

Federal Court



Cour fédérale

Date: 20170131

Docket: T-2053-16

Citation: 2017 FC 124

Vancouver, British Columbia, January 31, 2017

PRESENT: Prothonotary Roger R. Lafrenière

BETWEEN:

**TERRY STEINKEY
AND ROBERT STEINKEY**

Plaintiffs

and

**HER MAJESTY THE QUEEN ELIZABETH
MARY ELIZABETH WINDSOR
THE GOVERNOR GENERAL OF CANADA
THE GOVERNMENT OF CANADA VIA
THE ATTORNEY GENERAL OF CANADA
THE PROVINCE OF ALBERTA VIA
THE ATTORNEY GENERAL OF ALBERTA**

Defendants

ORDER AND REASONS

UPON MOTION in writing dated January 9, 2017 by the Attorney General of Canada (Canada), pursuant to Rule 369 of the *Federal Courts Rules* for:

- (a) an order striking out the Plaintiffs' Statement of Claim without leave to amend pursuant to Rules 221(1)(a) and (f) of the *Federal Courts Rules*;
- (b) in the alternative, an order dismissing the action for mootness;
- (c) in the further alternative, an order extending the time for file a Statement of Defence to 30 days after the decision on this motion is rendered pursuant to Rule 8 of the *Federal Courts Rules*;
- (d) furthermore, an order:
 - (i) amending the style of cause to substitute "Her Majesty the Queen" in the place of "The Government of Canada via The Attorney General of Canada", pursuant to Rule 76(a) of the *Federal Courts Rules*; and
 - (ii) amending the style of cause to remove "Her Majesty the Queen Elizabeth", "Mary Elizabeth Windsor", and "The Government General of Canada";
- (e) an award of costs to the Attorney General of Canada to be paid by the Plaintiffs forthwith, pursuant to Rule 400(1) of the *Federal Courts Rules*; and
- (f) such further and other relief as this Honourable Court may deem just;

AND UPON MOTION in writing dated December 20, 2016 filed by the Defendants, the Province of Alberta and the Attorney General of Alberta (the Alberta Defendants), pursuant to Rule 369 of the *Federal Courts Rules*, for an order:

- (a) pursuant to Rule 221 striking the Statement of Claim as it relates to the Alberta Defendants, without leave to amend;

- (b) if necessary, extending the time for the Alberta Defendants to file a Statement of Defence to 30 days after the decision on this application is rendered pursuant to Rule 8(1); and
- (c) costs of this application in the amount of \$500.00, payable forthwith;

AND UPON reading the motion records filed on behalf of the Defendant Canada and the Alberta Defendants, and the Plaintiffs' written representations in response;

[1] On November 29, 2016, the Plaintiffs commenced the underlying action against Her Majesty Queen Elizabeth, Mary Elizabeth Windsor, the Governor General of Canada, the Government of Canada via the Attorney General of Canada (Canada), and the Province of Alberta via the Attorney General of Alberta (the Alberta Defendants).

[2] The allegations in the Statement of Claim may be summarized as follows. The Plaintiffs allege that they were charged with offences under the *Income Tax Act* and *Excise Tax Act* on April 5, 2012 and that they pleaded guilty to the charges on "erroneous or incomplete or inaccurate" advice of counsel. The Plaintiffs seek an injunction "to refrain the Federal Crown from proceeding upon the Information" before the Provincial Court of Alberta on the grounds that they mailed two "private indemnity bonds" to the Attorney General of Alberta in which the Plaintiffs promised to pay to Alberta "a sum certain of money" in return for indemnification "against all claims, interest, charges, counts, taxes, imprisonment, restitution, community service, reimbursement, repayment duty, penalties, bail bond, peace bond, probation, fines, fees, surcharges, court fees, disbursements, alternative measures, sentences, criminal record" against

both Plaintiffs. The Plaintiffs also seek an injunction to require the Attorney General of Canada “to give effect to the indemnities, and equities by fulfilling and performing the duties as stipulated” in the said bonds.

[3] The Plaintiffs allege that the Attorney General accepted delivery of the bonds and, upon acceptance without notice or protest, the Attorney General was appointed as trustee “to perform certain duties” as stipulated in the bonds. At paragraphs 18 and 19 of the Statement of Claim, the Plaintiffs claim that “[c]ontrary to the expressed stipulations, prosecutors in the charge of the Attorney General continue to proceed and prosecute” the Plaintiffs and that the Crown prosecutor obtained a bench warrant for their arrest on November 21, 2016. In the concluding paragraphs, the Plaintiffs claim that proceeding to sentencing without their consent amounts to a breach of trust and “involuntary servitude reducing [the Plaintiffs] to chattel, with unlimited liability held to the account of Crown Prosecutor and the Attorney General of Alberta.”

[4] Canada and the Alberta Defendants have moved to strike the Statement of Claim pursuant to Rule 221(1) of the *Federal Courts Rules*. Canada submits that the pleading fails to disclose a reasonable cause of action and that it is plain and obvious that this Court does not have jurisdiction to grant the requested relief. The Alberta Defendants submit that beyond failing to disclose a reasonable cause of action, the proceeding constitutes an abuse of process and improper collateral attack on a valid order of an Alberta court of competent jurisdiction. They further argue that this Court does not have jurisdiction over the subject matter or over them.

[5] I see no need to waste valuable court time to write extensive reasons given that I completely agree with the written representations filed by the moving parties. Notwithstanding

the Plaintiffs' protestations to the opposite, they clearly fall within a class of individuals described in *Meads v Meads*, 2012 ABQB 571 (CanLII), 2012 ABQB 571 (Meads) as "OPCA litigants", who follow a well-known path of illogic, presumption, and pseudo-legal rants. The pleading before me is a classic case of a vexatious party seeking to foist on the Crown a unilateral agreement and trust obligations based on nonsensical arguments, as referred to by Mr. Justice Rooke in *Meads* at para 447:

[447] OPCA litigants frequently attempt to unilaterally foist obligations on other litigants, peace officers, state actors, or the court and court personnel. These foisted obligations take many forms. None, of course, creates any binding legal obligation. In that sense, these are yet more 'magic hats'.

[6] It is plain and obvious that documents that purport to unilaterally impose an obligation on another party have no legal effect: *Papadopoulos v Borg*, 2009 ABCA 201 (CanLII) at para 4. It follows that the Statement of Claim fails to disclose a reasonable cause of action.

[7] For the sake of completeness, I should also briefly add that the Statement of Claim should be struck against Her Majesty Queen Elizabeth, Mary Elizabeth Windsor and the Governor General of Canada as there are no allegations made against them personally. The pleading should also be struck against the Alberta Defendants as the Federal Court does not have jurisdiction over the provincial actors. Moreover, and more importantly, the Statement of Claim should be struck on the grounds that it constitutes an improper collateral attack of criminal proceedings before another court. The Federal Court has no business interfering with prosecutorial discretion or staying criminal proceedings.

[8] Finally, I note that the Statement of Claim was signed by a lawyer, Glenn P. Bogue, and that Mr. Bogue also filed written representations in opposition to the motions before me. In *Meads*, Justice Rooke observed at paras 643-645 that, as an officer of the court, each lawyer has certain duties not only to the client, but also to the justice system as a whole. In particular, it is a lawyer's duty to not participate in or facilitate OPCA schemes.

[9] I am very troubled to see that Mr. Bogue accepted a retainer to draft and file pleadings which ultimately assist in the implementation of a vexatious litigation strategy. I therefore direct that this Order and Reasons, along with a copy of the Statement of Claim and the parties' motion materials, be delivered to the Law Society of Upper Canada for review, to determine whether any sanction is warranted against Mr. Bogue.

[10] The Alberta Defendants have requested costs of their motion in the amount of \$500.00, payable forthwith. The request is eminently reasonable. The same amount shall be granted to Canada in the absence of any other specified amount.

ORDER

THIS COURT ORDERS that:

1. The Statement of Claim is struck out, without leave to amend.
2. Costs of the motion, hereby fixed in the amount of \$500.00 in favour of the Attorney General of Canada and in the amount of \$500.00 in favour of the Attorney General of Alberta, shall be paid forthwith by the Plaintiffs.

“Roger R. Lafrenière”

Prothonotary

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-2053-16

STYLE OF CAUSE: TERRY STEINKEY AND ROBERT STEINKEY v
HER MAJESTY QUEEN ELIZABETH,
MARY ELIZABETH WINDSOR,
THE GOVERNOR GENERAL OF CANADA,
THE GOVERNMENT OF CANADA VIA
THE ATTORNEY GENERAL OF CANADA
THE PROVINCE OF ALBERTA VIA
THE ATTORNEY GENERAL OF ALBERTA

**MOTIONS IN WRITING CONSIDERED AT VANCOUVER, BRITISH COLUMBIA,
PURSUANT TO RULE 369 OF THE *FEDERAL COURTS RULES***

ORDER AND REASONS: LAFRENIÈRE P.

DATED: JANUARY 31, 2017

WRITTEN REPRESENTATIONS BY:

Glenn Bogue

FOR THE PLAINTIFFS

David Stam
Adam Pasichnyk

FOR THE DEFENDANTS,
HER MAJESTY QUEEN ELIZABETH
MARY ELIZABETH WINDSOR
THE GOVERNOR GENERAL OF CANADA
THE GOVERNMENT OF CANADA VIA
THE ATTORNEY GENERAL OF CANADA

Doreen Mueller

FOR THE DEFENDANTS,
THE PROVINCE OF ALBERTA VIA
THE ATTORNEY GENERAL OF ALBERTA

SOLICITORS OF RECORD:

Glenn Bogue
Barrister and Solicitor
Toronto, Ontario

FOR THE PLAINTIFFS

William F. Pentney
Deputy Attorney General of Canada
Edmonton, Alberta

FOR THE DEFENDANTS,
HER MAJESTY QUEEN ELIZABETH
MARY ELIZABETH WINDSOR
THE GOVERNOR GENERAL OF CANADA
THE GOVERNMENT OF CANADA VIA
THE ATTORNEY GENERAL OF CANADA

Doreen Mueller

FOR THE DEFENDANTS,
THE PROVINCE OF ALBERTA VIA
THE ATTORNEY GENERAL OF ALBERTA