

FEDERAL COURT OF CANADA

BETWEEN:

Radu Hociung

Plaintiff

and

Minister of Public Safety and Emergency Preparedness

Defendant

PLAINTIFF'S REPLY TO DEFENDANT'S ADDITIONAL WRITTEN REPRESENTATIONS

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AND TO:

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Summary Judgement on Merits.

1. In his response, the Defendant does not contest that the Federal Court of Appeal's reasons are in part absurd and/or untrue. With respect to the purpose of the Customs Act (Federal Court of Appeal paragraph 35), the Defendant knows it is not true that reporting under section 12 is meant to enable CBSA officers to determine whether or not duties are payable. The CBSA's own "Canada Customs Coding Form" (enclosed) clearly requires the importer to know and submit information on what duties and taxes are payable. It is the importer who is required to make a "true, accurate and complete" report. The CBSA is not required to inform the importer of their obligations. Also enclosed is CBSA's own "Guide for self-assessing SIMA (Special Import Measures Act) duties", further demonstrating that it is not CBSA's, but the importer's responsibility to know their obligations.
2. Further in his response, the Defendant proceeds to instruct the Federal Court to dismiss all claims in this action, save for the claim of threats of violence.
3. Given that :
 - on his motion for summary judgement the Defendant has not provided any evidence whatsoever that was helpful to his case,
 - that he admitted at the Appeal Hearing that there is no evidence that the coins in question are goods (ie, no grounds for a contravention finding),
 - that he admitted at the Appeal Hearing that the CBSA allows importations of large sums of money (eg, \$100,000) without requiring *Proceeds Act* reporting (ie, it does

facilitate money laundering), and

- that the Federal Court of Appeal's judgment is based on untruths as shown in the Plaintiff's Additional Written Representations, which is uncontested by the Defendant, the Plaintiff submits that it would be thoroughly unjust to dismiss any claims whatsoever.

4. The Plaintiff submits that the only just decision at this point would be to deny the motion for summary judgement, and allow the motion to amend the statement of claim.
5. Given that the Plaintiff is unpersuaded by the Federal Court of Appeal's reasons on the summary motion, should this Court utilize the same reasons to dismiss any part of the summary motion, the Plaintiff will necessarily make a new appeal. The Court must take this into account, and consider whether this would be consistent with the Court's General Principle that it's mission is to "secure the just, most expeditious and least expensive determination of every proceeding on its merits" (Rule 3). The Plaintiff submits that denying the motion would allow the proceeding to move to trial, which would be more expeditious and less expensive than another appeal detour. As it stands currently, should the motion have been denied initially, this proceeding would have completed trial by now, in all likelihood. The opportunity to make this proceeding more expeditious and less costly has already been wasted.
6. In his response, the Defendant instructs the Court to give the Plaintiff 30 days to requisition a pre-trial conference, and to disrespect the parties rights, ie, to rush the proceeding to trial without discovery.
7. The Plaintiff reminds the Court that the motion for summary judgment was brought in

response to the Plaintiff's Written Questions for Discovery, which the Defendant aimed to avoid. The Defendant argued to the Case Management Judge at the time that discovery should be suspended pending outcome of his summary motion. To this day, most of the Plaintiff's written questions for discovery remain unanswered.

8. The Court must order that the Defendant answer the Plaintiff's questions.

Supreme Court Appeal

9. The Defendant submits that the Court should stay this action pending the outcome of leave to appeal to the Supreme Court.
10. The Plaintiff submits that staying this action is unnecessary.
11. The purpose of the Supreme Court appeal is to deal with the untruthful and absurd reasons of the Federal Court of Appeal. The order that the motion for summary must be reconsidered is not appealed. The Plaintiff wants a just consideration of this motion from the Federal Court. The Supreme Court is not being asked to decide the Motion for Summary judgment at this time. It is for the Federal Court to provide a final judgment on this motion (that ball is in this Court).
12. If this Court is inclined to act ethically, justly, it can reject the Federal Court of Appeal's reasons, and either dismiss the motion for summary judgment, or give truthful, credible and convincing reasons in with its summary judgment. A just judgment by this Court would render the Supreme Court appeal moot, although the Supreme Court may still discipline the Federal Court of Appeal on giving absurd reasons.

13. On the other hand, if this Court is inclined to accept the Federal Court of Appeal's reasons without question, it should stay the action, in the hope that the Supreme Court will not hear the appeal, or that it will decide that the Federal Court of Appeal's reasons were not absurd. In either case, it can decide the motion based on absurdities, which would lead to a new appeal on the grounds listed in the Additional Written Representations submitted.
14. Ultimately, as grown men and women, the judges of this Court should realize that the core issue that currency needs not be reported for Customs is **common knowledge**, and trying to prove the contrary is quite silly, to put it politely. You haven't stumbled on Canada's best kept secret since the Customs Act was enacted in 1867. Currency is used by everyone in the world, and nobody is required to report it for customs purposes, in Canada or any other country. The Currency Act is one the most plainly written pieces of legislation, since everyone must be able to understand it, and it states **plainly and obviously** at section 11, “**No person shall [...] use otherwise than as currency any coin that is current [...]**”.
15. The Plaintiff would like to remind this Court that the mandate of the Federal Courts is given by the people of Canada, by means of electing the Parliament who enacted the Federal Courts Act. The mandate is to protect the people from Government acting outside the law. It is not the Court's mandate to aid, the Government in committing crimes against the people, nor act as it's defense attorney. The role of defense is assigned to the Department of Justice, which is funded and staffed appropriately, to

ensure government can protect itself, and can perform it's duties as Parliament intended through its Acts. As a citizen of Canada, the Plaintiff is extremely disapointed that such a reminder is necessary.

Respectfully,

A handwritten signature in black ink, appearing to read 'R Hociung', with a stylized, cursive script.

Radu Hociung.

1 IMPORTER NAME AND ADDRESS NOM ET ADRESSE DE L'IMPORTATEUR		NO. - N°		2 TRANSACTION NO. - N° DE TRANSACTION													
				3 TYPE		4 OFFICE NO. N° DE BUREAU		5 GST REGISTRATION NO. N° DE TPS		6 PAYMENT CODE CODE DE PAIEMENT		7 MODE OF TRANS.		8 PORT OF UNLADING PORT DE DEBARQ.		9 TOTAL VFD - TOTAL DE LA VD	
10 SUB HDR NO. N° DE SOUS-EN-TÊTE		11 VENDOR NAME - NOM DU VENDEUR		NO. - N°		12 COUNTRY OF ORIGIN PAYS D'ORIGINE		13 PLACE OF EXPORT LIEU D'EXPORTATION		14 TARIFF TREATMENT TRAITEMENT TARIFAIRE		15 U.S. PORT OF EXIT BUREAU DE SORTIE DES E.-U.		RESERVED FOR CBSA USE RÉSERVÉ À L'USAGE DE L'ASFC			
						16 DIRECT SHIPMENT DATE DATE D'EXPÉDITION DIRECTE M D/J		17 CRCY. CODE DEVISE		18 TIME LIMIT - DÉLAI		19 FREIGHT - FRET					
										20 RELEASE DATE - DATE DE LA MAINLEVÉE							

21 LINE LIGNE	22 DESCRIPTION DESIGNATION			23 WEIGHT / KGM POIDS / KGM	PREVIOUS TRANSACTION - TRANSACTION ANTERIEURE 24 NUMBER - NUMERO		25 LINE-LIGNE	26 SPECIAL AUTHORITY AUTORISATION SPECIALE	
27 CLASSIFICATION NO. N° DE CLASSEMENT	28 TARIFF CODE TARIFAIRE	29 QUANTITY QUANTITE	30 U - M	31 VFD CODE CODE VD	32 SIMA CODE CODE DE LMSI	33 RATE OF CUSTOMS DUTY TAUX DE DROIT DE DOUANE	34 E.T. RATE TAUX T.A.	35 RATE OF GST TAUX DE TPS	36 VALUE FOR CURRENCY CONVERSION CONVERSION VALEUR POUR CHANGE
37 VALUE FOR DUTY VALEUR EN DOUANE		38 CUSTOMS DUTIES DROITS DE DOUANE		39 SIMA ASSESSMENT COTISATION DE LMSI		40 EXCISE TAX TAUX D'ACCISE		41 VALUE FOR TAX VALEUR POUR TAXE	
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DECLARATION - DÉCLARATION		43 DEPOSIT - DÉPÔT	47 CUSTOMS DUTIES DROITS DE DOUANE
I JE _____ PLEASE PRINT NAME - LETTRES MOULÉES S.V.P.		44 WAREHOUSE NO. - N° D'ENTREPÔT	48 SIMA ASSESSMENT COTISATION DE LMSI
OF DE _____ IMPORTER / AGENT - IMPORTATEUR / AGENT			49 EXCISE TAX TAXE D'ACCISE
DECLARE THE PARTICULARS OF THIS DOCUMENT TO BE TRUE, ACCURATE AND COMPLETE. DÉCLARE QUE LES RENSEIGNEMENTS CI-DESSUS SONT VRAIS ET COMPLETS.		45 CARGO CONTROL NO. - N° DE CONTRÔLE DU FRET	50 GST TPS
_____ DATE		46 CARRIER CODE AT IMPORTATION CODE DE TRANSPORTEUR À L'IMPORTATION	51 TOTAL
_____ SIGNATURE			



[Canada Border Services Agency](#)

[Home](#) → [Import and Export](#) → [Anti-dumping and Countervailing](#)

Guide for self-assessing SIMA duties

This guide is intended to help importers and their brokers fulfill their responsibilities when they import goods that are subject to duties under the *Special Import Measures Act* (SIMA). Please consult the [What you should know about dumping and subsidy investigations](#) for more information on the SIMA processes.

How do I know if SIMA duties apply to the goods I import?

The [Measures in Force](#) Web page lists all the goods that are subject to Anti-dumping or Countervailing Measures. This page includes the product descriptions, exclusions, dates for which duties are applicable and other information that will help you determine whether your imported goods are subject to SIMA duties.

What are my responsibilities as an importer of goods subject to SIMA duties?

The responsibilities for importers of goods subject to SIMA duties are in addition to the regular Customs responsibilities. More information on the Customs responsibilities can be found in the [Step-by-Step Guide to Importing Commercial Goods into Canada](#).

Importers of SIMA goods are also responsible for:

- [Properly describing the imported goods](#);
- [Using the proper SIMA code](#);
- [Maintaining proper records, in Canada, for your imports of goods subject to SIMA](#); and
- [Calculating and paying the proper amount of SIMA duty at the time of accounting](#).

If you are using the services of an agent or broker, make sure your representative has the information necessary to fulfill your responsibilities.

Expand all

Collapse all

► **Properly describing the imported goods**

► **Using the proper SIMA Code**

► Maintaining proper records**► Calculating and paying the proper amount of SIMA duties**

What if I make a mistake or pay too much duty?

You can correct errors in two ways:

- By adjusting the information you submitted to CBSA yourself (Self-Adjustment); or
- By appealing the amount of SIMA duties paid on a specific transaction (Requesting a Re-determination).

Both types of changes are made by completing and submitting a [B2 Form](#).

For more information on the Re-determination request, please refer to: [How do I appeal the duty I have been assessed?](#) or to the [D14-1-3 Memorandum](#).

For more information on Self-adjustments, please refer to the [D11-6-6 Memorandum](#).

What is the CBSA's role in duty assessment?

The CBSA is responsible for providing you with the assistance you need to properly fulfill your importing responsibilities. The CBSA is also responsible for monitoring importations of goods subject to SIMA duties to ensure full compliance with the law. This includes ensuring that importers and their agents fulfill all of the responsibilities identified above.

Date modified:

2018-05-03