

----- Forwarded by Kerryn Riseley/ParlOfficer/PARL on 22/05/2008 02:37 PM -----

"John Arnott" <[redacted]>

19/05/2008 09:02 AM

To "Kerryn.Riseley@parliament.vic.gov.au"

<Kerryn.Riseley@parliament.vic.gov.au>

cc

Subject RE: Vexatious Litigants

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Hi Kerryn,

I am flat out with business plans and end of year preparation, so I have not got much time to assist. However, I would like to send you a document that I have sent ASIC to seek to have the Directors in question prosecuted.

It tells a story about Directors who have owed me money, consented in court to the judgement sum, but who have gone to extraordinary lengths to avoid paying me the debt.

Their intention was to send me broke through a 5 year legal process – so that we would let it go.

We did not let it go, but are now broke in the process.

We have spent over \$263,000, and still spending.

Hopefully, ASIC can get involved and take on the fight for us, as they have now broken the law.

After milking the legal process and getting to the end where they would have to pay us money, they siphoned all the assets and the cash reserves into a new company structure, continued the business in identical form (same office, same clients, same products, same intellectual property, same phone/fax/email/web – pure phoenix activity).

They have continued the business with a new structure, and have left Creditors behind, and have gone into voluntary administration with an Administrator that the Director has had a number of previous business relationships with.

I questioned the accuracy of the statement of independence, and the Administrator re-issued saying that he had received payments and had done previous consulting.

I have also reported the Administrator to ASIC.

My departing message to your group is that the legal system in Australia fails the average Australian. Once the legal process starts, there is no turning back, even if things are spiralling out of control and you want to stop, you can not, as you would have to pay the other side's costs.

The average Australian can not afford legal representation.

There should be a system where people representing themselves is the norm, rather than legal firms that keep increasing their hourly rate.

All I know is, that my ex-boss has done the wrong thing, he consented to judgement in full in my favour, he has not paid the money, he has shifted assets and organised an Administrator he is mates with to help him leave debts behind and start his old business in a new company with no worries going forward.

If this behaviour is not acted against, it is basically condoning it, and if all businesses in this country operated in this way, what a horrible country this would be that we would have to live in.

Regards,

John Arnott

From: Kerry.Riseley@parliament.vic.gov.au [mailto:Kerry.Riseley@parliament.vic.gov.au]
Sent: Wednesday, 30 April 2008 3:12 PM
To: John Arnott
Subject: Vexatious Litigants

Dear Mr Arnott

Thank you for taking the time to let the Law Reform Committee know about your experience.

The Committee is currently seeking written submissions and comments for this inquiry and is interested in hearing from members of the public who have dealt with vexatious litigants.

I have included a link to the Committee's website where you can see a copy of an issues paper that the Committee has released for this inquiry: www.parliament.vic.gov.au/lawreform/. The issues paper provides guidance on how to make a written submission. It also outlines some questions and issues that members of the public might like to consider, although people aren't required to answer all or any of the questions so long as their comments are relevant to the inquiry.

I should stress that 'vexatious litigant' has a specific meaning in law, and that is a person who habitually, persistently and without any reasonable ground brings vexatious legal proceedings.

If you think this is an accurate description of the person you have been dealing with and would like to provide further information, it would help the Committee if you could include some information about the case such as its history and the number of legal proceedings involved.

If you have any questions, please feel free to call me on 8682 2851.

Regards
Kerry Riseley
Executive Officer
Victorian Parliament Law Reform Committee

"John Arnott" <

To "vplrc@parliament.vic.gov.au" <vplrc@parliament.vic.gov.au>

28/04/2008 04:41 PM

cc

Subject Vexatious Litigants

Dear Sir/Madam,

I refer to the article in the paper, and inform you that unfortunately I am of the opinion that I have been subjected to such a person.

Since the defendant consented to my claim in full (county court) and withdrew his counter claim in full, the defendant has instigated numerous court hearings to delay me receiving payment (claim plus interest of \$154K plus costs of \$164K).

It appears he would rather pay money to his Barrister and legal team rather than paying my claim and costs.

It is all about him not paying me, and getting me to incur additional cost through the legal process. Last week he put in an application for an intervention order on me so that I could not ring him up and ask why he was late on his instalment payment (application for instalment successful by defendant). I could only do this by getting my solicitor to inquire – at my cost.

He has now withdrawn that application 2 days before the hearing – after I have spent time and money to organise defence.

He objected to the court's refusal to grant an instalment order on payment of costs. This was to be heard a couple of weeks ago. A few days prior to the hearing, he withdrew his objection – the result is that I have incurred cost which I can not claim back against him.

I was recently given a cost order in the supreme court against him – he appealed unsuccessfully to a

cost order. As all other matters have been dealt with in the county court, I could not include this amount in the stat demand. I tried to negotiate an amount (half of what is expected) – he has refused to pay. I now have to get this amount taxed – which he will have to pay more. Based on his behaviour, he will not pay, therefore I will have to get the Sheriff in to seize and sell assets.

The defendant companies have recently stopped paying monthly instalments in accordance with court order (they were successful in an instalment application that was made to the court). Our only avenue seems to be to wind them up – and given his behaviour, I believe we are a long way off that happening.

The legal system has failed myself and my family.

We have spent around \$250K on legal fees – for a claim of \$110K that was payable in 2003. I believe it is grossly unfair that I should have to keep spending money on legal fees when the matter has been to court, and the defendant has consented to judgement in full.

I am happy to be part of a focus group that can use my situation as a test case. I am happy to disclose all information, and nothing is confidential, including the names of the defendant companies and the Director of those Defendant companies.

If there is any way that you can assist in my case (we can simply not keep digging into our pockets - unlike my former employer), I would be grateful to hear from you.

Regards,
John Arnott