Neutral Citation No: [2022] NIMaster 12	*Ref:*	**2012 Nos 21954 & 28695**
*Judgment: approved by the court for handing down (subject to editorial corrections)**	*Delivered:*	**21/12/2022**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

KING'S BENCH DIVISION

2021 No 21954

PAUL MURPHY

Plaintiff

And

CASEY AND CASEY SOLICITORS

1st defendant

MR GERRY CUNNINGHAM

2nd defendant

MS EDEL CASEY

3rd defendant

MS BLAITHIN MURRAY

4th defendant

THE NORTHERN IRELAND COURTS AND TRIBUNAL SERVICES

5th defendant

MR PAUL COPELAND

6th defendant

THE CHIEF CONSTABLE OF THE PSNI

7th defendant

MR KIERAN QUINN

8th defendant

MR PETER MONEYPENNY

9th defendant

MR DAVID HILL

10th defendant

MR IAN BATHARD

11th defendant

A NUMBER OF (AS YET UNNAMED) PERSONS WHO ARE OR WERE IN THE POLICE SERVICE

12th defendant

THE DIRECTOR OF PUBLIC PROSECUTIONS FOR NI

13th defendant

MR BARRA MCGRORY

14th defendant

A NUMBER OF (AS YET UNNAMED) PERSONS WHO WERE EMPLOYED BY THE PPS FOR NI

15th defendant

THE POLICE OMBUDSMAN FOR NI

16th defendant

DR MICHAEL MAGUIRE

17th defendant

A NUMBER OF (AS YET UNNAMED) PERSONS WHO WERE EMPLOYED BY THE POLICE OMBUDSMAN FOR NI

18th defendant

THE LAW SOCIETY FOR NI

19th defendant

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

KING'S BENCH DIVISION

2021 No 28695

PAUL MURPHY

Plaintiff

and

MS MICHELLE CRILLY

1st defendant

MS EMMA SLOANE

2nd defendant

THE NORTHERN IRELAND COURTS AND TRIBUNAL SERVICES

3rd defendant

MR KEVIN FINNEGAN

4th defendant

THE LAW SOCIETY FOR NI

5th defendant

MASTER HARVEY

Background

[1] This is a series of six "strike out" applications by the defendants under Order 18 rule 19 (1)(a) of the Rules of Court of Judicature (NI) 1980, seeking to strike out the plaintiff's claims as they disclose no reasonable cause of action. The applications by the Law Society of Northern Ireland are also grounded on Order 18 rule 19 (1) (d) seeking to strike out the claims as an abuse of the process of the court. At the

hearing, all the defendants counsel confined their submissions to Order 18 Rule 19 (1) (a).

Adjournment application

[2] At the outset, I indicated to the parties that an email had been sent to the court office, copied to the various defendants' legal representatives, immediately prior to the hearing at 09.14 from the plaintiff in which he applied for an extension of time to "finalise my submissions in these cases." He indicated he was working on this and had other proceedings before this and other courts which appear to have hampered his progress. The plaintiff sought a review of the cases in 6 weeks to assess progress and/or to set a date for the hearing of the applications.

[3] I noted the two writs of summons were issued on the 29 March 2021, the defendants' applications were served in May and June of 2022. The hearing of those applications was scheduled for 4 October 2022 and adjourned as directed by me to allow additional time for the plaintiff to serve an amended statement of claim. This direction was by way of an unless order which was in the following terms:

> "Unless the plaintiff serves an amended statement of claim within 28 days of the date hereof, particularising the allegations against each of the named defendants, the plaintiff's action against the first and second named defendants (in writ 2021/028695) and first, second, third, and fourth named defendants (in writ 2021/021954) will be struck out with Judgment entered against the plaintiff, costs to the …defendants, such costs to be taxed in default of agreement."

[4] The plaintiff subsequently sought an extension to comply with this order, which was granted by me on the 31 October, permitting an extension until the 16 November for the amended statement of claim, but indicating that the interlocutory hearing would proceed on 30 November. On the 16 November "particulars (amended)" were served by the plaintiff. The email to the court office of 30 November also included "draft 2" of the plaintiff's "amended submissions."

[5] I observe that the plaintiff had ample opportunity to set out the basis of his case in a form that could assist the court in assessing whether there was a reasonable cause of action. To draw an analogy and explain matters to the plaintiff, I indicated to Mr Murphy at the previous review on the 4 October that if this were a criminal court, the defendant would be entitled to know the "charge" against them.

[6] I must balance the rights of both parties, and bear in mind the overriding objective to deal with these cases justly, fairly, and expeditiously, ensuring that the parties are on an equal footing and allotting to them an appropriate share of the court's resources, while taking into account the need to allot resources to other cases.

[7] Given the proceedings were issued over 19 months ago it is not unreasonable to expect this plaintiff, who has clearly "lived and breathed" this case for some time, to set out in some detail as best he could, even allowing for the fact he is not legally trained, the precise nature of the allegations against the defendants.

[8] Even allowing for the widest possible latitude afforded to the plaintiff as a person without a legal representative, he was given ample opportunity to do so. To grant additional time on the basis he is engaged in other cases before the courts is not a reasonable justification for further delay and additional costs to all involved.

[9] In all the circumstances, I refused the application and the hearing of the defendants' applications proceeded.

The applications before the court

[10] Mr Egan represented the fifth defendant in writ 28695 and 19 defendant in writ 21954. Mr Ham represented the second defendant in writ 28695 and the fourth defendant in 21954. Mr Ringland represented the first, second and third defendants in writ 21954 and the first defendant in writ 28695.

The plaintiff's claim

[11] The plaintiff has two writs of summons, I seek to summarise the broad allegations in each as follows:

(i) Writ 2021 No 21954 against 19 defendants issued on the 12 March 2021 claiming £250 million for, inter alia, gross professional negligence, gross professional malpractice, gross misfeasance in public office, abuse of position, refusal to act in accordance with their statutory duties and responsibilities, unlawful/criminal activities, contempt and disregard for the established law, breaches of human rights, constitutional rights, collusion and conspiring, perversion of the course of justice, institutional sectarianism, institutional bias, discrimination and prejudice towards the plaintiff, protection of a criminal, numerous miscarriages of justice all of which caused him and society harm, distress, injuries and losses.

(ii) Writ 2021 No 28659 issued on the 29 March 2021 against five defendants claiming £50 million in respect of essentially similar allegations as set out at length in the above writ.

[12] Each writ contains a "statement of claim" setting out a combined total of 49 heads of claim, many of which are repeated in both actions as detailed above and each then has a section entitled "particulars" which sets out the basis of each claim.

The "21954" writ

[13] The first writ against 19 defendants "arises from legal proceedings in 2014 & 2015 that culminated in the issuing of a very specific court order in favour of the plaintiff, for his family and his family's protection."

[14] He claims the PSNI and PPS "refused to recognise that order, refused to enforce it properly and instead allowed its recipient to ignore and to breach it at will," apparently giving him their consent to breach the order. The PSNI cited a "difficulty" with the wording of the order for not properly enforcing it without stating what the difficulty was and then refusing to arrest the recipient for breaching the order on a daily basis. He requested his legal representatives to go back to court and seek clarification, but they refused to do so arguing the order was clear. He then

personally referred the matter back to court for such clarification but the judge referred it to the original judge who granted the order who then purportedly refused to clarify his own order meaning it was ignored with impunity and the PSNI and PPS did not enforce it.

[15] He endured a "campaign of humiliation and degrading treatment at the hands of the order recipient." He reported the defendants via the "appropriate complaints procedures." The relevant bodies either refused to take action or exonerated them from all blame and responsibility. He states on the writ that he is by profession a qualified consulting engineer but now acts as a full-time carer.

The "28659" writ

[16] The second writ is against five defendants and the particulars at (i) to (viii) largely repeat the particulars in the previous writ. At (vii) and (xii) he notes that at the point at which he referred the clarification of the non-molestation order to the court, his then solicitor and barrister came off record. He refers to briefing the first defendant whom he appears to have instructed after the "failure/refusal of the previous legal team to do their job." He expected she would obtain clarification of the existing order for the benefit of the PSNI and PPS to ensure it was properly enforced.

[17] The first to fourth defendants, which include a solicitor, judge, barrister and the NI Court Service all allegedly either failed, refused or did not provide the required clarification he was seeking meaning that the person against whom he obtained the order was able to escalate his "campaign of humiliating and degrading treatment of the plaintiff and his family, for whose protection and welfare that specific order had been granted in the first place." He reported the first defendant to the Law Society, but they refused to take appropriate action and allegedly endorsed their conduct and exonerated them from blame.

The plaintiff's submissions

[18] The plaintiff served written submissions accompanied by various exhibits on the 7 September 2022 in reply to the strike out applications. This was followed by an "addendum" on the 15 September 2022, again with exhibits attached including a copy of the non-molestation order and correspondence with his solicitors. He then served "particulars (amended)" on the 16 November 2022. Finally, on the 30 November 2022, two hours prior to the hearing, he submitted an application for an extension of time, "draft two particulars (amended)" along with some exhibits.

[19] The plaintiff asserts that the statement of claim discloses a reasonable and highly significant cause of action against the defendants and their strike out applications are scandalous, frivolous and/or vexatious, and will serve to prejudice, embarrass and/or delay the fair trial of the action considering the role to be played by the other named defendants who are not yet fully engaged in these proceedings and are highly likely to seek to shift/apportion responsibility and blame onto the first and second named defendants. He claimed the defendants' strike out applications are an abuse of court process that are intended to frustrate and undermine/harm the proper prosecution of this action.

[20] Further or in the alternative, the plaintiff also seeks the following relief; an order under Order 2 rule l of the Rules of Court of Judicature (NI) 1980 that any perceived error or failure in the compilation of the statement of claim (which is denied by the plaintiff) be treated as an irregularity and the plaintiff be granted leave to amend/correct any such error or omission, to the satisfaction of the court, and a stay on these proceedings until all the matters concerning the statement of claim and/or the service of the writ upon other named defendants has been fully addressed. He further seeks an order for all costs of and incidental to the defence of the defendants' strike-out Applications.

[21] He indicated that the evidence proving the case against all 24 defendants extends to several volumes. Those defendants who lodged the strike-out applications are fully aware of their actions and their liabilities in this matter, facts which he claims the completed evidence submissions prove irrefutably.

[22] He claims that the defendants are all fully and acutely aware of the case against them and that their strike-out applications are an attempt to evade justice by sharp practice against an unrepresented plaintiff.

[23] In terms of what can be gleaned from the various lengthy, repetitive, written submissions and particulars, allowing the widest possible latitude in an effort to discern the nature of the cause of action, the following issues emerge:

(i) The Law Society failed to carry out its statutory/regulatory duties by refusing and failing to investigate his complaint against Ms Crilly.

(ii) The other defendants in writ 21954 will seek to shift responsibility onto the first and second defendants, Casey & Casey and Mr Gerry Cunningham.

(iii) The PSNI refused to take action against the "respondent" (his brother Mr Martin Murphy) in the non-molestation order case despite the plaintiff suffering injuries allegedly inflicted by the respondent. They refused to recognise and enforce the court order, gave the respondent consent to breach it and did not report such breaches of the order to the PPS.

(iv) The defendants in writ 21954 (ie his legal representatives Casey & Casey Solicitors, Mr Gerry Cunningham, Ms Edel Casey and Ms Blaithin Murray) were given evidence of criminality by the respondent, including alleged assaults, theft, embezzlement, fraud, tax evasion and benefit fraud over many years as well as abuse and exploitation of his disabled brother. They did not refer to these in court and allegedly did not present the case in the way he hoped, deliberately concealed evidence and acted contrary to his interests, refusing and failing to properly represent him.

(v) In the 28659 writ the first and second defendants Ms Crilly and Ms Sloane took over the case replacing his former legal representatives.

They were allegedly fully briefed and aware of what had gone before and the refusal by PSNI and the PPS to enforce the non-molestation order as well as the former representative's apparent failure to clarify the order. Their primary instruction was to seek clarification of this order "by whatever means necessary."

(vi) The actions of the various legal representatives had the effect of "painting the plaintiff as a troublesome and problematic litigant" when the "blame lay completely at the feet of those professional legal representatives, the PSNI, the PPS and/or the NI Courts and Judiciary."

(vii) There are "three distinct periods that must be examined to gain an understanding of the background facts and hence understand the grounds and the statement of claim in these proceeding." These periods are from 2007 up to 2015 and include the period prior to his seeking a non-molestation order and events that followed.

(viii) The first period included a period of harassment and assaults on him by his brother Mr Martin Murphy who also allegedly exploited his other brother, Mr Eugene Murphy. He claims the PSNI did not take any action and their investigation was flawed/corrupt.

(ix) There was a prosecution of both Mr Martin Murphy and Mr Eugene Murphy by the Department of Agriculture in 2012 under animal welfare legislation. The plaintiff was not satisfied with how his legal representatives (Casey & Casey and Mr Gerry Cunningham) dealt with that case on behalf of Mr Eugene Murphy in 2012 and felt they should have presented facts to the court of Mr Martin Murphy's exploitation of Eugene who was a vulnerable person. He claims they failed to do so in order to protect another solicitor who was representing Mr Martin Murphy in that case. I note this solicitor is not named in the proceedings by the plaintiff, which is inexplicable given the scatter gun

approach he has taken to naming defendants in these actions despite making some very serious allegations against him.

(x) The amended particulars of 16 November 2022 contain a long list of grievances against the PSNI which I will not rehearse here, the crux of these being the alleged lack of any meaningful investigation and failure to prosecute Mr Martin Murphy for attacks on the plaintiff.

(xi) The further draft particulars on the 30 November 2022 repeated what had been set out previously and setting out a longer list of grievances against the PSNI, PPS and the Police Ombudsman including reference to an "unlawful police caution" against his son for a public indecency offence involving urinating at a petrol station forecourt. He states that he complained about the actions of the PSNI to the Ombudsman who referred the matter to the PSNI professional standards department who forwarded a complaint to the Chief Inspector in Armagh who defended his officers. The Ombudsman refused to investigate further as it was not an exceptional case.

The defendants' submissions

Writ 21954 - Casey & Casey, Mr Gerry Cunningham, Ms Edel Casey

[24] Mr Ringland, counsel for the above defendants who were the plaintiff's former solicitors, asserted the plaintiff's case should be struck out for failure to comply with the unless order of 4 October 2022. Mr Ringland stated that the draft particulars from the plaintiff did not advance his case and certainly did not comply with the order of the court. While I noted there was some strength in that suggestion, I indicated I would proceed with the hearing and allow submissions from all parties on the substantive applications rather than dismissing the action for failure to comply with an unless order as there had been some attempt by the plaintiff to comply with the order as he did serve draft amended particulars on two occasions since that date.

[25] The case is a long running dispute with his brother. The applicants obtained a non-molestation order on his instruction. This was appealed by his brother. The plaintiff "terminated the applicant's retainer prior to the hearing of the appeal." The proceedings are an abuse of the process of the court and should be struck out, alternatively the defendants should not be required to serve a defence until the expiry of six weeks from service of a "properly constituted statement of claim." The statement of claim contains a list of "robustly articulated grievances of vary degrees of credibility and a universal lack of specificity." In essence, the defendants state the plaintiff is "aggrieved at the efficacy of the process of enforcement of the non-molestation order obtained on his behalf by the applicants." Further, the defendants contend that the plaintiff does not describe any conduct or behavior which could ever be considered negligent irrespective of the degree of elasticity with which that tort is interpreted. Counsel stated that nowhere in the writ/statement of claim does the plaintiff identify a cause of action known to the law in this jurisdiction upon which he is grounding his claim against the applicants.

[26] The defendants point out that they invited the plaintiff by writing to him on the 10th March 2022 to rectify the deficiencies in the writ/statement of claim and gave him an opportunity to do so, he did not avail of this chance. This is a "paradigm example of a case where no reasonable cause of action has been disclosed by the plaintiff's pleadings." In fact, the position is, they argue, that no cause of action, reasonable or unreasonable has been disclosed.

Writ 28659 - Ms Michelle Crilly

[27] The above defendant was the plaintiff's former solicitor. The submissions from Mr Ringland in this application largely mirror those in the previous application. He states that the height of the plaintiff's claim against this defendant is an alleged failure to carry out his initial instruction and obtain the required clarification of the non- molestation order. There is no attempt to define whether this is a cause of action or to specify any compensable loss arising therefrom. The defendants wrote to the plaintiff on the 28 March 2022 again highlighting the

deficiencies with the pleadings and affording him the opportunity to remedy matters which he did not do.

Writ 21954 – Ms Blaithin Cleland (nee Murray)

Writ 28659 – Ms Emma Sloane

[28] Mr Ham's submissions in relation to these applications largely mirror each other. He cited a number of authorities, which I will set out in the legal principles section of this judgment. He stated that the plaintiff has entirely failed to specify a cause of action and there has been no attempt to define precise, legally recognised causes of action. The wide range of grievances lack credibility or specificity. The plaintiff does not accuse the applicants of negligence nor any conduct or behaviour which could be considered negligent. There is no suggestion as to how the order which forms the basis of the plaintiff's complaint should have been worded.

[29] The defendants are not liable for the terms of an order granted by a court. The suggestion that Ms Crilly "admitted her actions/conduct in the matter left her exposed, is strenuously denied." The pleadings, including the updated versions, "continue to raise no logical, sustainable or reasonable cause of action against her." The proceedings should be struck out as they are "frivolous, vexatious and are otherwise an abuse of process that should be struck out without further waste of court time and resources."

Writ 21954 and 28659

[30] Mr Egan represented the Law Society of Northern Ireland (LSNI). He notes that each correspondence from the plaintiff to the court suggests that further particulars may yet be served, and the pleadings appear to seek damages for "unspecified loss and damage." The submissions from the plaintiff are not pleadings and the pleadings which have been served do not disclose a reasonable cause of action. As with Mr Ham, counsel in the present applications helpfully referred me to a number of authorities which I will also address in the legal principles section of this judgment. The plaintiff made a complaint to the LSNI about his solicitors. The

plaintiff alleges the LSNI is vicariously liable for the actions of the solicitors Ms Crilly and Casey & Casey. Counsel noted that the amended particulars do not even make express reference to his clients.

[31] Mr Egan asserted that "either the pleading is compliant, or it is not" and the court should ignore any averments in affidavits or exhibits as the provisions of Order 18 rule 19 (1) (a) make clear that evidence cannot be adduced.

[32] The plaintiff does not identify any statutory provision much less one that imposes an actionable duty on the LSNI. No such duty exists. It is accepted that Article 41A of the Solicitors (Northern Ireland) Order 1976 provides the LSNI Council with a power to impose sanctions on a solicitor for inadequate professional services, however, that power does not give rise to a duty of care to a complainant nor is it actionable at the suit of the complainant. Counsel referred me to *D & Ors v East Berkshire Community Healthcare Trust & Ors* [2005] 2 ALL ER 443 in which at page 98 Lord Nicholl affirmed the position that an existence of a duty in law remains the starting point for consideration of the question of whether liability for breach of an asserted common duty of care or negligence could be established. Absent such a duty the mater proceeds no further. In addition, in *Caparo Industries plc v Dickman* [1990] 1 All ER 568, the answer to whether a duty of care exists depends on whether:

> "...the court considers it fair, just, and reasonable that the law should impose a duty of a given scope upon the one party for the benefit of the other."

[33] In the 21954 writ no claim is pleaded against the LSNI. In the 28659 writ breach of duty is pleaded, however, the plaintiff fails to plead the facts or circumstances which give rise to a duty. It is submitted no such duty exists. The LSNI is unconnected with the events about which the plaintiff complains. He complained to the LSNI alleging negligence and seeking compensation, the LSNI does not have power to adjudicate upon this much less award compensation. The LSNI does not owe the plaintiff a duty of care, much less an actionable one. There is no relationship of sufficient proximity to or directness with the LSNI so as to give rise to a duty of care.

[34] The case "reveals an indiscriminate and scatter gun approach to the question of identifying potential tortfeasors without any effort to analyse the facts to ascertain which body owed the plaintiff a duty of care which is recognised in law and why." It is difficult to avoid the impression that every individual or body who had any dealings with the matters which form the subject of the plaintiff's complaint has been joined without omission.

The case against the Law Society

[35] The claims against the Law Society differ from the other applications before the court, which all relate to individuals, therefore, I will deal with it at this juncture. Ultimately, I concur with Mr Egan's argument that the plaintiff does not identify any statutory provision which would point to his clients owing a duty of care to the plaintiff as no such duty exists. Moreover, there is no basis for a submission that the LSNI is vicariously liable for the tortious acts of solicitors. The principle of vicarious liability arises in respect of a limited class of relationships recognised by law including employer and employee, principal and agent. It does not extend to a professional services firm and its regulator generally or to solicitors and the LSNI in particular. There is clearly, as counsel put it, a "gaping hole at the centre of the claim against the LSNI." I consider that the pleading is entirely defective, and the claim has no prospects of success against the Law Society and should be struck out.

Legal principles

[36] Order 18 rule 19 of the Rules of the Court of Judicature (NI) 1980 provides:

> "(1) The Court may at any stage of the proceedings order to be struck out or amended any pleading or the indorsement of any writ in the action, or anything in any pleading or in the indorsement, on the ground that-
>
> (a) it discloses no reasonable cause of action or defence, as the case may be; or
>
> (b) it is scandalous, frivolous or vexatious; or
>
> (c) it may prejudice, embarrass or delay the fair trial of the action; or

(d) it is otherwise an abuse of the process of the court and may order the action to be stayed or dismissed or judgment to be entered accordingly, as the case may be.

(2) No evidence shall be admissible on an application under paragraph (1)(a)."

[37] Order 18 rule 7(1) of the Rules of the Court of Judicature sets out the requirements for how a statement of claim should be drafted:

"Subject to the provision of this rule, and rules 10, 11, 12 and 23, every pleading must contain, and contain only, a statement in summary form of the material facts on which the party pleading relies for his claim or his defence, as the case may be, but not the evidence by which those facts are to be proved, and the statement must be as brief as the nature of the case permits."

[38] There have been numerous cases in this jurisdiction and further afield in relation to "strike out" applications. In *Aine and Daniel McAteer v PSNI and Craig* [2018] NIMaster 10, the Master at paragraph 8 correctly observed:

"The purpose of the striking out provisions is essentially to protect defendants from hopeless litigation. But it may not be invoked to deprive plaintiffs of their right to bring an arguable matter before the courts."

[39] At paragraphs 83 and 84, he went on to state:

"I have borne in mind that Mr and Mrs McAteer are personal litigants. Pleadings drafted by self-represented litigants can suffer from a number of potential defects. Firstly, litigants may draft "blizzards of lengthy, argumentative, and incoherent pleadings" (*Rankine and Another v American Express Services Europe Ltd and others* [2009] EWCA Civ 1539). Secondly, their pleadings may be unclear. The general approach therefore adopted by courts is that personal litigants should be given the benefit of any lack of clarity in a pleaded case and it should be interpreted with appropriate latitude. As the South African Constitutional Court

recognised in *Xinwa and Others v Volkswagen of South Africa (Pty) Ltd* [2003] ZACC 7:

"Pleadings prepared by laypersons must be construed generously and, in the light, most favourable to the litigant. Lay litigants should not be held to the same standard of accuracy, skill, and precision in the presentation of their case required of lawyers. In construing such pleadings, regard must be had to the purpose of the pleading as gathered not only from the content of the pleadings but also from the context in which the pleading is prepared. Form must give way to substance."

However, a personal litigant cannot simply pour out his story and ask the court to sort out his legal rights because he himself is ignorant what rights may have been breached or how. Mere inexperience in matters of pleading will not excuse serious non-compliance with the requirements of procedural rules which are, after all, based on notions of justice and fair play to both sides in litigation. There will be occasions when a self-represented litigant's pleadings are so defective that they will be struck out."

[40] In *Lonrho v Al Fayed* [1992] 1 AC 448 the court held that, on an application to strike out an action on the basis that it discloses no reasonable cause of action, the cause pleaded must be unarguable or almost incontestably bad.

[41] In *O'Dwyer and Others v Chief Constable of the Royal Ulster Constabulary* [1997] NI 403 the Court of Appeal stated that an order of the nature sought in this case was only to be used in "plain and obvious" cases. They concluded that it should be reserved for cases where the cause of action was "obviously and almost incontestably bad" and that an order striking out should not be made "unless the case is unarguable."

[42] In the case of *E (a minor) v Dorset CC* [1995] 2 AC 633 at 693 -694 Sir Thomas Bingham indicated that judges are uneasy about deciding legal principles when all the facts are not known, but that:

"…applications of this kind are fought on ground of a plaintiff's choosing since he may generally be assumed to plead his best case and there should be no risk of injustice to plaintiffs if orders to strike out are indeed made only in plain and obvious cases."

[43] I specifically drew Mr Murphy's attention to the case of *Rush v PSNI & Ors* [2011] NIQB 28 which at page ten states:

"A reasonable cause of action means a cause of action with some chance of success when only the allegations in the pleading are considered. So long as the statement of claim or the particulars disclose some cause of action or raise some question fit to be decided by a judge, the mere fact that the case is weak is no ground for striking it out."

[44] As was observed by the then Gillen J in *Rush,* for the purposes of the application, all the averments in the Statement of Claim must be assumed to be true in line with the decision of the court in *O'Dwyer.*

[45] The High Court has inherent jurisdiction to strike out proceedings as an abuse of process, this does not offend against Article 6 of the European Convention of Human Rights as a right to a fair trial does not require a plenary trial where the plaintiff clearly does not have a case to make; *McAteer v Lismore* [2000] NI 471 (Girvan J).

[46] In *Ewing (Terence Patrick) v Times Newspapers Ltd* [2010] NIQB 7 Coghlin LJ, delivering the judgment of the court, at paragraph 37 stated:

"As Lord Phillips, MR, noted in Jameel v Dow Jones and Company [2005] QB 946: "An abuse of process is of concern not merely to the parties but to the court. It is no longer the role of the court simply to provide a level playing field then to referee any game the parties choose to play upon it. The court is concerned to ensure that judicial and court resources are appropriately and proportionately used in accordance with the requirements of justice." Today it is necessary to clearly bear in mind the overriding objective contained in Order 1 rule 1A of the

Rules which requires the court to take into account not just the interests of the parties before the court but also the interests of other litigants and the overall administration of justice including the potential for the costs, expense and time to escalate out of all proportion. In my view such an approach is consistent with the proportionate observation of the Article 6 rights of individuals."

[47] In a very recent case in this jurisdiction, the Court of Appeal for Northern Ireland in *Magill v Chief Constable* [2022] NICA 49 again endorsed the principles to be applied in strike out applications on the basis that there was no reasonable cause of action. McCloskey LJ endorsed the aforementioned decisions in *O'Dwyer* and *E (A Minor) v Dorset CC*.

[48] In a detailed and characteristically well researched judgment delivered in recent weeks in the case of *Jody Nesbitt and Diana Nesbitt v Robin Swann & Ors* [2022] NIMaster 8, a case similarly involving personal litigant plaintiffs, Master Bell stated at paragraph 65:

"Personal litigants will be granted a certain amount of latitude by the courts and cannot be expected to draft with the precision of counsel. Nevertheless, as the courts have indicated on many occasions, the Rules apply to all litigants, whether represented by counsel or appearing on their own behalf. The case before me is not a case where the pleadings are somewhat unclear in places and need to be amended so as to clarify certain aspects of the plaintiffs' claim. It is not therefore a case where an adjournment should be granted to improve matters. Their new statement of claim, which is hopelessly deficient, has been in existence for over a year and no attempt has been made to amend it further and bring it into line with what is required by the Rules."

[49] The Master also observed at paragraph 61 that:

"The law reports are replete with explanations as to how pleadings must be drafted. In *Tchenguiz v Grant Thornton UK LLP* [2015] EWHC 405 (Comm) Leggatt J said: "Statements of case must be concise. They must plead only

material facts, meaning those necessary for the purpose of formulating a cause of action or defence, and no background facts or evidence. Still less should they contain arguments, reasons or rhetoric. These basic rules were developed long ago and have stood the test of time because they serve the vital purpose of identifying the matters which each party will need to prove by evidence at trial."

Conclusion

[50] I addressed the plaintiff at the outset of the hearing, noting from his lengthy written material that this episode arising from a family dispute has clearly caused him a significant degree of anxiety and upset which was clear to me from the tone of the various submissions and correspondence. I highlighted that when deciding whether there is a reasonable cause of action, I must take everything in the statement of claim as true. In essence, that is the height of his case, at its strongest. In order to grant some latitude to the unrepresented plaintiff in this case, I considered all the plaintiff's written submissions, amended particulars and draft particulars in order to determine whether, as argued by the defendants, it is plain and obvious his claim is incontestably bad.

[51] I have considered the overriding objective in accordance with Order 1 rule 1a, to ensure, among other things, that cases are dealt with justly. Even on the most generous of interpretations, allowing for his lack of legal representation or any misunderstanding on his part as to the basic requirements for compiling a statement of claim, the writ, statement of claim and amended particulars all fall hopelessly short of disclosing anything that could resemble a formal court pleading or disclose anything amounting to a reasonable cause of action.

[52] I am reminded of the comments in the *McAteer* case that a personal litigant "cannot simply pour out his story" and expect the court to do the rest for him. All the submissions and pleadings in this case are exactly that, a very personal story including grievances and complaints against a variety of lawyers, police and other bodies stemming from a no doubt upsetting family dispute some years ago.

[53] On balance, I consider that an adjournment to allow time for the plaintiff to seek to cure or remedy the pleadings would not help him in crystallising the issues with any degree of precision or detail that will assist the court when it is evident, even at this interlocutory stage, that the case is entirely misconceived.

[54] The plaintiff issued his proceedings 19 months ago. He was invited by some of the defendants to remedy the deficiencies in the pleadings in March 2022 but this was not done. He was afforded additional time by me from the 4 October until the 16 November 2022 to set out his case in more detail. I urged him to seek assistance with this task either by retaining a solicitor or making use of the well-known pro bono service which can assist litigants in person. I also directed him to the helpful online guidance for persons without a legal representative. None of the above led to the formulation of anything resembling a recognisable pleading or assisted the plaintiff in being able to disclose a reasonable cause of action.

[55] The plaintiff at various points informed me he is involved in a number of ongoing claims in the High Court. I pause to observe that at the end of this case I asked just how many claims he has ongoing at present. After initial hesitation, I was advised the total number is nine, including a case which he states is going to the European Court of Human Rights. I note that at least one of the defendants in the present case is considering a reference to the Attorney General for Northern Ireland. Such a reference would seek to have the plaintiff declared a vexatious litigant pursuant to Section 32(1) of the Judicature (Northern Ireland) Act 1978 which would mean that that no legal proceedings could be issued by the plaintiff without the leave of the High Court and that such leave shall not be given unless the court is satisfied that the proceedings are not an abuse of the process of the court and that there is a prima facie ground for the proceedings.

[56] While the courts should be slow to dismiss cases at an interlocutory stage when the evidence has not been heard or tested at trial nor witnesses cross examined, it does not mean to say that every claim, no matter how hopeless, should

be prolonged any longer than is necessary where the claim is so clearly and incontestably bad.

[57] To prolong this case will simply serve to unrealistically heighten the expectations of the plaintiff and postpone to another day the understandable disappointment he will feel when inevitably he is eventually informed, he has no claim and has wasted time, effort and money pursuing an utterly hopeless case. This is particularly so for a plaintiff as in this case who indicates he is a full-time carer. The mental, physical and emotional energy required for such a commendable role no doubt takes a toll and the pursuit of this baseless litigation is an unnecessary distraction for him. It also causes strain and anxiety to the many defendants whose reputations he is seeking to impugn through a scatter gun approach to issuing writs in the High Court.

[58] In the end, it is difficult to avoid the conclusion that these actions, issued by the plaintiff against various solicitors, legal firms and many others arising from a long running dispute with his brother and the circumstances surrounding a non-molestation order against his sibling are clearly unsustainable.

[59] I grant the applications of the following defendants:

(i) Writ 2194: 1, 2, 3, 4 and 19 defendants.

(ii) Writ 28965: 1, 2 and 5 defendants.

[60] I strike out the claims against these defendants on the grounds that the actions disclose no reasonable cause of action, they are doomed to fail. I further conclude that they are so frivolous that to put them forward would be an abuse of process of the court.

[61] I note the plaintiff is also pursuing many other defendants in these two sets of proceedings who have not yet brought similar "strike out" applications. The pleadings against all these defendants suffer from the same fundamental defects and do not form the basis of a reasonable cause of action. Having regard to the

overriding objective, I determine that allowing the court's time to be taken up by unmeritorious claims such as the present case detrimentally impacts the resources which could be allocated to the many other cases before the court thereby denying others timely access to justice. I therefore strike out the actions against all the defendants in their entirety.

Costs

[63] Costs are dealt with in Order 62 of the Rules of Court of Judicature. The normal rule is that the party who loses the case pays their own costs and those of the winning party. I see no reason to depart from that convention in this case and award costs to the Defendants who brought these applications.