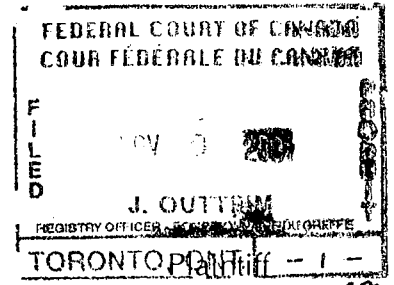


FEDERAL COURT OF CANADA
(TRIAL DIVISION)

BETWEEN:

MOHAMED ATTIAH



and

ATOMIC ENERGY OF CANADA LIMITED AND HER MAJESTY THE QUEEN IN RIGHT OF
CANADA as represented by THE CANADIAN SECURITY
INTELLIGENCE SERVICE and
THE ROYAL CANADIAN MOUNTED POLICE

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT(S):

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff.
The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a Statement of Defence in form 171B prescribed by the *Federal Court Rules, 1998*, serve it on the Plaintiff's solicitor or, where the Plaintiff does not have a solicitor, serve it on the Plaintiff, and file it, with proof of service, at a local office of this Court, WITHIN 30 DAYS after the Statement of Claim is served on you, if you are served in Canada.

If you are served in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period for serving and filing your statement of defence is sixty days.

Copies of the *Federal Court Rules, 1998*, information concerning the local offices of the Court and other necessary information may be obtained on request to the

Administrator of this court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGEMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

DATE: November , 2001
NOV 09 2001

Issued by: **J. V. Outtrim**
Registry Officer

(Registry Officer)

Address of
Local Office:

TO: ATOMIC ENERGY OF CANADA LIMITED
2251 Speakman Drive
Mississauga, Ontario

Tel: 905-823-9040

AND

TO: CANADIAN SECURITY
INTELLIGENCE SERVICE
P.O. Box 9732
Station T
Ottawa, Ontario
K1G 4G4

Tel: 613-993-9620
Fax: 613-231-0000

AND

TO: THE ROYAL CANADIAN MOUNTED POLICE
345 Harry Walker Parkway South
Newmarket, Ontario
L3Y 8P6

Toronto, Ontario
Ecole de la Cour Fédérale de Commerce
30 University Avenue 330 avenue University
7th Floor 7ième étage
Toronto, Ontario Toronto (Ontario)
M5G 1R7 M5G 1R7

CLAIM

1. The Plaintiff claims against each of the Defendants:
 - (a) Special damages in the amount of \$500,000.00;
 - (b) General damages in the amount of \$5,000,000.00;
 - (c) A declaration that the conduct of the Defendants herein is unlawful and in breach of s. 15 of the Charter of Rights and Freedoms;
 - (d) An order reinstating the Plaintiff in his employ with the Defendant Atomic Energy of Canada Limited and requiring said Defendant to honour its promise to hire as set forth hereafter;
 - (e) interest on the aforesaid amount;
 - (f) his costs of this action on a scale as between a solicitor and his own client;
 - (g) such further and other relief as to this Honourable Court may seem just.
2. The Plaintiff, Mohamed Attiah resides in Deep River, Ontario. At all relevant times,

he was a professional engineer, a Canadian citizen of Arabic (Egyptian) origin and a practicing Muslim.

3. The Defendant, Atomic Energy of Canada Limited (A.E.C.L.) is a federal Crown corporation mandated to oversee the production and maintenance of atomic energy facilities in Canada and world-wide. At all relevant times, this Defendant maintained nuclear research facilities in Chalk River, Ontario.
4. The Defendant, Her Majesty the Queen in Right of Canada as represented by the Canadian Security Intelligence Service is an entity of the Canadian federal Government designated and empowered with a mandate to advise the federal Government on activities that may constitute a threat to the security of Canada. The scope of its mandate as well as its duties and functions are defined in the Canadian Security and Intelligence Services Act (1984). One of the duties of this Defendant pursuant to the aforesaid Act is to provide government departments and agencies with security assessments of government employees and contractors and of prospective immigrants and citizens in Canada.
5. The Defendant Her Majesty the Queen in Right of Canada as represented by the Royal Canadian Mounted Police is a federal police force with a mandate to perform and attend to various police functions on behalf of the federal government of Canada and on behalf of provincial governments through contracts entered into

with the federal government of Canada.

6. The Plaintiff states that he came to Canada from Egypt in 1975 and became a Canadian citizen in 1978.
7. At the time of the events described hereafter, he was married and had 4 children between 7 and 15 years old.
8. Between 1980 and 1986 the Plaintiff worked for Ontario Hydro in Toronto. He worked for Canada Post Corporation from 1986 to 1997.
9. From 1997 until the year 2000, the Plaintiff worked in the United States under contract to various employers in Delaware, New Jersey and Massachusetts until the year 2000. During the year 2000, the Plaintiff also worked as a part-time limousine driver.
10. The Plaintiff was a member of the Reserve Armed Forces of Canada between 1991 and 1994.
11. In or about the year 2000, the Plaintiff was hired by the Defendant Atomic Energy of Canada Limited to work as a project engineer in its facility in Chalk River, Ontario. The Plaintiff was initially hired by the Defendant A.E.C.L. to work on

contract until March 31, 2001. However, prior to the expiry of the aforesaid contract, and in recognition of the quality of his work, his loyalty and his commitment to his job, his contract was extended for a six month period to September 30, 2001.

12. At the time that the Plaintiff was told that he would have his contract extended to September 30, 2001, the Defendant A.E.C.L. also indicated to him that it was its intention to hire the Plaintiff on a contract of employment of indefinite duration but that his contract would first be extended for a six month period in order to minimize the amount of commission payable to the employment agency used by A.E.C.L. to hire the Plaintiff in the first instance.
13. In light of the aforesaid representations made by A.E.C.L. to the effect that the Plaintiff would be hired on a permanent basis, the Plaintiff moved his wife and four children to Chalk River, Ontario, rented facilities in Chalk River in order to house them and incurred all attendant expenses resulting from the move.
14. The Plaintiff was assured on several occasions during his extended contract term that he would be given permanent employment status by the Defendant A.E.C.L. In or about the first week of August, 2001, the Plaintiff's supervisor, Mr. Edward Mutterback, informed him that a job opening for the position of Project Engineer had become available and that he expected Mr. Attiah to apply for and be accepted

for that position (Job Vacancy # CRL-9521).

15. At all relevant times, the Plaintiff performed his work to the best of his ability and to the satisfaction of the Defendant A.E.C.L. He focused his skills, knowledge and efforts to work in an efficient, safe and cost-effective manner. He exhibited strong commitment and high motivation in performing his duties, worked co-operatively in all respects, consistently took the initiative when required to do so and completed his mandated work without any suggestion that the performance of his duties or his commitment to his job was inadequate in any respect.
16. In his dealings with his fellow workers and management, the Plaintiff was responsive, polite and as helpful as he could be. He followed all applicable security regulations strictly every time he attended at the nuclear site without fail.
17. At no time during his employment by Ontario Hydro, Canada Post Corporation, in the various projects that he worked in, in the United States, while he was a reservist in the Canadian Armed Forces or while he was employed by the Defendant A.E.C.L. did anyone ever accuse the Plaintiff of posing any security risk or alleged any breach of security by him. His loyalty and respect for law and order was impeccable and unquestioned.
18. On or about the 20th day of September, 2001, just as the Plaintiff was about to take

his lunch, he was approached in the parking lot of his workplace at the A.E.C.L. facilities in Deep River by Claude Voyer, an investigator with the Criminal Intelligence Unit of the Royal Canadian Mounted Police and by Pierre Janeada, who the Plaintiff understood to be an investigator with the Canadian Security Intelligence Service. The Plaintiff was advised by the above individuals that they wished to ask him a few questions regarding the events that had transpired on the 11th day of September, 2001 pertaining to a terrorist attack on the World Trade Centre in New York City, New York. The Plaintiff accompanied the investigators to the local O.P.P. detachment office to answer questions which he agreed to do.

19. While in attendance at the aforesaid O.P.P. detachment office in Pembroke, Ontario, the investigators asked the Plaintiff several questions. The inquiries focussed on eight concerns. The first concern was with respect to an individual named Aly Hindy with whom the Plaintiff had worked at Ontario Hydro twenty-two years earlier. The Plaintiff identified Hindy as an individual who also was a Muslim Imam (leader) who had recently been involved in reconciling the Plaintiff and his wife, that he may have attended at this individual's mosque a couple of times and that he was not aware that Mr. Hindy had criticized the U.S. government in speeches given at his mosque as the investigators alleged. The Plaintiff had no other contact with Hindy and was unaware of his political, philosophical or religious views other than being a Muslim Imam.

20. The second concern was with respect to the Plaintiff's religion and why he did not pray at work. When confronted about this, the Plaintiff informed the Defendants that he did not want his personal beliefs to interfere with his employment relationship with A.E.C.L. and that he prays at various mosques without any pattern as well as praying privately at home.
21. The third concern that the Plaintiff was asked about by the investigators on behalf of the R.C.M.P. and C.S.I.S. involved a travel agency known as King Tut. The Plaintiff stated that he was not the same person as the late Mohamed Attia (a namesake) who owned and operated that travel agency, that he did not own the business and that both his first and last name are common Egyptian names.
22. The investigators next asked the Plaintiff why he had indicated when he spoke to C.S.I.S. in 1982, that he had an interest in the King Tut business. The Plaintiff responded that he had never had any interview with C.S.I.S. before and that he never worked or was connected to the business of King Tut at any time.
23. The investigators next questioned the Plaintiff regarding litigation that he had commenced against Ontario Hydro and grievances that he had filed against Canada Post while he was employed by those agencies. The Plaintiff indicated that he had valid concerns about differential treatment and harassment by both of his employers and that he was simply exercising rights provided to him under Canadian law in

pursuit of legal remedies as well as pursuant to applicable collective agreements.

24. The sixth matter raised by the investigators involved the Plaintiff's alleged failure to return various items of clothes to the Canadian Armed Forces following his honourable discharge from the Forces in 1994. The Plaintiff indicated that he may have neglected to return various items of clothes in a timely fashion due to inadvertence.

25. The Plaintiff was also asked by the investigators regarding his ownership of a motor vehicle bearing New York licence plates which had previously been used as a taxi in Ontario which still bore taxi designations on the doors indicating that the car was a taxi. The Plaintiff responded by indicating that he was the owner of the car, that the car had been previously leased to Sunrise Taxi in Toronto for a term of one year to be used as a taxi and that he reclaimed the car because he was not receiving the expected revenue from the lease of the car. The Plaintiff further indicated that the car was subsequently used by him when he was working in New York State. He eventually removed the taxi sticker on the doors of the car several months prior to the interview and had simply not gotten around to doing so earlier.

26. The eighth concern that the investigators expressed interest in was the fact that the Plaintiff was in possession of a green military issue sweater inside the trunk of his car with his other luggage when he was crossing the border from Canada to the

United States in October, 2000. He was also asked about road maps of New York State and New Jersey found in his car. The Plaintiff explained the sweater was simply one of several items of clothes that he inadvertently kept after his discharge from his tour of duty as a reservist. He further testified that the road maps that he had in his possession at that time were ordinary road maps which he used in connection with his work as a part-time limousine driver as described above.

27. At the conclusion of the interview, the Plaintiff offered to permit the investigators to examine the motor vehicle in question and to answer any other questions that they might have of him. The investigators indicated that they did wish to examine that vehicle as well as another vehicle that the Plaintiff owned. The Plaintiff permitted such an inspection to take place and the investigators proceeded to carry out such an examination. Following the inspection of his vehicle, the Plaintiff was advised by the Royal Canadian Mounted Police investigator that he was satisfied that there was nothing of concern found during the inspection.

28. Claude Voyer then advised the Plaintiff not to tell his supervisor who he had been with during the course of the afternoon and to advise his employer when he returned to work that he had been delayed in his return because his son had been sick. He was also advised at this time by Voyer that the investigation of the Plaintiff was not related to his employment by the Defendant A.E.C.L.

29. Subsequent to the interview, the Plaintiff returned to work the same day. Upon arrival at work he tried to enter through the rear entrance of the building in which the Plaintiff's office was located as was his usual practice. He discovered that his access card had been disabled. The Plaintiff then entered through the main entrance of the building and immediately attended upon his supervisor, Ed Mutterback, and advised him what had occurred. The security supervisor for A.E.C.L., John Meadows suddenly entered the room where the discussion was taking place and advised the Plaintiff that he was no longer working for the Defendant, that his employment was terminated as of September 30, 2001 and that he would be paid until that time. The Plaintiff was specifically advised by Meadows that he could not attend at the premises during the duration of his contract of employment or thereafter.
30. The Plaintiff alleges that the Defendants R.C.M.P. and C.S.I.S. as well as the security department of the A.E.C.L. negligently concluded that the Plaintiff constituted a security risk. The Plaintiff alleges that they did so as a result of racially stereotyping the Plaintiff. The unfounded concerns of the R.C.M.P. and C.S.I.S. which were shared by the security department of A.E.C.L. about the Plaintiff being a security risk were speculative, egregious and totally without foundation. The R.C.M.P., C.S.I.S. and A.E.C.L. came to several conclusions maliciously and negligently. Particulars of such negligence include the following:

- (a) The Defendants erroneously concluded that the Plaintiff's innocent association with Imam Aly Hindy for the purpose of reconciling with his wife somehow raised valid security concerns regarding the Plaintiff. The Plaintiff states that while he subsequently became aware that Hindy, a senior civil engineer with whom he had worked at Ontario Hydro, had acted as a character reference for an individual by the name of Mohamed Jaballah which these Defendants regarded a valid security concern, the implication drawn by these Defendants that such a remote and innocent association somehow implicated the Plaintiff as a security concern is untenable, irrational and effectively constitutes application of the McCarthyite principal of "guilt by association";
- (b) The Defendants racially stereotyped the Plaintiff concluding that as a practising Muslim, the Plaintiff should be praying at work and could not discharge his obligations as a Muslim by praying at home in privacy. They then draw the conclusion that the Plaintiff must be hiding his religious affiliation from his employer and therefore was engaged in subterfuge for presumably nefarious purposes;
- (c) The Defendants negligently and erroneously concluded that the Plaintiff Mohamed Attiah was the same person also known as Mohamed Attia who was in fact deceased and who owned a travel agency known as King Tut

thereby drawing negative inferences regarding the Plaintiff's security status that were not applicable to the Plaintiff;

- (d) The Defendants negligently and maliciously drew negative conclusions concerning the Plaintiff's valid exercise of legal rights in claims which he had pursued against a former employer, Ontario Hydro and in grievances that he had filed through his union against Canada Post Corporation. These proceedings were misinterpreted as reflecting negatively on the Plaintiff's security status;
- (e) The Defendants attributed the Plaintiff's innocent failure to return various items of clothes that he had been given during his tour of service as a reservist in the Canadian Armed Forces as conduct raising a serious security issue regarding the Plaintiff's security status;
- (f) The Defendants similarly drew inferences that were harmful to the Plaintiff regarding the Plaintiff's security status as a result of the fact that he was in possession of ordinary road maps and an item of clothing he had worn while an army reservist which were in his possession at the time when he crossed the border to the United States;
- (g) The Defendants drew negative inferences from the innocent fact that the

Plaintiff had maintained taxi designations on a motor vehicle owned by him after the Plaintiff had stopped leasing this vehicle to a taxi agency company.

31. The Plaintiff states that the aforesaid investigators of the R.C.M.P. and C.S.I.S. contacted the security department of the Defendant A.E.C.L. and falsely advised it that the Plaintiff constituted a security risk so that he should no longer be permitted access on the Defendant A.E.C.L.'s premises by reason of being such a security risk.

32. The conduct of the Defendants as described above constitutes a breach of the Federal Human Rights Act and discrimination against the Plaintiff on the basis of the fact that he is a Canadian of Arabic (Egyptian) origin and practices the religion of Islam. The Plaintiff states that at no time was he ever involved in any activities that would make him a security risk, that he does not harbour extreme religious or political views, that he is moderate in his social outlook and that there was no basis whatever to conclude that his employment relationship with A.E.C.L. could possibly constitute a security risk in any respect. In fact, the Plaintiff states that his religious and cultural commitments and background are such that they have encouraged him to develop loyal employment ethics and a profound respect for the democratic principles in Canada.

33. The conduct of the Defendant A.E.C.L. constitutes a breach of its promise to employ. The Plaintiff is entitled to damages for such breach which took place

without reasonable cause.

34. The Defendant further states that the conduct of the Defendants Her Majesty the Queen in Right of Canada as represented by the Royal Canadian Mounted Police and the Canadian Security Intelligence Service constitutes acts of inducing breach of a promise to employ, interference with advantageous relations and injurious falsehoods.
35. The conduct of the parties as described above constitutes acts of negligence. In particular, the Defendants owed the Plaintiff a duty of care to ensure that their evaluation of his security status would be carried out in a competent and reasonable fashion and they breached such duty by conducting themselves in the manner described above in prejudging the Plaintiff as a security risk prior to interviewing him and/or in discounting the Plaintiff's reasonable explanations with respect to his impugned conduct. The Plaintiff is entitled in law for compensation for injuries sustained by him as a result of such breach.
36. The Plaintiff further states that the conduct of the R.C.M.P. and C.S.I.S. constituted acts of injurious falsehood and that the conduct of all of the parties constituted acts of negligence.
37. As a result of the conduct of the Defendants as described above, the Plaintiff has

been compromised in his ability to obtain subsequent employment, has lost the prospect of being employed by the Defendant A.E.C.L. in breach of the promise made to him, has experienced the expense of moving his home and family to Deep River from Mississauga, Ontario in reliance upon the Defendant A.E.C.L.'s representations that he would be permanently employed by it, has experienced loss of reputation, has had his employment wrongly terminated by the Defendant A.E.C.L. without reasonable cause, has experienced emotional distress, loss of reputation, anxiety, additional financial losses, has been isolated in his personal and social relations among other members of the Deep River community where he resides, has caused marital stress, has had his character and reputation smeared and besmirched by allegations that his termination by A.E.C.L. was as a result of links to terrorists and has been placed in a position where the prospect of obtaining subsequent employment has been drastically reduced.

38. The conduct and allegations of the Defendants that he constituted a security risk and the conduct of the Defendants in causing the termination of his employment and the breach of the promise to employ him in the future became a matter of public record, was repeated in the electronic media and public press and further isolated the Plaintiff and minimized the prospects of re-employment. The Defendant knew that this would be the result of their conduct but nonetheless proceeded to act in the aforescribed manner.

39. The Plaintiff relies on the doctrine of detrimental reliance.
40. The Plaintiff also relies on the Canadian Human Rights Act prohibition against discrimination on the basis of national origin and religion as proof of community standards applicable to his treatment by the Defendants.
41. The Plaintiff also relies on the Canadian Charter of Rights and Freedoms and in particular section 15 thereof. He states that the Defendants discriminated against him contrary to the aforesaid section and that he is entitled to relief pursuant to section 24 of the Charter of Rights and Freedoms.
42. The conduct of the Defendants herein as described above was outrageous, high-handed, wanton, abusive and malicious. The Plaintiff will seek punitive and exemplary damages at the trial of the within action.
43. The Plaintiff proposes that this action be tried at Toronto.

Date: November 9, 2001



MOHAMED ATTIAH
c/o 599 Dovercourt Road
Toronto, Ontario
M6H 2W5

Tel: 416-533-3343
Fax: 416-538-7868

Plaintiff in Person

MOHAMED ATTIAH
Plaintiff

- and -

ATOMIC ENERGY OF CANADA LIMITED ET AL
Defendants

Court File No:

FEDERAL COURT OF CANADA
(Trial Division)

Proceedings commenced at Toronto

STATEMENT OF CLAIM

Name: **MOHAMED ATTIAH**

Address: c/o 599 Dovercourt Road
Toronto, Ontario M6H 2W5

Tel: 416-533-3343
Fax: 416-538-7868
Plaintiff in Person

