Neutral Citation Number: [2010] IEHC 185

THE HIGH COURT

1997 2244 P

BETWEEN

MUCHWOOD MANAGEMENT LTD AND DAVID REILLY

PLAINTIFFS

AND

DAVID McGUINNESS, ROBERT MALONE, CRAIG HUTCHINSON,

COLM QUEARNEY, RONAN BYRNE, SAMANTHA B. COKER,

MICHAEL SPAIN

DEFENDANTS

JUDGMENT of Ms. Justice Dunne delivered on the 19th day of May, 2010.

The plaintiffs herein issued proceedings for damages for breach of contract, misrepresentation and breach of warranty, breach of fiduciary duty and other reliefs by way of a plenary summons issued on the 26th February, 1997. All of the defendants (save for the sixth named defendant Samantha B. Coker) have brought a motion seeking to have the plaintiffs proceedings dismissed for want of prosecution. For ease of reference, a reference to "the defendants" should be understood as a reference to all the defendants save the 6th defendant unless it is otherwise clear from the context.

Background

The first named plaintiff is a company beneficially owned and controlled by the second named plaintiff and was a party to a written agreement dated the 30th January, 1990, made with a number of the defendants herein. That agreement provided that the first named plaintiff would act as manager of a band called LIR. The agreement expired on the 1st December, 1992 and was extended then for a further two years. A further agreement was entered into to take effect following the expiry of the second agreement and the third agreement made some modifications to the terms of the original agreement. In addition the fifth named defendant became a band member in substitution for one of the original members of the band. It appears from the pleadings herein that the variation of the terms of the original agreement made orally towards the end of 1994 will be a matter of considerable dispute by the parties to the agreement. This is a case in which oral evidence and the respective recollections of the various parties will be an important feature of the case.

The pleadings in this case were closed by the delivery of the plaintiffs reply and defence to counterclaim on the 18th November, 2003. A notice of motion had been issued on the 21st January, 2009, returnable for the 13th February, 2009 and that motion ultimately came on for hearing before me on Monday the 1st March, 2010. It would be of assistance at this point to set a chronology in relation to the conduct of these proceedings and I propose therefore to refer to a chronology prepared on behalf of the defendants herein.

26th February 1997 Plenary summons issued

9th May 1997 Appearance for all defendants

9th March 1998 Plaintiffs first notice of intention to proceed

23rd September 1998 Plaintiffs motion to join sixth and seventh defendants and for other relief

16th February 1999 Statement of claim

14th July 1999 Plaintiffs second notice of intention to proceed

27th September 1999 Plaintiffs motion for judgment in default of defence against first to fifth and seventh defendants

10th December 1999 Defence and counterclaim of first to fifth and seventh defendants

23rd February 2001 Sixth defendant's notice of motion to dismiss the plaintiffs claim for want of prosecution

18th November 2003 Plaintiffs reply and defence to counterclaim of first to fifth and seventh defendants

15th December 2003 Plaintiffs third notice of intention to proceed

30th September 2007 Plaintiffs fourth notice of intention to proceed

11th May 2009 Order of the Master allowing the plaintiffs three weeks in which to serve a notice of trial

I should add that I was also furnished with a further chronology of the proceedings prepared on behalf of the plaintiffs herein. That chronology is to be found appended to this judgment.

Delay
It appears that although the Master of the High Court made an order permitting the plaintiffs to serve a notice of trial in May 2009, the Central Office would not accept the notice of trial because of the fact that the plaintiffs solicitors informed the Central Office that the defendants were in the process of furnishing a further affidavit of discovery and in those circumstances the central office regarded the matter as not having reached the stage where it would be possible to set the matter down for trial. These matters are dealt with in the affidavit of Kevin Brophy sworn herein on the 1st March, 2010.

There is no doubt that there have been some extraordinary periods of delay over the course of years while these proceedings have been pending. Following the delivery of the statement of claim in May 1999, the plaintiffs had to bring a motion for judgment in default of defence in October 1999, which led to the delivery of the defence and counterclaim in December 1999. The next event of significance was a notice of motion brought by the sixth named defendant to dismiss the plaintiffs claim for want of prosecution. Thereafter, there appears to have been no step in the proceedings until the plaintiffs delivered a reply and defence to the counterclaim of the defendants. Between December 2003 and October 2007, when the plaintiffs issued their third and fourth notice of intention to proceed respectively, no steps were taken in the proceedings. Having said that, I note from the chronology prepared on behalf of the plaintiffs that the process of discovery commenced on the 1st December, 2004, when the defendants sought discovery from the plaintiffs. On the 2nd June, 2005, there was an indication that counsel on both sides would liaise on the issue of discovery. By the 24th October, 2005, there was an agreement on the question of discovery. Thereafter the plaintiffs swore an affidavit of discovery on the 8th December, 2006 and that was sent shortly afterwards to the defendants. An affidavit was provided by the defendants on the 11th April 2007 and correspondence took place thereafter in relation to the discovery until the 27th November, 2007, when a supplemental affidavit of discovery was sworn by the defendants. Subsequently in 2008 there was further correspondence over the question of discovery and in October 2008, the plaintiffs issued a motion for discovery. It appears that the defendants provided further documentation over a period of time and ultimately filed a replying affidavit in relation to the discovery motion. That affidavit, which is sworn by the seventh named defendant on behalf of all of the defendants with the exception of the sixth named defendant, makes the point that over the course of the past twelve years all necessary information and documentation requested by the plaintiffs herein has been provided and that there is no further documentation relevant to the issues in the possession, power or procurement of the defendants. It is pointed out that had the discovery application been brought ten years earlier, more third party documentation might have been available.

The affidavit grounding the notice of motion herein was sworn by Michael Spain and in that affidavit he stated that the defendants had requested the plaintiffs to "call this matter on for hearing without further delay" and reference was made to letters dated the 21st November, 2007, the 17th July, 2008 and the 30th October, 2008. He further stated that the ability to defend the plaintiffs' claim has been severely prejudiced by the plaintiffs' failure to call the matter on for hearing. He pointed out that the first named plaintiff is a non trading company which has not filed annual returns with the company's records office since 23rd September, 1997. He stated that none of the delay complained of is attributable to the defendants and that the inordinate delays were caused solely by the plaintiffs.

A replying affidavit was sworn by Kevin Brophy, the principal in the firm of Brophy, Solicitors, on behalf of the plaintiffs. In that affidavit, he stated that the defendants have been in a position to set the matter down for trial had they wished to do so. In particular he emphasised that this could have been done at any time since the 14th December, 2006, after the plaintiffs had sent their affidavit of discovery to the defendants. Complaint is then made as to an alleged failure on the part of the defendants to comply with the terms of discovery agreed the parties. There was also complaint made about the extent of information provided by the seventh named defendant in the affidavit grounding the application. Have set out a number of matters relating to the background of the proceedings, Mr. Brophy went on to accept that there has been a delay in progressing the case. He came on record in the proceedings in May 2001. He contended that there has been delay on both sides in progressing the matter and that the most recent delay has been as a result of the defendants' failure to make discovery. He set out the background to an agreement reached by counsel for the parties in relation to the issue of discovery. On the basis of the matters set out in the affidavit, he stated that whilst there has been substantial delay, having regard to the issue of delay in relation to discovery, the delay is excusable.

The Law
There was little dispute between the parties on the legal principles applicable to a case of this kind. Counsel on behalf of the defendants referred to the cases of *Allergon Pharmaceuticals (Ireland) Ltd. v. Noel Deane Roofing and Cladding Ltd. And Others* (Unreported, High Court, O'Sullivan J., 6th July, 2006) which was an application made by the third named defendant to set aside an order renewing the plenary summons. O'Sullivan J. made reference in the course of his judgment in that case to the decision of the Supreme Court in the case of *Gilroy v. Flynn* [2005] 1 I.L.R.M. 290. Reference was also made to the decision in the case of *Anglo Irish Beef Processors Ltd. and D.J.S. Meats Ltd. v. Montgomery and Others* [2002] 3 I.R. 510, in which it had been held that the balance of justice was in favour of striking out the proceedings. The plaintiffs in that case had not given an adequate explanation for the delay and the defendants had not acquiesced in their conduct. In that case there was also a difficulty caused by the death of a witness, causing serious prejudice to the defendants in maintaining their claim against a third party, giving rise to a substantial risk that a fair trial would not be possible. Keane C.J. commented at p. 515 of the judgment as follows:-

> "As against that, there is the remarkable fact that, although Anglo Irish are acknowledged to be a wealthy trading corporation with access to first class professional advice, no explanation whatever was given for the quite staggering lethargy with which these proceedings were pursued. Nor can it be said that the defendants in any way acquiesced in the inaction of the plaintiffs."

I was also referred to the decision in *O'Connor v. John Player and Sons Ltd*. (Unreported, High Court, Quirke J., 12th March, 2004) in which it was accepted by Quirke J. as follows:-

> "I accept the contention that, in general, there is no obligation upon a defendant to expedite the prosecution of the claim made against him or her."

In that case as in a number of the other cases that were cited to me including the *Anglo Irish Beef Processors Ltd*. case the courts dealt with the issue on the basis of the decision in the case of *Primor Plc v. Stokes, Kennedy Crowley* [1996] 2 I.R. 459.

In the course of the submissions herein I was referred to a judgment of this Court in the case of *Dermot Desmond v. Times Newspapers Ltd*. (Unreported, High Court, 12th June, 2009). In the course of that decision I also referred to the legal principles set out in the *Primor* decision and to the application of those principles in a number of decisions such as *Gilroy v. Flynn* [2005] 1 I.L.R.M. 290 and *Stephens v. Paul Flynn Ltd* [2005] I.E.H.C. 148. In the case of *Stephens v. Paul Flynn Ltd.*, Clarke J. in a decision which was upheld by the Supreme Court on appeal set out certain principles to be applied in cases such as this:-

> "Having considered the matter I am satisfied that the two central tests remain the same. The court should therefore:-
>
> 1. Ascertain whether the delay in question is inordinate and inexcusable; and
>
> 2. If it is so established the court must decide where the balance of justice lies."

The principles summarised by Hamilton C.J. in the *Primor* case are so well known that it is not necessary to set out those principles here, but it think it is fair to say that those principles are encapsulated in the passage referred to from the judgment of Clarke J. referred to above. In this case, it has been conceded on behalf of the plaintiffs that the delay has been inordinate. The plaintiffs do not concede that the delay is inexcusable and have pointed to issues in relation to discovery to support the argument that the delay has not been inexcusable. Indeed they go further and say that by participating in the process of discovery and by furnishing and continuing to furnish documentation, the defendants have acquiesced in the delay that has occurred. The defendants have conceded that there has been some delay on their part in the course of the proceedings, but in essence, their view is that the delay on their part is minimal when contrasted with that of the plaintiffs herein.

It is necessary therefore to examine the issue in relation to discovery in order to consider whether the delay in this case is not just inordinate but also inexcusable. On the 1st December, 2004, the solicitors for the defendants wrote to the plaintiffs solicitors seeking voluntary discovery. There was a response to that letter in June 2005, indicating that counsel for both sides would discuss the matter. Ultimately there was an agreement on the discovery to be provided by both sides in October 2005, and it was further agreed that discovery was to be made within eight weeks of the 24th October, 2005. As it transpired, the plaintiffs' discovery was not furnished to the defendants until the 14th December, 2006 and the defendants furnished their affidavit of discovery on the 11th April, 2007.

Thereafter, the parties engaged in correspondence about the discovery that had been made on an almost monthly basis until February 2008. Matters rested there until the 1st July, 2008. In a letter of that date the solicitors for the defendant called on the plaintiffs to set the matter down for trial. It was pointed out that the defendants were severely prejudiced by the delay. Ultimately, a motion for discovery was issued on behalf of the plaintiffs on the 14th October, 2008, returnable for the 23rd January, 2009. The notice of motion at hearing before this Court in relation to the dismissal for want of prosecution issued on the 21st January, 2009, returnable for the 13th February, 2009. It is worth observing that the process of discovery, having been commenced by and on behalf of the defendants in December 2004, was engaged in by the parties in a desultory manner over an extraordinary period of time. Having reached an agreement on the nature of discovery to be made and having agreed that discovery should be furnished within eight weeks in October 2005, the plaintiffs being dissatisfied with the discovery made available, did not ultimately issue any motion in relation to discovery until the 14th October, 2008. It has to be remembered that this case relates to a tour by a band in the United States that took place in 1994.

I do not doubt that there may have been difficulty in accessing some of the materials required by way of discovery given the fact that some of the events at issue in these proceedings occurred outside the jurisdiction and many years ago, but having said that it is extraordinary that the process of discovery could have been allowed to drift by the plaintiffs for such a long period of time. It is necessary to remember that it is the plaintiffs who rely on the discovery process to provide the excuse for the delay in prosecuting these proceedings. Yet it is the plaintiffs who allowed this matter i.e. the question of discovery to delay the action being set down without taking any practical steps to advance the matter. One understands that discovery can be a complicated, difficult and labour intensive aspect of any proceedings. The more complicated the nature of the proceedings, the greater the likelihood is that discovery in the course of such proceedings may be complicated. Nonetheless, that would not justify the parties in proceedings sitting back and taking a leisurely approach to the question of discovery. It is obviously desirable that parties should in the first instance try to agree discovery. That is what happened in this particular case. It is unsurprising that having reached an agreement as to the time scale within which to provide discovery there may be some delay or slippage in complying with the time scale agreed. There is nothing unusual in that. One might comment that it is more often the case than not that time scales in relation to discovery are frequently aspirational. Nonetheless, the Rules of the Superior Courts provide a procedure to deal with difficulties that arise in relation to discovery. The plaintiffs could and should at a much earlier stage have brought a motion in relation to the issue of discovery. I cannot see how it was necessary for the plaintiffs to wait until the 14th October, 2008, to issue a motion in respect of discovery.

It is interesting to note in passing that the affidavit in support of that notice of motion sworn by Kevin Brophy on the 1st October, 2008, refers simply to the letter of the 20th September, 2005, in relation to discovery and goes on to say that:-

> "No satisfactory response was received to this letter upon a copy of which marked "KB1" I have signed my name prior to the swearing hereof. I also beg to refer to a copy of all other correspondence passing between our two firms in relation to discovery, upon copies of which, pinned together and marked "KB2", I have signed my name prior to the swearing hereof."

The affidavit does not itself set out details as to how the defendants have failed to comply with the issue of discovery and it is necessary to consider the correspondence in that regard. In truth, there is nothing unusual about the nature of discovery in this case.

I do not think that the manner in which discovery has been dealt with in this case to date provides an excuse for the delay in dealing with the prosecution of the proceedings herein. It may have a bearing on the issue of the balance of justice but it does not provide an excuse for delay. Far from excusing the delay, one is left with the inescapable conclusion that for long periods of time, little or no effort at all was made to advance these proceedings. To a certain extent the argument as to the excusability of the delay in this case is reduced to saying that because the plaintiffs have delayed and the other side has also delayed, there is an excuse for the plaintiffs' delay. That is not the case. The delay on the part of the plaintiffs in getting the action to hearing cannot be excused solely by reason of delay on the part of the defendants in providing discovery. In those circumstances I have come to the conclusion that the delay in this case is both inordinate and inexcusable.

In those circumstances it becomes necessary to consider the question of the balance of justice. In the *Primor* principles referred to

above, it was found that in considering that aspect of the case the court should take into consideration and have regard to:-

> "(i) the implied constitutional principles of basic fairness of procedures,
>
> (ii) whether the delay and consequent prejudice in the special facts of the case were such that made it unfair to the defendant to allow the action to proceed and made it just to strike out the plaintiffs action,
>
> (iii) any delay on the part of the defendant, - because litigation was a two party operation, the conduct of both parties should be looked at,
>
> (iv) whether any delay or conduct of the defendant amounted to acquiescence on the part of the defendant in the plaintiff's delay,
>
> (v) the fact that conduct by the defendant which induces the plaintiff to incur further expense in pursuing the action did not, in law, constitute an absolute bar preventing the defendant from obtaining a striking out order but is a relevant factor to be taken into account by the judge in exercising his discretion whether or not to strike out the claim, the weight to be attached to such conduct depending on all the circumstances of the particular case,
>
> (vi) whether the delay had gives rise to a substantial risk that it is not possible to have a fair trial or is likely to cause or have caused serious prejudice to the defendant,
>
> (vii) the fact that the prejudice to the defendant referred to in (vi) may arise in many ways and be other than that merely caused by the delay, including damage to a defendant's reputation and business."

This is a case in which it has been accepted that there has been some degree of delay on the part of the defendants. It is also the case that as has been stated in other decisions, for example, *O'Connor v. John Player and Sons Ltd. and Others* (Unreported, High Court, Quirke J., 12th March, 2004) that:-

> ". . . in general, there is no obligation upon a defendant to expedite the prosecution of the claim made against him or her."

It seems to me that in the context of considering the balance of justice, the critical issues to consider are whether the delay or conduct on the part of the defendants could be said to amount to acquiescence on the part of the defendants in the plaintiffs delay and whether the delay gives rise to a substantial risk that it is not possible to have a fair trial or is likely to cause or have caused serious prejudice to the defendants. Dealing with the issue of acquiescence and delay on the part of the defendants, it is relevant to note that on the 29th September, 2009, an affidavit of discovery described as a supplemental affidavit of discovery was sworn by Michael Spain on behalf of the defendants. It is noteworthy that that affidavit was sworn some eight months after the issue of the notice of motion herein seeking to dismiss these proceedings for want of prosecution.

One of the unusual features of this case is that whilst there has been inordinate and inexcusable delay on the part of the plaintiffs in prosecuting their claim that has been mirrored by the defendants in their response to the issue of discovery, a process which they themselves initiated in 2004. The approach of the defendants in this case to the question of discovery is not dissimilar to the approach of the defendant in a decision of this Court in a case entitled *Rooney v. Ryan* [2009] I.E.H.C. 154, in which I commented at p. 164 as follows:-

> "In those circumstances, it seems to me that the defendant has by its conduct lulled the plaintiff into a false sense of security such that the plaintiff was not impressed with any sense of urgency in relation to the proceedings."

I added:-

> "I am not entirely sure whether that conduct on the part of the defendant could be classed as acquiescence but it is certainly the case that the defendant delayed in bringing an application to dismiss for want of prosecution and during that period of delay, the plaintiff incurred further expense in conducting the litigation, albeit without a sense of urgency."

I cannot be other than critical of the manner in which the plaintiffs and the defendants have conducted this litigation. There is an obligation on all sides to litigation to conduct the proceedings expeditiously. In this particular case there has been a lack of expedition apparent on both sides. Matters are made worse when one considers that the issues go back to a contract first entered into in 1990 and in relation to which the main dispute relates to events that occurred in 1995. The proceedings themselves were issued in 1997 and the last formal step in the proceedings before the issue of the motion for discovery in 2008 was the delivery of the reply to the defence and counterclaim on the 18th November, 2003.

Apart altogether from the issue of acquiescence or conduct on the part of the defendants, there is also the issue of prejudice. In that regard the supplemental affidavit of Michael Spain sworn herein on the 25th February, 2010, on behalf of the defendants has to be considered. He noted in that affidavit that the plaintiffs have served notice of discontinuance against the sixth named defendant, Samantha Coker, a citizen of the United States and a person residing in that country. She is described as a vital witness for the defence and Michael Spain indicates that since he discovered that she was no longer a co-defendant in the proceedings he has attempted to contact her to find out if she would be available to give evidence. Her response was to the effect that she does not have any documentation from that time period and that her recollection of matters is minimal. Michael Spain also contacted Rob Gordon, the president of the record company which owns the recording rights of LIR's music in the United States. His response was similar. He indicated that:-

> "I am sure any paperwork was thrown away after the seven years the IRS makes save records for. Sorry I cannot be more helpful."

Michael Spain went on to add that having tried to discuss the case with the co-defendants it is clear that the recollections of the co-defendants regarding the evidence has been severely diminished by the amount of time that has elapsed.

Mr. Brophy in an Affidavit sworn on the 1st March 2010 went on to add:-

> "When these matters, both the motion relating to our request for discovery and the defendants motion to dismiss for want of prosecution came before the Master of the High Court in May 2009, the defendant was given a further five weeks

to file a further affidavit of discovery. When the matter came before this Honourable Court in May and July 2009, in order to fix a date for the hearing of the overall action, the matter was adjourned on consent because the defendants indicated that they were in the process of filing a further affidavit of discovery and because the Central Office would not accept the notice of trial served by us on the defendants because we had told them that the defendants were in the process of furnishing a further affidavit of discovery and pleadings had not therefore concluded."

That affidavit of discovery was as previously mentioned finally furnished in September of last year.

I do not doubt that the defendants herein have suffered a moderate degree of prejudice by the delay in the conduct of these proceedings. The prejudice includes the lack of documentation from sources in the United States and includes the inevitable effect on recollection of witnesses and parties that the passage of time inevitably causes. Having regard to the *Primor* principles to which I have referred already, I would have to say that this is a case in which it is impossible to ignore the delay on the part of the defendants. I would go further and say that there has been acquiescence by the defendants in the delay in this case. They initiated, participated in and delayed the process of discovery to an extent that is difficult to understand even taking into account that the events at issue go back as far as 1990, relate to a tour in 1995 and deal with events on both sides of the Atlantic. Given that position, I am reluctant at this point in time to make an order dismissing these proceedings for want of prosecution.

There has been reference as to the circumstances of the various parties to these proceedings in the course of the affidavits sworn herein. Common sense dictates that these proceedings should be brought to an end sooner rather than later. It does not appear to me from the affidavits that have been sworn that either the plaintiffs or the defendants could be described as parties with deep pockets. It seems to me from the affidavits sworn herein that the first named plaintiff is not a company which has any resources. The second named plaintiff is apparently working as a legal executive. The financial position of the defendants is set out in the affidavit of Michael Spain sworn on the 21st January, 2009; four of the defendants do not have any form of regular income and indeed appear to be heavily dependent on social welfare payments or family for their support. To that end, one must question whether there is any reality for the parties in pursuing this litigation. At one level, one could comment that it would be a kindness to all the parties to dismiss these proceedings for want of prosecution. I am of the view as I have already made clear that it is not appropriate to do so at this point in time. At the very least, the parties should consider whether there is a less costly and more practical way of bringing their protracted dispute to an end. It seems to me that the parties should find an alternative method of resolution of their dispute. I will hear the parties further on this aspect of the matter.

Date	**Event**	**Reference**
21 Sept 1990	Original Agreement	
26 Feb 1997	Plenary Summons	6
9 May 1997	Appearance by Kent Carty for	18
9 March 1998	Notice of Intention to Proceed	19
23 Sept 1998	Motion Issued to Add Two Defendants	26
30 Nov 1998	Order in Motion to Add Defendants	29
16 Feb 1999	Statement of Claim	30
14 July 1999	Notice of Intention to Proceed	51
27 Oct 1999	Motion for Judgment in Default of Defence Grounded on Affidavit of Conor Cahill	59
10 Dec 1999	Defence and Counter-Claim	70
11 February 2000	Appearance by MOP for 6th Defendant	71
17 May 2000	Notion of Motion to Renew Concurrent Summons	72
29 May 2000	Order on renewal motion	78
27 May 2001	Change of Plaintiff's Solicitor	
22 Jan 2002	Notice of Motion for Replies by 6th Defendant	100
2 April 2003	Notice of Motion for Replies by 6th Defendant	136
28 July 2003	Order on Motion for Replies	
18 Nov 2003	Reply to Defence and Counterclaim	
1 Dec 2004	Defendant's Seek Discovery	Para 13, KB, 217-K3 - 234
2 June 2005	Letter indicating that counsel would liaise on Discovery	Para 18, KB, KB4 - 244
24 October 2005	Agreement on Discovery	Para 19, KB5, 246
15 Dec 2003	Notice of Intention to Proceed	145
8 Dec 2006	Plaintiff's Affidavit of Discovery Sworn	148

14 Dec 2006	Plaintiff's Affidavit of Discovery sent to Defendants	Para 20, letter in KB6
4 Jan 2007	Correspondence from KC indicating that affidavit of Defendants will ready in early course	Para 20, letter in KB6 (253)
12 Jan 2007	Correspondence on discovery	254
26 Feb 2007	Correspondence on discovery	
11 April 2007	Defendants Affidavit Provided	Para 20, letter in KB6 (page 260)
12 June 2007	Correspondence on discovery	Para 22, KB, page 267
31 July 2007	Correspondence on discovery	Para 23, KB, page 271
3 Sept 2007	Correspondence on discovery	272
19 Sept 2007	Correspondence on discovery	Para 24, KB
27 Nov 2007	Supplemental Affidavit of Discovery sworn by Defendants	Para 25, KB
30 Oct 2007	Notice of Intention to Proceed	162
30 Jan 2008	Inspection Offered	C 138
21 February 2008	Correspondence over inadequacy of discovery	C 131
17 July 2008	Reply to 21 February 2008 correspondence	C 122
14 Oct 2008	Plaintiff issues motion for discovery	165
31 Oct 2008	Correspondence in relation to motion	C 117
18 Dec 2008	New Documentation is provided	299 KB9
21 Jan 2009	Defendant issues motion to strike out	*186*
5 Feb 2009	P again queries the discovery	C 100
19 June 2009	Continuing Correspondence over Discovery – more documentation sought referable to discovery made	
20 July 2009	KC write referring to social welfare records	C 28
19 August 2009	New Documentation is provided	C 28
28 August 2009	New Documentation is provided	C 21
26 Feb 2009	Defendant files replying affidavit in discovery motion	188
5 May 2009	Plaintiff files replying affidavit in motion to strike out	*216*