

FEDERAL COURT OF CANADA

BETWEEN:

Radu Hociung

Plaintiff

and

**Minister of Public Safety and Emergency Preparedness
and
Canada Border Services Agency
and
Her Majesty the Queen in Right of Canada**

Defendants

**LETTER TO THE COURT
Re: Defendant's Summary Motion improper filing**

Radu Hociung
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TO:

The Registrar
Federal Court of Canada
180 Queen Street West
Suite 200
Toronto, Ontario
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Honourable Court,

I am writing to point out two irregularities with respect to the Defendant's Motion of Summary Judgement that is before you, and to propose a just solution.

As the record shows, the defendant filed an affidavit of service for this motion by email, **however, the Plaintiff has not consented to electronic service** according to Rule 141(1), ie, by filing and serving a notice of consent. The Defendant's email service is therefore prohibited under Rule 141(5).

The Plaintiff submitted the responding record to the motion the business day following the deadline of March 24, 2017 set by Prothonotary Aalto, due to technical difficulties. The Plaintiff lives in Guatemala, where internet connectivity is slow and unstable. The responding record is a 652 page, 36 megabyte PDF file, and on several attempts to submit it through the Court's E-file system the upload failed due to session timeouts. At the available upload speed in Guatemala, the session would time out before the upload completed. Unfortunately the Plaintiff was not able to find a faster internet connection until Sunday, when he was able to successfully upload the file to the Registry; However by this time, it was considered late.

The Plaintiff proposes that both the improperly served Motion and the late Response be allowed, and both irregularities be deemed inconsequential, or in the alternate, the Defendant ordered to properly serve the motion upon the Plaintiff, and the Plaintiff be ordered to submit the Response on time. Given that the Response has already been delivered to the court and served in electronic and hardcopy format, it should be considered as filed on time.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Hociung'.

Radu Hociung - Plaintiff