

**IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY**

**CIV-2016-409-001152
[2016] NZHC 19**

BETWEEN DAVID STANLEY HEENAN
 First Applicant

AND DAVID STANLEY HEENAN as Trustee
 of the Heenan Family Trust 1960
 Second Applicant

AND THE ATTORNEY GENERAL
 Respondent

Hearing: 5 December 2016

Appearances: Applicant in person

Judgment: 1 February 2017

JUDGMENT OF NATION J

[1] Mr Heenan was declared a vexatious litigant on 19 August 2009.

[2] Mr Heenan personally and separately as trustee applied, pursuant to s 88B(2) of the Judicature Act 1908, for leave to issue a proceeding against WR and DVJ Gore, an order setting aside the first applicant's bankruptcy and status as a vexatious litigant upon the grounds a judgment given against him on 20 March 2000 was obtained by fraud.

[3] I heard Mr Heenan in support of the application on 5 December 2016.

[4] The application was based primarily on a judgment of Justice Fogarty dated 14 August 2014, a copy of which accompanied the application but generally on the basis of Mr Heenan's assertion he had been denied justice for 18 years.

[5] The grievance which Mr Heenan wishes to pursue through proceedings relates to his contention that Judge Saunders gave judgment against him in the District Court at Alexandra in May 1999 on the basis of fraudulent evidence.

[6] In a judgment of 14 August 2014, Fogarty J gave leave to Mr Heenan as a vexatious litigant to begin new proceedings in the High Court in Invercargill to seek a judgment against Mrs Gore on the grounds the District Court judgment was obtained by fraud and for a declaration relating to that.

[7] Mr Heenan did begin proceedings against Mrs Gore as he was given leave to do by Justice Fogarty. Eventually the proceedings were struck out by Associate Judge Osborne because Mr Heenan, in breach of an unless order previously made by the Judge, filed documents in the proceedings which were unacceptable because of the scandalous nature of comments that were included in them.

[8] Mr Heenan was adjudicated bankrupt on 1 October 2015. He remains an undischarged bankrupt. On that basis, any right of action he had to pursue proceedings personally are now vested in the Official Assignee. For that reason alone, he is not personally able to institute the proceedings he wishes to.

[9] Mr Heenan's application is also made by himself in his capacity as trustee of the Heenan Family Trust. It is apparent from the judgment of Fogarty J that the Heenan Family Trust had no interest in the original proceedings with Mrs Gore. The judgment obtained against Mr Heenan was against him personally. In these circumstances, it would be an abuse of the Court process for the trust to be given leave to issue proceedings against Mrs Gore.

[10] Mr Heenan made an application for leave to issue other civil proceedings which were the subject of a hearing on 13 July 2016.

[11] After hearing submissions from Mr Heenan on that application, I issued a judgment of 18 July 2016 declining his application. I contemporaneously issued a minute, also dated 18 July 2016, including a direction that Mr Heenan, both on his own behalf and as a purported agent or trustee of the Heenan Family Trust, was:

... not to file any document seeking leave to institute proceedings against any of the parties named as defendants in the document filed with the High Court on 4 July 2016 and arising out of the allegations, complaints or assertions made in that document.

[12] A copy of my minute and the document (excluding annexures) filed by Mr Heenan are attached to this judgment.

[13] In seeking leave to issue proceedings against Wayne Richard Gore and Da Vella June Gore, Mr Heenan is seeking leave to again issue proceedings which were struck out because of the way he ignored directions from the Court and the way he conducted himself in relation to those proceedings. It would be an abuse of the Court's processes for him to be given leave now to issue similar, if not identical, proceedings again.

[14] Mr Heenan did not file a copy of the statement of claim he wished to file in the new proceedings. His application was however filed with the High Court on 16 November 2016. On 1 December 2016, he filed with the High Court a copy of a letter he had sent to the solicitor for the Attorney-General dated 1 December 2016. When appearing before me on 5 December 2016, he referred to this letter and said it was relevant to the application he was making. He also referred to a letter of 3 December 2016 to the Solicitor-General which he said was relevant to the proceedings. In this document, Mr Heenan said he was seeking judgment for \$94,208,588.86 against a solicitor for the Attorney-General for "two mimicked [judgments] of Judge David Saunders" based on the forgery of the date on a Westpac cheque by Wayne Richard Gore and Da Vella June Gore. He said he demanded compensation by an order from the High Court for \$94,208,588.86 by way of a bank cheque from the solicitor and "all of the 70 others who are directly or indirectly involved in this corruption".

[15] In the letter of 1 December 2016, he said the solicitor was "a bloody minded liar" and had "knowingly conspired" with the then Solicitor-General "and some fourteen Judges ... and others" to "knowingly aid, abet, and [condone] forgery, perjury, and massive property fraud, in this justice and police systems".

[16] It is apparent from those documents that Mr Heenan is again wishing to pursue scandalous allegations which should not properly be the subject of Court proceedings.

[17] It is also clear from these documents that, in seeking to issue proceedings against the Gores, Mr Heenan is wanting to pursue proceedings and obtain orders against people who were named in the document which he filed with the High Court on 4 July 2016 and arising out of allegations, complaints or assertions made in that document. Mr Heenan's latest application has therefore been made in defiance of the specific direction I issued on 18 July 2016.

[18] Against that background, it is clear that it would be an abuse of Court proceedings for Mr Heenan, either personally or as a trustee of the Heenan Family Trust, to be given leave to issue the proceedings as described in his application. Leave to issue such proceedings is declined.

[19] I now make an order that Mr Heenan, either personally or as a trustee of the Heenan Family Trust, is not to file any further application seeking leave to issue proceedings against Wayne Richard Gore and/or Da Vella June Gore or any of the parties named as defendants in the document filed with the High Court on 4 July 2016 and arising out of the allegations, complaints or assertions made in that document. A copy of that document is attached to this judgment.

[20] Mr Heenan is now warned that, if he does attempt to file any document in breach of this order or any other document containing allegations of a scandalous nature, he will be defying orders made by the High Court and will be in contempt of Court.

[21] Because of the scandalous nature of allegations contained in the document referred to in para [11] filed with the High Court on 4 July 2016, I make an order suppressing any publication of the document. It will also not be attached to the publicly available copy of this judgment.