

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
DIVISIONAL COURT

CO/3452/2007

Royal Courts of Justice
Strand
London WC2A 2LL

Thursday, 31 July 2014

B e f o r e:

LORD JUSTICE DAVIS

MR JUSTICE CRANSTON

Between:

GREGORY

Claimant

v

CITY UNIVERSITY LONDON & OTHERS

Defendant

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(Official Shorthand Writers to the Court)

The Claimant did not appear and was not represented

Mr P Gott, QC (instructed by Solicitors Regulation Authority) appeared on behalf of the
Interested Party

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LORD JUSTICE DAVIS: Mr Gregory's not here?

MR GOTT: Apparently not, my Lord.

LORD JUSTICE DAVIS: We have received letters indicating that he probably wasn't going to be here. Anyone here for Charles Henry & Co, aka Legal Action? No. Anyone here for Augustine Housing Trust? No. You'd better have them called outside court, please.

(Pause).

USHER: There is no response, my Lord.

LORD JUSTICE DAVIS: No response. Mr Gott, thank you for attending. You are appearing for the SRA.

MR GOTT: I am appearing for the SRA, my Lord. I assume my role this morning is something of a friend to the court. But Mr Gregory, not being in attendance, or indeed any of other addressees of the letter, in effect, all those addressees are one and the same person. They appear to be, certainly from my analysis of the papers, Mr Gregory.

LORD JUSTICE DAVIS: What do you mean by addressees on the letter?

MR GOTT: The individuals, the organisations to whom the appeal letters of this court were addressed. That is to say, Legal Action and Charles Henry. Charles Henry is the trading name of Legal Action.

LORD JUSTICE DAVIS: It is limited by guarantee, it's a charity.

MR GOTT: Limited by guarantee and a registered charity.

LORD JUSTICE DAVIS: Do we have anyone from the Charity Commission here? No. All those sitting behind you are connected to the SRA?

MR GOTT: I have come in legion today to show that the SRA is taking this matter in hand.

MR COURT: I am here representing the insurers of Legal Action and Augustine Housing Trust.

The identity has not been confirmed for those policies but these matters have been notified by Mr Gregory, so if the court --

LORD JUSTICE DAVIS: Can we have your name, please?

MR COURT: Mr Court.

LORD JUSTICE DAVIS: What's the name of your company?

MR COURT: Plexus Law.

LORD JUSTICE DAVIS: You provide legal indemnity insurance?

MR COURT: No. These matters have been notified to RSA(?), but only very recently and RSA are not convinced that the policies would respond to these matters.

LORD JUSTICE DAVIS: When were they notified to you?

MR COURT: About ten days ago, I believe.

LORD JUSTICE DAVIS: You may or may not be aware that, for some time now, Mr Gregory has been writing saying his insurers need more information and has been declining on our enquiry to name the insurers.

MR COURT: I have taken instructions on the insurers, they have no difficulty with being identified. Our difficulty is not that the court is not giving us information, but that Mr Gregory's not giving us information.

LORD JUSTICE DAVIS: He claims that the court is not giving him information to pass on to you.

MR COURT: I have noted that, but we have been asking him for information and, so far, have had very little indeed.

LORD JUSTICE DAVIS: You are providing indemnity insurance to Legal Action?

MR COURT: Legal Action and Augustine Housing Trust have the benefit of a charity trustee

policy. Legal Action also has the benefit of a professional indemnity policy.

LORD JUSTICE DAVIS: Basically, you are here to observe what happens today.

MR COURT: Yes, to try and learn a little bit more about the background to this, really.

LORD JUSTICE DAVIS: Right. I don't know how much more you will learn in the sense that there are other papers here which you may not have seen. Anyway, thank you very much for attending.

MR COURT: Thank you.

LORD JUSTICE DAVIS: Right.

MR GOTT: My Lord, it was for Mr Gregory and the organisations in which he is involved, Legal Action and the Augustine Housing Trust, to come before this court and show cause this morning.

LORD JUSTICE DAVIS: He has been writing a lot of letters. We've seen one this morning saying he is suffering from stress and anxiety.

MR GOTT: He may well be, but he is not here to show cause why the civil restraint order should not be imposed upon him. In those circumstances, I think it's only appropriate that the court takes the step of raising such an order.

LORD JUSTICE DAVIS: That's obviously a matter for the court. Obviously we have got to consider his latest letter. Have you seen any of the materials, the schedule, yourself?

MR GOTT: Yes, I have seen the schedule, my Lord. What the schedule demonstrates is, either in person or through organisations in which Mr Gregory has effectively taken control, including the solicitors firm of Mahoney Mea, that firm being apparently a firm, the name of which is comprised of Mr Gregory's grandmother's and Mr Gregory's mother's maiden names. Mr Gregory has conducted a series of hopeless applications, predominantly but not

exclusively to this court, and is currently taking advantage of what appears to be a lacuna in the regulatory regime whereby, until the transitional provisions on the regulation of alternative business structures are fully brought into force in 2015, charities are exempt from regulation by the SRA.

LORD JUSTICE DAVIS: Well that may be so, but what Mr Gregory no doubt would say, if he were here today is, he is operating in accordance with the law in that respect.

MR GOTT: My Lord --

LORD JUSTICE DAVIS: The law may or may not be deficient at the moment, but that's a different point.

MR GOTT: Certainly, I find myself almost donning the instructions of the Attorney General who isn't here. He may be entitled to operate in that respect, but he is not entitled to make persistent, hopeless, vexatious and unsustainable applications.

LORD JUSTICE DAVIS: That's a matter of assessment by evidence with reference to the practice direction. As you are here, Mr Gott, perhaps you could assist the court.

MR GOTT: I will do my best, my Lord.

LORD JUSTICE DAVIS: If one goes to the practice direction, what Mr Gregory, Augustine Trust and Legal Action have been notified for showing cause to is whether the court is minded to make a general civil restraint order, right?

MR GOTT: My Lord, yes.

LORD JUSTICE DAVIS: If you look at the practice direction:
"A general civil restraint order may be made by [and then the judge is identified] -
... where the party against whom the order is made persists in issuing claims or making applications which are totally without merit..."

MR GOTT: My Lord, yes.

LORD JUSTICE DAVIS: In a number of these cases, which, totally without merit, a certification has been given, Mr Gregory has been party.

MR GOTT: My Lord, yes.

LORD JUSTICE DAVIS: But, on my reading of the schedule, Augustine and Legal Action have only been as parties to one, thus far. Can one make a civil restraint order, for example, against Charles Henry & Co/Legal Action on the basis that they have acted for persons against whom TWM directions have been given? Do you understand the point? It might have said they are not 'party'. In the ordinary way it says the regulating authority would pick that up, if a firm of solicitors persistently involves itself in abusive applications, that would attract the attention of the SRA. But can it somehow be made within the ambit of the CRA(?)? Do you understand the point?

MR GOTT: I do understand the point and the best assistance I can give is this. When the Attorney General obtains an order under s.42 of the Superior Courts Act, rendering an individual a vexatious litigant and putting them on the vexatious litigants list, from time to time, those individuals, rather than continuing with vexatious litigation, decide to become involved in the litigation of others and either conduct other people's litigation vexatiously or seek to conduct their own supposed grievances through other people. In those circumstances, the court can make what is call a Nourerai(?) order in which an individual is restrained from representing others or issuing process or taking any step within the RCJ.

LORD JUSTICE DAVIS: I understand that, but Mr Gregory has not been notified for that purpose; he has been notified by reference to power to make a general civil restraint order under the Rules.

MR GOTT: And I am fully aware of that. One of the things which did occur to me as I was drawing these papers together is the extent to which a civil restraint order was necessarily going to deal with the mischief of Mr Gregory because there are a number of cases in which Mr Gregory has been a party, but the real mischief here is that Mr Gregory is using other parties, the Augustine Housing Trust and Legal Action, effectively, with Mr Gregory as a puppet-master.

MR JUSTICE CRANSTON: You are saying that those other organisations are the alter-ego of Mr Gregory.

MR GOTT: I wouldn't go so far as that, my Lord, but that is certainly the picture which is emerging from the materials which I have seen. He is a trustee of both trusts. He is himself a very vigorous litigator. Each of those trusts are also extremely vigorous litigators. Putting two and two together it looks as though he is effectively using the charity as a litigation vehicle.

LORD JUSTICE DAVIS: Augustine Housing Trust, for example, which is involved in housing, most of its litigation relates to, for example, getting a reduction in council tax and things like that.

MR GOTT: Yes.

LORD JUSTICE DAVIS: So it's not necessarily Mr Gregory using it as a vehicle for his own purposes. He may be vigorous in litigating, causing to litigate, but it is trying to recover money for the benefit of Augustine Housing Trust. The difficulty is, it is difficult for us today to say that these are shams; these are registered charities.

MR GOTT: In answer to my Lord's question, I wasn't pushing the matter so far as to suggest that we should splice on an ex-party basis through the corporate veil. But all the indications are

that Mr Gregory - and this is a feature of the vexatious litigant, my Lord, and this court in particular can take judicial notice of that - vexatious litigants don't necessarily litigate for their own aims, they litigate for entertainment. It is a matter which, in most continental legal systems, is dealt with by the medical rather than the legal authorities. There is almost an element of compulsion to it. The applications, which are brought by Augustine Housing Trust, the majority of which are applications seeking to challenge council tax by making an unsustainable application in this court, appear to be vexatious litigation which have had some driver behind them. When speculating as to who the driver is likely to be, it appears that it is likely to be Mr Gregory.

If this court has any concerns today in respect of the civil restraint order, or making a civil restraint order, and in my submission - I don't think I am straying outside my role as friend to the court - I'm not sure that this court should have --

LORD JUSTICE DAVIS: The position, so far as Mr Gregory himself is concerned, is that there are a number of matters in the schedule in which he himself has been a party, a number. On the face of it, "persistently" is satisfied, so far as he is concerned. My query, speaking only for myself, is solely directed towards Augustine and Legal Action which, on the face of it, are separate legal entities. So far as I can tell from the schedule, maybe my Lord would so agree, they have only been involved directly in one application or case which has been served by TWM. They've been involved in many applications which have come to grief for all sorts of reasons, but that's not quite the same point.

MR GOTT: I entirely take that point. Where I was moving to, in respect of any misgivings this court may have in respect of the civil restraint order, your Lordship may have seen from a letter sent to the court by those instructing me.

LORD JUSTICE DAVIS: The very long letter.

MR GOTT: Well, seven pages with a 114-page attachment. The position is that there are three solicitors who are registered in respect of Charles Henry & Co. In respect of those solicitors, the SRA has made a direction pursuant to s.44B of the Solicitors Act. You will see a copy of one of those directions at page 110 of the bundle behind the letter. Each of the solicitors claims effectively to have no substantive role in Charles Henry & Co/Legal Action. Dr Eliad(?) is in the United States. Mr McCarthy(?) says that he only attends when he is asked to, and he doesn't know when he'll be attending again. We have received this morning an e-mail. If I can hand a copy of this e-mail up, from Mr Perotti(?), the third solicitor. **(Handed)**

LORD JUSTICE DAVIS: Right.

MR GOTT: You will see what Mr Perotti says in respect of his involvement; he knows absolutely nothing.

LORD JUSTICE DAVIS: He has never worked for Charles Henry?

MR GOTT: No, my Lord, no.

LORD JUSTICE DAVIS: What was the information which led the SRA to think that he was working for Charles Henry?

MR GOTT: Our records show him as being registered as a solicitor with Charles Henry & Co.

LORD JUSTICE DAVIS: Do your records require that the solicitors be employed or simply that they work for?

MR GOTT: It is his practice address.

LORD JUSTICE DAVIS: I am sorry. Does the SRA's, does it extend to persons employed by Charles Henry, or does it extend also to self-employed solicitors who make themselves

available to Charles Henry?

MR GOTT: Both, my Lord.

MR JUSTICE CRANSTON: There's a fourth one, Rosamond Phillips(?) has appeared.

MR GOTT: She has replied in the past, my Lord, and states that she is a part-time locum for Charles Henry.

MR JUSTICE CRANSTON: You haven't sent a notice to her, a s.44?

MR GOTT: No, having received information from her before that she was a part-time locum, it was thought un-worthwhile.

MR JUSTICE CRANSTON: Are you suggesting that what Mr Perotti says in this recent e-mail is not accurate?

MR GOTT: My Lord, no. I think Mr Perotti's e-mail needs to be taken at face value. The reason why I put forward Mr Perotti's e-mail is this: there seems to be no realistic prospect of getting any of the requested documents under the s.44B notice from the three solicitors who have been identified and in respect of whom notices have been made. There is a jurisdiction under s.44B(b) for the High Court to make an order that a person to whom a s.44B order does not apply should provide information, or information of a description specified in the notice, that is to say this court could make an order against Mr Gregory that he deliver up the documents specified in the notice at page 110 of the bundle attached to Russell Cooke's(?) letter. A similar order could be made against Legal Action. As a result of that, my client would obtain all the relevant documents in respect of the matters set out in the notice at page 110, and, having obtained those, would have a better view on precisely what is going on within Legal Action.

LORD JUSTICE DAVIS: But so far as this court today is concerned, it can only be concerned to

decide whether or not to exercise its powers under Rule 3. I'm afraid we can't concern ourselves with collateral issues, s.42, or what the Solicitors Regulation Authority may do, what the Charity Commission may choose to do, and so on and so forth.

MR GOTT: In which case I apologise for having gone down that path.

LORD JUSTICE DAVIS: I do understand that, but I'm afraid the SRA has its own responsibilities, we have our own responsibilities and the Charity Commission has its responsibilities and we can't take them all on.

MR JUSTICE CRANSTON: But you would make an application.

LORD JUSTICE DAVIS: You can make an application, yes.

MR GOTT: Subject to instructions an application will be made and, to the extent that I can give any assurance to this court, my client will be taking all reasonable steps to take this matter in the hand as the regulator of the solicitors profession.

LORD JUSTICE DAVIS: To use old fashioned language, the SRA is now well-seized of this matter.

MR GOTT: There's a new sheriff in town.

MR JUSTICE CRANSTON: Sorry, I am a bit slow on Mr Perotti. You list him as a solicitor at Legal Action's addresses. He says, I have nothing to do with them. Are your records inaccurate or what?

MR GOTT: They must be. If he is to be taken at face value, our records must be inaccurate. How that inaccuracy arises, I do not know. It's a matter of speculation. He says he has nothing to do with the charity. Our records suggest that it is his practice address.

MR JUSTICE CRANSTON: That's another matter that you would need to investigate.

MR GOTT: It's another matter that requires investigation as to how his name has ended up on

the practice address of Legal Action.

LORD JUSTICE DAVIS: You are liaising with the Charity Commission.

MR GOTT: We are liaising with the Charity Commission.

LORD JUSTICE DAVIS: That seems to be quite important here, because it is the Charity Commission which has supervisory responsibility for Legal Action. You are concerned with the solicitors who may or may not have worked with Legal Action, but they have responsibility for Legal Action itself. It is somewhat distressing to see that this matter was drawn to the attention of the Charity Commission some years ago, and still matters have not been brought to a head.

MR GOTT: I can't speak for the Charity Commission, but to the extent that we are in liaison with them, that message I think will be unambiguously transmitted to them.

LORD JUSTICE DAVIS: It is not for me to say, but maybe a new sheriff is needed there.

MR GOTT: Again --

LORD JUSTICE DAVIS: That's not a matter for us. All right. Okay, is there anything else then which you think should be drawn to the court's attention? Thank you very much. That's very interesting.

MR GOTT: My Lord, I'm not sure I can necessarily assist the court any further, unless there is anything specific.

LORD JUSTICE DAVIS: I'm afraid our function today is not, I have to tell you, to assist the SRA. You've got your own functions and duties. It may or may not result in a subsequent court application, but that's not for today.

MR GOTT: I fully understand that and I was slightly unclear as to exactly what my function was today in any event, but to the extent that I have pushed the boundaries of what this court

may be prepared to do, I don't mean any disrespect in that respect.

LORD JUSTICE DAVIS: It has been very helpful, Mr Gott, and it has also been very helpful to have a detailed letter from your solicitors.

MR JUSTICE CRANSTON: Mr Gott, just before you sit down, could you just help me on the issue which my Lord has raised. There's only one case, it seems, of Charles Henry acting itself where the case has been marked totally without merit. Did you, in your examination of the schedule, find any more than the one?

MR GOTT: I don't think there was any more than the one, my Lord.

LORD JUSTICE DAVIS: Number 30 is Charles Henry, the Welsh County Court.

MR GOTT: Yes, my highlighting only shows number 30 as TWM for Charles Henry.

LORD JUSTICE DAVIS: And Augustine Housing Trust has been involved in many unsuccessful applications. Again, I can pick out one at TWM: 27.

MR GOTT: If it transpires that Kevin Gregory, Augustine Housing Trust and Legal Action are properly for the purposes of the civil restraint order to be regarded as one and the same, then we have a surfeit of riches. But for the time being, I don't think that we can go as far as that, my Lord.

LORD JUSTICE DAVIS: One other point. A judge on a previous occasion, Coulson J, has possibly suggested, and I think Mr Gregory didn't agree with this suggestion at all, that Mr Keith Gregory and Mr Kevin Gregory may be one and the same. I think what is said is that they are brothers. Do you have any information on that?

MR GOTT: I don't.

LORD JUSTICE DAVIS: Some litigation involves Mr Keith Gregory.

MR GOTT: 3, 36 and 53 are Keith; all the rest in which Mr Gregory is involved are Kevin.

I don't have any information on that. What arose from the s.43 order, the proceedings in the Solicitors Disciplinary Tribunal in which a s.43 order was made against Mr Gregory, was that when he acted through Mahoney Mea, he styled himself as Mr Edwin Gregory. The suspicion, but it was no more than conjecture and suspicion, is that Keith and Kevin are one and the same person. But, again, for the time being, I don't have any firm evidence on that.

LORD JUSTICE DAVIS: We'll retire.