

Court of Queen's Bench of Alberta

Citation: Condominium Corporation No. 0011978 v Brisebois, 2019 ABQB 803

Date: 20191018
Docket: 1901 02111
Registry: Calgary

Between:

Condominium Corporation No. 0011978

Plaintiff

- and -

Louis George Brisebois

Defendant

**Memorandum of Decision
of the
Associate Chief Justice
J.D. Rooke**

I. Introduction

[1] On July 31, 2019, I issued a Decision and Order imposing interim court access restrictions on Louis George Brisebois (“Louis”) and Terrance Louis Brisebois (“Terry”): *Condominium Corporation No 0011978 v Brisebois*, 2019 ABQB 583 (*Brisebois #1*). These restrictions were imposed pursuant to the two-step document-based process articulated in *Hok v Alberta*, 2016 ABQB 651, leave denied 2017 ABCA 63, leave to appeal to SCC refused 37624 (2 November 2017) and discussed in *Unrau v National Dental Examining Board*, 2019 ABQB 283 (*Unrau #2*) at paras 556-577. Louis and Terry were invited to make submissions by August 16, 2019 as to whether they should be subject to indefinite court access restrictions and, if so, what form those restrictions should take. If submissions were made, the Plaintiff was given an opportunity to respond to those submissions by August 30, 2019, with further response from Louis and Terry by September 13, 2019.

[2] The background to this matter was canvassed in *Brisebois #1* and I will repeat it here only to the extent necessary to the current analysis.

II. The Filed Responses

[3] The deadlines for submissions have now passed. No response was received from Louis. Terry filed an Affidavit dated August 16, 2019, the contents of which I reproduce below in their entirety as they appeared:

1. EXHIBIT "A" HAND DELIVERED TO CONDO #223 – 165 MANORA PLACE N.E. CONDO OWNED BY LOUIS BRISEBOIS SINCE 2010. page 1,2. NOTE: DATE BY SVR LAWYERS JUNE 12, 2019. "UNSIGNED"
2. EXHIBIT "A" IS ERRONEOUS, FICTITIOUS, SLANDEROUS AND INCORRECT. CONFUSES THE ELDERLY 65-92 yr. OLD OWNERS. THEY HAVE NEVER SEEN ANY PROOF.
3. EXHIBIT "A" YOURS TRUELY "SVR LLP – JOHN M. McDOUGALL BUT UNSIGNED. STATES JMM/Is – UNSIGNED BY LINDA STEVENS TOO.
4. EXHIBIT "B" CONDO PLAN SHEET CERTIFICATE OBTAINED AT ALBERTA LAW SOCIETY – DATED EXHIBIT LINDA STEVENS YET EXPIRED COMMISSIONER FOR OATHS – J. PHILLIPS SWORN 15 MARCH 2019 – "LINDA STEVENS" (SVR) EXPIRED COMMISSIONER FOR OATHS – FEB. 19 2019 (SVR) "1 PAGE ONLY"
5. [missing]
6. LOUIS GEORGE BRISEBOIS – OWNER OF #223 – 165 MANORA PLACE N.E. SINCE 2010 HAS NEVER RECEIVED MANY MONTHLY ACCOUNTING REPORTS 2 YEARS.
7. IT HIS RIGHT AS AN OWNER SINCE 2010 TO RECEIVE ALL TRANSPARENT ACCOUNTING, INSURANCE AND SAFETY INFORMATION – ALL IGNORED BY PACE – SVR.
8. VARIOUS EMAILS HAVE BEEN SENT TO SVR LAWYERS, PACE PROPERTIES – ALL IGNORED – NO REPLY
9. TODAY VARIOUS EMAILS HAVE BEEN SENT TO THE HONORABLE ASSOCIATE JUSTICE JOHN D. ROOKE FOR REVIEW AND FURTHER INVESTIGATIONS
10. FORMER LAWYER JAMES (JAY) MACLEOD WAS NOT ABOVE THE LAW AND TRIED, PROSECUTED AND GUILTY
11. 800,000+ RESIDENTS OF ALBERTA LIVE IN CONDOMINIUMS AND THE NEW MINISTER INVESTIGATES.
12. I LOOK FORWARD TO JUSTICE SERVED louiscondojustice@gmail.com TO BE LAUNCHED
13. I LOOK FORWARD TO A FACE TO FACE WITH THE HONORABLE ASSOCIATE JUSTICE JOHN D ROOKE

[4] In addition, Terry sent numerous emails to my office using the email address louiscondojustice@gmail.com. The contents of those emails are relevant to my analysis below and will be referred to therein.

[5] On August 23, 2019, an Affidavit was filed by Daniel R. Horner, one of the managing partners of Scott Venturo Rudakoff LLP (“SVR”), solicitors for the Plaintiff. In that Affidavit, Mr. Horner acknowledges the expired commission issue to which Terry refers, but provides evidence to show that it was the result of a simple error and that the commissioner appointment in question had not in fact expired. Mr. Horner goes on to attach, as exhibits, an extensive record of email communication between Terry and various members and employees of SVR. Some of that correspondence is relevant to my analysis below and will be referred to therein.

III. Court Access Restriction

[6] I turn now to the question of whether the interim court access restrictions imposed on Louis and Terry should be vacated or continued. This, as I recently discussed in *Ubah v Canadian Natural Resources Limited*, 2019 ABQB 347 at para 74, is a prospective inquiry that is not about what has happened in the past, but:

1. what can be anticipated from Louis and Terry in the future; and
2. whether Louis and Terry’s plausible future litigation conduct may merit court intervention by gatekeeping processes so that they may initiate and continue valid litigation, but are restrained from engaged in abusive and/or futile litigation.

A. Preliminary Issue

[7] In *Brisebois #1*, I concluded that it was appropriate to treat Louis and Terry as a litigation unit and to impose interim court access restrictions on both of them. As noted above, no response to *Brisebois #1* was received from Louis directly. Nevertheless, Terry continues to purport to speak on behalf of Louis, referring often to a Power of Attorney. From this, I conclude that if court access restrictions are imposed only on Terry, he will simply continue his current activities using Louis as a litigation proxy. It is therefore appropriate to continue to treat them as a unit for purposes of this analysis.

B. The Law

[8] At para 21 of *Brisebois #1*, I reviewed the two-step process the Court undertakes in determining whether court access restrictions are appropriate. This Decision represents the second step, which comprises issuing a second decision that:

- a) reviews the total information available to the court relevant to the candidate abusive litigant, including information from the candidate abusive litigant,
- b) determines whether that information predicts abusive litigation activity from the candidate abusive litigant which warrants court access restrictions,
- c) assesses the plausible future litigation misconduct of the candidate abusive litigant as to subject matter, parties, forums, and special aggravating factors,
- d) imposes ongoing court access restrictions that respond to the plausible future litigation conduct, if appropriate, and
- e) terminates the interim court access restrictions.

[9] In *Brisebois #1*, I found that Louis and Terry’s activities to that point exhibited various indicia of abusive litigation that warranted the imposition of interim court access restrictions. In this Decision, pursuant to the above process, I will consider all of the information now available to the Court, particularly that provided since the issuance of *Brisebois #1*. On the basis of that

information, I will determine the likelihood that Louis and Terry will continue to engage in abusive litigation activity that warrants ongoing court access restrictions.

[10] As I noted in *Brisebois #1*, at para 23, the Court may examine abusive litigant’s activities both in and out of court, statements of intent, etc.

C. Analysis

[11] I begin by noting that none of Terry’s post-*Brisebois #1* materials, being his August 16, 2019 affidavit and the various emails sent to me and to SVR, speaks directly to the issue of whether he and Louis should continue to be subject to court access restrictions and, if so, in what form. Rather, they largely reiterate, and to some extent expand, the arguments and allegations contained in his earlier materials, as reviewed in *Brisebois #1*. Accordingly, I will consider the later materials to determine whether they continue to exhibit the “indicia” of abusive litigation first outlined by Justice Michalyshyn in *Chutskoff v Bonora*, 2014 ABQB 389 at para 92 and summarized by me in *Unrau* at paras 609-732:

- a. collateral attacks;
- b. hopeless proceedings;
- c. escalating or expanding proceedings;
- d. proceedings with an improper purpose;
- e. attempts to evade Court litigation management;
- f. persistent unsuccessful appeals;
- g. failure to abide by Court orders;
- h. inappropriate demeanour or unjustified belief.

1. Collateral Attacks

[12] As stated in *Unrau* at para 612, a collateral attack is a litigation step or proceeding that challenges, directly or indirectly, a prior court decision or result. Despite my finding in *Brisebois #1*, at para 28, that it constituted a collateral attack, Terry made reference, in emails to SVR on August 1 and 2, 2019, and in an email to my office on October 2, 2019, to a report of a handwriting analyst that he claims shows that the signatures of Justices and Masters on certain orders have been forged and that the orders are therefore fraudulent.

[13] In addition, Terry stated in an email to my office on September 12, 2019 that one of SVR’s lawyers “has tampered with the Calgary Courthouse records” and that “The Law Society of Alberta has also gotten some of the Tampered documents”. It is not clear to me whether this too is a reference to the handwriting analysis, though it does seem to indicate that Terry continues to believe that court documents have somehow been forged or altered.

2. Hopeless Proceedings

[14] A hopeless proceeding is one that cannot be successfully pursued or that pursues objectives that are disproportionate, excessive or impossible. I noted in *Brisebois #1*, at para 31, that Louis and Terry had filed a Third Party Claim seeking \$3,250,000, with no indication as to the origin of this figure. Notwithstanding my comments, Terry referred to this “lawsuit” in emails to SVR on August 2, 6 and 9, 2019. He also forwarded the second of these emails to my

office on August 16, 2019. It is clear, then, that he persists in advancing an obviously hopeless claim.

3. Escalating or Expanding Proceedings

[15] In *Brisebois #1*, at para 34, I noted that this indicium has three related aspects:

1. “grounds and issues tend to roll forward into subsequent actions, repeated and supplemented”,
2. actions have an “accumulative” nature, adding new parties, issues and remedies, and
3. new disputes and litigation “hive off” the original conflict.

[16] This indicium was very clear in *Brisebois #1* and continues to be present. First, Terry persists in all of the allegations articulated in *Brisebois #1*, including the allegations of fraud pertaining to the Court itself and deriving from the handwriting analysis.

[17] Further, Terry’s post-*Brisebois #1* materials make several references to other “investigations”. For example, as noted above, his August 16, 2019 Affidavit states “800,000+ RESIDENTS OF ALBERTA LIVE IN CONDOMINIUMS AND THE NEW MINISTER INVESTIGATES.” In emails to my office and to SVR, he referred to “the Chartered Accountant CIC Investigation Thursday Aug. 15”, to “The RECA Investigation” and to “Mortgage Fraud Investigation”. He sent three emails to my office on October 10, 2019, all with the message “As the new developments with RECA BOARD FIRING please email or phone me at [phone number omitted]. Thanks. Much is happening right now on many Condo Files.” On October 16, 2019, he sent an email to my office saying, *inter alia*, “We await to see RECA Lawyers for our Investigation, confirmed LAST WEEK.”

4. Proceedings for an Improper Purpose

[18] In *Brisebois #1*, at paras 36-49, I concluded that Louis and Terry were engaged in “busybody litigation”. They purported to act on behalf of the elderly owners in the condominium complex, despite clear evidence that they had no authorization to do so, and, indeed, that some of the owners were afraid of Terry. This indicium continues to be present, at least in respect of Terry.

[19] Terry’s August 16, 2019 Affidavit refers again to the “65-92 yr. OLD OWNERS” as well as stating that “800,000+ RESIDENTS OF ALBERTA LIVE IN CONDOMINIUMS”. In an email to my office on September 12, 2019, Terry stated, “I am a businessman – not 80 or 93 and legally blind. I AM LOOKING TO ASSIST THE SYSTEM, as it has been fraudulently a playground for White Collar Crime. The Spin II Land Titles online site has been corrupted, and I have a few other cases of this.” Despite my comments in *Brisebois #1* about busybody litigation, Terry is unrepentant, stating in an email to my office on October 2, 2019, “perhaps I am a Whistleblower but this is Legally Wrong – as I have been to the Courthouse researching 50 times over 2 years and attended Court 10 times”.

[20] Additionally, Terry’s emails to SVR repeatedly speak of elderly owners, elder abuse, bullying, harassment and the like.

[21] The second tier of busybody activity I found in *Brisebois #1*, namely, Terry's attempts to conduct litigation activities on behalf of his father, Louis, purportedly authorized by a Power of Attorney, is also featured in Terry's later materials.

5. Unjustified Belief

[22] I observed in *Brisebois #1*, at para 50, that this indicium includes "unsubstantiated allegations of conspiracy, fraud and misconduct", claims of judge and lawyer fraud and tampering with records and sensational claims of intimidation and harassment.

[23] This indicium was amply demonstrated in the documents reviewed in *Brisebois #1* and continues to be prominently featured in Terry's later materials. There are numerous allegations of fraud, harassment, bullying, elder abuse and corruption. As I found in *Brisebois #1*, these demonstrate the over-investment in the dispute that I described in *Unrau #2*, at paras 714-721. It is apparent that this dispute has become Terry's consuming preoccupation.

6. Conclusion

[24] Accordingly, I find that Terry has provided neither evidence nor argument to persuade the Court that Louis and Terry should not be made subject to indefinite court access restrictions. To the contrary, Terry's post-*Brisebois #1* materials exhibit several continued indicia of abusive litigation that favour continued court intervention. In addition, those materials contain copious statements indicating that Terry intends to continue his abusive activities. Some of these have been set out above. More recently, in an email to my office on October 2, 2019, Terry stated, "My Father has been vilified, as I have but We are ready to go to court another 10 times". Such statements of intent are relevant because the restrictions the Court will impose are prospective and depend upon anticipated future litigation: *Unrau #2*, at paras 587-593.

IV. Order

[25] I therefore, on my own motion, and under this Court's inherent jurisdiction, conclude that Louis George Brisebois and Terrance Louis Brisebois should be subject to indefinite court access restrictions and I order:

1. Louis George Brisebois and Terrance Louis Brisebois are vexatious litigants and are prohibited from commencing, or attempting to commence, or continuing, any appeal, action, application, or proceeding:

- (i) in the Alberta Court of Appeal, Alberta Court of Queen's Bench, or the Provincial Court of Alberta, and
- (ii) on their own behalf or on behalf of any other person or estate,

without an order for leave of the Court in which the proceeding is conducted.

2. Louis George Brisebois and Terrance Louis Brisebois must describe themselves in any application for leave or document to which this Order applies as "Louis George Brisebois" and "Terrance Louis Brisebois", respectively, and not by using initials, an alternative name structure, or a pseudonym.

3. Subject to paragraph 14 hereof, and otherwise in accord with the Court of Appeal's normal process, to commence or continue an appeal, application, or

other proceeding in the Alberta Court of Appeal, Louis George Brisebois and/or Terrance Louis Brisebois must apply to a single appeal judge for leave to commence or continue the proceeding, and

- (i) The application for leave must be made in writing by sending a Letter addressed to the Alberta Court of Appeal Case Management Officer explaining why the new proceedings or the continuance of an existing proceedings is justified.
- (ii) The Letter shall not exceed five double-spaced pages.
- (iii) The Letter is to contain no attachments other than, for a new proceeding, the proposed notice of appeal, application or other proceeding.
- (iv) If the single appeal judge requires further information, he or she can request it.
- (v) The single appeal judge can respond to and dispose of the leave application in writing, or hold the application in open Court where it shall be recorded.
- (vi) If the single appeal judge grants Louis George Brisebois and/or Terrance Louis Brisebois leave to commence an appeal, Louis George Brisebois and/or Terrance Louis Brisebois may be required to apply for permission to appeal under *Rule* 14.5(1)(j). An application for permission to appeal must comply with the requirements of the *Alberta Rules of Court* and must be accompanied by an affidavit:
 - a) attaching a copy of this Order restricting Louis George Brisebois' and Terrance Louis Brisebois' access to the Alberta Court of Appeal;
 - b) attaching a copy of the appeal, application, or proceeding that Louis George Brisebois and/or Terrance Louis Brisebois proposes to file;
 - c) deposing fully and completely to the facts and circumstances surrounding the proposed appeal, application, or proceeding, so as to demonstrate that it is not an abuse of process, and that there are reasonable grounds for it; and
 - d) indicating whether Louis George Brisebois and/or Terrance Louis Brisebois has ever sued some or all of the respondents previously in any jurisdiction or Court, and if so providing full particulars.

4. Subject to paragraph 14 hereof, to commence or continue an appeal, application, or other proceeding in the Alberta Court of Queen's Bench or the Provincial Court of Alberta, Louis George Brisebois and/or Terrance Louis

Brisebois shall submit an application to the Chief Justice or Associate Chief Justice, or Chief Judge, respectively, or his or her designate:

- (i) The Chief Justice or Associate Chief Justice, or Chief Judge, or his or her designate, may, at any time, direct that notice of an application to commence or continue an appeal, action, application, or proceeding be given to any other person.
- (ii) Any application shall be made in writing.
- (iii) Any application to commence or continue any appeal, action, application, or proceeding must be accompanied by an affidavit:
 - a) attaching a copy of the Order restricting Louis George Brisebois' and Terrance Louis Brisebois' access to the Court of Queen's Bench of Alberta, and Provincial Court of Alberta;
 - b) attaching a copy of the appeal, pleading, application, or process that Louis George Brisebois and/or Terrance Louis Brisebois proposes to issue or file or continue;
 - c) deposing fully and completely to the facts and circumstances surrounding the proposed claim or proceeding, so as to demonstrate that the proceeding is not an abuse of process, and that there are reasonable grounds for it;
 - d) indicating whether Louis George Brisebois and/or Terrance Louis Brisebois has ever sued some or all of the defendants or respondents previously in any jurisdiction or Court, and if so providing full particulars;
 - e) undertaking that, if leave is granted, the authorized appeal, pleading, application or process, the Order granting leave to proceed, and the affidavit in support of the Order will promptly be served on the defendants or respondents; and
 - f) undertaking to diligently prosecute the proceeding.
- (iv) The Chief Justice or Associate Chief Justice, or Chief Judge, or his or her designate, may:
 - a) give notice of the proposed claim or proceeding and the opportunity to make submissions on the proposed claim or proceeding, if he or she so chooses, to any of:

- (1) the potentially involved parties;
- (2) other relevant persons identified by the Court; or
- (3) the Attorneys General of Alberta and Canada;

- b) respond to and dispose of the leave application in writing; and
- c) decide the application in open Court where it shall be recorded.

5. Leave to commence or continue proceedings may be given on conditions, including the posting of security for costs, and proof of payment of all prior cost awards.

6. An application that is dismissed may not be made again, directly or indirectly.

7. An application to vary or set aside this Order must be made on notice to any person as directed by the Court.

8. I am seized of all current and future Alberta Court of Queen's Bench actions in which Louis George Brisebois or Terrance Louis Brisebois is a party.

9. Louis George Brisebois and Terrance Louis Brisebois are prohibited from:

- (i) providing legal advice, preparing documents intended to be filed in court for any person other than himself, and filing or otherwise communicating with any Alberta court, except on his own behalf; and
- (ii) acting as an agent, next friend, McKenzie Friend (from *McKenzie v McKenzie*, [1970] 3 All ER 1034 (UK CA) and *Alberta Rules of Court*, Alta Reg 124/2010, ss 2.22-2.23), or any other form of representation in court proceedings,

before the Provincial Court of Alberta, Court of Queen's Bench of Alberta, and Alberta Court of Appeal.

10. The Clerks of the Provincial Court of Alberta, Court of Queen's Bench of Alberta, and Alberta Court of Appeal shall refuse to accept or file any documents or other materials from Louis George Brisebois or Terrance Louis Brisebois, unless:

- (i) Louis George Brisebois or Terrance Louis Brisebois is a named party in the action in question, and
- (ii) if the documents and other materials are intended to commence or continue an appeal, action, application, or proceeding, Louis George Brisebois and/or Terrance Louis Brisebois has been granted leave pursuant to this Order to take that step by the Court.

11. All fee waivers granted to Louis George Brisebois or Terrance Louis Brisebois by the Clerks of the Provincial Court of Alberta, Court of Queen's Bench of Alberta, and Alberta Court of Appeal are revoked.
12. The Clerks of the Provincial Court of Alberta, Court of Queen's Bench of Alberta, and Alberta Court of Appeal shall refuse any fee waiver application by Louis George Brisebois or Terrance Louis Brisebois unless Louis George Brisebois or Terrance Louis Brisebois has a court order which authorizes same.
13. The "Interim Court Filing Restrictions for Louis George Brisebois and Terrance Louis Brisebois" Order issued by myself in Alberta Court of Queen's Bench Docket 1901 02111 on July 31, 2019 is vacated, immediately.
14. The Chief Justice of the Alberta Court of Appeal and the Chief Judge of the Provincial Court of Alberta, or his or her designate, may, on his or her own authority, vary the terms of this Order in relation to the requirement, procedure or any preconditions to obtain leave to initiate or continue litigation in their respective Courts.
15. Louis George Brisebois and Terrance Louis Brisebois are prohibited from, on their own behalf or on the behalf of any other person or estate:
 - (i) commencing, or attempting to commence, or continuing any appeal, action, application, or proceeding in the Federal Court of Canada, the Federal Court of Appeal, the Tax Court of Canada, the Supreme Court of Canada, and any Court outside of Alberta;
 - (ii) conducting or continuing any proceeding before any Canadian administrative tribunal, including, without limitation, complaints to any professional or regulatory body, or claims to a human rights commission or tribunal;
 - (iii) submitting an information to a justice per *Criminal Code*, RSC 1985, c C-46, s 504; or
 - (iv) making a complaint to any peace officer;

except where Louis George Brisebois and/or Terrance Louis Brisebois simultaneously provides a copy of *Condominium Corporation No. 0011978 v Brisebois*, 2019 ABQB 583, *Condominium Corporation No. 0011978 v Brisebois*, 2019 ABQB 803, and the Order resulting from this decision.

[26] The Court will prepare and file the appropriate Order to reflect this decision. Approval of that Order by Louis George Brisebois or Terrance Louis Brisebois is not required.

Dated at the City of Calgary, Alberta this 18th day of October, 2019.

J.D. Rooke
A.C.J.C.Q.B.A.