

Federal Court



Cour fédérale

Date: 20161115

Docket: 16-T-34

Citation: 2016 FC 1260

Vancouver, British Columbia, November 15, 2016

PRESENT: Prothonotary Roger R. Lafrenière

BETWEEN:

ALLEN BOISJOLI HOLDINGS

Plaintiff

and

**PHOTINI PAPADOPTU ACTING
AS CROWN COUNCIL,
RAY GERRARD ACTING AS DETECTIVE-
EDMONTON POLICE SERVICES,
EDMONTON POLICE SERVICES,
ALBERTA SPECIALIZED PROSECUTIONS UNIT,
ALBERTA JUSTICE SERVICES,
GOVERNMENT OF ALBERTA,
JANE DOE, JOHN DOE, ET. AL.**

Defendants

ORDER AND REASONS

[1] On November 7, 2016, Mr. Allen Boisjoli tendered three documents for filing at the Registry's Edmonton Local Office on behalf of Allen Boisjoli Holdings. The documents are entitled: "Statement of Claim", "Bill of Lading" and "Certified Promissory Payment Instrument". Mr. Boisjoli subsequently submitted a letter on November 8, 2016 to address a concern raised by the Registry regarding his choice of venue.

[2] The documents were referred to the Court for directions pursuant to Rule 72 of the *Federal Courts Rules*. This Rule requires the Administrator to refer any document to a judge or prothonotary which, in the opinion of the Administrator, is not in the form required by the *Rules* or when other conditions precedent to its filing have not been fulfilled.

[3] For the reasons that follow, I conclude that the three documents should be rejected for filing.

I. Background

[4] To place the Registry's request for directions in proper context, the entire body of the statement of claim is reproduced below.

Statement of Claim

ON AND FOR THE PUBLIC RECORD:

Comes now, a man commonly known as Allen-Nelson of the Boisjoli family, I come as Trustee for foreign Trust #983170-321522-193058 a.k.a. ALLEN BOISJOLI dba ALLEN BOISJOLI HOLDINGS.

1.) We claim that between April 22, 2016 and the present certain individuals namely Photini Papadoptu, and/or Ray Gerrard, and/or other unknown individuals acting as public servants who are, or were, employed by Edmonton Police Services, and/or Alberta Specialized Prosecutions Unit, and/or Alberta Justice Services, and/or Government of Alberta, and/or unknown Crown Corporations, did unlawfully commit theft of trust property, corporate espionage; did use trust property without authorization; did falsely arrest; did kidnap and unlawfully detain/confine/incarcerate; did slander & libel on national news media, the Trustee Allen Nelson of the Boisjoli family; and, did intimidate & extort said Trustee under color of law in order to obstruct justice and unlawfully discharge liability for a debt owed by a Peace Officer employed at the time, directly or indirectly by the Government of Alberta for prior unauthorized use of trust

property, false statements of fact, creation of a colorable persona under color of authority, unlawful detainment and coercion of the Trustee.

Public servant refusing to deliver property §337: *Every one who, being or having been employed in the service of Her Majesty in right of Canada or a province, or in the service of a municipality, and entrusted by virtue of that employment with the receipt, custody, management or control of anything, refuses or fails to deliver it to a person who is authorized to demand it and does demand it is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years. - R.S., c. C-34, s. 297.*

Deprivation of rights under color of law: *Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death. - 18 U.S. Code §242*

"Consent makes the law."(A contract is a law between parties, which can acquire force only by consent.) – *Consensus facit legem.* - Bouvier's Law Dictionary 1856

"A benefit is not conferred on one who is unwilling to receive it. That is to say, no one can be compelled to accept a benefit" - *Invito beneficium non datur.* - Blacks Law Dictionary Revised 4th Edition Pg.961

"That which is ours cannot be transferred to another without our act (consent)" - *Id quod nostrum est sine facto nostro ad alium transferri non protest.* -Blacks Law Dictionary Revised 4th Edition Pg. 879

"The power which is derived cannot be greater than that from which it is derived" - *Derativa potestas non potest esse major primitiva.* - Bouvier's Law Dictionary 1856

"An equal has no dominion over an equal" - *Par inparem imperium non habet.* - Blacks Law Dictionary 7th Edition Pg. 1673

Cure and Maintenance/Relief Sought:

We require compensation for trespass and damages in the form of an order of the Federal Court for monetary compensation in the amount indicated in the attached/enclosed Bill of Lading within a reasonable amount of time, set as thirty (30) days, or as ordered by the Justice presiding.

Definitions:

Color: *An appearance, semblance, or simulacrum, as distinguished from that which is real. A prima facie or apparent right. Hence, a deceptive appearance; a plausible, assumed exterior, concealing a lack of reality; a disguise or pretext.* - Blacks Law online dictionary

Under color of law: *This phrase means with the apparent authority of the law but it actually conflicts with the law.* - Blacks Law online dictionary

Color of Authority: *That semblance or presumption of authority sustaining the acts of a public officer which is derived from his apparent title to the office or from a writ or other process in his hands apparently valid and regular.* - Blacks Law online dictionary

Extortion Under Color Of Official Right: *The wrongful taking by a public officer of money or property not due to him or his office, whether or not the taking was accomplished by force, threats, or use of fear. In other words, the wrongful use of otherwise valid official power may convert lawful action into unlawful extortion. So, if a public official misuses his office by threatening to take or withhold official action for the wrongful purpose of inducing a victim to part with property, such a threat would constitute extortion even though the official was already duty bound to take or withhold the action in question.-*
www.lectlaw.com/def/e072.htm

Fiction of Law: *The assumption that a certain thing is true, and which gives to a person or thing a quality which is not natural to*

it, and consequently establishes, a certain disposition, which, without the fiction, would be repugnant to reason and to truth. It is an order of things which does not exist, but which the law prescribes or authorizes. It differs from presumption because it establishes as true, something which is false; whereas presumption supplies the proof of something true. - <http://www.lectlaw.com/def/fl11.htm>

Foreign-situs trust: *a trust created under foreign law. Such trusts are treated as a non-resident individual ...Foreign-situs trusts are also called foreign trusts or offshore trusts. - USLegal.com*

Commonwealth: *The modern Commonwealth is an association of 52 countries, most with historic links to the United Kingdom, and home to two billion citizens, almost 30 per cent of the world's population. It is the world's oldest political association of sovereign states. - Global Affairs Canada*

Legal Maxim - *"An established principle or proposition. A principle of law universally admitted as being just and consonant with reason. Maxims in Law are somewhat like axioms in geometry. They are principles and authorities, and part of the general customs or common law of the land; and are of the same strength as acts of parliament ..."*
<http://www.lectlaw.com/def2/m096.htm>

Claimant:

Without prejudice, ill-will, vexation, or frivolity,

For: TRUST# 983170-321522-193058 (EIN# 98-0692059) A.K.A. ALLEN BOISJOLI™ DBA ALLEN BOISJOLI HOLDINGS™

By:

Allen-Nelson of the Boisjoli family

Divinus Partum, Deus Genus, Autonomous Free-will Man, Creditor, Trustee

Not in any legal fiction, federal zone, state, province, corporate municipality, or any other territory, abode, enclave, domicile, dwelling, residence, et al., implied or expressed. Not subject to, or in accordance with, the jurisdiction of Canada, Crown, Queen, Her Majesty, Commonwealth, United States, District of Colombia, City of London, Vatican, Pope, Rome, nor any derivatives, attachments, agents/agencies, possessions or subsidiaries thereof: disclosed or undisclosed, released or unreleased, attached or unattached.

ALL RIGHTS PRESERVED & RESERVED

The mind is competent, the blood flows, the flesh lives and the spirit is redeemed.

[5] In an undated letter received by the Registry on November 8, 2016, Mr. Boisjoli explains why the trust, Allen Boisjoli Holdings, selected the Federal Court as the proper venue for pursuing its claim against various public servants of Alberta.

The clerk of the court here in Edmonton [here] has expressed some concern that I may be filing in the wrong venue and asked me to write a brief explanation. I have 3 points to express on this matter.

- 1. I am foreign, my trust is foreign. This is essentially an international contract dispute. When one researches a foreign sites trust you will find that the laws where the trust was formed is what shall govern it.*
- 2. The respondents are all employed by or a part of the Government of Alberta. This is a tort vs. Crown Corporations and employees.*
- 3. I am unable to file in Queens Bench as there are members of that judiciary that are involved, which will be revealed through this claim. It would be silly of me to file a claim against these public servants in their own court.*

Therefore I [beelieve] the Federal Court would not only be the proper venue for this claim, but essentially the only venue that would be [aable] to settle this in my humble opinion.

[6] The simple issue before me is whether the documents tendered by Mr. Boisjoli should be accepted for filing.

II. Analysis

[7] This is the fourth time I have had to deal with documents tendered by Mr. Boisjoli on behalf of an entity identified as a trust.

[8] On May 2, 2014, Mr. Boisjoli tendered a statement of claim, a surety bond and an affidavit with attachment, signed by “Allen-Nelson of the Boisjoli family”, at the Edmonton Registry. Directions were issued to the Registry the same day directing that the documents be rejected on the grounds that:

“...the named plaintiff (a trust) cannot be represented by an individual. Although a proceeding may be brought by a trustee as representing the trust and its beneficiaries, a party who acts or seeks to act in a representative capacity must be represented by a solicitor: Rule 121.”

[9] On May 12, 2014, Mr. Boisjoli attempted a second time to file substantially similar documents which were previously rejected, as well as a document entitled “Commercial Security Agreement”. Once again, Directions were issued to the Registry to reject the documents as follows:

For essentially the same reasons as set out in the Court’s Directions issued on May 2, 2014 pursuant to Rule 72 of the *Federal Courts Rules*, the statement of claim, surety bond, affidavit and other documents tendered via e-filing by “Allen-Nelson of the Boisjoli family” shall be rejected for filing. It is not open to a party to waive any court rules or procedures as such function can only be performed by the Court.

[10] On June 2, 2014, Mr. Boisjoli persisted in his attempt to file the same documents with the Registry, this time accompanied by new documents entitled “Counter Offer”, “Notice of Copyright/International Service/Security Agreement” and “Bill of Lading”. The following Directions were issued on June 6, 2014:

For essentially the same reasons as set out in the Court’s Directions issued on May 5 and 12, 2014 pursuant to Rule 72 of the *Federal Courts Rules*, the documents tendered by “Allen-Nelson of the Boisjoli family” on June 2, 2014 shall be rejected for filing. The Registry is authorized to reject any similar documents tendered by Mr. Boisjoli without seeking further directions of the Court.

[11] What followed was a lengthy period of silence from Mr. Boisjoli, at least in the Federal Court. I have taken judicial notice, however, of the Judgment of Associate Chief Justice J.D. Rooke of the Alberta Court of Queen’s Bench (ACQB) in *Re Boisjoli*, 2015 ABQB 629 (CanLII), which was the consequence of Mr. Boisjoli’s attempts to enter what he purported was a default judgment that he delivered to the ACQB on September 25, 2015.

[12] At paragraph 19 of his decision, ACJ Rooke noted that Mr. Boisjoli had been previously tried and convicted of criminal intimidation and harassment and had targeted government workers. He further observed at paragraph 105, that Mr. Boisjoli’s documents “appear to be adapted from a template, and that his failures to replace target names suggests he has at least two more parallel Three/Five Letters actions in the works”. ACJ Rooke concluded that Mr. Boisjoli should have no right to file material in any Alberta court. Mr. Boisjoli was declared a vexatious litigant and restricted from accessing Alberta courts based on his history of attempts to misuse court procedure in Alberta “to further a criminal enterprise.”

[13] On October 30, 2015, ACJ Rooke issued Supplementary Reasons for Decision further restricting Mr. Boisjoli's ability to communicate with the ACQB: *Re Boisjoli*, 2015 ABQB 690 (CanLII)

[14] Having been rebuffed by the Alberta courts, Mr. Boisjoli now returns to this Court for a fourth time to attempt to file what can best be described as spurious and ineffective documents. This is clearly a continuation of a pattern of criminal intimidation and harassment by Mr. Boisjoli of government employees. It is also somewhat reminiscent of the history of vexatious litigation instigated by another self-represented litigant, Mr. Roger Callow, who turned to the Federal Court (Court File Nos. T-1386-11 and T-2360-14) after the British Columbia courts repeatedly closed the door on him.

[15] In *West Vancouver School District No 45 v Callow*, 2014 ONSC 2547 (CanLII), Mr. Justice McKinnon made the following comments, which are completely apt to this present case:

Roger Callow is a litigant possessed of seemingly inexhaustible stamina. His behaviour suggests that he views the Canadian court system as something akin to a perpetual, all-day, all you can eat buffet. Having been rebuked by the courts and tribunals of British Columbia, the Federal Court of Canada and the Supreme Court of Canada, Mr. Callow has now taken aim at Ontario. Ontario lacks the jurisdiction to deal with his case. As a result, Mr. Callow's litigation must be stopped. Now.

[16] The Court must be vigilant when exercising its gatekeeping role under Rule 72. The Court should not tolerate any abuse of its process or lend any assistance to a party intent on bringing a frivolous, malicious and vexatious proceeding.

[17] The statement of claim tendered by Mr. Boisjoli shall accordingly be rejected for filing on the grounds that it is not in the form prescribed by the *Rules*; it does not comply with Rules 173, 174, 181(1) and 182; and it is brought in a representative capacity by a non-lawyer, contrary to Rule 119. The statement of claim would have been rejected, in any event, as to allow it to be filed would assist Mr. Boisjoli in furthering his criminal enterprise.

[18] I further direct that the documents entitled “Bill of Lading” and “Certified Promissory Payment Instrument” be rejected as there is no provision in the *Rules* for filing such documents.

[19] The Registry is instructed to forward a copy of this Order, along with copies of all retained materials that were tendered by Mr. Boisjoli on May 2, 2014, May 12, 2014, June 2, 2014 and November 7, 2016, to the local office of the federal Department of Justice and the Ministry of Justice and Solicitor General of Alberta to determine whether an application should be made pursuant to Section 40 of the *Federal Courts Act* to declare Mr. Boisjoli a vexatious litigant. In the interim, I consider it just and appropriate to place certain limits on Mr. Boisjoli, consistent with those put in place by ACJ Rooke.

[20] Mr. Boisjoli will be restricted from filing or continuing any proceedings in the Federal Court, other than an appeal of this Order. Mr. Boisjoli will also be prohibited from attending at any Registry office of the Federal Court and from any communication, direct or indirect, by any means, with a judge, prothonotary, registry officer, clerk, or any other employee of the Courts Administration Service, except, for proper purpose, by email to the address EDM-CORRESPOND@cas-satj.gc.ca.

ORDER

THIS COURT ORDERS AND DIRECTS that:

1. The statement of claim, bill of lading and certified promissory payment instrument tendered by Mr. Allen Boisjoli shall be rejected for filing.
2. The Registry is instructed to forward a copy of this Order, along with copies of all retained materials tendered by Mr. Boisjoli on May 2, 2014, May 12, 2014, June 2, 2014 and November 7, 2016, to the local office of the federal Department of Justice and the Ministry of Justice and Solicitor General of Alberta.
3. On an interim basis, Allen Boisjoli, aka Allen Nelson Boisjoli and Allen-Nelson of the Boisjoli family, and Allen Boisjoli Holdings are restricted from filing any documents in the Federal Court, other than an appeal of this Order, except with leave of the Court.
4. Allen Boisjoli, aka Allen Nelson Boisjoli and Allen-Nelson of the Boisjoli family, is prohibited from attending at any Registry office of the Federal Court and from any communication, direct or indirect, by any means, with a judge, prothonotary, registry officer, clerk, or any other employee of the Courts Administration Service except, for proper purpose, by way of email to the address EDM-CORRESPOND@cas-satj.gc.ca.

“Roger R. Lafrenière”

Prothonotary

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: 16-T-34

STYLE OF CAUSE: ALLEN BOISJOLI HOLDINGS v PHOTINI
PAPADOPTU ACTING AS CROWN COUNCIL, RAY
GERRARD ACTING AS DETECTIVE- EDMONTON
POLICE SERVICES, EDMONTON POLICE
SERVICES, ALBERTA SPECIALIZED
PROSECUTIONS UNIT, ALBERTA JUSTICE
SERVICES, GOVERNMENT OF ALBERTA, JANE
DOE, JOHN DOE, ET. AL.

NATURE OF PROCEEDING: RULE 72 DECISION

ORDER AND REASONS: LAFRENIÈRE P.

DATED: NOVEMBER 15, 2016

APPEARANCES:

In writing FOR THE PLAINTIFF

Not applicable FOR THE DEFENDANTS

SOLICITORS OF RECORD:

Allen Boisjoli FOR THE PLAINTIFF
Edmonton, Alberta

Not applicable FOR THE DEFENDANTS.