IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: ***The Law Society of B.C. v. Dempsey,*** 2005 BCSC 1277

Date: 20050913
Docket: L050983
Registry: Vancouver

2005 BCSC 1277 (CanLII)

Between:

THE LAW SOCIETY OF BRITISH COLUMBIA

PETITIONER

And

JOHN RUIZ DEMPSEY

RESPONDENT

Before: The Honourable Mr. Justice Williams

Reasons for Judgment

Counsel for the Petitioner	P.G. Voith, QC J.L. MacAdam
Appearance in Person and Agent	J.R. Dempsey Lovey Cridge
Date and Place of Trial/Hearing:	August 4, 2005 New Westminster, B.C.

2005 BCSC 1277 (CanLII)

Introduction

[1] John Ruiz Dempsey is not a member of the Law Society of British Columbia (the "Law Society"). A self-styled "forensic litigation specialist", he has commenced and defended, both on his own behalf and as an agent for others, a great many legal proceedings in this province. The record before the Court indicates that he has been singularly unsuccessful in these endeavours.

[2] In order to protect both the public and the integrity of the administration of justice from an individual whom it characterizes as legally incompetent and excessively litigious, the Law Society seeks the following relief:

a. An injunction pursuant to ss. 15 and 85 of the ***Legal Profession Act***, S.B.C. 1998, c. 9, (the "***Act***") enjoining Mr. Dempsey from engaging in the unauthorized practice of law in expectation of a fee, from representing himself as a lawyer, and from commencing or defending proceedings on behalf of others regardless of the expectation of benefit;

b. A declaration under s. 18 of the ***Supreme Court Act***, R.S.B.C., c. 443 that Mr. Dempsey is a vexatious litigant and an order that he not commence or continue any proceeding in any court on his own behalf without leave of the court; and

c. An order pursuant to the Court's inherent jurisdiction requiring Mr. Dempsey to advise all members of the public and members of the legal procession with whom he comes into contact in relation to legal matters of, *inter alia*, his lack of status with the Law Society, and an order requiring Mr. Dempsey to advise the Law Society of any matters that are or may be before the Court in which he has any involvement.

[3] Mr. Dempsey responds that neither the Law Society nor this Court have jurisdiction with respect to this matter. He further submits that the Law Society has failed to demonstrate that he has engaged in the unauthorized practice of law, and

he characterizes this petition as an illegal interference with his contractual relationships with those for whom he acts as agent pursuant to the common law right to contract and the ***Power of Attorney Act***, R.S.B.C. 1996, c. 370.

Statutory Provisions

[4] The provisions of the ***Legal Profession Act*** that govern this petition are as follows:

> 1(1) In this Act:
>
> …
>
> "**practice of law"** includes
>
> (a) appearing as counsel or advocate,
>
> (b) drawing, revising or settling
>
> (i) a petition, memorandum, notice of articles or articles under the ***Business Corporations Act***, or an application, statement, affidavit, minute, resolution, bylaw or other document relating to the incorporation, registration, organization, reorganization, dissolution or winding up of a corporate body,
>
> (ii) a document for use in a proceeding, judicial or extrajudicial,
>
> (iii) a will, deed of settlement, trust deed, power of attorney or a document relating to a probate or letters of administration or the estate of a deceased person,
>
> (iv) a document relating in any way to a proceeding under a statute of Canada or British Columbia, or
>
> (v) an instrument relating to real or personal estate that is intended, permitted or required to be

2005 BCSC 1277 (CanLII)

registered, recorded or filed in a registry or other public office,

(c) doing an act or negotiation in any way for the settlement of, or settling, a claim or demand for damages,

(d) agreeing to place at the disposal of another person the services of a lawyer,

(e) giving legal advice,

(f) making an offer to do anything referred to in paragraphs (a) to (e), and

(g) making a representation by a person that he or she is qualified or entitled to do anything referred to in paragraphs (a) to (e),

but does not include

(h) any of those acts if not performed for or in the expectation of a fee, gain or reward, direct or indirect, from the person for whom the acts are performed,

…

15(1) No person, other than a practising lawyer, is permitted to engage in the practice of law, except

(a) a person who is an individual party to a proceeding acting without counsel solely on his or her own behalf,

(b) as permitted by the ***Court Agent Act***,

(c) an articled student, to the extent permitted by the benchers,

(d) an individual or articled student referred to in section 12 of the ***Legal Services Society Act***, to the extent permitted under that Act,

(e) a lawyer of another jurisdiction permitted to practise law in British Columbia under section 16(2)(a), to the extent permitted under that section, and

(f) a practioner of foreign law holding a permit under section 17(1)(a), to the extent permitted under that section.

…

2005 BCSC 1277 (CanLII)

> 15(4) A person must not falsely represent himself, herself or any other person as being
>
> (a) a lawyer,
>
> (b) an articled student, a student-at-law or a law clerk, or
>
> (c) a person referred to in subsection (1)(e) or (f).
>
> 15(5) Except as permitted in subsection (1), a person must not commence, prosecute or defend a proceeding in any court, in the person's own name or in the name of another person.

[5] Section 85(5) entitles the Law Society to apply to the Supreme Court for an injunction restraining a person from contravening the ***Act***. Subsection (6) provides that the Court may grant that injunction if satisfied that there is reason to believe that there has been or will be a contravention of the ***Act*** or the ***Law Society Rules***.

[6] Section 18 of the ***Supreme Court Act*** pursuant to which the Law Society also seeks relief provides as follows:

> **Vexatious proceedings**
>
> If, on application by any person, the court is satisfied that a person has habitually, persistently and without reasonable grounds, instituted vexatious proceedings in the Supreme Court or in the Provincial Court against the same or different persons, the court may, after hearing that person or giving him or her an opportunity to be heard, order that a legal proceeding must not, without leave of the court, be instituted by that person in any court.

Procedural Background

[7] The Law Society filed a significant volume of affidavit material in support of its petition. That body of evidence will be reviewed in considerable detail below to provide necessary context for the determination of the issues raised.

2005 BCSC 1277 (CanLII)

[8] Mr. Dempsey delivered a Response to the Law Society's petition that opposed all relief sought. He did not file any further material until the day of the hearing when he submitted an unusual document entitled "Constructive Notice of Child of God Status". In it, Mr. Dempsey claims the status of "Child of God" with the following purported consequences:

> Any person, living or artificial who wishes to claim any authority over me must first prove they exist above God; they are God; they are between me and God; or they have a document upon the face of which can be found the verifiable signature of God.
>
> Failure to first do one of the above mentioned things means all claims to authority is abandoned or is unlawful.
>
> Attempting to exercise any authority over me without first fulfilling one of the four above mentioned requirements is an unlawful act of fraud and/or extortion.

[9] The document is signed, witnessed and sealed with Mr. Dempsey's thumbprint.

[10] In response to the Law Society's petition, however, Mr. Dempsey forwarded documents to the Law Society and its counsel, including an "Offer for Agreement and Peaceful Co-existence" and another entitled "Jurisdictional Challenge". The "Offer for Agreement and Peaceful Co-existence" advised that Mr. Dempsey was an "attorney-in-fact pursuant to common law and the ***Power of Attorney Act***" and challenged the Law Society's jurisdiction. It suggested that the parties meet to discuss the matter, and went on to indicate that failure to accept the offer would constitute a "form of assault" on the part of the Law Society and would lead to the initiation of legal action.

2005 BCSC 1277 (CanLII)

2005 BCSC 1277 (CanLII)

[11] The "Jurisdictional Challenge" contained 11 requests for information, including, by way of example, the following:

> 1. Please provide legal authority or statute relied to by the LAW SOCIETY OF BRITISH COLUMBIA in its Petition, SCBC File # L050983 Vancouver Registry.
>
> 2. Please [sic] name of ministry and name and title of minister appointed or commissioned to administer or enforce the statute relied to by the LAW SOCIETY OF BRITISH COLUMBIA.
>
> 3. Please provide verifiable evidence, such as contracts, agreements, undertakings, letters of patent confirming validity, lawfulness of appointment or commission.
>
> 9. Please provide authority or justification whether the LAW SOCIETY OF BRITISH COLUMBIA has the power or jurisdiction to annul, interfere or frustrate :John-Ruiz: Dempsey's lawful contracts with his principals, regarding his being attorney-in-fact on behalf of his principals.
>
> 11. Please provide any verifiable proof of any damage suffered by the LAW SOCIETY OF BRITISH COLUMBIA whether in tort or in contract resulting from any act(s) of :John-Ruiz: Dempsey and/or his principals.

[12] It concluded with the unilateral imposition of a deadline to respond as follows:

> Ten (10) days have been allowed for the Petitioner, the LAW SOCIETY OF BRITISH COLUMBIA to respond to this Jurisdictional Challenge. Failure to comply with the above shall be deemed that the Petitioner does not have the jurisdiction or legal standing to file this Petition.

[13] In addition to the foregoing, a number of individuals forwarded correspondence and what appear to be form documents entitled "Notice of Acceptance to Contract" to the Law Society. Each indicated that the "secured party" had entered into a private contract with Mr. Dempsey appointing the latter as their attorney in accordance with the common law and the ***Power of Attorney Act***, and alleged that the Law Society had filed its petition "for the purpose of directly

interfering with the secured party's contractual relationship with his attorney". The documents purported to impose the following terms and conditions:

> If the RESPONDENTS [the Law Society and its counsel] chooses to trespass on or interfere in any manner whatsoever, with the private contract between the secured party's contract with his attorney, the RESPONDENTS agree to compensate secured party for One Million Dollars ($1,000,000.00) within 10 days.
>
> In the event RESPONDENTS does not deliver One Million Dollars ($1,000,000.00) within 10 days as agreed to in this contract, the RESPONDENTS agree to compensate secured party for triple damages or Three Million Dollars ($3,000,000.00) thereafter and may be subject to involuntary bankruptcy in their private and corporate capacities to settle the account.
>
> In the event RESPONDENTS withdraws their offer to contract within 10 days, then this contract shall become void and secured party will not proceed with enforcement of the above terms and conditions.
>
> It has been said, so it is done.

[14] Although there is no evidence that these "Notices of Acceptance to Contract" were authored by Mr. Dempsey, he was copied with some of the correspondence that accompanied them. It therefore appears that they were sent, at a minimum, with his knowledge and assent.

[15] At the outset of the hearing on August 4th, Mr. Dempsey challenged the Law Society's standing to bring this petition on the primary basis that it lacked jurisdiction since he was not a member. The jurisdictional issue was also *res judicata*, he submitted, since the Law Society's failure to respond to his Jurisdictional Challenge resulted in its lack of jurisdiction and legal standing being deemed in accordance with the stipulation noted above.

2005 BCSC 1277 (CanLII)

2005 BCSC 1277 (CanLII)

[16] In apparent protest to my ruling that there was no merit to his jurisdictional challenge, Mr. Dempsey absented himself from the courtroom for most of the Law Society's submissions. When he later returned, he endeavoured to question the Court and others in the courtroom as to whether anyone had a claim against him. He declared that he had never attorned to the jurisdiction of this Court and that "whatever you decide, I'm not going to accept".

[17] Lovey Cridge subsequently spoke on Mr. Dempsey's behalf as his agent. Ms. Cridge is not a lawyer and indicated that she was a certified management accountant. She read a prepared statement on behalf of Mr. Dempsey that can only be characterized as a colourful attack on the Law Society and the legal profession. To the extent that aspects of those submissions are responsive to issues raised in this petition, they are referenced later in these Reasons.

[18] Mr. Dempsey sought to file further material on or about August 10, 2005. I accepted that material and provided the Law Society with an opportunity to respond, though it declined to do so.

[19] One of the documents submitted by Mr. Dempsey is entitled "Notice of Acceptance of Oath of Office". Its material portions read:

> **The Undersigned does hereby and herein accept the Oath of Office of James W. Williams d/b/a/ JUSTICE (JAMES W.) WILLIAMS / PUBLIC SERVANT and all heirs, assigns, and successors, as his open and binding offer of contract to form a firm and binding, private, bilateral contract between parties in which he agrees to perform all of his duties as a Public Servant and promises to uphold all of the Undersigned's rights.**

> The foregoing "Notice of Acceptance of Oath of Office" is an instrument in commerce CUSIP No. 718895600, and is made **explicitly under reserve and without recourse** and the foregoing has established your promise to uphold all of the Undersigned's rights and not allow any third-party agents to interfere in your duties to the Undersigned. Failure to respond to this offer of contract within three business days of receipt establishes your unconditional acceptance and will place you and your office in default, and the presumption will be taken upon the public record that you, and your office, fully agree to the points and authorities contained within this Notice of Acceptance of Oath of Office and that they are true, correct and certain.
>
> [emphasis in original]

2005 BCSC 1277 (CanLII)

[20] The signature block refers to Mr. Dempsey as "Third Party Interest Intervener, Secured Party Creditor, Authorized Agent", and indicates that the document was signed "without prejudice, under reserve, and without recourse". This document has been notarized.

[21] Attached to this "Notice of Acceptance of Oath of Office" is a three page letter summarizing Mr. Dempsey's position on this petition, the submission read in court by Ms. Cridge and a copy of the "Jurisdictional Challenge" earlier forwarded to the Law Society.

Factual Background

[22] Mr. Dempsey is not, and never has been, a member of the Law Society. He states that this is so as a matter of choice. Due to what he considers the Law Society's monopoly on the word "lawyer" and the negative regard with which lawyers are held, Mr. Dempsey has taken instead to referring to himself as a "forensic litigation specialist". He advised the Court that he has a law degree and a degree in

criminology; he also uses the designations LL.B and BSCr. on his personal website and in correspondence. There is, however, no evidence before the Court that he has had any such education or training. Documents from the Supreme Court of the Philippines and the Integrated Bar of the Philippines indicate that Mr. Dempsey has never been qualified to practice law in that country.

2005 BCSC 1277 (CanLII)

[23] The evidence regarding Mr. Dempsey's involvement in legal proceedings will be discussed under three categories:

a. proceedings commenced or defended by Mr. Dempsey on his own behalf;

b. proceedings commenced or defended by Mr. Dempsey as an agent for others; and

c. class actions.

[24] Most of the facts that follow in this section are drawn from filed court documents and from judgments and rulings rendered by this Court and the Court of Appeal.

A. Proceedings commenced or defended by Mr. Dempsey on his own behalf

[25] Since 1996, Mr. Dempsey has initiated in excess of 10 proceedings in this Court on his own behalf. These include:

a. ***John Ruiz Dempsey and Ruthelma Calusin Dempsey v. Kuldip Kaur Virdi*** (C965121, Vancouver Registry), filed September 5, 1996;

b. ***John Ruiz Dempsey and Ruthelma Dempsey v. Metro Pointe Development Corp.*** (C965885, Vancouver Registry), filed October 17, 1996;

c. ***John Ruiz Dempsey v. Kandy Y. B. Ma and Seafair Realty Ltd.*** (S055431, New Westminster Registry), filed August 27, 1999; and

d. ***John R. Dempsey v. Steve Berry, The Province, Canwest Global Communications and Lynda Ann Parrish-Kehoe*** (S89255, New Westminster Registry) filed November 12, 2004).

[26] Others are discussed in some detail below.

[27] Many actions were discontinued or remain dormant. The dispositions of those that proceeded were not in Mr. Dempsey's favour, and costs were routinely assessed against him. Mr. Dempsey has also defended a number of actions for loan default, again with unfavourable results. The one area in which he has experienced a considerable measure of success has been in seeking indigent status, as a result of which he has been largely relieved of the obligation to pay court filing fees.

[28] Five proceedings arise from a dispute regarding a residential property in Surrey, British Columbia, formerly owned by Mr. Dempsey. I will briefly review these as they demonstrate Mr. Dempsey's approach to litigation.

1. Proceedings Regarding the Surrey Property

[29] The genesis of this saga was a lease/purchase agreement between the Dempseys, the owners of the Surrey property and their tenants, the Pearts. In the spring of 1999, a dispute regarding payment of rent led to various arbitration proceedings under the auspices of the Residential Tenancy Office. These were followed by a series of legal proceedings as follows:

2005 BCSC 1277 (CanLII)

a. Petition No. L000320, Vancouver Registry

[30] Mr. Dempsey filed a petition for judicial review of certain of the arbitration decisions. He applied for and was granted indigent status. There has been no activity on this file since an appearance was filed in November 2002.

b. Action No. S053423, New Westminster Registry

[31] Mr. Dempsey commenced this action against the Pearts, the Ministry of the Attorney General, the Residential Tenancy Office and the Arbitration Review Panel in May 1999. The province was subsequently substituted for the latter parties. The Pearts were represented by Lynda Casey of the firm, Nordman Casey & Company. The statement of claim alleged breach of contract, unlawful interference with contractual relations, negligence, breach of statutory duty and obstruction of justice. Mr. Dempsey was again granted indigent status.

[32] Mr. Dempsey was not successful on this action. Firstly, Bouck J. struck out the claim against the province as an abuse of process. Mr. Dempsey had initially applied to add the province as a defendant but when that application was dismissed, applied *ex parte* before a different Master to substitute the province for the Residential Tenancy Office and Arbitration Review Panel. This time the order was granted. That second application formed the basis of the abuse of process finding.

[33] Secondly, Bouck J. struck out the claims against the other defendants on the grounds that they fell within the jurisdiction of the ***Residential Tenancy Act***. He made it a condition of the dismissal that certain funds held in trust by Nordman Casey & Co. be paid out to the Dempseys, though he ordered that the Pearts were

2005 BCSC 1277 (CanLII)

entitled to deduct their costs as taxed prior to the payment out of those funds. It appears that the Pearts' costs exceeded the funds held in trust and that no monies were paid out to Mr. Dempsey.

2005 BCSC 1277 (CanLII)

[34] Mr. Dempsey subsequently appealed Bouck J.'s order but was not timely in filing the requisite materials (CA027093). He applied to the Court of Appeal for an extension of time but his application was dismissed for lack of merit in the appeal. Low J.A., in dispensing with the requirement that Mr. Dempsey approve the form of the order, commented "this is a simple order that should be entered promptly, and in view of the history of this litigation, I have no confidence that that can be accomplished."

c. <u>Actions No. S013774, S013775 and L013285, Vancouver Registry</u>

[35] Mr. Dempsey subsequently brought three other actions in connection with the Surrey property:

i. Action No. S013774 against the Pearts and their children, Ms. Casey and Nordman Casey & Company, Brent Roberts and related realty companies, and Paul Makortoff and Bayfield Investments;

ii. Action No. S013775 against the Pearts and their two children; and

iii. Action No. L013285 against Ms. Casey and Nordman Casey & Company.

[36] The pleadings are prolix and allege a broad range of misconduct on the part of these various parties that is similar across the three actions. The essence of the

allegations was described by the Court of Appeal in a later proceeding (2004 BCCA 395) at para. 35:

> a. Mr. Dempsey's property was foreclosed as a result of the Pearts and Ms. Casey not paying him what he was owed;
>
> b. Ms. Casey provided legal representation to the Pearts and in some manner was alleged to have fraudulently dealt with the trust funds referred to in Bouck J.'s order;
>
> c. Mr. Roberts, a real estate agent and former friend of Mr. Dempsey, sold property to the Pearts without Mr. Dempsey's knowledge.

2005 BCSC 1277 (CanLII)

[37] The defendants were successful on their applications to have the three actions dismissed. Loo J. held that Actions S013774 and S013775 were reiterations of the claims earlier dismissed by Bouck J. or were otherwise predicated upon proof of the claims raised in that action. She further concluded that the claims against Ms. Casey and the realtors disclosed no cause of action and were frivolous and vexatious.

[38] Loo J. made a vexatious litigant order against Mr. Dempsey with respect to proceedings relating to the Surrey property pursuant to s. 18 of the ***Supreme Court Act***. In so doing, she stated at para. 18:

> Mr. Dempsey, although I sympathize with him, as he has tried as he might to seek what he considers to be an injustice [sic], is improperly using the various proceedings to advance claims that are not sustainable at law; and I would go so far as to say disclose no reasonable cause of action.

[39] She also awarded costs to the defendants in all three actions with special costs to Ms. Casey in Action No. S013774.

[40] When the defendants were required to resort to garnishing orders to realize on these costs, Mr. Dempsey applied to have the garnishing orders set aside. However, his application was inappropriately framed and was described by Harvey J. as "misconceived". He noted various procedural irregularities, including the fact that the matter was being spoken to *ex parte*, and dismissed the application (2003 BCSC 1642).

[41] In April 2002, Mr. Dempsey appealed from Loo J.'s order (CA029621). Although he was timely in bringing the appeal, it was later placed on the inactive list after necessary steps in the appeal were not taken within the required time. Mr. Dempsey applied to have his appeal removed from the inactive list but was not present in court when the motion came on for hearing. Thackray J.A. dismissed the application on the basis that the appeal was without merit and awarded costs against Mr. Dempsey. Mr. Dempsey then applied to have Thackray J.A.'s order reviewed by a panel of the Court of Appeal. It dismissed his application. The Court held as follows at 2004 BCCA 395, paras. 36 – 38:

> An examination of the pleadings in the three actions confirms that they are a repetition of allegations found in the earlier action dismissed by Mr. Justice Bouck with the addition of claims against other parties that do not have any foundation in law.
>
> As noted earlier, Mr. Dempsey has not proceeded with his judicial review application in relation to the arbitral proceedings and his appeal of Mr. Justice Bouck's order has been dismissed as abandoned.
>
> One of the hallmarks of vexatious litigation is the repetition of the same or similar claims in respect of the same subject matter in multiple proceedings against the same defendants or those associated with them. A review of the pleadings shows that to be the case with the three actions Mr. Dempsey has brought. In our view, Mr. Justice Thackray was correct in concluding that an appeal of Madam Justice

2005 BCSC 1277 (CanLII)

Loo's order under s. 18 of the ***Supreme Court Act*** was without merit.

[42] Mr. Dempsey appears to have applied for leave in accordance with the terms of Loo J.'s vexatious litigant order to re-open the four actions discussed above. He additionally sought to have Loo J. and certain of the defendants present for examination at the hearing the application.

[43] Clearly unhappy with the outcomes of these proceedings, Mr. Dempsey filed complaints impugning the professional integrity of those he considered responsible. He wrote a letter to the Canadian Judicial Council alleging that Loo J. had rendered her order dismissing his actions and declaring him a vexatious litigant without a proper hearing, thereby depriving him of his right of due process. In Mr. Dempsey's words, Loo J. "knew or should or have know, that she had conscientiously, arbitrarily, capriciously, deliberately, intentionally, and knowingly engaged in conduct in violation of the Supreme Law of the Land, in violation of her duty under the law, in 'fraud upon the court' and to aid and abet others in criminal activity, thus making herself a principal in the criminal activity". He copied the letter to a number of individuals, including a reporter for the Province newspaper.

[44] Mr. Dempsey also targeted Ms. Casey, filing complaints against her with the Law Society and the RCMP. He additionally submitted a claim to the Law Society's Special Compensation Fund on the basis of her alleged misconduct.

Petition No. H990910, Vancouver Registry

[45] In June 1999, CIBC Mortgages Inc. commenced foreclosure proceedings with respect to the Surrey property. Mr. Dempsey filed a third party notice against the

2005 BCSC 1277 (CanLII)

Pearts and the province (as having responsibility for the Ministry of the Attorney General, the Residential Tenancy Office, and the Arbitration Review Panel). The province was successful in having the third party notice set aside as against it with costs. Mr. Dempsey then filed a notice of appeal with respect to that order, though it does not appear that it was pursued. The property was ultimately sold by way of a vesting order.

2005 BCSC 1277 (CanLII)

2. Other Actions

[46] Mr. Dempsey's litigious propensities are not limited to the proceedings regarding the Surrey property and are evident elsewhere. By way of example, a petition (No. S068661) brought by First Heritage Delta Credit Union against Mr. Dempsey for mortgage default spawned the following activity:

> a) Master Brine pronounced an Order Nisi and Order for Conduct of Sale on October 25, 2001. Costs were ordered against Mr. Dempsey;
>
> b) Mr. Dempsey appealed Master Brine's order. Holmes J. dismissed the appeal and awarded First Heritage Delta Credit Union costs on December 12, 2001;
>
> c) Mr. Dempsey applied for a stay pending appeal of Holmes J.'s order and for conversion of the petition to an action. Slade J. dismissed the application and awarded First Heritage Delta Credit Union costs. On January 29, 2002, he ordered the sale of the subject property to Jaspal Singh Nagra and Satwant Singh Nagra;
>
> d) Mr. Dempsey filed a writ and statement of claim on February 5, 2002 (Action No. S069832, New Westminster Registry) against First Heritage Delta Credit Union, its collection manager and the appraisal company that had prepared an appraisal of the property alleging, *inter alia*, conspiracy to procure a "bogus appraisal" to expedite the conduct of sale of the property.
>
> The defendants filed statements of defence in March 2002.

2005 BCSC 1277 (CanLII)

Mr. Dempsey applied to amend the statement of claim in June 2004. He filed a Notice of Intention to Proceed shortly thereafter but has taken no further action.

e) Mr. Dempsey filed another writ and statement of claim on February 15, 2002 (Action No. S71965, New Westminster Registry) against First Heritage Delta Credit Union, its collection manager, and the Nagras (the purchasers of the property) for unlawful interference with his contractual relations with a third party to purchase the property;

The defendants filed statements of defence but no further action has been taken on the matter.

B. Proceedings commenced or defended by Mr. Dempsey as agent for others

[47] Mr. Dempsey has been involved in over ten proceedings in the capacity of agent. Those in which his “clients” have been defendants consist largely of debt collection actions initiated by financial institutions. These include:

a. ***CIBC v. Darmantchev*** (Action No. S85767, New Westminster Registry);

b. ***CIBC v. Deglan*** (Action No. S88741, New Westminster Registry);

c. ***Diners Club International/Enroute v. Nevlud et al.*** (Petition No. L042078, Vancouver Registry);

d. ***Bank of Montreal v. Liong*** (Action No. S044649, Vancouver Registry);

e. ***CIBC v. Luinenburg*** (Action No. S87315, New Westminster Registry).

[48] The defence strategy in many of these cases has been similar: challenge the authenticity of the debt and the right of counsel for the creditor to attempt to collect

on it. In ***CIBC v. Luinenburg***, for example, the statement of defence asserts at paras. 11 and 12 that:

> 11. The contracts entered into by the Defendant with the Plaintiff, if any, were rendered null and void from the start by the Plaintiff due to its own anticipated breach, fraudulent or negligent misrepresentation, failure or lack of legal consideration, unlawful or usurious interest rates based on nothing.
>
> 12. There is no law in Canada that empowers the Plaintiff to create money out of nothing and then charge interest on such monies being created where the Plaintiff never loaned any money of their own, neither risked any money of their own nor did they lose or stand to lose any money of their own at any time. Further, the ***Canada Bank Act*** forbids any banks and financial institutions from lending out their own asset and/or money or their depositors' deposit.

[49] The essence of the defence is that the loans and financing agreements between the plaintiff bank and the defendant were void for lack of, or unlawful, consideration. The counterclaim filed against the CIBC in this proceeding is similarly based on the notion of the unlawful creation of money by financial institutions, and seeks a wide range of declaratory relief. It also adds CIBC's counsel in the collection proceedings as parties and alleges deceit, malicious interference with contractual relations, and the wrongful institution of civil action against the defendant.

[50] Mr. Dempsey was denied privilege of audience in ***CIBC v. Deglan*** and ***Diners Club v. Nevlud*** . Privilege of audience applications are pending in ***CIBC v. Luinenburg*** and ***Bank of Montreal v. Liong***.

2005 BCSC 1277 (CanLII)

2005 BCSC 1277 (CanLII)

1. The Ancheta Proceedings

[51] Mr. Dempsey's representation of Andres Ancheta resulted in a cascade of litigation.

[52] Mr. Ancheta was dismissed by his employer, College Printers, in late 1999 for uttering threats against his co-workers. A criminal charge against him for knowingly uttering a threat was dismissed. Mr. Ancheta's union, Graphic Communications International, grieved his termination. Following a nine day hearing, the arbitrator, Vincent Ready, dismissed the grievance and upheld Mr. Ancheta's termination.

[53] Mr. Ancheta applied to the Labour Relations Board to have Mr. Ready's decision set aside on the grounds of bias. He also filed a complaint against the union alleging that it had failed to fairly represent him at the grievance hearing. The Labour Relations Board dismissed both his application and complaint.

[54] Multiple judicial proceedings flowed from these circumstances.

a. Action No. S015784, Vancouver Registry

[55] In October 2001, Mr. Ancheta commenced this action against those he perceived responsible for his termination, totalling 14 defendants. These included: College Printers Ltd., its principals, and its counsel; the union and its president; the Globe & Mail, which was printed by College Printers Ltd.; and various of his former co-workers. The claims largely pertained to the investigation of Mr. Ancheta's workplace conduct and the circumstances surrounding the laying of the criminal charge. The statement of claim alleged mental distress, false imprisonment, conspiracy to injure, negligence, malicious prosecution, abuse of process, negligent

abuse of power, fraudulent misrepresentation, destruction of evidence, defamation of character, subornation of perjury and violation of his rights under the ***Canadian Charter of Rights and Freedoms***. The allegations against the union were for breach of trust and fiduciary duty, and conspiracy to injure for failure to stop the perpetration of the unlawful conduct upon Mr. Ancheta.

2005 BCSC 1277 (CanLII)

[56] Mr. Dempsey appeared as Mr. Ancheta's agent before Sigurdson J. on applications by certain of the defendants for dismissal of the action for want of jurisdiction and failure to disclose a reasonable claim. Sigurdson J. dismissed the claims in their entirety against ten of the defendants on jurisdictional grounds (2003 BCSC 93). He limited the claims against the employer and its lawyers to malicious prosecution and defamation. He also ordered that Mr. Ancheta amend the statement of claim within 30 days to delete all reference to the claims and parties that had been struck out.

[57] Mr. Ancheta filed an amended statement of claim that did not delete all references to the claims and parties that had been struck out as ordered. Instead, it added new claims and parties, including the Vancouver Police Department and the province.

[58] Mr. Dempsey again appeared as agent for Mr. Ancheta when the matter came back before Sigurdson J. for directions and to address the issue of costs (2003 BCSC 1597). Ominously, one of the themes in his submissions filed on this application was that so long as the merits of Mr. Ancheta's dismissed claims were

not adjudicated, he reserved the right to continue re-filing those claims. He wrote at para. 44 that:

> The court can dismiss the Plaintiff's claim a thousand times, but unless the defendants can prove that claims have no merits, the Plaintiff reserves the right to keep re-filing his claims. This is trite law.

[59] Costs were awarded to the defendants.

[60] Mr. Ancheta appealed Sigurdson J's order (CA031328). Mr. Dempsey appeared before Newbury J.A. on an application for an extension of time to file an appeal. She dismissed the application, stating as follows at para. 7 of her oral reasons of January 9, 2004:

> Mr. Dempsey rightly observes that at bottom the question of an extension of time depends on the interests of justice in the particular case. With respect, I am not persuaded that the interests of justice weigh in favour of the plaintiff in this instance. This is a prolonged claim advanced by a misguided litigant who was terminated because of comments that were at least irresponsible and perhaps threatening. He has had a hearing before an arbitrator. He has been to the Board. He has had a judicial review in Supreme Court. He has another appeal pending in this court. But he does have to recognize that labour matters in B.C. are generally not for courts of law. Nothing would be accomplished, in my view, and much prejudice and expense would be involved, in trying to argue to the contrary in yet another appeal.

b. Petition No. L021695, Vancouver Registry

[61] In June 2002, Mr. Ancheta filed a petition seeking judicial review of Mr. Ready's dismissal of his grievance on the basis that it had been "tainted with corruption and fraudulent conduct, bias, excess of powers, and failure to observe the rules of natural justice." He additionally sought the reinstatement of his employment

2005 BCSC 1277 (CanLII)

and restitution for expenses incurred at the arbitration hearing. Many of the defendants in Action No. S015784 referenced above were included as respondents, as were the Labour Relations Board and the province.

2005 BCSC 1277 (CanLII)

[62] Mr. Dempsey appeared as Mr. Ancheta's agent at the hearing of the petition. Lowry J. dismissed the petition as against most of the respondents on the basis that they were not proper parties to an application for judicial review (2003 BCSC 529). He then dismissed the petition against the remaining respondents, concluding that Mr. Ancheta had failed to make a case for judicial review. Costs were awarded to all of the respondents who sought them.

[63] In his Reasons, Lowry J. described how the case put forward for Mr. Ancheta had largely ignored the administrative process and had made no attempt to address the earlier Labour Relations Board decision denying his application to have the arbitrator's decision set aside. Instead, much of what was argued was raised for the first time on the judicial review and sought to challenge the arbitrator's decision directly. Lowry J. also briefly addressed other contentions raised by Mr. Ancheta, referring to them variously as without merit, "non-starters" and as concepts with no applicability to the proceedings (for example, the doctrine of paramountcy).

[64] Mr. Ancheta appealed Lowry J.'s decision (CA030769). He subsequently applied to amend his notice of appeal to significantly expand the grounds of appeal. Those grounds challenged the jurisdiction of Mr. Ready and the Labour Relations Board, and additionally alleged that their decisions or orders were constitutionally unsound. By way of example, paragraphs 5 and 9 sought the following:

> 5. A declaration that the labour arbitrator and the British Columbia Labour Relations Board are not recognized by ***Constitution Acts***, 1967 and 1982 as courts of competent jurisdiction nor are these quasi-judicial tribunals empowered by the Federal Parliament to make decisions which trenches or makes void and of no effect any order pronounced by a court whose exclusive powers were granted pursuant to ss. 91 and 92 of the ***Constitution Acts***, 1967 and 1982;
>
> 9 A declaration that the review policy and the orders or decisions made by the arbitrator and the British Columbia Labour Relations Board violates and infringes on the ***Bill of Rights 1960*** as well as the Implied Bill of Rights enshrined in the preamble to the ***Constitution Act, 1867***; and II. ss. 1, 2, 6, 7, 12, 15, 26 and 31 of the ***Charter***;

[65] Low J.A. dismissed the amendment application on the basis that it had no merit, and awarded the defendants costs (oral reasons for judgment on February 13, 2004). These costs have yet to be paid. Low J.A. also observed:

> This whole matter is being over litigated by the appellant at substantial legal cost to the other parties along the way. The appellant should not have brought the present application, it was doomed to fail and ill-advised.

[66] Mr. Ancheta then applied to vary Low J.A.'s order. There has been no disposition of that application.

[67] Since filing his appeal, Mr. Ancheta twice applied for indigent status in the Court of Appeal. Mr. Dempsey appeared on his behalf on both applications, neither of which was successful.

[68] In January 2005, College Printers Ltd. and the union brought an application for security for costs against Mr. Ancheta with respect to his appeal from the order of

2005 BCSC 1277 (CanLII)

Lowry J. Ryan J.A. held that there was little merit to Mr. Ancheta's appeal and granted the application for security for costs.

[69] In her Reasons (2005 BCCA 232), Ryan J.A. described the multiplicity of proceedings arising from Mr. Ancheta's dismissal from his employment, and commented that "[a]ll this activity suggests that Mr. Ancheta is determined to overcome unfavourable rulings by launching appeals and starting other actions." She also noted that costs awarded Mr. Ancheta for his many unsuccessful hearings had resulted in a "formidable list of judgments" being registered against his two properties. These included a certificate for judgment for the costs of the College Printers group of defendants in the amount of $10,196.39 and another in favour of the union and its president for $7,592.34. Counsel for College Printers had advised that the anticipated costs for the extant appeal would be in the neighbourhood of $12,000.00.

[70] The applicants before Ryan J.A. had additionally sought a direction that Mr. Ancheta appear in the proceedings either on his own behalf or through a member of the Law Society. Mr. Dempsey advised the Court that he was qualified as a lawyer in the Philippines but was not a practicing lawyer in British Columbia. Ryan J.A. declined to grant that order, stating that it would over-reach the problem sought to be addressed (namely, representation by Mr. Dempsey) and that no authority had been submitted to support the submission that she had jurisdiction to bar Mr. Dempsey from appearing in the Court of Appeal. Ryan J.A., nevertheless expressed concern that "it may be that Mr. Ancheta has turned over control of this appeal to Mr. Dempsey."

2005 BCSC 1277 (CanLII)

2005 BCSC 1277 (CanLII)

[71] Mr. Ancheta filed an appeal of Ryan J.A.'s order. In a supporting affidavit, Mr. Dempsey deposed that it was his belief that she had based her decision on the interests of commerce, not justice, and had failed to consider the fact that Mr. Ancheta had registered a $3 million lien against Mr. Ready, the arbitrator who had originally found against him. That lien had been filed without notice to Mr. Ready who owed Mr. Ancheta no outstanding payments or obligations whatsoever.

c. <u>Other Related Proceedings</u>

[72] Concurrent with the foregoing proceedings, Mr. Ancheta commenced a number of other actions in connection with the events leading up to and surrounding his dismissal:

i. In June 2001, Mr. Ancheta commenced an action (No. S013084, Vancouver Registry) against a psychiatrist, a police officer and the City of Vancouver alleging wrongful arrest, malicious prosecution, abuse of process and negligence. The statement of claim was prepared by a lawyer. Mr. Dempsey, however, appeared as Mr. Ancheta's agent at the hearing of an application to have the claims against the psychiatrist dismissed on a motion under ***Rule 18A***. Allan J. summarized Mr. Dempsey's submissions at 2004 BCSC 60, paras. 15 - 17:

> The essence of Mr. Dempsey's submissions appears to be that Mr. Ancheta's employer , "maliciously prosecuted the plaintiff by filing a bogus criminal complaint" of uttering threats and "fabricated false and defamatory evidence, namely purported transcripts of testimonies ostensibly deposed by persons… ."
>
> Mr. Dempsey concedes that Mr. Ancheta said words to the effect "If I go crazy, I might borrow a gun and shoot people and kill myself…but I'm not crazy yet." Mr. Dempsey suggests those words do not constitute a threat and that a "witch hunt" ensued. Mr. Dempsey says that Dr. Kropp was "more than willing to aid LePard in this evil plot" to effect the wrongful arrest and incarceration of Mr. Ancheta. He accuses Dr. Kropp of producing a "bogus

> mental assessment" of the plaintiff "as requested" by Sergeant LePard and says that "bogus assessment" led to a "bogus warrant of arrest", the abduction of Mr. Ancheta, and his wrongful imprisonment.
>
> There is not a whit of evidence that would implicate Dr. Kropp in some conspiracy or nefarious plot to either wrongfully assist Sergeant LePard or to harm Mr. Ancheta. I reject completely the factual assertions of the plaintiff in this regard.

The action was dismissed against Dr. Kropp with costs.

Mr. Ancheta filed a notice of appeal in January 2004. In March 2004, while the appeal was still outstanding, he filed an amended writ in the same action adding claims for damages for defamation and remedies pursuant to the ***Charter*** against the same parties, including Dr. Kropp.

ii. In April 2003, Mr. Ancheta commenced an action (No. S032112, Vancouver Registry) against counsel who had represented him at the grievance hearing and his firm, alleging malpractice, negligence and breach of fiduciary duty. Claims against these parties had been included in the petition that had been dismissed by Lowry J.

No action has been taken on this file since the statement of defence was filed.

C. Class Action Proceedings

[73] Mr. Dempsey has initiated proceedings under the ***Class Proceedings Act***, R.S.B.C. 1996, c. 50, as follows:

1. *Parrish v. The Queen* (Action No. S88522, New Westminster Registry)

[74] Lynda Parrish is the named plaintiff in this proposed class action alleging mental, physical, emotional and sexual abuse and neglect at the Willingdon School for Girls, a former government facility in Burnaby. The relief sought for Ms. Parrish

2005 BCSC 1277 (CanLII)

and for each member of the proposed class includes: $50 million for being deprived of their children born while they were wards of the state; $25 million for unlawful confinement and various abuses; $35 million for failure to provide proper medical treatment; and, $15 million for failure to provide proper education. Punitive damages in the total amount of $500 million are also sought.

2. *Gravlin and Darmantchev v. CIBC et al.* (Action No. L050149), and ***Darmantchev et al. v. MBNA Canada Bank et al.*** (Action No. L050637), Vancouver Registry

[75] The first action alleges unlawful interference in contractual relationships, fraudulent debt collection, fraud and obstruction of justice on the part of the law firms and lawyers retained by CIBC in connection with debt collection proceedings against the named plaintiffs. It also proposes a class action against CIBC alleging, *inter alia*, contractual non-disclosure, unlawful creation of money, fraudulent transfer of funds, money laundering, conversion and usury on the part of CIBC.

[76] The second action alleges a variety of misconduct on the part of the defendant against the named plaintiffs including fraudulent debt collection, the charging of criminal rates of interest and perpetrating frauds on the courts. It also proposes a class action on behalf of the named plaintiffs and “all persons who have been victimized by the defendant MBNA in similar situations involving unlawful creation of money, fraudulent transfer of funds, money laundering, conversion of moneys, usury, breach of contract, fraudulent or negligent misrepresentation, breach of trust and breach of fiduciary duty”.

2005 BCSC 1277 (CanLII)

[77] Garson J. denied Mr. Dempsey privilege of audience in these two actions and stayed both pending determination of the defendants' applications to strike the claims pursuant to ***Supreme Court Rule*** 19(24) (2005 BCSC 839). As her comments are germane to the issues on the present petition, I quote extensively from her Reasons commencing at para. 66:

> **The Pleadings**
>
> The pleadings are prolix and repetitive. The first part of the pleadings appear to consist of collateral attacks on judgments already obtained against some of the named plaintiffs. Generally speaking, collateral attacks on a judgment are an abuse of process. (See ***Samos Investments Inc. v. Pattison*** (2004), 44 B.L.R. (3d) 25, 2004 BCSC 484.) Mr. Dempsey was criticized by this court in the proceedings before Loo J. for relitigating issues already determined by another court.
>
> As in ***Fenn v. Ontario*** the plaintiffs' pleadings cry out for professional advice and guidance. The claims against the defendant banks are, as pled, unintelligible. The plaintiffs plead fraud but the essential ingredients of a successful fraud claim were not described. I will not, in these reasons, go so far as to say there is no cause of action as pled, because that application is not before me. But I shall say that the pleadings demonstrate the Mr. Dempsey is not capable of drawing proper pleadings.
>
> **Conduct Before Issuance of the Writs**
>
> Mr. Dempsey claims that he did not prepare the unusual document sent by Mr. Gravlin, Mr. Darnantchev and Ms. Alden to some of the defendants, some of which I have described above. However, he did author the letters referred to above in [paragraph] 40 and he incorporates some references to those peculiar documents in the Statement of Claim. In doing so, Mr. Dempsey demonstrates a somewhat tenuous grasp of the principles of contract. These peculiar documents and letters, such as the claim to copyright one's name, demonstrate a lack of legal knowledge and skill
>
> **Conduct in Litigation**
>
> Mr. Dempsey is courteous, co-operative, well-spoken and well-prepared in the court room. However, he has declared that he does

2005 BCSC 1277 (CanLII)

> not consider himself bound by the rule of law. He says he is bound by natural law or a higher law. I set out above his position in this regard, in quoting from his written submission. Mr. Dempsey is of course entitled to his societal, religious and political views, but a law suit is not a proper tool to advance political causes in the absence of a legal wrong. In my view, to grant him the privilege of acting as counsel before this court when he asserts that he will not adhere to statutory rules, laws or common law, is to invite chaos in this court and to risk bringing the administration of justice into disrepute. (See ***R. v. Dick***).
>
> **Class Counsel Suitability**
>
> The proposed action makes claims against entities that are not parties. There are alternative and numerous definitions of the class and the class as described seems almost incapable of definition. The responsibilities of legal counsel not to advance frivolous or vexatious claims are even more pronounced in class actions, in part because the claims may affect the rights of persons who have not explicitly chosen to be part of these actions.

[78] The plaintiffs have appealed Garson J.'s order, advancing the following as their grounds of appeal:

> 1. The lower court has no jurisdiction to frustrate private contracts between the Appellants (Plaintiffs) and their Attorney;
>
> 2. The order of the lower court violates the Plaintiffs' fundamental and natural rights pursuant to Canon Law, the Charter, Bill of Rights 1960, the implied Bill of Rights;
>
> 3. The order of the lower court violates international law such as the U.N. Declaration of Human Rights 1948;
>
> 4. The order of the lower court is contrary to the Charter because it failed to recognize the supremacy of God and the rule of law;
>
> 5. The provisions of the Law and Equity Act and Power of Attorney Act makes judicial discretion inoperative.

[79] The plaintiffs have also filed applications to strike the Statement of Defence, to have Mr. Dempsey added as a plaintiff, and for certification under the ***Class Proceedings Act***.

2005 BCSC 1277 (CanLII)

3. ***Dempsey on Behalf of the People of Canada v. Envision Credit Union et al.*** (Action No. S91786, New Westminster Registry)

[80] This proposed class action in Mr. Dempsey's own name similarly alleges that financial institutions are engaged in the illegal creation of money. There has been no activity with respect to this proceeding since statements of defence were filed in May 2005.

4. ***Lovey Cridge and John Ruiz Dempsey on Behalf of the People of Canada v. Her Majesty The Queen in Right of Canada, et al.*** (Action No. L91905, New Westminster Registry)

[81] This action challenges the validity of the federal ***Income Tax Act*** and alleges that the defendants, in collecting taxes in reliance on this "non-existent and bogus federal statute", have engaged in illegal taxation, fraudulent misrepresentation, extortion, breach of trust, treason, enterprise corruption, slavery, conversion, misappropriation of funds and other crimes against the people of Canada. The proposed class comprises "all persons within or without Canada who have been the subject of a colossal national tax collection scheme wherewith the people of Canada, *inter-alia* were systematically robbed, defrauded, enslaved, imprisoned, arrested, fined, maliciously prosecuted, and tortured. The class is intended to include all persons who are 'tax payers' within the meaning of the impugned ***Income Tax Act***."

[82] There has been no activity with respect to this proceeding since the filing of the statement of claim.

2005 BCSC 1277 (CanLII)

5. *Other Actions*

[83] Mr. Dempsey also seeks privilege of audience in two further class actions in which he is involved, ***Gabric and Dosanjh v. The Queen*** (No. S87820, New Westminster Registry) and ***Larsen v. The Queen*** (Action No. L88408, New Westminster Registry). His applications in that regard were adjourned pending determination of the present petition.

D. Affidavit Evidence

[84] The Law Society filed affidavits from a number of individuals who had interactions with Mr. Dempsey. Mr. Dempsey did not challenge this evidence, other than to indicate in his letter of August 10, 2005 that he purposely declined to reply to the Law Society's materials to preclude any argument that he had attorned to the jurisdiction of the Court. The fact remains that the affidavit evidence is before the Court unanswered and unchallenged, and I therefore accept the facts stated therein as true.

1. Lynda Parrish

[85] In September 2004, Ms. Parrish read an article in her local newspaper about a lawsuit that was about to be commenced against the province for abuse suffered at the Brannan Lake School for Boys. Ms. Parrish had been at the Willingdon School for Girls in the late 1960s and had for many years wished to speak to someone about the abuse she had suffered while there. The article had noted that a lawyer was acting for the plaintiff, Dan Larsen, so she contacted the newspaper to advise that she wished to contact either Mr. Larsen or his lawyer. She subsequently

2005 BCSC 1277 (CanLII)

received a telephone message from Mr. Dempsey in which he indicated that he was "the lawyer that's looking after Dan Larsen on this" and that she should contact him.

[86] During their first meeting, Mr. Dempsey told Ms. Parrish that he would act as her lawyer and would commence a class action that would "win us millions of dollars". With respect to the matter of remuneration, Ms. Parrish deposes as follows:

> 12. I asked Mr. Dempsey during our September 24, 2004 meeting about how he would be paid for his services on my behalf. Initially, Mr. Dempsey told me that he wanted nothing for his efforts, and that he was doing this matter simply "as my friend". I told Mr. Dempsey at that time that he was not my friend, but rather that he was my lawyer and that I wanted to maintain a lawyer-client relationship with him. I told Mr. Dempsey that I expected a class action of this nature would be a time consuming and expensive matter. I offered him 50% of any proceeds he recovered on my behalf.
>
> 13. Mr. Dempsey told me during our meeting of September 24, 2004, that he would charge only 25% of what was recovered on my behalf as a result of the proceedings he would bring in court, which he said was the same amount as he was charging Mr. Larsen for his services on the Brannan Lake case. Mr. Dempsey told me that he would prepare an agreement to that effect for me to sign at a later date. No written agreement concerning Mr. Dempsey's remuneration was given to me prior to my termination of my involvement with Mr. Dempsey.
>
> 14. Several times of the time that I had contact with Mr. Dempsey he spoke about our being on a far away beach drinking fancy drinks, with our suitcases spilling out the money that the government was going to pay us. By "our" I understood Mr. Dempsey to mean he and I and the other Willingdon plaintiffs.

[87] Ms. Parrish provided personal documents and correspondence to Mr. Dempsey for the purposes of the litigation in the belief that he was a lawyer. He prepared a writ and statement of claim and forwarded them to her for her review. She advised him that her name had been misspelled and that the pleadings contained an allegation that was inaccurate and based on rumour. Mr. Dempsey

2005 BCSC 1277 (CanLII)

replied that she should not worry if she wished to file the documents in court the following day and that he could not correct the errors since he was out of printer ink and paper. The documents were filed in the Supreme Court on October 1, 2004. Ms. Parrish deposes that Mr. Dempsey later accepted printer paper from her and an offer of an old laptop computer. Their dealings with each other ceased before he took receipt of the computer.

[88] Mr. Dempsey successfully applied for indigent status on behalf of Ms. Parrish. In response to a query from the presiding Master, he indicating that he was a "non-practicing lawyer". This was the first Ms. Parrish had heard that Mr. Dempsey was anything other than a lawyer, and it was a matter of concern for her. When she questioned him, he advised that he was not a member of the Law Society but could still appear in court for her. Ms. Parrish paid Mr. Dempsey's travel and other expenses in connection with the court proceedings that day.

[89] Ms. Parrish became increasingly concerned with Mr. Dempsey's conduct in relation to the case. He asked seemingly irrelevant personal questions and became increasingly militant in his approach, expressing a strong anti-government bias. He also told her that he hated the Law Society and judges. In approximately the middle of October 2004, Mr. Dempsey informed her that he was considering transferring the case to the United States, citing international law and crimes against humanity. He became hostile towards her when she indicated that she did not wish him to do so. When she subsequently advised him that she was considering seeing another lawyer, he became insulting and said he should consider withdrawing her claim. Ms. Parrish filed a Notice of Intention to Act in Person and has ceased contact with him.

2005 BCSC 1277 (CanLII)

2005 BCSC 1277 (CanLII)

[90] In November 2004, Mr. Dempsey filed an action against Ms. Parrish, Steve Berry, the Province newspaper and Canwest Global Communications alleging defamation and unjust enrichment arising from the publication of an article prepared by Mr. Berry regarding Ms. Parrish's situation. The article was entitled "Client discovers man representing her 'is not a lawyer'". Mr. Dempsey identified himself in the statement of claim as a "non-practicing lawyer, criminologist and electronics technologist". He described Ms. Parrish as "a self-admitted 'neurotic', a welfare recipient and long time ward of the state". In the statement of claim, Mr. Dempsey asserts that he explained to Ms. Parrish that he was not a licensed legal practitioner, that he could not charge her for legal services and that he was "only doing it as a friend as an agent, not as her lawyer". He states that he agreed to assist Ms. Parrish with her case on the condition that he do so for free. He denies ever having received any money or compensation for his out of pocket expenses.

2. Cara Sheppard

[91] Cara Sheppard read an article in the Province newspaper about Ms. Parrish's action with respect to abuses at the Willingdon School for Girls in early October 2004. Since Ms. Sheppard's mother had attended the same facility, she sought to contact Ms. Parrish to have her mother included in the class action. She obtained Mr. Dempsey's name and telephone number from Ms. Parrish and left him a message. He returned her call the same evening and left a message indicating that he was the lawyer on the Parrish file and that he wished to speak with her. Ms. Sheppard's research had suggested that Mr. Dempsey was not a member of the Law Society, a fact which he confirmed. He informed her that he was a lawyer from

the Philippines and could become a member of the Law Society but chose not to do so since he did not wish to be involved in Canada's corrupt legal system.

[92] Ms. Sheppard and Mr. Dempsey corresponded by email. He indicated that they would discuss remuneration when they met in person. However, they never met. Ms. Sheppard eventually heard of Ms. Parrish's concerns regarding Mr. Dempsey and advised her to file a Notice of Intention to Act in Person in the proceedings. Mr. Dempsey later sent Ms. Sheppard an email copied to Ms. Parrish advising her that he would be sending a bill of costs in due course. She took this to mean that he would be preparing and sending an account for his services. Ms. Sheppard relied to the effect that he was not entitled to anything. She has had no further contact with Mr. Dempsey.

3. Steve Berry

[93] Steve Berry, a reporter for the Province newspaper, prepared an article about Ms. Parrish's situation entitled "Client discovers man representing her 'is not a lawyer'" which was published in late October 2004. In preparing the article, Mr. Berry interviewed Mr. Dempsey by telephone. Mr. Dempsey's statements to Mr. Berry were set forth in the article:

> When asked by ***The Province*** if he is a lawyer, Dempsey answered: "I am a lawyer, but I'm not a member. I get in trouble with the law society, but what can they do?"
>
> Dempsey claims he has a law degree from his native Philippines, which he said he fled in 1976.
>
> He said he applied to the Law Society to practise law here, but was turned down because he was not a Canadian citizen.

2005 BCSC 1277 (CanLII)

> When asked if he accepted money from his "clients", he admitted he does. "If they give me something, why not?" he said.
>
> "How can they say I'm not a lawyer? I have the degree. I can't call myself a plumber."

4. David Canning

[94] The Law Society retained David Canning, a private investigator, to conduct an investigation into whether Mr. Dempsey was holding himself out as a lawyer and providing legal services for or in expectation of a fee, gain or reward.

[95] Following an exchange of voicemail messages, Mr. Canning met with Mr. Dempsey and an individual introduced to him as Dan Larsen in the lobby of the New Westminster Courthouse in October 2004. Mr. Canning told Mr. Dempsey that he had attended the Brannan Lake School but that since his life had recently improved, he was not certain that he wished to be involved in the action that had been commenced. Mr. Dempsey replied that the action was a class proceeding and that "everyone was already in".

[96] Mr. Canning further deposes as follows:

> 8. The Respondent then told me more about class action proceedings and the role that lawyers play in them. I said to the Respondent "you're the lawyer aren't you?" The Respondent told me that he was a qualified lawyer who had obtained his law training in the Philippines, but that he was not a member of the Law Society of B.C. The Respondent told me that this fact did not matter because the suit was brought "under international law and the B.C. lawyers have no say."
>
> 9. I told the Respondent that I did not have very much money and that I was worried about costs. The Respondent told me that there would be no costs because the proceeding was brought under international law.

2005 BCSC 1277 (CanLII)

> 10. I asked the Respondent what he fee would be. The Respondent told me that there would be no fee and then said "but if you win a million dollars you could give me whatever you want, you know, a thank you card or some flowers or whatever." While the Respondent was making this statement, he winked at me.
>
> …
>
> 12. The Respondent and I spoke further about the proceeding, and I asked him again about costs. The Respondent told me that there would be none. I asked the Respondent "well, what about you?" The Respondent replied to me "well, whatever you want, you know."

[97] Some months later Mr. Canning contacted Mr. Larsen and indicated that he thought of joining the court proceedings but remained concerned about cost. Mr. Larsen replied that Mr. Dempsey did not charge anything. When Mr. Canning suggested that he found this difficult to believe, Mr. Larsen responded that Mr. Dempsey was a volunteer "but, you know, if we want to give him something at the end that is up to us."

5. Ellen Deglan

[98] Ellen Deglan was assisted by Mr. Dempsey with respect to legal proceedings that had been taken against her.

[99] Ms. Deglan and her husband were indebted to the CIBC for a substantial amount and became involved in a program that promoted itself as assisting debtors to legally rid themselves of credit card debt. CIBC initiated a collection action in October 2004 and was awarded default judgment the following month. Ms. Deglan was advised by a Connie Glutyk whom she had met through her involvement with the debt relief program that she had heard of a lawyer who could help from "behind the scenes…and get paid under the table for his help". Ms. Glutyk later advised her

2005 BCSC 1277 (CanLII)

that the lawyer was John Dempsey. When Ms. Deglan inquired what an appropriate amount would be to give Mr. Dempsey for his assistance, Ms. Glutyk indicated that he accepted donations for his legal services. One of his clients had given him a retainer of $350.00 and another had given him $500.00, though Ms. Glutyk did not indicate the names of either of these individuals.

[100] Ms. Deglan provided Mr. Dempsey with her file, though they had minimal direct contact. Believing him to be a lawyer, she was happy to have his assistance. After reviewing her file, Mr. Dempsey advised her that he would bring an application on her behalf to set aside the default judgment. He indicated that the filing fee was $62.00. Ms. Deglan left $80.00 with Mrs. Dempsey and received no change. Mr. Dempsey prepared a notice of motion and affidavit on her behalf. She swore the affidavit but did not read it before signing, assuming it to be accurate. These documents were then filed.

[101] The motion and a motion filed by the CIBC came on for hearing together in March 2005. Mr. Dempsey appeared on Ms. Deglan's behalf. He had prepared materials in support of the application, including a chambers brief which he advised her she could use in making her own submissions in the event he was not permitted to speak to the Court. Fisher J. denied Mr. Dempsey audience and adjourned the applications so that Ms. Deglan would have time to prepare a response. Mr. Dempsey assured Ms. Deglan that if she lost, the judgment could be easily appealed.

2005 BCSC 1277 (CanLII)

[102] After the adjournment, Ms. Deglan read the chambers brief for the first time and was shocked to discover that it was full of inaccuracies. Many of those inaccuracies were also contained in the affidavit she had swore.

[103] Ms. Deglan has since spoken with CIBC's counsel without Mr. Dempsey's involvement, and they are endeavouring to reach an agreement with respect to her debt.

2005 BCSC 1277 (CanLII)

E. Attitude Toward the Legal Profession

[104] There is considerable material before the Court illustrating the low regard that Mr. Dempsey has for the Law Society, lawyers and the judiciary. Some of that material is drawn from his Internet website, which includes passages such as the following:

> **We are no longer a country of laws, we are a country of creative interpretations of laws!**
>
> **Due process as defined by most Judges**: "First, decide how we want the case to go. Second, formulate a legal logic to support our decision. Third, manipulate, dissect or eliminate the facts and evidence to support our decision. Then the rubber stamp doctrine of "judicial discretion" will prevent most decisions from being overturned."
>
> **Truth as defined by most Judges:** "Whatever lawyers say. After all, they have taken an oath when becoming members of the bar. Therefore it is acceptable to assume that the unrepresented may not be saying the truth since they have taken no such oath."
>
> **Truth as defined by most Lawyers**: "Whatever works."

[105] Mr. Dempsey sent an email with wide distribution a number of days prior to the hearing of this petition encouraging his supporters to attend. It reads, in part:

> Just hang in there, truth and justice will prevail. I know this will be difficult for as long as the legal industry is being run by monopolistic societies supported by corrupt politicians and judges. These corrupt entities have no power over us until we surrender it to them. They can all kiss my ass for all I'm concerned.
>
> The Law[less] Society has set the hearing of their Petition on Thursday, August 4, 2005 and 10:00 a.m. at New Westminster courthouse which intended to bulldoze my other hearings set for the hearing of my motions set on the same day concerning two other class actions suits against the provincial government, Larsen v. HMTQ & Gavric et al. v. HMTQ. Please pass the word around, this is big thing with the law society, they need to be stopped from meddling in our private affairs.

2005 BCSC 1277 (CanLII)

[106] His contempt for the Law Society and the legal profession was perhaps most evident in his submissions on this petition, read in court by his agent, Ms. Cridge. I include two passages that are illustrative of their overall tenor.

[107] Regarding the Law Society:

> The Law Society is a monopoly (a combine) that exists solely for its own benefit, not for the benefit of the people of British Columbia. Its purpose is not designed to represent the best interests of anyone else but its own and the interests of the so-called "lawyers" who are up-to-date in their membership dues. This corporate body's existence is therefore nothing but a discernable façade of its mafia style protection racket which came into existence not because the people or the lawyers wanted it, but because their organizers wanted it. Who are these corporations? They are nothing but fictional creations of statute, man-made bodies that exist on paper, they have no brains, no hearts, they do not even have bodies, no hands, no feet, how can such a created body have any power over me or over anyone?

[108] Regarding the legal profession:

> The people have that inherent right to choose whether or not they should be represented by anyone they could trust. The word "lawyer" in the minds of the public denotes dishonest persons, a person who would lie, cheat, disregard or break the rules; a person who is there to steal people's money, a person whose function is to help the rich and

> abet criminals; a person who is there to oppress the poor, to rob the people of their properties, to steal their money, and the list goes on and on. The legal profession is a joke. This profession by far has excelled in accumulating more lawyer jokes or jokes about the legal profession than any other profession in – or job in the whole planet.
>
> There are enough people out there who are disgusted by the nation's legal system. These people have experienced firsthand that hiring a lawyer to fight a legal dispute is just like fighting fire with gasoline. I for one would not hire the services of a so-called practicing lawyer, even if my life depended on it.

2005 BCSC 1277 (CanLII)

Discussion

A. Jurisdiction of the Law Society

[109] Challenges to the Law Society's jurisdiction formed the primary thrust of Mr. Dempsey's response to this petition. As a preliminary matter, therefore, I wish to briefly outline and address his submissions on this issue.

[110] Mr. Dempsey submits that since he is not a member of the Law Society, it follows that it has no jurisdiction over him. Instead, he contends that his authority to act in legal matters on behalf of others derives from the common law and the ***Power of Attorney Act***. The common law right to contract is unlimited except to the extent that contracts cannot infringe the civil and property rights of others. The ***Power of Attorney Act***, he submits, permits an agent to do all things that his principal is legally permitted to do, including exercising his or her right to access justice in the courts or before tribunals. In order to perform his duties in this regard, Mr. Dempsey has entered into private contracts with his principals that are not subject to the ***Legal Profession Act*** or to the scrutiny of the Law Society. He further submits that there is nothing that mandates that individuals must necessarily retain the services of a

member of the Law Society with respect to legal matters. That body and the ***Legal Profession Act***, he says, exist to protect the legal profession's monopoly over the practice of law for the exclusive benefit of its members.

[111] The mandate of the Law Society is set out in s. 3 of the ***Act***:

> **Public interest paramount**
>
> 3. It is the object and duty of the society
>
> (a) to uphold and protect the public interest in the administration of justice by
>
> (i) preserving and protecting the rights and freedoms of all persons;
>
> (ii) ensuring the independence, integrity and honour of its members, and
>
> (iii) establishing standards for the education, professional responsibility and competence of its members and applicants for membership, and
>
> (b) subject to paragraph (a),
>
> (i) to regulate the practice of law, and
>
> (ii) to uphold and protect the interests of its members.

[112] Mr. Dempsey is correct to the very limited extent that subsection (b) does include protection of the interests of its members as one of the Law Society's objectives. However, that interest is subject to its paramount purpose of upholding and protecting the public interest. The protection of the public in the administration of justice is what justifies the profession's monopoly over the practice of law, a monopoly exercised within the stringent regulatory framework maintained by the Law Society. Criteria for membership, standards of practice, rules of discipline with

2005 BCSC 1277 (CanLII)

2005 BCSC 1277 (CanLII)

mechanisms to enforce them, and liability insurance all exist to promote that objective. In this context, it naturally follows that the Law Society has a corresponding mandate to ensure that non-members do not engage in the practice of law or otherwise compromise the public interest.

[113] Taylor J. recently discussed the Law Society's mandate in ***Fast Trac Bobcat & Excavating Service, a Division of Fast Trac Enterprises Ltd. v. Riverfront Corp. Centre Ltd.***, 2002 BCSC 1399 (S.C.) at paras. 61 - 63:

> The fundamental premise of the ***Legal Profession Act***, found in s. 3, requires The Law Society to uphold and protect the public interest in the administration of justice. In return, qualified lawyers in British Columbia are given a unique right to represent the public to the exclusion of others, subject only to the exceptions contained in ss. 15(1)(a) to (f). As observed in ***Law Society of British Columbia v. Lawrie*** (1991), 59 B.C.L.R. (2d) 1 at p. 8, paragraph 13:
>
>> The preliminary attack of the appellants on these statutory provisions as made first to Shaw J. and again on this appeal, was the submission that a popular public opinion prevails, which will be reinforced should the appellants not succeed here, to the effect that the objective of these particular statutes and of the Law Society is to protect and preserve some kind of monopoly for lawyers. This familiar and ill-conceived form of apathy is intended to discredit the Law Society and the legal profession and favour the appellants' cause. The reality of this situation is obvious. I agree with and adopt the explanation which Shaw J. gave in his first reasons for judgment, [1987] B.C.J. No. 1901 at p. 252 as follows:
>>
>>> The ***Barristers and Solicitors Act*** provides for qualifications to practise law, the discipline of lawyers (including disbarment), insurance, trust account rules and funds for client compensation. The primary purpose of this is to provide protection, as far as possible, for the general public who pay for legal services…
>
> …

> The public is protected by ensuring that those who are unqualified, either in terms of competence or moral standing, are not given the right to practice law.

[114] The law in all its facets has profound implications for the rights and interests of individuals. It is this that justifies the removal of legal services from the domain of purely private contract and into that governed by the ***Legal Profession Act***. Mr. Dempsey's reliance on the common law right to contract together with the ***Power of Attorney Act*** as entitling him to enter into agency contracts to provide such services is, accordingly, misguided. To allow the ***Legal Profession Act*** to be circumvented in that manner would impermissibly undermine the public protection function it serves. (See ***Gagnon v. Pritchard*** (2002), 58 O.R. (3d) 557 (Ont. Sup. Ct. of J.)).

B. The Legal Profession Act

[115] The Law Society submits that Mr. Dempsey is in breach of ss. 15(4), 15(1) and 15(5) of the ***Act***.

1. *Section 15(4)*

[116] The Law Society submits that Mr. Dempsey has falsely represented himself as a lawyer in violation of s. 15(4) of the ***Act*** on multiple occasions. It seeks an order to the following effect:

> The Respondent, until such time as he becomes a member in good standing of the Law Society of British Columbia, be prohibited and enjoined from holding himself out as a lawyer, practicing or non-practicing, or as a member of the Law Society of British Columbia, or as a member of the law society of any other jurisdiction, or as a practitioner of foreign law.

2005 BCSC 1277 (CanLII)

[117] Section 15(4) prohibits non-lawyers from misrepresenting themselves as lawyers. Its obvious purpose is to protect members of the public from the potential negative legal and financial consequences of entrusting their legal affairs to non-lawyers who may have inadequate legal training and who are not subject to the regulatory regime maintained by the Law Society.

2005 BCSC 1277 (CanLII)

[118] Section 1 defines “lawyer” to mean a member or former member of the Law Society or of the corresponding regulatory body in other Canadian jurisdictions. It also defines “practicing lawyer” as a member in good standing who holds or is entitled to hold a practising certificate. It follows that a “non-practicing lawyer” is a member who is not in good standing or who is not entitled to hold a practicing certificate.

[119] Mr. Dempsey by his own admission is not, and has never been, a member of the Law Society in this province or in any other jurisdiction. He proclaims that this is by choice and avows that he has no desire to ever become a member. Mr. Dempsey maintains that he has a law degree. There is, however, no evidence before this Court to that effect.

[120] Although his agent took care during her submissions at the hearing to refer to Mr. Dempsey as an attorney or agent, there is evidence that Mr. Dempsey has been less reticent in referring to himself as a lawyer:

a. In a telephone message to Ms. Parrish in September 2004, he identified himself as the plaintiff’s lawyer in the class action suit, ***Larsen v. The Queen***.

b. In a telephone message and a subsequent conversation with Ms. Sheppard in October 2004, Mr. Dempsey identified himself as the lawyer for Ms. Parrish and as a lawyer from the Philippines.

c. Mr. Dempsey identified himself as a lawyer during an interview with Mr. Berry of the Province newspaper. That was then reported in an article in that publication.

2005 BCSC 1277 (CanLII)

[121] Mr. Dempsey criticizes what he describes as the Law Society's monopolization or misappropriation of the word "lawyer", submitting that it has no right to unilaterally impose its own narrow definition on the term. Nowhere in a dictionary is "lawyer" defined as a member of the Law Society of British Columbia. Given the dim view with which the public views lawyers, however, Mr. Dempsey indicates that he no longer wishes to refer to himself as such, and prefers instead to identify himself as a "forensic litigation specialist". While he claims this to be the case, I observe that he continued to identify himself as a lawyer at least until late 2004, presumably because he perceived there to be an advantage in doing so.

[122] Mr. Dempsey has also, on numerous occasions, referred to himself as a "non-practicing lawyer" despite the fact that the Law Society cautioned him about the specific meaning of the term in an exchange of correspondence between August and November 2003. For example, in his statement of claim in ***Dempsey v. Parrish*** filed in November 2004, he describes himself as a non-practicing lawyer. Similarly, he identified himself to Low J.A. during an appearance on behalf of Mr. Ancheta in ***Ancheta v. Ready et al.*** (CA030729) as a non-practicing lawyer. In light of the Law Society's caution, Mr. Dempsey's continued misuse of the term cannot be said to be inadvertent.

[123] In light of the foregoing, I find that Mr. Dempsey has misrepresented himself as a lawyer in breach of s. 15(4) of the ***Act***. To ensure that he does not continue to misrepresent himself as such, I order that until such time as he becomes a member in good standing of the Law Society, Mr. Dempsey is prohibited and enjoined from holding himself out as a lawyer, practicing or non-practicing, or as a member of the Law Society of British Columbia.

[124] The Law Society also seeks to enjoin Mr. Dempsey from holding himself out as a practitioner of foreign law. This is presumably in response to evidence that he has identified himself as a lawyer from the Philippines. Ms. Sheppard deposed to that effect in her affidavit. Ryan J.A. also noted in ***Ancheta v. Joe***, 2005 BCCA 232, that Mr. Dempsey had indicated that he was qualified as a lawyer in the Philippines. The ***Legal Profession Act*** and the ***Law Society Rules*** contain provisions prescribing when practitioners of foreign law are authorized to practice law in this province. This clearly falls within the Law Society's public protection mandate by ensuring the competency of those providing legal services relating to other countries.

[125] Section 1 of the ***Law Society Rules*** defines a practitioner of foreign law as "a person qualified to practise law in a country other than Canada or in an internal jurisdiction of that country, who gives legal advice in British Columbia respecting the laws of that country or of the internal jurisdiction in which that person is qualified". While there is evidence that Mr. Dempsey is not qualified to practise law in the Philippines, there is no evidence that he has been providing legal advice in British

2005 BCSC 1277 (CanLII)

Columbia respecting the laws of that country. He is therefore not a practitioner of foreign law and the circumstances do not warrant the granting of this particular relief.

2. Section 15(1)

[126] As Mr. Dempsey is not a practicing lawyer, he is barred by s. 15(1) from engaging in the practice of law, except insofar as he engages in the activities defined as the “practice of law” without an expectation of a fee or other benefit, direct or indirect. It is the position of the Law Society that Mr. Dempsey has engaged in the unauthorized practice of law contrary to s. 15(1), and, accordingly, it seeks an order that:

> The Respondent, until such time as he becomes a member in good standing of the Law Society of British Columbia, be permanently prohibited and enjoined from:
>
> a. appearing as counsel or advocate;
>
> b. drawing, revising or settling a document for use in a proceeding, judicial or extra-judicial;
>
> c. drawing, revising or settling a document relating in any way to proceedings under a statute of Canada or British Columbia;
>
> d. doing any act or negotiating in any way for the settlement of, or settling, a claim or demand for damages;
>
> e. giving legal advice;
>
> f. offering to provide to a person the legal services set out in (a) to (e) above; and
>
> g. holding himself out in any way as being qualified or entitled to do anything set out in (a) to (f) above
>
> for or in the expectation of a fee, gain or reward, direct or indirect, from the person for whom the acts are performed.

2005 BCSC 1277 (CanLII)

[127] The Law Society submits that there are a great many instances in which Mr. Dempsey has engaged in activities that constitute the practice of law if performed in expectation of a benefit but that it has been unable to establish that latter fact. It therefore restricts its allegations of unauthorized practice to circumstances in which there is some evidence that he was acting in expectation of benefit or where it alleges he deliberately obfuscated that issue. Those instances include the following:

a. **Ms. Parrish**: Mr. Dempsey offered to act for Ms. Parrish in her claim against the Willingdon School for Girls in exchange for a portion of the proceeds she recovered. He told her he would prepare an agreement to that effect for her to sign at a later date. Several times over the course of their relationship, he mentioned anticipating having a suitcase "spilling over with money" as a result of the action. He also accepted miscellaneous benefits from Ms. Parrish including meals, office supplies and transportation expenses.

b. **Ms. Sheppard**: Mr. Dempsey offered to act for Ms. Sheppard's mother in class action proceedings and told Ms. Sheppard that he would explain the matter of his compensation at a future time.

c. **Mr. Canning**: Mr. Dempsey offered to act on behalf of Mr. Canning in ***Larsen v. The Queen***. In response to Mr. Canning's query about how he was to be compensated for his conduct of the case, Mr. Dempsey replied, with a wink, that there would be no fee "but if you win a million dollars you could give me whatever you want, you know, a thank you card or some flowers or whatever."

d. **Ms. Deglan**: In acting for Ms. Deglan, Mr. Dempsey appears to have anticipated her paying him "under the table". He also kept the balance of money given to him by Ms. Deglan to cover filing fees.

[128] Citing ***Snell v. Farrell***, [1990] 2 S.C.R. 311, the Law Society submits that where it is not clear whether Mr. Dempsey acted in expectation of a benefit, it is open to the Court to infer that a fee was charged since the facts are peculiarly within

2005 BCSC 1277 (CanLII)

his means of knowledge and he has not sought to proffer any contrary evidence. His response to Mr. Berry's question whether he accepts money from his clients – "If they give me something, why not?" – bears witness to his attempt to cultivate uncertainty around his motivations.

2005 BCSC 1277 (CanLII)

[129] In the event that the Court concludes that Mr. Dempsey acted in expectation of benefit in the situations described above, the Law Society submits that he was clearly in breach of s. 15(f), offering to act in a legal capacity. The conclusion that he acted in expectation of a benefit would also support further findings of unauthorized practice as follows:

a. s. 1(a), appearing as counsel or advocate:

   i. **Ms. Parrish**: Mr. Dempsey appeared on behalf of Ms. Parrish on an application for indigent status.

   ii. **Ms. Deglan**: Mr. Dempsey sought audience before the Court on behalf of Ms. Deglan, though his application to do so was denied.

b. s. 1(b), drafting documents for use in court:

   i. **Ms. Parrish**: Mr. Dempsey drafted and filed a writ of summons and statement of claim on Ms. Parrish's behalf on or about October 1, 2004.

   ii. **Ms. Deglan**: Mr. Dempsey drafted a notice of motion, affidavit and Chambers brief on behalf of the Deglans in or about March 2004.

c. s. 1(g), representing qualification to practice law:

   i. **Ms. Parrish**: During an application for indigent status on behalf of Ms. Parrish, Mr. Dempsey represented himself to the presiding Master as a non-practicing lawyer. In response to Ms. Parrish's questioning about this matter, he indicated that he was not a member of the Law Society but that he could still appear in court on her behalf

ii. **Ms. Sheppard**: Mr. Dempsey represented to Ms. Sheppard that he was Ms. Parrish's lawyer and that he was a lawyer from the Philippines.

2005 BCSC 1277 (CanLII)

[130] In response, Mr. Dempsey admits that he is not a legal professional as defined by the ***Legal Profession Act*** but on that basis challenges the applicability of that **Act** as regards him. He further submits that he has always informed all persons that he is not a lawyer licensed to practice in British Columbia and that he may not give legal advice or accept fees for same. Mr. Dempsey also contends that the Law Society has failed to demonstrate that he has engaged in the unauthorized practice of law. The essence of his argument is reflected in paragraph 34 of his submissions:

> In answer to paragraph 1, sub-paragraphs (a) through (g), the Respondent denies that he has appeared as counsel or advocate within the definition of the Legal Profession Act; his appearance in court is made possible pursuant to his fiduciary duty as agent or attorney of all sovereign, flesh and blood men and women with whom he has entered into legal and binding contracts to do all things that these sovereign, flesh and blood men and women can legally do including but not limited to appearing in court as agent or attorney. As sovereign, flesh and blood men and women, these individuals reserves the right to engage the help of another sovereign, flesh and blood man or woman to do all things as long as they do not infringe upon another individual's rights or cause any damage to them.

[131] His responses with respect to the Law Society's allegations regarding the other particularized components of the practice of law are similar.

[132] There is no doubt that Mr. Dempsey has engaged in activities that would constitute the practice of law if performed in expectation of a reward or benefit. In my view, it is also apparent that he is aware of the qualification that he is permitted to engage in those activities without consideration, and has sought to bring himself

2005 BCSC 1277 (CanLII)

within its ambit. His often oblique responses when questioned about fees or payment suggest, however, that he is less than entirely altruistic in providing his services to others. Were he sincere, I would have expected his responses to be rather more direct than “there is no fee ‘but if you win a million dollars you could give me whatever you want, you know, a thank you card or some flowers or whatever.’” Nevertheless, I am not prepared to conclude on the evidence of Mr. Canning that Mr. Dempsey was offering his services in expectation of a reward or benefit.

[133] Ms. Sheppard’s evidence was that Mr. Dempsey had offered to act for her mother in class action proceedings and had advised that they would discuss remuneration at a future point in time. This ultimately never occurred before their relationship ceased. In my view, this suggests an expectation on the part of Mr. Dempsey of a fee or reward for his legal services but it is not such that the proposition is proven.

[134] The most persuasive evidence on this issue is that of Ms. Parrish. For ease of reference, I reproduce her evidence in that regard again:

> 12. I asked Mr. Dempsey during our September 24, 2004 meeting about how he would be paid for his services on my behalf. Initially, Mr. Dempsey told me that he wanted nothing for his efforts, and that he was doing this matter simply “as my friend”. I told Mr. Dempsey at that time that he was not my friend, but rather that he was my lawyer and that I wanted to maintain a lawyer-client relationship with him. I told Mr. Dempsey that I expected a class action of this nature would be a time consuming and expensive matter. I offered him 50% of any proceeds he recovered on my behalf.
>
> 13. Mr. Dempsey told me during our meeting of September 24, 2004, that he would charge only 25% of what was recovered on my behalf as a result of the proceedings he would bring in court, which he said was the same amount as he was charging Mr. Larsen for his

> services on the Brannan Lake case. Mr. Dempsey told me that he would prepare an agreement to that effect for me to sign at a later date. No written agreement concerning Mr. Dempsey's remuneration was given to me prior to my termination of my involvement with Mr. Dempsey.

2005 BCSC 1277 (CanLII)

[135] Accepting Ms. Parrish's evidence as I do, this is an unequivocal articulation by Mr. Dempsey of an expectation of a fee.

[136] I do not consider the miscellaneous benefits Mr. Dempsey received from Ms. Parrish for meals, office supplies and travel expenses to constitute a sufficient benefit for the purposes of the unauthorized practice provisions of the ***Act***. The same applies to the balance of $18.00 that he kept after paying Ms. Deglan's filing fees. Her evidence that a third party told her of a lawyer who could "get paid under the table for his help" is both hearsay and too tenuous to establish expectation of a benefit.

[137] To the extent that Mr. Dempsey has engaged in activities comprising the practice of law for the benefit of Ms. Parrish, I conclude that he is in breach of s. 15(1) of the ***Legal Profession Act***. While hers is the only unequivocal evidence of a breach, I am persuaded that the deliberate obscurity surrounding Mr. Dempsey's treatment of the fee issue, together with his high level of activity in providing legal assistance to others, provide a sound basis for ordering the relief sought by the Law Society. Accordingly, I order that Mr. Dempsey, until such time as he becomes a member in good standing of the Law Society of British Columbia, be permanently prohibited and enjoined from:

a. appearing as counsel or advocate;

b. drawing, revising or settling a document for use in a proceeding, judicial or extra-judicial;

c. drawing, revising or settling a document relating in any way to proceedings under a statute of Canada or British Columbia;

d. doing any act or negotiating in any way for the settlement of, or settling, a claim or demand for damages;

e. giving legal advice;

f. offering to provide to a person the legal services set out in (a) to (e) above; and

g. holding himself out in any way as being qualified or entitled to do anything set out in (a) to (f) above

for or in the expectation of a fee, gain or reward, direct or indirect, from the person for whom the acts are performed.

2005 BCSC 1277 (CanLII)

3. Section 15(5)

[138] Section 15(1) of the ***Act*** provides that "no person, other than a practising lawyer, is permitted to engage in the practice of law, except … a person who is an individual party to a proceeding acting without counsel solely on his or her own behalf." Section 15(5) reads:

> Except as permitted in subsection (1), a person must not commence, prosecute or defend a proceeding in any court, in the person's own name or in the name of another person.

[139] Citing ***Yal v. British Columbia (Minister of Forests)***, 2004 BCSC 1253, the Law Society submits that read together, these two sections prohibit an individual from commencing, prosecuting or defending any action that is not solely on his own behalf. While the ***Yal*** decision did not address the issue of whether s. 15(5) is breached where no fee has been charged, the Law Society submits that various principles of statutory interpretation support its position that it is.

2005 BCSC 1277 (CanLII)

[140] Briefly, the Law Society submits that the statutory presumption that every word in a legislative enactment is meaningful leads to the conclusion that "commencing, prosecuting or defending" would not be set out separately in s. 15(5) unless those activities were considered to be different from those constituting the "practice of law". It says that commencing, prosecuting and defending are broader activities that move a proceeding actively towards resolution, whereas those prohibited by s. 15(1) are lesser ones that do not necessarily have such consequences.

[141] The Law Society cites ***R. v. Nixon et al.***, [1990] N.J. No. 438 (Nfld. S.C.) in support of this proposition. There, the Court analyzed the interrelationship between two subsections of s. 85(1) of the Newfoundland ***Law Society Act***:

> No person shall, unless he is a member in good standing of the Society,
>
> (a) practice or act as a barrister or as a solicitor;
>
> (b) act as a barrister or solicitor in any court;
>
> (c) commence, carry on or defend an action or proceeding before a court or judge on behalf of any other person.

[142] The Court noted that since the activities governed by subsections (b) and (c) were set out in separate paragraphs, it was presumed they were not identical. It went on to conclude that "commence, carry on or defend" related more to the preparation and filing of pleadings and documentation than to physical appearance in a courtroom for the purposes of arguing a matter.

[143] The Law Society submits that the ***Legal Profession Act*** prohibits the lesser activities set out in s. 15(1) and s. 1(a) – (g) only where performed for another in expectation of a fee while the more significant actions of commencing, prosecuting or defending a proceeding may not be performed for another irrespective of any fee.

[144] Secondly, the Law Society submits that since s. 15(5) addresses certain activities comprising the practice of law in a more detailed fashion, its more specific treatment prevails over s. 15(1) which governs unauthorized practice more generally. Since s. 15(5) does not refer to a fee or benefit, that matter is immaterial with respect to the commencing, prosecuting and defending of proceedings. The Law Society analogizes in this regard with the s. 15(4) prohibition on misrepresenting oneself as a lawyer which, while also compassed by s. 1(g), is clearly breached regardless of consideration.

[145] Finally, the Law Society submits that unauthorized practice legislation attracts a liberal and purposive construction since its primary objective is protection of the public. An interpretation of s. 15(5) that required consideration would narrow its scope and render it less effective in promoting that objective.

[146] Assuming the foregoing to be a correct interpretation of s. 15(5), the Law Society submits that the record is clear that Mr. Dempsey has commenced, prosecuted and defended legal proceedings with and on behalf of others on many occasions in contravention of that section. Accordingly, it seeks an injunction in the following terms:

2005 BCSC 1277 (CanLII)

> The Respondent, until such time as he becomes a member in good standing of the Law Society of British Columbia, be prohibited and enjoined from commencing, prosecuting, or defending a proceeding in any court, in his own name or in the name of another, whether or not such conduct occurs in expectation of a fee, gain or reward, direct or indirect, from the person for whom the acts are performed.

2005 BCSC 1277 (CanLII)

[147] Mr. Dempsey made no submissions regarding this issue other than to characterize the proposed order as an arrogant and illegal attempt by the Law Society to "overthrow…the Respondent's rights, and the rights of the people who he represents as attorney, whether or not such conduct of the respondent occurs in the expectations of gains or rewards".

[148] Section 15(5) is a relatively recent provision that has not been the subject of much judicial consideration. The Law Society's submissions largely focussed on whether that provision was breached in circumstances where there was no consideration. It is my view that nothing in s. 15(5) involves acting on another's behalf, and that the issue of consideration therefore does not arise.

[149] Section 15(1) permits a non-lawyer who is an individual party to a proceeding to act "on his or her own behalf". Section 15(5) prohibits a non-lawyer from engaging in the enumerated conduct "in the person's own name or in the name of another person", except as permitted by s. 15(1). "On behalf of" and "in the name of" are not synonymous terms. Commencing a proceeding on behalf of another, for example, is distinct from commencing one in the name of another. The latter circumstance most commonly arises in the context of subrogated claims, and representative and class actions.

[150] It was in the context of representative proceedings that this Court considered s. 15(5) in ***Yal***, supra. In five separate representative actions, the plaintiffs, who were hereditary chiefs representing the Gitxsan nation, sued various defendants in connection with claims regarding their land and resources. Jack Cram, a former practitioner, was representing the plaintiffs. One of the defendants sought a stay until the plaintiffs appointed a practicing lawyer to represent them, submitting that s. 15 was a bar to the proceedings since it prohibited the commencement of representative proceedings by an individual who was not a practicing lawyer.

2005 BCSC 1277 (CanLII)

[151] In considering the interplay of ss. 15(1) and (5), Halfyard J. wrote as follows at paras. 46 – 48:

> I think the object of s. 15 of the ***Legal Profession Act*** is to prevent the practice of law by persons other than lawyers who are authorized to practice law by the Law Society, with certain exceptions. One of the exceptions is "…an individual party to a proceeding acting without counsel solely on his or her own behalf."
>
> In my opinion, the plain and ordinary meaning of s. 15(1)(a) is that an individual party to a proceeding "is permitted to engage in the practice of law", insofar as that is necessary to act for himself or herself in the proceeding (i.e., without counsel).
>
> In my view, it is a plain meaning of s. 15(5) that an individual party who is acting for himself for herself in a proceeding can commence, prosecute or defend that proceeding, on his or her own behalf, but cannot do any of those things on behalf of any other party to the same proceeding. I would add that the words "a person" in s. 15(5) includes both parties and non-parties to litigation.

[152] He then queried whether, in a proceeding where multiple plaintiffs were acting without counsel, one of them (or a non-party) could act on behalf of them all with the consent of the rest. Halfyard J. noted the ambiguity in the definition of "practice of

law" with reference to s. 15(1)(a), namely, that it was not clear whether a self-represented individual party was exempted from the prohibition against the practice of law because he or she fell within the s. 15(1)(a) exemption or because he or she was clearly not being paid as is required in order for conduct to constitute the practice of law. He then continued at paras. 52 – 53:

> I see no need to further pursue this apparent anomaly, because regardless of the answer, the fact remains that only "an individual party … acting without counsel solely on his or her own behalf" is exempted from the prohibition. A self-represented plaintiff who wanted to also act for one or more individual plaintiffs (even with their consent) would appear to be precluded from doing so by s. 15(5).
>
> The third issue is whether the plain meaning of the statute is inconsistent with the object of the ***Act***. If I am right, then the combined effect of s. 15(1)(a) and s. 15(5) is to enable individuals who are parties to proceedings to act on their own behalf, but to prevent them from acting on behalf of any other co-party to the proceeding. It is reasonable to infer that this effect is also one of the purposes of the legislation. If so, then there is no conflict between the object of the statute and the plain meaning of the words in question.

[153] Halfyard J. held that in circumstances where a party wished a non-lawyer to act for him or her, the non-lawyer could apply to the court for leave to appear, as the Court's discretion to grant such leave was not extinguished by the enactment of s. 15(5). That same discretion, he held, extended to a non-lawyer seeking to act on behalf of a group of plaintiffs.

[154] I agree with Halfyard J.'s interpretation of the legislation to the extent that it concerns parties to the proceedings. However, he speaks of acting "on behalf of" others in his analysis of s. 15(5), which has the effect of extending the ambit of the provision to non-parties, such as to Mr. Cram in the case before him. With respect, I

2005 BCSC 1277 (CanLII)

interpret the provision more narrowly since it refers to acting “in the name of” other persons. This restricts the scope of s. 15(5) to parties, not to those who seek to act on their behalf. On either interpretation, it is open to an individual who is not a practising lawyer to seek privilege of audience in a representative or class action. The issue of consideration, though, does not arise when s. 15(5) is interpreted narrowly since the combined effect of that section with s. 15(1) is to permit non-lawyers to act solely as individual parties to proceedings in their own name and on their own behalf.

2005 BCSC 1277 (CanLII)

[155] I note that the legislation at issue in ***R. v. Nixon***, supra, prohibited a non-lawyer from commencing, carrying on or defending a proceeding “on behalf of” any other person. To that extent, it does not address the point at issue here.

[156] In terms of its application to Mr. Dempsey, s. 15(5) has the effect of prohibiting him from personally commencing, prosecuting or defending any proceeding in which he is anything other than an individual party acting solely in his own name and on his own behalf. He is thus in breach of s. 15(5) as a representative party in at least two class actions, ***Dempsey on Behalf of the People of Canada v. Envision Credit Union et al.*** (Action No. S91786) and ***Lovey Cridge and John Ruiz Dempsey on Behalf of the People of Canada v. Her Majesty The Queen in Right of Canada, et al.*** (Action No. L91905). To the extent that Mr. Dempsey purports to act as agent on behalf of others, s. 15(5) is not engaged.

2005 BCSC 1277 (CanLII)

[157] Consistent with s. 15(5), I order that Mr. Dempsey, until such time as he becomes a member in good standing of the Law Society, is prohibited and enjoined from commencing, prosecuting or defending a proceeding in any court in his own name or in the name of another, except where he is an individual party to a proceeding acting solely on his own behalf. The effect of this order is that Mr. Dempsey is prohibited from acting as a representative party in a representative or class action.

C. Section 18 of the Supreme Court Act

[158] Since injunctive relief under the ***Legal Profession Act*** will not constrain the ability of Mr. Dempsey to institute proceedings on his own behalf, the Law Society seeks an order declaring him a vexatious litigant pursuant to s. 18 of the ***Supreme Court Act*** and enjoining him from continuing or commencing any legal proceeding on his own behalf in any court in British Columbia without leave of the Court.

[159] Section 18 of the ***Supreme Court Act*** provides as follows:

> If, on application by any person, the court is satisfied that a person has habitually, persistently and without reasonable grounds, instituted vexatious legal proceedings in the Supreme Court or in the Provincial Court against the same or different persons, the court may, after hearing that person or given him or her an opportunity to be heard, order that a legal proceeding must not, without leave of the court, be instituted by that person in any court.

[160] The principles that guide the exercise of the Court's discretion on such an application were discussed in ***Lang Michener Lash Johnston v. Fabian*** (1987), 59 O.R. (2d) 353 at para. 20 (Ont. H.C):

a. the bringing of one or more actions to determine an issue which has already been determined by a Court of competent jurisdiction constitutes a vexatious proceeding;

b. where it is obvious that an action cannot succeed, or if the action would lead to no possible good, or if no reasonable person can reasonably expect to obtain relief, the action is vexatious;

c. vexatious actions include those brought for an improper purpose, including the harassment and oppression of other parties by multifarious proceedings brought for purposes other than the assertion of legitimate rights;

d. it is a general characteristic of vexatious proceedings that grounds and issues raised tend to be rolled forward into subsequent actions and repeated and supplemented, often with actions brought against the lawyers who have acted for or against the litigant in earlier proceedings;

e. in determining whether proceedings are vexatious, the Court must look at the whole history of the matter and not just whether there was originally a good cause of action;

f. the failure of the person instituting the proceedings to pay the costs of unsuccessful proceedings is one factor to be considered in determining whether proceedings are vexatious;

g. the respondent’s conduct in persistently taking unsuccessful appeals from judicial decisions can be considered vexatious conduct of legal proceedings.

[161] These principles have been regularly cited with approval in this province, including by the Court of Appeal in ***Dempsey v. Casey***, 2004 BCCA 395.

[162] I have concluded following a review of the evidence that an order pursuant to s. 18 of the ***Supreme Court Act*** is warranted in the present circumstances. While the Law Society in its submissions on this issue referred to the ***Gravlin and Darmantchev v. CIBC et al.*** proceedings, I have considered only those proceedings in which Mr. Dempsey has been a litigant in arriving at that conclusion.

2005 BCSC 1277 (CanLII)

2005 BCSC 1277 (CanLII)

[163] Mr. Dempsey was declared a vexatious litigant by Loo J. with respect to proceedings concerning the Surrey property. In making that order, she stated that Mr. Dempsey was attempting to re-litigate matters that had already been determined and, further, was advancing claims that disclosed no reasonable cause of action. Exhibiting another characteristic of a vexatious litigant, Mr. Dempsey then sought, unsuccessfully, to appeal her order. On further appeal, the Court of Appeal noted:

> One of the hallmarks of vexatious litigation is the repetition of the same or similar claims in respect of the same subject matter in multiple proceedings against the same defendants or those associated with them. A review of the pleadings shows that to be the case with the three actions Mr. Dempsey has brought. In our view, Mr. Justice Thackray was correct in concluding that an appeal of Madam Justice Loo's order under s. 18 of the ***Supreme Court Act*** was without merit.

[164] Much of Mr. Dempsey's obvious frustration with the outcomes of those various related proceedings may have stemmed from the fact that his original action (No. S053423) was dismissed on jurisdictional grounds. That his claims were not considered on their merits may have been a factor in prompting him to roll them forward into subsequent actions and in tenaciously appealing every unfavourable decision in the hopes that at some point the substance of his claims would be addressed. While certainly not an invitation to advance meritless claims indiscriminately, I would have considered it relevant in assessing whether the broader vexatious litigant order now being sought was warranted if his conduct was limited to that particular set of proceedings. That, however, is not the case.

[165] The same pattern of multiple actions and appeals was evident in the separate set of proceedings arising from First Heritage Delta Credit Union's petition against

Mr. Dempsey for mortgage default. He appealed the order nisi and order for conduct of sale of his property multiple times, and again initiated multiple spin-off actions, this time against the credit union, the appraiser of the property and its eventual purchasers. The thrust of the allegations was that the credit union unlawfully transferred funds from Mr. Dempsey's account and converted those funds for its own use despite his objections. It then breached and repudiated the mortgage contract by refusing to renew the mortgage prior to its due date, which made performance by Mr. Dempsey impossible and led to the foreclosure action. He alleges that the credit union conspired with the appraisers to procure a bogus appraisal for the purpose of deceiving the court and obtaining a short redemption period and quick sale through a "sham foreclosure proceeding". The eventual purchasers of the property are alleged to have intentionally interfered with Mr. Dempsey's contractual obligations with other potential purchasers.

[166] Mr. Dempsey has also initiated various other actions as set out earlier in these Reasons, though most appear to have been discontinued or remain dormant. The most recent was his November 2004 action against Mr. Berry, the Province, Canwest Global Communications and Ms. Parrish alleging defamation and unjust enrichment, and seeking aggravated damages arising from Mr. Berry's article, "Client discovers man representing her 'is not a lawyer'". Whatever the merits of the claims, his identification of Ms. Parrish in the statement of claim as a "self-admitted 'neurotic', a welfare recipient and long time ward of the state" reveals a certain meanness of spirit. While an obvious attempt to discredit Ms. Parrish, an individual for whom he had acted until just the month before, it is also indicative of the level of

2005 BCSC 1277 (CanLII)

outrage Mr. Dempsey feels when he considers himself to have been aggrieved. That outrage, in turn, fuels his litigious tendencies.

[167] A proceeding in which Mr. Dempsey was the defendant provides further examples of his litigiousness. The Canada Trust Company instituted an action against Mr. Dempsey in November 1999 (S056950, New Westminster Registry) for credit card and loan default, and was successful in obtaining judgment. Although Mr. Dempsey had mixed success over the years in his multiple applications to have garnishing orders set aside, he appealed those in which he was not. The grounds of appeal are revealing. A January 2005 notice of appeal from a registrar's order denying Mr. Dempsey's application to have the trust company's garnishing orders set aside lists ten grounds of appeal. While many alleged that the Registrar either considered irrelevant matters or failed to consider relevant ones, the last three are as follows:

> 8. The registrar deliberately and knowingly ignored the facts that the garnishment proceedings have caused undue hardship on the defendant and his family.
>
> 9. The registrar further ignored the fact that the Plaintiff's solicitor has a personal grudge against the defendant and that the solicitor is not making the garnishments in good faith but rather the solicitor doing [sic] his best to harm the defendant financially.
>
> 10. The registrar is not a lawyer and therefore does not understand that the rules of equity must prevail in this situation. The registrar's order was in effect inequitable.

[168] Mr. Dempsey was unsuccessful on an application for an injunction to prevent Canada Trust Company from filing applications for garnishment. In May 2004, he

2005 BCSC 1277 (CanLII)

filed a third party notice against Pacific Process Servers and Daryl Riva, alleging that the latter had wilfully and deliberately committed perjury and fraud upon the court by swearing an affidavit that he had served Mr. Dempsey with various court documents when that had allegedly not occurred.

[169] Ryan J.A. described Mr. Dempsey's pattern of litigation in the following terms in ***Ancheta v. Joe***, 2005 BCCA 232:

> Counsel for College Printers has provided me with a detailed list of other actions in which Mr. Dempsey is a litigant. I will not rehearse them here. It is enough to say that the actions are many in number and display the same characteristic as Mr. Acheta's litigation - unsuccessful grounds and issues from one proceeding seem to be rolled forward and expanded in different ways into subsequent proceedings.

[170] The proceedings instituted by Mr. Dempsey over the years have been decided against him, discontinued or left dormant. The defendants, nevertheless, have been put to significant financial expense, not to mention emotional toll, in defending themselves. To the extent that some of the financial expense could be offset by the costs assessments that are routinely awarded against Mr. Dempsey, he has not been forthcoming in paying. For example, he has yet to pay the majority of the costs assessed against him in certain of the proceedings regarding the Surrey property.

[171] Mr. Dempsey's particular brand of litigation also has consequences for participants in the process whom he considers opposed in interest. Unfavourable decisions lead to attacks on the integrity of the decision maker (i.e., filing a complaint against Loo J. with the Judicial Council) and to actions against opposing counsel

2005 BCSC 1277 (CanLII)

viciously attacking their professional integrity. In the case of Ms. Casey, counsel for the Pearts in the proceedings regarding the Surrey property, he went so far as to file a complaint against her with the RCMP.

[172] It is somewhat ironic that Mr. Dempsey, who exhibits a fair degree of disdain for the judicial process in this country, is so quick to turn to the courts whenever he perceives himself to have been wronged. Nevertheless, he does so with alacrity and to permit to him to continue unchecked will not only impose unnecessary burdens on the unfortunate defendants of his many actions, but will also reduce access to the courts for litigants with legitimate claims.

[173] Mr. Dempsey's pattern of conduct exhibits many of the characteristics of a vexatious litigant identified in ***Lang Michener Lash Johnson v. Fabian***, supra. I am therefore satisfied that an order under s. 18 of the ***Supreme Court Act*** is appropriate: Mr. Dempsey is prohibited and enjoined from commencing any legal proceeding on his own behalf in any court in British Columbia without leave of the court.

[174] I emphasize that nothing in this order denies Mr. Dempsey access to the judicial system. He remains fully entitled to bring legitimate claims to the courts for determination once he has demonstrated to a chambers judge that they are reasonably founded.

2005 BCSC 1277 (CanLII)

D. Inherent Jurisdiction of the Court

[175] The Law Society submits that injunctive relief and a vexatious litigant order, even if both are ordered, have significant shortcomings in limiting Mr. Dempsey's conduct. They will not prevent him from engaging in conduct otherwise defined as the "practice of law" where he does so without expectation of a fee, nor will they limit his interaction with vulnerable litigants. To this end, it seeks two further orders pursuant to the Court's inherent supervisory jurisdiction as follows:

> 1. The Respondent be required to inform members of the public and members of the legal profession with whom he comes into contact in relation to legal matters that
>
>   a. he is not a barrister and solicitor licensed to practice law in the British Columbia or any other jurisdiction, including the Philippines;
>
>   b. he has received no legal training in Canada;
>
>   c. he is not permitted to receive a fee, donation, or benefit of any kind, direct or indirect, for legal services; and
>
>   d. he is compelled by court order to make such disclosure.
>
> 2. The Respondent be required to inform the Law Society of British Columbia of any proceeding or legal matter in which he is involved in any manner whatsoever.

[176] The Law Society submits that the first order would permit members of the public to make informed and reasoned judgments as to whether they wished involvement with Mr. Dempsey. Smith J. made an order of this nature in ***Law Society of British Columbia v. Kempo*** (Action No. A960675, Vancouver Registry,

2005 BCSC 1277 (CanLII)

June 1996). Mr. Dempsey replies that the Law Society has "no legal standing in law" to request an order of this nature. However, he indicates that he is prepared to accept these terms since he does not wish to be identified as a lawyer and does not provide services in the expectation of gain or reward.

2005 BCSC 1277 (CanLII)

[177] The Law Society submits that the second order it seeks would permit it to intervene on a case by case basis and alert the Court to Mr. Dempsey's status and history if necessary. Mr. Dempsey's takes the position that the Law Society lacks standing to compel him to do so in the absence of any contract or binding agreement between them.

[178] This Court has broad authority pursuant to its inherent jurisdiction to control its own process and to ensure that that process is not abused in any way. This jurisdiction embraces the power to ensure convenience and fairness in legal proceedings, to prevent conduct that would render judicial proceedings ineffective, and preventing abuse of the court's process: ***MacMillan Bloedel Ltd. v. Simpson***, [1995] 4 S.C.R. 725 at para. 33. Some of the more specific considerations which bear upon the exercise of this jurisdiction were addressed in ***Fast Trac Bobcat***, supra, and include the protection of the public, the maintenance of standards of conduct before the court and towards those opposed in interest, and the impracticality of addressing these matters in any other meaningful way.

[179] Mr. Dempsey, despite his claims to have had legal education, is very clearly not competent in matters of law. It is not necessary to look beyond his response to this petition to appreciate the extent to which this is the case. The "Constructive

Notice of Child of God Status" is an unorthodox document which purports to assert a status not known in Canadian law. The proposition that no person, presumably including this Court and the Law Society, can assert authority over Mr. Dempsey unless they are able to establish that they are God or provide verifiable proof of God's signature is a novel one, indeed. His penchant for unilaterally imposing deeming provisions as reflected in the Jurisdictional Challenge delivered to the Law Society displays a profound lack of understanding of the most basic legal principles. The "Notice of Acceptance of Oath of Office" speaks for itself.

2005 BCSC 1277 (CanLII)

[180] Rather than a focused and reasoned response to the Law Society's arguments on this petition, the submissions prepared by Mr. Dempsey were largely an *ad hominem* attack on the legal profession and the Law Society that was, in many places, blatantly offensive. Suggesting "perhaps we should add in [the Law Society's] list of relief sought to arrest and incarcerate the Respondent and others like him in order to get it over and done with. Set up some concentration camps just like the ones by Dachau and Buchenwald, complete with gas chambers to finalize the elimination process" is neither an appropriate nor persuasive submission.

[181] Were Mr. Dempsey the sole victim of his lack of competence, my concerns would be rather more muted, particularly since the vexatious litigant order severely restricts his ability to appear in court on his own behalf in the absence of a legitimate claim. That others entrust their legal affairs to Mr. Dempsey is the far greater problem here.

[182] Mr. Ancheta is a prominent example. The petition for judicial review of Mr. Ready's decision (***Ancheta v. Joe***, 2003 BCSC 529), for instance, named respondents who were not proper parties. Lowry J. wrote that "upon this being explained to Mr. Ancheta, he (through his agent Mr. Dempsey) accepted that the petition should be dismissed against them [para. 16]." He continued at para. 17 that "Much of what Mr. Ancheta contends now as the basis for judicial review could not be advanced on the petition as drawn." He was also critical of the case advanced for Mr. Ancheta as ignoring the administrative process. Instead of properly directing the submissions to the Labour Relations Board decision denying the application to set aside Mr. Ready's decision, "much of what is argued is raised now for the first time in an effort to establish that the arbitrator's decision is to be set aside. That raises a difficulty for Mr. Ancheta that in my view, cannot be overcome. [para. 18]" The petition was ultimately dismissed and costs were awarded against Mr. Ancheta. Leaving aside Mr. Dempsey's litigious style, it is evident that he lacks the ability to properly frame and advance the many proceedings that he pursues.

[183] Mr. Ancheta appealed Lowry J.'s decision and then sought to expand the grounds of appeal to allege, *inter alia,* that the review policy and decisions of the arbitrator and the Labour Relations Board infringed no less than eight different sections of the ***Charter***, including, rather curiously, those dealing with mobility rights and cruel and unusual punishment. Low J.A. described the amendment application as "doomed to fail and ill-advised," and dismissed it for lack of merit. In the context of this set of proceedings, Mr. Ancheta filed a manifestly improper and invalid lien against Mr. Ready. As noted by Ryan J.A., the costs awarded against Mr. Ancheta

2005 BCSC 1277 (CanLII)

for his many unsuccessful hearings has had serious financial consequences for him in the form of a “formidable list of judgments” being registered against his properties. Mr. Ancheta’s interests have been ill-served by Mr. Dempsey’s representation.

2005 BCSC 1277 (CanLII)

[184] Ms. Parrish and Ms. Deglan also provided evidence with respect to deficiencies in materials prepared by Mr. Dempsey.

[185] Garson J. was critical of Mr. Dempsey’s abilities in ***Gravlin and Darmantchev v. CIBC***, supra. Passages from her judgment were set out earlier in these Reasons and need not be repeated. I simply observe her comments that the pleadings before her that had been prepared by Mr. Dempsey “cry out for professional advice and guidance”, the claims as pled were “unintelligible, and that they “demonstrate that Mr. Dempsey is not capable of drawing proper pleadings.” The many other pleadings drafted by Mr. Dempsey that are before me on this petition simply reinforce the accuracy of Garson J.’s words.

[186] Beyond his legal competency, Mr. Dempsey’s approach to litigation is also a serious concern. Many of the factors that I relied upon in concluding that a s. 18 vexatious litigant order was warranted also manifested in proceedings in which Mr. Dempsey has been involved as agent. Mr. Ancheta’s stream of litigation was characterized by multiple actions against a broad range of defendants arising from the same incident, none of which was successful. The Courts were critical of the course of the proceedings, Newbury J.A., for example, describing it as “a prolonged claim advanced by a misguided litigant”. Some of those actions were brought

against counsel, including counsel who had formerly acted on Mr. Ancheta's behalf. He also persistently appealed decisions, again with no success.

[187] Notwithstanding my grave concerns with respect to the difficulties and hardships that Mr. Dempsey's involvement has visited upon those on whose behalf he acts, I am not persuaded that the orders that the Law Society seeks will necessarily be successful in addressing those concerns.

[188] The proposed order that Mr. Dempsey advise the public of his limitations as to the practice of law is problematic from the perspectives of both effectiveness and enforceability. The fact that he is quite willing to accede to its terms is perhaps one indicator of its limited potential to be effective. As noted earlier, he indicates that he has no wish to be identified as a lawyer, either in Canada or the Philippines, and that he does not receive consideration for his legal services in any event. A certain constituency to which he seems to appeal is likely drawn to him precisely because he is a maverick and not a member of the Law Society. Moreover, the mischief Mr. Dempsey is able to cause is limited by other orders that have been made.

[189] Enforceability is another concern. As the Law Society submits, an order of this nature was made in ***Law Society of British Columbia v. Kempo***, supra. The problem of its enforceability, however, was apparent when Mr. Kempo later sought audience before Henderson J. in ***Avance Venture Corporation et al. v. Norham Relations Group Corporation***, [2002] B.C.J. No. 2864. Not only had he omitted to advise opposing counsel of the restrictions on his ability to practice law as required by that order, but he had appeared in court on at least two dozen occasions, leading

2005 BCSC 1277 (CanLII)

Henderson J. to infer that he had failed to disclose the order on numerous occasions. This would suggest that the general enforceability of such an order is problematic.

2005 BCSC 1277 (CanLII)

[190] Accordingly, I decline to make that order.

[191] The second proposed order that Mr. Dempsey advise the Law Society of “any proceedings that may be brought before any court in British Columbia in which he has any involvement whatsoever” is very broad in its scope. Requiring him to advise the Law Society of any “proceedings that *may* be brought…in which he has *any* involvement *whatsoever*” captures a wide range of conduct, including a meeting to discuss a potential claim.

[192] The necessity of this order is also somewhat diminished by the fact that this Court has increasingly come to recognize on its own volition that Mr. Dempsey is not a suitable agent, as reflected in its refusal on at least three recent occasions to grant him privilege of audience: ***Gravlin and Darmantchev v. CIBC***, ***CIBC v. Deglan*** and ***Diners Club v. Nevlud***. I am confident that the experience that befell Mr. Ancheta would not occur now. However, to better ensure that Mr. Dempsey’s full circumstances will be before the Court on future applications for audience, I am prepared to order that he inform the Law Society of any proceedings presently instituted or which may be instituted in any court in British Columbia in which he seeks to apply for privilege of audience. This will permit the Law Society to intervene where it deems it necessary to ensure that the public interest is protected.

[193] As a result of this petition, Mr. Dempsey is prohibited from holding himself out as a lawyer, from engaging in the unauthorized practice of law, and from acting as a party to class actions. He is also not permitted to institute proceedings on his own behalf without leave of the Court. The Court has increasingly limited his ability to appear before it as agent by denying his recent applications for audience. The requirement that he inform the Law Society of any proceedings in which he seeks to apply for privilege of audience will ensure that his complete circumstances will be before the Court on any future such applications. Despite these extensive restrictions, there remains scope for Mr. Dempsey to provide incompetent legal advice and services to those who are not minded by the fact that he is not a member of the Law Society. While troubling, there may simply not be a solution that is both practical and enforceable that will address this situation.

E. Summary of Orders

[194] I make the following orders:

i. Until such time as he becomes a member in good standing of the Law Society of British Columbia, John Ruiz Dempsey is permanently prohibited and enjoined from holding himself out as a lawyer, practicing or non-practicing, or as a member of the Law Society of British Columbia.

ii. Until such time as he becomes a member in good standing of the Law Society of British Columbia, John Ruiz Dempsey is permanently prohibited and enjoined from:

   a. appearing as counsel or advocate;

   b. drawing, revising or settling a document for use in a proceeding, judicial or extra-judicial;

2005 BCSC 1277 (CanLII)

c. drawing, revising or settling a document relating in any way to proceedings under a statute of Canada or British Columbia;

d. doing any act or negotiating in any way for the settlement of, or settling, a claim or demand for damages;

e. giving legal advice;

f. offering to provide to a person the legal services set out in (a) to (e) above; and

g. holding himself out in any way as being qualified or entitled to do anything set out in (a) to (f) above

for or in the expectation of a fee, gain or reward, direct or indirect, from the person for whom the acts are performed.

iii. Until such time as he becomes a member in good standing of the Law Society of British Columbia, John Ruiz Dempsey is permanently prohibited and enjoined from commencing, prosecuting or defending a proceeding in any court in his own name or in the name of another, except where he is an individual party to a proceeding acting solely on his own behalf.

iv. John Ruiz Dempsey is declared a vexatious litigant pursuant to s. 18 of the ***Supreme Court Act***. Accordingly, he is prohibited and enjoined from commencing any legal proceeding on his own behalf in any court in British Columbia without leave of the court.

v. John Ruiz Dempsey is required to inform the Law Society of British Columbia of any proceedings presently instituted or which may be instituted in any court in British Columbia in which he seeks to apply for privilege of audience.

[195] The Law Society shall be awarded costs on this petition.

"J. Williams, J."
The Honourable Mr. Justice J. Williams

2005 BCSC 1277 (CanLII)