

Neutral Citation No: [2019] NIQB 58

Ref: COL10986

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

Delivered: 03/06/2019

2017 No 124118

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION

COMMERCIAL LIST

BETWEEN:

CARL FRAMPTON

Plaintiff

and

CYCLONE PROMOTIONS LTD (COMPANY No NI619080)

Defendant

COLTON J

[1] The plaintiff has brought a summons seeking inspection of original documents, orders pursuant to Section 67 of the Judicature (Northern Ireland) Act 1978 and/or Order 38 Rule 11 of the Rules of the Court of Judicature (Northern Ireland) 1980 and the jurisdiction established by **Khanna v Lovell White Durrant [1995] 1 WLR [121]** for leave to issue and serve writs of subpoena duces tecum upon third parties, an order for specific discovery and for leave to serve interrogatories.

[2] I have already made an order in relation to inspection of original documents and for the subpoenas sought.

[3] In relation to specific discovery under Order 24 Rule 7 the plaintiff has sought four classes of document as set out in Schedule 1 to the summons.

[4] The defendants have indicated that they will provide the documents sought at 1, 2 and 3. I therefore make an order in the terms of the summons.

[5] In relation to the class of documents set out in paragraph 4 essentially the plaintiff seeks copies of promotional contracts, agreements and bout agreements as between companies connected to the defendants referred to as "the Cyclone

connection” and other boxers fighting under what is referred to as the “Cyclone Promotions stable” in the period 2013 to present which includes 15 boxers in total.

[6] There is no dispute as to the legal test to be applied.

[7] The starting point is the **Peruvian Guano** test. The test which identifies the primary requirement for discovery is the relevance of the documents sought. It is correct to say that the test is broadly stated and the relevance is framed in the widest possible terms.

[8] The approach to discovery has been considered by the Court of Appeal in **Flynn v Chief Constable PSNI [2017] NICA 13** in which the Court of Appeal formulated the test that emanates from Order 24 Rule 7 as comprising three limbs:

- (a) The necessity requirement (related to relevance in the **Peruvian Guano** sense).
- (b) Subject matter, involving a deference to the aim of achieving justice in the case.
- (c) Cost/the burden of discovery.

[9] I am not persuaded that this class of documents meets the relevant test. In support of the application it is suggested that the listed boxers are boxers whom the plaintiff believes are likely to have entered into contractual relationships with companies within the Cyclone connection in the period 2012-2018. It is suggested that the identification of the Cyclone connection company within such contracts/agreements are relevant to the dispute.

[10] To some extent the defendant has created a difficulty by using different companies for the handling of various monies relating to bouts involving the plaintiff. The plaintiff is entitled by way of notice for particulars, applications for discovery and/or interrogatories to seek an account for all the monies raised in relation to activities associated with his fights whilst he was in a contractual relationship with the defendant.

[11] However in this regard I do not consider that it is necessary for the defendant to provide the promotional contracts in relation to other boxers who are associated with the Cyclone connection. The parties should focus on the dispute between them. To embark on an examination of the contracts of other boxers managed or promoted by the defendant or companies associated with the defendant would be entirely disproportionate and oppressive. I am satisfied that justice can be achieved between the parties without making the order sought.

[12] The plaintiff has sought leave to serve one interrogatory. The defendant has agreed to reply to Interrogatory 1. Accordingly I grant leave to serve the interrogatory set out in Schedule 3 of the summons.

[13] The defendant shall comply with the order made under paragraph 4 by close of business on 12 June and shall reply to the interrogatory within 10 days of service thereof.