

Docket: 2006-3695(IT)G

BETWEEN:

JAMES E. FRIESEN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

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Motion heard together on common evidence with the Motion of  
*James E. Friesen* (2006-3696(GST)G) on May 9, 2007  
at Victoria, British Columbia

Before: The Honourable Justice D.W. Beaubier

Appearances:

For the Appellant:                   The Appellant himself  
Counsel for the Respondent:       John Gibb-Carsley

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**JUDGMENT**

The appeal is dismissed and the decision of the Minister of National Revenue is confirmed in accordance with the attached Reasons for Judgment.

The Respondent is awarded costs which are fixed at \$750.

Signed at Saskatoon, Saskatchewan this 15<sup>th</sup> day of May 2007.

"D.W. Beaubier"

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Beaubier, J.

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The Respondent is awarded costs which are fixed at \$750.

Signed at Saskatoon, Saskatchewan this 15<sup>th</sup> day of May 2007.

"D.W. Beaubier"

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Beaubier, J.

Citation: 2007TCC287  
Date: 20070515  
Docket: 2006-3695(IT)G  
2006-3696(GST)G

BETWEEN:

JAMES E. FRIESEN,

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Respondent.

### **REASONS FOR JUDGMENT**

Beaubier, J.

[1] This Notice of Motion by the Respondent to strike out the Notices of Appeal was heard at Victoria, British Columbia on May 9, 2007. The fundamental grounds for the Motion are that the Notices of Appeal are frivolous or vexatious or an abuse of process, that the allegations are irrelevant to any issues, and that the appeals can not succeed as plead. The Motions were brought pursuant to Rules 53(b) and 58(1)(b) of the *Tax Court of Canada Rules (General Procedure)*.

[2] The Notices of Appeal are identical except that 2006-3695(IT)G appears to have 2 pages which were left out and totals 25, rather than 27 pages. Various addenda are also attached to each Notice of Appeal.

[3] Using the Respondent's page numbered copy of the Notices of Appeal, the Appellant's essential claims are that:

Page 6 – The Appellant's "business" is not to seek a profit, but to negotiate a fair compensation. (In the Court's view, that is still a business in the eyes of the law.)

Pages 8 and 9 – The *Income Tax Act* and the GST are adversely administered by Canada Revenue Agency (“CRA”). (In the Court’s view, this claim is outside of the jurisdiction of the Tax Court of Canada.)

Page 11 – Contains a further claim about CRA’s administration respecting the *Income Tax Act*. (This is outside of the Tax Court of Canada’s jurisdiction.)

Page 16 – Contains a “natural person argument” that the *Income Tax Act* is a violation of human rights and fundamental freedoms under the *Canadian Bill of Rights*, 1960. (This argument is not valid.)

Page 19 – That a constitutional challenge to the *Income Tax Act* might be unlikely to succeed – which is correct in this case.

Pages 20 and 21 – An argument that a “natural person” is being re-characterized as a legal representative by CRA in its assessment process. (This argument has been dismissed and Notices of Appeal based on it have been struck in several cases. The most recent is *Hovey Ventures Inc. v. The Queen* 2006-3022(IT)G, in which Sheridan, J. reviewed the law extensively and struck the Notice of Appeal.)

[4] Neither Notice of Appeal deals in any way with the substance of the assessments or the reassessments allegedly under appeal. It is “plain and obvious” that the pleadings will not succeed.

[5] In the Court’s view, neither Notice of Appeal can be saved through proper amendments.

[6] On the foregoing basis, both Notices of Appeal are frivolous and vexatious and the allegations are irrelevant to any issues which might relate to appeals of the assessments in question. The appeals can not succeed as plead.

[7] For these reasons, both appeals are dismissed. The Respondent is awarded costs which are fixed at \$750 respecting each appeal.

Signed at Saskatoon, Saskatchewan this 15<sup>th</sup> day of May 2007.

“D.W. Beaubier”

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Beaubier, J.

CITATION: 2007TCC287  
COURT FILE NO.: 2006-3695(IT)G and 2006-3696 (GST)G  
STYLE OF CAUSE: James E. Friesen v. The Queen  
PLACE OF HEARING: Victoria, British Columbia  
DATE OF HEARING: May 9, 2007  
REASONS FOR JUDGMENT BY: The Honourable Justice D.W. Beaubier  
DATE OF JUDGMENT: May 15, 2007

APPEARANCES:

For the Appellant: The Appellant himself  
Counsel for the Respondent: John Gibb-Carsley

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: John H. Sims, Q.C.  
Deputy Attorney General of Canada  
Ottawa, Canada