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Judgment: approved by the Court for handing down | *Delivered:* **23/02/2015**
(subject to editorial corrections)

IN THE HIGH COURT OF JUSTICE OF NORTHERN IRELAND

QUEEN'S BENCH DIVISION

BETWEEN:

The Man Known as Anthony : Parker

Plaintiff;

and

The Man Known as Ian McKenna

And

The Enforcement of Judgments Office

Defendants.

Master Bell

Introduction

[1] The title of these proceedings, with the inclusion of a colon, is not a typographical error. It reflects the way that the plaintiff has chosen to describe himself when issuing his Writ. This is a matter which I will return to later in this judgment.

The Context

[2] This action has a very simple context. The plaintiff bought a house in Forfar Street, Belfast. In order to do so he obtained a mortgage with Santander. He fell behind in his monthly payments and Santander sought an order for possession of the house. Master Ellison granted such an order in 2011. The plaintiff then appealed that order and that appeal was then heard by Mr Justice Deeny who dismissed it. (*Santander (UK) PLC v Anthony Parker* [2012] NICh 6.)

The plaintiff then appealed to the Court of Appeal. A point having been raised before the Court of Appeal which had not been raised before Mr Justice Deeny, the Court of Appeal remitted the issue back to him for consideration. After consideration, Mr Justice Deeny's original decision remained unchanged. (*Santander (UK) PLC v Anthony Parker (No 2)* [2012] NICh 20.) The plaintiff then brought an action against Master Ellison and Mr Justice Deeny in their personal capacities for "fair and just compensation for the trespass to his rights and wrong done by them" and seeking a declaration that their rulings were void. That action was struck out by Master McCorry on the grounds of the principle of general judicial immunity, no reasonable cause of action, and that it was scandalous, frivolous or was otherwise an abuse of the process of the court (*The Man known as Anthony Parker v The Man known as Master Ellison and the Man known as Donnell Justin Patrick Deeny* (Unreported, 16 April 2014)). The plaintiff then sought to sue Santander and the lawyers involved in the repossession proceedings. That action too was struck out by Master McCorry on the grounds of no reasonable cause of action, and that it was scandalous, frivolous or was otherwise an abuse of the process of the court (*The Man Known as Anthony Parker v Santander (UK) PLC and the Man Known as Edmund Sinclair, The Man Known as Mark Orr and the Man Known as Keith Gibson* (Unreported, 17 October 2014)).

[3] When the enforcement stage of the repossession proceedings arrived, this involved activity by the Enforcement of Judgments Office (hereafter "EJO"). An application for Enforcement of Master Ellison's order was made. At a hearing on 17 September 2013 Master Wells heard the parties, rejected the arguments advanced by the plaintiff, and granted an order for delivery of the possession of the property. In consequence various documents were then served on the plaintiff by Ian McKenna, an Enforcement Officer employed in the EJO. As a result the plaintiff issued a writ against "The Man Known as Ian McKenna" and "The Enforcement of Judgment Office". This writ carries the following indorsement :

> "i a Man Known as Anthony : Parker under God claim the man Known as Ian McKenna and the Enforcement of Judgments Office trespassed on my right to own property : trespassed on my right to use property : trespassed on my right to be left alone and used forged instruments to do wrong to me.
>
> i require fair and just compensation for the trespass of my rights and the wrong done to me.

> The nature of the crime is trespass and fraud.
>
> i require a court under Common Law with a jury of my peers."

As will be observed, the indorsement contains some unusual linguistic features : namely the use of a small rather than capital letter personal pronoun, the inclusion of a colon between the first name and surname of the plaintiff, and the expression "a man known as". I will return to these features later.

[4] Having received this writ, the defendants now make an application :

> (i) To have the writ struck out under Order 18 Rule 19 of the Rules of the Court of Judicature and the inherent jurisdiction of the court on the basis that the action relates to the responsibilities of the defendants carried out in connection with the execution of the judicial process and is bound to fail by virtue of section 2(5) of the Crown Proceedings Act 1947.
>
> (ii) To have the writ struck out on the ground that it discloses no reasonable cause of action and is scandalous, frivolous, vexatious or is otherwise an abuse of the process of the court.
>
> (iii) To have the writ struck out on the basis that the plaintiff's action against the defendants is bound to fail by virtue of the provisions of Article 134(1) of the Judgments Enforcement (Northern Ireland) Order 1981.
>
> (iv) Staying the action pursuant to section 86(3) of the Judicature (Northern Ireland) Act 1978 on the grounds that it is an abuse of process and is bound to fail.

[5] The application is grounded by two affidavits sworn by Katrina Mitchell and responded to by what the plaintiff describes as an affirmation, sworn by the plaintiff himself.

[6] At the hearing before me, the plaintiff appeared as a personal litigant and the defendants were represented by Mr Cush, instructed by the Departmental Solicitor's Office. I heard oral submissions from both parties and, in keeping with the relevant practice note, also received a skeleton argument from Mr Cush.

[7] I note in passing that Ms Mitchell's second affidavit avers that she has been informed by the Chief Enforcement Officer at the EJO that the EJO is part of the Northern Ireland Courts and Tribunal Service which is an agency within the Department of Justice. It is therefore the Department of Justice which is the correct defendant in these proceedings rather than the EJO and, were they not to be struck out, the writ would have to be amended accordingly.

The Application for Recusal

[8] The plaintiff made an application asking me to recuse myself from hearing the application. The plaintiff's argument was that Article 6 of the European Convention on Human Rights provides, inter alia,:

> "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."

Given that the plaintiff is suing a person employed by the Northern Ireland Courts and Tribunals Service together with an organisational element of that Service, he argued that I, as a member of the judiciary, could not sit to hear the application, given that I was employed by the same Service.

[9] After reminding myself of the decision in *Porter v Magill* [2001] UKHL 67 which sets out the test to be used in the event of an application for judicial recusal, I concluded that the application for recusal must fail.

[10] The test for determining apparent bias is this: if a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the judge was biased, the judge must recuse himself. That test is to be applied having regard to all the circumstances of the case. As Arden LJ stated in *Mulugeta Guadie Mengiste and Other v Endowment Fund for the Rehabilitation of Tigray and Others* [2013] EWCA Civ 1003, "to maintain society's trust and confidence, justice must not only be done but be seen to be done."

[11] When taken to its logical conclusion, the impact of the plaintiff's submission, if his application was granted, would be that no judge in Northern Ireland could hear the action which he has commenced by issuing his writ. All of the judges would suffer from the same difficulty. Indeed logic takes the impact further. If the plaintiff's submission was soundly based there could be no court exercising judicial review over administrative acts or decisions made by any government minister because both the judges and the courts are emanations of the state. For the plaintiff this does not present a problem and indeed he welcomes this conclusion. In his affirmation he states :

> "I require a court under common law with a jury of my peers."

[12] Under section 67 of the Judicature (Northern Ireland) Act 1978 trials by jury are restricted to very limited categories of action (and even then only when in the opinion of a judge certain statutory conditions are met). Having the plaintiff's action tried by a jury is therefore not an option which the legislation allows for.

[13] I therefore concluded that a fair minded and informed observer, having considered the facts, would conclude that there was no real possibility that I was biased. The observer would recognise that judges act independently, will from time to time preside over cases where the Courts and Tribunal Service is a party in an action, and will without fear or favour decide such cases according to the law and the evidence. Accordingly, I dismissed the plaintiff's recusal application.

The Application to Strike Out

Order 18 Rule 19

[14] Mr Cush referred me to Order 18 Rule 19 of the Rules of the Court of Judicature :

> "(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)."

[15] The application by the defendants requires to be considered in two parts. Firstly, I must consider whether the plaintiff's claim ought to be struck out on the ground that it discloses no reasonable cause of action. In considering this part of the application, the effect of Order 18 Rule 19(2) is that the parties are not entitled to offer any evidence, whether oral or on affidavit. Secondly, I must consider whether the plaintiff's claim ought to be struck out on the ground that it is frivolous and vexatious. In considering this part of the application, the parties are entitled to offer evidence on affidavit.

[16] 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. 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.

[17] In *O'Dwyer and Others v Chief Constable of the Royal Ulster Constabulary* [1997] NI 403 the Court of Appeal for Northern Ireland reviewed the authorities on the test to be applied in such applications. It held that the summary procedure for striking out pleadings was only to be used in "plain and obvious" cases; it should be confined to 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".

[18] The Court of Appeal in *O'Dwyer* quoted Sir Thomas Bingham in *E (A Minor) v Dorset CC* [1995] 2 AC 633 at 693-694, a passage approved by the House of Lords:

"I share the unease many judges have expressed at deciding questions of legal principle without knowing the full facts but 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. This must mean that where the legal viability of a cause of action is unclear (perhaps because the law is in a state of transition) or in any way sensitive to the facts, an order to strike out should not be made. But if after argument the court can be properly persuaded that no matter what (within the reasonable bounds of the pleading) the actual facts the claim is bound to fail for want of a cause of action, I can see no reason why the parties should be required to prolong the proceedings before that decision is reached."

Section 2(5) of the Crown Proceedings Act 1947

[19] There are circumstances in which the Crown may be liable in tort and those circumstances are addressed in section 2 of the Crown Proceedings Act 1947. However this general ability is then restricted when it comes to judicial matters. The defendant's first submission was that the action ought to be struck out on the basis that section 2(5) of the Crown Proceedings Act 1947 provides :

> "No proceedings shall lie against the Crown by virtue of this section in respect of anything done or omitted to be done by any person while discharging or purporting to discharge any responsibilities of a judicial nature vested in him, or any responsibilities which he has in connection with the judicial process."

At first sight this argument appears to be strong. Clearly the defendants, both Mr McKenna and the EJO, act "in connection with the execution of the judicial process". The actions taken by Mr McKenna and the EJO are simply to execute the order of Master Ellison for possession and the order of Master Wells for order for delivery of the possession of the property.

[20] In *Dunn and another v Bradford Metropolitan District Council; Marston and another v Leeds City Council* [2002] EWCA Civ 1137 Hale LJ said, *obiter*, that the word "execution" was capable of referring to putting something into effect. The example she used of this meaning of the word was that of section 2(5) of the Crown Proceedings Act 1947 .

[21] In *Quinland v Governor of Swaleside Prison* [2002] EWCA Civ 174, the court held that the words "in connection with the judicial process" covered the actions of the Criminal Appeals Office in failing to give effect to the decision of the single judge who had considered an application for permission to appeal. In that decision Kennedy LJ

approved the approach adopted by the court in *Wood v Lord Advocate* [1996] SCLR 278 where the Court said that the first question was whether at the time of the negligent act or omission a judicial process existed. If that question was answered in the affirmative, the second question is whether at the material time the delinquent clerk was discharging, or purporting to discharge responsibilities which he had in connection with the execution of that process. If so, the case fell squarely within the protection of section 2(5) of the 1947 Act.

[22] If this were the only legislative provision which applied to the activities of the EJO and its staff, the application as against the second defendant would have to succeed. However Mr Cush also referred me to Article 134(1) of the Judgments Enforcement (Northern Ireland) Order 1981 which provides :

> "134 (1) Neither the Crown nor any member of the Office shall be liable to be sued in any court for anything done or omitted to be done in good faith by the Office or that member in the performance or purported performance of its or his functions under this Order unless—
>
> (a) as respects the liability of the Crown, the Office or some such member thereof wilfully or negligently; or
>
> (b) as respects the liability of any such member, that member wilfully;
>
> failed to comply with the provisions of this Order. "

[23] The effect of Article 134(1) is that Parliament did, despite the provision in section 2(5) of the 1947 Act, envisage circumstances in which the government department with responsibility for the EJO could be sued. How are these two provisions to be reconciled ? A first interpretative possibility is that members of staff in the EJO are not to be considered persons who have responsibility "in connection with the judicial process". This is not in my view a natural and ordinary interpretation of the words used in section 2(5) nor would it be an interpretation which would be consistent with the court's interpretation of the words in previous caselaw such as *Quinland*. A second interpretive possibility is that that Article 134(1) amends or modifies section 2(5) in so far as section 2(5) applies to the Crown's liability with regard to the EJO. I prefer this second interpretative approach.

[24] The effect of this interpretation is therefore that there is no absolute prohibition on bringing proceedings against the EJO. Accordingly I must reject the defendant's submission that the

plaintiff's action may be struck out on the basis that there is no reasonable cause of action because of the impact of section 2(5) of the 1947 Act.

Article 134 of the Judgments Enforcement (Northern Ireland) Order 1981

[25] I now turn to consider the effect of Article 134(1) of the 1981 Order. On behalf of the defendants Mr Cush submitted that, in order for the EJO or Mr McKenna to be "liable to be sued in any court", the plaintiff's writ must contain an allegation that the EJO or the member of staff has acted wilfully or negligently or, as far as the member of staff is concerned, he has wilfully failed to comply with the provisions of the 1981 Order.

[26] Mr Cush argued therefore that the plaintiff's writ did not contain a proper cause of action as he has not alleged in the indorsement that there was any wilful or negligent act. Neither the EJO nor Mr McKenna are therefore liable to be sued. Certainly there is no allegation of negligence. But could there be an implied allegation of wilfulness ? The word "wilful" is not defined in the 1981 Order. The court is therefore obliged to start by giving it its natural and ordinary meaning. The word can be understood in a broad sense of meaning intentional or determined; or in a narrow sense of being intentionally determined to do something even though one knows it is wrong. The word "wilful" must be understood in contradistinction to an act done in "good faith" which is also mentioned in Article 134. I therefore conclude that, in the context of Article 134 of the 1981 Order, I should give the word the narrower meaning. While Mr McKenna's act was undoubtedly intentional in the sense that he presumably meant to serve the relevant documents upon the plaintiff, there is no allegation in the writ that he acted wilfully or without good faith.

[27] The plaintiff's submission was that, once Mr McKenna arrived at his front door and the plaintiff had declared to him that, in the plaintiff's opinion, the documents were "forged" or "fraudulent", Mr McKenna owed him a duty of care to go and ascertain whether this assertion was correct and that in the meantime, no eviction could take place. By "forged" or "fraudulent" the plaintiff explained that he meant that the documents "were not from a lawful court", "not from a court of record", bore no official court seal but instead simply bore an ink stamp, there was no judge's signature, the court case number was not written around the stamped seal, and were deficient in other respects also.

[28] I do not accept the plaintiff's argument that Mr McKenna owed him a duty of care (a term which the plaintiff uses without an

understanding of the requirements which must be satisfied before a court will infer that such a duty exists.) The writ contains no allegation of negligence or wilfulness against either defendant. Therefore on the basis of the Article 134 argument alone I am satisfied that the writ discloses no reasonable cause of action and it is therefore appropriate to strike out the Writ.

Frivolous, Vexatious or Otherwise an Abuse of Process of the Court

[29] Mr Cush also submitted that I ought to strike out the writ on other grounds. He referred me to section 86(3) of the Judicature (Northern Ireland) Act 1978 which provides :

> "Without prejudice to any other powers exercisable by it, a court, acting on equitable grounds, may stay any proceedings or the execution of any of its process subject to such conditions as it thinks fit."

[30] He also directed my attention to Order 18 Rule 19(1) (b) and (d) which provides the court with a power to order proceedings to be struck out if they are scandalous, frivolous, vexatious or otherwise an abuse of the process of the court.

[31] In respect of applications under Order 18 Rule 19(1)(b) and (d) a court may take affidavit evidence into account. However a court at this stage must be careful not to engage in a minute and protracted examination of the documents or the facts of the case. As Danckwerts LJ said in *Wenlock v Moloney* [1965] 2 All ER 871 at 874G where he said of the comparable English rule:

> 'There is no doubt that the inherent power of the court remains; but this summary jurisdiction of the court was never intended to be exercised by a minute and protracted examination of the documents and facts of the case in order to see whether the plaintiff really has a cause of action. To do that, is to usurp the position of the trial judge, and to produce a trial of the case in chambers, and affidavits only, without discovery and without oral evidence tested by cross-examination in the ordinary way. This seems to me to an abuse of the inherent power of the court and not a proper exercise of that power.'

[32] In *Attorney General of Duchy of Lancaster v L&NW Railways* [1892] 3 Ch. 274 at 277 Lindley L.J. held that the words frivolous or vexatious are meant cases which are "obviously unsustainable". The pleading must be "so clearly frivolous that to put it forward would be

an abuse of the process of the court" (per Jeune P in *Young v Holloway* (1895) P 87 at 90.

[33] Ms Mitchell's first affidavit observes that the indorsement on the writ is largely intelligible, that it does not identify a proper cause of action, that it bears a striking similarity to the writ issued against Master Ellison and Mr Justice Deeny.

[34] In the case before me, Mr McKenna was simply serving court documents upon the plaintiff. If the plaintiff believed that the documents were deficient then his remedy lay in an appeal against the decision of Master Wells, not in an action against either the EJO or Mr McKenna. I am satisfied that the plaintiff's claim meets the test for being considered frivolous and vexatious and an abuse of the process of the court. It is quite simply a further attempt to try and frustrate the order originally made by Master Ellison in 2011.

Referral to the Attorney General for Northern Ireland

[35] Having reached a decision in respect of the application brought by the defendants, there is another matter which I need to address, namely whether I ought to bring this plaintiff to the attention of the Attorney General for Northern Ireland. The personal litigant's dilemma is often that he or she cannot afford to pay a legal team to represent them in legal proceedings and therefore has the unenviable task of self-representation. This is not an easy task for the untrained. It often leads to many errors. In this case, for example, the plaintiff relies on what he describes as section 30 of the Supreme Court Act 1981. Unfortunately for him, although certain parts of that Act do apply to Northern Ireland, the majority of the Act, including the section that the plaintiff wishes to rely on, does not. (This is by virtue of section 153 of the Act.) That the plaintiff was relying on an out of date textbook or unreliable internet resources is indicated by the fact that the Supreme Court Act 1981 has now, for over a decade, been renamed the Senior Courts Act 1981 following amendment by Schedule 11 to the Constitutional Reform Act 2005. The legal forest is difficult terrain for the untrained.

[36] However I have concerns with the manner in which this particular plaintiff conducts his litigation which go beyond the difficulties experienced by all legally unqualified personal litigants. While listening to his submissions I was reminded of Chief Justice Rooke's judgment in the Canadian case of *Meads v Meads* [2012] ABQB 571. In his extensive and detailed written judgment the Chief Justice explains that the court has developed a new awareness and understanding of a particular category of vexatious litigant. They describe themselves in a variety of ways, sometimes, for example, as

"Freemen" or "Freemen-on-the-Land". The Chief Justice, in the absence of what he considers to be a better description, terms them "Organized Pseudolegal Commercial Argument litigants" or "OPCA litigants". He explains that these persons employ a collection of techniques and arguments promoted and sold by others to disrupt court operations and to attempt to frustrate the legal rights of governments, corporations, and individuals. He notes that in Canada over a decade of reported cases have proven that the individual concepts advanced by such litigants are invalid. In his judgment he then goes on to categorise these schemes and concepts, identify defects to simplify future response to variations of identified and invalid OPCA themes, and develop court procedures and sanctions for persons who adopt and advance these vexatious litigation strategies.

[37] According to *Meads v Meads* this category of Canadian litigation traces back to the late 1990's, representing the spread of concepts that emerged much earlier in the United States. Although the judgment identifies reported caselaw that comments on OPCA litigants, OPCA gurus, and their misconduct, Chief Justice Rooke observes that the reported caselaw is the proverbial tip of the iceberg. The vast majority of encounters between the courts and OPCA litigants are not reported. Such litigants and their schemes have been encountered in almost all areas of law. They appear in chambers, in criminal proceedings, initiate civil litigation based on illusionary rights, and attempt to evade court and state authority with procedural and defence-based schemes.

[38] *Meads v Meads* states that the strategies of these litigants as brought before the Canadian courts have proven disruptive, inflict unnecessary expense on other parties, and are ultimately harmful to the persons who appear in court and attempt to invoke these vexatious strategies. Because of the nonsense they argue, such litigants are invariably unsuccessful and their positions dismissed, typically without written reasons. Nevertheless, their litigation abuse continues.

[39] The decision in *Meads v Meads* is worthy of mention because the litigation involving the plaintiff in this case possesses a number of features which caused concern to Chief Justice Rooke :

Names

[40] Chief Justice Rooke observes that the vast majority of such litigants use highly stereotypic formats to name and identify themselves. The most common form adds atypical punctuation, usually colons and dashes, into a name. Any litigant who uses this

dash/colon motif almost certainly, in the view of Chief Justice Rooke, has some kind of OPCA background. Such litigants have argued that a person is immune from court action if that person identifies himself by an entirely different name; that structuring a name in a format which includes a colon between the first name and surname means that one is a separate person from the person whose name is similar but does not have the insertion of a colon; that structuring a name in the format for example [John] of the [family] of [Sargent] means that he is a separate person from "John Sargent". Further, a capital letter version of the name is some kind of non-human thing, while the lower case name is the "flesh and blood" aspect of the litigant. It appears that the use of duplicate names is usually an indication that the OPCA litigant has adopted a "double/split person" strategy.

[41] I have already referred to the fact that the plaintiff refers to himself in the writ before me as "The Man Known as Anthony : Parker". He also refers to himself as "a living man known as Anthony of the family parker". In addition his writ refers to himself in three places by a lower case "i". The same features are also present in the writ against Master Ellison and Mr Justice Deeny.

Oaths and qualifications

[42] Chief Justice Rooke notes that Freemen litigants will typically make certain demands including demands to see the oath of office of a judge, lawyer, or court official; that a judge prove his or her appointment; that the judge make certain oaths or statements, such as that the judge is a public servant; that an opposing party provide proof that it has authority to proceed against the OPCA litigant; or for a certified copy of a document or legislation.

[43] In the current application before me the plaintiff challenged Mr Cush's right to appear on behalf of the defendants. He wanted proof that he was entitled to do so. In a previous application before me, the plaintiff requested that I state whether or not I was acting under my judicial oath.

[44] I note that in his judgment in *Santander (UK) PLC v Anthony Parker* [2012] NICh 6 Deeny J stated :

> "He objected to the solicitors acting and to counsel acting because counsel had not produced his "power of authority" or his law licence to practice in Northern Ireland. I reject those submissions. Needless to say no power of authority is required and counsel is well known to the court as a member, indeed a leading member of the Chancery junior bar."

[45] I also note that in his judgment in *Santander (UK) PLC v Anthony Parker (No 2)* [2012] NICh 20 Deeny J stated :

> "When I sat in this matter initially today he showed an obstructive approach to the conduct of the hearing which was followed by a demand to see my oath of office as a judge which was unlikely to be appropriate in any event but utterly inappropriate when I was dealing with a matter remitted from the Court of Appeal and this was followed by direct defiance of the orders of the court constituting, subject to any submissions which I will hear after this judgment, a contempt in the face of the court."

Consent to Obligations

[46] In *Meads v Meads* Chief Justice Rooke stated that a common belief expressed by Freemen litigants is that all legally enforceable rights require that a person *agree* to be subject to those obligations. This strategy takes two closely related forms. Firstly, every binding legal obligation emerges from a contract and, secondly, consent is required before an obligation can be enforced. Litigants who advance this concept extend it to interactions between state actors, including Canada and the provinces, and individual persons. This is what Chief Justice Rooke describes as a kind of "magic hat". The OPCA litigant says he or she has not agreed to be governed or subject to court authority, and the OPCA litigant is therefore allegedly immune.

[47] A necessary first step in any "everything is a contract" or "consent is required" scheme is that the OPCA litigant develops a mechanism that denies a unilateral obligation can arise from legislation. Some OPCA litigants argue they have opted out of legislated obligations. Others simply claim consent is required, otherwise legislation is a set of optional guidelines.

[48] In his affirmation before me in these proceedings the affirmation sworn by the plaintiff contains the following :

> "18. Legislative Acts confer how duties and obligations are applied to Government Officers, legal fictions and persons.
>
> 19. I do not consent to legislative Acts."

Jurisdiction

[49] Chief Justice Rooke observes that OPCA litigants frequently deny that a court has jurisdiction or authority over them and this emerges in a number of ways including in a statement or declaration

that the litigant is only subject to a specific category of law, most often expressed as "natural law" or "the common law". I observe that the plaintiff's affirmation before me included the statements :

> "I claim that I have not had a jury of my peers under common law.
>
> I claim that any instruments that the man known as Ian McKenna, here after referred to a Ian used on behave of and THE ENFORCEMENT OF JUDGMENTS OFFICE, hereafter referred to as EJO, did not come from a common law court."

[50] I also observe that Deeny J in his judgment in *Santander (UK) PLC v Anthony Parker* [2012] NICh 6 stated :

> "He takes the point that this matter should be adjudicated on by Sir Christopher Geidt, Private Secretary to Her Majesty The Queen. He says that on foot of Clause 45 of the Magna Carta of 1215, which in the version advanced by him reads: "We will appoint as justices, constables, sheriffs or other officials only men that know the law of the realm and are minded to keep it well." Of course I have the privilege to serve as one of Her Majesty's justices and sit here to do justice as envisaged by Magna Carta rather than Sir Christopher whom, while I am sure a person of distinction, is not so far as I am aware a judge or lawyer."

[51] In the same judgment Deeny J makes reference to the following point which was raised by the plaintiff who now appears before me :

> "Since I am a living man, I operate under a foreign jurisdiction to the legal system. I already tried this case in my private foreign jurisdiction court, and find Santander in default judgment. Since Santander was found in default judgment in my private foreign jurisdiction court, Master Ellison, under the rules of the Hague Convention on foreign judgments and civil and commercial matters, should have respected that judgment."

Deeny J unsurprisingly found that this was a wholly misplaced submission without foundation.

[52] I also note that in his affirmation before me the plaintiff states :

> "I do not consent to any court other than a common law court nor to any Judge that does not act upon his Oath of Office and will seek remedy if these terms are not met."

and

> "I wish to exercise my right to challenge the validity of court documents by subpoenaing Master Ellison, Judge Deeny and the court transcripts in order to ascertain :
>
> A) If the instruments used by Ian, EJO and Katrina are fraudulent.
>
> B) If they come from a court that had jurisdiction."

Conclusion

[53] In Master McCorry's decision in the case of *The Man known as Anthony Parker v The Man known as Master Ellison and the Man known as Donnell Justin Patrick Deeny* (Unreported, 16 April 2014) Master McCorry concluded that the plaintiff's arguments largely consisted of :

> "a kaleidoscope of pseudo legalistic jargon, alien to law, practice and the administration of justice in any modern common law jurisdiction and in short is largely nonsense."

I entirely agree with that assessment.

[54] In summary, the proceedings before me represent the third Writ issued by this plaintiff which the courts have struck out as, *inter alia*, vexatious and an abuse of the process of the court. Furthermore, there are specific features of the plaintiff's arguments and practice which give me cause for concern. Whether the plaintiff is a vexatious litigant is not a matter for me to decide. However, without doubt the plaintiff is a litigant who persistently attempts to use arguments which have been found by various members of the judiciary to be utterly untenable. I have therefore decided that I will draw this plaintiff to the attention of the Attorney General for Northern Ireland so that the Attorney can consider whether it is appropriate to make an application under section 32 of the Judicature (Northern Ireland)

Act 1978 for him to be declared a vexatious litigant by a judge of the High Court. I will therefore direct that a copy of this judgment shall be sent to the Attorney General.