable, presumably as an alternative to the relief they sought on this Motion, if (i) it were accepted by Order of this Court, and (ii) "interference with the effect of the Undertaking is proscribed by Order."

[62] However, while I find the Undertaking to be acceptable, I consider that it is unnecessary to effectively convert it into a Court Order, as requested by the Applicants. Given the reactivation of the X Account, HDL's written offer to provide the Undertaking, and the absence of clear and non-speculative evidence of irreparable harm, I find that there is no basis upon which to accede to the Applicants' request. As a member of the Barreau du Québec, HDL is an officer of the Court and can be relied upon to abide by his Undertaking.

[63] Of course, it is incumbent upon HDL to file an executed version of the Undertaking with the Court. A provision to that effect will be included in my Order below.

[64] In summary, for all of the reasons set forth above, I find that the Applicants have not satisfied the test to obtain the injunctive relief they have requested. This is because they have failed to meet the second prong of that test, which requires a demonstration of irreparable harm. Having regard to the reactivation of the X Account and the Undertaking, the Applicants were

unable to establish irreparable harm with clear and non-speculative evidence. More specifically, the Applicants failed to demonstrate, on a balance of probabilities, that any data, information or other material associated with the X Account would be destroyed or otherwise rendered inaccessible to them if the requested injunctive relief they requested was not granted. This was fatal to their Motion.

[65] Consequently, it is unnecessary to address the first and third prongs of that test, as articulated at paragraph 36 above.

[66] I pause to observe in passing that the Respondents also tendered evidence indicating that a very substantial number of posts on the X Account are available on the Internet Archive website (also known as the Wayback Machine). According to an affidavit filed by Rosemary Da Silva-Kassian, a paralegal with the DOJ in Edmonton, search results pertaining to the X Account show that the web page for that account was saved 1,069 times between September 3, 2016, and January 28, 2024. Those archives are particularly numerous for the years 2021 and 2022. This further significantly reduces the scope for the alleged irreparable harm to materialize, including in relation to archives pertaining to the federal government's decision in February 2022 to invoke the *Emergencies Act*, which appears to be of particular concern to the Applicants.

VI. Conclusion

[67] For the reasons set forth above, this Motion will be dismissed.

[68] At the end of the hearing of this Motion on February 13, 2024, I encouraged the Parties to attempt to agree on a lump sum amount of costs that would be payable to the prevailing party on this Motion. The following day, counsel to the AGC wrote the Court to report that "[w]hile the parties have been unable to agree on the quantum of costs at this time, they are confident that they can do so following the Court's decision."

[69] The reason I encouraged the parties to attempt to reach an agreement regarding costs prior to learning the outcome of this Motion is that such an agreement is generally considered to be more likely to be reached before the parties become aware of the outcome of their dispute. Be that as it may, I will grant the parties' request that they be "provided 30 days after the Court's decision is issued on the injunction motion to reach an agreement on costs or write to the Court for further direction."

ORDER in T-165-24

THIS COURT ORDERS THAT:

1. This Motion is dismissed.
2. The words “CANADA (THE HONOURABLE DAVID LAMETTI)” shall be removed from the style of cause in this proceeding, as that Respondent does not exist.
3. The Honourable David Lametti shall file the Undertaking, as set forth in his letter to the Court dated February 14, 2024, within seven days of the date of this Order.
4. The parties shall have 30 days from the date of this Order to reach an agreement on costs or write to the Court for further direction.

“Paul S. Crampton”
Chief Justice

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-165-24
STYLE OF CAUSE:	EZRA LEVANT ET AL. v DAVID LAMETTI ET AL.
PLACE OF HEARING:	HELD BY VIDEOCONFERENCE
DATE OF HEARING:	FEBRUARY 13, 2024
JUDGMENT AND REASONS:	CRAMPTON C.J.
DATED:	FEBRUARY 20, 2024

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