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

Royal Courts of Justice
Strand
London WC2

Wednesday, 26 November 2003

B E F O R E:

MR JUSTICE MAURICE KAY

MR JUSTICE MACKAY

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HM ATTORNEY GENERAL

(CLAIMANT)

-v-

ANTHONY ALEXANDER

(DEFENDANT)

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MR TOLLEY (instructed by THE TREASURY SOLICITOR, London SW1H 9JS) appeared on behalf of the CLAIMANT
THE DEFENDANT APPEARED IN PERSON

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J U D G M E N T
(As approved by the Court)

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1. MR JUSTICE MAURICE KAY: There is before the court an application by HM Attorney General, pursuant to section 42 of the Supreme Court Act 1981, for a civil proceedings order against Anthony Alexander. The basis of the claim is that Mr Alexander has habitually and persistently and any without reasonable ground instituted vexatious civil proceedings, and made vexatious applications within civil proceedings, whether instituted by himself or others.

2. This is not the first occasion upon which Mr Alexander's approach to litigation has been considered in these courts. It was his habit to act in litigation on behalf of others, although he is not a solicitor or a barrister.

3. On 19th September 2001 in the case of Noueri V Paragon Finance PLC [2001] EWCA Civ 1402 the Court of Appeal granted an injunction restraining Mr Alexander and any company owned or controlled by him,

> " ... from taking any step whatever within the Royal Courts of Justice, whether in the face of any court or otherwise, by acting or purporting to act on behalf of any person other than himself in any legal proceedings or intended or prospective legal proceedings save with the leave of the High Court or the Court of Appeal..."

4. We are now concerned with Mr Alexander's litigation in his own name. In that context he is also the subject of what, until recently, were known as Grepe V Loam orders, now known as civil restraint orders. The question that now has to be addressed is whether the point has been reached when this Court should make an order under section 42.

5. Section 42(1) reads as follows:

> "If, on an application made by the Attorney General under this section, the High Court is satisfied that any person has habitually and persistently and without any reasonable ground-
>
> (a) instituted vexatious civil proceedings, whether in the High Court or any inferior court, and whether against the same person or against different persons; or
>
> (b) made vexatious applications in any civil proceedings, whether in the High Court or any inferior court, and whether instituted by him or another; ...
>
> The court may, after hearing that person or giving him an opportunity of being heard, make a civil proceedings order..."

6. A civil proceedings order is defined in section 42(1A) of the Act as an order that:

> "No civil proceedings shall without the leave of the High Court be instituted in any court by the person against whom the order is made, that any civil proceedings instituted by the person in any court before the making of the order shall not be continued by him without the leave of the High Court, and that no application (other than one for leave under the section) shall be made by the person, in any civil proceedings instituted in any court by any person, without the leave of the High Court."

7. The unusual feature of the present case is that in respect of most of the litigation activity relied upon by the Attorney General, Mr Alexander was a defendant rather than a claimant.

However, as is apparent, that does not place him outside the reach of section 42 because section 42(1)(b) applies in terms to "vexatious applications".

8. A number of the applications relied upon by the Attorney General in the present case were applications to the Court of Appeal for permission to appeal. It seems to me that applications to the Court of Appeal for permission to appeal arise in the course of civil proceedings "whether in the High Court or any inferior court", and, in my judgment, that potentially brings them within section 42(1). However, even if that were not the case, the evidence in relation to the applications to the Court of Appeal for permission to appeal to that court would be relevant and admissible in the context of the discretion which is vested in this court by section 42(1). That discretion is apparent from the words "the court may... make a civil proceedings order".

9. The legal principles that underlie that exercise of discretion are well established and are not in dispute in this case. Many of them were set out in the case of Attorney General V Barker [2000] 1 FLR 759. It is apparent therefrom that the exercise of this Court's discretion,

> " ... will depend on [its] assessment of where the balance of justice lies, taking account on the one hand of a citizen's prima facie right to invoke the jurisdiction of the civil courts and on the other the need to provide members of the public with a measure of protection against abusive and ill-founded claims."

10. So far as the words "habitually and persistently" are concerned, it was observed in Barker that habitual and persistent litigious activity usually involves one or more of the following features: that the litigant sues the same party repeatedly, in reliance on essentially the same cause of action after it has been ruled upon; or the litigant relies on essentially the same cause of action after it has been ruled upon in actions against successive parties who, if they were to be sued at all, should have been joined in the same action; automatic challenge of every adverse decision on appeal; and refusing to take any notice of or give any effect to orders of the court. As was said in Barker:

> "The essential vice of habitual and persistent litigation is keeping on and on litigating when earlier litigation has been unsuccessful and when on any rational and objective assessment the time has come to stop."

That there must be an element of repetition is axiomatic. However the repetition need not be over a long period of time.

11. Barker is also authority for the proposition that the hallmarks of a vexatious proceeding include that it has little or no basis in law, or at least no discernible basis; that whatever the intention of the proceeding may be its effect is to subject the defendant to inconvenience, harassment and expense out of all proportion to any gain likely to accrue to the claimant; and that it involves an abuse of the process of the courts, that is a use of the court process for a purpose or in a way which is significantly different from the ordinary and proper use of the court process.

Two further principles are apparent from the case of Attorney General V Jones [1991] WLR 859. First, that the court considering the issue of a civil proceedings order is entitled to rely upon the conclusions of judges in the underlying proceedings, that the litigant's conduct in those particular proceedings had been vexatious or had involved an abuse of the process of the court; secondly, although the power to restrain someone from commencing or continuing legal proceedings is a drastic restriction of his civil rights, there must come a time when it is right to exercise that power because opponents who are harassed by the worry and expense of

vexatious litigation are entitled to protection and because the resources of the judicial system are barely sufficient to afford justice without unreasonable delay to those who do have genuine grievances and should not be squandered on those who do not. Those then are the relevant principles.

12. The evidence upon which the Attorney General relies is set out in the witness statement of Louisa Hennessy, a solicitor employed by the Treasury Solicitor. As there is no evidence to the contrary, what follows is based substantially upon it. It refers to ten cases between 1997 and 2002. It will be necessary to summarise them in this judgment. They may not be the only cases in which Mr Alexander has been a party and, as I have indicated, they overlap in time with cases in which he sought to play a part on behalf of others, prior to the issue of the injunction in Noueiri.

13. Case number (1) is Bank of Cyprus (London) Limited V Alexander. The bank claimed some £46,000 from Mr Alexander on two accounts. His defence was that he had made an oral agreement with the bank manager that it would not pursue its claim against him until either he had received a sum of about £50,000 from Halifax PLC or provided that he vigorously pursued a claim against Halifax PLC in which it was said that he would obtain a sum of about £50,000. That type of defence or argument seeking to rely on an oral agreement within the context of a wider relationship is a feature which arises in other cases as well.

14. In the Bank of Cyprus case the bank obtained summary judgment against Mr Alexander on 4th November 1997, the deputy master taking the view that there was no fair or reasonable probability that Mr Alexander could establish a bona fide defence. At that time it was not necessary to obtain permission to appeal such an order. Mr Alexander appealed and on 20th November 1997 Curtis J dismissed his appeal and refused permission to appeal to the Court of Appeal. Mr Alexander had obtained a stay of the order pending his appeal. However, Curtis J removed that stay on 20th November. On 8th December Mr Alexander sought a stay from Toulson J, pending a proposed application to the Court of Appeal, but this was refused. On 29th January 1998 Master Eyre made a charging order absolute in respect of residential premises in Fulham, related to the Bank of Cyprus case. Mr Alexander's application for permission to appeal was then heard on 12th February 1998, but Potter LJ and May LJ dismissed the application and the application for a stay. They also refused leave to appeal to the House of Lords, which was hardly surprising because there would be no jurisdiction to grant such leave in those proceedings at that point in any event.

15. Mr Alexander then made a further application for a stay on 17th February 1998, but that was refused by Master Turner. On 7th August 1998 Mr Alexander sought to appeal against that order out of time but Penry-Davey J dismissed that application and refused permission to appeal to the Court of Appeal.

16. One of the features which is apparent from that summary of the Bank of Cyprus case is the tendency to apply for stays thereby buying time which, when occasionally successful for a short time, has never proved to be successful in the long term. The effect of such stays has simply been to inconvenience the other party for the duration.

17. The second case is also titled Bank of Cyprus (London) Limited V Alexander. It was a further claim brought by the Bank against him, this time in respect of moneys said to be due as a result of the use of a credit card. Once again, Mr Alexander's defence was that he had made an oral agreement with the bank whereby it agreed to look to Halifax PLC for payment. Again the Bank of Cyprus obtained summary judgment, this time in the county court before a district judge. Judge Wakefield dismissed an appeal on 12th December 1997. Mr Alexander applied for permission to appeal, but the Court of Appeal refused this on 23rd June 1998. Clearly, his defences in relation to both the Bank of Cyprus cases were essentially the same.

Again he sought permission to appeal to the House of Lords, but the Court of Appeal in refusing pointed out that there was no jurisdiction to grant such permission at that point in those proceedings. That has not deterred Mr Alexander from seeking similar permission in other cases subsequently.

18. The third case is Halifax PLC V Alexander, proceedings in which Halifax sought possession of residential premises, the same residential premises in Fulham. Mr Alexander's defence was that Halifax had agreed to waive his arrears of mortgage repayments in return for his continuing to make reduced payments of interest. There was a trial before a circuit judge in West London County Court who found that there was no such agreement as alleged by Mr Alexander and on 9th November 1998 a possession order was made.

19. Mr Alexander obtained a stay on 19th January 1999, pending an appeal, but on 27th January 1999 the Court of Appeal dismissed his applications, returning to further aspects of the case on the following day. Again, there was an application for permission to go to the House of Lords with the inevitable outcome.

20. On 12th February 1999 Mr Alexander made a further application in the county court for an extension of time to give up possession on the purported basis of an intended appeal to the House of Lords; this was refused by the Court of Appeal on 22nd March 1999. It seems that that was the first occasion on which the possibility of a Grepe V Loam order was canvassed on the application of Halifax, but the Court of Appeal did not accede to that application.

21. Possession was obtained on 23rd March 1999, but Mr Alexander continued to litigate in relation to the same matter. He made an application for an interim injunction to restrain the sale of the property which was dismissed in the county court on 27th May 1999 when permission to appeal was also refused. Applications for permission to appeal and for a stay of execution were made to the High Court, but refused by Ebsworth J on 10th June 1999. Although the application for an interim injunction had been refused, Mr Alexander continued his application for a final injunction. This was dismissed in the county court on 2nd July 1999 with a refusal of permission to appeal and a refusal of a stay of execution.

22. The court made an order permitting the sale of the property by any means, including at an auction on 27th July 1999. However, on 26th July Mr Alexander made an application for permission to appeal on the basis that there was a pending appeal in the Court of Appeal; that was heard on 28th July 1999 and dismissed by the Court of Appeal.

23. Mr Alexander persisted in making a yet further application for permission to appeal the order of 26th February 1999, but that was refused by the Court of Appeal on 15th May 2001, along with other related applications. Even that was not the end of this particular case. On 27th February 2000 Mr Alexander made an application for permission to appeal the order of Ebsworth J. He continued with the application notwithstanding the dismissal of all previous applications. It came before the Court of Appeal on 14th September 2001. The Court of Appeal dismissed the application and made the first Grepe V Loam order against Mr Alexander in respect of the proceedings involving Halifax in relation to the property in Fulham. The Court of Appeal also referred the papers in the case to the Attorney General for consideration of the question whether section 42 proceedings should be brought against Mr Alexander.

24. The fourth case is one brought by Mr Alexander against Halifax by writ issued on 15th February 1999. In this action he claimed damages in respect of an alleged breach of a right under Article 25 of the Universal Declaration of Human Rights. It seems that his case was that the litigation between Halifax and himself, and the numerous applications and appeals to

which it had given rise, had prevented him from earning a living. Unsurprisingly, on 20th April 1999 Master Trench struck out that claim as disclosing no reasonable cause of action and as frivolous, vexatious and as an abuse of the process of the court. The, by now, inevitable application for permission to appeal was dismissed by Ebsworth J on 10th June 1999. In this, as in a number of the other cases, various costs orders were made against Mr Alexander along the way.

25. The fifth case is Alexander V Phillips Electronics (UK) Ltd. This application was commenced by writ issued on 17th August 1998. Mr Alexander claimed that he had entered into a contract in 1994 to act as Phillips' world wide agent for the marketing of digital compact cassette players and CD interactive players. He alleged that the contract had been repudiated in July 1995 and claimed damages of £1,436,650 in respect of the alleged loss of opportunity to sell the products over a period of five years, together with other monetary claims related to expenses and loss of earnings.

26. Phillips' defence was that there had been negotiations over such contract but that they had been between two different entities, namely Phillips Consumer Electronics BV, that is a Dutch company, and First Aspen Limited. However, there had been no concluded contract.

27. On 15th March 1999 Master Eyre struck out the writ and the statement of claim on the basis that it disclosed no reasonable cause of action. Mr Alexander appealed, but his appeal was dismissed by Butterfield J on 7th May 1999. The judge also refused an application for permission to appeal to the Court of Appeal. One of the significant factors in relation to the Phillips case is that costs orders were made against Mr Alexander in the sum of £1,904 by Master Eyre and in the sum of £2,047 by Butterfield J.

28. Mr Alexander then sought permission to appeal from the Court of Appeal itself, but the Court of Appeal dismissed that application on 27th October 1999 on the basis that there was no prospect of success. The by then customary application for permission to petition the House of Lords was also refused. Subsequently, on 23rd June 2000, Mr Alexander applied for an order for a stay of execution of the costs orders made on 7th March and 7th May 1999; by this time Mr Alexander had been declared bankrupt. The application for a stay was dismissed by Master Eyre on 1st September 2000. A further application made by Mr Alexander on 29th August 2000 seeking permission to issue third party proceedings against Phillips' auditors was also refused, together with a refusal of permission to appeal.

29. The sixth case is the bankruptcy case: In the matter of Alexander. As I have indicated, that case arose out of action by Phillips Electronics (UK) Limited, which had served a statutory demand based on Butterfield J's order for costs dated 7th May 1999. Mr Alexander applied to set aside service of the statutory demand, but that application was dismissed. He also sought a stay of Butterfield J's order, but that was dismissed in the Chancery Division by Lindsay J on 22nd July 1999.

30. On 24th February 2000 Mr Registrar Baister made a bankruptcy order against Mr Alexander. Mr Alexander then made an application to annul the bankruptcy order, but that was dismissed by Registrar Baister on 21st March 2000 on the basis that Mr Alexander was simply arguing the same points as he had in opposition to the bankruptcy petition, namely the continuation of the underlining substance of his dispute with Phillips which had already been determined.

Mr Alexander appealed against the dismissal of his application to annul the bankruptcy order. That appeal was heard and dismissed on 11st July 2000. He made further applications for permission to appeal and for stays of execution pending appeal, to both the Court of Appeal and the House of Lords; all such applications were refused. He made more applications for

stays of execution. Indeed, in the course of his oral submissions today Mr Alexander stated with apparent pride that he had sought to challenge the bankruptcy on no less than 86 occasions; perhaps I could be forgiven for not itemising them all.

31. At one point he made an application to delete the word "energetic" from the skeleton argument of counsel for Phillips. As failure followed failure in these several applications there was an application for permission to appeal which was refused by Robert Walker LJ on 11th July 2001; that application for permission was then heard by a three-judge court in the Court of Appeal on 15th May 2001 and the application was dismissed. A Grepe V Loam order was made for the second time.

32. Mr Alexander then sought to circumvent the Grepe V Loam order, on one occasion contending that the bankruptcy order had interfered with his "constitutional right to work". In dismissing that application Chadwick LJ stated:

> "The underlying problem is that Mr Alexander will remain convinced that the bankruptcy order should never have been made because the debt on which the petition was founded was based upon an order for costs which he regards as having been wrong. This is a ground over which the courts have travelled on a number of occasions... and it is not a ground which can be raised on this application."

33. The seventh case is Whitten V Alexander. Information about that is incomplete. It materialised in the Court of Appeal on 16th November 1999 on appeal from the Central London County Court. It was concerned with a tenancy agreement in relation to a flat in Gloucester Mews. The claimant landlord sought possession on the basis of arrears of rent. A possession order was made in the county court on 21st October 1999. Mr Alexander unsuccessfully applied to set that order aside and for a stay of execution. Upon the matter coming to the Court of Appeal, the application was dismissed as was an application for permission to petition the House of Lords.

34. The eighth case is Crown Estate Commissioners V Alexander which was a claim for possession of residential premises in Regents Park and for payment of arrears of rent in the amount of £18,199. The rent represented some 13 months' arrears; again, Mr Alexander was seeking to rely on an oral agreement with the claimant's agent that there would be an undertaking from Anthony Alexander Ltd up to £25,000 to deal with Mr Alexander's personal liability.

35. This case came before the county court on a number of occasions. On 3rd October 2001 Judge Wakefield, in dismissing all of Mr Alexander's then applications, refused permission to appeal to the Court of Appeal and made a restricted Grepe V Loam order. That is the third occasion on which that had happened. Mr Alexander made further applications, all of them unsuccessful. The Grepe V Loam order was extended and in December 2001 the Court of Appeal refused Mr Alexander's applications for permission to appeal.

36. In the ninth case Mr Alexander and two others took proceedings against three defendants; this is a case about which information is somewhat incomplete. It came before the Court of Appeal on 27th February 2003. It seems that Mr Alexander had applied for permission to represent one of his co-claimants in connection with a claim which she was making in the bankruptcy of another, in relation to an interest in moneys held in a joint account. Be that as it may, the application was refused in the Chancery Division and Mr Alexander's application to the Court of Appeal resulted in a further refusal of permission to appeal.

37. The tenth and final case is Peaceful Warrior Ltd V Phillips Electronics NV. It will be observed immediately that Mr Alexander is not named as a party to that case. What he did was to seek permission pursuant to the terms of the injunction made in the Noueiri case to issue proceedings on behalf of Peaceful Warrior Ltd. Peaceful Warrior Ltd was said by Mr Alexander to be the new name of First Aspen Ltd, which had featured in the fifth case, and of Anthony Alexander Ltd which had featured in the eighth case. Gibbs J refused permission on 25th January 2002 and the Court of Appeal, likewise, refused permission to appeal on 17th April 2002, with Brooke LJ observing:

> "We have no hesitation in refusing permission to appeal. This proposed action has all the hallmarks of the time-wasting, vexatious and incompetently-conducted litigation which were the subject of criticism by the Court of Appeal on two occasions last year."

38. That then deals with the ten cases. In her witness statement Louisa Hennessey refers to the "extraordinary number of applications and appeals made by Mr Alexander". She quantifies them as amounting to 49 such separate applications and appeals, excluding other applications which had been made in the course of hearings. She draws attention to the fact that the two claims instituted personally by Mr Alexander, cases (4) and (5), were struck out as disclosing no reasonable cause of action. The same characteristic afflicts the Peaceful Warrior case, claim (10), which was, as the Court of Appeal decided, essentially an attempt to rerun case number (5). It is also a striking feature that all of Mr Alexander's applications and appeals have, ultimately, been unsuccessful. He has succeeded occasionally in obtaining temporary stays on the basis of applications for permission to appeal, but none of those applications has ever materialised into an appeal with any prospect of success.

39. There have been 15 hearings in the Court of Appeal in which Mr Alexander has sought permission to appeal. In every one of them permission has been refused. Case number (3) alone accounted for six applications for permission to appeal to the Court of Appeal which were considered in that court.

40. As I indicated previously, a number of costs orders were made against Mr Alexander along the way. Miss Hennessey states that she is unaware of any of them being satisfied. Mr Alexander has not taken issue with that statement. There are, therefore, unsatisfied costs orders in relation to hearings in connection with cases (1), (4), (5), (6) and (8).

41. That then is the background against which the Attorney General makes this application for an order under section 42. In my judgment there can be no doubt that he has satisfied the "habitually and persistently" test. I accept Mr Tolley's submission that Mr Alexander has repeatedly exhibited the trait of litigation long after the time has come to stop. Definitive determinations have been reached in many of the claims only for Mr Alexander to go on making hopeless applications and attempted appeals whose only effect has been to cause additional expense and delay. He has sought to relitigate issues in successive cases following final determination, thus claims (1) and (2) are essentially of that character, likewise claims (3) and (4), claims (5) and (6) and claims (5) and (10). He has virtually automatically sought to challenge every adverse decision on appeal. I have referred to the number of appearances in the Court of Appeal. He has ignored the costs orders that have been made against him. I am conscious of the fact that for part of the time he was bankrupt; however, that bankruptcy itself arose out of his refusal to discharge a costs order, although he claimed at one stage that he was able to do so, and the position at the moment is that he has emerged from bankruptcy in February of this year.

42. It comes as no surprise, against all this, to be told by Mr Alexander, as we have been today, that he has attended over 750 hearings in this building and has appeared before 50 High Court judges and 29 Lord Justices on appeal.

43. I next turn to the requirement of vexatiousness and the absence of reasonable grounds. I am in no doubt that throughout the litigation Mr Alexander's applications and appeals have been vexatious and without reasonable grounds. They were all ultimately unsuccessful, as were the two claims that were instituted on his own behalf, which were both struck out as disclosing no reasonable cause of action, and the claim sought to be made on behalf of Peaceful Warrior. There have been three Grepe V Loam orders. There is, in my judgment, cogent evidence of abuse throughout the history of this litigation. It is instructive to refer to some of the observations made by judges in previous cases.

44. In case number (6), the bankruptcy case, when the Court of Appeal dismissed the application for permission to appeal on 15th May 2001 Judge LJ stated at paragraph 57:

> "...the remaining applications for permission to appeal arise from Mr Alexander's determined efforts to procure a stay of execution for the purpose of mounting a critical attack, undermining the original bankruptcy order or the order dismissing his application to annul it. In reality he has a strong sense of grievance that his original proceedings against the defendants were struck out, and the attack on Butterfield J's decision in relation to costs, and the consequent bankruptcy order, provide him with a focus on which to mount his attack. None of the applications for permission to appeal has any merit, and indeed they have become increasingly unreal. The descent into fantasy was illustrated by the application that the skeleton argument should omit the word 'energetic'..."

45. And then a little later:

> "59. The courts from the Master to the House of Lords have been inundated with a series of applications by Mr Alexander which have ultimately proved to be ill-founded. Time and again the exercise has been pointless and wasteful of limited court resources and from time to time, has involved the defendants in additional expense. Having seen Mr Alexander on a number of occasions personally, I should record that although he has always treated the court with proper courtesy there is no doubting that the prospect of forensic battle holds no terrors or concerns for him, and that indeed he relishes the cut and thrust of the forensic process.
>
> 60. We are entirely satisfied that without an order he will continue to exercise his ingenious and fertile brain to formulate yet further applications to restore this issue to the court."

That led to one of the Grepe v Loam orders.

46. In the Noueiri case in explaining the injunction which the court was about to grant, Brooke LJ, referring to Mr Alexander's then habit of practising a form of advocacy as an unqualified person, stated at paragraph 68:

> "...it is overwhelmingly in the public interest that this practice must be stopped. It is clear that the members of this court in the Mensah case regarded him as incompetent. In the Noueiri case he repeatedly took hopeless points and advanced completely futile arguments."

47. It must be obvious from the history of his own litigation that that too is characterised by the taking of hopeless points and the advancing of futile arguments. Brooke LJ to Mr Alexander's consternation, described him as "a menace...to the proper administration of justice". He added:

> "71. From his conduct of this litigation two conclusions are possible. Either he did not understand procedural rules which are now very well understood by competent litigators or he preferred to turn a blind eye to them (or both). In either event it is in the public interest that his activities should be stopped ...
>
> 72. At the hearing before us Mr Alexander appeared to be proud of the fact that he had succeeded in staving off the execution of the warrant of possession for his friend Mr Noueiri by this series of hopeless applications, however much this may have cost the claimants ... or delayed the cases of other more deserving litigants. This is another illustration of the dangers to the administration of justice if unqualified persons, who are not subject to any professional discipline, act as Mr Alexander did in this case."

48. The consternation to which I have just referred has led Mr Alexander to continue to pursue some of the language used by judges in criticism of him to the point of seeking an injunction earlier this year:

> "...to phraseologically challenge specific words or sentences utilised or highlighted within judgments and orders handed down and made by the Court of Appeal on 26 July 2001, and, 19 September 2001 respectfully."

49. He has explained to us how he is still in continuing communication by post with McKinnon J in relation to that perceived grievance. However, that does not in any way impinge upon the assessment that this court has to make about section 42. For my part, I cannot see that Mr Alexander has a legitimate grievance in relation to that language, however much it may upset him.

50. In the face of all this I am entirely satisfied that in both the technical sense of section 42, and as a matter of common parlance, Mr Alexander is a vexatious litigant. In these circumstances I would grant the order sought by the Attorney General without limitation of time.

51. MR JUSTICE MACKAY: I agree. I add only this in relation to the scope of section 42(1)(b) referred to at the outset of my Lord's judgment. In my judgment assistance is forthcoming from the case of Attorney General V Jones [1991] WLR 859 where this point fell for decision. Lord Donaldson of Lymington MR at 863C held that in section 42(1)(b) in the phrase "vexatious applications in any civil proceedings, whether in the High Court or any inferior court", the words "civil proceedings" were to be construed so as to include proceedings in the Court of Appeal on appeal from the High Court, but not proceedings instituted in the Court of Appeal itself. The other members of the court agreed with him and rejected the submission to the contrary.

52. For my part, I would therefore hold that the reach of section 42(1)(b), as my Lord calls it, extends to cover Mr Alexander's many applications to the Court of Appeal as outlined in his judgment. But even were it otherwise, there is, in my judgment, more than enough material to warrant a finding that Mr Alexander has made habitual and persistent applications to the High Court and that they were vexatious and without reasonable grounds, even were one to exclude the 15 applications to the Court of Appeal; this would amply justify this court's exercise of its discretion in favour of making the orders sought.

53.

54. THE DEFENDANT: My Lords, needless to say that reasonable minds still differ, I suggest in open court that there is an implied duty of loyalty amongst the judiciary. It is fairly apparent to people of our kind to see that and not for people of the other kind to view it. I have a letter from the Administrative Court suggesting that if I were not happy with your order I were to seek leave to apply to the Court of Appeal and to challenge your findings with or without permission. I note, my Lords, that you have followed the statement of Miss Hennessey which I consider to be hopelessly incomplete and lacking information. This is 13 years of our lives and I will go to the Court of Appeal, with great respect, with or without your leave, and then I will file an application to the House of Lords by paying the £570 fee. They will provide me with a letter and then, ultimately, I hope to engage judges of my own bone, sinew and muscle in the European Court of Human Rights. I do not say this to be in any way impertinent, (inaudible) expression, but never be misunderstand, misconstrued or misinterpreted by MacKay J for rudeness, insolence or insubordination, what you are in fact telling me is that if I am not able to defend myself I might as well paint myself red and cut myself loose in a field.

55. MR JUSTICE MAURICE KAY: You have told us you want to appeal, I would just leave it at that if I were you.

56. THE DEFENDANT: My Lords, before I let you go there is a letter here sent to me by Potter LJ following the Bank of Cyprus hearing. My Lord's letter is dated 6th March. What my Lord says here, which is signed and his name printed underneath:

> "It appeared to me in the course of your letter from the premise, as far as I understand it, that you were simply writing in order to make me aware that you intend launching an appeal to the House of Lords, in fact which, as I recall, you made clear at the end of the hearing on 12th February 1998, I have noted the contents of your letter, but I make no comment upon them. It would be quite inappropriate for me to do so and you must proceed as you may be advised". (Quote unchecked)

57. I think this is more than a courteous letter, I think this is the beginning of the bridge of the dam when it comes to premature enforcement resulting in issues, my Lords, which are quite disturbing. What I mean is, I wonder whether I could ask your Lordships, in the interest of fair play, to grant liberty to apply to a judicial arena of elevated rank, without any disrespect meant to your Lordships, in any way, shape or form.

58. MR JUSTICE MAURICE KAY: Mr Tolley, on a section 42 application if an order is made the defendant needs permission to go to the Court of Appeal, does he?

59. MR TOLLEY: He needs permission to appeal--

60. MR JUSTICE MAURICE KAY: From here.

61. MR TOLLEY: --but not permission to pursue the section 42.

62. MR JUSTICE MAURICE KAY: No, but there is nothing in section 42 that takes it outside the usual requirement of permission under Part 52?

63. MR TOLLEY: Not at all, it is entirely governed by the usual procedures in Part 52. Mr Alexander needs to show a real prospect of success or some other substantial reason why -- some other compelling reason why the matter should go on appeal.

64. MR JUSTICE MAURICE KAY: Yes. We refuse permission on the basis that we see no real, or indeed any, prospect of success and there is no other compelling reason to grant permission.

65. THE DEFENDANT: Again, my Lords, you are utilising words taken out of counsel's mouth.

66. MR JUSTICE MAURICE KAY: Well, they are the words of the Rules, not counsel's. He uses them and we use them because they are to be found in Part 52 of the Civil Procedure Rules. Any other applications? No? Thank you very much indeed.