

God's law is not supraconstitutional

Litigation | Litigation & Dispute Resolution

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Although Part 1 of Canada's *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK), 1982*, c. 11 references "the supremacy of God", this does not in any way mean that the law of God has supraconstitutional status. Accordingly, any claim in which it is contended that "God's law" is supreme will face close scrutiny and be prone to early dismissal.

In the recent Alberta decision of *Gauvreau v. Lebouthillier*, 2021 ABQB 108, the court was required to deal with a claim that sought \$100 million in damages from the government for the overpayment of taxes, plus interest at 10% per day on the grounds that the defendant Minister of National Revenue had no statutory authority to require the plaintiff to file income tax returns.

Among the allegations made by the plaintiffs were:

1. Queen Elizabeth II is the "Chief of the Tribe of Judah" and therefore is required to "administrate the 613 Laws and Commands set out in the Constitution Written in Heaven (Torah)." The Torah is the supreme law of Canada.
2. The 1867 *British North America Act* is invalid, and the authority of the Crown over Canada in 1953 was "delegated" to "pope (inc)", which "is head of a rock." Queen Elizabeth II and "pope (inc)" administrate the Torah.
3. The current *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp) is invalid because its 1948 predecessor was unauthorized.

The defendant contended that the claim was vexatious, and thus under Civil Practice Note No. 7 (CPN7), paragraph 5 referred to the claim as an Apparently Vexatious Application or Proceeding ("AVAP").

In Alberta, CPN7 was implemented for the purpose of better managing litigation that on its face appears to be unmeritorious, to have no chance of success or which is otherwise abusive and vexatious. Where a claim is referred to as an AVAP and is found to fall under either of the foregoing categories, then the Court is obligated to issue an initial written decision which identifies the issues that could ultimately form the basis to strike out the claim under 3.68 of the *Alberta Rules of Court*. Here, the court did exactly that.

With respect to item 2 above, the court found that the claim of the plaintiffs was simply spurious and that it represented what is termed Organized Pseudolegal Commercial Arguments ("OPCA"). These strategies have been identified as being used by "Detaxers" and "Detaxer gurus" for the purpose of evading or rejecting income tax obligations. As determined in *Unrau v. National Dental Examining Board*, 2019 ABQB 283, the use of pseudolaw is an abuse of court process.

With respect to item 3 above, the court noted that the *Income Tax Act* had already been ruled to be valid legislation by the Alberta Court of Appeal in *Winterhaven Stables Ltd. v. Canada (Attorney General)*, 1988 ABCA 334 and that other courts had rejected the arguments that the plaintiffs were trying to make about the invalidity of the Act.

With respect to the supremacy of God's law, a multitude of Canadian decisions have rejected that the Bible, or some other form of God's Law, has supraconstitutional authority.

Although religion is an important institution in our society, it simply does not have a privileged status in Canadian law. This was expressly dealt with by the Supreme Court of Canada in *Mouvement laïque québécois v. Saguenay (City)*, 2015 SCC 16 wherein it was determined that the Charter's reference in the preamble to the "supremacy of God" was essentially meaningless. The Supreme Court of Canada stated:

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...the reference to the supremacy of God does not limit the scope of freedom of conscience and religion and does not have the effect of granting privileged status to theistic religious practices. Contrary to what the respondents suggest, I do not believe that the preamble can be used to interpret this freedom in this way.

Similarly, Judge Nielsen in *Gauvreau* noted that Canadian courts have consistently rejected that the Coronation and Coronation Oath of Queen Elizabeth II has any legal significance.

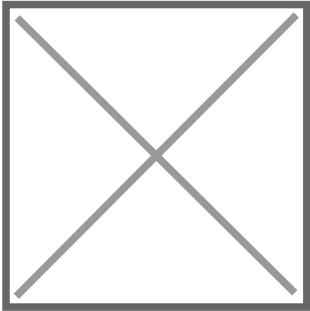
While the procedure under CPN7 and r. 3.68 will give the *Gauvreau*'s the ability to challenge these propositions, it is likely that they will face a daunting task proving that God's law should reign supreme given the weight of the authority cited by the court.

This case serves as a good reminder that Canada is simply governed by the rule of law. For those practicing outside of Alberta, it also provides some insight into how provinces are dealing with vexatious and unmeritorious claims. These kinds of actions have no place in our justice system because they simply serve to create an unnecessary back log therein and waste judicial resources. Therefore it is worthwhile considering whether other jurisdictions should adopt more streamlined gatekeeper rules to ensure that vexatious claims are rapidly dealt with and struck. A PDF version is available to download [here](#).

If you require any litigation assistance, our **Dispute Resolution Group** lawyers are available to assist you. Please contact **Stephen Thiele** at 416.865.6651.

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