

1 **ACOMP**
2 JOHN W. MUIJE & ASSOCIATES
3 JOHN W. MUIJE, ESQ.
4 Nevada Bar No: 2419
5 1840 E. Sahara Ave #106
6 Las Vegas, Nevada 89104
7 Telephone No: (702) 386-7002
8 Facsimile No: (702) 386-9135
9 Email: [Jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)
10 *Attorneys for Plaintiff*

11 DISTRICT COURT

12 CLARK COUNTY, NEVADA

13 CELESTE LATHIGEE,

14 Plaintiff,

15 vs.

16 BRITISH COLUMBIA SECURITIES
17 COMMISSION, DOES I through III
18 inclusive, ROES I through III, inclusive,

19 Defendant.

CASE NO: A-20-818283-C

DEPT. NO: XXX

20 **AMENDED COMPLAINT**

21 COMES NOW, CELESTE LATHIGEE, Plaintiff, and for causes of action for and against
22 the British Columbia Securities Commission, states, avers and alleges as follows:

23 1. Celeste Lathigee (hereinafter "Celeste") is an individual who at all relevant times
24 resided in Clark County, Nevada.

25 2. Celeste is married to an individual named Michael Lathigee, and has continuously
26 resided with her husband at the residence known as 9404 Empire Rock Street, Las Vegas, Nevada
27 89143, more specifically referred to as Assessor's Parcel No. 125-05-411-018, since their
28 marriage.

1 3. Celeste Lathigee married Michael Lathigee on or about January, 2010.

2 4. Prior to the marriage, on or about December 18, 2008, Michael P. Lathigee had
3 originally acquired the subject premises, hereinafter referred to as the "Empire Rock Property",
4 utilizing funds and monies in no way connected with Michael's Canadian investment activity.
5

6 5. On or about September 10, 2009, Michael P. Lathigee recorded a Declaration of
7 Homestead regarding the Empire Rock property.

8 6 In approximately March, 2012, more than three years after acquiring the subject
9 property, the British Columbia Securities Commission initiated administrative proceedings
10 against Michael P. Lathigee, which ultimately resulted in a Canadian judgment of the British
11 Columbia Supreme Court, on or about April 15, 2015, under Registry File No. L-150117.
12

13 7. The British Columbia Securities Commission (hereinafter "BCSC") subsequently
14 sought to domesticate that judgment in Clark County, Nevada, under Case No. A-18-771407-C.
15

16 8. On or about May 14, 2019, BCSC obtained a ruling from the Eighth Judicial
17 District Court recognizing and acknowledging the efficacy of the aforesaid British Columbia
18 judgment.

19 9. The decision by the Eighth Judicial District Court authorizing and allowing the
20 registration of the Canadian judgment has been appealed to the Nevada Supreme Court, and a
21 decision is expected in the near future.
22

23 10. Michael P. Lathigee again filed a Declaration of Homestead with regard to Empire
24 Rock on or about January 30, 2018.

25 11. On or about March 21, 2018, incident to domestic issues that has arisen between
26 himself and his wife, Celeste, Michael P. Lathigee quitclaimed the Empire Rock property to
27 Celeste.
28

12. Less than 24 hours later, Celeste Lathigee filed a Declaration of Homestead as to the Empire Rock property on March 22, 2018.

13. BCSC, upon obtaining a ruling by the Eighth Judicial District Court as to the registration of its British Columbia judgment, immediately proceeded to record a judgment lien, specifically referencing the Empire Rock parcel, on or about May 20, 2019.

14. At all relevant times, the Lathigees have resided in the Empire Rock property.

15. At all relevant times, the Lathigees have maintained their mutual and joint intentions to maintain the Empire Rock property as their true and only residential homestead.

16. The monies which allowed the Lathigee's to acquire the Empire Rock property were no way tainted, colored, or capable of characterization as anything other than legitimately acquired funds, used for a legitimate purpose, with no taint or hint of misconduct, wrongdoing, fraud, or misconduct by Michael P. Lathigee.

17. Contrary to various negative aspersions, veiled innuendos, and negative press, generated, on information and belief, by the BCSC, Michael P. Lathigee never used funds derived from Canadian investors to acquire the Empire Rock property.

18. Indeed, particular attention should be paid to the express statement of the BCSC's own expert witness in the underlying Canadian litigation, Mr. Gordon R. Johnson, who following his review of the records stated:

"Certainly, I agree the impact of the remedy is significant in that the order in question requires Mr. Lathigee to pay \$21,7000,000 Canadian without proof that Mr. Lathigee personally received that amount."

1 JAX 132 Emphasis supplied.

19. In point of fact, Celeste Lathigee was not married to Michael P. Lathigee at the time the home was originally acquired, but has in fact joined her husband and made that home the family's permanent homestead since the time of the marriage referenced above.

20. At all relevant times, BCSC knew or reasonably should have known that Celeste Lathigee had no personal involvement and nothing whatsoever to do with the transactions and conduct which underlay the legal theories and claims asserted by BCSC against Michael P. Lathigee's, leading to the BCSC's judgment.

21. At all relevant times, BCSC knew or reasonably should have known that title to the Empire Rock property was held in the name of Celeste Lathigee.

22. At all relevant times, BCSC knew or reasonably should have known that Celeste Lathigee had recorded a valid Declaration of Homestead as to the Empire Rock property.

23. At all relevant times, BCSC knew or should have known that the law of Nevada precluded and prohibited the attachment of a judgment lien to properly homesteaded property. *In Re Contrevo*, 123 Nev. 20 at 24, 153 P.3d 52 (2007).

24. Nevertheless, despite knowing that the Empire Rock property was owned by Celeste Lathigee, and not Michael P. Lathigee, and despite knowing that Celeste Lathigee had exercised her constitutional and statutory rights to declare the subject property as her homestead, BCSC nevertheless knowingly, willfully, intentionally, and maliciously recorded its judgment against Michael P. Lathigee specifically referencing the Empire Rock property owned by Celeste Lathigee.

25. At the time British Columbia recorded its judgment lien against the Empire Rock property, it knew or reasonably should have known that the recording of such judgment lien would impair the marketability of title, insofar as no reasonable or prudent title company operating in Nevada could or would insure title to a prospective lender or purchaser in derogation of a recorded judgment lien.

26. Other actions of the BCSC taken against Michael P. Lathigee, and also impacting Celeste Lathigee, including the wrongful seizure of Celeste Lathigee premarital sole and separate

1 jewelry (documented by numerous pre-marital purchase receipts), have in fact had a severe
2 negative impact on the family's ability to earn money.

3
4 27. In light of such other conduct, and in an effort to survive given the severe
5 economic impact on the family, the Lathigees are forced to seek a prospective lender with the
6 residence being offered as security, which efforts have proven unavailing to date, because of the
7 fact that the BCSC recorded a judgment lien against the subject property.

8
9 28. Celeste Lathigee has now been forced to retain counsel in an effort to cure and
10 resolve the affirmative misconduct and slander of title undertaken by the BCSC.

11
12 29. Formal demand was made on the BCSC on or about July 6, 2020, that it remove or
13 release the recorded judgment lien as regards the subject Empire Rock parcel, but BCSC, through
14 their counsel, adamantly failed and refused to do so.

15
16 30. The BCSC, despite having been afforded an opportunity to clear title and mitigate
17 the damages suffered by Celeste Lathigee, affirmatively chose to maintain its wrongful judgment
18 lien against the Empire Rock Property.

19
20 31. The BCSC should have known that their refusal and failure to rectify their
21 malicious and wrongful conduct would require Celeste Lathigee to retain counsel to undertake the
22 efforts necessary to clear the wrongful and malicious cloud against title created by the recorded
23 judgment line.

24
25 32. The BCSC knew or reasonably should have known that in addition to the fees and
26 costs which will necessarily accrue in the litigation process of clearing the slandered title as to the
27 Empire Rock, such litigation efforts, necessarily entail delay, aggravation, emotional distress, and
28 various other elements of consequential damage, all of which was a reasonably foreseeable
consequence by the affirmative tort of slander of title taken by the BCSC.

1 33. Under Nevada law, in addition to damages and personal injury suffered by
2 Celeste Lathigee, Celeste Lathigee is entitled to recover all of her attorneys fees and costs
3 incurred incident to clearing and curing the aforesaid slander of title as special damages.
4

5 **FIRST CLAM FOR RELIEF**

6 **(Slander of Title)**

7 34. Plaintiff incorporates by reference Paragraphs 1 through 33 of its Complaint as
8 though fully set forth.
9

10 35. The actions of the British Columbia Securities Commission, as alleged
11 hereinabove, constitute the tort of Slander of Title.

12 36. The actions of BCSC in affirmatively slandering title were undertaken knowingly,
13 willfully, and maliciously in a conscious effort to oppress and harm Celeste Lathigee.

14 37. Celeste Lathigee has been damaged by the conduct of the BCSC, directly and
15 proximately, as a result of the slander of title, and she is therefore entitled to recover her damages
16 in excess of \$15,000, the precise amount to be proven at time of trial.
17

18 38. The conduct of the BCSC as aforesaid was knowing, willful, oppressive and
19 malicious, and Celeste Lathigee is therefore entitled to recover appropriate exemplary damages
20 under Nevada law, in an amount in excess of \$15,000.
21

22 39. As previously alleged, the wrongful conduct of the BCSC in slandering Celeste
23 Lathigee's title is a direct and proximate cause of her incurring as special damages the attorneys
24 fees and costs necessary to clear title and rectify the previous willful misconduct of the BCSC,
25 and she is therefore entitled to recover her attorneys fees and costs as special damages.
26
27
28

SECOND CLAIM FOR RELIEF

(Abuse of Process)

40. Plaintiff incorporates by reference Paragraphs 1 through 39 of its Complaint as though gully set forth.

41. The tort of abuse of process occurs when a party, i.e. the BCSC, knowingly undertakes and abuses legal process (otherwise proper in the ordinary course), for an improper or ulterior purpose, with resulting damages.

42. The BCSC is guilty of the tort of abuse of process against Celeste Lathigee based on its conduct as alleged hereinabove, and she has suffered damages as a consequence thereof.

43. The conduct of the BCSC as aforesaid was knowing, willful, oppressive and malicious, and Celeste Lathigee is therefore entitled to recover appropriate exemplary damages under Nevada law, in an amount in excess of \$15,000.

44. That it has been necessary for the Plaintiff to retain the services of an attorney to prosecute this action and Plaintiff is therefore entitled to reasonable attorney's fees as special damages as a matter of law.

THIRD CLAIM FOR RELIEF

(Declaratory Relief)

45. Plaintiff incorporates by references Paragraphs 1 through 44 as though fully set forth herein.

46. A true and ripe controversy exists as to the dispute, and declaratory relief pursuant to NRS 30.040 is necessary to declare the respective rights, responsibilities, and obligations between the parties as a consequence of Plaintiff's judgment against BCSC, and as relates to the various transactions undertaken by Defendants including but not limited to transactions involving various parcels of valuable real estate.

1 47. For all of the reasons set forth hereinabove, the BCSC has acted wrongfully and
2 in violation of Plaintiff's rights, and a direct declaration as to the invalidity of the BCSC's
3 Judgment Lien, is appropriate, and should be determined and declared by the court.

4
5 48. That it has been necessary for the Plaintiff to retain the services of an attorney to
6 prosecute this action and plaintiff is therefore entitled to reasonable attorney's fees.

7 **WHEREFORE**, Plaintiff prays for judgment against Plaintiff Celeste Lathigee prays for
8 judgment against Defendant British Columbia Securities Commission as follows:

- 9 1. For compensatory damages in an amount in excess of \$15,000, and
10 the precise amount to be proven at trial;
- 11 2. For exemplary damages in an amount in excess of \$15,000, the precise
12 amount to be proven at trial;
- 13 3. For the declaration as to the invalidity of the BCSC's recorded judgment
14 lien as against the Empire Rock parcel, and the further declaration that
15 said judgment lien is null and void and has no effect;
- 16 4. For an award of all of her attorneys fees and costs;
- 17 5. For an award of all of her attorneys fees and costs as special
18 damages;
- 19 6. For statutory interest upon all the damages awarded in accordance
20 with Nevada law; and
21
22
23

24

25

26

27

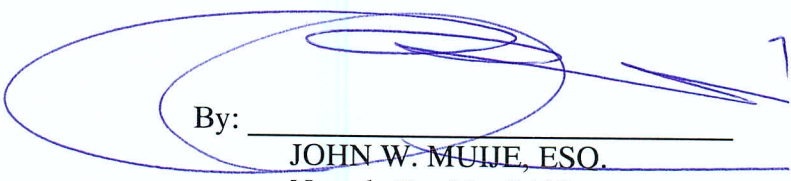
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7. For such other and further relief as the Court may deem just and proper in the premises.

DATED this 23rd day of July, 2020.

JOHN W. MUIJE & ASSOCIATES



By: _____

JOHN W. MUIJE, ESO.

Nevada Bar No: 2419

1840 E. Sahara Ave #106

Las Vegas, Nevada 89104

Telephone No: (702) 386-7002

Facsimile No: (702) 386-9135

Email: [Jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)

Attorneys for Plaintiff

JOHN W. MUIJE & ASSOCIATES
1840 E. Sahara Ave., #106
Las Vegas, Nevada 89104
Telephone: 702-386-7002
Email: [Jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)