Federal Court  Cour fédérale

Date: 20240208

Docket: T-2476-23

Citation: 2024 FC 212

Ottawa, Ontario, February 8, 2024

PRESENT: The Hon. Mr. Justice Henry S. Brown

BETWEEN:

JOSEPH BARNES

Plaintiff

and

HIS MAJESTY THE KING

Defendant

ORDER AND REASONS

UPON MOTION by the Defendant under Rule 369 of the *Federal Courts Rules*, SOR/98-106 [*Federal Courts Rules*], for an Order striking the Plaintiff's Statement of Claim dated November 23, 2023, in its entirety pursuant to Rule 221(a), (c), and (f) of the *Federal Courts Rules*, without leave to amend, and upon reading the pleadings and proceedings and noting in particular that the Plaintiff declined to file a Response despite having ample time to do so after having been duly served;

AND UPON considering Rule 221(1) of the *Federal Courts Rules* provides on motion, that the Court may strike out a pleading that "discloses no reasonable cause of action"

(subparagraph (a)), is "scandalous, frivolous or vexatious" (subparagraph (c)) or "is otherwise an abuse of the process of the Court" (subparagraph (f));

AND UPON considering *Turnbull v Canada*, 2019 FC 224 in which I set out the following on motions to strike:

> [14] In *Lee v Canada*, 2018 FC 504, at para 7, Heneghan J stated the following in respect of the test for motions to strike:
>
> > The test upon a motion to strike a pleading is set out in the decision in *Hunt v. Carey Canada Inc.*, [1990] 2 S.C.R. 959, that is whether it is plain and obvious that the pleading discloses no reasonable cause of action. According to the decision in *Bérubé v Canada (2009)*, [2009 FC 43] at paragraph 24, a claim must show the following three elements in order to disclose a reasonable cause of action
> >
> > i. Allege facts that are capable of giving rise to a cause of action
> >
> > ii. Indicate the nature of the action which is to be founded on those facts, and
> >
> > iii. Indicate the relief sought, which must be of a type that the action could produce and that the court has jurisdiction to grant
>
> [15] The moving party bears the onus of meeting the test set out by the Supreme Court of Canada in *Hunt v Carey Canada Inc*, [1990] 2 SCR 959 [*Hunt*]: *Al Omani v Canada*, 2017 FC 786 per Roy J.:
>
> > [12] The test to strike a claim under Rule 221 sets a high bar. First, it is assumed that the facts stated in the statement of claim can be proven. The Court must be satisfied that it is plain and obvious that the pleading discloses no reasonable cause of action assuming the facts pleaded are true: *R v Imperial Tobacco Canada Ltd.*, 2011 SCC 42, [2011] 3 SCR 45 at para 17; *Hunt v Carey Canada Inc*, [1990] 2 SCR 959 [*Hunt*] at p 980. The Defendant bears the onus of meeting this test: *Sivak v Canada*, 2012 FC 272, 406 FTR 115 [*Sivak*] at para 25.

> [13] In *Hunt*, the Supreme Court sided with the articulation of the rule in England to the effect that "if there is a chance that the plaintiff may succeed, then the plaintiff should not be 'driven from the judgment seat'" (p. 980). A high bar indeed to succeed on a motion to strike. Some chance of success will suffice or, as Justice Estey said in *Att. Gen. of Can. v Inuit Tapirisat et al*, [1980] 2 SCR 735, "(o)n a motion such as this a court should, of course, dismiss the action or strike out any claim made by the plaintiff only in plain and obvious cases and where the court is satisfied that "the case is beyond doubt" (p.740).

AND UPON noting the Statement of Claim is a matter of public record and having regard to the lack of any response by the Plaintiff to this motion and having determined the Defendant's submissions correctly describe the Statement of Claim in a manner with which I substantially agree as follows, in connection with which I set out my analysis with the result that the Defendant's motion will be granted:

[1] In his Statement of Claim, the Plaintiff claims $2,750,500 in damages for "purchase of my services by His Majesty the King under contract and with the agreement of the party's." He also asks that the Court "prevent the Failure of the JOSEPH BENSON BARNES Trust due to lack of trustee."

[2] The Statement of Claim pleads the following facts, assumptions, and legal conclusions.

> 1) At the heart of the Plaintiff's claims is that he is the unwilling subject of a maintenance enforcement order issued by the Supreme Court of Nova Scotia some 17 years ago, in 2007. He alleges the Province of Nova Scotia made numerous attempts to collect maintenance and, in 2023, suspended his driver's license for non-payment. And he seeks relief from the Federal Court. With respect it is plain and obvious this sort of action is doomed to fail.

[3] The Plaintiff also pleads that in 2022, he learned that he is the beneficiary of a trust to an "estate" held on his behalf by "all government employees", which he has since demanded be transferred to him. He also pleads that he learned in 2022 that he was a party to a contract authorizing the Government of Canada to represent him, which he has now revoked. He implies this contract was formed when he mistakenly declared himself to be a "citizen of the nation of Canada" when he applied for a social insurance number. With respect, it is plain and obvious that these submissions in support of a cause of action are doomed to fail.

[4] I note that at paragraph 6, the Plaintiff explains how these elements fit together to allegedly absolve him of such legal obligation:

> I learned of the contract between myself and the Government and the duty they have to reply to the Beneficiary as the Trustees. This was not disclosed to me by any council and voided all court orders and contracts I entered into.

[5] Completely illogically, the Plaintiff claims as a result it is the federal Crown that owes him money by virtue of a series of agreements that he "unilaterally foisted" (as the Defendant puts it) on several Crown officers. He pleads the federal Crown owes him $50,000 because his former lawyer "stole" his "equity" and did not respond to a demand that he "settle the matter within 72 hours, and if not, he was agreeing to pay the Plaintiff $50,000. When the lawyer did not reply, the Plaintiff emailed him a "notice of the amount due now and a Certificate of default." I fail to see any reasonable cause of action against the Defendant in this respect and conclude this allegation is doomed to fail.

[6] As to the second alleged agreement, the Plaintiff pleads the federal Crown owes him $600,000 because an employee of the Nova Scotia Department of Justice allegedly telephoned him four times “to collect on the maintenance order.” The Plaintiff asserts that each phone call gave rise to a debt of $150,000 for “trespass” in accordance with a “price list”, a document he alleges he distributed setting out fees “for me to perform orders in the name of the person for His majesty the King.” This allegation fails to disclose any reasonable cause of action against the Defendant and I therefore conclude it is doomed to fail.

[7] The Plaintiff further alleges he filed an action in the Nova Scotia Supreme Court to collect this $600,000 debt, but his motion for default judgment was dismissed.

[8] The Plaintiff argues all this gave rise to his third alleged agreement under which he alleges the federal Crown owes him $2,100,000 because a Prothonotary of the Nova Scotia Supreme Court did not respond to his demands for information about the rules of service the basis of her, which gave rise to a further ultimatum to the effect he was “charging the Prothonotary 1 million for discrimination, another million dollars for meddling in my personal matter before the court, placing a note on my file and putting conditions on me to filing an affidavit as well as directly violating the will of the soul investor” and $100,000 for “not replying to the beneficiary four times.” [all *sic*]

[9] Having been unsuccessful in bringing a motion for summary judgment, the Plaintiff claims he abandoned his civil action, “defaulted His Majesty the King c/o the Attorney General of NS myself” and filed an “ex parte application in chambers for an order for the payment of the

purchase of my services" (Case # SH-527885). He announced he was "invoking a court of record and a court of equity" and wanted a remedy in the Court of King's Bench. On being informed he was in the wrong forum, he concluded that "the lawyers, governments and courts are colluding to commit fraud against me and my family with no jurisdiction to do so."

AND UPON CONCLUDING it is plain and obvious that none of the Plaintiff's claims disclose, either in the particular or in the aggregate, any semblance of a cause of action, and are all doomed to fail, and upon further concluding no part nor the whole of his Statement may be cured by amendment, the Court will grant the Defendant's motion and strike the action in its entirety without leave to amend. In addition, the Court in its discretion will grant the Defendant's request for costs and order the Plaintiff to pay the Defendant the all inclusive and reasonable sum of $1000.00 in costs.

ORDER in T-2476-23

THIS COURT ORDERS that:

1. The Statement of Claim is struck in its entirety without leave to amend.

2. The Plaintiff shall pay to the Defendant the all inclusive sum of $1,000.00 in costs.

"Henry S. Brown"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-2476-23
STYLE OF CAUSE:	JOSEPH BARNES v HIS MAJESTY THE KING

MOTION TO STRIKE CONSIDERED AT OTTAWA, ONTARIO PURSUANT TO RULES 221 AND 369 OF THE *FEDERAL COURTS RULES*

ORDER AND REASONS:	BROWN J.
DATED:	FEBRUARY 8, 2024

WRITTEN SUBMISSIONS BY:

Joseph Barnes	FOR THE PLAINTIFF (ON HIS OWN BEHALF)
Amy Smeltzer	FOR THE DEFENDANT

SOLICITORS OF RECORD:

Attorney General of Canada Toronto, Ontario	FOR THE DEFENDANT