

**IN THE COURT OF APPEAL OF MANITOBA**

***BETWEEN:***

<b><i>ADE OLUMIDE</i></b>	)	<b><i>No appearance</i></b>
	)	<b><i>for the Appellant</i></b>
	)	
<b><i>(Plaintiff) Appellant</i></b>	)	<b><i>D. A. Johnston</i></b>
	)	<b><i>for the Respondent</i></b>
<b><i>- and -</i></b>	)	
	)	<b><i>Chambers motion heard and</i></b>
<b><i>THE MANITOBA HUMAN RIGHTS</i></b>	)	<b><i>Decision pronounced:</i></b>
<b><i>COMMISSION</i></b>	)	<b><i>January 16, 2020</i></b>
	)	
<b><i>(Defendant) Respondent</i></b>	)	<b><i>Written reasons:</i></b>
	)	<b><i>February 6, 2020</i></b>

**CHARTIER CJM**

[1] The plaintiff, a self-represented litigant, filed a statement of claim against the defendant. The defendant successfully moved to strike the claim in the Court of Queen's Bench. The plaintiff has appealed to this Court.

[2] The defendant then moved for a vexatious litigant order against the plaintiff pursuant to section 31.1 of *The Court of Appeal Act*, CCSM c C240 (the *Act*). On December 18, 2019, counsel for the defendant sent a letter to the plaintiff regarding the motion seeking a vexatious litigant order. Attached to the letter were the defendant's notice of motion, affidavit and brief for the motion returnable on January 16, 2020. Counsel for the defendant filed a printout of the Canada Post tracking information that indicates that the documentation was delivered on December 24, 2019, and that a signature was obtained from the recipient (the plaintiff). The plaintiff also made it clear in

writing on more than one occasion that he did not wish to participate in the vexatious litigant hearing. As a result, I decided to proceed in his absence.

[3] After the hearing, I granted the vexatious litigant order with reasons to follow. These are those reasons.

[4] I am aware that limiting a litigant's access to the judicial system is a serious and exceptional remedy and should only be used in exceptional circumstances. However, for the reasons that follow, I have concluded that the order should be made in this case.

[5] This Court recently had occasion to consider the vexatious litigant provisions in *Green v University of Winnipeg et al*, 2018 MBCA 137. As Steel JA explained (at para 1):

Access to the courts is a fundamental right in our judicial system. But it is a right that can be abused when individuals use the system in unreasonable, unmeritorious ways. A balance must be found between appropriate use of judicial resources and endless court actions that result in harassment by means of litigation. . . .

[emphasis added]

The above aptly describes what is happening in this case: “harassment by means of litigation.”

[6] Quoting from *Re Lang Michener and Fabian* (1987), 37 DLR (4th) 685 (Ont H Ct J), Steel JA, in *Green*, set out, at para 29, a non-exhaustive list of factors that may be considered to assist in ascertaining whether a litigant is vexatious.

[7] The plaintiff has been involved in no less than 67 reported legal proceedings in the last five years. These proceedings typically involve similar elements, raising substantially the same issues and grounds. He has unsuccessfully sought various nominations to run for political office. He believes his race or ethnicity is the reason for his lack of success. This leads him to make, what have turned out to be, unfounded allegations of racism.

[8] The plaintiff resides in Ontario. Despite there being no apparent connection to Manitoba, he has now commenced legal proceedings, similar to others instituted unsuccessfully in other provinces, in this jurisdiction. As he has done in other provinces whenever he encounters opposition to a position he has taken, the plaintiff makes unfounded allegations of racism and criminality against justice system participants.

[9] The record before me shows that the following Courts have made orders of a similar nature to the one that is being requested here—limiting the plaintiff's ability to initiate or continue proceedings, or limiting his ability to file documents in court:

- a) the Supreme Court of Canada;
- b) the Federal Court of Appeal;
- c) the Ontario Court of Appeal;
- d) the Nova Scotia Court of Appeal;
- e) the Alberta Court of Appeal;
- f) the Federal Court of Canada;

- g) the Nova Scotia Supreme Court; and
- h) the Alberta Court of Queen's Bench.

[10] In this case, the plaintiff was advised that his appeal would be held in abeyance until this vexatious litigant motion against him was dealt with. This caused him to immediately make allegations of racism against all of the justice system participants involved in his matter: the defendant's counsel, the judiciary and the deputy registrar. What is worse is that, with respect to the deputy registrar, his conduct went one step further. He, in essence, tried to extort her into scheduling the appeal hearing. Below is an extract of the plaintiff's December 4, 2019 email to the deputy registrar:

The email from the Crown Counsel is an s22 Criminal Code offence because it is asking you to defraud an s15 Charter right to equal benefit of statutory appeal rights, so that a white Premier in a white majority Province can retain racist unconstitutional power to prevent me from applying for the job of a government cabinet minister, **if you do not schedule the February 28 appeal, I will make criminal code and racism allegations against you.**

[11] I conclude that the plaintiff has abused his access to the court system. Given his pattern of repetitious and unmeritorious proceedings and given the manner in which he has conducted himself in these proceedings, I conclude that this is one of those exceptional cases that requires a section 31.1 vexatious litigant order.

[12] Before I go any further, I will agree with the defendant that the harassment and oppression of "other parties" (as described in *Green* at para 29(c)) should be expanded to include court staff, counsel, the judiciary and other justice system participants.

[13] The defendant has asked for the following relief:

- an order that the plaintiff not institute a further proceeding and that any proceeding instituted by him must not be continued, except with leave of a judge;
- an order that the within appeal be stayed;
- an order dispensing with any requirement for the plaintiff to endorse the order as to form; and
- such further and other relief as counsel may request and this Court may order.

[14] I agree with Steel JA, as she explained in *Green*, that, when a person is found to be instituting a vexatious proceeding, it will not be allowed to proceed and that the effect of same is to stay the appeal, albeit unless the Court grants leave. I also agree with her analysis of the interaction of section 7(1) and section 31.1 of the *Act*; specifically, that any limitations of the powers of a judge in chambers were not meant to apply to a section 31.1 vexatious litigant declaration and order (see paras 73-75).

[15] In the result, the following order was granted:

- the plaintiff be prohibited from bringing any further proceedings in this Court against the defendant, without first obtaining leave of a justice of this Court;

- the plaintiff be prohibited from continuing the proceedings instituted in this Court, without first obtaining leave of a justice of this Court;
- the registrar of this Court is hereby authorised to reject any documents that the plaintiff attempts to file in contravention of this order; and
- any requirement for the plaintiff to endorse this order as to form be dispensed with.

[16] The defendant did not seek costs and no costs order is made.

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Chartier CJM