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VEXATIOUS LITIGANT ORDERED TO STOP FILING

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LAWYERS, AND PATENT AND TRADE-MARK AGENTS

Following a number of incidents and the filing of a frivolous C\$5 million suit against two local newspapers, a radio station and a town and its mayor, the Superior Court of Quebec has declared Nidal Joad to be a vexatious litigant and ordered him to refrain from filing any claims without written permission of the Superior Court [*Joad v. Journal La Voix*, 2008 QCCS 1560 (Que. Sup. Ct., Tessier J.; 2008-04-10)]

Joad alleged that the town's mayor used his power and the media to harm him, close down his various businesses and block his future projects. He claimed C\$1 million in damages against the mayor and a further C\$1 million against the town. Joad also alleged that the local radio station and two local newspapers abused his rights by refusing to:

- publish his press releases;
- sell him advertising space;
- publish his replies; or
- allow him to respond to unfavourable comments made about him.

Moreover, he alleged that the media published defamatory information about him. He requested a permanent injunction to force them to publish his opinions and advertisements and claimed C\$1 million per organization for damages suffered.

The defendants questioned the merits in fact and in law of Joad's claim, presenting a counterclaim asking the court to declare him a vexatious litigant pursuant to Section 84 of the *Rules of Practice in Civil Matters of the Superior Court* (District of Quebec) and impose various restrictions on him.

The case follows several incidents involving the plaintiff and the defendants. For example, when the local radio station reported that Joad was charged with assault under Section 265(1) of the *Criminal Code* after assaulting a postwoman, he

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considered the report to be damaging to his reputation. In addition, Joad alleged that during his bid for provincial election the media did not give him enough coverage and hence were guilty of discrimination.

The judge held that an injunction forcing the media to publish the plaintiff's opinions would be tantamount to dictating the media's editorial content – and thus be akin to censorship. He explained that freedom of the press is a direct corollary of freedom of expression, a notion that is entrenched in the *Charter of Human Rights and Freedoms*. However, this notion does not require the media to communicate the ideas or opinions of everyone who wants to exercise that right. According to the judge, the two newspapers had no judicial obligation to publish the plaintiff's writings or articles and the radio station had no judicial obligation to give the plaintiff airtime or to invite him to a public interest show so he could give his opinions.

The judge noted that Section 2 of the *Press Act* gives a plaintiff three months after publication of an incriminating article, or up to one year after acquiring knowledge of the article, to take action. However, the plaintiff provided no proof regarding his reputation, the damage done to it or the alleged defamation. The judge also stated that no media can be forced to publish or air an advertisement as this is a question of contractual freedom and, furthermore, in his previous dealings with the various media Joad had behaved in such a way as to discourage the defendants from furthering their business relationships with him.

The judge held that as Joad had a history of filing numerous suits and countersuits against almost anybody who crossed his path, not stopping until all remedies were exhausted, he clearly exhibited signs of being a vexatious litigant. Thus, the judge ordered him to refrain from filing any claims, motions, procedures or text to the superior court or its clerks, either directly or indirectly, personally or through a third party, unless he has previously obtained written authorization from the chief justice.



