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IN THE SUPREME COURT OF BRITISH COLUMBIA

Date: 20130802
Docket: S132382
Registry: Vancouver

Between:

Ron Korkut

Plaintiff

And

Timothy McGee

Defendant

Before: The Honourable Mr. Justice N. Smith

Oral Reasons for Judgment

In Chambers

Appearing on his own behalf:	Ron Korkut
Counsel for the Defendant:	M. Armstrong
Place and Date of Trial/Hearing:	Vancouver, B.C. August 2, 2013
Place and Date of Judgment:	Vancouver, B.C. August 2, 2013

[1] **THE COURT:** This application is to strike out Mr. Korkut's action against the defendant, Timothy McGee, who is the executive director of the Law Society of British Columbia. It arises from a hit-and-run collision in which Mr. Korkut was involved. The other driver was apparently not charged criminally, and the Insurance Corporation of B.C. paid for the costs of repair to Mr. Korkut's vehicle. Mr. Korkut wishes, as I understand it, to bring criminal proceedings against ICBC, saying that by compensating accident victims on behalf of hit-and-run drivers it is in effect a party to their crime.

[2] I should say at the outset that ICBC is required by the *Insurance Vehicle Act*, RSBC 1996 c.231 to provide compensation for victims of hit-and-run accidents. That is a provision to protect the public and to protect victims who otherwise may never receive compensation for their injuries because the hit-and-run drivers are either never found or have no money with which to compensate the victim. If Mr. Korkut disagrees with that, that is a question not for the court but for the legislature, and certainly I cannot conceive of how he could succeed in a criminal proceeding against ICBC when it did what it was required to do by the law of British Columbia.

[3] As for his claim against Mr. McGee, Mr. Korkut says he contacted a number of lawyers asking them for assistance, or at least advice on how to begin a criminal proceeding against ICBC, and he says none would help him. He wrote to the Law Society and was told on a number of occasions that a lawyer has no obligation to accept a specific retainer from the public or from a specific client. Ultimately he wrote to Mr. McGee, who responded in a letter:

I note that you have addressed letters to and received replies from a number of Law Society staff and benchers of the Law Society, including Mr. Treleaven, Mr. Olsen, and Mr. Getz, concerning legal questions that you have. I confirm that the advice previously provided to you by the Law Society is correct.

[4] Mr. McGee then went on to tell him that he could not continue to respond to his questions and any further correspondence received will be placed in his closed file.

[5] In his Notice of Civil Claim Mr. Korkut claims for two items: He seeks a court order to remind Mr. McGee that lawyers have professional obligations to provide legal service to the public and the Law Society has a duty to enforce those obligations in order to ensure professional legal advice is available for the victims of crime. Secondly, he seeks compensation for his frustration and for obstruction of justice, in order to deter the defendant from offending other members of the public by breaching his fiduciary duty to enforce the Society's *Code of Professional Conduct*.

[6] The shortest answer to Mr. Korkut's claim is the *Legal Profession Act*, SBC 1998 c.9. His claim is not brought against the Law Society; it is brought against Mr. McGee personally. Section 86 of the *Act* says:

No action for damages lies against a person, for anything done or not done in good faith while acting or purporting to act on behalf of the society . .

[7] Mr. McGee, whether his response was correct or not, was clearly acting in his capacity as an employee of the Law Society. The second relief claimed by Mr. Korkut, any form of damages, is not available against him.

[8] As to the first matter, a reminder that lawyers have a professional obligation to provide legal services to the public, I do not understand quite what form that order would take. The Law Society exists by statute to govern the legal profession. It makes its rules, and if in any given case in its disciplinary proceedings against a lawyer it falls outside the rules of natural justice, or misinterprets its statute, either the parties involved or the society may make an application to the court on the facts of that case. But there is no jurisdiction in the court to give general advice to the Law Society on what its duties are or what the duties of the legal profession are.

[9] Just for the record, as well Mr. Korkut relies upon the *Canons of Legal Ethics*, which he says contain a duty on the part of lawyers to provide legal advice to the public. He is quoting from the *Canons of Legal Ethics*, which say:

A lawyer should make legal services available to the public in an efficient and convenient manner that will command respect and confidence.

[10] The Law Society interprets that as relating to the manner in which legal services are provided and not as an obligation for lawyers to take on any and all retainers, notwithstanding how misconceived the proposed action might be. It is for the Law Society to interpret the meaning of its *Canons of Legal Ethics* and any disciplinary provisions that may arise. It is not the function of the court to interpret that in an individual case. It is only the function of the court to determine on judicial review whether the interpretation is reasonable.

[11] So on this case as pleaded, both because in my view it states no cause of action, and any cause of action it states is barred against Mr. McGee in his personal capacity, I must grant the application and dismiss the claim.

[12] I do, however, believe that Mr. Korkut has acted here in good faith, and I am not going to award special costs. I will award ordinary costs.



N. Smith J.