

# SUPREME COURT OF YUKON

Citation: *Ramirez v. Mooney*, 2017 YKSC 43

Date: 20170608  
S.C. No.: 16-A0103  
Registry: Whitehorse

BETWEEN:

EVANGELINE RAMIREZ

PLAINTIFF

AND

NORAH MOONEY, BENJAMIN SARMIENTO TOQUERO,  
TIMOTHY AND NOLIBETH NG,  
LACKOWICZ, SHIER & HOFFMAN (BARRISTERS AND SOLICITORS)  
AND BULL, HOUSSER & TUPPER (LLP)

DEFENDANTS

Before Mr. Justice R.S. Veale

Appearances:

Evangeline Ramirez  
Kember Handzic (by telephone)

Appearing on her own behalf  
Counsel for the Defendants Norah Mooney,  
Lackowicz, Shier & Hoffman,  
and Bull, Housser & Tupper LLP

Benjamin Sarmiento Toquero  
Timothy and Nolibeth Ng

No one appearing  
No one appearing

## REASONS FOR JUDGMENT

[1] VEALE J. (Oral): This is an application by counsel for the defendants for an order for special costs against the plaintiff, Evangeline Ramirez.

[2] I ordered that special costs were appropriate in this case, in my last paragraph in my decision in this matter, which is cited as *Ramirez v. Mooney*, 2017 YKSC 22 ("*Ramirez*").

[3] The action underlying all this is that Ms. Ramirez brings an action (the "2016 action") against her former spouse, various witnesses and lawyers, all of whom were involved in a family law dispute that commenced in 2010 and concluded in February 2014 (the "2010 action").

[4] In the 2016 action, Ms. Ramirez claims in excess of 25 causes of action arising out of facts and allegations and the 2010 action, as well as a peace bond order granted on August 6, 2010 (the "2010 peace bond").

[5] Counsel representing all defendants applied to dismiss Ms. Ramirez' claim in its entirety on the grounds that it discloses no reasonable claim, is an abuse of process, or is vexatious. Counsel sought to bar her from bringing further proceedings on behalf of herself or another person without prior leave of the Court, pursuant to s. 7.1 of the *Supreme Court Act*, R.S.Y. 2002, c. 211, as amended by S.Y. 2013, c. 15, s. 19.

[6] Ms. Ramirez, in this 2016 action, brought a mirror application, which was dismissed.

[7] At para. 55 of *Ramirez*, I indicated that:

I am satisfied that Ms. Ramirez has persistently instituted vexatious proceedings and I therefore order that she is prohibited from instituting a proceeding in this Court or continuing the 2016 action, subject to s. 7.1(2) which permits Ms. Ramirez to apply to rescind this Order or apply for leave to continue or institute a proceeding.

[8] Rule 60(3) is the rule of court that applies for an award and an assessment of special costs. It reads as follows:

Where the court orders that costs be assessed as special costs, the clerk shall allow those fees that the clerk considers were proper or reasonably necessary to conduct the proceeding to which the fees relate, and, in exercising that discretion, the clerk shall consider all of the circumstances, including

- (a) the complexity of the proceeding and the difficulty or the novelty of the issues involved,
- (b) the skill, specialized knowledge and responsibility required of the lawyer,
- (c) the amount involved in the proceeding,
- (d) the time reasonably expended in conducting the proceeding,
- (e) the conduct of any party that tended to shorten, or to unnecessarily lengthen, the duration of the proceeding,
- (f) the importance of the proceeding to the party whose bill is being assessed, and the result obtained, and
- (g) the benefit to the party whose bill is being assessed of the services rendered by the lawyer.

[9] Rule (60)(3)(a) refers to the complexity of the proceeding and the difficulty or the novelty of the issues involved. I think it is fair to say that because s. 7.1 was a recent amendment to the *Supreme Court Act*, it is entirely a new procedure in this jurisdiction. The complexity of the proceeding was set out by Mr. Handzic, in terms of the number of issues that were raised by Ms. Ramirez in her action. It is also fair to say that the involvement of the lawyer representing the Attorney General of Yukon, who is entitled to participate in the proceeding, also added to the complexity.

[10] As to Rule (60)(3)(b), I recognize that Mr. Handzic has the skill, specialized knowledge, and responsibility that is required of a lawyer in an application of this nature. No doubt, he has acted in these matters before, where law firms and lawyers are sued in a court action.

[11] Regarding Rule (60)(3)(c), the amount involved in the proceedings was a large amount as claimed, in the millions of dollars. I do not say that as a particularly strong

factor because the amount involved in the actual case was much less, but it was still a very substantial property decision.

[12] Under Rule (60)(3)(d), in terms of the time reasonably expended, there is no question that there was a substantial amount of time required, both in assessing the application of Ms. Ramirez and responding to the submissions made by counsel for the Attorney General of Yukon.

[13] With respect to Rule (60)(3)(e), the conduct of any party that tended to shorten, or to unnecessarily lengthen, the duration of the proceeding, I am not in any way criticizing counsel for the Attorney General of Yukon. Counsel made submissions that were definitely helpful to the Court. However, there is no question that those submissions had to be responded to by Mr. Handzic and necessarily extended the duration of the proceedings somewhat.

[14] Under Rule (60)(3)(f), the importance of the proceeding to the party whose bill is being assessed, and the result obtained, I think from the perspective of lawyers and law firms who have participated in a court action and then are faced with a second application of this nature, that, for them, it is certainly a great relief to have that procedure brought to an end so they can get back to business.

[15] In terms of Rule (60)(3)(g), there is obviously a benefit to Mr. Handzic and the law firms and individuals, who had to defend and bring the application, to that bill being assessed as special costs.

[16] I am going to also take into account that Ms. Ramirez is a self-represented person. She obviously has felt very wronged in the decision that was rendered in the court action. However, as I have indicated in my judgment, to continue the proceeding

is clearly an abuse of process. I understand that Ms. Ramirez may not have an understanding of the law as I have pronounced it in my decision and I am going to take that into consideration.

[17] Counsel for the defendants incurred a total amount of fees in the amount of \$31,540.95, plus disbursements in the amount of \$1,204.35.

[18] In considering all of the circumstances and particularly those set out in Rule 60(3)(a) through (g), I am going to order that the special costs be assessed in a lump sum amount of \$20,000.

[19] Having made that ruling, I would ask you, Mr. Handzic, to file another clean copy of your assessment. There was a paragraph explaining your view on "extra hours in reviewing the court rules". I am asking you just to put in a clean bill of costs.

[20] While this has nothing to do with your right to proceed against Ms. Ramirez if you feel that is necessary, but one option is for counsel for the defendants to hold off on pursuing Ms. Ramirez if Ms. Ramirez does not bring any further applications. I leave that up to you, Mr. Handzic.

[DISCUSSIONS]

[21] Ms. Ramirez, because of my ruling, counsel for the defendants has the ability to pursue you to collect the \$20,000. But what he is saying is that if there are no further proceedings, he will not pursue that. This is what his client has instructed him to do. However, if you continue to come to court with respect to this court action against these defendants, then he will pursue you for that amount.

[DISCUSSIONS]

[22] I understand that you feel you have been wronged. I fully understand that. But you have had your day in court and we cannot keep litigating a decision that was made a long time ago. This is the final decision.

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VEALE J.