

THE HIGH COURT

2007 9400 P

BETWEEN

DANIEL DOHERTY

PLAINTIFF

AND

**THE MINISTER FOR JUSTICE, EQUALITY AND LAW REFORM AND
JOHN HEDIGAN OF THE EUROPEAN COURT OF HUMAN RIGHTS AND**

JOHN L. MURRAY OF THE SUPREME COURT AND

JOSEPH FINNEGAN OF THE SUPREME COURT AND

RICHARD JOHNSON OF THE HIGH COURT AND

PAUL CARNEY OF THE HIGH COURT AND

KEVIN O'HIGGINS OF THE HIGH COURT AND

FREDERICK MORRIS OF THE HIGH COURT AND

MATTHEW DEERY OF THE CIRCUIT COURT AND

MICHAEL WHITE OF THE CIRCUIT COURT AND

JOSEPH MATTHEWS OF THE CIRCUIT COURT AND

MIRIAM MALONE OF THE DISTRICT COURT AND

JOHN O'DONNELL OF THE DISTRICT COURT AND

TOM FITZPATRICK OF THE DISTRICT COURT AND

SEAN MCBRIDE OF THE DISTRICT COURT AND

ANNIE MCGINLEY, ASSISTANT COUNTY REGISTRAR FOR COUNTY DONEGAL AND

GERALDINE O'CONNOR, REGISTRAR FOR COUNTY DONEGAL, AND

VAL CRONIN OF THE DISTRICT COURT IN DONEGAL AND

THE LAND REGISTRY AND

THE BAR COUNCIL OF IRELAND AND

THE LAW SOCIETY OF IRELAND

THE COMMISSIONER OF AN GARDA SIOCHÁNA AND

CATHERINE CLANCY AND

NOEL V. WHITE AND

THE CRIMINAL ASSETS BUREAU AND

THE GARDA OMBUDSMAN AND

JOHN LONERGAN AND

DAN SCANNELL AND

TONY KILBANE AND

THE DIRECTOR OF PUBLIC PROSECUTIONS AND

THE COURTS SERVICE AND

THE MINISTER FOR AGRICULTURE AND

MARTINA KEARNEY AND

KIERAN LYNCH AND
THE MINISTER FOR FINANCE AND
LIAM IRWIN AND
ANN HERRITY AND
KIERAN O'CONNELL AND
BERTIE AHERN AND
JAMES MCDAID AND
CECELIA KEAVENEY AND
THE IRISH HUMAN RIGHTS COMMISSION

DEFENDANTS

JUDGMENT of Mr. Justice Brian McGovern delivered on the 15th day of May 2009

1. The plaintiff has sued the numerous defendants in this action and sets out his claims in a statement of claim running to some thirty pages. I have been informed that his action against the following defendants has been struck out or discontinued: The Ombudsman for Northern Ireland, Hugh Orde, The Rev. Ian Paisley and Martin McGuinness. The remaining defendants have brought motions to strike out the plaintiff's statement of claim. The applications are grounded upon O. 19, r. 27 of the Rules of the Superior Courts and/or the inherent jurisdiction of the court on the grounds that the statement of claim is *prolix* and/or contains pleadings which are unnecessary or scandalous but which may tend to prejudice, embarrass or delay the fair trial of this action; an order pursuant to O. 19, r. 28 of the Rules of the Superior Courts and/or the inherent jurisdiction of the court striking out the plaintiff's statement of claim and/or these proceedings on the grounds that they are vexatious and/or that the statement of claim discloses no reasonable cause of action; an order striking out those parts of the plaintiff's claim against the first to the fifteenth named defendants as relate to their actions as judges on the ground that same disclose no reasonable cause of action as the said claims are made in respect of acts of the said defendants in the exercise of their jurisdiction.

2. The plaintiff, for his part, has brought motions for judgment in default of defence against the defendants. When the motions came on for hearing before me, I adjourned the motions for judgment in default of defence pending the outcome of the defendants' application to strike out the statement of claim and/or the proceedings.

3. The statement of claim in this case is extraordinary in a number of respects. In the first place, it names an exceptionally large number of defendants. Secondly, the claims made by the plaintiff in the document are wide-ranging and disconnected.

4. A clue as to the purpose of the proceedings can be found in the affidavit sworn by the plaintiff on 21st April, 2009, for the purpose of opposing the application to strike out the statement of claim and/or dismiss his action. Paragraph 2 of that affidavit reads as follows:

"This affidavit is sworn for the purpose of confirming further corruption within the legal, justice and political system . . ."

5. In an earlier affidavit sworn by the plaintiff on 27th January, 2009, the following paragraphs appear:

"2. This affidavit is sworn for the purpose of clarifying the history of this case and the serious abuse of process in my attempt to expose serious wrongdoing in this country, and I say that:

3. this High Court Action is a bona fide action by me to expose serious wrongdoing and is in no way vexatious and frivolous."

6. In the course of the hearing on the motion, the plaintiff stated that he did not take this case for financial gain. He said that, "*our prisons are full of innocent people who have no one to stand up for them*". He also informed the court that he would like an enquiry into the abuse of the justice system.

7. I have already referred to the fact that the statement of claim is long and wide-ranging and I do not propose to quote from it in this judgment. A reading of the document shows that it contains a diatribe against various judges and the justice system in general, together with other complaints against various officials and bodies for not doing their duty, for not acceding to requests of the plaintiff, for ignoring complaints of the plaintiff and for acting corruptly or facilitating corruption. Many of the complaints made by the plaintiff concern events in which he was not even involved. Others involve outrageous and wild accusations about judges and other officials in the manner in which they carried out their duties.

8. All of the defendants have made submissions, and a substantial number of the defendants have put in written submissions referring to the case law applicable to the issues which arise in this case. The plaintiff has not put in any written submissions and has not relied on any legal authority in resisting the application of the defendants. I accept the legal submissions made on behalf of the defendants. Insofar as the plaintiff makes accusations and claims against members of the judiciary and other statutory bodies acting *bona fide* within their jurisdiction, as they enjoy an immunity from action in negligence, they are immune from suit. See *Beatty v Rent Tribunal* [2006] 2 I.R. 191. The plaintiff conceded that he never brought judicial review applications in respect of any of the defendants. Insofar as he criticises members of the judiciary and other public officials for corrupt or dishonest actions or practices or collusion in such practices, his claims are bound to fail unless he can show that they were not acting *bona fide* within their jurisdiction as they enjoy an immunity from action in negligence. While I appreciate the plaintiff, in this case, suggests that in certain instances the judges or other officials may not have been acting *bona fide* in the exercise of their duties, many of the complaints are anecdotal in nature and are, in my view, an abuse of process because they are brought for an improper or ulterior purpose, which is to cause embarrassment and vexation to the defendants and they do not fit within the rubric of inter partes disputes which are justiciable. In many cases, the plaintiff was not personally affected by the actions of which he complains. The remedy of judicial review is there for persons who have genuine complaints about the manner in which public officials exercise their powers. For example, if they act *ultra vires* or in breach of natural or constitutional justice or fail to carry out their duties towards the plaintiff, such actions are amenable

to judicial review and the reliefs of *certiorari*, *mandamus* and *prohibition* are available. But the courts do not exist for the purpose of facilitating individuals to vent their displeasure, and even their anger, at the manner in which public officials carry out their duties.

9. Many of the claims made in the statement of claim are vague and imprecise. The complaints are numerous and unconnected with each other, save for general complaints about various defendants failing to carry out their duties properly and acting in a corrupt manner or facilitating corruption.

10. On any reading of the statement of claim, the allegations can only be viewed as scandalous or vexatious. See *Riordan v. Hamilton and Ors.* [2000] I.E.H.C. 189 (Unreported), *Riordan v. Ireland* (5) [2001] 4 I.R. 463. See also *Faye v. Tegral Pipes Ltd.* [2005] 2 I.R. 261, where McCracken J. stated at p. 266:

"While the words 'frivolous and vexatious' are frequently used in relation to applications such as this, the real purpose of the jurisdiction is to ensure that there will not be an abuse of the process of the courts. Such abuse cannot be permitted for two reasons. Firstly, the courts are entitled to ensure that the privilege of access to the courts, which is of considerable constitutional importance in relation to genuine disputes between the parties, will only be used for the resolution of genuine disputes and not as a forum for lost causes which, no matter how strongly the party concerned may feel about them, nevertheless, have no basis for a complaint in law. The second, and equally important, purpose of the jurisdiction is to ensure that litigants will not be subjected to the time consuming, expensive and worrying process of being asked to defend a claim which cannot succeed."

11. While completely agreeing with the judgment of McCracken J., I would add that in addition to not permitting the courts to be a forum for lost causes, the courts should not be used to facilitate general abuse of a person or class of persons. The courts are not to be used as a forum for ventilating complaints but, rather, for resolving genuine disputes between parties to the litigation and, where appropriate, the granting of declarations and ancillary relief, based on established right or entitlement.

12. To permit the plaintiff's action to proceed would be to allow a parody of justice to take place. The claims which he makes are so outrageous and so varied, and the number of defendants so large, that it would be quite impossible to conduct an orderly trial of the issues which he raises. In *Hanly v. News Group Newspapers Ltd.* [2004] 1 I.R. 472, at 475, Smyth J. stated:

"The function of pleadings is to ascertain with precision the matters upon which the parties differ and the points on which they agree and, thus, to arrive at certain clear issues on which both parties require a judicial decision . . . only the material facts and not the evidence on which they are to be proved should be pleaded. Notices for particulars and replies thereto are not pleadings in the strict sense of the word, but merely information exchanged between the parties for their own information."

13. In *Riordan v. Hamilton* [2000] I.E.H.C. 189, Smyth J. stated at page 5:

"The purpose of pleadings is to convey what the nature of the action is. Pleadings should not be used as an opportunity of placing unnecessary or scandalous matters on the record of the court, or as an opportunity of disseminating such matters when they have nothing to do with any dispute between the parties. Allegations are not scandalous where they would be admissible in evidence to show the truth of any allegation in the pleadings which is material to the relief claimed . . . In the pleadings here, there are allegations which are totally unnecessary to any reasonably balanced or strongly held views of the plaintiff as against the defendant. The imputations of character made here would leave a person open to litigation and defamation, had they not been accorded the protection of the privilege of the court. I need not go through them, but merely highlight further, what I would regard as contemptuous language and scandalous allegations. It is perfectly in order for a litigant to say that a defendant has acted in a particular way. However, what has been imputed here is not only over the top but is being deliberately used for the purpose of trying to advance some view which does not accord with fairness, commonsense, justice, constitutional right or with any modicum of decency."

What the plaintiff is doing in this statement of claim is adopting a "scattergun" approach by which he hurls accusations and abuse at the numerous defendants, sometimes on his own behalf, but frequently on behalf of others who are not even parties to the proceedings. This is not permissible. The plaintiff has made no attempt to formulate a legal claim in the manner in which this is normally understood. He does not set out what duties each of the defendants owed to him or outline how that duty was breached and what consequences flow from the breach. In many cases, his narrative of complaint does not even relate to matters involving him. Where matters arise relating to third parties, not named as parties to the proceedings, the plaintiff has not established any *locus standi* to make those claims. In *Riordan v. Ireland* (5) [2001] 4 I.R. 463 at 473, O Caoimh J. stated:

"I am further of the view that the purpose for which this proposed action is sought to be brought is an improper purpose, namely, the harassment and oppression of the various parties referred to in the proceedings already determined by the Supreme Court and that the proposed action is other than the assertion of a legitimate right. Accordingly, I consider the bringing of this claim will be vexatious."

In my view, the same could be said of the plaintiff's claim.

14. Where the extent of the scandalous or vexatious pleading is sufficiently gross and extensive, it seems to me that it is not the function of the court to sift through the material in the statement of claim to see if, perhaps, somewhere within it, a claim can be found in the proper form. The court is entitled to have regard to the document as a whole. There might well be cases where there is an isolated pleading here or there which may be scandalous or vexatious, but the greater part of the document contains pleadings in a proper form. In those cases, the courts can strike out the offending portions of the pleadings. But that is not the case here. This statement of claim is, in fact, a narrative of the plaintiff's complaints about the judiciary, various public officials and the justice system in general. In the words of Henchy J. in *Cahill v. Sutton* [1980] I.R. 269 at 286:

"It would be contrary to precedent, constitutional propriety and the common good for the High Court . . . to proclaim itself an open house for reception of such claims."

Access to the courts is a constitutional right and entitles litigants to certain privileges. This carries with it certain obligations. That is why the courts will not permit abuse of process as to do so would bring the system of justice into disrepute.

15. I am quite satisfied that this statement of claim, considered in its entirety, is a document which discloses no reasonable cause of action and is prolix, scandalous, vexatious and an abuse of process. Accordingly, I will direct that the statement of claim be struck out.

