

Federal Court



Cour fédérale

Date: 20151209

Docket: T-790-15

Citation: 2015 FC 1367

Ottawa, Ontario, December 9, 2015

PRESENT: The Honourable Mr. Justice Russell

BETWEEN:

JOHN CHARLES BEIMA

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

ORDER AND REASONS

[1] This is a motion by the Defendant for an order:

- a) striking the Plaintiff's Statement of Claim, with costs; or
- b) in the alternative, an order:
 - i) striking portions of the Statement of Claim; and
 - ii) extending the time for the Defendant to serve and file its Statement of Defence until 30 days after the disposition of this motion;

[2] The Plaintiff, Mr. Beima, is seeking the following relief in his lawsuit against the Defendant:

- a) \$750,000,000.00 CAD;
- b) the settlement to be tax exempt; and
- c) an order preventing Canada Revenue Agency [CRA] from having any interaction in any way, shape or form with the Plaintiff ever again.

[3] This motion was heard and considered with the motion in T-791-15, and there is considerable overlap in the two claims to which these motions relate.

[4] Both of Mr. Beima's claims relate to events which occurred during, and leading up to, an audit and tax assessment, a proceeding in the Tax Court of Canada, an appeal to the Federal Court of Appeal, and an application for a compliance order with this Court. As can be seen from the relief sought, Mr. Beima is asking the Court to render him immune from tax laws that apply to all citizens of Canada and to award him a large sum of money for grievances that arise from his having to deal with CRA. These aspirations are unrealistic, to say the least, and his pleadings do very little to explain how any such entitlement could have arisen.

[5] The Plaintiff wishes to be paid a large sum of money from the public purse on a tax-free basis and to never again have to deal with CRA. I am not being critical of the Plaintiff. He is a self-represented litigant and he has every right to seek relief where it is due and justiciable in the Federal Court. However, the nature and scope of the extraordinary relief he seeks suggest he may be acting in a somewhat unrealistic fashion.

[6] There is an air of unreality and self-righteous exaggeration about his claims that makes it very difficult to determine whether Mr. Beima has any legitimate complaint to make or whether he simply wants to resist tax proceedings with CRA. He accuses “multiple employees of the Government of Canada” of serious criminal acts. He also claims that the (former) Prime Minister, Mr. Stephen Harper, and various named cabinet Ministers are involved in these criminal acts. He also accuses employees of the Department of Justice and the “Following Employee of the Tax Court of Canada that is involved is Justice Steven D’Arcy” and the “Following Employee of the Federal Court of Appeal that is involved is Justice Wyman Webb.” All of these people – and more – are being accused in his claim of involvement in

Actively blackmailing/extorting, committing acts of perjury, endangering the life of a child, subjecting a child to sexual assault, the violation of the Applicant’s rights, obstructing justice, malicious prosecution, attorney/judicial misconduct, and/or falsifying legal documents against or as it pertains to the Applicant.

[7] The extent to which this claim is nothing more than a collateral attack on other proceedings (and one that questions the personal and professional integrity of judges who have not made decisions of which Mr. Beima approves) can be seen in the following sequence:

48. Paige MacPherson is attempting to use the application brought by Margret McCabe as a method of discovered for the proceedings before The Tax Court of Canada.

49. An order from The Tax Court of Canada has now been appealed to The Federal Court of Appeal. Paige MacPherson has now committed acts of perjury before the Federal Court of Appeal. Paige MacPherson has claimed documents have been severed on The Applicant that were never provided to The Applicant.

50. Paige MacPherson is actively taking steps to prevent documents from going before the Federal Court of Appeal that would demonstrate the acts of perjury that Paige MacPherson has committed in The Tax Court of Canada.

51. Justice Steven D'Arcy, presiding with The Tax Court of Canada, originally stated he wished to hear the recordings of the unlawful conduct of the employees of The CRA. In a subsequent hearing Justice Steven D'Arcy refused to exercise his authority as per The Tax Court of Canada, and ordered evidence of unlawful conduct be removed from the file.

52. Justice Steven D'Arcy actively took steps to prevent Paige MacPherson from being criminally investigated for perjury and other unlawful conduct. Thus obstructing justice.

53. Justice Steven D'Arcy put an order in place preventing evidence of unlawful conduct from being entered into the record and brought before The Tax Court of Canada.

54. This demonstrates a potential act of judicial misconduct. Justice D'Arcy using his authority to cover up the commission of various crimes of various Federal Employees.

55. This most certainly demonstrates an inability for Justice D'Arcy to be able to conduct a fair unbiased hearing.

56. Justice Wyman Webb of The Federal Court of Appeal, refused to allow documents into The Applicant's current appeal, which demonstrate perjury to Justice D'Arcy on the part of Paige MacPherson. If the basis for The Applicant's appeal is that the order pronounced by Justice D'Arcy was based on perjury on the part of Paige MacPherson, then it can safely be concluded that Justice Wyman Webb has just denied The Applicant his right to appeal and a fair unbiased hearing.

57. Justice Wyman by denying the submission of documents to demonstrate perjury on the part of Paige MacPherson, Justice Wyman has actively took steps to protect Paige MacPherson from a criminal investigation. Thus obstructing justice.

58. Justice Wyman has put an order in place prevent the very transcript of the proceedings being appealed from. This transcript contains the acts of perjury of Paige MacPherson from being entered into evidence at the appeal. How can an appeal be heard or just, when the transcript of the proceedings being appealed from is not allowed into evidence?

59. Justice Wyman, but preventing the transcripts from being entered into the proceedings has taken steps to prevent Paige MacPherson from being investigated. This obstructing justice and preventing a fair hearing.

60. Justice Wyman pronounced an order with full knowledge that The Applicant had never been served or provided a copy of any of the submissions made by Paige MacPherson. This is required by law.

61. Paige MacPherson has conducted herself in the most unprofessional and unlawful manners.

62. Paige MacPherson needs to be reviewed for malicious prosecution and attorney misconduct.

63. Paige MacPherson has breached public trust by willfully allowing employees of The CRA to commit numerous crimes.

64. Paige MacPherson has willfully and knowingly endangered the life of a young boy; which has led to assault and sexual molestation of that boy. This potentially makes Paige MacPherson an accessory after the fact to the sexual molestation of a young boy.

65. Paige MacPherson, an employee of The DOJC should be held to a much higher standard of accountability. Multiple willful acts of perjury have no place in The DOJC.

66. Paige MacPherson has used her position with The DOJC in order to commit various crimes.

67. Paige MacPherson has used her position with The DOJC to influence various Justices and taint any and all proceedings.

68. There has been over 9 years of stress and now damages caused by employees of The CRA, various former and current cabinet Ministers of The Government of Canada, and now employees of The DOJC.

69. The applicant's son has been physically assaulted and subject to sexual molestation as a direct result of the above mentioned people.

70. Not one single employee of The Government of Canada has ever attempted to resolve this situation. Every step of the way, they have simply taken the approach to commit acts of blackmail/extortion in order to "force the applicant to think how they want him to think".

71. As of today, there is no one person with The Federal Government that is attempted or is willing to settle or address anything that has gone on. Not one. Not even Prime Minister

Stephen Harper. The Prime Minister was contacted in regards to all of this and refused to act.

72. The approach of The Government of Canada has simply to escalate. Violate the rights of a Canadian citizen and repeat it over and over. The Government has repeatedly lied. On so many points they can no longer be counted.

73. It is time the Government of Canada faces the same level of stress and consequences that reflect the type of action and conduct that it's employees have taken towards The Applicant.

74. It is time the Government of Canada be held accountable for the conduct of the people that are employed by it and/or ministered that make it up.

75. This is not the first time that employees of The CRA have gone without accountability or repercussions for their actions. This department is completely out of control, and needs to be shut down, investigated, and restructured with accountability put in place.

76. Currently The CRA answers to no one and is allowed to function without any consequences. The ombudsman's office is staffed by former staff of The CRA. It has been my experience that the ombudsman does little other than to justify or cover up what the employees of The CRA do.

77. The Government needs to be held accountable for it's actions. It is time that happens.

78. The stress these people have put The Applicant through, the endangering of a child's life, the sexual molestation of a child, and the numerous breaches of trusts that has occurred.

79. The stress these people have put on The Applicant has affected his emotional state, caused a great deal of stress therefor jeopardizing his health, and caused a great deal of weight gain.

80. The Government of Canada wants to allow employees to falsify debts, endanger lives, allow sexual assault, commit acts of perjury, allow the violation of rights, and have employees that are accountable to no one, then it is time the Government be ready to pay compensation and retribution for it's actions.

81. The Government of Canada has allowed it judicial system and courts to transition to such a low level that Justice's feel they can ignore the laws of Canada. Justices are rewards and lawyers for

committing acts or perjury and finding against other litigants and issuing order based on lies.

82. Justices are refusing to look into credibility of lawyers making submissions and actively preventing any consequences for acts of perjury.

83. When a Justice of a Canadian court willfully and knowingly pronounces an order based on perjured submissions, that Justice should be investigated for judicial misconduct, and considered guilty of the very crime the Justice attempted to cover up. For example obstruction of justice.

84. In Canada because of the slide in integrity of the various court systems, self-represented litigants are being discriminated against. If a lawyer makes a statement to a Justice, that statement is instantly treated as the word of god, and it does not matter what evidence the self-represented litigant submits.

85. The Canadian Government has allowed discrimination against self-represented litigants to take place to long enough, it is time that it is held accountable for this.

[errors in original]

[8] This is not a Statement of Claim that anyone can defend or upon which the Court can adjudicate. It is a rant against government employees, certain members of the judiciary and the Government of Canada by someone who believes that CRA should be ordered to stop “Having Any Interaction In Any Way Shape Or Form With The Application Ever Again [sic].” Its primary purpose is to cause everyone identified as much stress as the Applicant feels he has suffered as a result of the tax proceedings to which he has been subjected. The references to various crimes and other forms of misconduct are bald allegations that are connected to no facts that could possibly justify legal action. The Applicant wishes this Court to grant him a privilege that no other Canadian enjoys. It is for this reason that, at this early stage in the proceedings, the Court must take particular care to ensure that Mr. Beima is pursuing legal action that is

justiciable in this Court and that, if he is, he produces pleadings that can be defended and adjudicated in a fair and efficient way. To allow him to proceed on the basis of his present Statement of Claim is an invitation to chaos and would result in a complete waste of public resources.

[9] The legal basis for claiming this extraordinary relief is never really made clear in the Statement of Claim. Mr. Beima is obviously extremely annoyed with CRA, government employees, as well as judges of the Tax Court of Canada and the Federal Court of Appeal. However, as his pleadings suggest, he has not been able to articulate how this annoyance can be translated into legal action in the Federal Court.

[10] In paragraph 2 of his Statement of Claim, Mr. Beima pleads that:

Multiple employees of The Government of Canada are actively blackmailing/extorting, committing acts of perjury, endangered the life of a child, subjected a child to sexual assault, the violation of The Applicant's rights, obstructing justice, malicious prosecution, attorney/judicial misconduct, and/or falsifying legal documents against it as it pertains to The Applicant.

[11] In his response to this motion, Mr. Beima has helpfully attempted to clarify what his claim is all about in legal terms:

I respectfully submit this claim is for damages as a result of criminal activities, the violation of my rights, the violation of various portions of Canadian Acts, negligence, malicious actions, lawyer misconduct, the endangerment of my life, the endangerment of my son's life and safety, and more [*sic*].

[12] Insufficient facts are pleaded to support any of these claims, even if they were justiciable in the Federal Court.

[13] So it would appear Mr. Beima wants the Court to award him \$750,000,000.00 in damages as well as the other relief referred to above as a result of:

- (a) criminal activities, including blackmail, extortion, perjury, endangering the life of the child, and subjecting a child to sexual assault;
- (b) the violation of his rights;
- (c) the violation of various portions [*sic*] of Canadian Acts;
- (d) negligence;
- (e) Malicious actions;
- (f) lawyer misconduct;
- (g) the endangerment of his life;
- (h) and more.

[14] The criminal activities referred to in the Plaintiff's response to this motion (para 37) "include blackmail, extortion, perjury, document fabrication, accessory after the fact to criminal acts like child molestation, and obstruction of justice."

[15] In the hearing before me on September 14, 2015, Mr. Beima explained that the reason he has commenced his action in the Federal Court is because the acts and omissions he complains of all involve federal employees and judges of the Tax Court and the Federal Court of Appeal. Therefore, he says it is only right that the Federal Court assume jurisdiction and deal with his complaints. He equates jurisdiction with any federal activity. This is mistaken, but

understandable in a lay litigant. In addition, he is mistakenly of the view that the Federal Court is a more senior court than a provincial superior court, and has come here because he does not want to seek relief in what he regards as an inferior court.

[16] The jurisdiction of the Federal Court is set out by the Supreme Court of Canada in *International Terminal Operators Ltd v Miida Electronics*, [1986] 1 SCR 752 at 766

[*International Terminal Operators*]:

1. There must be a statutory grant of jurisdiction by the federal Parliament.
2. There must be an existing body of federal law which is essential to the disposition of the case and which nourishes the statutory grant of jurisdiction.
3. The law on which the case is based must be “a law of Canada” as the phrase is used in s. 101 of the *Constitution Act, 1867*.

[17] Mr. Beima has made no attempt to indicate or argue how any of his claims satisfy the requirements set out in *International Terminal Operators*, above.

[18] Clearly, this Court, although it may have some exceptional criminal jurisdiction, has no jurisdiction to adjudicate criminal conduct of the kind described by the Plaintiff. See *Royal Canadian Mounted Police Deputy Commissioner v Canada (Attorney General)*, 2007 FC 564 at para 38; *Letourneau v Clearbrook Iron Works Ltd*, 2005 FC 333 at paras 6-9.

[19] A cause of action for the vicarious liability of the Crown and for the torts of its servants is created by the *Crown Liability and Proceedings Act*, RSC, 1985, c C-50. So, normally speaking, the Federal Court would have jurisdiction to entertain such a claim but, as the Statement of

Claim makes clear, the acts of Crown servants complained of arise from other proceedings before other courts so that, in effect, Mr. Beima appears to be attempting to mount a collateral attack on proceedings that have taken place, or properly belong, in other courts and amount to an abuse of process in this Court. Clearly also, if Mr. Beima is seeking damages for vicarious liability in a tort claim, he has not made out any tort claims.

[20] As regards his vague allegations of violations of his rights, and the violation of various portions of Canadian acts, Mr. Beima has failed to articulate any legal basis for such rights or identified which statutes he has in mind that would support a cause of action in the Federal Court.

[21] If by “malicious actions,” Mr. Beima means malicious prosecution, this can only be dealt with in a criminal proceeding; actions related to the collection of taxes (which is what lies behind this dispute) do not constitute a “prosecution” for the purpose of the tort of malicious prosecution. See *Humby v Canada (Attorney General)*, 2009 FC 1238 at paras 29 and 30.

[22] The lawyer misconduct complained of appears to relate to the conduct of Ms. Paige MacPherson, legal counsel for CRA. Mr. Beima has commenced a separate action against Ms. MacPherson in T-791-15. There is no indication in this claim as to how the conduct of opposing legal counsel in tax proceedings can give rise to a cause of action, let alone a cause of action that this Court has the jurisdiction to entertain.

[23] It is entirely unclear what Mr. Beima means by the endangerment of the life of a child, or subjecting a child to sexual abuse, or the endangerment of his life but, once again, whatever it means, there is no way to connect it to any action that can be taken in this Court.

[24] What Mr. Beima means by “And more” is entirely unclear. He is simply giving notice that he reserves the right to make further accusations whenever it suits him.

[25] It is also clear that the Court has no jurisdiction to order that any potential award it might make to Mr. Beima be tax exempt. Any dispute as to the application of the *Income Tax Act*, RSC, 1985, c 1 (5th Supp) can only be resolved in the Tax Court of Canada. Likewise, this Court has no jurisdiction to order the Crown to exempt Mr. Beima from having to interact with CRA personnel and to exempt him from the application of the *Canada Revenue Agency Act*, SC 1999, c 17.

[26] My review of the Statement of Claim also leads me to agree with the Defendant on the following matters:

- a) Paragraphs 3-19, 33 and 80 (the allegation of “falsified debts”) should be struck as collateral attacks on tax assessments. No allegation of a deliberately incorrect assessment can succeed unless the reassessment is first found to be invalid by the Tax Court of Canada. Likewise, no claim for damages sought on the basis of an invalid tax assessment can succeed unless the reassessment is first found to be invalid by the Tax Court of Canada;
- b) The allegations of “blackmail” and “extortion” at paragraph 2 should be also be struck as collateral attacks on tax assessments;
- c) Paragraphs 21, 29, 31-33, 35-36, 41-46, 48-60, 67, 81-85 and the references to “perjury,” “obstructing justice,” “judicial misconduct” and “falsifying legal documents” throughout the claim must also be struck because they attack the truth of representations and evidence submitted in other court proceedings, as well as procedural steps taken and

orders made in those proceedings. They are collateral attacks on those proceedings and are an abuse of process in this Court; and,

- d) Paragraphs 25, 27, 28, 30, and 34 raise complaints regarding Crown counsel's handling of litigation involving Mr. Beima. Any claim arising from such complaints is blocked by the legal principle that, in litigation, opposing counsel owes no duty of care to the opposing party: *Biron v Aviva Insurance Co*, 2014 ONCA 558 at para 6. To hold otherwise would place solicitors in an untenable conflict between their duty to their client and their need to protect against their client's adversary.

[27] All in all, Mr. Beima has been unable to identify (and the Court has not been able to discover for itself) any cause of action in the Statement of Claim that this Court has jurisdiction to hear, and/or which is not improper for being a collateral attack on other proceedings.

[28] The Statement of Claim is also replete with other problems. It fails to plead sufficient facts to support the allegations that are made; it contains much that is immaterial and redundant as well as statements that are scandalous, frivolous and vexatious, including attacks upon individual judges with whom the Plaintiff has had dealings. The Court understands that the Plaintiff is a lay litigant and likely to make mistakes in his pleadings. Some of them could be remedied with some direction from the Court and an opportunity for the Plaintiff to amend his claim. However, there is nothing in the Plaintiff's submissions, supplemented by my own review of his pleadings, to suggest that the Plaintiff's claim for \$750,000,000.00 CAD can be characterized in any way that would be justiciable in this Court, and Mr. Beima has not explained how his claim could be amended in such a way as to make it justiciable. Consequently, I see no point in giving the Plaintiff leave to amend.

[29] There is no dispute between the parties as to the general principles that govern the striking of pleadings under Rule 221 of the *Federal Courts Rules*, SOR/98-106. The test is

whether it is plain and obvious that the claim discloses no reasonable cause of action. See *Hunt v Carey Canada Inc*, [1990] 2 SCR 959 at 980; *Paradis Honey Ltd v Canada (Minister of Agriculture and Agri-Food)*, 2015 FCA 89 at para 37; *Isis Nation Estates v R*, 2013 FC 590 at para 2. It is also clear that a motion to strike is a tool that should be used with care and the approach should be generous and err on the side of permitting a novel claim to succeed. See *Imperial Tobacco Inc v Canada (Attorney General)*, 2011 SCC 42. I am also aware that where pleadings are struck for lack of jurisdiction, the lack of jurisdiction must be “plain and obvious.” See *Kvaickovski Trade v Phoenix Bulk Carriers Ltd*, 2007 FCA 381.

[30] In my view, the jurisdictional issue is decisive in this case. It means there is no scintilla of a cause of action that this Court has the jurisdiction to hear. See *Spathing v Canada (Solicitor General)*, 2003 FCT 445; *Canada (Minister of Citizenship and Immigration) v Seifert*, 2002 FT 859 at para 12.

ORDER

THIS COURT ORDERS that

1. The Statement of Claim is struck with costs to the Defendant, Her Majesty the Queen; and,
2. There is no leave to amend.

“James Russell”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-790-15

STYLE OF CAUSE: JOHN CHARLES BEIMA v HER MAJESTY THE QUEEN

PLACE OF HEARING: EDMONTON, ALBERTA

DATE OF HEARING: SEPTEMBER 14, 2015

ORDER AND REASONS: RUSSELL J.

DATED: DECEMBER 9, 2015

APPEARANCES:

John Charles Beima

ON HIS OWN BEHALF

Wendy Bridges

FOR THE DEFENDANT

SOLICITORS OF RECORD:

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

FOR THE DEFENDANT