

THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Claim No. 2019-01930

THE MOORISH DIVINE AND NATIONAL MOVEMENTT OF THE WORLD
THE MOORISH NATIONAL REPUBLIC FEDERAL GOVERNMENT NORTHWEST
AFRICA

Northwest Amexem/Northwest Africa/North America

‘THE NORTH GATE’

Societas Republicae Ea Al Maurikanos

Aboriginal and Indigenous peoples of the Land

The True and De jure Al Moroccan/American

Walter Bayne Alexis-Bey, All Rights Reserved; Heir by Birthright and Primogeniture and
Authorized Representative, Natural Person, Living Sentient, Devine Being, In Propria
Persona, Sui juris, Sui Hereditas, In Solo Propria: Ex Relatione TM. WALTER BAYNE
ALEXIS, (ALEXIS WALTER B.) Private Estate ‘Straw Man’ Transmitting Utility Not a
Corporate Person or Entity, Misrepresented by Fraudulent Construct of ALL CAPITAL
LETTERS

Non-Subject, Non Domestic, Non-Resident, Non-Commercial

NOTICE TO AGENT IS NOTICE TO PRINCIPAL IS NOTICE TO AGENT

WALTER BAYNE ALEXIS-BEY

Claimant

AND

ATTORNEY GENERAL OF TRINIDAD AND TOBAGO

COMPTROLLER OF ACCOUNTS

Defendants

Before the Honourable Mr. Justice Robin N. Mohammed

Date of Delivery: Monday 19 October 2020

Appearances:

The Claimant appearing in person and unrepresented

Ms. Rachel Theophilus instructed by Ms. Diane Katwaroo for the Defendants

DECISION ON DEFENDANTS’ APPLICATION TO STRIKE OUT CLAIM FILED

10 JANUARY 2020

[1] Before the Court for its determination is the Defendants' Notice of Application filed on 10 January 2020 to have the Claimant's Claim struck out pursuant to **Part 26.2 of the Civil Proceedings Rules 1998** ("the CPR"). The Defendants' Notice of Application seeks an order that:

1. The Claim Form and Statement of Case filed on 7 May 2019 be struck out against the Defendants pursuant to **Part 26.2(1)(b) of the CPR** as the Claim Form and Statement of Case are an abuse of process of the Court.
2. The Claim Form and Statement of Case filed on 7 May 2019 be dismissed against the Defendants pursuant to **Part 26.2(1)(c) of the CPR** as the Claim Form and Statement of Case disclose no grounds for bringing the claim.
3. The Claim Form and Statement of Case filed on 7 May 2019 be struck out against the Defendants pursuant to **Part 26.2(1)(d) of the CPR** as the Claim Form and Statement of Case are prolix and do not comply with the requirements of **Part 8 of the CPR**.
4. The Claimant's claim be struck out pursuant to **Part 26.1(1)(k) of the CPR**.
5. In the alternative, that the Defendants be granted an extension of time to file its response pending the hearing and determination of this Application; and
6. The Claimant pay to the Defendants the costs of this Application to be assessed in default of agreement.

[2] The grounds of the Application are as follows:

- (i) The Claimant has filed a Claim, citing unidentifiable or improper parties and purports to name the Attorney General and the Comptroller of Accounts as the Defendants in these proceedings.
- (ii) The Claim is prolix, is not properly pleaded and is incoherent. Therefore, it is prejudicial to the Defendants as they are uncertain and embarrassed as to what case they are to respond.
- (iii) It is unclear as to what the intended action is. There is no identifiable cause of action against the Defendants which can be properly answered or defended. The Claim discloses no grounds for bringing an action against the Defendants.
- (iv) The Claim does not comply with the requirements of **Part 8 of the CPR**. The form and content of the Claim are irregular and improper. It is unclear as to what the Claim entails and the remedies sought.
- (v) The Claim is frivolous, vexatious and an abuse of process.

[3] In order to give the Claimant an opportunity to clarify and elucidate what exactly is before the Court and to possibly seek legal advice, the Court gave directions for the filing of written submissions in relation to the Application to strike out. The Defendants filed submissions in support of their Application on 23 June 2020. The Claimant put in written submissions dated 22 June 2020. Other documents were filed by the Claimant on 13 July 2020.

[4] The Court is empowered under **Part 26.2(1) of the CPR** to strike out a Claim and Statement of Case: (a) for failing to comply with a rule or practice direction or with an order or direction of the Court; (b) if it is an abuse of process of the Court; (c) if it discloses no reasonable grounds for bringing the Claim; and (d) if it is prolix or does not comply with the requirements of **Part 8 of the CPR. Part 26.2(1) of the CPR** states:

“26.2(1) The Court may strike out a statement of case or part of a statement of case if it appears to the Court –

(a) that there has been a failure to comply with a rule, practice direction or with an order or direction given by the Court in the proceedings;

(b) that the Statement of Case or the part to be struck out is an abuse of the process of the Court;

(c) that the statement of case or the part to be struck out discloses no grounds for bringing or defending a claim; or

(d) that the Statement of Case or the part to be struck out is prolix or does not comply with the requirements of Part 8 or 10.”

The Defendants seek to rely on limbs (b), (c) and (d) of **Part 26.2 (1) of the CPR**.

[5] According to **Zuckerman on Civil Procedure Principles of Practice Third Ed. at page 373, para 9.36:**

“The full pre-trial and trial process is appropriate and useful for resolving serious or difficult controversies, but not where a party advances a groundless claim or defence or abuses the court process. There is no justification for investing court and litigant resources in

following the pre-trial and trial process where the outcome is a foregone conclusion...In such cases the court has therefore the power to strike out the offending claim or defence and thereby avoid unnecessary expense and delay.”

The Claim is prolix and does not comply with Part 8 of the CPR

[6] The Claimant initiated these proceedings on 7 May 2019 against “The UN Nation State Republic of Trinidad and Tobago @ Cairi Americana Attorney General/Comptroller of Accounts”. The Claimant filed an affidavit of service on 20 May 2019 stating that he served the Attorney General/Comptroller of Accounts, Faris Al-Wari¹ (*sic*), and (Registrar General) Ministry of Legal Affairs with an original copy of the bill of complaint in equity on 7 May 2019. The Attorney General responded to the Claim by filing this Application to strike out the Claim before the Court.

[7] The Court wishes to highlight that from the outset the Claim as filed does not comply with **the CPR**. The Claim as filed was titled a “Bill of Complaint in Equity”. The Court is not familiar with this title. It appears that the Claimant has used a template from another jurisdiction cutting and pasting information to assist him in filing this Claim which bore no comprehensible issue for determination by this Court. Furthermore, the Claim as filed is also not in the prescribed form; the Claim was not in Form 1 or 2 with or without variations: **Part 8.1(3) of the CPR**. This is sufficient for the Court to strike out the Claim as being caught by **Part 26.2(1)(a) of the CPR**.

[8] Additionally, the Claimant did not file a Statement of Case with the Claim Form as required in **Part 8.1(1) of the CPR**. However, it is trite law that a Claim Form may be issued and served without the Claimant’s Statement of Case only where (a) any of these Rules requires an affidavit to be filed in support of a claim; (b) the claimant has included in the claim form all the information required by rules 8.6, 8.7 and 8.8; or (c) the court gives permission.

[9] In this case at bar, the Court did not give permission for the Claim Form to be issued without a Statement of Case nor is it a Claim which requires an affidavit to be filed in

¹ Proper spelling of the Attorney General’s surname is “**Al-Rawi**” **not** “**Al-Wari**”

support of the Claim. Nonetheless, it appears that the Claim Form includes information as required by **Parts 8.6, 8.7 and 8.8 of the CPR**. However, the Court will further examine the Claim to ensure that it complies with **Part 8 of the CPR**.

[10] Pleadings are required to mark out the parameters of the case that is being advanced by each party. In particular, they are still critical to identify the issues and the extent of the dispute between the parties. What is important is that the pleadings should make clear the general nature of the case of the pleader: **McPhilemy v Times Newspapers Ltd**². **Part 8.5(1) of the CPR** states:

“The claim form must –

(a) include a short description of the claim; and

(b) specify any remedy that the claimant is seeking (though this does not limit any power of the court to grant any other remedy to which he may be entitled).”

[11] The Court has examined the Claim as filed and is of the view that the Claim is incoherent and prolix. The Claim does not include a short statement of facts on which the Claimant relies nor does it specify any remedy that the Claimant is seeking. Therefore, the Claimant has failed to comply with **Part 8.5 of the CPR**. Furthermore, the Claimant has a duty to set out his case pursuant to **Part 8.6 of the CPR** and he has failed to do so entirely. The Claim Form filed in these proceedings has failed to set out in any clear and concise manner the facts that the Claimant is relying on. Consequently, the Claimant has also failed to comply with **Part 8.6 of the CPR**.

[12] Additionally, there was no Certificate of Value nor Certificate of Truth to the Claim Form as required under **Parts 8.7 and 8.8 of the CPR** respectively. In the Claim filed, the Claimant has not included a certificate that the damages claimed exceed or are likely to exceed \$50,000 or the basis on which it is said that the High Court has jurisdiction: **Part 8.7 of the CPR**. Neither has the Claimant certified on the Claim that he believes that the contents are true and that he is entitled to the remedy claimed: **Part 8.8(1) of the CPR**. The Claimant is unrepresented in this matter, therefore, even if it was impractical for him to give the certificate, he has not retained an attorney-at-

² [1999] 3 All ER 775 at p 792J

law to do same on his behalf. Accordingly, the Claimant has also failed to comply with **Parts 8.7 and 8.8 of the CPR**.

[13] In that regard, the Court is of the view that the Claim as filed is prolix, fundamentally flawed and fails to comply with **Part 8 of the CPR**. Accordingly, the Claim ought to be struck out pursuant to **Part 26.2(1)(d) of the CPR**.

Discloses no grounds for bringing the Claim

[14] The **White Book on Civil Procedure 2020** considers what constitutes a Statement of Case which discloses no reasonable grounds for bringing or defending the claim. At page 73, the authors of **The White Book** state that Statements of case which are suitable for striking out (on the basis that they disclose no reasonable grounds for bringing or defending the claim) include those which raise an unwinnable case where continuance of the proceedings is without any possible benefit to the respondent and would waste resources on both sides.

[15] In **Brian Ali v The Attorney General**³, Kokaram J explained as follows:

*“12. The principles in striking out a statement of case are clear. A court will only seek to strike out a claim pursuant to **Rule 26.2(1)(c) of the CPR 1998** as amended on the basis that it discloses no ground for bringing the claim. The language and wording of our **Rule 26.2(1)** is very generous in that so long as the Statement of Case discloses a ground for bringing the claim, it ought not to be struck out. See **UTT v Ken Julien and ors CV2013-00212**.*

*13. It is a draconian measure and is to be sparingly exercised always weighing in the balance the right of the Claimant to have his matter heard and the right of the Defendant not to be burdened by frivolous and unmeritorious litigation. The Court in the exercise of its discretion to strike out a claim must always ensure to give effect to the overriding objective. See: **Real Time Systems Ltd v Renraw Investment Ltd Civ. App. 238 of 2011**.*

14. It is for the Defendant to demonstrate that there is no ground for bringing the claim. The Defendant can demonstrate for instance that the claim is

³ CV2014-02843

vague, vexatious or ill-founded. Porter LJ in Partco Group Limited v Wagg [2002] EWCA Civ. 594 surmised that appropriate cases that can be struck out for failing to disclose a reasonable ground for bring a claim include:

“(a) where the statement of case raised an unwinnable case where continuing the proceedings is without any possible benefit to the Respondent and would waste resources on both sides Harris v Bolt Burden [2000] CPLR 9;

(b) Where the statement of case does not raise a valid claim or defence as a matter of law.”

[16] Seepersad J in **Cudjoe-Braithwaite and others v Trinbago Unified Calypsonian Organisation**⁴ stated that the Court can conclude that a Statement of Case discloses no grounds for bringing a claim, where the pleadings on its face are fundamentally flawed and where the claim is based on incoherent facts which do not give rise to a legally recognisable claim.

[17] Having read the Claimant’s Claim, the Court agrees with the Defendants’ submission that that the Claim as filed does not set out any facts indicating what the Claim is about. The Claim is incoherent, fundamentally flawed and, in the Court’s view, makes no sense. The Claim does not disclose a legally recognizable claim against the Defendant. In that regard, the Claimant’s Claim as filed ought to be struck out pursuant to **Part 26.2(1)(c) of the CPR** since it discloses no grounds for bringing the Claim.

Abuse of the process of the Court

[18] The term “*abuse of the court’s process*” is not defined in **the CPR** nor the English Counterpart nor any practice direction. Lord Bingham in **Attorney General v Barker**⁵ albeit in a different context, explained “*abuse of the court’s process*” as “*using that process for a purpose or in a way significantly different from its ordinary and proper use*”. I am of the view that this is a fitting explanation for the concept of “*abuse of the process of the court*”.

⁴ CV2015-03964

⁵[2000] 1 FLR 759

[19] The categories of abuse of process are many and are not closed. The Court has the power to strike out a *prima facie* valid claim where there is abuse of process. However, there has to be an abuse and striking out has to be supportive of the overriding objective⁶. Jamadar J (as he then was) in the case of **Danny Balkissoon v Roopnarine Persaud & Another**⁷ stated as follows:

“While the categories of abuse of the process of the court are many and depend on the particular circumstances of any case, it is established that they include: (i) litigating issues which have been investigated and decided in a prior case; (ii) inordinate and inexcusable delay, and (iii) oppressive litigation conducted with no real intention to bring it to a conclusion.”

[20] **The White Book on Civil Procedure 2020**, recognises in case law the following categories of *abuse of the process of the court*: (i) vexatious proceedings; (ii) attempts to re-litigate decided issues; (iii) collateral attacks upon earlier decisions; (iv) pointless and wasteful litigation; (v) improper collateral purpose; and (vi) delay. Nevertheless, the authors of **The White Book** state that the court may strike out, as an abuse of process, particulars of claim which are so badly drafted that they fail to reveal to the Defendant, or to the Court, the case the Defendant can expect to meet at trial.

[21] As stated above, the Claim as filed is prolix, incoherent, poorly drafted, fundamentally flawed and does not comply with **Part 8 of the CPR**. In that regard, the Court is of the view that the Claim amounts to an abuse of process of the Court and ought to be struck out pursuant to **Part 26.2(1)(b) of the CPR**.

[22] In light of the above analyses and findings, it is clear to this Court that the Claimant’s Claim as filed before the Court on 7 May 2019 can be struck out on any one of the four grounds stipulated in **Part 26.2(1)(a)–(d)**. Accordingly, this Court orders as follows:

⁶Jamadar J (as he then was) in *Danny Balkissoon v Roopnarine Persaud and another* CV2006-00639

⁷ CV2006-00639

ORDER:

- 1. The Claimant's Claim filed on 7 May 2019 be and is hereby struck out pursuant to Part 26.2(1)(a)(b), (c) and (d) of the CPR.**
- 2. The Claimant shall pay to the Defendants costs of the Notice of Application filed on 10 January 2020, to be assessed in accordance with Part 67.11 of the CPR, in default of agreement.**
- 3. In the event that there is no agreement on the issue of costs, and the Defendants wish to pursue this order for costs, then the Defendants to file and serve a Statement of Costs whereupon appropriate directions will be given for assessment.**

Robin N. Mohammed
Judge