

Federal Court



Cour fédérale

Date: 20130531

Docket: T-533-13

Citation: 2013 FC 590

Vancouver, British Columbia, May 31, 2013

PRESENT: Roger R. Lafrenière, Esquire
Prothonotary

BETWEEN:

**‘MAITREYA’ ISIS MARYJANE BLACKSHEAR,
THE DIVINE HOLY MOTHER
OF ALL IN/OF CREATION’ AND
ALL ISIS NATION ESTATES**

Plaintiffs

and

**HER MAJESTY THE QUEEN, ET AL
CANADA MINISTER OF JUSTICE
AND ATTORNEY GENERAL
ROBERT DOUGLAS NICHOLSON
CANADA DEPUTY MINISTER OF JUSTICE
AND ATTORNEY GENERAL
WILLIAM F. PENTNEY
ALBERTA MINISTER OF JUSTICE AND
SOLICITOR GENERAL JONATHAN DENIS
ALBERTA DEPUTY MINISTER OF JUSTICE
RAY BODNAREK**

Defendants

REASONS FOR ORDER AND ORDER

[1] Her Majesty the Queen in right of Alberta, the Minister of Justice and Solicitor General of Alberta and the Deputy Minister of Justice of Alberta (hereinafter referred to as the Alberta Crown) seek an order to strike the Second Amended Statement of Claim under Rule 221(1) of the *Federal Courts Rules (FCR)*, on the grounds that the pleading does not disclose a reasonable cause of action (Rule 221(1)(a)), and is scandalous, frivolous or vexatious (Rule 221(1)(c)).

[2] The principles applicable on a motion to strike are well known and not in dispute. On a motion to strike out a pleading under Rule 221(1)(a), the applicable test is whether it is “plain and obvious” that the claim discloses no reasonable cause of action: see *Hunt v Carey*, 1990 CanLII 90 (SCC), [1990] 2 SCR 959, [1990] SCJ No. 93 at paragraph 32 (QL). A pleading may also be struck out on the grounds that it is scandalous, frivolous or vexatious pursuant to Rule 221(1)(c) where the pleadings are so deficient in material facts that the defendant cannot know how to answer: *Kisikawpimootewin v Canada*, 2004 FC 1426 (CanLII).

[3] On a motion to strike a pleading on the grounds that it does not disclose a reasonable cause of action, those allegations that are capable of being proved must be taken as true: *Hunt v Carey Canada Inc* [1990] 2 SCR 959. This rule does not apply, however, to allegations based on assumptions and speculation: *Operation Dismantle Inc v The Queen* (1985), 18 DLR (4th) 481 (SCC) at 486-487 and 490-491. The Statement of Claim should also be read generously with allowance for inadequacies due to drafting deficiencies. However, the Court need not accept at face value bare allegations, factual allegations which may be regarded as scandalous, frivolous or vexatious, or legal submissions dressed up as factual allegations.

[4] The allegations set out in the 84 page pleading are for the most part unintelligible and consequently difficult to summarize. The Plaintiff states that she is the “Divine Mother of All in/of Creation”. She also claims to be the only one authorized and qualified to fill the See of Rome. The Plaintiff is seeking damages against the Alberta Crown and the Federal Crown on behalf of “Tiamat Ki-Earths Kaneh Bosm Signatory Tribal Nations’ and “Independent Spiritual International Signatory (ISIS) Nation Estates” in an astronomical amount of over one hundred

and eight quadrillion dollars. The Plaintiff claims damages based on breach of covenant, breach of trust, fiduciary duty and obligations, false imprisonment, and other injustices.

[5] The Plaintiff also requests that the Defendants immediately cede to her original and final jurisdiction under Ancient Clanmother Laws; liquidate all global assets into Equity through the Bank of International Settlements; immediately acknowledge her as The Divine Holy Mother and cede to her Matriarchal Society; inform and teach all ISIS Nations Estates about their inheritance; cease and desist all blasphemy against the Divine Mother, the Queen of Heaven, delta9Lucifer; announce in both private and public statements acknowledging her return as The Divine Holy Mother; act in compliance with All of The General Executrix Administrative Orders; and guarantee the restoration of her All Signatory Tribal Nations and each and every ISIS Nation Estate to their immortal, pristine, peaceful, blissful and abundant lives.

[6] Rule 174 of the *FCR* requires that every pleading must contain a concise statement of the material facts on which the party relies. Rule 181 provides that a pleading must also contain particulars of every allegation contained therein. Rule 182 states that every statement of claim must specify the nature of damages claimed. These rules impose an obligation on a plaintiff to plead material facts that disclose a reasonable cause of action, which can be broken down into four basic requirements: (a) every pleading must state facts and not merely conclusions of law; (b) it must include material facts; (c) it must state facts and not the evidence by which they are to be proved; and (d) it must state facts concisely in a summary form.

[7] The Second Amended Statement of Claim breaches the rules of pleading in every respect. Instead of stating material facts establishing a reasonable cause of action, it consists of bare assertions, bald statements and conclusions.

[8] The Second Amended Statement of Claim is similar to “organized pseudo-legal commercial argument” or “OPCA” litigation described in the decision of Associate Chief Justice Rooke of the Court of Queen’s Bench of Alberta in *Meads v. Meads*, 2012 ABQB 571 (CanLII), 2012 ABQB 571, [2012] A.J. No. 980 (QL) (*Meads*) that has no legal meaning or effect and is irrelevant.

[9] The Second Amended Statement of Claim has several of the indicia of an OPCA strategy including:

- (a) Bizarre naming motifs - within the Statement of Claim, the Plaintiff refers to herself as:
 - (i) The Divine Holy Mother of All in/of Creation (style of cause);
 - (ii) Both God and the Rule of Law (page 1, last paragraph);
 - (iii) The bearer of the sacred C’anupa Peace Pipe which is the Treaty of Life (page 52-53, paragraph 239);
 - (iv) The Head Bear Clanmother of Tiamat Ki-Earths Kaneh Bosm Tribal Nations (page 80, paragraph i);

- (v) The Mother of the Independent Spiritual International Signatory (page 80, paragraph 1);
 - (vi) The sole Crowned Heir Temple Thorne Scribe (page 81, paragraph k);
 - (vii) The Isis Genesis' Return of the Dragon Queen by Divine Blood Terra Covenant (page 81, paragraph k); and
 - (viii) GEA of the Deed of the Private SUNKE Temple Trust (page 81, paragraph k).
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- (b) Unusual document formalities and markings are used; for example, stamps from the "DUL" court suggesting the documents have been filed;
 - (c) Unusual specific phrases and language: "Signatory ISIS Nation Estates" "DNA-Land patent "delta10mDNA";
 - (d) Reference to obsolete, foreign and otherwise relevant legislation and legal documents: "The Camel's Eye Treaty 408 A.D." "Ancient Clanmother Laws"; and
 - (e) An atypical mailing address: "Tribunal for Tiamat Ki-Earths, Divine Universal Law Courts, DUL Charter Territory Calgary Alberta".

[10] As noted in *Meads* at para 590:

...when faced with truly baffling OPCA materials, a court may take the approach applied in *Kisikawpimootewin v Canada*, 2004 FC 1426 at para. 9, 134 A.C.W.S. (3d) 396 and strike a proceeding based on incomprehensible arguments and allegations, where the defendant is “left both embarrassed and unable to defend itself” and the court faces “a proceeding so ill-defined that is unable to discern an argument, or identify any specific material facts.”

[11] Although not an OPCA claim, this proceeding is based on similar incomprehensible allegations.

[12] Further, beyond the adequacy of the pleadings to support a reasonable cause of action, the Court must also assess the merits of the claim, and the motives of the Plaintiff in bringing it. In *Pellikaan v Canada*, 2002 FCT 221 (CanLII), [2002] 4 FC 169, the late Prothonotary John Hargarve concluded that a proceeding which the Court would have difficulty controlling could be struck on the grounds that it is vexatious. He stated:

Where a statement of claim is exceedingly general and bereft of specifics so as to present the defendant from either proper investigation or proper response, it may well be struck out ... such statements of claim (are) fundamentally vexatious for they reveal insufficient facts to demonstrate the basis for the claim, thus making it impossible for the defendant to answer the claim or, indeed for a court to regulate the proceedings. Such a general and all encompassing statement of claim that is so bereft of particulars that a defendant would be unable to draft an answer, is fundamentally vexatious and will not lead to any practical result.

[13] Finally, the Plaintiff has no standing to bring an action based on collective rights of aboriginal peoples. Rule 121 requires that a party who seeks to act in a representative capacity must be represented by a solicitor, unless the Court in special circumstances orders otherwise.

[14] The Plaintiff's action is fundamentally vexatious and an abuse of the system. In the circumstances, no useful purpose would be served by making a determination on the issue of whether there is jurisdiction in this Court to hear the matter as against the Alberta Crown. There being neither a possibility of a curative amendment, nor any indication that the action could be instituted again in an acceptable form, the Plaintiff's pleadings shall be struck out, without leave to amend.

[15] As for costs of the motion, I would simply adopt the position taken by ACJ Rooke in *Meads* at para 631:

I believe that a key element of an appropriate and successful response to OPCA litigation is that these proceedings be segregated, where possible, to minimize their effect on the innocent other parties involved. ... A second aspect is that innocent parties be indemnified for the legal costs associated with OPCA litigation. No, or little, cost should flow to a litigant who is abused by OPCA strategies.

ORDER

THIS COURT ORDERS that:

1. The Second Amended Statement of Claim is struck out, without leave to amend.

2. The action as against Her Majesty the Queen in right of Alberta, the Minister of Justice and Solicitor General of Alberta, Jonathan Denis, and the Deputy Minister of Justice of Alberta, Ray Bodnarek, is dismissed.

3. Costs of the motion, hereby fixed in the amount of \$500.00, inclusive of disbursements and taxes, shall be paid by the Plaintiff to the Attorney General of Alberta.

“Roger R. Lafrenière”

Prothonotary

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-533-13
STYLE OF CAUSE: MAITREYA' ISIS MARYJANE BLACKSHEAR,
THE DIVINE HOLY MOTHER OF ALL IN/OF
CREATION' AND ALL ISIS NATION ESTATES
V HER MAJESTY THE QUEEN ET AL

**MOTION IN WRITING CONSIDERED AT VANCOUVER, BRITISH COLUMBIA,
PURSUANT TO RULE 369**

**REASONS FOR ORDER
AND ORDER:** LAFRENIÈRE P.

DATED: May 31, 2013

WRITTEN REPRESENTATIONS BY:

'Maitreya' Isis Maryjane Blackshear
and ALL ISIS Nation Estates

SELF-REPRESENTED PLAINTIFF

Martha Burns

FOR THE ALBERTA CROWN
DEFENDANTS

SOLICITORS OF RECORD:

'Maitreya' Isis Maryjane Blackshear
and ALL ISIS Nation Estates

SELF-REPRESENTED PLAINTIFF

William F. Pentney
Attorney General of Canada
Calgary, Alberta

FOR THE FEDERAL CROWN
DEFENDANTS

Alberta Justice and Solicitor General
Legal Services Division
Edmonton, Alberta

FOR THE ALBERTA CROWN
DEFENDANTS