

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: Clerical Errors, Rule 397 (2)**

Radu Hociung
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Kitchener, Ontario
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TO:

The Registrar
Federal Court of Canada
180 Queen Street West
Suite 200
Toronto, Ontario
M5V 3L6

AND TO:

Eric Peterson, Counsel to the Defendant
DEPARTMENT OF JUSTICE
Ontario Regional Office
120 Adelaide Street West
Suite 400
Toronto, Ontario
Tel: (647) 256-7550
Fax: (416) 973-5004

Filing ID	Filing Date	Status
CAS.2020-110-071601-00	2020-03-26	Not Accepted because of ... If you wish to bring a motion pursuant to Rule 397 you must serve and file a Motion Record pursuant to Rules 364 and 365.

Table 1: History of attempted submissions March 27, 2020

Dear Registrar,

With respect to filing CAS.2020-110-071601-00: it is not true that Rule 397(2) requires a motion pursuant Rules 364 or 365. The text of Rule 397(2) plainly states, that “Clerical mistakes, errors or omissions in an order may **at any time** be corrected by the Court”. There is no language similar to “on motion”. Motions are required where the rights of the parties may be affected, but clearly fixing a clerical error does not affect the rights of the parties. The second common sense test is that judges correct their orders all the time without any motion requirement. Kindly don't make up requirements where they do not exist in the Federal Court Rules.

Furthermore, as a registrar or Administrator, the Federal Court Rules specifically states that you do not have the power to reject any documents received for filing. I refer you to Rule 72. It states clearly that your only allowed actions are:

72 (1) Where a document is submitted for filing, the Administrator shall

(a) accept the document for filing; or

(b) where the Administrator is of the opinion that the document is not in the form required by these Rules or that other conditions precedent to its filing have not been fulfilled, refer the document without delay to a judge or prothonotary.

The following paragraph, 72(2) states that only the judge or prothonotary may direct you to accept, reject, or accept subject to corrections. You do not have the authority to reject filings, except as directed by a judge or prothonotary whom you've referred the document to.

Kindly stick to the Rules as they exist. Thank you.

Honourable Court,

On March 2, 2020, Mr. Gleeson of the Federal Court made an Order that the proceeding be held in abeyance, and that a case management conference be requested within 14 days of a final disposition of an Application for Leave in the Supreme Court of Canada. There are several clerical errors with respect to this order, and the plaintiff hereby request that the Court correct them, pursuant Rule 397 (2):

1. The proceeding is not presently under case management. It is a clerical error to mandate a case management teleconference when the proceeding is not case managed.
2. There is no request pending for the proceeding to continue as a specially managed proceeding.
3. The Order references no Federal Court Rule authorizing Mr Gleeson to make an order at this time. Mr. Gleeson does not have the authority to order the action held in abeyance. (Ie, there is no corresponding Rule or provision of the Federal Courts Act stating a judge may at any time order that a proceeding be held in abeyance, or wording to this effect. In other words, can a judge make any arbitrary order, if the Act and the Rules do not give him the power? For instance, can he order you to jump off a building? Without reference a Rule or a statutory provision that gives him the power to make such an order, it is a clerical error to make such an order)
4. The plaintiff does not intend at this time to pursue an Appeal to the Supreme Court of Canada, and therefore holding the proceeding in abeyance pending the outcome of an

appeal is a logical impossibility, since there is no appeal.

The plaintiff requests the Honourable Court:

1. Lift the stay of the proceeding on the basis that it is ill-ordered, not pursuant the Rules of the Court or any Act of Parliament, and,
2. Determine the Summary and Amendment motions without delay.

Sincerely,

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

Radu Hociung - Plaintiff