

IN THE SUPREME COURT OF THE YUKON TERRITORY

Citation: *Holmes v. Matkovich*, 2007 YKSC 1

Date: 20061213
Docket: S.C. No. 06-D3856
Registry: Whitehorse

BETWEEN:

KATHLEEN HELEN HOLMES

Plaintiff

AND:

VERNON CYRIL MATKOVICH

Defendant

Before: Mr. Justice R.S. Veale

Appearances:
Debbie P. Hoffman
Glenda Murrin

For the Plaintiff
For the Defendant

**MEMORANDUM OF JUDGMENT
DELIVERED FROM THE BENCH**

[1] VEALE J. (Oral): Ms. Holmes applies for an order that Mr. Matkovich's answer and counter petition be struck, that judgment on her divorce petition be granted, and for special costs.

[2] Counsel for Ms. Holmes has been following a co-operative approach, to a certain extent, in this divorce petition, by seeking to obtain documents from Mr. Matkovich through his counsel since January of 2006, quite unsuccessfully. She then made an application on July 18, 2006, and I ordered, among other things, that Mr. Matkovich file

his financial statement setting out his personal, family and corporate assets and debts, and deliver a filed copy of that statement to the petitioner's counsel by August 3, 2006.

[3] Mr. Matkovich is in breach of that court order.

[4] At a pre-trial conference on October 5, 2006, Mr. Matkovich remained in breach of the July 18, 2006 order and I gave him a further opportunity by ordering that he produce the information by October 20, 2006. Mr. Matkovich did file a financial statement on October 20, 2006, but it appears to be limited primarily to employment income and specifically did not include any information regarding the business and corporate assets that he is involved in. I find that Mr. Matkovich is in breach of this court's orders of July 18 and October 5, 2006.

[5] Ms. Holmes also advised that a bookkeeper has been retained for the preparation of financial information of a numbered company called 19651 Yukon Inc. and that the bookkeeper was retained in either September or October of 2006. 19651 Yukon Inc. involves a partner of Mr. Matkovich's and appears to be a company set up for the purposes of renting the services of a Cat, and the services of his partner Tom Morgan, in the placer mining business in Dawson City. It also appears that the numbered company has never had a bookkeeper. The indication is that the bookkeeper would be able to provide the bookkeeping information by year end December 31, 2006.

[6] I should indicate that there is no secret about the information that Ms. Holmes has been seeking through her counsel since January. It has been set out in numerous letters, and specifically some of it in paragraph 10 of Ms. Holmes' affidavit number 3. I

am also advised by Mr. Matkovich's counsel that trial counsel has been retained, and she expects to be in contact with that trial counsel on December 14th.

[7] Quite frankly, it is doubtful that Mr. Matkovich deserves any further opportunity to comply with this court's order of July 18, 2006. Nevertheless, I am going to make the following order, that no later than Friday, January 5, 2007 at 4:00 p.m. Mr. Matkovich do the following:

1. Pay the legal fees and disbursements of Ms. Holmes for all matters since the preparation of the application and the hearing on July 18, 2006, to and including the date of this hearing.
2. File a complete financial statement as required in the July 18, 2006 order, including but not limited to, full disclosure of the revenue, assets and activities of 19651 Yukon Inc. and the placer claims owned directly or indirectly by Mr. Matkovich, and any verbal or written arrangements with Klondike Star Mining Corporation and the value of such arrangements.

[8] If Mr. Matkovich fails to do so, he may be found in contempt of court and have his answer and counter petition struck, and the trial proceed as if no appearance has been filed, under Rules 2 and 56 of the *Rules of Court*. All of which will be heard on Monday January 8, at 10:00 a.m. in this court.

[9] Now I am assuming that January 8th is a convenient date, at least for you?

[10] MS. MURRIN: I will make myself available, My Lord.

[11] THE COURT: That is all I need. Anything further?

[12] MS. HOFFMAN: The only further thing I am wondering is that, what about the list of documents and what about the production of them, because we are -- he will be filing a further financial statement that will get us some --.

[13] THE COURT: I forgot about the list of documents. So would you include item 3, then will be list of documents. Was there anything further than that, the list of documents and the documents themselves?

[14] MS. HOFFMAN: And the documents themselves, because I will be at --

[15] THE COURT: And the documents themselves. Anything further?

[16] MS. HOFFMAN: If I could just have one moment, My Lord. I think that is everything. Yes, that is everything, My Lord.

[17] THE COURT: Thank you.

[18] MS. HOFFMAN: Thank you.

VEALE J.