

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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QUEEN'S BENCH DIVISION

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MAREK BELKOVIC

Plaintiff:

v

DR TOAL AND BHSCT

Defendants:

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STEPHENS J

[1] These matters come before me by way of a plaintiff's appeal against a decision of Her Honour Judge Brownlie not to recuse herself from hearing and determining the plaintiff's substantive claims. The question arises as to whether the hearing of the appeals should be stayed pending the outcome of the substantive hearing in the County Court. I consider that this Court, especially in light of the overriding objective, has power to stay proceedings before it which includes the ability to stay an appeal from the County Court on an interlocutory ruling pending the hearing of the substantive proceedings in the County Court. I would observe that an appeal from this Court to the Court of Appeal in relation to an interlocutory matter requires leave either of this Court or of the Court of Appeal. The test for the grant of leave was considered by this court in *Ritchie v McComb* [2014] NIQB 125. One of the purposes of the requirement of leave is to ensure that interlocutory appeals do not unnecessarily delay the substantive hearing or unnecessarily add to the costs of the proceedings. There is no statutory requirement for leave to appeal from the County Court to the High Court but in the exercise of the inherent jurisdiction of this Court there should be a similar process of considering whether the interlocutory appeal is appropriate for determination prior to the hearing of the substantive claim.

[2] It appears to me that the plaintiff's appeal is an example of satellite litigation. If Her Honour Judge Brownlie proceeds to hear and determine the plaintiff's claims then, in the event, she might decide in favour of the plaintiff, Marek Belkovic. In such circumstances there would have been no need to hear and determine these appeals with all the costs that unnecessarily would have been incurred and all the

delay that unnecessarily would have taken place. If she decides the claims against the plaintiff, Marek Belkovic, then there would be a right of appeal to this court in relation to the substantive claims in negligence and insofar as the claims allege discrimination there could be an appeal to the Court of Appeal. In either case if Her Honour Judge Brownlie decides the case against the plaintiff then at that stage, the stay that I am proposing to impose in relation to these appeals, would be removed so that a decision could be made by this court as to whether Her Honour Judge Brownlie ought to have recused herself.

[3] I may add that the satellite nature of the litigation is emphasised by the fact that insofar as the plaintiff's claims allege negligence the right of appeal to this court is by way of a rehearing. So this court will be rehearing the whole issue and this will involve hearing all the evidence over again. To my mind this emphasises that the appeal against the decision of Her Honour Judge Brownlie not to recuse herself just adds to the costs, rather than detracts from the costs.

[4] I stay the appeals against the order of Her Honour Judge Brownlie not to recuse herself pending the outcome in the County Court of the plaintiff's claims. I make it clear that the stay will be removed if the plaintiff, Marek Belkovic fails in any or all of the claims and if he wishes it to be removed.

[5] I will reserve the costs of all the parties to these appeals to a further hearing before this court once the outcome in the County Court is known. I will ask for this short extempore judgment to be transcribed and copies will be made available to the parties.