

[40] As for the Federal Court's reference to *Hryniak*, viewed in its proper context it was nothing more than an attempt to reinforce the idea that—for reasons of access to justice, proportionality and judicial efficiency—amendments that do not have a reasonable prospect of success should not be permitted to go forward. That is a truism: proposed amendments that cannot succeed should be cast aside.

H. Analysis of the order made on the second motion: the January 19, 2015 order

[41] The Federal Court found Teva's second motion to be based on "essentially the same factual matters" as the first motion. Indeed, in advancing its second motion, Teva relied on the same discovery evidence that it said prompted the first motion.

[42] The Federal Court dismissed Teva's motion for basically the same reasons it dismissed the first. It found again that Teva had read too much into the discovery evidence. In this regard, the Federal Court reiterated what it said in para. 7 in its reasons for the November 3, 2014 order: the evidence could not be reasonably construed in the manner Teva was construing it and so the proposed amendment could not succeed in law.

[43] The Federal Court also observed (at para. 5 of its January 19, 2015 order) that Teva's second motion in effect encouraged it to sit on appeal of its disposition of the first motion. In so many words, it found that the second motion was an instance of improper relitigation of the first motion.