

Neutral Citation No: [2019] NIQB 55

Ref: COL10982

*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

Delivered: 30/5/2019

2017 No: 124122

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

**QUEEN'S BENCH DIVISION
COMMERCIAL LIST**

CARL FRAMPTON

Plaintiff

and

**BARRY McGUIGAN, SANDRA McGUIGAN AND
CYCLONE PROMOTIONS (UK) LIMITED**

Defendants

**RULING ON PLAINTIFF'S REQUEST FOR
FURTHER AND BETTER PARTICULARS**

COLTON J

Introduction

[1] The Statement of Claim herein was served before the directions hearing on 10 December 2018. On 21 January 2019 a defence and counterclaim was served. On 11 February 2019 the plaintiff served a Notice for Further and Better Particulars in respect of the defence and counterclaim which contained 19 requests. A summons was issued on 14 March 2019 to compel service of replies. At a review before the court on 19 March the court made an order that the defendants file/serve replies to the Notice for Further and Better Particulars on or before 29 March 2019.

[2] The defendants' replies were sent on 28 March 2019. Issues were raised as to the adequacy of the replies and the court rules in relation to the outstanding issues as follows.

Under paragraph 37

[3] Further voluntary particulars have been provided in relation to this request and no order is required.

Under paragraph 40(c)

[4] In my view the particulars sought under 40(c) go to the heart of the issue in this case. The plaintiff is seeking details of the purse and promotional monies including broadcasting rights, ticket sales and merchandising of title bouts with the exception of the second bout with Leo Santa Cruz. The defendants in paragraphs 40(a) and 40(b) identify where certain monies were paid arising from bouts and promotions of the plaintiff. 40(c) pleads that *“the remainder of the purse and promotional monies including broadcasting rights, ticket sales and merchandising of each title bout were paid to accounts nominated by the promoters namely accounts in the name of Cyclone Promotions Limited or Cyclone Promotions (UK) Ltd.”* The plaintiff is entitled to know the details of the accounts into which the remainder of the purse and promotional monies including broadcasting rights were paid. The particulars sought will be known to the defendant but not the plaintiff. “See discovery” is not an adequate response.

[5] In relation to the submission on behalf of the defendants that the request at (d) is not understood I will reserve the position in relation to this reply pending the replies to (a), (b) and (c) at which stage the matter can be revisited if necessary. I therefore direct that the defendants provide replies to particulars sought at (a), (b) and (c).

Under paragraph 46(d)

[6] The only issue that arises is the response to (d) of the Notice. I consider this is clearly an interrogatory and not something in respect of which the court should make an order. The replies at (a), (b) and (c) provide appropriate particulars to the plea in the defence at 46(d).

Under paragraph 46(f)

[7] I consider that the reply is adequate. The defendants have provided the particulars sought. If the defendants allege that “Jake McGuigan orally informed the plaintiff of the said fact on or about 15 January 2016 then presumably on this basis they allege that the matter was not “concealed” in accordance with the denial in the defence.

Under paragraph 46(m)

[8] The defendants have provided adequate replies to (a) and (f).

[9] As is the case in relation to the Notice in respect of 40(c) I consider that the information sought in this notice is fundamental to the issues that arise in the case and to their resolution. The plaintiff pleads that through various companies the first and second defendants paid themselves and family members substantial sums of money by way of director salaries, pensions, wages and benefitted from monies wrongly allocated to company expenses. The defendants plead that the shareholders, directors and employees of companies connected to the defendant have been properly and fairly paid. In these circumstances the matters sought are essential to the resolution of the issue between the parties. I consider that a reply to the Notice for Further and Better Particulars sought is an appropriate method for this information to be provided prior to the trial. It will obviously be provided in parallel with discovery in the case but needs to be properly identified. I do not consider that the request is oppressive. The matters sought are within the knowledge of the defendants and not the plaintiff and are clearly relevant to the issues.

[10] Accordingly, I grant an order compelling the defendants to reply to paragraphs (b), (c), (d) and (e) of the Notice.

[11] Any further particulars directed in this ruling shall be served by close of business on Monday 10 June 2019.