

Federal Court



Cour fédérale

Date: 20180404

Docket: T-185-18

Citation: 2018 FC 364

Ottawa, Ontario, April 4, 2018

PRESENT: The Honourable Mr. Justice Barnes

BETWEEN:

**BRIAN FAZAKAS AND
JEANNIE FAZAKAS**

Plaintiffs

and

HER MAJESTY THE QUEEN

Defendant

ORDER

UPON hearing this motion on general sittings in Fredericton, New Brunswick on Monday, March 12, 2018;

AND UPON reviewing the material filed by the parties;

AND UPON dismissing the motion for the following reasons given orally:

[1] I do not need to hear from counsel for the Minister in reply. I am going to dispense with this matter now by oral reasons.

[2] This is a motion to strike the Plaintiffs' Statement of Claim in its entirety without leave to amend. The motion is brought under Federal Courts Rule 221, which provides for a claim to be struck where it discloses no reasonable cause of action or where the claim is legally frivolous or vexatious.

[3] The burden on a motion like this one rests with the Minister, who must satisfy me that it is plain and obvious that the claim, as written, discloses no reasonable cause of action.

[4] The Plaintiffs' Statement of Claim asserts no material facts and no legal theory or cause of action known in the law. It states only that the Plaintiffs' pensions are being garnisheed, presumably for unpaid taxes, and that they, the Plaintiffs, have been forced into servitude, making them officers of Canada with their residence in their corporate body, Canada: "They took us out of our whole legal capacity as man and woman." This, of course, is legal and factual nonsense. There is nothing here that the Crown can answer with a meaningful defence.

[5] The remaining allegation of constitutional invalidity fails to stipulate any legal basis for the claim. In the absence of particulars and in the face of a hundred years of jurisprudence upholding the income tax obligations of all Canadians, this assertion is also legally untenable and unsustainable. The idea that some Canadians, can by personal fiat, simply opt out of their legal obligations while claiming the benefits of the taxation paid by other Canadians is legally untenable.

[6] I would add that this claim bears all of the hallmarks of an "Organized Pseudolegal Commercial Argument". These types of claims are brought before the courts of Canada with increasing frequency and at considerable expense to Canadians who do pay their taxes. At the

same time, the courts are striking out these claims because they are abusive of the judicial system and a waste of resources.

[7] I have no hesitation in striking out this claim in its entirety without leave to amend. It is frivolous, it is vexatious, and it is devoid of any legal merit.

[8] Costs are payable forthwith by the Plaintiffs to the Defendant in the amount of \$750.00.

[9] So that disposes of the motion, the Minister's motion to strike the claim in its entirety. I have allowed that motion with costs.

[10] I am not sure what the Plaintiffs' motion is all about, but regardless, there is no legal basis to consider the Plaintiffs' purported motion to state a constitutional question. It isn't at all clear from the motion materials filed what was being asked of the Court, but in light of the dismissal of the action, that motion, such as it is, is now moot, and it, too, is dismissed but without costs.

[11] That disposes of those two matters before the Court.

THIS COURT ORDERS that the Defendant's motion to strike the Plaintiffs' Statement of Claim without leave to amend is granted with costs payable to the Defendant in the amount of \$750.00 payable forthwith.

THIS COURT FURTHER ORDERS that the Plaintiffs' motion is dismissed without costs.

"R.L. Barnes"

Judge