IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Lover-Peace v. Moosavi,*
2025 BCSC 515

Date: 20250321
Docket: S240369
Registry: Vancouver

Between:

Dr. Rose Lover-Peace

Plaintiff

And

Dr. Mandana Moosavi

Defendant

Before: The Honourable Justice Dion

Reasons for Judgment

Appearing in person:	R. Lover-Peace
Counsel for the Defendant:	J.D. Antifaev J. Friesen-Kehler, Articled Student
Place and Date of Hearing:	New Westminster, B.C. November 29, 2024
Place and Date of Judgment:	Vancouver, B.C. March 21, 2025

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Introduction

[1] In this application, Dr. Rose Lover-Peace (the "Plaintiff") seeks summary judgment of his claim against Dr. Mandana Moosavi (the "Defendant") for the tort of malicious prosecution under Rule 9-6 of the *Supreme Court Civil Rules* (the "*Rules*"). The Plaintiff's underlying action arises as a result of his being arrested, spending time in custody and having gone through criminal proceedings which were ultimately stayed.

[2] The Defendant opposes the application and argues that the Plaintiff's claim fails to disclose a reasonable cause of action and is an abuse of the process of the court. She seeks to have the underlying action dismissed, with costs, and to dispense with the requirement for the Plaintiff's signature.

Background

[3] I note at the outset that much of the Plaintiff's affidavit consists of inadmissible argument, legal argument or speculation, including his accusations of malice: Rule 22-2(12); *Cretu v. Cretu*, 2022 BCSC 305 at paras. 13-16. I acknowledge that, unlike in *Cretu*, the Plaintiff in the case at bar is a self-represented litigant. His status as a self-represented litigant is not, however, a licence to conduct himself as he sees fit or without regard to the *Rules*: *Leger v. Metro Vancouver YWCA,* 2013 BCSC 2021 at para. 77.

[4] According to the Plaintiff's notice of civil claim and affidavit evidence:

a. The Plaintiff attended a medical appointment with the Defendant in November 2020 by Telemedicine, with another physician present. This consult was the Defendant's sole medical attendance with the Plaintiff.

b. The Plaintiff terminated the physician-patient relationship due to his perception that an error had been made regarding a prescription.

c. On January 27, 2021, the Defendant wrote a letter to the referring physician that "unfortunately due to this patient's interactions with myself and office staff, our therapeutic relationship has been compromised. I am

no longer able to provide care for him and patient has also expressed he no longer needs my assistance and advice."

d. On January 28, 2021, the Plaintiff emailed the Defendant's medical clinic, addressing his email to the Defendant, and wrote, among other things, that:

i. The Plaintiff yelled at clinic staff, for which he apologized;

ii. "The whole truth is that I love you platonically for the rest of my life. I am deeply feeling that your heartbeats and breaths between my ribs… please try not to blame me that God plants your love in my soul and heart forever…"; and

iii. "Because I love you too much Mandana, and because we never met in person before, I was to share these are my recent photo and my beloved wife photo who was assassinated with my son 8 years ago in 2005 in Baghdad, Iraq. My beloved wife is my spirit forever."

[5] The Plaintiff published YouTube videos and numerous WebMD posts regarding the Defendant, including between April 18, 2021 and October 21, 2021. The Plaintiff's publications regarding the Defendant included her personal health conditions, and uploading her photograph to a very personal YouTube video he made about her. The Plaintiff says that the Defendant never complained to him about the videos.

[6] On October 8, 2021, the Plaintiff offered to donate his pancreas to the Defendant, saying to her in an email that "her life is trillions of times more valuable than my life", as well as offering her "all of my body organs", including his heart, eyes, kidney's, liver, spleen and lungs. He also said that "Dr. Mandana Moosavi is my soul and heart forever!... Now, right now, I will award my heart to you, Dr. Mandana, you may do not know what you are to me (you are my breath and my every heartbeat)".

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[7] The Plaintiff purchased flowers and had a florist deliver them to the Defendant's clinic twice. The first time in September 2021 and the second on October 21, 2021. The Plaintiff says the flowers sent in September were not a personal gift to the Defendant, rather, they were a show of appreciation on behalf of all the Defendant's clinic patients. He says that the flowers sent in October were a show of sympathy for the Defendant's health issue. After attempting to make the delivery of the flowers in October, the florist advised the Plaintiff that the Defendant was "slightly upset and did not accept the flowers". The florist also told the Plaintiff that Dr. Moosavi did not want any further flowers delivered to her from the Plaintiff, nor did she not want any further contact with him.

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[8] After being advised by the florist of the Defendant's wishes, the Plaintiff emailed her office advising her that he would not send any more flowers or email her office again.

[9] On October 24, 2021, the Defendant contacted the police regarding what she described as the Plaintiff's ongoing harassment and stalking behaviour, which made her fearful for her life as she saw the behaviour escalating. She advised the police she would be satisfied with the police warning the Plaintiff to cease all contact. On October 25, 2021, the Police contacted the Plaintiff and warned him not to contact the Defendant again.

[10] On December 7, 2021, it appears that police initially charged the Plaintiff with criminal harassment pursuant to section 264 of the *Criminal Code*, R.S.C. 1985, c. C-46.

[11] However, on January 12, 2022, an information was laid against the Plaintiff as a section 810 peace bond allegation.

[12] On February 19, 2022, the Plaintiff was arrested. He spent over four days in custody. The Plaintiff's evidence is that one of his terms of release was to have no contact with the Defendant.

[13] On July 15, 2022, the peace bond proceeding was stayed in North Vancouver Provincial Court. Crown Counsel was of the view that, since the Plaintiff had not had any further contact with the Defendant since October 21, 2021, it was not in the public interest to pursue the matter.

Analysis

Summary Judgment

[14] Applications for summary judgment are governed by Rule 9-6.

[15] The Defendant submits that in order for the Plaintiff to be successful under Rule 9-6, he must establish that there is no triable issue. If there is doubt as to whether or not there is a triable issue, the application should be dismissed: *McLean v. Law Society of British Columbia*, 2015 BCSC 661 at para. 11, citing *Progressive Construction Ltd v. Newton*, [1980], B.C.J. No, 2122 (S.C.) at paras. 11-14.

[16] When brought by a plaintiff, as in this case, an application for summary judgment allows for judgment to be given where the court is satisfied that the defendant has raised no genuine issue in its defence. This conclusion can be reached after considering undisputed evidence: *Oh v. Coquitlam (City)*, 2018 BCCA 129 [*Oh*] at para. 6.

[17] That being said, where a plaintiff brings an application for summary judgment under Rule 9-6, the defendant may respond by alleging that the plaintiff's originating pleading does not raise a cause of action, in which case the court may dismiss the plaintiff's action: *Oh* at para. 7.

[18] In that respect, the Defendant points to the comments of our Court of Appeal in *Sakwi Creek Hydro Limited Partnership v. Dickin*, 2023 BCCA 188, in submitting that an action can be summarily dismissed under Rule 9-6 where the Court is satisfied that the plaintiff's case is bound to fail:

> [25] …"[a] motion for summary judgment must be judged on the basis of the pleadings and materials actually before the judge, not on suppositions about what might be pleaded or proved in the future". A defendant applying

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> for summary judgement may succeed either by demonstrating that the plaintiff's case is unsound or by adducing evidence that provides a complete answer to the plaintiff's case: *Beach Estate v. Beach*, 2019 BCCA 277, at para. 48 [*Beach*]. While an application under Rule 9-6 invokes the court's consideration of evidence, it is not a summary trial. The judge is not permitted to weigh evidence on a Rule 9-6 application beyond determining whether it is "incontrovertible". If the court is satisfied that it is manifestly clear (or beyond doubt) that the plaintiff is bound to lose, the defendant must succeed on the Rule 9-6 application: *Lameman* at paras 10-11, *Beach* at paras. 48-49.

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Malicious Prosecution

[19] The Plaintiff claims against the Defendant, as a private citizen, in the tort of malicious prosecution. In order to be successful on that claim, he is required to prove that the prosecution was:

i) initiated by the defendant,

ii) terminated in favour of the plaintiff,

iii) undertaken without reasonable and probable cause, and

iv) motivated by malice or a primary purpose other than that of carrying the law into effect.

Miazga v. Kvello Estate, 2009 SCC 51 [*Miazga*] at para. 3; see also *Nelles v. Ontario*, [1989] 2 S.C.R. 170 [*Nelles*] at pp. 192–193.

[20] Failure to establish any of those four elements is fatal to the action. The authorities demonstrate that the plaintiff's burden is a difficult one to meet and that the plaintiff is held to a high standard of proof if he is to avoid a non-suit or directed verdict: *Degen v. British Columbia*, 2019 BCSC 2498 [*Degen*] at para. 17.

[21] For the reasons that follow, I am satisfied that it is manifestly clear that the Plaintiff's claim falls far short of that high standard and is bound to fail, and therefore that his action must be dismissed.

i. Initiation of Proceedings

[22] This element of the test identifies the proper target of the suit, as it is only those who were "actively instrumental" in setting the law in motion that may be held

accountable for any damage that results: *Miazga* at para. 53; citing *Danby v. Beardsley* (1880), 43 L.T. 603 (C.P.), at p. 604.

[23] The Plaintiff says that Dr. Moosavi had no reasonable and probable cause to contact the police, make her complaint and "actively" initiate criminal proceedings. He says her statement to the police was untrue, false and contained malicious allegations.

[24] More particularly, the Plaintiff argues that the Defendant gave false and malicious allegations when she stated that his unwanted attention caused disturbance to her personal and professional life.

[25] The Defendant says that the police officer or prosecutorial service who lays the charge is generally the person who initiated the prosecution. She submits that only in exceptional circumstances will a private citizen or complainant be found to have initiated the prosecution for the purposes of a malicious prosecution action: *D'Addario v. Smith*, 2015 ONSC 6652 [*D'Addario ONSC*] at paras. 14–15, aff'd 2018 ONCA 163; citing *Kefeli v. Centennial College of Applied Arts and Technology*, 2002 CanLII 45008 (Ont. C.A.) at para. 24.

[26] More specifically, as Mr. Justice Harvey held in *Degen* at para. 31, the Plaintiff must prove:

a) the complainant desired and intended the plaintiff to the prosecuted;

b) the facts were so peculiarly within the complainant's knowledge that it was virtually impossible for the professional prosecutor or police officer to exercise any independent discretion or judgment in determining whether or not to lay the charge; and

c) the complainant procured the institution of proceedings by the professional prosecutor or the police officer, either by furnishing information relevant to the determination of whether or not the charge should be laid that he knew to be false, or by withholding information that he knew to be true, or both.

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[27] As Justice Beaudoin explained in *D'Addario ONSC,* even if a defendant's statements to the police were false, that fact alone is not enough to conclude that the defendant initiated the prosecution. Much more is required to meet the high bar of malicious prosecution. There has to be evidence that the defendant withheld exculpatory evidence; that they pressured the police in laying charges or somehow compromised the independence of the prosecution: *D'Addario ONSC* at para. 49.

[28] The evidence filed by the Plaintiff is that:

a) he had one remote consult with the Defendant, with another physician present;

b) the police contacted the Plaintiff, however, he refused to provide any statement to them;

c) the online postings, including to WebMD, Google and YouTube, were publicly accessible and could be reviewed by the police;

d) the Plaintiff used the email address for the Defendant's clinic when he communicated with clinic staff. The Plaintiff did not contact the Defendant using her personal email address. The clinic staff independently received and read the emails from the Defendant; and

e) the Defendant's interacted with and yelled at the clinic staff, which he acknowledged by way of an apology.

[29] The Defendant's evidence is that she did not intend for the Plaintiff to be prosecuted. Rather, she advised the police she would be satisfied with the police warning the Plaintiff to cease all contact.

[30] Regardless, I am not satisfied the facts were so peculiarly within the Defendant's knowledge that it was virtually impossible for Crown Counsel or the police to exercise any independent discretion or judgment in determining whether or not to lay the charge. It was open to the police to independently verify the Defendant's statement from various sources. They contacted the Plaintiff as one such potential source and he refused to provide a statement.

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[31] Finally, on the evidence before me there is no basis on which to conclude that Defendant procured the institution of proceedings against the Plaintiff through falsehoods or withholding information she knew to be true. I accept the Defendant's submission that the uncontroverted facts support the truth of the statement she made to the police. That is, she became fearful for her personal safety on account of the Plaintiff's escalating behaviour, which alarmed her. She became so fearful of the Defendant that it interfered with her ability to work alone at her clinic.

[32] I do not accept the Plaintiff's assertions that the Defendant could not have felt unsafe and that his attention to her was wanted. That is not her evidence, nor is it what she reported to the police. Even if I were satisfied that her report to the police was false, which I am not, there is simply no evidence that the Defendant withheld exculpatory evidence, pressured the police in laying charges or somehow compromised the independence of the prosecution.

[33] In sum, I conclude that the evidence before me fails to establish the exceptional circumstances required to find that the proceedings against the Plaintiff were initiated by the Defendant, as a private citizen. As above, that conclusion alone is fatal to the Plaintiff's claim in malicious prosecution. However, in the event I am wrong in my conclusion at this first stage, I will continue to assess the remaining elements as set out in *Miazga*.

ii. Terminated in Favour of the Plaintiff

[34] I accept that the peace bond proceeding was terminated in favour of the Plaintiff.

iii. Undertaken without Reasonable or Probable Cause

[35] Here, the Plaintiff must prove that there were no reasonable and probable grounds to undertake the prosecution or, in the Defendant's case, to contact the police. That analysis engages both objective and subjective components: there must be both actual belief on the part of the Defendant and that belief must be reasonable in the circumstances. The onus is on the Plaintiff to prove the absence of reasonable

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and probable cause. The test is applied at the time when the decision to initiate a proceeding was made: *Miazga* at paras. 58 and 76.

[36] On the evidence before me, there is no basis on which to conclude that the Defendant lacked a reasonable and probable cause to contact the police.

[37] On the Plaintiff's own evidence, he only met the Defendant once via a remote tele-visit. There was no in person contact. There was no medical reason for the Plaintiff to contact the Defendant or her staff thereafter. Yet, the Plaintiff emailed clinic staff, sent the Defendant very personal emails about his feelings toward her, twice sent flowers to her at her clinic, offered his organs to her, and made numerous posts about her online, including posting a photograph of her, all over the course of nine months. This conduct is alarming, particularly because the physician-patient relationship was long over.

[38] The Plaintiff submits that the feedback weblinks contained under the clinic's email signature were an invitation to him to make the web postings he did. These are standard invitations by businesses to elicit feedback, not, as the Plaintiff interpreted them, an open invitation to engage in a pattern of what I find to be concerning and inappropriate behavior.

[39] I am satisfied that the Plaintiff's communications and online posts show an obsessive and inappropriate attitude toward the Defendant. The behaviour was extreme and escalated over a significant period of time. The Defendant clearly believed that she had reasonable or probable cause to call the police. More importantly, on any objective basis, this behaviour of a former, one-time patient by remote attendance would give any person reasonable and probable cause to contact the police.

iv. Motivated by Malice

[40] The Plaintiff must prove that the Defendant acted with malice or improper purpose. He says that malice is proven because the Defendant wanted him to be prosecuted because she was angry and upset because he advised her that he

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would not make any further contact with her, and because she was distressed about the situation of his contact.

[41] There is no evidence that the Defendant wished for the Plaintiff to pursue her as he did. On January 27, 2021, the Defendant wrote an email to the Plaintiff's referring physician advising that she was ending the physician-patient relationship with the Plaintiff as a result of his conduct and conveying her impression that the Plaintiff wished for the end of that relationship. Following this, the Plaintiff's conduct toward the Defendant only intensified.

[42] The evidence, even that of the Plaintiff, leads to no other conclusion but that the Defendant acted reasonably when she went to the police about the Plaintiff's ongoing conduct toward her. She did so out of an understandable fear for her personal safety, not any improper motive.

[43] Further, I agree with the Defendant's submission that the decision of Crown Counsel in approving criminal charges against the Plaintiff is fatal to a finding of malice, absent admissible evidence that a defendant sought to mislead the Crown, of which there is none: *Harvey v. Laidler*, 2010 BCSC 1869 at para. 25.

[44] In all of the circumstances, I am satisfied that the Plaintiff's claim of malicious prosecution against the Defendant is bound to fail.

Abuse of Process

[45] Given my conclusion that the Plaintiff's claim is bound to fail, it is unnecessary for me to address the Defendant's argument that the Plaintiff's claim should also be dismissed as an abuse of process. I wish, however, to make a couple of comments in that regard.

[46] The Plaintiff, formerly known as, among other things, "Dr. Emotions Universe" and "Emotions Paradise Universe", has previously been declared a vexatious litigant and found by this Court to have "knowingly employed litigation strategies that aggravate the vexatious character and impact of his proceedings": *Universe v.*

Forslund, 2021 BCSC 812, aff'd 2022 BCCA 202. In the proceedings before me, the Plaintiff was argumentative and disruptive.

[47] In addition to the present proceedings against the Defendant, the Plaintiff has filed three related proceedings:

a) In S.C.B.C. Vancouver Registry No. S254333, the Plaintiff claims against the Attorney General of British Columbia for the tort of malicious prosecution in relation to the same prosecution for which the plaintiff claims in the within action.

b) In S.C.B.C Vancouver Registry No. S241166, the Plaintiff claims against Constable Martin Brillante and HMTK in Right of the Province of British Columbia for malicious prosecution, gross negligence, false arrest and imprisonment, and breach of his *Charter* rights in relation to the police investigation and the same prosecution for which he claims in this action.

c) In S.C.B.C. Vancouver Registry No. S241172, the Plaintiff claims against Constable Bryce Erickson, Constable Leo Corcoran, multiple John/Jane Does, and the Minister of Public Safety and Solicitor General for HMTK in Right of the Province of British Columbia for gross negligence, false arrest and imprisonment, and breach of his *Charter* rights in relation to the same police investigation for which he claims in this action.

[48] Those actions are not presently before me, however, the Defendant submits that a review of the related actions reveals that the Plaintiff has again conducted proceedings in an inappropriate manner, namely by filing inconsistent pleadings pursuing inconsistent rights in relation to the same events. Such, she argues, is an abuse of process, relying on *Jazette Enterprises Ltd. v. Gould*, 2022 BCSC 2206 [*Jazzette*] at paras. 14-15.

[49] There is no doubt that the filing of inconsistent pleadings and the pursuit of inconsistent rights *can* constitute an abuse of process warranting the dismissal of a claim: see e.g. *Jazzette* at paras. 14-15; *Este v. Esteghamat-Ardakani,* 2017 BCSC

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878 at paras. 31-33, aff'd 2018 BCCA 290, leave to appeal to SCC ref'd, 38384 (14 March 2019); *Illingworth v. Evergreen Medicinal Supply Inc.*, 2019 BCCA 471 at paras. 67-69; and *Keltic (Brighouse) Development Ltd. v. Yi Teng Investment Inc.*, 2023 BCCA 375 at paras 15 and 35. Whether conduct *does* constitute an abuse sufficient to warrant judicial intervention is determined case by case. Generally, a court will not intervene unless the impugned conduct is contrary to the interests of justice, oppressive, or vexatious and/or the court is satisfied that continuing with the proceedings would bring the administration of justice into disrepute: *Illingworth* at para. 69; citing *Glover v. Leakey*, 2018 BCCA 56 at paras. 33–36; and *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63 at para. 35 and the cases cited therein.

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[50] Again, given my conclusion above, I need not decide whether the alleged inconsistency in the Plaintiff's pleadings or his conduct of the proceedings before me rise to the standard set out in *Illingworth*. Nevertheless, having been made aware of the Plaintiff's other ongoing and allegedly inconsistent actions, I note the above to highlight my concern about the manner in which the Plaintiff is continuing to conduct proceedings before this Court.

Conclusion

[51] Based on the foregoing, the Plaintiff's application is dismissed as failing to disclose a reasonable cause of action, with costs to the Defendant. The need for the Plaintiff's signature is dispensed with.

"Dion, J."