

SUPREME COURT OF YUKON

Citation: *Freedom TV Inc v Holland*, 2016 YKSC 29

Date: 20160624
S.C. No: 14-A0024
Registry: Whitehorse

BETWEEN:

DP1 INC., FREEDOM TV INC., MASTERWORKS 2011 TV INC.,
AARON GOLDMAN and SYMPHONIC VISION INC.

Plaintiffs

AND

JIM HOLLAND, GREEN NEEDLE RECORDS, SEAWEED STUDIOS,
CHRIS RODGERS, AVCR VIDEO PRODUCTION

Defendants

Before Mr. Justice R.S. Veale

Appearances:

Aaron Goldman (by telephone)
Lenore Morris

Appearing for the Plaintiffs
Counsel for the Defendants

REASONS FOR JUDGMENT

[1] VEALE J. (Oral): Just to give some background, Mr. Goldman is applying to adjourn examinations for discovery of Chris Rodgers on June 27 and Jim Holland on June 28 and 29. He is seeking dates in July, specifically July 19 for three hours and July 21 for three hours for Mr. Rodgers, and July 25 for three hours, July 27 for three hours, and July 28 for three hours for Mr. Holland.

[2] The background to this is somewhat complex, but this matter has been through multiple case managements, beginning late in 2015 and through to the present day.

The original trial date was July 4 to 8, which the parties agreed to on May 2nd. I

adjourned that to September 26 to 30, 2016. I then set Mr. Goldman's application for costs to July 27, 2016, and then the defendants' application for security for costs was going to be heard on July 29, 2016.

[3] I should indicate that the order of May 2nd had the plaintiffs conducting examinations for discovery of Jim Holland on June 27 for a full day, and Chris Rodgers on June 3 for a half day. That was all premised on the plaintiffs filing an amended statement of claim on May 22, 2016.

[4] Now, the May 22nd date for filing the amended statement of claim was not met. That was subsequently extended in an order of June 3, 2016, and we extended the amended statement of claim filing to June 10, 2016, which I can indicate that Mr. Goldman met. There was a great deal of difficulty because of the prolixity or the length of the pleadings and the difficulty he had in making the amendments as required in this Court. But they were filed, and there is now a statement of claim that has 141 paragraphs, which is in fact a very complete statement of Mr. Goldman's view of the matters.

[5] But Mr. Goldman has indicated that he has a lot of pressures and stresses as a result of litigation in other jurisdictions, primarily Manitoba, Ontario, and something in the United States that I was not aware of.

[6] In any event, he did indicate in an email forwarded on June 20, 2016, the cognitive difficulties that he has arising out of a motor vehicle accident in February of 2008.

[7] The result is at the last case management meeting on June 3rd, a number of changes were made to accommodate Mr. Goldman. Specifically, the examinations for discovery, which had been originally set for June 3 and June 27 for a half day for Mr. Rodgers and one day for Mr. Holland, were extended to one day for the examination of Chris Rodgers and to two days for the examination of Jim Holland.

[8] Mr. Goldman indicates that matters in other jurisdictions have caused him a lot of stress and time, and the fact that he had to do the amended statement of claim for this jurisdiction meant that he had to delay matters in other jurisdictions. The result is that he is now appearing before me asking for an adjournment of the examinations for discovery, all of which are set for June 27, 28, and 29 — next week.

[9] I should say that Ms. Morris' clients are ready to proceed next week.

[10] Mr. Goldman wishes to adjourn those examinations because he is ill, as I understand it, and he is also dealing with his cognitive impairment, and wants to adjourn those examinations to July.

[11] Ms. Morris is opposed to that. She is not opposed to the adjournment, but she is opposed to dealing with them in July because she is just getting back from holidays.

[12] The upshot is that Ms. Morris is taking the view of adjourning the examinations for discovery generally and adjourning the trial generally and dealing with the two applications or the two days of applications, September 1 and September 2 of 2016, September 1 being the cost applications brought by Mr. Goldman, and the security for costs application being brought by Ms. Morris.

[13] In the circumstances, having made two attempts, one on May 2nd and one on June 3rd, to have the pleadings amended and to have the examinations for discovery set, and neither being able to proceed, it is my view and I order that the examinations for discovery be adjourned generally, that we proceed to deal with the costs and security for costs applications on September 1 and 2, and that the trial be adjourned generally.

[14] I have endeavoured to bring this matter to a trial in September, but it appears to me that it simply is not possible to achieve that. I think the appropriate thing at this point is to make that adjournment. Those discoveries can be done at a later date and we can proceed to the applications on September 1 and 2.

VEALE J.