

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

CHANCERY DIVISION

BETWEEN:

THE LAW SOCIETY OF NORTHERN IRELAND

Applicant;

-and-

JOHN R MONTEITH

Respondent.

DEENY J

[1] The court on this occasion has a number of matters before it to deal with today. The original application before the court which bears the record number 2010 No 115065 is an application by the Law Society of Northern Ireland the statutory body for the regulation and conduct of the solicitors' profession in this jurisdiction.

[2] The Law Society on foot of orders of the High Court commencing it would appear by an order of Mr Justice Campbell, as he then was, of 15 November 1999 was appointed attorney to the defendant, Mr John R Monteith. The court was satisfied that it was proper to do so. It is right to say that when the accounts of the practice were ultimately taken there was found to be a surplus on those accounts so this is not a case, as I understand it, of Mr Monteith having unlawfully or illegally made use of his clients' funds. On the contrary he would seem to believe that some greater or large portion of the funds emanating from the attorneyship belonged to his former clients.

[3] Nevertheless the attorneyship has continued. There were a number of hearings before judges of the High Court over the years. The matter then lay fallow for some time until the application of 8 September 2010 which I have just described. The first order sought by the Law Society there pursuant to Order 17 Rule 3 is permitting the court to pay into court the sum of

£358,522.66 less the costs of this application. Secondly an order barring any further claim against the plaintiff by the defendant in relation to the said sum is sought and thirdly an order discharging the attorneyship. I have had the benefit of a written submission from Mr A J S Maxwell of counsel and oral submissions today and he seeks in particular the reliefs one and three there rather than the relief two. If necessary I will hear him further on that point.

[4] Subsequently there was a history of the matter and it is right that I should give some flavour of that to indicate the approach of the court to the various summonses before it. The defendant Mr Monteith who, as I say, was in practice as a solicitor but has not been in practice for it would appear some 12 years, refuses to accept this money. He makes the gravest possible allegations against the Law Society and against, perhaps to a lesser extent, a series of other persons. He himself was appearing in person before me today and has recently been appearing in person. He had solicitors, J F & Co, to whom I will return in a moment. He had two experienced junior counsel in succession – both of whom he has criticised in my hearing. I find no substance in his criticisms of either of those experienced and reputable junior counsel.

[5] As to his solicitors, in his submissions of just a few minutes ago, he contended that I heard their application to come off record in his absence prematurely on 11 May, to which he objected. I only go to this matter as an illustration of the difficulty of dealing with the defendant's submissions. When I look at the papers in the short time I have had, I find that he himself had served a notice under Order 67 dated 9 May, received 10 May, discharging his solicitors and pursuant to Order 67 saying that he would act in person. The document to which I have referred is received and stamped in the court office on 10 May 2011 and appears at tab 24 in the first of the court files and is headed Notice of Change of Solicitor and Notice of Intention to Act in Person.

“Taking notice that I John R Monteith, the above-named defendant, do hereby place a notice that I do not consent or authorise J F & Company, H McG BL, R D BL to act on my behalf in any legal or other matters following their involvement in the hearing on 29 September 2010 when unlawful, illegality and acts of proprietary were carried out by officers of the court.”

[Judicial initialling]

Now if that is not a notice under Order 67 then I do not know what is. How then could he properly object to them coming off record?

[6] The defendant has not contented himself with those complaints against his own lawyers. He has again in this very court this morning said and I quote that –

“You [that is myself] have refused that I can have any disclosure at all.”

He has admitted (for the purposes of the record at 11.57 this morning and no doubt it can be accessed on the digital audio recording) that that is clearly untrue. The court did order disclosure to be made by the Law Society. In the light of submissions made at that time it seemed proper to order it for a period of 6 years. In the event the Society in fact provided an account going back to the commencement of the attorneyship. Mr Monteith is dissatisfied with that account but that is neither here nor there. He should not misstate things so wrongly. He has brought proceedings in the High Court, Queen’s Bench division, in relation to the judicial review of a series of decisions but my brother Mr Justice McCloskey has given judgment on those matters and found there was no substance in his application and refused him leave to bring the proceedings. Nevertheless he continues to cite the title of those proceedings in a number of affidavits before me. I have to mention this expressly because I am named in some of these but it seems to me that the listing of the titles has the following consequences.

[7] First of all, as Mr Maxwell submitted it shows that they are in fact nullities, they are a nonsense. Secondly, they do not have the effect of precluding me from deciding these matters because Mr Justice McCloskey has decided anything that impinges on myself subject, of course, to any right of appeal to the Court of Appeal against any order of mine or any order of Mr Justice McCloskey. However it is relevant for the purposes of delivering this judgment and exercising any discretion that I have in the matter to bear in mind that the complaints of Mr Monteith are not confined to myself but extend to Mr Justice McCloskey indeed, the former Mr Justice Campbell as he then was, Mr Justice Carswell as he then was, Mr Justice Girvan as he then was, the late Master Napier and the Legal Services Commission. Nor are they confined to that; if one reads Mr Monteith’s latest affidavit one finds criticisms of District Judge McElholm. Criticisms of one my colleagues when still at the Bar, criticisms of a leading senior counsel and all these, I use the word criticisms, but they are in the most colourful terms; perhaps slightly more respectful terms in relation to Her Majesty’s judges but certainly alleging crime against a wide range of other people.

[8] Following the disclosure which I ordered be provided by the Law Society there was some delay in them providing that disclosure and the reasons for that were explained to the court and an extension of time was given but Mr Monteith at a time when he still had solicitors but of his own motion brought a summons of 18 April 2011 which is one of the matters I must deal with here

and he brought it as a notice of motion within these proceedings and in it he sought and I quote at paragraph 1:

“An order for committal of the plaintiff, that is the Law Society of Northern Ireland namely S B, A H, M N, M D, N C, B S for (1) Failing to serve up to date account of monies held by Law Society for the past 6 years on the defendant and (2) Further for failing to serve or file and provide defendant with bank statements and (3) Further for failing to include all of the property, etc, etc.”
[Judicial initialling]

[9] Now that is an utterly unreasonable and indeed irrational notice of motion. That is not an appropriate remedy for delay in complying with an order of the court. In the event they provided more than they were originally ordered to do and they were given lawful extensions of time by the court but it was grossly improper to issue or to seek to rely on a notice of motion seeking committal of persons all of whom so far as the court is concerned are utterly reputable persons. I dismiss the application for committal of the Society's officers, with costs on an indemnity basis.

[10] The defendant served on the other side, though he does not appear to have lodged in the court office, a so called Convention Notice. I find that to be innocuous. He is perfectly entitled to rely on his rights under the European Convention. He has set them out in full in a number of his affidavits and I have taken those into account and it's not necessary for me in my view to make any ruling on his purported Convention Notice of 9 May 2011. It may be that it was otiose but I say nothing further about it.

[11] He then brought another notice of motion before the court in these proceedings which Mr Maxwell also sought to deal with and to which I have made some slight reference. It was received by the court office and stamped on 9 May 2011. Its form is, of course, hopelessly bad because it begins by citing the Chancery proceedings brought by the Law Society. It goes on to talk about proceedings relating to a land dispute previously before this court. It goes on to give the title of the Queen's Bench Division Judicial Review proceedings which were in fact being adjudicated on by Mr Justice McCloskey and goes on to give, without any explanation this rubric, 'between John R Monteith, applicant/appellant and Mr Justice McCloskey' and a whole series of other persons including myself. Mr Maxwell has very ably dealt with the points arising here from. The matters are not related, they are not consolidated, they should not purport to appear in one pleading. The matter relating to the landlord's res judicata proceedings have been stayed on a Tomlin Order made on consent. The judicial review proceedings were before another judge who has dismissed them without granting leave. The notice of motion, if it can

properly be so described, includes at paragraph 1 a claim for possession of all relevant files, papers, documents, etc in the possession of the Law Society. The Law Society is of course entitled to possession of all those while the attorneyship continues. I will address counsel on what should happen to the documents if, as I propose to do, I conclude the attorneyship at this hearing.

[12] The purported notice of motion has a similar request at paragraph 2 to be answered in the same way. Paragraph 3 again seems to overlap but in any event the Society has provided both to his former solicitors and directly to him its accounts although he is dissatisfied with them. Paragraph 4 effectively seeks a stay of all proceedings until an account by the plaintiff of its handling of the defendant's affairs. I accept the submission of Mr Maxwell that if Mr Monteith is dissatisfied with this conduct of the affairs he can bring an action for an account. I do not wish to encourage such an action but that is his right and Mr Maxwell accepts that that is his right but that is the proper framework for such proceedings. Paragraph 5 of the Notice of Motion illustrates some of the difficulties the court has in dealing with the plaintiff and I quote -

“An order the plaintiff shall pay the defendant on-going damages and compensation in this matter until the matter is finalised in the sum of £10,000 per day as from 13 October 1999 or earlier for fraud, deception, wrong doing, illegality, impropriety, unlawful actions, etc until the full extent of the fraud and deception can be fully and accurately quantified, all payments to be made with immediate effect by the plaintiff.”

Seeking that such an order should be made without any hearing of the matter in these absurdly large sums dating back 12 years is obviously irrational. I cannot in all honesty really use any other word in connection with it. I pointed out that an earlier claim that Mr Maxwell and indeed I initially read for £10,000 per day, that is in the order for committal against the Law Society's officers in fact when one looks at it carefully is for £100,000 per day; that is in the notice of motion of 18 April 2011.

[13] Following that it is scarcely necessary to deal with the remaining paragraphs but Mr Maxwell is justified in pointing out that paragraph 7 is in fact attacking seven unnamed panel members of the Legal Services Commission and that paragraph 8 seeks an injunction against not only the plaintiff but against the Courts and Tribunals Service and myself for corresponding and supplying third parties with confidential information, etc, etc. It seems to me having read a number of affidavits from Mr Monteith including a recent very lengthy affidavit of 10 June 2011 that there is no substance in this notice of motion that it is in the terms of Supreme Court

Practice an improper and scandalous notice of motion and I dismiss it again with costs, again on an indemnity basis.

[14] Those are the three summonses which Mr Monteith has brought. With regard to the Society's original interpleader application I grant their application to bring the attorneyship to the end. I grant their application, subject to one reservation, that the monies which they hold and named in their application be lodged to the Court Funds Office in the name of and for the benefit of Mr John R Monteith to be discharged to him on his lawful receipt for the same or if he continues to choose not to receive the said to be held for the benefit of his estate either on his demise or on his being found to be a patient under the Mental Health Order. That is not a matter for me to rule on.

[15] I turn to the Society's application for an injunction. Mr Monteith is unwilling to continue his undertakings. I grant the Society the order originally sought restraining him in the same terms as the undertakings previously granted. I grant costs on both those applications. All those costs may be recovered from the funds held by the Society before the monies are paid into the Court Funds Office. Given the approach adopted by the defendant to these matters which has verged on the contumacious, despite him having the benefit of respectable solicitors and counsel at an earlier stage, I confirm that all the costs are on an indemnity basis. I also direct that the costs of J F, his former solicitor, including obviously the costs of counsel retained by him are a proper charge on the same fund of monies and may be discharged to Mr F from the said funds before the balance is lodged in the Court Funds Office. [Judicial initialling]