

Federal Court



Cour fédérale

Date: 20160812

Docket: T-1499-15

Citation: 2016 FC 918

Ottawa, Ontario, July 12, 2016

PRESENT: Madam Prothonotary Mandy Aylen

BETWEEN:

CHARLES NORMAN HOLMES

Plaintiff

and

**HER MAJESTY THE QUEEN AND
THE ATTORNEY GENERAL FOR CANADA**

Defendants

ORDER AND REASONS

[1] On February 12, 2016, the Attorney General of Canada moved on behalf of Her Majesty the Queen in Right of Canada [the Federal Crown], pursuant to Rule 369 of the *Federal Courts Rules*, for an order pursuant to subsection 40(1) of the *Federal Courts Act* that the Plaintiff be declared a vexatious litigant and be prohibited from bringing further proceedings in this Court without the prior approval of this Court, and for lump sum costs in the amount of \$3,000.00.

[2] This motion arises in the context of an action instituted by the Plaintiff on September 4, 2015 seeking, amongst other relief, an order requiring payment from the Federal Crown to the

Plaintiff of approximately \$25,000,000.00 representing the “principal amount of the Canada Pension Plan” accounts for the Plaintiff and his spouse, Gail Arlene Walrath, an order requiring payment from the Federal Crown to the Plaintiff of approximately \$240,000.00 paid yearly in advance representing “patrimony for living expenses in the amount of and equal to the cost of housing an inmate at a Federal Penitentiary”, an order that the Federal Crown return the “care, control and unhindered direct access by promissory note(s) of the CHARLES NORMAN HOLMES security” to the Plaintiff, and a declaration that the Federal Crown has failed to meet its obligations under various international covenants and is in violation of the Plaintiff’s rights under section 7 of the *Canadian Charter of Rights and Freedoms*.

[3] By Order of Prothonotary Roger Lafrenière dated October 22, 2015, the Plaintiff’s Statement of Claim was struck, without leave to amend, on the basis that the Statement of Claim failed to disclose a reasonable cause of action, was frivolous and vexatious and was an abuse of the Court’s process. Costs in the amount of \$4,000.00 were awarded to the Federal Crown and the Federal Crown was granted leave to bring an application in these proceedings, at a later date, for a declaration pursuant to section 40(1) of the *Federal Courts Act* that the Plaintiff no longer be entitled to initiate proceedings against the Federal Crown in this Court without leave of the Court.

[4] The Plaintiff appealed the Order of Prothonotary Lafrenière and by Order of Mr. Justice Henry Brown dated December 1, 2015, the appeal was dismissed. On December 7, 2015, the Plaintiff appealed the Order of Justice Brown to the Federal Court of Appeal (A-524-15).

[5] This motion, originally brought by the Federal Crown on February 12, 2016, was held in abeyance in order to permit the Plaintiff to pursue his appeal before the Federal Court of Appeal. On July 19, 2016, the Federal Court of Appeal dismissed the Plaintiff's appeal on status review as the Plaintiff was in default of filing the Appeal Book, made no satisfactory representations as to why the appeal should not be dismissed for delay and failed to propose a timetable for the completion of the steps necessary to advance the appeal.

[6] The sole issue on this motion is whether the Plaintiff, in the circumstances of this case and in light of the Plaintiff's conduct in other court proceedings, should be designated a vexatious litigant pursuant to subsection 40(1) of the *Federal Courts Act*.

[7] The following provisions of the *Federal Courts Act* are applicable on this motion:

Vexatious proceedings

40 (1) If the Federal Court of Appeal or the Federal Court is satisfied, on application, that a person has persistently instituted vexatious proceedings or has conducted a proceeding in a vexatious manner, it may order that no further proceedings be instituted by the person in that court or that a proceeding previously instituted by the person in that court not be continued, except by leave of that court.

Attorney General of Canada

(2) An application under subsection (1) may be made

Poursuites vexatoires

40 (1) La Cour d'appel fédérale ou la Cour fédérale, selon le cas, peut, si elle est convaincue par suite d'une requête qu'une personne a de façon persistante introduit des instances vexatoires devant elle ou y a agi de façon vexatoire au cours d'une instance, lui interdire d'engager d'autres instances devant elle ou de continuer devant elle une instance déjà engagée, sauf avec son autorisation.

Procureur général du Canada

(2) La présentation de la

only with the consent of the Attorney General of Canada, who is entitled to be heard on the application and on any application made under subsection (3).

Application for rescission or leave to proceed

(3) A person against whom a court has made an order under subsection (1) may apply to the court for rescission of the order or for leave to institute or continue a proceeding.

Court may grant leave

(4) If an application is made to a court under subsection (3) for leave to institute or continue a proceeding, the court may grant leave if it is satisfied that the proceeding is not an abuse of process and that there are reasonable grounds for the proceeding.

No appeal

(5) A decision of the court under subsection (4) is final and is not subject to appeal.

requête visée au paragraphe (1) nécessite le consentement du procureur général du Canada, lequel a le droit d'être entendu à cette occasion de même que lors de toute contestation portant sur l'objet de la requête.

Requête en levée de l'interdiction ou en autorisation

(3) Toute personne visée par une ordonnance rendue aux termes du paragraphe (1) peut, par requête au tribunal saisi de l'affaire, demander soit la levée de l'interdiction qui la frappe, soit l'autorisation d'engager ou de continuer une instance devant le tribunal.

Pouvoirs du tribunal

(4) Sur présentation de la requête prévue au paragraphe (3), le tribunal saisi de l'affaire peut, s'il est convaincu que l'instance que l'on cherche à engager ou à continuer ne constitue pas un abus de procédure et est fondée sur des motifs valables, autoriser son introduction ou sa continuation.

Décision définitive et sans appel

(5) La décision du tribunal rendue aux termes du paragraphe (4) est définitive et sans appel.

[8] The pre-condition in subsection 40(2) of the *Federal Courts Act* has been met in this case, as this motion is brought by the Attorney General of Canada and the Federal Crown has included in its motion record a consent executed by the Assistant Deputy Attorney General dated December 24, 2015.

[9] Despite having been properly served with the Federal Crown's motion record and book of authorities, the Plaintiff has not responded to this motion. However, the Plaintiff's failure to object to the relief sought by the Federal Crown is of no moment, as the burden remains on the Federal Crown to satisfy the Court, on an objective standard, that the Plaintiff has persistently instituted vexatious proceedings or has conducted a proceeding in a vexatious manner. Given the extraordinary nature of the power conferred by section 40, the Court will not grant such relief lightly.

[10] There are numerous factors to be considered when determining whether a person is a vexatious litigant. In *Tonner v Lowry*, 2016 FC 230, Mr. Justice Michael Phelan summarized key indicators of vexatious behaviour at para. 20 as follows:

[20] ...

- a propensity to re-litigate matters that have already been determined;
- the initiation of frivolous actions or motions;
- the making of unsubstantiated allegations of impropriety against
- the opposite party, legal counsel and/or the Court;
- the refusal to abide by rules and orders of the Court;
- the use of scandalous language in pleadings or before the Court; and

- the failure or refusal to pay costs in earlier proceedings and the failure to pursue litigation on a timely basis.

[11] In *Lawyers' Professional Indemnity Co. v. Coote*, 2013 FC 643 at para. 25 (CanLII), aff'd 2014 FCA 98 (CanLII), Mr. Justice Roger Hughes cited with approval the following principles regarding vexatious proceedings, as detailed by Madam Justice Carolyn Layden-Stevenson in *R. v. Mennes*, 2004 FC 1731 at para. 77:

[77] ...

- (a) the bringing of one or more actions to determine an issue which has already been determined by a court of competent jurisdiction constitutes a vexatious proceeding;
- (b) where it is obvious that an action cannot succeed, or if the action would lead to no possible good, or if no reasonable person can reasonably expect to obtain relief, the action is vexatious;
- (c) vexatious actions include those brought for an improper purpose, including the harassment and oppression of other parties by multifarious proceedings brought for purposes other than the assertion of legitimate rights;
- (d) it is a general characteristic of vexatious proceedings that grounds and issues raised tend to be rolled forward into subsequent actions and repeated and supplemented, often with actions brought against the lawyers who have acted for or against the litigant in earlier proceedings;
- (e) in determining whether proceedings are vexatious, the court must look at the whole history of the matter and not just whether there was originally a good cause of action;
- (f) the failure of the person instituting the proceedings to pay the costs of unsuccessful proceedings is one factor to be considered in determining whether proceedings are vexatious;
- (g) the respondent's conduct in persistently taking unsuccessful appeals from judicial decisions can be considered vexatious conduct of legal proceedings.

[12] It is not necessary that all of these factors or indicia noted above be present in order for an individual to be declared a vexatious litigant. In order to declare the Plaintiff to be a vexatious litigant, the Court must be satisfied on an objective standard that the Plaintiff has persistently instituted vexatious proceedings or conducted himself in a vexatious manner during the proceedings.

[13] On the basis of the clear and uncontroverted evidence before me, I conclude that the Federal Crown has met its heavy burden. The evidence demonstrates without doubt that the plaintiff has persistently instituted vexatious proceedings and has conducted proceedings in a vexatious manner. In reaching this conclusion, I have considered the Plaintiff's litigation history and conduct before this Court, the Federal Court of Appeal and the Supreme Court of British Columbia (*Mazhero v. Fox*, 2011 FC 392).

[14] In this regard, since January 2013, the Plaintiff has instituted seven actions before this Court on his own behalf or on behalf of his spouse or his corporations, Conscious Planet Enterprise Solutions Ltd. [Conscious Planet] and Dharma Distributors Ltd. d.b.a Hempco Canada [Dharma Distributors], all of which have been struck as disclosing no reasonable cause of action and/or as being frivolous, vexatious and abusive.

[15] On January 4, 2013, the Plaintiff commenced four actions action against the Federal Crown – (a) T-33-13 in his own right; (b) T-31-13 on behalf of his spouse; (c) T-32-13 on behalf of Dharma Distributors; and (d) T-34-13 on behalf of Conscious Planet.

[16] With the exception of the relief sought, the allegations in all four actions were essentially the same and related to the claimant's tax indebtedness to the Federal Crown. All four actions were struck out, without leave to amend, by Orders of Prothonotary Lafrenière dated February 21, 2013 on the basis that the Statements of Claim did not disclose any reasonable cause of action and constituted an impermissible collateral attack on the correctness of tax assessments. Costs in the amount of \$500.00 per action were ordered payable to the Federal Crown. These cost orders have not been satisfied by the Plaintiff, his spouse or his companies and no appeals therefrom have been brought.

[17] On January 25, 2013, the Plaintiff commenced an action (T-178-13) against the Federal Crown and the Honourable Jim Rondeau, the Minister of Healthy Living, Seniors and Consumer Affairs for Manitoba seeking damages in the amount of \$89,000,000.00 on the apparent basis that his birth certificate constitutes a "security" for which he has not received payment from the Federal Crown. By Order dated April 5, 2013, Madam Justice Judith Snider struck the Statement of Claim, without leave to amend, on the basis that it disclosed no reasonable cause of action and, to the extent that its meaning could be deciphered at all, appeared to constitute an impermissible collateral attack on the correctness of tax assessments. Costs in the amount of \$500.00 in favour of the Federal Crown and \$500.00 in favour of Minister Rondeau were ordered payable by the Plaintiff. This cost order has not been satisfied by the Plaintiff and the Plaintiff did not appeal the Order of Justice Snider.

[18] On April 8, 2013, the Plaintiff commenced an action (T-584-13) against the Federal Crown in which he sought an order requiring the Canada Revenue Agency [CRA] to issue a

letter of apology acknowledging that certain Requirements to Pay “were improperly marked” and therefore void, and that his tax accounts, as well as those of his spouse and two companies, be cancelled. The Plaintiff also sought repayment of all funds collected by the CRA and damages in the amount of \$50,000,000.00.

[19] By Order dated May 30, 2013, Prothonotary Lafrenière struck the Statement of Claim, without leave to amend. In his Order, Prothonotary Lafrenière stated:

The Statement of Claim should be read generously with allowance for inadequacies due to drafting deficiencies. However, the Court need not accept at face value bare allegations, factual allegations which may be regarded as scandalous, frivolous or vexatious, or legal submissions dressed up as factual allegations. On its face, it is plain and obvious that the Statement of Claim does not set out any material facts that disclose a reasonable, or any cause of action. In fact, the allegations are unintelligible, rendering it impossible for the Defendant to defend and for the Court to manage the proceeding. The Statement of Claim should be struck out on this ground alone.

For the sake of completeness, I also find that the action constitutes an abuse of process. This is the sixth action brought by the Plaintiff in his personal capacity, or on behalf of his wife and corporations, relating to collection activity by the CRA (Other Proceedings). The five earlier proceedings were struck out on the grounds that they constituted an impermissible collateral attack on the correctness of tax assessments, matters that fall squarely within the jurisdiction of the Tax Court of Canada. The present action is clearly duplicitous and abusive.

Being substantially in agreement with paragraphs 16 to 61 and 77 of the written representations filed on behalf of the Defendant, which I adopt and make mine, I conclude that the Statement of Claim should be struck out, without leave to amend.

As for the Defendant’s request that the Plaintiff be prohibited from initiating proceedings against the Federal Crown in this Court without leave of the Court until he has paid the costs awarded in the Other Proceedings, I conclude that Rule 416 is not applicable. First, no order for security for costs has been granted in this or the Other Proceedings. Second, Rule 416(3) would only

prevent a party from taking steps “in the action” until security required by an order has been given. Given the extraordinary nature of the relief requested, the Defendant should be required to apply for an order pursuant to section 40 of the Federal Courts Act. I should add that a declaration that the Plaintiff is a vexatious litigant appears to be warranted based on the material before me.

[20] Prothonotary Lafrenière ordered the Plaintiff to pay the costs of the Federal Crown in the fixed amount of \$3,000.00, which cost order has not been satisfied. The Plaintiff did not appeal the Order of Prothonotary Lafrenière.

[21] In the underlying action (T-1499-15), which was commenced by the Plaintiff on September 4, 2015 and subsequently struck by the Order of Prothonotary Lafrenière dated October 22, 2015, the Plaintiff made various unintelligible allegations against the Federal Crown which appeared to once again have as their premise an assertion that the Plaintiff’s birth certificate constitutes a form of security that he is entitled to “cash in” to avoid his tax indebtedness to the Federal Crown.

[22] In striking the Statement of Claim in the underlying action and granting the Federal Crown leave to bring this motion, Prothonotary Lafrenière stated as follows:

Suffice it to say that the Plaintiff alleges that his human rights have somehow not been respected under the *Canadian Charter of Rights and Freedoms* and various international conventions and treaties. The Plaintiff states that he is not a “graven image”, nor a member, citizen or servant of the Federal Crown. At paragraphs 3 and 4 of the Statement of Claim, the Plaintiff claims that he is not an Organized Pseudolegal Commercial Argument (OPCA) litigant within the meaning of *Meads v Meads*, 2012 ABQB 571 (*Meads*), but rather a “Titled Holder of the CHARLES NORMAN HOLMES CERTIFICATE OF BIRTH security”.

Notwithstanding the Plaintiff's assertion to the contrary, the Plaintiff is plainly and obviously an OCPA litigant. The Statement of Claim contains unusual formalities commonly used by OCPA litigants, such as a red thumb print. In addition, the Plaintiff seeks to foist on the Federal Crown unilateral agreements, trust obligations or judgments based on nonsensical arguments.

In the past few months, this Court has been deluged with motions by the Crown to strike statements of claim brought by plaintiffs who have made similar allegations. Those plaintiffs were all found to fall within a class of individuals described in *Meads* as "OPCA litigants", who follow a well-known path of illogic, presumption, and pseudo-legal rants.

In *Burse v Canada*, 2015 FC 1126, Prothonotary Kevin Aalto struck five statements of claim brought by what he termed "quintessential OPCA litigants". Prothonotary Aalto found that the causes of action pleaded were based on "snippets and fragments" of international treaties, the *Canadian Charter of Rights and Freedom*, various Supreme Court of Canada cases and miscellaneous statutes, both federal and provincial, all bound together in "pseudo-legal verbiage". He stated as follows at para. 7:

[7] These Plaintiffs also allege that they are owed duties by Her Majesty the Queen pursuant to various international treaties and the Charter and these rights have been breached. They do not have unlimited freedom (i.e. they are required to obtain jobs to pay for licences/taxes/realty taxes etc.) or are required to contribute towards the economic social and cultural development of the Defendant (i.e. pay taxes). They argue they sent notices of demand and notices opting out of these legislative requirements (in *Meads* this is referred to as the "magic hat" argument). They "opt out" from legislation requirements yet use the Court system to try and enforce these imaginary claims. These are examples of the pseudo-legal drivel which informs much of the content of the statements of claim.

The same reasoning applies in this case. The allegations in the Statement of Claim are without any merit and pure drivel. The gist of the Plaintiff's case is that he is exempt from the application of the law, while at the same time entitled to seek damages for infringement of his "rights". Madam Justice Elizabeth Heneghan recently struck a statement of claim in Court File No. T-388-15

that contained similar allegations as those made by the Plaintiff in the present proceeding. By Order dated September 4, 2015, Justice Heneghan concluded that the statement of claim failed to disclose a reasonable cause of action, that the allegations were vexatious and that the remedies sought by the plaintiffs were beyond this Court's jurisdiction.

Similar claims were also recently considered and rejected by Mr. Justice George Locke in *Michael Douglas Stegemann and Dianne Charlene Armitage v Her Majesty the Queen* (September 1, 2015, Court File No. T-877-15), and Mr. Justice Russel Zinn in *Caitlin Doell v Her Majesty the Queen et al* (October 19, 2015, Court File No. T-1338-15), to name of few.

Because of the nonsense they argue, OPCA litigants are invariably unsuccessful and their positions dismissed, typically without written reasons. Nevertheless, their litigation abuse continues. I agree with Justice Rooke that the growing volume of this kind of vexatious litigation requires a strong response to curb this misconduct: see *Meads*, para 71.

Being substantially in agreement with the written representations filed on behalf of the Crown, I conclude that the Statement of Claim should be struck in its entirety, without leave to amend. In light of the number of unsuccessful actions brought by the Plaintiff before this Court, in his personal capacity or as a representative, and what I consider to be a continuing abuse of this Court's process, I consider just and appropriate to sanction the Plaintiff's conduct by way of a substantial award of costs.

[23] I agree with Prothonotary Lafrenière's finding that the Plaintiff is plainly and obviously an OCPA litigant, as that term is described above. The evidence filed by the Federal Crown in support of this motion demonstrates that the Plaintiff has employed various incantations of himself, altering his name with the use of hyphens and colons or purporting to be constituted as a trust or as a secured party of himself. The Statements of Claim filed by the Plaintiff, and the documents attached thereto, are executed with red fingerprints, postage stamps and what appears to be his own blood. The Plaintiff has included with his pleadings documents that he claims constitute instruments payable to the Federal Crown in satisfaction of cost orders, when in fact

these documents are photocopies of orders of this Court with handwritten notations made thereon by the Plaintiff. In other supporting documents, the Plaintiff purports to be a secured party creditor and priority interest holder of his birth certificate and social insurance number.

[24] In addition to the aforementioned actions before this Court and the Plaintiff's appeal of the Order of Justice Brown to the Federal Court of Appeal, the Plaintiff has also initiated legal proceedings in British Columbia.

[25] On May 17, 2013, the Plaintiff commenced an action in the Supreme Court of British Columbia bearing court file no. 151549 against the Honourable Robert Douglas Nicholson, Minister of National Defence [the BC Action]. Although not named as a Defendant in the action, the Plaintiff also served the Notice of Civil Claim on the Honourable Shirley Bond, the Attorney General for British Columbia, who thereafter participated in the action. In the BC Action, the Plaintiff sought the following relief:

1. Removal of any and all inferences to me as the juridical/corporate personality CHARLES NORMAN HOLMES et als and that I be recognized by all Canada government agencies, unless otherwise stated, under common law as :charles-norman: holmes, a human being with intrinsic rights and with lawful excuse as per my Notice of Understanding and Intent and Claim of Rights attached, that I am exempt from levy, and that I use government ID for convenience sake only and usage does not create enactment or citizenship joinder, and;
2. The CHARLES N HOLMES TRUST T-30-7543-18 is acknowledged as secured party creditor to the CHARLES NORMAN HOLMES ESTATE et als and related accounts and that Canada government agents agree the account is under new management, to cease and desist allowing any access to the Credit/Patrimony (UNDRR General Assembly resolution 1803 (XVII) of 14 December 1962 "Permanent Sovereignty over Natural Resources") of the account(s) without written and

expressed permission by the CHARLES N HOLMES TRUST, and to make appropriation from the Consolidated Revenue Fund (Financial Administration Act 33(1)(2)), in the amount of \$10,000,000 CAD (the rights and defences of which are subrogated by Private Bond #BNDS-28031963840CNH-7, reg # RW 652 445 205 CA), by check made payable to the: CHARLES N HOLMES TRUST, and;

3. The Canada Revenue Agency (CRA):

- a. To acknowledge CRA is the owner, trustee and liable party to the SIN account that was created for our mutual benefit, and that I am NOT the trustee, nor am I a public servant/government employee that received compensation from the collection of taxes and therefore I am NOT subject to the enactments of law and I am NOT obligated to file tax returns for/as that entity. CRA to acknowledge that the account is under new management and the equity is revenued back to source and not taxed as income. CRA agrees to honor my right to discharge debt and is obliged to ledger the discharge payments that I have made/sent/received by the Receiver General for Canada, and repay all erroneous and illegal garnishments from the accounts, CHARLES NORMAN HOLMES, GAIL ARLENE WALRATH, CONSCIOUS PLANET ENT. SOL. LTD. and DHARMA DIST. LTD., at treble the total amount in damages of all said garnishments in the amount of \$500,000 CAD, by check made payable to the: 7778775 CANADA INC., and;
- b. Process the 7778775 CANADA INC. T2 and CHARLES N HOLMES TRUST T3 returns for years 2012 back to 2005 and pay the refund total: taxes paid, bank deposits and discharge payments in the amount of \$33,000,000 CAD, by check made payable to the: 7778775 CANADA INC.

[26] On November 28, 2013, following a two-day hearing, the BC Action was struck by Mr. Justice G.P. Weatherill and costs in favour of the Attorney General of British Columbia and the Federal Crown were awarded in the amount of \$2,346.27 respectively, which cost orders have not been satisfied by the Plaintiff.

[27] In his Oral Reasons for Judgment (para. 30), Justice Weatherill found that the action:

...is without substance and discloses no reasonable claim. Moreover, it is groundless, fanciful and trifles with the Court's time; it is scandalous, frivolous and vexatious and an abuse of the process of this court. It must be entirely struck.

[28] I note that in reviewing the Oral Reasons for Judgment of Justice Weatherill, the Plaintiff engaged in disrespectful and disruptive behaviour before the court and made unsubstantiated allegations of impropriety against the court. Justice Weatherill had to admonish the Plaintiff to "sit down and listen" or be removed from the courtroom (para. 69). Moreover, the Plaintiff repeatedly demanded that Justice Weatherill produce his oath of office and certificate of registration to the Plaintiff, and then accused Justice Weatherill of being in "criminal breach" of section 337 of the *Criminal Code* (paras. 60-68).

[29] I find that the Plaintiff has also made unsubstantiated claims of impropriety against counsel for the Federal Crown, Ms. Nicole Johnston, including that she has not been compliant with the *Federal Courts Rules* by allegedly changing the style of cause and changing the jurisdiction and status of the Plaintiff from private person to public trustee.

[30] In the circumstances, I find that numerous indicia of vexatious behaviour are engaged, including:

- a) The Plaintiff has instituted multiple proceedings before this Court and one proceeding before the Supreme Court of British Columbia that did not disclose any reasonable cause of action, amounted to an impermissible collateral attack on the correctness of

- tax assessments, were an abuse of process, and/or were scandalous, frivolous and vexatious.
- b) The Plaintiff has repeatedly rolled forward into subsequent actions grounds and issues that he raised in earlier proceedings that were dismissed as disclosing no reasonable cause of action, as amounting to an improper collateral attack or on the basis that they were abusive, scandalous, frivolous and vexatious. In his most recent proceedings before this Court (T-1499-15), the Plaintiff has attempted to supplement his claims with new unintelligible allegations, but an objective reading of his Statement of Claim reveals that his most recent claims are simply an improper repetition of the claims that were previously struck by this Court and the Supreme Court of British Columbia.
 - c) The Plaintiff has refused to obey multiple orders of this Court and one order of the Supreme Court of British Columbia, all of which required the payment of costs to the Federal Crown.
 - d) The Plaintiff has engaged in disrespectful and disruptive behaviour before Justice Weatherill of the Supreme Court of British Columbia.
 - e) The Plaintiff has made unsubstantiated allegations of impropriety against the lawyer for the Federal Crown and against Justice Weatherill.

- f) The Plaintiff has failed to prosecute his appeal before the Federal Court of Appeal in A-524-15 with diligence or at all.

[31] For the foregoing reasons, I am satisfied that the Plaintiff has persistently instituted vexatious proceedings and has conducted the underlying proceeding in a vexatious manner within the meaning of subsection 40(1) of the *Federal Courts Act*. As such, I am granting the Federal Crown's motion and ordering that no further proceedings be instituted by the Plaintiff in this Court except by leave of this Court and that any proceedings brought by the Plaintiff and presently underway in this Court are hereby stayed, pending leave of this Court to proceed.

[32] I note that the Federal Crown has not asked for any relief that expressly prohibits the Plaintiff from bringing any future proceedings in a representative capacity for his spouse or his corporations, as he has done in the past. In my view, such relief is not required. As the Plaintiff is not a lawyer, he has no ability to initiate proceedings on behalf of his spouse and similarly, he is not entitled under the *Federal Courts Rules* to initiate proceedings on behalf of his corporations unless he is expressly granted leave to do so by the Court pursuant to Rule 120.

[33] The Federal Crown has requested a lump sum cost award in the amount of \$3,000.00. In the circumstances, I find that such an award of costs is warranted and accordingly, the Federal Crown shall have its costs fixed in the amount of \$3,000.00 and payable forthwith.

ORDER

THIS COURT ORDERS that:

1. The Plaintiff, Charles Norman Holmes, is a vexatious litigant pursuant to section 40 of the *Federal Courts Act*.
2. The Plaintiff is hereby barred from initiating any further proceedings in the Federal Court, except with leave of the Court.
3. Any proceedings brought by the Plaintiff in the Federal Court and presently underway in this Court are hereby stayed, pending leave of the Court to proceed.
4. The Plaintiff shall pay to the Federal Crown its costs of the motion fixed in the lump sum amount of \$3,000.00 payable forthwith.

"Mandy Ayles"
Prothonotary

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1499-15

STYLE OF CAUSE: CHARLES NORMAN HOLMES v HER MAJESTY
THE QUEEN AND THE ATTORNEY GENERAL
FOR CANADA

**MOTION IN WRITING CONSIDERED AT OTTAWA, ONTARIO, PURSUANT TO
RULE 369**

ORDER AND REASONS: AYLEN P.

DATED: AUGUST 12, 2016

WRITTEN REPRESENTATIONS BY:

CHARLES NORMAN HOLMES

THE PLAINTIFF
ON HIS OWN BEHALF

NICOLE S. JOHNSTON
LORETTA CHUN

FOR THE DEFENDANTS

SOLICITORS OF RECORD:

Charles Norman Holmes
Burnaby, British Columbia

THE PLAINTIFF
ON HIS OWN BEHALF

William F. Pentney
Deputy Attorney General of Canada
Vancouver, British Columbia

FOR THE DEFENDANTS