

**FORM 171C - Rule 171**

**REPLY**

Court File number: T-1450-15

FEDERAL COURT OF CANADA

BETWEEN:

**Radu Hociung**

Plaintiff

and

**Minister of Public Safety and Emergency Preparedness**

Defendant

**REPLY**

1. The plaintiff admits the allegations contained in paragraphs 4, 12, 17 of the statement of defence.
2. The plaintiff denies the allegations contained in paragraphs 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16 of the statement of defence.
3. The plaintiff has no knowledge of the allegations contained in paragraphs 1, 2, 3 of the statement of defence.
4. Replying to Para 5 of the statement of defence, there is no requirement to report gold and silver coins that are currency, as issued by a government authority, and under a total value of C\$10,000, as per PCMLTFA section 12.
5. Replying to para 6 of the statement of defence, the legislation under which the coins are issued (United States Code Title 31) specifically states they are legal tender, and gives no indication that they are « not intended for circulation », nor that they are « collector items ». As they are legal-tender, and not prohibited from circulation, implies they « may be used as currency ». Thus they meet the definition of financial instrument given by the CRA Memorandum 17.1 para 27-28, as well as the definition of cash given by the PCMLTFA.
6. Replying to para 7, the plaintiff puts the defendant to strict proof of legislation that classifies collectible coins as not currency. Indeed, all currency is collectible, and it would be a fallacy that any currency that is collectible is not currency. Furthermore, the collectibility of currency has no bearing \$10,000 reporting threshold. Eg. old, collectible, out-of-circulation currency such as the Canada \$1000 bill is indeed subject to reporting.
7. Replying to para 8, coins of a country other than Canada are cash according to the PCMLTFA, financial instruments according to CRA Memorandum 17, and thus there is no requirement to report them under section 12 of the Customs Act. As such, no violation of the Customs Act occurred.
8. Replying to para 9, currency is not goods, thus the defendant has met the requirement to report goods, having reported all the « goods » imported into Canada. Whether currency is collected or not, it is still currency, not goods.
9. Replying to para 10, as shown above, the coins are currency, and no violation occurred, either of the Customs Act or the PCMLTFA, and thus the CBSA officers unlawfully seized the coins.

10. Replying to para 11, Officer Debski's narrative account is incomplete and incorrect in several places, as noted in the Statement of Claim. Officer Debski iterated three times that « an arrestable offence » had been committed. As arrest is a violent act, the threat of arrest is a threat of violence. As the defendant's Affidavit of Documents shows, officer Debski obtained photocopies of documents he had not requested from the plaintiff. In his narrative report, Debski claimed he requested « keys to the vehicle, passport, driver's licence, ownership and the gold coins ». Document 7 of the Affidavit of Documents clearly shows photocopies of the plaintiff's Citizenship card and Automobile Insurance, which the plaintiff holds in his wallet. As the plaintiff stated in the Statement of Claim, para 1 f) i, the officer requested the entire wallet. There are further omissions and untruthful statements in the officer's narrative report, as outlined in the Statement of Claim. If the threat of arrest is disputed, a transcript of the exact conversation is required, from video footage of the encounter kept by the CBSA.
11. Replying to para 13, the Minister's denial of the appeal is based on the arbitrary belief that coins are goods, which is in contradiction to US Code title 31, under which the coins are issued as legal-tender currency, as well as the CRA Memorandum 17.1 which clarifies that coins of a specified purity level, issued by a government authority, and that may be used as currency, are qualified as financial instruments.
12. Replying to para 14, the damages claimed arose from the defendant's action to seize currency, and thus should be addressed in this action, not a separate action.
13. Replying to para 15, the plaintiff requests the Court's decision as to entitlement of relief.
14. Replying to para 16, the plaintiff requests the defendant's actions be overturned, with costs payable to the plaintiff.

December 4, 2015

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(Signature of solicitor or plaintiff)

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