

Federal Court



Cour fédérale

**Date: 20160929**

**Docket: T-1040-16**

**Citation: 2016 FC 1093**

**Mont-Tremblant, Quebec, September 29, 2016**

**PRESENT: Madam Prothonotary Mireille Tabib**

**BETWEEN:**

**DWIGHT THOMPSON BEY, NICOLE  
THOMPSON BEY**

**Plaintiffs**

**and**

**STANLEY KERSHMAN AND SPOUSE**

**Defendants**

**JUDGMENT AND REASONS**

[1] This is the third action commenced by these Plaintiffs in this Court arising from a Judgment of the Ontario Superior Court of Justice relating to the enforcement of a mortgage. The other two actions, in Court file no. T-954-16 against the lawyers acting for ICICI Bank, and in Court file no. T-927-16 against Sriram H. Iyer and Bryan Devries, executives of the ICICI Bank, have been struck by the Court, the latter, with reasons reported at *Dwight Thompson Bey v Sriram H. Iyer*, 2016 FC 990 (the “Iyer decision”).

[2] The present action is directed against the judge of the Ontario Superior Court of Justice who granted that mortgage enforcement judgment and his spouse.

[3] The Defendants bring this motion to strike the Statement of Claim against them on the basis that the Court has no jurisdiction to entertain this claim and, in any event, that it discloses no reasonable cause of action because it is precluded by the judicial immunity applicable to the actions of Justice Kershman as a Judge of the Ontario Superior Court. With respect to his spouse, no grounds or facts are pleaded whatsoever upon which her liability could conceivably be founded.

[4] The motion succeeds on all grounds. To the extent any cause of action can be discerned from the Statement of Claim, it centers on the actions of Justice Kershman as a Judge of the Ontario Superior Court of Justice and on his spouse's marital status. This Court has no jurisdiction over such matters. In any event, it is plain and obvious that judicial immunity applies and that no cause of action exists, in this Court or any other, against a Judge or his spouse for the actions taken by a Judge in his judicial capacity.

[5] I also note that the Statement of Claim in this matter is in form, appearance and content similar to the Statement of claim appended to my colleague's decision in the Iyer decision, and is also a quintessential example of "Organized Pseudolegal Commercial Argument" or OPCA litigation as defined in *Cram v Nova Veterinary Clinic Ltd.*, 2016 NSSC 18. It is vexatious, scandalous, frivolous, and an abuse of process. Being the third of a series of such actions by the

same Plaintiffs, there is even more reason for the Court to impose sanctions by the award of costs.

[6] The Court will award costs, in a lump sum of \$5,000.00, which appears to the Court appropriate in the circumstances to compensate the Defendants and deter further abuse.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that:**

1. The Statement of Claim is hereby struck, without leave to amend.
  
2. Costs shall be payable by the Plaintiffs to the Defendants forthwith, in the amount of \$5,000.00.

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"Mireille Tabib"

Prothonotary

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** T-1040-16

**STYLE OF CAUSE:** DWIGHT THOMPSON BEY, NICOLE THOMPSON  
BEY v STANLEY KERSHMAN AND SPOUSE

**MOTION IN WRITING CONSIDERED AT OTTAWA, ONTARIO, PURSUANT TO  
RULE 369 OF THE *FEDERAL COURTS RULES*.**

**JUDGMENT AND REASONS:** TABIB P.

**DATED:** September 29, 2016

**WRITTEN REPRESENTATIONS BY:**

Dwight Thompson Bey  
Nicole Thompson Bey

FOR THE PLAINTIFFS  
(Self-represented)

Baaba Forson

FOR THE DEFENDANTS

**SOLICITORS OF RECORD:**

Ministry of the Attorney General  
Crown Law Office – Civil  
Toronto, Ontario

FOR THE DEFENDANTS