

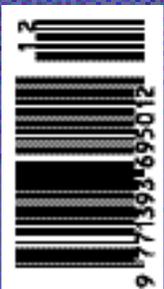
LAW SOCIETY

Gazette

€3.75 December 2006



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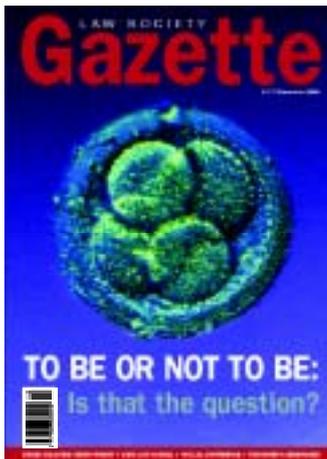
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On the cover

The recent High Court decision on the custody of frozen embryos has raised a host of ethical and legal issues – and the spectre of the debate on when life begins

PIC: GETTY IMAGES



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Gazette

December 2006



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The recent High Court decision that embryos *in vitro* are not 'unborn' in constitutional terms shows that, while medical and scientific breakthroughs forge ahead, our legal system limps behind, argues Hilary Coveney

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Newly-elected President of the Law Society, Philip Joyce, is the fifth president to hail from 'the Premier County'. Here he talks to Mark McDermott about his student days, his native county, and the plans for his presidency

26 Breaking up is hard to do

There are 30,000 millionaires in Ireland, so there may well be some high-earning spouses who would want to protect their assets in the event of a separation or divorce. But there is no obligation on a court to enforce pre-nuptial agreements. Geoffrey Shannon explains

30 In whose interests?

In a recent case, a solvent company made an application for a prospective validation order. Brónagh Maher discusses the appropriate test to be applied in this novel situation

34 The big thaw

The 1980s saw both the end of the Cold War and numerous assassination attempts. From local and international get-togethers, to provincial and foreign news, the '80s *Gazette* presented an intriguing mix of views. Mark McDermott continues this celebration of 100 volumes of the *Gazette*



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Right across the country, presidential bar association chains of office are being passed on, following the recent convening of a number of AGMs. In the capital, David Bergin has become the new president of the DSBA for the coming year, with Michael Quinlan as vice-president and John P O'Malley and Helene Coffey as the new treasurer and programmes' director respectively. Kevin O'Higgins continues as secretary.

Elsewhere, at the Mayo Solicitors' Bar Association AGM, Pat O'Connor was elected president in succession to Fiona McAllister, with Dermot Hewson as vice-president, Gareth Bourke as secretary and Caroline Barry as treasurer. Its committee, then, is made up from centres around the county and comprise Michael Browne (Westport), Jacqui Durkan (Castlebar), Samantha Geraghty (Swinford), Charles Gilmartin (Kiltimagh), Mark Fitzgerald (Ballinrobe), Mary O'Brien (Claremorris), Evan O'Dwyer (Ballyhaunis), Fiona McAllister (immediate past-president) and James Cahill (Council member of the Law Society).

Meanwhile, down south, the Southern Law Association held its AGM, in which Eamon Harrington became the new president, succeeding Sinead Behan. The then President of the Law Society, Michael Irvine, and Director General Ken Murphy engaged in a lively dialogue with a large attendance.

■ CORK

Great balls of fire

A masked ball took place in the old city jail in Cork. This was a fundraiser for Merrymount Hospice, and the local judiciary



Midland Bar Association AGM

The AGM of the Midland Bar Association (MBA) was held in the Prince of Wales, Athlone, on 6 November 2006. Guests of honour included the Law Society's newly-elected president, Philip Joyce, and director general Ken Murphy. Charles Kelly took over as president of the MBA from Paul Connellan, while Fiona Hunt takes over as secretary from Aoife Cadden. The MBA aims to continue being active in organising CPD courses for its members during the coming year. (*Back row, l to r*): Matt Shaw, Robert Marren, Brian Carolan, Peter Jones, Hugh Campbell, John Shaw, Matt Johnston, and Denis Larkin. (*Middle row*): Rhona Kelly, Michelle Mellotte, Mary Ward, Barry McLoughlin, Tom Rogers, Bernadette Greene, Paddy Caulfield, Richard Whelehan, and Martin Reidy. (*Front row*): Aoife Cadden, Philip Joyce, Charles Kelly, Ken Murphy, Paul Connellan, Fiona Hunt, and Aidan O'Carroll

were special guests. We understand that everyone enjoyed an excellent night, and great credit for its organisation is due to Gail Enright, Justin Condon, Fiona Twomey and Jane Anne Rothwell.

The annual dinner of the Southern Law Association has been fixed for 6 February next. In relation to work-related matters, the recent High Court sittings were presided over by the President of the High Court and were adjudged a great success. A seminar and practical workshop on information technology as a legal research tool was held recently by the SLA in association with the Faculty of Law in UCC.

■ DUBLIN

Dining in style

A splendid dinner, attended by all his council colleagues and their partners, was held to honour the considerable

achievement of Brian Gallagher during his presidency of the DSBA. Held in sumptuous Georgian surroundings, Brian was toasted by his colleagues for a truly amazing year on behalf of the bar association, where his work rate and achievements were truly outstanding. Brian's humility is such that he will desist from reading these comments, but the regard and esteem for which he is held in the profession is immense.

Electoral system

It does not always happen but, when it does, it adds to the interest of any AGM: an election for officers. After some years of AGM banality, both last year and this year have thrown up hotly-contested elections for new council members. In Dublin, this usually applies to one or two places. Last year, we greatly benefited from the arrival of both Paddy Kelly and John Hogan.

This year, too, we were thrilled with the emergence of Alma Sheehan. It was an interesting night for Alma, in that not only was she elected as a new council member, but earlier in the evening she was announced the winner for the junior category in the awards of excellence. The senior award went to John Gaynor.

Remembering Emer

Elsewhere, a very successful quiz night was organised by the younger members' committee of the DSBA. This was a fundraiser for cancer research in memory of a young solicitor, Emer Casey (28), who died from cancer. She was working with MOPs. The night was a huge success, with over 60 tables full and a significant sum of money raised for this worthy cause. **G**

Nationwide is compiled by Kevin O'Higgins, principal of the Dublin law firm Kevin O'Higgins.

COMPETITION REPORT

The Competition Authority's final report on competition in the legal profession is now expected to be published on 11 December 2006. As reported in the November issue (p8), the authority began its study of the profession, together with a number of other professions, in April 2001. In March 2003, the authority's economic consultants, Indecon, published the results of their research. The authority published its own 'preliminary report' in February 2005, while the Society delivered a 90-page response in July 2005 (which is available on the Society's website). The Society awaits the authority's report with interest.

ROLL OVER BEETHOVEN!

10,000 – is the number of solicitors that the Law Society of Ireland will see included on the Roll in January 2007. It will be the first time in its history that the Society will have exceeded this substantial milestone. "There has been an extraordinary growth in the profession in recent years," says director general Ken Murphy. "This is a new landmark for the profession in Ireland."

2005 PINK SHEETS

The 2005 'Pink Sheets' index to Supreme Court, High Court and Court of Criminal Appeal written judgments is circulated to members as an insert with this issue of the *Gazette*.

This is an index, with keyword summaries, to all the 2005 reserved written judgments of the superior courts circulated to date. The summaries were prepared by the Law Reporting Council. The index is a joint publication by the Law Society and the Bar Council.

RETIREMENT TRUST SCHEME

Unit prices: 1 November 2006
Managed fund: €5.922932
All-equity fund: €1.388165
Cash fund: €2.685678
Long-bond fund: €1.420402

Master exceeded powers in 'wasted costs' case

The President of the High Court, Mr Justice Joseph Finnegan, has found that the Master of the High Court has no power to make a solicitor personally responsible for the so-called 'wasted costs' of a failed application. On 2 February of this year, the master had purported to make a solicitor, specifically not the solicitor's client, personally liable for all the costs on both sides of a failed application for interrogatories in a personal injury case.

The Law Society responded swiftly to the making of this unprecedented order and the public statements about it made by the Master of the High Court, Edmund Honohan, who announced his intention to make other such orders in the future. The Society said that it raised "fundamental issues" and had caused "great uncertainty among solicitors". The Society immediately sought to be joined as an *amicus curiae* in the appeal. The application in this regard was granted by the President of the High Court, who said that the Society was acting "not just in the interest of its members but also in the public interest".

In his judgment of 28 November in this case, *Kennedy v Killeen Corrugated Products Limited and Others*, the President of the High Court found that the master does not have jurisdiction to make orders under order 99, rule 7, of the *Rules of the Superior Courts* (the so-called 'wasted costs' rule) and "accordingly the master had no power to make the order the subject matter of this appeal". He proceeded to set aside the order of the master.



President of the High Court
Mr Justice Finnegan

In relation to the power of the High Court to make an order under order 99, rule 7, that the solicitor personally bear the costs awarded against his own client, the president said that it "depends upon the solicitor being guilty of misconduct in the sense of a breach of his duty to the court or at least of gross negligence in relation to his duty to the court. In the present case I am satisfied that the conduct of the solicitor falls far short of this requirement. In particular I have regard to the circumstance that the solicitor acted on the advice of senior counsel".

Law Society welcome

The Law Society welcomed the president's judgment, although it was not surprised by it. The power to make so-called 'wasted costs' orders against solicitors is a major one involving complex issues. For constitutional and other reasons, it should be exercised only by a judge and not by the Master of the High Court, who is not a judge. It is also clear from the president's judgment that orders under order 99, rule 7, should only be

made in cases of misconduct or gross negligence on the part of a solicitor and, accordingly, are likely to be made very rarely.

In the view of the Society – and, it seems clear from his judgment, in the view of the president also – the solicitor in this case behaved impeccably.

In the Society's view, it would make no sense for the Master of the High Court to be given power to make orders under order 99, rule 7, even in the unlikely event that this were constitutionally possible. It is the experience in other jurisdictions that whether or not a procedural step taken in a particular case should give rise to a 'wasted costs' order is a decision that can only be made properly at the conclusion of the case. It is only then, with the benefit of the full history of the case, including the disclosed purpose of the interlocutory application being questioned, that whether or not there was misconduct or gross negligence on the part of the solicitor can be assessed correctly by a judge.

As a matter of policy, it would also be contrary to the whole thrust of reform of civil litigation, which favours reducing the length of trials. The reforms of recent years encourage the clarification of issues in dispute before the trial commences, and procedural applications, such as the application for interrogatories in this case, would not be made if solicitors believed they were at significant risk of personal liability for the costs of failed applications. The result would be longer trials and more costly, rather than less costly, litigation.

'Whatever it takes' to protect Saulite solicitor

The President of the Law Society, Philip Joyce, has been in telephone communication with solicitor John Hennessy to assure him of the profession's full support for him at this very worrying time.

Joyce has said that "the gardaí must provide whatever it takes by way of protection to guarantee his safety when he returns to live and practise as a solicitor in Swords, Co Dublin. It is not merely unthinkable at a human level, it would also be unthinkable in terms of the damage to the state and to Irish society if any harm were to befall him."

At a meeting of the Law Society Council on 1 December, it was resolved not merely to express sympathy to John Hennessy, but to explore with him what further practical support the Society could give him and his practice.

Cold-blooded murder

On 21 November, the Society issued a statement condemning the cold-blooded murder of 28-year old Latvian woman, Baiba Saulite, which cruelly ended her life and left her two young children without a mother. The Society simultaneously condemned the death threats that had been made against Ms Saulite's solicitor. These threats had been made many weeks before the shooting dead of Ms Saulite.

The Society had been approached a month earlier by John Hennessy. He made the Society aware that he was under armed garda protection because of death threats he had received resulting from the legal work he had undertaken on behalf of Baiba Saulite. It was clear that he had done an excellent job on behalf of this grateful client, but that this had caused deep antagonism to another party.



Murder victim Baiba Saulite. Her solicitor received death threats

The gardaí had told an understandably shocked John Hennessy that they had received intelligence that a 'contract' had been ordered for Hennessy's murder. He was given advice on the security measures he should undertake at his home and his office. Although he never received 24-hour armed protection, when the threat was viewed by the gardaí as being at its height, armed gardaí were placed outside his home and office and accompanied him as he moved from place to place.

Every possible assistance

"John seemed remarkably calm and courageous as he explained this nightmare situation to us," said director general Ken Murphy. "We saw without hesitation that we must give him immediately every possible assistance. On that day, we sent a letter by fax to Garda Commissioner Noel Conroy urging that Hennessy be provided with garda security at the highest level possible."

On 21 November, after Saulite's murder and at Hennessy's request, the Society issued a news release in the course of which it urged the media not to try to contact him, but to deal with the Society on all queries. The Society also

urged the media, for obvious reasons, to report this matter very responsibly. On Joe Duffy's *Liveline* radio programme Murphy condemned as "very dangerous" and "irresponsible" the publication by the *Evening Herald* of the name and photograph of John Hennessy on its front page.

The story of the death threat to Hennessy broke live on RTE television's *Six One News* when Murphy emphasised that "a threat to a solicitor, simply for doing his job expertly and fearlessly on behalf of his client, is a direct attack on the administration of justice and on the rule of law. The thoughts and support of his profession are with him, and with the family of Baiba Saulite, at this terrible time."

The Society was pleased with the personal interest taken in the situation by Commissioner Conroy and with his responsiveness on the matter. Some days after the murder of Baiba Saulite, and John Hennessy's departure abroad on garda advice for his safety, Philip Joyce and Ken Murphy had an hour-long meeting with Commissioner Conroy and several of his most senior officers in the commissioner's office. The Society remains in constant communication with John Hennessy.

ESSAY COMPETITION

The Association of Pension Lawyers in Ireland is holding its third annual essay competition. The essay title is 'Trust Law and Pensions – Is it time for a change?' First prize is €3,000 with a second prize of €1,000 also being offered.

The competition is open to all students of law, including trainee solicitors, and to qualified solicitors and barristers up to two years qualified.

The closing date for entries is 28 February 2007. Entries should be sent to Peter Fahy, Association of Pension Lawyers in Ireland, c/o O'Donnell Sweeney Solicitors, 1 Earlsfort Centre, Earlsfort Terrace, Dublin 2.

The rules of the competition and guidance on the possible direction an essay might take are available from the same address.

ICTR PRESIDENT FOR HLJ TALK Judge Erik Møse, President of the International Criminal Tribunal for Rwanda (ICTR), will be the guest lecturer at the *Hibernian Law Journal's* sixth annual lecture. The lecture will be held on Tuesday 19 December 2006 at 7pm in the Law School Lecture Theatre, Blackhall Place.

DR JOSEPH ARTHURS – APOLOGY

Last month, we carried a report on the case of *Bailey v Arthurs and Another*.

The case against Dr Arthurs concerned his failure to give a psychiatric report, which he did not write, to a patient. The claim against Dr Arthurs was dismissed by both the Circuit Court and, on appeal, by the High Court. Any inference to the contrary in last month's report was incorrect. We are happy to apologise for any embarrassment caused to Dr Arthurs.

'CPD Plus' a big success

CPD Plus is again being made available to members in 2007. Membership runs from 1 January 2007 to 31 December 2007 and is available to firms and individual members.

Subscribers will be eligible to attend an unlimited number of CPD seminars/conferences and workshops during that period,

subject to limited exceptions (the Law Society diploma programme and the advocacy courses run by the Law Society are excluded). Prices are:

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RACE TO BE BIGGEST

British legal firm Linklaters is challenging the country's biggest law firm, Clifford Chance, to the title of 'biggest in Britain'. Its revenue was up 22% at the half-year stage to Stg£536 million. Linklaters is expected to break the magic Stg£1-billion barrier by year-end.

SUPPORT SERVICES FOR MEMBERS

TAKING ADVANTAGE MEMBERS' ADVANTAGE SCHEMES

Membership of the Law Society comes with lots of added benefits, including valuable advice that offers value for money. Here, support services executive Louise Campbell summarises the main features of the Members' Advantage Schemes

Group life assurance

The Law Society operates a group life assurance scheme. The scheme is administered by Penpro Ltd and underwritten by Friends First Life Assurance Company Ltd. An information leaflet on the scheme will be issued to Law Society members in December with their practising certificate information.

In brief, the scheme currently provides cover of €48,750, with the current premium being €58. The scheme primarily covers Law Society members who hold practising certificates, with the scheme premium of €58 included in the practising certificate fee for 2007. However, solicitors employed in the public service, who are exempt from holding practising certificates pursuant to the *Solicitors Acts*, judges and county registrars may also join the scheme, provided they are Law Society members and pay the scheme premium for 2007. The insured must be resident in Europe. Cover is only operative where the insured is under 70 years of age at the date of death. Friends First reserves the right to require medical examinations and/or health declarations in certain circumstances.

Those insured under the scheme have the option to nominate a beneficiary(ies) to receive payment under the scheme. This nomination can be changed at any time up to the date of the insured's death. In the absence of a nominee, the benefit will be paid to the estate of the insured.

A signed nomination enclosed in a sealed envelope, indicating the insured's name, solicitor number and date of birth may be forwarded to Louise Campbell, Support Services Executive, Law Society of Ireland, Blackhall Place, Dublin 7. Louise co-ordinates this scheme and may be contacted for further information, tel: 01 881 5712 or email: l.campbell@lawsociety.ie.

The Law Society in conjunction with Penpro Ltd is currently exploring possible additional voluntary top-up life assurance and will issue information on this in early 2007.

Retirement trust scheme

The retirement trust scheme was established in 1975 to facilitate members of the Law Society in saving for retirement. It is a Revenue-approved personal pension group scheme. It has grown and developed over the years alongside developments in



the pensions industry generally.

The retirement trust scheme operates under the trusteeship of the Bank of Ireland and is monitored by a committee of the Law Society. Members of the Law Society, whether self-employed, in partnership or in non-pensionable employment, are eligible to join the retirement trust scheme. The *Gazette* contains monthly retirement trust scheme reports so that members can follow its progress. For further information, please contact Brian King or Maureen Carolan at the Bank of Ireland, tel: 01 637 8770/637 8764 or email: brian.king@pb.boi.ie or maureen.carolan@pb.boi.ie.

Financial advice

The Law Society has recently appointed Penpro Limited as

financial advisor to its members, in substitution for Marsh Ireland. Penpro Limited provides advice to members on all aspects of financial planning, insurance, and mortgages. They will answer queries on the solicitor unsecured finance plan for preliminary tax, pension contributions, professional indemnity, and practising-certificate-fee finance. For further information, please contact Liz O'Brien at Penpro Limited, tel: 01 200 0100 or email: lobrien@penpro.ie.

Health insurance

Health insurance group schemes are on offer to members through VHI, tel: 1850 444 444, BUPA tel: 1890 700 890 or VIVAS Health tel: 1850 716 666, all offering a 10% group scheme discount.

Credit card

A Law Society of Ireland Affinity credit card, offering a wide range of benefits, is available to members through MBNA. For further information, please phone: 1800 409 510.

Further information on all of the above is available on the members' area of the Law Society's website: www.lawsociety.ie.



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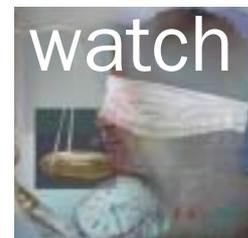


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Supreme Court decision defends *amicus* interventions

Alma Clissmann reports on developments in relation to the practical application of the *European Convention on Human Rights*

In *Doherty v South Dublin County Council and Others*, with the Equality Authority as *amicus curiae*/respondent (Supreme Court, 31 October 2006), the applicants were a Traveller couple in their 70s, living on an emergency halting site in Clondalkin, Co Dublin. Their claim was that the council, as housing authority, failed to provide them with appropriate accommodation in the form of a centrally heated, insulated and internally plumbed caravan, accommodation that would have been provided to members of the settled community as a house. This, they claimed, constituted direct or indirect discrimination against members of the Travelling Community in relation to social advantages and services, including housing.

The law pleaded was:

- The *Housing Acts 1966-2004*, as interpreted in the light of the *European Convention on Human Rights Act 2003*;
- Section 3 of the *ECHR Act 2003*;
- Articles 40.1, 40.3 and 41 of the Constitution;
- The *Equal Status Acts 2000-2004*, and in particular section 6 of the *Equal Status Act 2000*, as amended;
- Council Directive 2000/43/EC of 29 June 2000, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (the *Race Directive*).

Amicus curiae

This particular decision concerned the capacity of the Equality Authority to participate in the proceedings as an *amicus curiae* (friend of the court).

Quirke J had granted leave to the authority in the High Court to intervene as an *amicus* and the issue now came before the Supreme Court on appeal. The Equality Authority's case was that its functions included the promotion of equal treatment of all persons, that the issues raised in the proceedings came within its direct remit, and that the case clearly had important consequences beyond its particular facts. The authority said that it could be of assistance to the court in relation to the interpretation of the EU *Race Directive* and its interrelationship with domestic legislation, and in relation to the issue of reasonable accommodation of persons with a disability. The state parties opposed the application.

The state's argument was technical – that the legislation establishing the Equality Authority did not expressly provide for a role as *amicus curiae*, and that the express instances of the authority's power to intervene in court proceedings were implicitly exhaustive of the powers of the authority in this respect. Analysing the legislation in detail, Fennelly J, giving the judgment of the Supreme Court, held that the provisions relied on did not necessarily exclude the power of the authority to act as *amicus curiae*. He then turned to whether this was included in the scope of the authority's general powers and referred to case law on the interpretation of statutory bodies' powers, in particular *Keane and others v An Bord Pleanála and others* ([1997] 1 IR 184). He held that the authority had the statutory power to act as

amicus curiae, and that this power falls well within the scope of the general power of the authority and is not merely ancillary or incidental. Under these circumstances, Fennelly J held that it was not necessary to consider the question in the light of the *Race Directive*. He dismissed the appeal, and the majority of the court concurred.

Dissenting judgment

Macken J dissented. She considered that the technical argument made was rather narrow and sterile, and preferred to broaden her consideration to the role of an *amicus curiae*. She referred to case law in the US and Australia, which saw *amicus* interventions as appropriate on appeal, but not at first instance. This issue had not yet been argued before Irish courts. She reserved her position on the proper role of an *amicus curiae*, stating that the establishment of the appropriate principles would be of importance where the authority had already secured an order to act as *amicus* in another case, and where the principles would apply equally to similar applications by other parties.

The rest of her judgment focused on the interpretation of the legislative provisions establishing the Equality Authority, its functions and powers, in the context of established law on the interpretation of statutory or corporate powers. She concluded that the statutory role of the authority within the legislative framework that created it and which governs its powers, functions and operational mechanisms, and the

role it sought to take on in these proceedings, were incompatible and would have the effect of giving the authority a double role in relation to proceedings within the legislative scheme, something not intended by the legislative scheme.

Amicus interventions

The majority decision is very important for the future role of statutory bodies and NGOs seeking to intervene in test cases or cases that raise wider issues. *Amicus* interventions have become common in cases in the US and before the European Court of Human Rights, where bodies with specialised knowledge or expertise in a particular area can bring that knowledge before the court. They can sometimes update the court about developments in international law, science or practice in a particular area or demonstrate that a harmful practice is systemic rather than incidental or peculiar to the particular case. This can be an important factor in cases involving people's rights, where systemic practices may result in indirect discrimination.

If the decision had gone the other way, it might have effectively closed down the development of *amicus* interventions in Irish courts, except by bodies that have a specific statutory mandate to make them. As it now stands, such interventions must have the leave of the court, which should prevent vexatious applications. **G**

Alma Clissmann is the Law Society's parliamentary and law reform executive.

Historic day as minister opens

The formal opening of the Professional Practice Course in Cork by enterprise minister Micheál Martin was a historic day for the Law Society

Minister for Enterprise, Trade and Employment Micheál Martin paid tribute to the educational excellence and vision of the Law Society when he formally opened the Society's Cork Law School on 20 November.

The minister warmly welcomed the Society's decision to establish in Cork. He noted that the decision had been taken in response to demand, both in terms of numbers and in the desire that people can train to be solicitors somewhere other, and cheaper, than Dublin.

The extraordinary explosion in the numbers of trainee solicitors – up approximately 90% in the last four years – was one of the main themes of the address given by President of the Law Society Philip Joyce. He pointed out that, in 2002, 356 trainee solicitors started the Professional Practice Course in the Law Society. This year, 672 commence this training.

In 2002, there were 714 trainees at various stages in the process of qualification as solicitors. The equivalent figure



At the opening of the Law School in Cork were enterprise minister Micheál Martin, director general Ken Murphy, and trainees Cliona O'Donoghue, Elisa McMahon and Rhona O'Kelly



Stuart Gilhooly (chairman of the Education Committee), Director of Education TP Kennedy and Valerie Morrison



The Cork Law School team: Nora Stack, Karen Smyth, Caroline Foley, Mary Singleton, Trina Murphy, Gail Sheerin and Valerie Morrison

now is 1,867, and this dramatic increase shows no signs of abating. A total of 546 solicitors were added to the Roll in 2006. "These extraordinary figures are a testament to the willingness of the solicitors' profession to invest time and resources in training their future colleagues," Joyce noted. He went on to describe the formal opening of the Professional Practice Course in Cork as "a very historic day for the Law Society".

The Society's premises in Washington Street, directly across from Cork's historic courthouse, contain a 180-seat lecture theatre, seven tutorial rooms, a fully equipped IT room, staff offices and meeting rooms. The Law School is staffed by a very capable team of seven Law Society employees based full time in Cork.

The Cork Professional Practice Course is identical to its Dublin counterpart, although the course in Cork is unique in that it is characterised by a collaboration with University College Cork. The trainee solicitors on the course have been enrolled as students in UCC as well as with the Law Society, which gives them access to UCC's excellent academic, social, sporting and entertainment facilities.

The president concluded by paying tribute to the practising members of the profession, 750 of whom deliver lectures, tutorials and workshops on the Professional Practice Courses annually. "This scale of involvement is unparalleled and there is nothing comparable to it in any other jurisdiction," he said. He paid particular tribute to the members of the Southern Law Association, whose

new Cork Law School



(L to r): Director general Ken Murphy, UCC president Gerry Wrixon, enterprise minister Micheál Martin, chairman of the Education Committee Stuart Gilhooly, president Philip Joyce and Lord Mayor of Cork Michael Ahern

enthusiastic support had been critically important for this initiative.

In a humorous speech of welcome, President of the Southern Law Association Eamon Harrington announced that he was pleased with his achievement, after only three days in office as president, in already opening a Law Society Law School in Cork. "I intend to deliver the Supreme Court to Cork by the end of next

week and the European Court of Justice the following week," he quipped.

Chairman of the Society's Education Committee, Stuart Gilhooly, spoke of the Society's commitment to provide simply the best professional training for lawyers anywhere in the world. He gave thanks and compliments to the many people who had been responsible for the major achievement of establishing a

Law School in Cork so quickly and efficiently, in particular the Society's director of education, TP Kennedy, saying "he never seems to be fazed by any difficulty, but works patiently and effectively to overcome every problem."

Concluding the speeches to the 73 trainees and the larger number of solicitors who had gathered for the event in the Society's new lecture theatre, director general Ken Murphy

put this initiative in the wider context of the enthusiasm for change and progress that characterises both today's Law Society and the solicitors' profession generally. "This is very much a profession of the laptop and Blackberry rather than the quill pen," he said. "It is a profession characterised by youth, openness and confidence in the future – a future in which the Cork Law School will play an important part." **G**

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Padraig Nally takes top honours

The Law Society's Justice Media Awards celebrated its crystal anniversary in November with a gala event at Blackhall Place

Padraig Nally, a one-hour *Prime Time* special report by RTÉ television, has been named Overall Winner of the Law Society's Justice Media Awards, held in the Society's headquarters in Blackhall Place on 17 November.

The judges were unanimous in their view that the 2006 Overall Winner's prize should go to the programme's makers – Mary Wilson (reporter) and Tanya Sillem (producer). The awards are Ireland's longest-running media competition which, this year, celebrates its crystal anniversary (15 years).

This *Prime Time* special report investigated the killing of Traveller John 'Frog' Ward by Padraig Nally in October 2004 and the legal consequences that followed. The programme included exclusive interviews with Nally and his neighbours, and Ward's family and friends and was a masterful piece of televisual work.

Explaining the judges' decision, Law Society Director General, Ken Murphy, said: "Superb investigative journalism



RTÉ's Tanya Sillem and Mary Wilson receive the overall award from Law Society President Philip Joyce and director general Ken Murphy

was characterised by excellent production values from this *Prime Time* (News and Current Affairs) duo. The programme was startling in its simplicity and probing in its interviewing style, while its production standards were second to none. Its quality, starkness and directness encouraged viewers to look deeper into this divisive case."

The report brought viewers behind the scenes in an effort to understand the actions of Padraig Nally on the day of the killing, interviewed Nally in his own home, and depicted a man who felt very much under siege



Law Society President Philip Joyce and Tánaiste Michael McDowell

as a result of previous encounters with members of the Travelling Community. It also sought

balance by speaking to John Ward's son, Tom, who was present on the day of the killing, in order to try to determine why Nally acted the way he did, and it looked at the effect of Ward's murder on his widow Marie and their family. It raised questions about whether or not the presiding judge was wrong to rule out a plea of self-defence for Nally. It brought forward new evidence showing that John Ward had a long criminal record dating back over 30 years. The programme also revealed that four bench warrants for John Ward's arrest were outstanding at the time of his death.

At a black-tie ceremony, the President of the Law Society, Philip Joyce, presented the Overall Winners prize to Mary Wilson and Tanya Sillem, consisting of a specially-commissioned Dublin Crystal trophy and a cheque for €1,500.

Concluding, Ken Murphy said: "The quality of production in *Padraig Nally* is typical of *Prime Time*'s standards of excellence. The interviews with the affected parties, the reconstructions, and this programme's examination of the legal issues surrounding the case make *Padraig Nally* a very worthy winner of the Overall Justice Media Award."

The winners in each of the other 11 categories in the competition were presented with Justice Media Awards, comprising a Dublin Crystal trophy and a cheque for €750, while the runners-up received Certificates of Merit and cheques for €250.

Radio

The Justice Media Award in the Radio category was presented to John Murray and Cian McCormack, from RTÉ's



in Justice Media Awards 2006



The Tánaiste Michael McDowell, who was the evening's guest speaker, takes centre stage with the winners in the Justice Media Awards

Morning Ireland team, for their report *Road Safety – Perception, Enforcement and Interpretation*.

Television

The Justice Media Award for television was presented to RTÉ's Mary Wilson and producer Tanya Sillem for their *Prime Time* special report *Padraig Nally*. A Certificate of Merit went to journalist Paul Maguire and producer Niamh Sammon for the *Prime Time* (News and Current Affairs) programme *The Neary Report*.

Court Reporting – Print

For her two-part series on the *Kilrush Murder Trial*, Emer Connolly of *The Clare People* was presented with a Justice Media Award in the Court Reporting (Print) section.

Court Reporting – Broadcast

In the Court Reporting (Broadcast) section, Richard Dowling of RTÉ Dundalk was awarded a Justice Media Award for his television report, *For Frances*.

Daily newspapers

The joint winners of the Justice Media Award in the Daily Newspapers category were Noel Baker of the *Irish Examiner* for

his four-part series *Juvenile Justice* and Ruadhán Mac Cormaic of *The Irish Times* for his captivating series *The Coroner's Court*. A Certificate of Merit was awarded to TP O'Mahony of the *Irish Examiner* for his article *Privacy Matters Prove A Very Public Concern*.

Sundays

The winner of the Justice Media Award in the Sunday Newspapers category was Enda Leahy of *The Sunday Times* for his article *Ireland: Safe Haven*. Certificates of Merit were awarded in this category to Dearbhail McDonald, formerly

of *The Sunday Times* and now with the *Irish Independent*, for her article *Too Much, Too Young*; John Burke and Eoghan Rice of *The Sunday Tribune* for their article, *Mountjoy: A Prison at Breaking Point*; and Ian Kehoe of the *Sunday Business Post* for his article *Commercial Court Service Cuts To Chase*.

Regionals

The winner of the Justice Media Award in this category is: Ann Murphy of the *Evening Echo*, Cork, for her story *Families Fight for Say in Court*.

Magazines

John Cradden of *Consumer Choice* magazine was presented with a Justice Media Award for his article *Residential Management Companies* in the magazines category.

Books

Joint Justice Media Awards were presented in the books category to: Damian McHugh for his book *Public Relations and Corporate Communications Law in Ireland*, published by FirstLaw; and Willie Penrose TD for *Farming Law – A Guide for Farmers*, published by FirstLaw in conjunction with the *Farming Independent*. **G**



Carol Coulter, senior vice-president James MacGuill, Tánaiste Michael McDowell and deputy director general Mary Keane



Kieran Walsh, Niamh Nolan (RTÉ news), Philip Joyce, Mary Little and Joe Little (RTÉ's social and religious affairs correspondent)



The Property Registration Authority

An tÚdarás Clárúcháin Maoine

Land Certificates and Certificates of Charge

Pursuant to the provisions of the Registration of Deeds and Title Act 2006 the Minister for Justice, Equality and Law Reform has made an order providing for the commencement of section 73 of the Act. As and from January 1st 2007 the Property Registration Authority will cease to issue, or reissue, land certificates or certificates of charge.

For a period of 3 years after January 1st 2007 production of an existing certificate to the Authority shall be required for the registration of a dealing with the property whose ownership it certifies, in accordance with existing requirements. On completion of the application the certificate will be cancelled and no replacement issued.

At the expiration of the 3 year period, referred to above, all remaining land certificates and certificates of charge, not already cancelled, shall cease to have any force or effect.

During the 3 year period the following provisions shall apply where a person claims to hold a lien on registered land or a registered charge through deposit or possession of a land certificate or certificate of charge or an undertaking to furnish a land certificate or certificate of charge, where monies were actually advanced and where the land certificate or certificate of charge did not issue from the Land Registry prior to the 1st of January 2007:

- a holder of such a lien may apply to the Authority for registration of the lien in such manner as the authority may determine;
- the application shall be on notice by the applicant to the registered owner of the land or charge and be accompanied by the original certificate;
- the lien is deemed, for the purpose of section 69 of the Registration of Title Act 1964, to be a burden which may be registered as affecting registered land;
- the Authority shall register the lien without charging any fee.

Note: The foregoing does not apply to a lien for costs on a land certificate or certificate of charge.

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letters



Send your letters to: *Law Society Gazette*, Blackhall Place, Dublin 7, or email: gazette@lawsociety.ie

Recoverable party-and-party costs and PIAB

From: Seamus Sadlier, McCann and Associates, accountants

I write to you in connection with a recent ruling made in the Dublin Circuit Court by Ms Susan Ryan, the county registrar, concerning party-and-party costs of dealing with the Personal Injuries Assessment Board.

I acted on behalf of the solicitor for the plaintiff in an action in which an assessment was made by PIAB in the sum of €9,000, with an additional €200 expenses. Following legal advice, this assessment was rejected by the plaintiff, who subsequently issued proceedings in the Circuit Court.

The personal injuries summons issued in September 2005 and the matter proceeded in the usual course up to advice on proofs stage. The defendant's solicitors then tendered the sum of €9,201 and the plaintiff subsequently accepted this amount for

personal reasons. It should be noted, however, that it was accepted by the county registrar on taxation that both the plaintiff's solicitor and barrister were of the view that the case was worth in excess of the tendered amount.

I prepared a full bill of costs, to include all work done in relation to dealing with the PIAB and subsequent proceedings. The matter proceeded to taxation and, on 3 July 2006, following lengthy oral submissions by both

parties, judgment was reserved to 21 July.

While the submissions made by both sides are too detailed and voluminous to set forth here, the thrust of my argument to the county registrar was that the High Court had previously ruled that a client was entitled to representation by a solicitor (*O'Brian vs PLAB*, 2004/785JR, 25/1/05 – under appeal to the Supreme Court). Furthermore, while the legislation did state that no party-and-party costs could be recovered for cases

where the assessment was accepted, there was no contrary provision where the assessment was rejected and proceedings issued. In addition, I submitted that, as there is a statutory obligation to deal with PIAB and, in the particular circumstances of this case, where legal advice was that the assessment was insufficient, it was a necessary step for the attainment of justice, therefore costs of such a necessary step should be recoverable on a party-and-party basis.

Interpreting the interpreters

From: James Kinch, solicitor, law department, Dublin City Council

I refer to interpreters translating in and out of a foreign language in the courts in Ireland and, as I understand it, persons are being employed as 'interpreters' on the basis of their nationality. There is often little or no consideration taken

as to their having any, or adequate, qualifications to act as an interpreter.

The role of interpreters in the Irish courts is not as regulated as it is in England and most other (EU) member states. Many practitioners are already aware that such interpreters are being used, but I understand

that some are not questioning the qualifications of the interpreters involved.

I wonder whether it would be of assistance if the Law Society were to recommend that practitioners carefully examine the qualifications of interpreters before allowing them to act as interpreters in court?



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Good Thinking

CHILD *in* TIME

The recent High Court conclusion that the three frozen embryos at the centre of the ‘embryo custody’ case are not ‘unborn’ within the meaning of the Constitution has raised many legal and ethical difficulties. Hilary Coveney explains

Medical and scientific breakthroughs have generated a reproductive revolution, with new or assisted reproductive technologies (ARTs) making it possible to create ‘families’ in ways not previously contemplated. The advent of ARTs has also challenged our traditional family law system and our understanding of the concepts of parentage, custody and access, rights of children and succession. ARTs include artificial insemination, *in vitro* fertilisation (IVF), surrogacy and use of sperm, egg and embryo donation. ARTs have been available in Ireland since the 1980s, with the first Irish ‘test-tube baby’ having been born in 1987.

While many cases have recently come before the English and international courts on the implications of ARTs, the first such Irish case was the case of *MR v TR & Others*, which was decided by McGovern J on 15 November 2006. This landmark decision concerned the fate of three frozen embryos that were held in storage following the separation of their ‘parents’.

Multiple embryos are often created in the course of IVF treatment to avoid women undergoing further courses of invasive, and potentially dangerous, infertility treatment where possible. Surplus embryos can then be stored or frozen for a period of time to be used at a later date. In many jurisdictions, disputes have arisen in relation to the custody of these cryopreserved or frozen embryos following the breakdown of a marriage or relationship. It was only a matter of time before this issue would arise in the Irish context.

‘Love’s labours lost’

The parties in this case were married on 5 March 1992 and their first child was born in October 1997. In the hope of expanding their family, they undertook IVF treatment in 2001, as a result of which six viable embryos were created. Three

embryos were implanted at that time and the remaining three embryos were frozen. The IVF process was successful and the wife gave birth to a daughter in October 2002. However, before this child was born, marital difficulties had arisen and the parties had separated.

A dispute subsequently arose as to the custody and possible use of the three remaining embryos. The wife sought to assert a ‘right to reproduce’ and applied for custody of the embryos in the hope of having a further child or children. She also argued that the embryos constituted human life and should attract the constitutional protection afforded to the ‘unborn’, with associated personal rights, including the right to life. The father, on the other hand, argued for his ‘right *not* to reproduce’, saying that he did not wish to have a child against his will within a separated family unit, with all the associated legal obligations. These legal responsibilities would include automatic joint guardianship as a ‘married’ father and an obligation to pay maintenance.

The court divided the case into two distinct parts: the first concerned the private law issue of consent. The wife argued that her husband had either expressly or impliedly consented to the three frozen embryos being used for future implantation, with her counsel arguing that there was “no going back” for him once the embryos had been created. The husband, however, denied that he had consented to the use of embryos as envisaged by the wife. The court examined the various consent forms and other documentation that had been executed by the parties in the context of the IVF treatment. It held that there was no agreement between the couple, whether express or implied, as to what was to be done with the frozen embryos in the circumstances that had arisen.

Since the required consent of the husband to the implantation of the three frozen embryos had not been obtained, the court ruled in his favour on this issue. The court also stated that the consent forms

MAIN POINTS

- Private law issue of consent
- Meaning of the term ‘unborn’
- Personal rights



A two-day old human embryo at four-cell stage of development

PICTURE: GETTY IMAGES



In vitro fertilisation:
frozen sperm and
human embryos

PIC: REX FEATURES

depends not only on science and medicine, but extends also to moral and religious beliefs. It was generally accepted, however, that embryos are “deserving of special respect and that their very creation raises serious moral and ethical issues which in themselves impose restraints on what may or may not be done with them”.

To assess the status of the embryo, it was necessary for the court to consider the meaning of the term ‘unborn’ in article 40.3.3 of the Constitution – the ‘right to life’ amendment that was inserted following the abortion referendum in 1983. The wife argued that the embryo, being ‘unborn’, was entitled to constitutional protection and therefore had a right to life. In considering previous case law concerning the protection of the ‘unborn’, the court noted that all such cases had arisen in the context of abortion, where the foetus is clearly already in existence. However, the status of the embryo is a different matter and one that has never been considered by the Irish courts.

‘What’s in a name?’

The court was of the view that the general understanding of the word ‘unborn’ at the time of the constitutional referendum related to a foetus in the womb and not to the possibilities available since that time with the advent of ARTs. McGovern J found that the “clear purpose” of the amendment was to deal with the issue of abortion. On this basis, the court concluded that the word ‘unborn’ does not include embryos *in vitro* and therefore does not include the three frozen embryos at the heart of the dispute in this case. As a consequence, the embryos are not afforded constitutional protection and do not have the ‘personal rights’ enshrined in the Constitution.

The court further held in this regard that it should not be the function of the courts to decide their legal status and whether the word ‘unborn’ should include embryos *in vitro*, stating that this was a matter either for the Oireachtas, or the people in the event that a constitutional referendum is put before them. Judge McGovern wrote: “laws should, and generally do, reflect society’s values and will be influenced by them. But, at the end of the day, it is the duty of the courts to implement and apply the law, not morality.”

A decision is now awaited as to whether the wife will appeal the decision to the Supreme Court. In the meantime, a question mark hangs over the status of these embryos and the reality that they are now likely to remain in storage for an indefinite period, since the Medical Council’s *Guide to Ethical Conduct and Behaviour* prevents their destruction or their being “allowed to perish”.

As the *in camera* rule does not apply to proceedings of this nature, the parties were forced to play out this critical and very private aspect of their lives in the public glare, and it is my view that some thought should be given to extension of the *in camera* rule in these cases.

were vague in a number of important respects and, for example, did not cover possible contingencies, such as the death of either party or a future separation or divorce.

‘Life’s but a walking shadow’

The second part concerned the public and constitutional law question of the status of the embryo and the critical issue of when human life might be said to begin. In other words, is an embryo a human life from the moment of its creation or is it a cluster of human cells with only the *capacity* for human life until implanted in the womb?

Evidence from a number of expert witnesses was adduced in the High Court on this question. These witnesses varied in their opinion, with some arguing that life begins at the moment of fertilisation (fusion of egg and sperm). Others argued for the time of implantation in the womb, at which stage a continuum of pregnancy begins. Still others argued for a date following implantation when the human ‘primitive streak’ may be said to have formed.

Given the very divergent and conflicting views on this subject, the court held that it was not possible for it to decide the issue. The court further noted that the point at which people use the term ‘human being’ or ascribe human characteristics to genetic material

Britain introduced comprehensive rules and regulations in this area with the enactment of the *Human Fertilisation and Embryology Act 1990*. This act deals specifically with the issue of ‘embryo custody’ disputes, insisting on the continued consent of both parties to storage and use of embryos at all times.

The Human Fertilisation and Embryology Authority also regulates all aspects of ART clinics and practices, and insists that prospective parents receive counselling at each step of the process, so that circumstances such as the death or separation of the couple can be discussed and planned for. The aim of the legislation is to avoid disputes arising, where possible.

‘We are such stuff as dreams are made on’

Many courts in other jurisdictions, including the US courts, have also relied upon a consent or intent-based model to determine ART disputes. Many readers will be familiar with the case of Natalie Evans, who recently brought proceedings in England and the European Court of Human Rights, seeking custody of stored embryos and asserting her right to family life. Ms Evans had created embryos with her former partner in 2001 prior to undergoing cancer treatment. Their relationship subsequently broke down and, when she sought to use these embryos, her former partner refused.

Since consent is the governing criterion under the 1990 act, the English courts held that she could not use the frozen embryos after her former partner had withdrawn his consent for their continued storage and use. Ms Evans was also unsuccessful in the European Court of Human Rights, where it was ruled unanimously that the embryos did not have an independent right to life. However, she was subsequently granted leave to appeal the decision to

the Grand Chamber of the ECHR, which hearing took place on 22 November 2006. A final decision is awaited and will be watched with great interest by an international audience. The facts of this case are particularly difficult, as the embryos were created prior to the removal of Ms Evans’ ovaries in the course of undergoing cancer treatment. As a result, she will be unable to have a biological child in the event of the destruction of these embryos and she has spoken of her “last hope” in this regard.

Unlike many other jurisdictions, there is currently no statutory or legislative guidance in relation to the practice of ARTs in Ireland. The only practical guidance concerning ARTs is found in the Medical Council guidelines, which, of course, do not deal in any way with the important legal consequences. There is an urgent need for legislation in this jurisdiction to regulate ARTs and provide guidance on the myriad legal and other implications that arise as a result. While medical and scientific breakthroughs continue apace, our legal system is left limping behind. The consequences of an absence of legislative guidance have already been seen in the *R* case. In his judgment, McGovern J noted that “the absence of any rules or regulations in this jurisdiction means embryos outside the womb have a very precarious existence”. He has further ordered that the state should pay the legal costs of the case due to the points of exceptional public importance that it raised, and also due to the absence of any legislative or regulatory regime for ARTs in Ireland.

The government recently established a Commission on Assisted Human Reproduction to review this area, and a comprehensive report was published in March 2005 with many wide-ranging recommendations. However, these recommendations are still being considered by the Oireachtas Joint Committee on Health and Children. In its report, the commission recommended the use of an intent-based model for the resolution of ART disputes – the majority of the commission recommended that an embryo should not attract legal and constitutional protection until time of implantation. The commission also expressed the hope that a rational debate on ARTs would now take place in Ireland in the context of ever-developing biotechnology and bioethics.

The plight of the couple at the centre of the *R* case may not be unique, since it is estimated that there are currently approximately 1,000 embryos in storage in Irish IVF clinics. The current *laissez-faire* situation is unacceptable, not alone for doctors and lawyers, but more importantly for those turning to ART clinics for assistance. Legislation and appropriate guidance are now urgently required to give these issues the importance and urgency they deserve. **G**

Hilary Coveney is a solicitor with Matheson Ormsby Prentice and the head of the newly-formed Family Law Unit.

“Embryos are deserving of special respect and their very creation raises serious moral and ethical issues which in themselves impose restraints on what may or may not be done with them”

LOOK IT UP

Cases:

- *Evans v Amicus Healthcare Ltd* [2004] EWCA Civ 727 (Court of Appeal judgment); [2003] EWHC 2161 (Fam) (High Court judgment)
- *Evans v United Kingdom* (application no 6339/05) ECHR, 7 March 2006
- *MR v TR & Others*, High Court, McGovern J, 15 November 2006

Legislation:

- *Bunreacht na hÉireann*, article 40.3.3
- *Human Fertilisation and Embryology Act 1990* (Britain)

Literature:

- Medical Council's *Guide to Ethical Conduct and Behaviour*
- Commission on Assisted Human Reproduction report, published in March 2005

Tipp for

MAIN POINTS

- Law School memories
- A rural practice
- Presidential goals

Newly-elected President Philip Joyce talks to Mark McDermott about his student days, his native Tipperary, and his plans for the coming year

When the newly-elected President of the Law Society, Philip Joyce, set out on his legal career, he thought he had got it made. Shortly after he qualified, he was involved in a family law case that took him from Tipperary to Paris. After a hard, but productive day's work, he ended up drinking champagne with the husband's representative until a very late hour. "I thought that my practice was going to be like that for ever," laughs Philip, "but, unfortunately, I haven't had any other Parisian business since!"

The new president decided on a career in law back in the 1970s. From Killenaule in Co Tipperary, his background was in farming, though he is at pains to point out that being the youngest of four and having an elder brother who was ten years his senior put paid to any thoughts of a career in agriculture. Philip says he was undecided about what he wanted to do with his life during his leaving certificate year, but had decided "for whatever reason to keep on Latin, which was a requirement for law at the time, so in due course I came to the Law School". Which was probably just as well, since his brother Patrick eventually inherited the farm.

"At the time I started law, my mother had died some years previously. My father was very pleased that I decided to do law. My father's first cousin was a

solicitor in Killenaule called Edgar Ryan. They were very friendly over the years. I didn't have any particular contact with him, however, but it was his practice that I eventually took over in 1976."

Philip has fond memories of his time in the Law School, which he describes as being "all over the place" during that period. "In theory it was based in the Four Courts, as the Law Society hadn't really moved out of there," he says. "Lectures took place in various locations around Dublin. We never knew from one term to the next where the next lecture was going to be. A bicycle was an essential requirement." He remembers lectures being held in St Andrew's Hall, Earlsfort Terrace, and in a rugby club – "I've forgotten where. It all seemed a little haphazard at the time."

Upper echelons

It was as class rep of the Law School's Liaison Committee that he first made contact with the upper echelons of the Society. "Being class rep brought me into some contact with the then director general, Jim Ivers, who I remember as being an excellent administrator. On one occasion, the Society got some exam results wrong. There was a lot of trouble over it and the results had to be withdrawn. I can recall writing a long letter to Jim about that, and asking it to be published in the *Gazette*. The letter was never published. Mr Ivers had me in and we discussed it in detail. He offered to give me the letter back, but I wouldn't take it! I presume he didn't want it around the place," Philip smiles.

After he completed his studies, Philip did his pre-qualification training with Tullaght-based solicitor John Glynn, where he worked out his apprenticeship. There, the future president learned the fundamentals of practice and pretty much everything he would need to know about conveyancing. "John was extremely efficient in the way he ran his business," says Philip. "He was careful about how he did his work, making sure that everything was completed properly and on time. I wouldn't have regarded myself as efficient as John in that respect, so, if it's not doing him any disservice, I will put him down as

SLICE of LIFE

Childhood: Ballynonty, Co Tipperary. The youngest child of Martin and Joan Joyce.

Books: Killenaule Primary School, Castleknock College and the Law School of the Law Society of Ireland.

Bosses: Bryan Maguire of JJ O'Shee Murphy & Co, Clonmel, Co Tipperary. John Glynn & Co, Tallaght, Dublin.

Mortarboard: the Law School in 1976.

First job: the office of Edgar J Ryan & Co, the genesis of his partnership firm, Joyce & Barry Solicitors. Is now a partner in the law firm Joyce & Barry Solicitors, Killenaule, Thurles, Co Tipperary.

Married to: Rosario Boyle SC.

Local hero: he is the first chairman of the Killenaule Development Association.



the top

teaching me all I knew. How much of it I retained, I'll leave for others to judge!"

In these heady times of economic prosperity, it might seem strange that Philip decided to move out of the capital city after only one year, heading instead for what might have been considered a quiet Tipperary backwater. Philip explains: "In 1975, the salary level for a young qualified solicitor would not have been that high. The opportunities that exist now certainly weren't in evidence then. I had been asked to go back to the firm of Edgar J Ryan & Co by Terry Ryan, Edgar's widow, with a view to acquiring

the practice after a couple of years, which happened in 1979. Terry now lives in Drogheda. Her daughter is Elizabeth Senior, who's very well known in the profession." Philip's practice is now Joyce & Barry, with offices in Killenaule and Cashel. David Barry, son of the late Harry Barry, solicitor, is the other partner in the practice.

It was during this time that Philip got involved with the Tipperary Bar Association. "After a relatively short time, I found myself on the committee of the bar association. Tipperary always holds elections for their committee, while the choice of president is a



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well-regulated affair and alternates between North and South Tipperary. I have no idea why anybody put me on the committee on the first day, as it was such a short time after I went into practice. At that time, John Carrigan was still secretary. I eventually succeeded him in that post and remained in it for ten years.”

His election to the Council of the Law Society came in November 1988. “I was asked to put my name forward by the Tipperary Bar Association, which I did. I was conscious that, coming from a small practice in rural Tipperary, it was going to be difficult to get elected. At the time, 30 members were elected each year rather than 15 every two years, which is the system now. I came in at number 30 of 30!”

Should I stay or should I go?

Philip has been elected to Council every year since. He is philosophical about his election as President of the Law Society. “I suppose there comes a point in time, when you’re on the Council for a long number of years, and you have to make the decision either to stay or go. If you stay, you know that you’re going to become president at some point.

“I think it gives you an opportunity to lead the profession, and to be of some influence in the way that the Law Society goes about its work. It would be unrealistic to think that, with one year in office, you could change things to a huge degree. You have to be very lucky to be presented with the opportunities to make radical change.

“I would have to say that there is great satisfaction in the work you do on Council from one year to the next, and in serving on the various committees. Every Council member can point to some aspect or other where they have made a difference on behalf of members, or perhaps in some submission that has been made to government insofar as legislation is concerned. These things wouldn’t necessarily be dramatic, but I think every Council member can look back over their period in Council and feel that they did well from time to time.

“I spent ten years in one form or another on the regulatory side of the building, and from that experience you learn a lot. You also have the opportunity to help colleagues that have got into some difficulty. But there is, I think, a continuing problem with solicitors who might feel that they’re in some difficulty, and who do not feel that there is a ready-made solution for them. I would like to see the Regulation of Practice Committee engaging in an ongoing educational communication with members of the profession. We need to establish a constant stream of communication from the committee to our members, so that they are familiar with the work that the investigating accountants have to do and that they understand the reason for their queries, with the aim of improving the profession’s response and standards generally.”

Philip has also proposed the establishment of a task force that will conduct a thorough review of the Society’s complaints-handling systems. It will look at



these systems from the initiation of a complaint through to its completion, will take account of both policy and legal considerations, and will make recommendations. The task force will be chaired by Joe Brosnan.

The new president is also happy to see the official opening of Cork’s Law School. “I’m glad that our system of education has become decentralised to some extent. I think that this can only benefit the profession in the long run. My hope would be that, when students are educated in Cork, it will become a source of employees for practices outside Dublin, because just at the moment, it’s very difficult for such practices to attract newly-qualified solicitors. If everything is not so geared towards Dublin, then lawyers might see that ‘outside the Pale’ has its own opportunities.”

Philip believes that the main role of the president is to represent the views of the Society’s members, and to be involved as much as possible in a representative capacity. “Of course, various issues will arise throughout the year, including the delivery of the Competition Authority’s final report, the report of the Miller Implementation Group in relation to solicitors’ costs, and the results of various items of litigation that the Society is involved in on behalf of its members. However, as things stand, I would expect that it will continue to be the Society’s function to be the sole regulators of the solicitors’ profession and also the sole educators.”

What’s his chief goal? “The challenge during my year in office will be to respond to the issues that arise, and to try and make changes where required. Primarily, my focus will be to increase the level of communication between the Society and its members, and between our members and the task force in relation to complaints. This will be extremely important.” **G**

TIPPERARY’S FIVE PRESIDENTS

- Lawrence J Ryan (1931/32)
- John Carrigan (1957/58)
- Senator John Nash (1959/60)
- Donal G Binchy (1990/91)
- Philip Joyce (2006/07)

BREAKING

The justice minister is to set up an expert group on the recognition of pre-nuptial agreements. Geoffrey Shannon discusses the legal standing of pre-nuptial agreements, given that there are some 30,000 millionaires in Ireland

A pre-nuptial agreement is a pre-wedding contract, by which a couple intending to marry sets out how property and finances would be divided in the event of a separation or divorce. Pre-nuptial agreements have increased in practical importance since divorce became law in Ireland in February 1997. They are commonplace in the world of celebrity, where they are seen as a form of divorce planning. There is no Irish law preventing individuals intending to marry from signing a pre-nuptial agreement, but the difficulty is that the courts are not obliged to enforce such an agreement should the parties separate or divorce.

Fifty ways to leave your lover

Binding pre-nuptial agreements appeared to have been relegated to the back burner until the recent *Miller* and *McFarlane* judgments in Britain. Neither Alan Miller nor Kenneth McFarlane had a pre-nuptial agreement. These recent House of Lords judgments have given renewed impetus to the drawing up of pre-nuptial agreements – not only in England, but also in Ireland – as high-earning spouses attempt to protect their positions in the event of a separation or divorce.

In *Miller*, the Law Lords held that Melissa Miller could keep the £5 million she was awarded by the Court of Appeal after a childless marriage lasting less than three years to Alan Miller, a multi-millionaire fund manager. Lawyers for Miller had argued that the Lords should cut the £5 million award to £1.3 million, as the marriage was childless, lasted only two years and nine months, with the added factor of Melissa Miller bringing no wealth to the marriage. Describing the £5 million award upheld by the Court of Appeal as “a jaw-dropping amount”, Miller’s lawyers argued that it would give Melissa Miller “a meal ticket for life” after a very short marriage.

In the *McFarlane* case, the Lords considered the case of Julia McFarlane, who had given up a promising career as a solicitor during a 16-year marriage to Kenneth McFarlane, a tax partner. The Law Lords held that she was entitled to £250,000 a year from her husband for an indefinite period, rather

than a mere five years as was held by the Court of Appeal. The couple had previously agreed a 50/50 split of their £3 million worth of assets.

The *Miller* case is of particular interest and may very well be followed in Ireland. The Lords’ groundbreaking ruling indicates that, even in a short marriage, a wife might be entitled to a 50/50 split of the wealth generated during that marriage. This is likely to strike fear into the hearts of wealthy Irish men contemplating separation or divorce after a short marriage. One of the factors an Irish court can take into account is the length of the marriage, although it is only one of a number of factors.

The *Miller* ruling will no doubt be reflected in any settlement negotiations between Heather Mills and Paul McCartney over his £800 million. Indeed, the McCartney’s were married for twice as long as the Miller’s and there was also a child of the marriage. It should be stated that McCartney did not have a pre-nuptial agreement.

I will survive

But what is the current status of pre-nuptial agreements under Irish law, and how compatible would a pre-nuptial agreement be with the Constitution?

Under article 41 of the Constitution, the family is the basic unit of society. Article 41.1.1 talks of the family “as the natural primary and fundamental unit group of society”. It also pledges to “guard with special care the institution of marriage” and to protect it against unjust attack. Thus, there is a constitutional obligation under article 41 to protect and preserve the family unit, as far as practicable.

The nature of the family in Ireland, however, has changed dramatically over the past 30 years. The immense social, cultural and economic changes since the 1970s have altered family structures. Today, the reality mirrors that of our European partners. That includes an increase in the incidence of marital breakdown.

Up to now, an attempt by the legislature to introduce any legislation to dilute the paramountcy of the family or encourage people to walk away from

MAIN POINTS

- Recognition of pre-nuptial agreements
- Family Law (Divorce) Act 1996
- Case law in other jurisdictions

UP^{is} hard to do



PICTURE: GETTY IMAGES

what most would accept as the ideal family unit would have been deemed unconstitutional by the Supreme Court. That is no longer the case, following the removal of the constitutional prohibition on divorce by the insertion of article 41.3.2 into the Irish Constitution. This weakens, but does not negate, the argument that a pre-nuptial agreement made in contemplation of a separation (that may occur at some future date and that is not inevitable) is unenforceable for reasons of public policy.

Heart of glass

The provisions of the *Family Law Act 1995* and the *Family Law (Divorce) Act 1996* (the *Divorce Act*) do not appear to support the enforceability of pre-nuptial agreements. It is clear from the *Family Law Acts* that the Oireachtas legislated to facilitate repeated applications to court for ancillary relief, rendering the statutes opposed to the concept of spousal autonomy.

That the overall philosophy of these acts is not supportive of spousal autonomy is clear. In *JD v DD* (*Judicial Separation*), for example, McGuinness J held that no ‘clean break’ provision could be made when financially reordering a broken marriage and continued, at page 89: “This also appears to mean that no agreement on property between the parties can be completely final, since such finality would be contrary to the policy and provisions of the legislation”.

A further relevant and instructive case is the decision of Finlay Geoghegan J in *RG v CG*, which concerned the weight to be attributed to a consent order at the conclusion of judicial separation proceedings. Finlay Geoghegan J stated that she did not consider it appropriate on the facts of the case to take into account an acknowledgement on the part of the wife, contained in the consent order, to the effect that the consent constituted proper provision for the purposes of the *Divorce Act*. The judge quoted with approval the *dicta* of Mumby J in *X v X*, where he stated: “A contract which purports to deprive the court of a jurisdiction which it would otherwise have is contrary to public policy. Thus, a spouse cannot validly agree, whether expressly or impliedly, not to apply for maintenance or other forms of ancillary relief. Such a stipulation is contrary to public policy and unenforceable” (see also *N v N*).

To the extent that a pre-nuptial agreement purports to exclude the jurisdiction of the courts, it will be in breach of the constitutional requirement that proper financial provision be in place to ensure that spouses and dependent family members have been catered for. By virtue of article 41.3.2 of the Constitution and the *Family Law (Divorce) Act 1996*, the court must be satisfied that such provision as the court considers proper, having regard to the circumstances, exists or will be made for the spouses and any dependent members of the family. It must therefore be noted that the constitutional imperative on the part of the courts to ensure ‘proper provision’ has been made before granting a decree of divorce will, no doubt, make pre-

nuptial agreements, that have been concluded several years prior to the divorce no more than a factor in the overall consideration of a case. Further, if it were intended to have regard to pre-nuptial agreements, it is reasonable to assume that they would have been specifically mentioned in the 1995 act and the *Divorce Act*.

Tainted love

In the *Divorce Act*, specific reference is made to separation agreements as a factor to consider in section 20(3), and thus if it were intended to have regard to pre-nuptial agreements, one would also have expected some other detailed provisions dealing with such agreements.

It is possible to argue that section 20 of the *Divorce Act* and section 16 of the 1995 act, which set out the factors to be taken into account by a court in reordering assets in a divorce and judicial separation case respectively, provide a framework under which a pre-nuptial agreement can be recognised. The introductory requirement set out in section 20(1) of the *Divorce Act* and section 16(1) of the 1995 act requires the court to “ensure such provision as the court considers proper having regard to the circumstances”. This general standard is not defined any more clearly by the legislature, thus increasing the level of discretion afforded to the judiciary in these cases. A pre-nuptial agreement could be considered as part of the circumstances of the case by a court when determining what ancillary orders to make under section 16 of the 1995 act and section 20 of the *Divorce Act*. In the first reported divorce decision, *RC v CC* (*Divorce*), Barron J, after considering the financial arrangements made by the spouses, stated: “I am satisfied that these provisions are proper in the overall circumstances of the family”. This clearly demonstrates that the judge felt he had to view the arrangements in their totality. In so doing, there is room for argument that the terms of a pre-nuptial agreement are a circumstance that ought to be considered.

Go your own way

The government study on pre-nuptial agreements is likely to consider the law in other jurisdictions. Pre-nuptial agreements are enforceable in many European civil law states (Belgium, Denmark, France, Germany, Italy, the Netherlands, Norway, Spain, Sweden and Switzerland). They normally must be signed in the presence of a notary (for example, Germany, Italy, the Netherlands and Spain). In many states – for example, Denmark, Italy, Spain and Sweden – pre-nuptial agreements must also be registered.

Pre-nuptial agreements are enforceable in several US states, with the exceptions of Kentucky, Michigan, Mississippi, Pennsylvania, South Carolina and Vermont. In the US, many states have adopted the *Uniform Premarital Agreement Act 1983*, leading to legislation on the basis of this. The US courts have

“Considerable uncertainty surrounds not only the status of a pre-nuptial agreement executed in Ireland, but also the enforceability of a pre-nuptial agreement executed in another country”

generally upheld pre-nuptial agreements that have been validly entered into, with independent legal advice, proper disclosure and that are not tainted by fraud. Interestingly, it seems that lawyers in the US are themselves becoming increasingly cautious about drafting pre-nuptial agreements, due to the low financial returns for the practitioner and the high negligence exposure, a trend also observed in Australia and Germany. It appears that pre-nuptial agreements are generating increased litigation in the US, focused on whether fair procedures were adopted in the negotiation of the contents of the agreement.

Binding pre-nuptial agreements were brought into force in Australian law by the *Family Law Amendment Act 2000*, which inserted a new part VIIIA into the *Family Law Act 1975* (FLA). The new part VIIIA of the FLA provides that couples may, among other things, enter into a 'financial agreement' before marriage. A financial agreement may cover their property and financial resources, spousal maintenance and "incidental and ancillary matters". For this form of pre-nuptial agreement to be binding, there are a number of formalities, including that each party has received independent legal advice before the agreement is entered into.

It should be noted, however, that there is no court supervision or registration of 'financial agreements', with the responsibility for overseeing such agreements resting on family law solicitors as the providers of independent legal advice. For the Australian family law solicitor, the independent advice requirements are highly onerous and difficult to discharge, which, in turn, have raised concerns about potential professional liability. It is therefore not surprising that some solicitors are refusing to act for clients wishing to enter 'financial agreements' for fear that their professional indemnity insurance might not cover them in the event of litigation for professional negligence, on the basis that advising on a 'financial agreement' may amount to financial rather than legal advice.

Without you

There has been some consideration of pre-nuptial agreements in England and Wales. A 1998 Home Office Green Paper, *Supporting Families*, recommended that pre-nuptial agreements should not be enforceable if one or more of the following six circumstances apply:

- Where there is a child of the family (whether the child pre-existed or post-dated the agreement),
- Where under the general law of contract the agreement is unenforceable,
- Where one or both of the parties did not obtain independent legal advice before entering into the agreement,
- Where the agreement would cause "significant injustice". (I believe the words "significant injustice" are unduly vague in this context. This could, no doubt, generate increased litigation, a goal that the paper seeks to prevent),

LOOK IT UP

Cases:

- *JD v DD (Judicial Separation)* [1997] 3 IR 64
- *McFarlane (Appellant) v McFarlane (Respondent)* [2006] UKHL 24
- *Miller (Appellant) v Miller (Respondent)* [2006] UKHL 24
- *N v N (Jurisdiction: Pre-nuptial agreement)* [1999] 2 FLR 745
- *RC v CC (Divorce)* [1997] 1 IR 334
- *RG v CG* (High Court, unreported, Finlay Geoghegan J, 8 February 2005)
- *X v X* [2002] 1 FLR 508

Legislation:

- *Bunreacht na hÉireann*, article 41
- *Family Law (Divorce) Act 1996*
- *Family Law Act 1975* (Australia)
- *Family Law Act 1995*
- *Family Law Amendment Act 2000* (Australia)
- *Uniform Premarital Agreement Act 1983* (USA)

Literature:

- *Supporting Families: A Consultation Document*, British Home Office Green Paper, 1998

- Where one-half of the couple, or the couple as a whole, has failed to give full disclosure of assets and property before the agreement was made,
- Where the agreement is made fewer than 21 days prior to the marriage.

Earlier this year, Resolution (the solicitors' family law association in England and Wales) renewed its call for pre-nuptial agreements to have binding legal effect in England and Wales. It made reference, in particular, to an increasing number of client enquiries from people entering a second and subsequent marriage, seeking protection for properties they had before they wed.

There is no reason why a pre-nuptial agreement should be *prima facie* unenforceable. That said, considerable uncertainty surrounds not only the status of a pre-nuptial agreement executed in Ireland, but also the enforceability of a pre-nuptial agreement executed in another country.

The law should now be clarified to ensure that pre-nuptial agreements are valid and enforceable to the extent that they support and foster the interests of children and spouses. It should be noted, however, that even if, following Minister McDowell's review, the legislature steps in to support pre-nuptial agreements, caution should be exercised. Any legislation should not simply be a 'rubber stamping' exercise, but should allow the judiciary to retain a wide discretion to vary the terms of a pre-nuptial agreement. **G**

Geoffrey Shannon is the Law Society's deputy director of education. The CPD Unit will be hosting a conference on 27 February 2007 on 'Divorce – Ten Years On', to mark the tenth anniversary of the introduction of divorce in Ireland.

IN WHOSE interest?

In a recent case, a solvent company made an application for a prospective validation order. Brónagh Maher discusses the appropriate test to be applied in this novel situation

Until recently, the reported case law dealing with section 218 of the *Companies Act 1963* involved companies that were unlikely to be in a position to meet their liabilities as they fell due (see, for example *Re Lynch, Re Ashmark Ltd, Re Pat Ruth Limited* and *Re Industrial Services Company*). In such circumstances, the courts had to consider, in exercising the jurisdiction to validate certain post-commencement dispositions, whether the disposition was in the interests of the general body of creditors – particularly the unsecured creditors – of the company. As Courtney comments, “the primary rationale of the validation mechanism in CA 1963, s218 is to protect creditors” (2002: paragraph 27.068). This is due to the fact that an inappropriate disposition of a company’s assets after the commencement of a winding up will usually result in some liabilities of the company being met and others not being met, meaning fewer assets will be available to pay the unsecured creditors. As stated by Murphy J in *Re McBirney and Co Ltd*, “the entire burden of the authorities is to the effect that the making of the payment (as opposed to the incurring of the expense) must be shown to be for the benefit of the company or at least desirable in the interests of the unsecured creditors as a body”.

However, in his recent judgment in *Joyce v Wellingford Construction*, Clarke J was asked to exercise his jurisdiction under section 218 to validate a disposition of a significant company asset by a

company in relation to which there was no suggestion, in the event that it was wound up, that it would be unable to meet its liabilities.

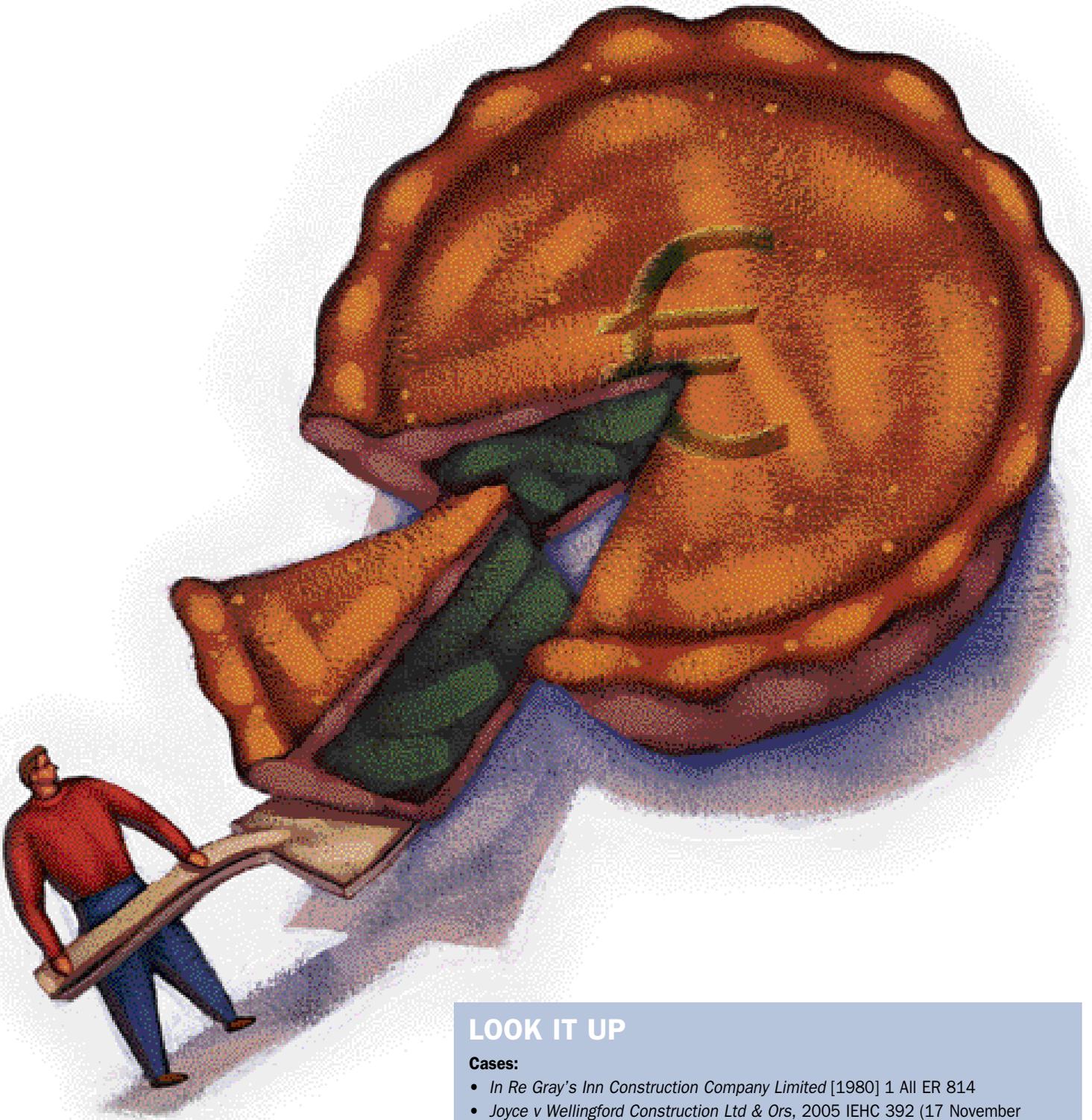
Mixed company

The application under section 218 arose in the context of substantive proceedings under section 205 of the *Companies Act 1963*, in which the petitioner was claiming relief from alleged oppression of his position as a minority shareholder in the company. The relief claimed raised the possibility of the company being wound up, and there was therefore a petition before the court to wind up the company, despite the fact that there was no suggestion that the assets of the company would be insufficient to meet all of its creditors. By virtue of section 220(2) of the *Companies Act 1963*, the winding up of a company by the court is deemed to have commenced at the time of the presentation of the petition for the winding up, and therefore any disposition of the property of a company while a winding up petition is pending before the court is open to the risk that it may be declared void pursuant to section 218.

The board of the company had resolved to sell Derg Marina, a significant asset that had been purchased by the company in 2003 for €4 million, but could not proceed in practice with the sale without the prior sanction of the court, as any purchaser would be open to the risk that, in the event of a court-ordered winding up, the sale would be void unless validated by the court. Obviously, no

MAIN POINTS

- Dispositions by solvent companies
- *Companies Act 1963, section 218*
- Recent case of *Joyce v Wellingford Construction Limited*



purchaser would be willing to buy without the court order, and it was therefore necessary for Clarke J to decide whether a prior validation of the sale should occur. The power of the court to prospectively validate a post-commencement disposition was set out in Buckley LJ's judgment in *In Re Gray's Inn Construction Company Limited*, where he stated: "Where a third party proposes to enter into a transaction with a company which is liable to be invalidated under s227, the third party can decline to do so until the company has obtained a validating order, or it might itself seek a validating order, or it can enter into the transaction in anticipation of the court making a retroactive validating order at a later

LOOK IT UP

Cases:

- *In Re Gray's Inn Construction Company Limited* [1980] 1 All ER 814
- *Joyce v Wellingford Construction Ltd & Ors*, 2005 IEHC 392 (17 November 2005, unreported, High Court)
- *Re Al Levy (Holdings) Ltd* [1963] 2 All ER 556
- *Re Ashmark Ltd (No 1)* [1990] ILRM 330
- *Re Industrial Services Company (Dublin) Limited (No 2)* [2002] 4 IR 394
- *Re Lynch, Monaghan & O' Brien Ltd*, (9 June 1989, unreported, High Court)
- *Re McBirney and Co Ltd* (2 July 1992, unreported, High Court)
- *Re Pat Ruth Limited* [1981] ILRM 51

Legislation:

- *Companies Act 1963*

Literature:

- Thomas B Courtney, *The Law of Private Companies*, 2nd edition, (Dublin: Butterworths, 2002)

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date” (section 227 was the then operative equivalent provision of section 218 under Britain’s *Companies Act 1948*).

Asset register

In exercising his jurisdiction under section 218, in the unusual circumstances of a company with assets exceeding its liabilities, Clarke J commented: “It seems clear that the underlying purpose of section 218 is to ensure that the interests of those parties who might be affected by a disposition which takes place after the commencement of a winding up are not materially altered by such a disposition. In the case of a company which will be unable to meet its debts, then the person who will be affected (or at least potentially affected) by a disposition of the company’s property are likely to be the creditors and most especially, in many cases, the unsecured creditors.”

However, where the company seeking the court’s validation of a disposition is in a position to meet all of its liabilities, “the parties whose interests might be affected by a post-commencement disposition are the members of the company who would, in the event of a winding up, share in the distribution of the net surplus of the company’s assets”. The authorities dealing with section 218 therefore would have to be read as applying, in the case of a solvent company, to the interests of the members as a whole as opposed to the interests of the creditors.

Circle of trust

In *Joyce v Wellingford*, the grounding affidavit indicated that the sale of the property was necessary because of the pressing nature of various liabilities that the company had. As well as owing substantial sums to the company’s bankers, there were other “significant cumulative liabilities” and, furthermore, there was a winding-up petition by one of the company’s main contractors pending before the courts. Having found that there was “a high degree of probability of the company going into liquidation unless something radical is done to solve its cash problem in the short term”, Clarke J indicated that he would be prepared to validate a sale that was achieved having complied with certain conditions, including the appointment of a neutral auctioneer to obtain the most commercially advantageous contract from the perspective of the company. Clarke J’s decision not to make the validation order as sought (the application was for an order validating a sale for not less than €6 million, as an offer had already been received in that amount) was in large part influenced by the fact that there appeared to be a complete breakdown of trust between the shareholders of the company, as evidenced by the section 205 proceedings, and the fact that “in the absence of a transparent process ... being put in place, I am likely to remain unsatisfied that a sale would necessarily reflect the best interests of the shareholding taken as a whole”.

SUNNY DISPOSITION

The general proposition that the post-commencement disposition of a major asset of the company may be of benefit to the company and its creditors was set out in *In re Gray’s Inn Construction*:

“There may be occasions, however, when it would be beneficial, not only for the company but also for its unsecured creditors, that the company should be enabled to dispose of some of its property during the period after the petition has been presented but before a winding-up order has been made. An obvious example is if the company has an opportunity by acting speedily to dispose of some piece of property at an exceptionally good price. Many applications for validation under the section relate to specific transactions of this kind or analogous kinds.”

An example of such a case is *Re Al Levy (Holdings) Ltd*. In that case, a disposition was prospectively validated where, after the presentation of a petition to wind the company up, a company resolved to sell its leasehold interest in a property because the lease was liable to be forfeited if it, as the tenant, was wound up. The sale of the lease at market value was found to be clearly to the benefit of creditors of the company, as the company was put in funds arising from the sale of the lease. If the company had not disposed of its interest, it would have had neither funds nor a leasehold interest available for distribution amongst the creditors.

In arriving at his conclusion, he stated: “the test by which validation should be ordered by the court is, in a case such as this case, the interests of the shareholders taken as a whole. In principle, therefore, to achieve that interest, the sale needs to be on the most commercially advantageous terms (which question is likely to be determined by the sale price and the likely time of closing) but must also not be subject to any circumstances that would mitigate against the sale achieving its principle objective, which is staving off a threatened liquidation.”

Solvent abuse

In light of Clarke J’s judgment in *Joyce*, the authorities dealing with section 218, which establish that a disposition will be validated if such disposition is found by the court to be beneficial to and in the interests of the general body of creditors, must also be read as applying to the interests of the members of the company where the applicant for the validating order is in fact a solvent company. This is due to the fact that, in the event of a winding-up order being made in respect of a solvent company, the net assets of the company after discharging all debts will fall to be distributed among the shareholders. Therefore, the interests of the shareholders should not be materially altered by the disposition. In the words of Clarke J, the situation in which the company in *Joyce* found itself was “unusual but by no means unique”, and therefore Clarke J’s judgment is likely to be of assistance in future applications pursuant to section 218. **G**

IN GOOD COMPANY

Section 218 of the *Companies Act 1963* provides:

“In a winding up by the court, any disposition of property, including things in action, and any transfer of shares or alteration in the status of the members of the company, made after the commencement of the winding-up, shall, unless the court otherwise orders, be void.”

Brónagh Maher is a Dublin-based barrister.

The BIG *thaw*

The '80s marked the end of the Cold War and a new era of perestroika. From local and international get-togethers, to the provincial and foreign news, the *Gazette* presented an intriguing mix of views in the 1980s under the editorship of Mary Buckley (now Gaynor). Mark McDermott continues this celebration of 100 volumes of the *Gazette*

A rather novel meeting was held by the Dublin Solicitors' Bar Association in December 1980. A so-called 'Gripe Night' was organised, where members could discuss grievances "at which it was hoped that the Council would hear from colleagues about matters and problems which were creating difficulties. Despite the fact that from time to time the Association is criticised by solicitors for its apparent failure to communicate with them and to look after their interests, the attendance at this meeting was in the main disappointing...

"Most of the criticism was levelled at the Courts and the failure of judges to issue judgments or, alternatively, as happens in the Lower Courts, to sit on time. This latter complaint relates in particular to Kilmainham District Court and the method of listing cases in that Court was also the subject of severe criticism. It was felt that a system could be evolved whereby certain cases should be listed in the morning and others in the afternoon, thereby avoiding unnecessary attendance of solicitors.

"In relation to the Land Registry and the Companies Office, it was apparent that many members have been finding that files are not available for inspection" (*Gazette*, January/February 1981, p16).

In the same issue, the *Gazette* discusses the 1981 Congress of the Association Internationale des Jeunes Avocats (AIJA), which took place in Dublin on 24 to 28 August 1981. The association was founded in 1962 "as a non-political organisation dedicated to furthering the interest of young lawyers and of the entire legal profession and to encouraging co-operation among lawyers of all the world". In an 'Open letter to the lawyers of Ireland' the president of the AIJA, P R Meurs-Gerken from Copenhagen, says: "The first euphoria of our congress in Dublin's fair city where the girls are so pretty is over; we are all

back at work at the bar, at the desk – it's autumn, rainy, foggy.

"But still, we feel enlightened, strengthened to cope with the dark and cold days of winter by the wonderful memories we have of the important work we succeeded in doing during the day and the great fun we had with our Irish hosts during the evenings and nights.

"At no AIJA Congress in my experience have thanks been better earned or more deserved than they were at the AIJA Congress in Dublin in August...

"Many of us had heard of the hospitality of the Irish. Your reputation is one thing, but the actual experience of a warm welcome from hosts who were so obviously pleased to see us and who, without fuss or trouble, were so obviously interested in making sure that we felt welcome and enjoyed ourselves in their country, was something we shall never forget" (*Gazette*, January/February 1982, p11).

Household name

It's rather apt that, in this issue when we cover the Justice Media Awards 2006, the *Gazette* in June 1982 was covering the Society's awards to young journalists:

"The Law Society's Award for the best article on a legal topic submitted by a 2nd Year Student at the School of Journalism, Dublin College of Commerce has been awarded to Brenda Power, Ballynooney, Mullinavat, Co Kilkenny, whose article on 'Rape Cases – A Trial Within a Trial' will appear in the next issue of the *Gazette*." Brenda has since become a household name on RTÉ radio and television, and writes for a variety of publications.

The same issue featured an advertisement for a company-based legal adviser in Dublin, offering the grand salary of IR£13,500 per annum.

In an article on wills in the October 1982 issue,

MAIN POINTS

- 'Gripe Night'
- Congress euphoria
- Lifestyle profile



And the wall came tumbling down: Berlin, 1989

Donal G Binchy's rather amusing opening is worthy of repetition here:

"We can hope, with some confidence, that the Law Society's 'Make A Will Week' will help to overcome the natural reluctance of many people to make Wills and convince people of the genuine necessity to make proper testamentary provision for their families. In turn, solicitors must be ready to meet the challenge by drawing wills that suit the circumstances and requirements of our time.

"Historically, the earliest known will is apparently attributed to Noah. Not merely was he reputed to have made the first will, but he also had the largest estate ever recorded. He bequeathed the world between his three sons! Anyone who disputed this was denounced as a heretic by a fourth century Bishop. Noah did not, however, have to contend with the Succession Act, Estate Duty or Capital Acquisitions Taxes, nor with the complexities of agricultural values and tax-free thresholds..." (*Gazette*, October 1982, p181).

In 'A Profile of Lawyer Lifestyles' in the April 1984 issue, an article by Rosslyn S Smith (reprinted from the *American Bar Association Journal*) posed the following questions:

"Did you ever wonder if you're earning as much as other lawyers? When you worked on a Saturday, were you curious if other lawyers put in that much time? The *ABA Journal* wondered too, and for the first time ever developed a profile of what it's like to work as a

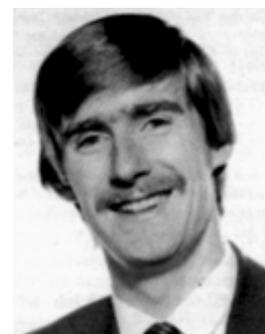
lawyer. Some highlights of the survey are:

- As a group, ABA lawyers work very hard. Four of five work more than 40 hours a week, and more than eight of 10 work at least one Saturday a month. Almost 30 percent work every Saturday.
- Most lawyers have an office practice. The average lawyer member works 47 hours a week but spends less than 1.25 hours a week in court.
- Despite the long hours and career pressures, 89 percent said they are happy with their career choice...

"With all that has been written about the increasing specialization of the profession, it should be noted that 44 percent of those surveyed indicated they were in general practice. Twenty-two percent concentrated in corporate law, 11 percent in tax and 9 percent in real estate. One in every four checked off more than one area of concentration of practice" (*Gazette*, April 1984, p81).

And to finish on a funny, the June 1983 issue features an amusing letter, dated 27 May, from solicitor Grattan Neville in Clonakilty, Co Cork: "Dear Sir Overheard at Dunmanway District Court on the 25th inst., whilst the Defence Solicitor was cross-examining a witness – "I must put it to you that the van had not sufficient power left to mount the grass virgin".

"I have heard of a grass widow or widower but a grass virgin?" (*Gazette*, June 1983, p141). **G**



Future director general Ken Murphy pictured in the March 1985 *Gazette*. At the time, he was the youngest member of the Law Society's Council



Got an issue you would like addressed by our panel of practice doctors? Email: practicedoctor@lawsociety.ie

CASH is KING

Cash is the lifeblood of any business, but cash management is an area where many solicitors' practices fall down. Many practices operate a crisis-management type system – they ignore cash management except when a crisis is looming, for example, the payment of a tax bill.

Managing work in progress (unbilled work)

There are two stages to good cash management – managing work up to the time it is invoiced, and managing work after it is invoiced. The important issues here are:

- Agree the fees in advance with the client; don't avoid the issue.
- Sending a 'flyer' does not work. The client will always expect to negotiate if you do this.
- Look for opportunities to invoice monthly or quarterly statements.
- Send out invoices immediately on closing.

Collecting outlays

Controlling outlays is another area where solicitors can make considerable improvements. Many firms take the view that their competitors will pay all outlays for a client, and it is competitively damaging if they do not do so. This has changed significantly in the last number of years.

Due to the change in the personal injury litigation following the introduction of PIAB, many firms who were prepared to fund litigation outlays for a client are no longer prepared to do so. A client expects to pay for costs you incur on their behalf, and does not expect you to fund it in most cases.

Debtors – collecting invoices when they are issued

Having sent out the invoice to the client, assuming that you cannot be paid by transferring the costs from the client account with the client's approval, the next stage is to collect the money from the client. Recommended steps here are:

- Transfer monies in the client account quickly (with client approval).
- Have accounts personnel issue monthly

statements and reminders to clients. All other professional firms produce these.

- Distance the solicitors from the initial collection process – they want the next instruction from the client.

Paying your suppliers

The main suppliers are your own staff who are paid on a weekly or a monthly basis. Other suppliers are incidental to cash management in a solicitor's office, but you should take credit from your suppliers and pay them at month-end following receipt of their invoice, unless you have agreed alternative terms.

Many partners often wonder why the profits they have made do not equal the cash in the bank account. The answers are usually simple – they centre on management of one or a number of the issues above. Cash really is the lifeblood. You will have one significant challenge removed if you follow the steps recommended above. **G**



David Rowe: "Cash really is the lifeblood"

David Rowe is managing director of Outsource, business advisors to Irish law firms.

MANAGING THE BALANCE SHEET

There are a number of golden rules in managing the balance sheet:

- **Always finance fixed assets such as desks, IT equipment, cars, buildings etc.** These are items that offer value to the business over a number of years. Match this with a loan over a number of years, thereby avoiding an instant cash hit when a new asset is bought.
- **Have the right mix of capital/debt.** Many firms avoid having any borrowings in their balance sheet. This can be unduly harsh on the partners, as they end up with high amounts of capital tied up unnecessarily in the business. While there is no rule of thumb, banks will happily finance a law firm approximately 50/50 with the partners' own capital.
- **Look after tax and pension payments monthly.** Many firms experience the annual trauma in gathering together sufficient funds to pay the partners tax and pension liability at this time of year. A more managed alternative is to transfer the expected tax and pension liability to a savings account on a regular monthly basis. The end point is the same, this simply shifts the pressure from a huge once-a-year pressure to a monthly pressure to issue bills and collect cash.

books



Civil Procedure in the Superior Courts (second edition)

Hilary Delany and Declan McGrath. Thomson Round Hall (2005), 43 Fitzwilliam Place, Dublin 2. ISBN: 1-85800-406-3. Price: €350 (hardback).

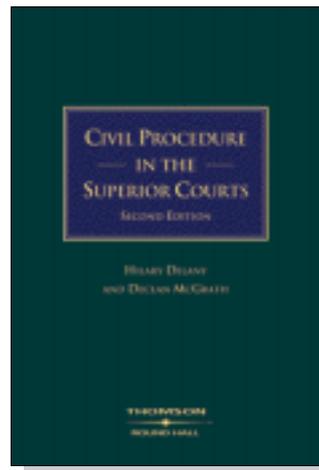
Primitive man had regard to procedure. The tribe would sit in a circle with one man speaking at a time. In fact, there was a concept of adherence to proper procedure. Proper or a degree of civilised procedure has a relationship with due process. It was that great US judge Felix Frankfurter who wrote that the “history of liberty has largely been the history of procedural safeguards” (*McNabb v United States*, 318 US 322, 347 [1943]).

Judge Peter Kelly, a master of the intricacies of the law of practice and procedure (apart from his gifts as a jurist), writes in the foreword to the second edition of Delany and McGrath’s book that the authors have produced “a work of high quality and great utility”. Judge Kelly goes so far as to state that the book is a “*vade mecum*” for any legal practitioner – “an invaluable tool for bench, bar

and solicitors”. It would be difficult, if fruitless, for me to quibble with Mr Justice Peter Kelly.

Seriously, procedural law plays a significant role in the quest for justice. One must know how to go about the process of seeking justice: otherwise one may fail miserably.

This book contains 30 chapters. There is a comprehensive table of cases, statutes, orders and other related instruments. There are about 1,020 pages in the entire book. The table of contents reveals the essence of the book. The titles of the chapters include the commencement of proceedings in the superior courts, service of proceedings, appearance, pleadings, joinder of causes of action, remittance of proceedings, third-party procedure, discovery, interrogatories (a much



neglected procedure, in my opinion), security for costs, delay and want of prosecution, striking out proceedings, discontinuance, lodgements and offers, settlement of proceedings, appeals, costs (a matter of seminal importance for lawyers of all hues), the summary summons procedure, personal injury actions, the commercial

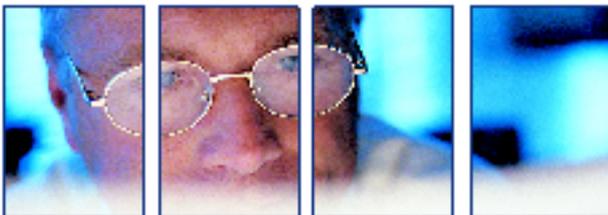
court, judicial review and case-stated procedure.

The price of the book may appear expensive to some, at €350, but why should authors slave endlessly to produce a tome for practitioners and others without some prospect of reward? High Court work represents a significant part of the remuneration of many lawyers.

Dr Delany and Mr McGrath have produced an invaluable constructive work on the intricacies of civil procedure in the superior courts of Ireland. The book is admirably thorough, eminently readable and the gifts of intelligence and scholarship of the authors enhance our own understanding of the seminal importance of procedural law in our superior courts. **G**

Dr Eamonn G Hall is the chief solicitor of Eircom Ltd.

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Older People in Modern Ireland: Essays on Law and Policy

Eoin O'Dell (ed). First Law (2006), Merchant's Court, Merchant's Quay, Dublin 8. ISBN: 1-904480-32-2. Price: €145.

This book is essential reading for any practitioners who have elderly clients. The book grew out of two conferences. The first was organised by the Irish Women Lawyers' Association in January 2005. The second was organised by the Trinity Law School in April 2005. Papers from both of these conferences and from other contributors are included in this excellent publication.

In all, there are 22 papers relating to older persons written by well-known specialists and lawyers, involving legal and medical problems, elder abuse, age discrimination, nursing-home care, social policy, recent Law Reform Commission proposals, the Constitution and health-care costs, and many

other relevant topics.

Some of the papers give very good practical guidance on issues such as wards of court, powers of attorney and other issues relating to incapacity.

However, I would like to highlight a number of the papers. Law Reform Commissioner Patricia Rickard Clarke has an excellent paper, written in her usual erudite fashion, on elder abuse and the greater legal protection required to prevent physical, sexual, psychological and financial abuse and general neglect of the elderly.

There is also an excellent paper by Jane Liddy on how the *European Convention on Human Rights* can be used to help enforce the rights of the elderly to obtain appropriate nursing care.

Ita Mangan, barrister, is extremely critical of the fact that it is difficult for older people to vindicate whatever rights they have against the health service without taking cumbersome, costly and time-consuming court action, and she rightly bemoans the absence of a statutory independent complaints and appeals machinery for the health service. Barrister Oran Doyle and Prof Gerry Whyte give an excellent analysis of the reasoning of the Supreme Court in the striking down of the *Health (Amendment) (No 2) Bill 2004*, where it was held that the attempt by the state to retain unlawfully exacted charges for health care was an invasion of vested property rights.

Colm O'Conneide discusses age discrimination and Irish

equality law in the context of EU law and discusses the Equality Authority report *Implementing Equality for Older People*.

Consultant geriatrician Desmond O'Neill and Dr Marianne Falconer discuss the complex care needs of older people in nursing homes, and Estelle Feldman looks at the role of the ombudsman in enforcing the rights of the elderly.

This book is not just compulsory reading for solicitors, but also for any professional person involved in the elderly. Eoin O'Dell is to be congratulated for this publication. **G**

John Costello is head of the private client department at Dublin law firm Eugene F Collins.



The Law Reform Commission
AN COIMISIÚN UM AITHCHOIRIÚ AN DLI



DEPARTMENT OF JUSTICE, EQUALITY AND LAW REFORM
AN ROINN DE LAIGHE, CÉITÉ, COMHIONANNÁIN AGUS AITHCHOIRIÚ DE LAIGHE

Law Reform Commission and the Department of Justice, Equality and Law Reform

CONFERENCE ON LAW REFORM OPTIONS FOR MULTI-UNIT DEVELOPMENTS

WHEN: Thursday 25 January 2007 9:00am – 1:00pm
WHERE: The Law Society, Blackhall Place, Dublin 7

In December 2006, the Law Reform Commission published a Consultation Paper on Multi-Unit Developments. The Consultation Paper contains the Commission's provisional recommendations for reform in this area, including issues such as regulatory oversight at national level, the role and function of residential management companies, consumer protection and land law issues.

This Conference - organised jointly by the Commission and the Department of Justice, Equality and Law Reform - forms part of the Commission's consultation process as it prepares its final Report and recommendations. The Conference will allow stakeholders, practitioners and the public to explore all the issues discussed in the Consultation Paper. Several experts in the area will lead a discussion which will be followed by an open forum to ascertain views on the Commission's provisional recommendations.

The Tánaiste and Minister for Justice, Equality and Law Reform will formally open the Conference.

THERE IS NO CONFERENCE FEE

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Dublin solicitor is IRFU president

Dublin solicitor Peter Boyle has taken office as president of the Irish Rugby Football Union for the 2006/07 season. As always when a solicitor takes the helm, unprecedented success follows. Victory at Lansdowne Road over southern hemisphere giants South Africa and Australia has lifted the Irish international rugby team to the heady heights of third-best in the world rugby rankings. Could this be the year for the elusive 'Grand Slam'? What about the World Cup?

A third-generation solicitor and principal of Charles BW Boyle and Son, Dublin, the president played his rugby as a centre/wing/full back for Dublin University and Wanderers FC, and also had spells with Milwaukee RFC and Sydney University. He is a past pupil of the High School in Dublin. Peter was a member of the last Trinity College team to win the Leinster Senior Cup, in 1976, and is the club's first delegate to become president of the IRFU since HM Read in 1955-56.

Steeped in a rich rugby tradition, the IRFU president, who is married to Joan and has three children, Melanie, Jeremy and Christine, is a son of the



late Cyril Boyle – a travelling reserve for Ireland in the mid 1930s. Cyril was also an Irish team and Lions selector in 1959. Peter is a nephew of ex-Irish international wing, Vesey Boyle, who was capped nine times between 1936 and 1939 and is the last surviving member of the 1938 Lions team.

Injury cut short Peter's playing career and led to early administrative involvement with the Leinster Branch. There, he followed in the footsteps of his father (1955-56) by being enrolled as president in 1983-84. He was also honorary treasurer of the Leinster Branch for 14 seasons.

He is currently one of the IRFU's delegates on the International Rugby Board, European Rugby Cup and Six Nations Committees.



Last Word on the Calcutta Run!

Ireland rugby star Gordon D'Arcy and Today FM's *The Last Word* presenter Matt Cooper presented a cheque for €230,000 to GOAL and the Peter McVerry Trust in the offices of A&L Goodbody in Dublin on 23 November. Both charities will receive €115,000 each. The cheque represents the proceeds from the 2006 Calcutta Run, which has raised a grand total of €1.53 million for the two charities over the past eight years. Thanks to all Law Society staff who took part or helped with the 10km run in May



STEP it up

Trust and estate planning lecturers pictured with members of the diploma team, Stuart Gilhooly, chairman of the Education Committee, and Paraic Madigan, chairman of the Society of Trust and Estate Practitioners, Ireland



Stress busters

At the recent seminar on liability for occupational stress were (l to r): Barbara Joyce (Law Society), Patrick Groarke (Groarke and Partners, Solicitors, Longford), Dr Abbie Lane (consultant psychiatrist at Dublin County Stress Clinic), Miss Justice Mary Laffoy (who chaired the seminar), Michael Kennedy (BCM Hanby Wallace) and Ian Moore (A&L Goodbody)



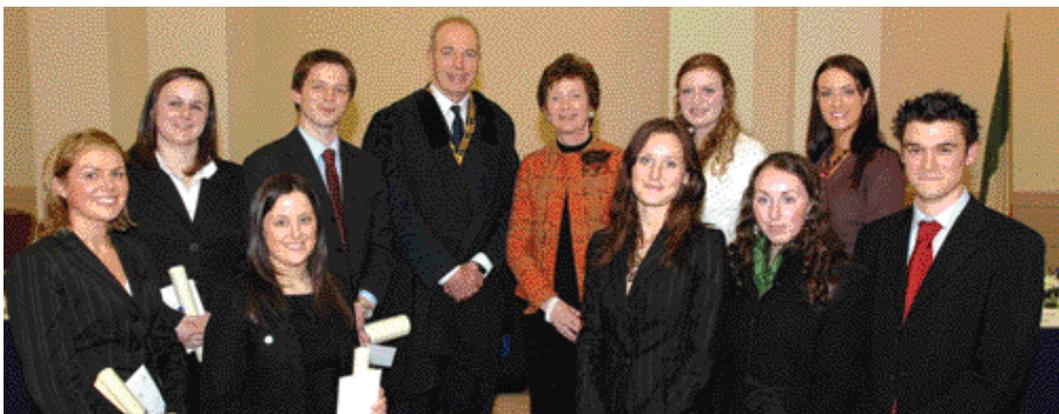
Looking east

At the Law Society/International Bridges to Justice (IBJ) 'Communities of Conscience' meeting, in Dublin on 24 October, were: (back, l to r): Philip McNamara (Inspire Nation, sponsor), Barry Donoghue (deputy DPP), Jennifer Smith (IBJ), Ken Murphy (director general of the Law Society), Yang Jie (IBJ), Colette Carey (Law Society Criminal Law Committee) and Lin Zhu and Yuxin Wang (interpreters). (Front, l to r): Zhang Xuemei (IBJ), Li Baoyue (IBJ), Michael Irvine (then president of the Law Society), Wu Ge (IBJ) and Mr Justice Dermot Kinlen



Commercial conferees

Conferees of the Diploma and Certificate in Commercial Law, pictured with Judge Peter Kelly, Michael Irvine (immediate past-president of the Law Society) and Stuart Gilhooly (chairman, Education Committee) on 1 November 2006



Prize-winners' podium

FE1 prize-winners received their awards from the then President of the Law Society, Michael G Irvine, in the presence of guest speaker Mary Robinson. The Overend Scholarship – Jennifer O'Sullivan; Constitutional Law – Marianne Bogue and Nicola Heskin. Criminal Law – Jennifer O'Sullivan; Contract Law – Iseult Ní Ghallchoir; Law Of Equity (Patrick O'Connor Memorial Prize) – Brendan Murphy, presented by John O'Connor. EU Law – Gina Conheady; Law of Tort – Mary Townsend; Law Of Property – Gina Conheady and John Aherne; and the King's Hospital Prize – Joanne Neary



Cream of the crop

Arthur Cox have been awarded Irish Law Firm of the Year for the second year running at the annual Chambers' Global Awards ceremony in London (l to r): Francis Neate (president of the International Bar Association) with Padraig O'Riordain (managing partner of Arthur Cox)



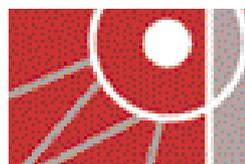
Law Reform Essay Prizewinners

Attending the Law Reform Essay Prize-giving ceremony were (l to r): Director General of the Law Society Ken Murphy, Maebh Harding (joint 1st place), Liz Campbell (joint 2nd place), President of the High Court Mr Justice Joseph Finnegan, the then President of the Law Society Michael G Irvine and Yvonne Marie Daly (joint 2nd place)



Award for excellence

Alma Sheehan receives the Award for Excellence (Junior Category) from Kevin O'Higgins at the AGM of the Dublin Solicitors' Bar Association



netWork risk health & safety ltd.

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E-mail- Paul: pdjackson@nrhs.ie Louise: lhughes@nrhs.ie

NON-BINDING QUOTE SHEET

PARTNER TO CONTACT:

Mobile Tel: 08

NAME OF PRACTICE:

Renewal date 1/11/2006 OR 1/11/2007
OR other renewal date: _____

ADDRESS:

TEL:

FAX:

E-MAIL:

LAW SOCIETY MEMBERSHIP NO: _____

HOW LONG IN BUSINESS: _____ years.

NUMBER OF PARTNERS: _____

NUMBER OF ADDITIONAL SOLICITORS: _____

YOUR FEES FOR:	Last Year	Previous Year	Est. For coming Year
IRELAND & UK:	€	€	€
NORTH AMERICA:	€	€	€
OTHER:	€	€	€
FEES GRAND TOTAL:	€	€	€

ACTIVITIES AS A PERCENTAGE OF TOTAL FEES

ACTIVITY	%	ACTIVITY	%
Personal Injury Litigation:		Personal Injury Defense:	
Residential Conveyancing:		Trust & Probate:	
Commercial Conveyancing:		Commercial non-securities related:	
Commercial – securities related:		Landlord & Tenant:	
Financial Advice & Services:		Employment Work (non-litigious):	
Litigation other:		Non-Litigation other:	
Matrimonial:		Arbitration, Adjudication, Mediation:	
Criminal Law:		Welfare & Immigration:	
Debt Collection:		Administering Oaths:	
Minors:		Internet based online services:	

Other activities- describe:

NOTES ON ACTIVITIES:

COVERAGE YOU REQUIRE:	PRIMARY POLICY:	TOP-UP POLICY:
LIMIT OF INDEMNITY:	€	€
CLAIMS EXCESS: (per claim)	€	€

CLAIMS &/or CLAIMS CIRCUMSTANCES - 5 YEARS HISTORY: Have any claims been made or previously settled or are you aware of any circumstances, after enquiry of all partners, consultants, locums, employees and predecessors in business, which may give rise to a claim against your firm/Practice or against any partner, consultant, locum, employee or any predecessors in business, for any civil liability to the extent that it arises from Practice as a Solicitor? (If so, you should ensure that you have notified the Solicitors' Mutual Defence Fund Ltd or your existing insurers – as applicable) **PLEASE STATE "YES", "NO" or "NONE", HERE**

_____ If Yes, please provide details and if necessary use a separate signed and dated page – on your own letterhead.

N.B.: Please tick this box: If an additional signed & dated 5 yr claims history page is attached (don't forget to sign and date this sheet).

SIGNED: _____
FOR AND ON BEHALF OF THE PRACTICE

DATED: _____ 2006.

COMPLETE FULLY FOR QUOTE INDICATION - INSURERS WILL REQUIRE FURTHER DETAIL TO FINALISE MATTERS.
netWork risk health & safety ltd is regulated by the Financial Regulator as an Authorised Advisor.

N.B. We are authorised to deal with Northern Irish clients.

student spotlight



World triathlon glory for MOPs trio

It might have been Cancun in the sun, but for one member of the Matheson Ormsby Prentice triathlon team taking part in the Corporate Team World Championships in Mexico, what started out as a swim in the sun ended as a cycle and running puddlefest. Paul Gillick's efforts paid off, however, when he and his teammates, Keira-Eva Mooney and Aidan Kelly, took gold in the inaugural International Triathlon Union Corporate Team World Championships.

The trio, representing Matheson Ormsby Prentice and Belpark Triathlon Club in Dublin, travelled to Mexico to take part in the event on 5 November. Each member of the team had to complete a triathlon comprising a 500-metre swim, 13-kilometre cycle and a 3.3-kilometre run, handing off to the next teammate in the relay event.

Hot competition

A total of 18 corporate teams from 11 countries took part, featuring some of the world's top athletes. Keira-Eva found herself lining up against the world's most decorated Olympic swimmer, Jenny Thompson, who boasts 12 Olympic medals – eight of them gold!

Weather conditions at the Mexican event ranged from sunny to stormy. Paul, the anchor man, had just completed his swim in fine weather but had to complete his cycle and run in Monsoon-like conditions. The training and hard work paid off,



A trio of loveable MOP-tops

however, with the trio taking the laurels in the 'Mixed Category' at the end of the

event. All three were presented with gold medals and enjoyed a few days of well-earned

recuperation on Cancun's stunning beaches afterwards.

"We took part in a number of triathlons during the summer, putting in some pretty good performances, so we thought we had a pretty good chance," Keira-Eva told the *Gazette*. She came 62nd in the World Agegroup Triathlon Championships in Lausanne in Switzerland last September. "I probably put in one of my best performances there," she said.

"We're really over the moon about our win in Cancun and are very proud to have done our firm proud," said Keira-Eva. "We look forward to defending our title next year."

Blackhall men on a winning streak

The Blackhall men's gaelic team got their season off to a strong start in early October with victory over Cóláiste na hÍde, Finglas. Understandably, it took a while for the team to gel in what was the first match of the year. However, a strong work ethic from all players ensured that Blackhall won on a scoreline of 1-12 to 1-7.

Blackhall's opponents in the second round were Trinity College. A blistering first-half performance saw the team lead 4-06 to 0-03 at half-time. With victory assured, complacency set in and a shell-shocked Trinity fought back admirably to salvage some pride. Final score: 4-07 to 0-08.

Seeking to secure a hat-trick of victories, a committed effort

from the Blackhall boys was required to overcome the dogged challenge of Froebel Teaching College. The combined elements of freezing cold, driving rain and a gale-force wind led to a low-scoring scrappy affair, with the sides level at half time 0-04 to 1-01. However, Blackhall's determination and will to win fashioned a hard-fought, but well-deserved, five-point win: 1-08 to 1-03.

Round four of the league brought Blackhall up against the Royal College of Surgeons and, with the chance of becoming the first-ever Blackhall men's gaelic team to qualify for the knock-out stages, the match took on added significance. At the end of a

tense first half, Blackhall led by 1-05 to 1-03. The game was ultimately decided by a goal five minutes from time, with Blackhall winning by six points: 2-09 to 1-06, thereby clinching qualification for the quarter-finals.

The Dun Laoghaire Institute of Art, Design and Technology provided the opposition in the final round of the group stages. In what can only be described as Blackhall's most complete team performance to date, we ran out comprehensive winners on a scoreline of 4-19 to 1-00.

It is hoped that the Blackhall men's gaelic team continues its winning streak and that it qualifies for the league final in December.

Colm Mullen

Newly-qualified solicitors at the presentation of their parchments on 10 February 2006



Former President of Ireland, Mary Robinson, then President of the Law Society Michael G Irvine, and Director General of the Law Society Ken Murphy were guests of honour at the 10 February Parchment Ceremony for newly-qualified solicitors: Susan Appelbe, Catherine Bourke, Seamus Bowe, Roisin Burke, Conor Carrigan, Colin Clarke, Aislinn Coll, Colette Culleton, Emma Cummins, Tomas Day, Yvonne Donlon, Pádraig Gleeson, Sarah Halpin, Carol Jermyn, Justin Lennon, Deborah Leonard, Jennifer Magee, Joseph Maguire, Peter Malone, Aoife McCann, Pádraig McDermott, Helen McGrath, Ian McKenna, James McMahon, Dermot Morahan, Caroline Murphy, Sorcha Ní Chuinneagáin, Maebh Ní Mhaoleoin, Suzanne O'Keefe, Gillian O'Mahony, Dermot O'Reilly, Eibhlínn O'Sullivan, Pauline O'Toole, Linda Ramsbottom, Orla Reilly, Rosemary Scallan, Paula Scollan, Marie-Clare Scullion, Brendan Sharkey, Lucinda Shaw, Lynda Smyth, Verona Smyth, Niamh Tuite and Clare Vance

Newly-qualified solicitors at the presentation of their parchments on 7 April 2006



President of the High Court Mr Justice Joseph Finnegan, then President of the Law Society Michael G Irvine, and Director General of the Law Society Ken Murphy were guests of honour at the 7 April Parchment Ceremony for newly-qualified solicitors: Ellis Anglim, Michelle Beirne, John Bourke, Jennifer Burke, Orlaith Byrne, Glenda Carry, Jean Connors, Ian Crotty, Fiona Cullivan, Kate Cunningham, Joyce Cunningham, James Downing, Philip Egan, Sari Eyres, Caroline Fanning, Lorraine Farrell, Niamh Farrelly, Eileen Fingleton, Finuala Finn, Sarah Galligan, Sharon Gardner, Donal Gavin, Maeve Geoghegan, Claire Gilligan, Angela Glynn, Margueritte Glynn, Muriel Hannon, Ciara Hassett, Patrick Healy, Sharon Keely, Kathleen Kelly, Conor Linehan, Niall Mac Giollaibhui, Susan Grimes, Sonya Henaghan, William Henry, Deirdre Malone, Ciara McDonnell, Gregory McLucas, Siun McMahon, Michael Moran, Freda Murphy, Sinead Murphy, Jean Murray, Clare Naughton, Gareth Noble, Kathryn O'Driscoll, Conway O'Hara, John O'Neill, Heather Robinson, Ann Shiels, Simon Shire, Catherine Tarrant, David Walsh and Paul White

Newly-qualified solicitors at the presentation of their parchments on 9 June 2006



Ms Justice Mary Finlay Geoghegan, then President of the Law Society Michael G Irvine, and Director General of the Law Society Ken Murphy were guests of honour at the 9 June Parchment Ceremony for newly-qualified solicitors: Alvaro Blasco, Eric Boland, Robert Burke, Sarah Cassidy, Patricia Crosbie, Barry Denham, Maureen Dooley, Fiona Downes, Gavin Driscoll, Lorna Duffy, Barbara Eivers, Aisling Fair, Helen Ferguson, Peter Finan, Finian Finn, Thea Fisher, Shiona Fitzgibbon, Gemma Forde, Louise Gallagher, Niamh Garvey, Therese Gunning, Timothy Hennessy, Aoife Henry, Tracy Horan, Susan Hudson, Katherine Keane, Donal Keating, Laura Keating, Florence Lavelle, Cian McGrath, Ailbhe Levingstone, Aoife McDonagh, Cian McGrath, Paraic McKeogh, Declan Moloney, Ruairi Mulrean, Piarais Neary, Jonathan O'Brien, Miriam O'Connor, Brid O'Dwyer, Naomi O'Higgins, Ruth O'Neil, Lisa O'Reilly, Brian Ormond, Mäeve Roche, Thomas Simmons, Triona Sugrue, Karen Sutton, Stephen Swabey, Olivia Thompson, Mark Tierney, Deirdre Ward, Deborah Weekes and Elizabeth Upton

Newly-qualified solicitors at the presentation of their parchments on 7 July 2006



Mr Justice John L Murray, Chief Justice, then President of the Law Society Michael G Irvine, Rory Brady SC, Attorney General, and Director General of the Law Society Ken Murphy, were guests of honour at the 7 July Parchment Ceremony for newly-qualified solicitors: Liesl Assa, Siuna Bartels, Darragh Blake, Peter Boyle, Denise Buckley, Sorchu Burke, Caoimhe Clarkin, Emma Coffey, Michael Cooney, Mark Dillon, Yvonne Donaghey, Paul Donnelly, Fiona Doyle Margaret Fahy, Alex Fegan, Adrian Flynn, Philip Flynn, Brendan Frawley, Andrew Freeman, Dolores Gacquin, Sean Gethin, June Glynn, Joyce Good, Donogh Hardiman, Elaine Healy, Michelle Henry, Helena Hickey, Gillian Higgenbotham, Emma Holden, Nina Marie Hourigan, Patrick Hume, Alina Jokinen, Alan Keating, Mairin Kelleher, Joanne Kenny, Siobhan Laighleis, Michael Leonard, Patricia Lulling, Gemma McMullin, Sorchu Monaghan, Anna Moran, Emma Murphy, David Nevin, Suzanne O'Hare, Robert O'Keefe, Catherine O'Meara, Fiona O'Neill, Peter O'Neill, Laura Pelly, Emily Ryan, Eima Shanahan, Conor Stafford, Richard Stapleton, Sharon Van Sinderen, Sinead Swan, Paul Waldron, Dáirine Walsh and Hilda Wrixon

Newly-qualified solicitors at the presentation of their parchments on 1 September 2006



Ms Justice Mary Finlay Geoghegan, then President of the Law Society Michael G Irvine, and Director General of the Law Society Ken Murphy were guests of honour at the 1 September Parchment Ceremony for newly-qualified solicitors: Scott Barry, Jeanne Boyle, Stephen Brennan, Anne Marie Byrne, Tara Ann Byrne, Hilary Callanan, Aislinn Campion, Cormac Carty, Nessa Cox, Irene Daly, Maureen Daly, Ruairi Dennison, Julia Emikh, Cian Farrell, Emeria Flood, Hazel Flynn, Grainne Ghent, Emily Gleeson, Noirin Grace, Catherine Hayden, Sinead Hayes, Karl Hutchinson, Emma Jean Hinchy, Louise Kelly, Lisa Killeen, Cathal Lavelle, Audrey Leahy, Eoin Madden, Maura Madden, Neil Maguire, Caitriona McCarthy, Jennifer McCarthy, Mary Rose McNally, Clare Morrissey, Sarah Morrissey, Dearbhail Mulhern, Kate Murphy, Blathin O'Brien, Lara Maria O'Brien, Daithi O'Donnabhain, Eanna O'Malley, John O'Regan, Ruth O'Regan, Sandra O'Reilly, Aileen O'Riordan, Yvonne Quinn, Brian Shortt, Michael Smyth, Nicola Sweeney, Madeleine Thornton, Oliver Tighe, Andrew Traynor and Jennifer Tuite

Newly-qualified solicitors at the presentation of their parchments on 6 October 2006



President of the High Court Mr Justice Joseph Finnegan, then President of the Law Society Michael G Irvine, and Director General of the Law Society Ken Murphy were guests of honour at the 6 October Parchment Ceremony for newly-qualified solicitors: Jon Bayle, Niamh Baxter, Eamonn Burke, Elizabeth Cox, Nicola Curry, Katherine Cussen, Patrick Daly, Melanie Dodds, Shane Donnelly, Sinead Dunne, Sandra Egan, Lynne English, Denise Fanning, Brian Foley, John Fuller, Nessa Gardiner, Caroline Garland, Karen Grenham, Darina Hannan, Enda Hurley, Barbara Jordan, Sinead Keavey, Caroline Lynch, Nicola Lynch, Tomas Lynch, Gerard Mooney, Ruth Nic Aoidh, Gillian O'Connell, Mary Lucy O'Connell, Carmel O'Donnell, Ciara O'Gorman, Ruth O'Malley, Noeleen Ruddy, Anita Sothorn, Donal Twomey and Joanna Walsh

Newly-qualified solicitors at the presentation of their parchments on 26 October 2006



Mr Justice Michael Peart, then President of the Law Society Michael G Irvine and Director General of the Law Society Ken Murphy were guests of honour at the 26 October Parchment Ceremony for newly-qualified solicitors: Eleanor Bannon, Emily Comber, Patrick Connor, Jayne Deasy, Laura Dunne, Sinead Durcan, Sheana Farrell, Jessica Fergus, Iain Ferguson, Elayne Fitzmaurice, David Gaffney, Jeffrey Greene, Paul Kerrigan, Peter Lavery, Cormac MacDiarmada, Brian Maher, David McCarroll, Elizabeth McSharry, Caroline Moore, Michael Moroney, Laura Mulrooney, Justin Murphy, Ronan Murphy, Aine Ni Fhlatharta, Brendan O'Brien, Donogh O'Donovan, Emmet O'Grady, Neil O'Keefe, Alma O'Sullivan, Timothy Quinn, Dawn Reilly, James Reilly, Maeve Roche, Derek Stenson, Oisín Suttle, Emma Walsh and Christopher Wheeler



Law Society of Ireland

Annual Conference 2007
April 11-15 • Cannes



Solicitors' Mutual Defence

Message from the president



Dear Colleague,

This year the Annual Conference of the Law Society will be held in Cannes from 11 to 15 April 2007.

I am sure I do not need to tell you what a stunning location it is. The Conference Committee have spared no effort in putting together an interesting and varied programme. The area has some fantastic amenities and we have been assured of fine weather!

We are very grateful to our sponsors, Bank of Ireland, Jardine Lloyd Thompson Ireland Ltd, Benson & Associates and the Solicitors' Mutual Defence Fund for their continued and very generous support of our conference.

I am very gratified that so many of you have made advance bookings and I invite those of you that have not yet booked to now do so. I hope that you will find it to be a really enjoyable event and I look forward to meeting you there.

Philip M Joyce
President



Law Society of Ireland

Option 1 • Charter package

The cost includes return flights, taxes, transfers, four nights bed and breakfast at the spectacular Hotel Martinez, welcome reception, conference seminar and gala banquet.

Full delegate *? 1,350
Accompanying person ? 1,250

Surcharges could apply in respect of changes in air fares or increases in insurance premiums or VAT/tax rates in respect of the hotel.

Charter flights :

11 April 2007 departure from Dublin – morning flight – times tbc.
15 April 2007 departure from Nice – afternoon flight – times tbc.
(Exact times will be detailed in your booking confirmation.
The charter flight will be allocated strictly in order of bookings received.)

Connecting flights:

Delegates are asked to make their own arrangements for connecting flights.

Single room supplement: ?100 per night.

* Includes ?100 registration fee



Option 2 • Package less flights

To facilitate delegates from outside Dublin, we are offering a package without flight option so that delegates can book their own flights from local airports. Flights will be the responsibility of the individual to arrange. Please check with local airlines for information. Aer Lingus operate direct flights from Cork to Nice (at time of going to print).

Full delegate *? 990
Accompanying person ? 890

The cost includes taxes, four nights bed and breakfast at the Hotel Martinez, welcome reception, conference seminar and gala banquet. Surcharges could apply in respect of changes or increases in insurance premiums or VAT/tax rates in respect of the hotel. This price does not include airport transfers, flights and may incur hotel surcharges.

Single room supplement: ?100 per night.

* Includes ?100 registration fee



Online booking available at www.lawsociety.ie

Registration fee

Payable by delegates only and not accompanying persons: ?100

Accommodation

All delegates will be accommodated at the Hotel Martinez, which is conveniently located on Le Croisette in Cannes, enjoying wonderful views. This year we are offering guaranteed sea-view rooms upon payment of a supplement (limited availability – see booking form for details).



Social programme

The conference will open on **Wednesday** evening with a welcome reception for all participants at the Hotel Martinez.

On **Thursday**, there will be an optional full-day tour of Nice, Villa Ephrussy de Rothschild and Eze village. Delegates can experience a short sightseeing walking tour of Nice, where you can take in many city attractions such as the Promenades des Anglais, the harbour and also the Vieux-Nice, the most picturesque area of the city.

The tour continues to the magnificent Villa Ephrussy de Rothschild and Gardens. This is one of the finest listed buildings on the French Riviera, an area known locally as the Cape of Millionaires. Constructed between 1905 and 1912, the Villa is home to an extraordinary collection of art. A stroll through the stunning gardens overlooking the Mediterranean Sea is highly recommended. Lunch will be provided. From here, delegates will be taken to Grasse to visit the Fragonard Perfume factory. Known as the world's perfume capital in 1926, you can complete your tour by purchasing perfume, soaps and cosmetics as a souvenir of your day.

Friday's optional tour is a half-day wine tasting at Château de Bellet. The castle is a splendid example of Niçoise architecture and the Bellet vineyard, located within the city's boundaries, produces some of Provence's best vintage wines. The tour starts with a visit of the vineyard and culminates with wine tasting in the castle accompanied with typical local bread – a treat for all budding wine connoisseurs!

Friday evening will include a drinks reception and gala dinner at Hotel Martinez.

On **Saturday**, there will be a half-day tour of Maeght Foundation and St Paul de Vence. The Maeght Foundation houses an impressive collection of modern art works. Sculptures and mosaics by famous artists Miro, Giacometti, Chagall and Braque can be seen in the beautiful gardens. The tour continues to the magical hill-top village of St Paul de Vence, where delegates can discover the narrow paved streets, chapels and the ancient buildings of this famous Provence village.

Programme

WEDNESDAY, 11 APRIL 2006

Morning	Assemble for departure at Dublin Airport (charter package).
Afternoon	Arrival at Nice Airport. Transfer to hotel for check-in.
Evening	Welcome reception for all participants. Venue: Hotel Martinez Cannes.

THURSDAY, 12 APRIL 2006

Morning and afternoon	Optional tour: full-day Nice, Villa Ephrussy De Rothschild and Eze Village.
Evening	At leisure.

FRIDAY, 13 APRIL 2006

Morning	Conference business session. Venue: Hotel Martinez Cannes.
Afternoon	Optional tour: half-day wine tasting at Chateau de Bellet.
Evening	Drinks reception and gala dinner. Venue: Hotel Martinez Cannes (Dress: smart informal).

SATURDAY, 14 APRIL 2006

Morning and afternoon	Optional tour: half-day tour of Maeght Foundation and St Paul de Vence
Evening	At leisure.

SUNDAY, 15 APRIL 2006

Afternoon	Departure.
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Booking arrangements

The closing date for receipt of bookings is 20 February 2007. Please complete the reservation form and return with payment. Any remaining monies will be collected in advance of the conference. It is the responsibility of the delegate to submit all required passport information.

Contact details

If you would like any further information, please contact: Niamh McCrystal or Deborah Hayden (Ovation Group)
tel: 01 280 2641, email: lawsociety@ovation.ie



Online booking available at www.lawsociety.ie



Law Society of Ireland

Booking/cancellation terms and conditions

1. The Conference Secretariat must receive notification of all cancellations in writing (by email or fax) to Deborah Hayden/Niamh McCrystal, Ovation Group, 1 Clarinda Park North, Dun Laoghaire, Co. Dublin.
2. Cancellations received up to and including 31 December 2006 will be subject to a 10% cancellation fee.
3. Cancellations received from 1 January 2007 to 19 February 2007 will be subject to a 50% cancellation fee.
4. No refunds will be given after 20 February 2007.
5. Cancellation should be communicated in writing or by email. Transfer of registration fee to another delegate will be accepted. Please inform the Conference Secretariat of any changes as soon as possible.
6. No contract shall arise until full payment has been received and a Booking Form (which will be sent with written confirmation of acceptance of the reservation) has been signed and returned.
7. Travel agent reserves the right to allocate all bookings on flights. It is the responsibility of the delegate to submit correct passport details. Charges will apply for change of details.

The organisers reserve the right to alter any of the arrangements for this conference, including cancellation of the event should unforeseen circumstances require such action. The organisers accept no responsibility for resulting costs and inconvenience to delegates, who are advised to have their own travel insurance in place. The currency exchange rate to be applied in the case of payments and refunds will be based on the available exchange rate at the time of the transaction. Ovation Group is not responsible for any changes in exchange rates that may cause any differences or any other additional fees levied by your bank or card processor. By registering for the Law Society of Ireland Annual Conference, delegates give permission for their contact details to be used for official purposes and to be included in the list of participants.

council report



Report of Law Society Council meeting held on 6 October 2006

Implementation Group on Legal Costs

The Council approved a submission to the Miller Implementation Group on Legal Costs, in response to the group's request for comments on a model form bill of costs.

The Council noted that the model form bill of costs appeared to envisage a pure system of hourly-charging for solicitors' work. It was noted that this represented a departure from the Haran report. Consequently, the Society had highlighted the significant limitations of measuring costs by reference to recorded time and hourly charge-out rates. The submission suggested that, should any costing system be limited to hourly rates, it should provide for an uplift on such hourly charges to take into account factors other than time.

In relation to the proposed guidelines on legal costs, the

Society's submission urged the implementation group to recognise that such prescribed guidelines were not capable of implementation without contradicting the central recommendation of the Haran Group relevant to access to justice – namely that successful parties should not suffer a penalty in vindicating their rights and thus should be entitled to recover their costs reasonably incurred in the process.

ratemysolicitor.com

The president reported that the court case brought by a barrister against ratemysolicitor.com had been before the court on the previous day, as a consequence of which Mr Justice Hanna had made an order requiring the administrators of the website, Digiweb, to reveal the identities of those behind the site. The matter had been put back to the

following Thursday.

The director general said that the Law Society had been wholly supportive of the proceedings. The Council noted the contents of the transcript of his interview with Pat Kenny and his letter to *The Irish Times*, in which he had emphasised that no reasonable person should attach any credibility to the website.

Appointments to other bodies

The Council approved the appointment of Paul Keane as the Society's representative on the Published Accounts Awards Committee and the appointment of Patrick O'Connor and Andrew Cody to the Society of Actuaries Disciplinary Panel.

Active Citizenship

The Council discussed the Active Citizenship initiative that had been launched by An Taoiseach with a view to increas-

ing the involvement of all sectors of the community in community initiatives. It was noted that a legal profession sub-group had been established and three different work streams had been identified, comprising (a) a liability risk initiative, (b) a *pro bono* initiative, and (c) an individual participation initiative, with specific working groups focusing on each strand.

Tributes and thanks

The president paid tribute to Patrick O'Connor, past president, who was retiring from the Council after 28 years of service. He also paid tribute to Anne Colley, Orla Coyne, Sinead Behan and Jerome O'Sullivan, who were not seeking re-election to the Council. On behalf of the Council, he thanked each of them for their contribution to the work of the Council and its committees over many years.

Report of Law Society Council meeting held on 3 November 2006

New Council members

The Council welcomed its new Council members, Maura Derivan, Barry McCarthy and Patrick Mullins, together with Patrick Dorgan, who had been re-elected after a break from the Council, and wished them well for their term of office.

Taking of office of president and vice-presidents

The outgoing president, Michael Irvine, thanked the Council members, the director general and the staff of the society for their support during his term of office, a year that he had found to be very rich in collegiality, both professionally and personally. He wished the incoming president, Philip

Joyce, every success in the coming year. Mr Joyce was then formally appointed as president of the society. He said that he was honoured to be the fifth president of the Society from Tipperary and to be in such esteemed company as Lawrence J Ryan, John Carrigan, Senator John Nash and Don Binchy. He paid tribute to the hard work and commitment of Michael Irvine during his year of office. He also acknowledged the support and encouragement of his wife, Anne, and children, Colin, Janet and Heather.

The senior vice-president, James MacGuill, and the junior vice-president, John Costello, then took office and indicated

their support for the Council and the president for the coming year.

Approval of motion passed at AGM

The Council approved the motion passed at the AGM on the previous evening, as follows: "That having regard to the renewed interest of more and more people in the Irish language, the Law Society should:

- 1) Provide its members with annual education courses to enable them to achieve competency in legal Irish;
- 2) Request the government, through its departments and agencies, to provide through the medium of Irish all legal services – to include the per-

sonnel and the documentation – for those clients of ours wishing to transact their business in that language."

Death threats against a solicitor

The director general briefed the Council in relation to correspondence and discussions with the Garda Commissioner, arising from death threats made against a solicitor. He reported to the Council on a meeting with the solicitor concerned and the security measures that had been put in place as a consequence of the threats. The Council expressed their revulsion at the threat to life of the solicitor, arising from his fearless representation of his client.



committee report

CONVEYANCING

Liens under section 73 of Registration of Deeds And Title Act 2006, agenda item 56/06

The Conveyancing Committee would like to bring to the notice of the profession the fact that section 73 of the *Registration of Deeds and Title Act 2006* will come into operation on 1 January 2007. Thereafter, under section 73(3)(b), any person holding a lien on registered land or a registered charge through deposit or possession of land certificates or certificates of charge may apply to the new Property Registration Authority

for registration of the lien as a burden on the folio.

The Land Registry has indicated that, in assessing applications for registration of such liens as burdens, they will distinguish between situations where there is a lien over the property and situations where there is merely a lien over the title deeds. It has been indicated that, for example, where an equitable deposit of title deeds was completed by a client with a bank or other lending institution as security for a loan, the Land Registry will accept that this creates a lien over the land. However, for example, a solicitor's common-law lien over a

client's title deeds in respect of unpaid fees will be treated by the Land Registry as merely a lien over the documents themselves (for example, the land certificate) and not as a lien on the property. It has been indicated that it is the intention of the Land Registry that the latter type of lien would not be capable of being registered under section 73 of the *Registration of Deeds and Title Act 2006*.

Under section 73 of the above act, the land certificate or certificate of charge will cease to have any legal status or effect after three years from 1 January

2007 and the property can be dealt with without the need to produce such certificates to the Land Registry.

Practitioners should therefore note that, in respect of any cases where they are holding liens over land certificates or certificates of charge for unpaid fees, they should now consider identifying such liens with a view to having a legal charge executed by the client, thus creating a legal charge capable of registration to replace the lien. In the alternative, solicitors may wish to identify such liens with a view to taking alternative steps to secure any sums due. **G**

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PRACTISING CERTIFICATES 2007: NOTICE TO ALL PRACTISING SOLICITORS

It is misconduct and a criminal offence for a solicitor (other than a solicitor in the full-time service of the state) to practise without a practising certificate. Any solicitor found to be practising without a practising certificate is liable to be referred to the Solicitors Disciplinary Tribunal.

When you must apply

A practising certificate must be applied for on or before 1 February in each year in order to be dated 1 January of that year and thereby operate as a qualification to practise from the commencement of the year. It is a legal requirement for a practising solicitor to deliver or cause to be delivered to the Registrar of Solicitors at the Society's premises at Blackhall Place, Dublin 7, on or before 1 February 2007, an application in the prescribed form, duly completed and signed by the applicant solicitor personally. The onus is on each solicitor to ensure that his or her application form is delivered by Thursday 1 February 2007, with the appropriate fee.

Section D of the application form

Each year, a considerable number of application forms are returned to solicitors who omit to complete section D, which relates to investment business services or investment advice. It is necessary for either part I or part II of this section to be completed in order for the Society to process your application.

What happens if you apply late

Any applications for practising certificates that are received after 1 February 2007 will result in the practising certificates being dated the date of actual receipt by the Registrar of Solicitors, rather than 1 January 2007. There is no legal power to allow any period of grace under any circumstances whatsoever.

Please note that, again during 2006, some solicitors went to the trouble and expense of making an application to the High Court for their practising certificate to be backdated to 1 January because their practising certificate application was received after 1 February.

The Regulation of Practice Committee is the committee of the Society that has responsibility for supervising compliance with practising certificate requirements. A special meeting of this committee will be held on 8 February 2007 to consider any late or unresolved applications for practising certificates. At this meeting, any practising solicitors who have not applied by then for a practising certificate will be considered for referral forthwith to the Solicitors Disciplinary Tribunal and will be informed that the Society reserves the right to take proceedings for an order under section 18 of the *Solicitors (Amendment) Act 2002* to prohibit them from practising illegally.

What you need to do about professional indemnity insurance

If confirmation of mandatory professional indemnity insurance cover is not received, the

Registrar of Solicitors is precluded by law from issuing a practising certificate. All solicitors who are required to have professional indemnity insurance cover are asked to ensure that either they or their insurer or broker furnishes the Society with confirmation of cover as soon as cover is renewed.

If mandatory professional indemnity insurance is not in place on 1 January 2007 and cover commences from a date after 1 January 2007, the practising certificate will issue with effect from the date of the commencement of cover. It is not possible in such circumstances, even by application to the High Court, to have a practising certificate made effective from 1 January.

Compliance partner

Section B, part I of the application form includes a requirement for partners to state the name of their firm's compliance partner. The *Solicitors' Accounts (Amendment) Regulations 2005* require a solicitor who is a partner in a solicitors' practice, on making application for a practising certificate, to furnish the name of the partner in the firm who has been nominated as the compliance partner.

If you are an employed solicitor

Solicitors who are employed should note that it is the statutory obligation of every solicitor who requires a practising certificate to ensure that he or she has a practising certificate

in force. Employed solicitors cannot absolve themselves from this responsibility by relying on their employers to procure their practising certificates. However, it is the Society's recommendation that all employers should pay for the practising certificate of solicitors employed by them.

Some of your details are already on the application form

The practising certificate application form will be issued with certain information relating to each solicitor's practice already completed.

What can you access on the website (www.lawsociety.ie)

The application form for a practising certificate will be available on the Society's website. You can print out a blank form or, alternatively, complete the form on-screen and print out the form for signing and returning to the Society. The form can be accessed in the members' area of the website using the solicitor's surname and reference number. Alternatively, you may request a form to be emailed to you by phoning the Society at 01 672 4800.

If you are ceasing practice

If you are intending to cease practice in the coming year, please notify the Society accordingly in writing on or before 1 February 2007.

John Elliot,
Registrar of Solicitors
and Director of Regulation

SINGLE FARM PAYMENT

Since *Tax Briefing* 61, the tax treatment of the single farm payment entitlements has been changed by the *Finance Act 2006*.

Section 12 (amending section 664 TCA 1997) increases the tax exemption for income for medium-term land leases and extends the relief to include income from the leasing of single farm payment entitlements together with land with effect from 1 January 2006. The limits are €15,000 where the qualifying lease or qualifying leases is or are for a definite period of seven years or more. In all other cases, the limit is €12,000.

Section 70 (amending sections 598 and 599 TCA 1997) allows retirement relief from CGT to apply in respect of single farm payment entitlements where they are disposed of at the same time and to the same person as land, to the extent that the land would support a claim to payment in respect of those single farm payment

entitlements.

Section 109 exempts consideration for single farm payment entitlements from stamp duty. If the total consideration comprises consideration for land as well as for the single farm payment entitlement, the consideration is to be apportioned as is just and reasonable.

Section 118 (amending section 89 CATCA 2003) extends the definition of 'agricultural property' for CAT purposes to include single farm payment entitlements.

Practitioners should also be careful of the VAT implications on transfers of single farm payment entitlements. It is anticipated, at this stage, that the lease of the single payment entitlement may be treated in the same manner as a lease of a milk quota. However, this is not certain, and practitioners must check for their relevant clients the proper treatment of such leases with the clients' inspector of taxes.

Conveyancing Committee

PREMIER GUARANTEE SCHEME – INSURANCE (FINAL) CERTIFICATE

A practitioner has brought to the attention of the committee that, on recently closing the purchase of a new dwelling registered with the Premier Guarantee scheme, the builder purported to close the sale of the property before the insurance certificate (formerly called the final certificate) under the Premier Guarantee scheme had been issued. An undertaking was offered by the builder to the effect that the final inspection would be carried out and that the final certificate would be issued in due course.

It is the view of the Conveyancing Committee that the above does not represent correct conveyancing practice. Under the rules of the Premier

Guarantee scheme, it is the case that the structural insurance protection under Premier Guarantee commences when the surveyor carries out a final inspection of the insured property and issues a certificate of approval to Premier Guarantee. The insurer then issues the insurance certificate to the developer, which is the evidence that the structural cover is in place. It is therefore recommended that solicitors should neither give nor accept undertakings for production of the insurance certificate under the Premier Guarantee scheme, as the issue of same is not within the control or procurement of either solicitor.

Conveyancing Committee

STAMP DUTY – FIRST-TIME BUYERS: REVENUE PRACTICE DIRECTIONS

Practitioners are reminded that all Revenue practice directions on stamp duty, including first-time buyers' relief, *Finance Act* certificates required in deeds, and so on, are readily available for inspection on Revenue's website, www.revenue.ie.

Conveyancing Committee

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LOAN CHEQUES

It has been brought to the attention of the Conveyancing Committee that certain lending institutions that may be subsidiary companies of companies based outside the jurisdiction are issuing loan cheques to borrowers drawn on their business accounts within the jurisdiction. Practitioners have inquired as to whether there is any agreement between such lending institutions and the Law Society that loan cheques may be issued by such lending institutions, rather than issuing a borrower's loan funds by means of a bank draft. The committee confirms that there are no agreements in place between the Law Society and any lending institution as to how loan funds are issued. Such matters are business matters for the

lending institutions concerned and the Law Society does not have any remit in specifying how lending institutions should issue loan funds.

Practitioners will be aware that, over several decades, it has become accepted conveyancing practice for a purchaser to furnish (as part of the balance monies due to complete) the loan cheque issued by the purchaser's lending institution, such loan cheque to be endorsed by the purchaser in favour of the vendor's solicitor. In some cases, the purchaser's loan cheque is lodged by the purchaser's own solicitor, who then draws a bank draft against the lodged funds when they have been cleared.

In the former case, a pur-

chaser's solicitor should ensure that any loan cheque to be tendered and/or endorsed by the purchaser at closing will be acceptable to the solicitor acting for the vendor.

A question may arise as to whether or not a vendor's solicitor's bank (or a purchaser's solicitor's bank, if the purchaser's loan cheque is lodged to the purchaser's solicitor's account prior to completion) will treat such a loan cheque as uncleared funds, and these are banking matters that the relevant solicitor should clarify with their own banks.

It is the view of the committee that it does not have any function in distinguishing between lending institutions that are based in the jurisdiction from lending institutions that are based outside the

jurisdiction or who have their parent company trading or based outside the jurisdiction.

Practitioners should bear in mind that, while some lending institutions may be 'prescribed credit institutions' for the purposes of the *Consumer Credit Act 1995*, this does not necessarily mean that such lending institutions are regulated by the Financial Regulator. Being a 'prescribed credit institution' may simply mean that the lending institution concerned is obliged to notify the Financial Regulator of certain matters, such as their customer charges, and that their credit agreements must comply with provisions laid out in the *Consumer Credit Act 1995* or other legislation.

Conveyancing Committee

TITLE CONTRACTED FOR NEW HOUSES

In recent months, the Conveyancing Committee has received an increasing number of queries from solicitors acting for purchasers who are being offered contracts for the sale of the sites, which are not based on the ideal situation where the builder is the owner of the land and in a position to execute an assurance of the sites to the purchasers of the houses. An example was:

Title furnished was a conveyance of unregistered land to AB, a third party. One special condition was: "The vendors warrant that they have sufficient interest under a licence and option agreement with AB to enter into this contract for sale. The purchaser shall accept same and not call for the vendor to be registered as owner of the site or for AB to join in this agreement. The purchaser shall not call for or be furnished with a copy of the licence and option agreement."

While these other arrange-

ments vary in detail, their basis is that the builder has an entitlement to call upon the landowner to execute an assurance of the site to the purchaser, as a nominee of the builder, at the builder's request. Difficulties may arise if the builder is seeking stage payments and the arrangement with the landowner only entitles the builder to call for an assurance of the sites when the houses have been completed. While the Law Society is totally opposed to stage payments and has lobbied for legislation to outlaw it, the practice still survives outside the Dublin area.

Historically, the landowner entered into licences with the builders, entitling them to go in on the owner's land and build houses. The builders entered into contracts with the purchasers to build houses on the land. When the houses were satisfactorily completed, the builders were entitled to call on

the owner to execute assurances of the land on which the houses had been built to the purchasers. In some of the cases that have been brought to the notice of the committee, the builder is declining to furnish any evidence of the arrangements that the builder has with the landowner. In the absence of such evidence, a requirement for stage payments places the purchaser's solicitor in considerable difficulties.

While the Conveyancing Committee is unhappy with some of these arrangements, it is satisfied that, in certain circumstances, they are just about acceptable. As long as deposits are of such a level that they are protected by the Homebond or Premier schemes, or are held by the builder's solicitors on trust or as stakeholder, and as long as purchaser's solicitors are entitled to obtain assurances of the site as soon as the first of any stage payments are made, then

the purchasers do have a minimum level of protection.

Members have expressed concern about their position in relation to the provision of undertakings and certificates of title to lending institutions. This should not present a difficulty as long as the purchaser's solicitor gets a transfer of the title on payment of the first stage payment, and the title is otherwise in order. A solicitor should not, of course, pay any stage payment without getting the transfer of title. Members are reminded of the need to ensure that any necessary floor area compliance certificates are available before accepting an assurance of the property.

As far as the closing of the transaction is concerned, as long as the purchaser's solicitor is presented with a valid assurance from the landowner, that will be sufficient to ground the solicitor's undertaking and certificate of title.

Conveyancing Committee



legislation update

18 October – 17 November 2006

Details of all bills, acts and statutory instruments since 1997 are on the library catalogue – www.lawsociety.ie (members' and students' area) – with updated information on the current stage a bill has reached and the commencement date(s) of each act.

ACTS PASSED

International Criminal Court Act 2006

Number: 30/2006

Contents note: Provides for the punishment by courts in the state and by courts-martial of ICC offences – genocide, crimes against humanity, war crimes and other offences within the jurisdiction of the International Criminal Court, which was established under the *Rome Statute of the International Criminal Court*, done at Rome, 17/7/1998; enables effect to be given to requests by that court for assistance in the investigation or prosecution of those offences, including requests to arrest and surrender persons, to freeze assets and to enforce any fines or forfeitures imposed by it; makes provision in relation to any sittings of the court that may be held in the state; and provides for related matters,

Date enacted: 31/10/2006

Commencement date: 31/10/2006

Sea Pollution (Miscellaneous Provisions) Act 2006

Number: 29/2006

Contents note: Gives effect to a number of instruments that were agreed at the International Maritime Organisation relating to the protection of the marine environment: (1) the *International Convention on Civil Liability for Bunker Oil Pollution*

Damage 2001 (*Bunkers Convention*); (2) *Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances 2000*; (3) the *International Convention on the Control of Harmful Anti-Fouling Systems 2001*; and (4) annex VI as added to the *International Convention on the Prevention of Pollution from Ships* (MARPOL) by the 1997 protocol to the convention. Also makes provision for matters relating to regulation (EC) 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters insofar as it relates to the *Bunkers Convention*. Amends the *Sea Pollution Acts 1991 to 1999*, amends the *Harbours Act 1996*, inserts a new section 28A, 'Power of Minister to make regulations to give effect to acts of the European Communities', in the *Sea Pollution Act 1991*, and provides for related matters.

Date enacted: 31/10/2006

Commencement date: Commencement order(s) to be made (per s1(2) of the act)

Circuit Court Rules (National Minimum Wage Act) 2006

Number: SI 531/2006

Contents note: Insert a new 'Rule 10 – National Minimum Wage Act 2000' in order 57 of the *Circuit Court Rules 2001* (SI 510/2001) to prescribe procedures for applications brought under the *National Minimum Wage Act 2000*.

Commencement date: 14/11/2006

Circuit Court Rules (Protection of Employees (Fixed-Term Work)) 2006

SELECTED STATUTORY INSTRUMENTS

Criminal Justice Act 2006 (Commencement) (No 2) Order 2006

Number: SI 529/2006

Contents note: Appoints 16/10/2006 as the commencement date for the following provisions of the act – all relating to amendments to the *Children Act 2001*: (a) sections 120, 121(a), 128, 129 and 130; (b) section 158 and schedule 4, insofar as they relate to the amendment of the provision of the *Children Act 2001* specified at reference number 5 of that schedule.

Criminal Justice (Illicit Traffic by Sea) Act 2003 (Commencement) Order 2006

Number: SI 539/2006

Contents note: Appoints 1/11/2006 as the commencement date for all sections of the act.

Finance Act 2006 (Commencement of Sections 93(1), 97(1)(b) and 99(1)(a)) Order 2006

Number: SI 549/2006

Work) 2006

Number: SI 532/2006

Contents note: Insert a new 'Rule 9 – Protection of Employees (Fixed-Term Work) Act 2003' in order 57 of the *Circuit Court Rules 2001* (SI 510/2001) to prescribe procedures for applications to the Circuit Court under section 16 of the *Protection of Employees (Fixed-Term Work) Act 2003* in relation to enforcement of determinations of the Labour Court.

Commencement date: 14/11/2006

Contents note: Appoints 1/11/2006 as the commencement date for the above sections, which amend the *Value Added Tax Act 1972*.

Finance Act 2006 (Commencement of Section 122(1)) Order 2006

Number: SI 520/2006

Contents note: Appoints 5/10/2006 as the commencement date for section 122(1) of the act (amendment of section 1003A, *Taxes Consolidation Act 1997*, in relation to payment of tax by means of donation of heritage property to an Irish heritage trust).

Mental Health Act 2001 (Approved Centres) Regulations 2006

Number: SI 551/2006

Contents note: Prescribe the minimum standards required in approved centres, that is, hospitals or other in-patient facilities for the care and treatment of persons suffering from mental illness or mental disorder that are registered with the Mental Health Commission, and the proper conduct of such centres. **Commencement date:** 1/11/2006

Mental Health Act 2001 (Authorised Officer) Regulations 2006

Number: SI 550/2006

Contents note: Prescribe the officers of the Health Service Executive who may apply to have a person (other than a child) involuntarily admitted for care and treatment in a psychiatric hospital or unit under section 9 of the *Mental Health Act 2001*.

Commencement date: 1/11/2006

**Planning and Development
(Strategic Infrastructure) Act
2006 (Commencement)****Order 2006**

Number: SI 525/2006

Contents note: Appoints 17/10/2006 as the commencement date for sections 1, 2, 6(a), 7 to 10 inclusive, 11, 13, 21, 24, 26, 28, 31, 43 to 46 inclusive, and 48 of the act. Apart from sections 1 and 2, these sections all amend the *Planning and Development Act 2000*.

**Planning and Development
(Strategic Infrastructure) Act
2006 (Commencement) (No
2) Order 2006**

Number: SI 553/2006

Contents note: Appoints 5/11/2006 as the commencement date for sections 14, 15 and 16 of the act. These sections relate to the appointment of the mem-

bers of An Bord Pleanála and amend sections 104, 106 and 108 of the *Planning and Development Act 2000*.

**Road Traffic (Licensing of
Drivers) Regulations 2006**

Number: SI 537/2006

**District Court (Probation of
Offenders) Rules 2006**

Number: SI 544/2006

Contents note: Insert new rules 6, 7 and 8 in order 28 of the *District Court Rules 1997* (SI 93/1997) to provide procedures and forms for variation and discharge of probation bonds.

Commencement date: 20/11/2006

**District Court (Public Order)
Rules 2006**

Number: SI 545/2006

Contents note: Insert a new rule 13 in order 23, prescribing the form and procedures for the issue of the court order under section 3 of the *Criminal Justice (Public Order) Act 2003*, and insert a new 'Order 96B – Closure Orders under the *Criminal Justice (Public Order) Act 2003*' in the *District Court Rules 1997* (SI 93/1997).

Commencement date: 20/11/2006

Land Registration Rules 2006

Number: SI 558/2006

Contents note: Amend the *Land Registration Rules 1972-2005*.

Commencement date: 4/11/2006

Contents note: Revoke and restate, with amendments, the *Road Traffic (Licensing of Drivers) Regulations 1999* (SI 352/1999), as amended.

Leg-implemented: Dir 91/439 as amended by dir 94/72, dir 96/47, dir 97/26 and dir 2000/56

Commencement date: 21/10/2006

**Value-Added Tax
Regulations 2006**

Number: SI 548/2006

Contents note: Revoke and restate or update as necessary all the VAT regulations made under the *Value Added Tax Act 1972*.

Commencement order: 1/11/2006 **G**

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Law Society Library

CHRISTMAS CARDS

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Kate Noonan

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THE HIGH COURT

RECORD NO: 2006 NO 44SA

Friday 27 October 2006

Before the President

In the matter of Rosalyn Kelly, a solicitor.

In the matter of the *Solicitors Acts 1954-2002*.

Law Society of Ireland
(applicant)

Rosalyn Kelly

(respondent)

On 27 October 2006, the President of the High Court made an order, *inter alia*, that

no bank shall, without leave of the court, make any payment out of an account in the name of the respondent or her firm.

The president further ordered that the practising certificate of the respondent solicitor be suspended.

Solicitors Disciplinary Tribunal

This report of the outcome of a Solicitors Disciplinary Tribunal inquiry is published by the Law Society of Ireland as provided for in section 23 (as amended by section 17 of the *Solicitors (Amendment) Act 2002*) of the *Solicitors (Amendment) Act 1994*

In the matter of Sean McGlynn, a solicitor, of Church Street House, Letterkenny, Co Donegal, and in the matter of an application by the Law Society of Ireland to the Solicitors Disciplinary Tribunal and in the matter of the *Solicitors Acts 1954-2002* [5520/DT78 /05]
Law Society of Ireland
(applicant)

Sean McGlynn
(respondent solicitor)

On 28 September 2006, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he:

a) Failed to ensure there was furnished to the Society a reporting accountant's report for the year ended 31 August 2004 within six months of his

accounting date, as required by regulation 21(1) of the *Solicitors' Accounts Regulations 2001*;

b) Through his conduct, showed disregard for his statutory obligations to comply with the *Solicitors' Accounts Regulations* and showed disregard for the Society's statutory obligation to monitor compliance with the *Solicitors' Accounts*

Regulations for the protection of clients and the public.

The tribunal ordered that the respondent solicitor:

- i) Do stand censured,
- ii) Pay a sum of €5,500 to the compensation fund,
- iii) Pay the whole of the costs of the Law Society of Ireland as taxed by a taxing master of the High Court in default of agreement. **G**

WILLS, PROBATE & ESTATES

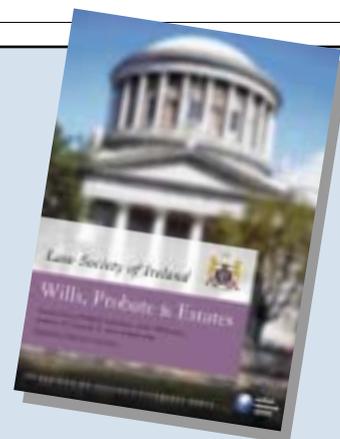
A NEW ADDITION to the Law Society of Ireland series, this manual has been written to give trainee solicitors and practitioners a clear and thorough understanding of current practice and procedure in the area of wills, trusts, probate, and the administration of estates. It outlines the basic elements of a will and familiarises trainees with the common law and statutory background, so that they are able to draft documentation exactly in accordance with their clients' informed instructions and statutory requirements.

The manual deals fully with how to extract an appropriate grant of representation; grant of probate where the deceased has left a will and an executor who is will-

ing to act; grant of administration intestate, where the deceased has left no will; and grant of administration with will annexed, where the deceased has left a will but there is no executor able or willing to act. The text goes on to outline those less frequent occasions where a further type of grant is necessary, whether a second or subsequent grant, or a grant limited as to purpose or duration.

This practical and user-friendly book also covers in full how to advise the personal representative of their responsibilities and duties to beneficiaries, family members, creditors, and the State in terms of any taxation liability either outstanding or arising.

Wills, Probate & Estates provides succinct and practical advice, tackling questions of practice and procedure that are of central importance, not only to students on the Society's professional practice course, but also to practitioners who deal with any area of wills, trusts or probate.



Volume editor and authors: Padraic Courtney, (solicitor, Law Society of Ireland) is both the editor and an author. Other authors: Nuala Casey (solicitor, Daly, Lynch, Crowe & Morris), Anne McKenna (solicitor, FJ Irvine & Co), Annette O'Connell (BL, probate officer), and Anne Stephenson (solicitor, Stephenson & Co). All the authors tutor and lecture on the Law Society, PPC I and PPC II in wills, trusts, probate and administration, and to the profession in CPD, STEP, and the various diplomas run by the Law Society of Ireland.

The Law Society is now selling *Wills, Probate & Estates*, published by the Law Society of Ireland/Oxford University Press. Price: €70. Contact Julianne Ward: email: j.ward@lawsociety.ie or phone: 01 672 4942 if you wish to order a copy.



News from Ireland's online legal awareness service
Compiled by Flore Bouhey for FirstLaw

CONSTITUTIONAL LAW

Detention

Barring order – damages – false imprisonment – whether the plaintiff was entitled to damages for breach of constitutional rights and false imprisonment.

The plaintiff's wife sought and obtained an interim barring order against the plaintiff in November 1998. As a result of a breach of that order, the plaintiff spent two days in garda custody. Subsequently, in 2002, the Supreme Court determined that the District Court order making the interim barring order was unconstitutional, that is to say, the legislation enabling the making of such an order was held to be unconstitutional. Consequently, the plaintiff sought damages for breach of his constitutional rights and for false imprisonment arising from the making of the interim barring order.

Abbott J awarded the plaintiff damages, holding that the plaintiff was entitled to an award in the amount of €214,000 compensating him for loss of rent; loss of convenience of housing; false imprisonment; loss of amenity through work activities; breach of his constitutional right to the enjoyment of privacy; marital privacy, including access to his children and his house; loss of his good name; and psychological and emotional suffering resulting from the making of the unconstitutional barring order and his arrest and detention following a breach of that order.

K(D) v Judge Timothy Crowley, High Court, Mr Justice Abbott, 29/7/2005 [FL12854]

CRIMINAL LAW

Delay

Fair procedures – impending prosecution for murder – right to expeditious trial – whether applicant must prove prejudice caused by delay – whether delay excessive – whether applicant's constitutional rights infringed – adverse pre-trial publicity – whether real risk of unfair trial – whether such risk can be avoided by rulings and directions of trial judge – whether further prosecution of offences should be restrained.

The applicant was charged with murder in 2003, more than two years after the alleged offence. That charge was struck out for failure to produce a book of evidence within the time limited for doing so. The applicant was re-charged almost two years later. In the interim, a newspaper article had been published identifying the applicant as the leader of a gang involved in the alleged murder. He sought the prohibition of the continuance of the prosecution on the grounds, among other things, that the delay in the institution and prosecution of the proceedings had been excessive and violated his right to trial with reasonable expedition, and that the delay prejudiced his chances of obtaining a fair trial in that it hindered the preparation of his defence by reason, among other things, of the consequential unavailability of witnesses. He also sought the relief on the basis of adverse pre-trial publicity due to the newspaper article, which he alleged would prejudice potential jurors.

O'Higgins J refused the relief sought, holding that there had been a culpable and

unjustified delay on the part of the prosecution, but that the applicant had not established a real risk of an unfair trial that could not be avoided by appropriate rulings and directions on the part of the trial judge by reason of those circumstances, which was the appropriate standard of proof to be met by the applicant. While the right of an accused to a fair trial could be prejudiced by pre-trial publicity that could, in certain circumstances, lead to a trial being prohibited, it was necessary to balance the applicant's rights in that respect with the community's right to have criminal offences prosecuted. Where, however, there was a real risk of an unfair trial, which could not be avoided by appropriate rulings and directions by the trial judge, such a balancing exercise did not arise.

Rattigan v DPP, High Court, Mr Justice O'Higgins, 30/6/2006 [FL12817]

FAMILY LAW

Custody

Recognition and enforcement of residence and contact order – habitual residence – whether residence and contact order of English court recognised and enforceable in Irish courts – Child Abduction and Enforcement of Custody Orders Act 1991 – Luxembourg Convention.

In 2004, an English court made an order in respect of residence and contact, as to the non-marital children of the applicant and respondent, that permitted the respondent to remove the children permanently to Ireland and for them to reside with her, while providing for

the applicant to have specified contact. The applicant sought an order pursuant to article 7 of the *Luxembourg Convention* for the recognition and enforcement of the residence and contact order. The respondent contended, among other things, that the court should refuse the order, as the children were habitually resident in Ireland prior to 2004, and that the order was no longer in the welfare of the children.

Finlay Geoghegan J held that the court was bound, pursuant to article 7 of the *Luxembourg Convention*, to make an order for recognition and enforcement of the 2004 order. The court was not satisfied that the 2004 order was manifestly no longer in the interests of the children. As the children were now habitually resident in the jurisdiction, it was desirable that future court applications in relation to access were made within this jurisdiction. The court also made provisions as to access.

RGHR v LMG, High Court, Miss Justice Finlay Geoghegan, 19/7/2006 [FL12908]

Judicial separation

Family Law Act 1995 – whether the court could consider the family home and the respondent's company as part of the assets available in order to make proper provision for the parties.

The High Court granted a decree of judicial separation and made resulting orders, including an order that the applicant transfer to the respondent her legal and beneficial interest in the shares and share holdings of the W group of companies in consideration for a number of lump-sum pay-

ments to be made by the respondent within certain time limits. Following an appeal by the respondent, the Supreme Court remitted the matter to the High Court for re-hearing on certain issues, namely, what mechanism could be used for extracting from the company the funds ordered to be paid to the applicant and, further, the tax effects on the company or the respondent of the extraction of the relevant funds.

McKechnie J held that the court had jurisdiction over all the assets of both the applicant and respondent, including the family home and those held by the latter through the medium of a limited company, and could make proper use of them in the most appropriate manner feasible, so as to make proper provision for the parties. The company and the respondent could be fully associated together and treated as one. Having considered the evidence, the funds could be extracted by way of remuneration or dividend, and the tax liability in the case of the former would be 39.4% and in the case of the latter 47%. It was not appropriate to avail of any share adjustment scheme in the circumstances.

D(B) v D(J), High Court, Mr Justice McKechnie, 2/12/2005 [FL12865]

PRACTICE AND PROCEDURE

Abuse of process

Application to strike out proceedings on basis of being vexatious and abuse of process – application to restrict plaintiff from further application without seeking prior leave of court – criteria for making of order – whether proceedings should be struck out.

The plaintiff brought plenary proceedings claiming negligence and for the wrongful birth of five children against the defendants. All of the issues had been the subject of numer-

ous prior actions brought by the plaintiff, all of which had been dismissed. The defendants brought a motion seeking to have the proceedings struck out on the basis that they disclosed no reasonable cause of action, were vexatious and an abuse of process. They also sought an order restraining the plaintiff from bringing further applications without the prior leave of the court.

Mr Justice Murphy dismissed the proceedings and made an order restraining the plaintiff from making any further application without seeking the prior leave of the court, holding that an application to strike out proceedings could only succeed where the facts were not reasonably in dispute. Insofar as there was a conflict of fact, it had to be resolved in favour of the party against whom the application to strike out had been brought. A claim would only be struck out where, on admitted facts or undisputed evidence, it was clearly unsustainable or bound to fail. The criteria characterising vexatious litigation – such as the bringing up of one or more actions to determine an issue that had already been determined by a court of com-

petent jurisdiction; where it was obvious that an action could not succeed; where the action was brought for an improper purpose; where issues tended to be rolled forward into subsequent actions and repeated and supplemented, often with actions brought against the lawyers who had acted for or against the litigant in earlier proceedings and where the person instituting the proceedings had failed to pay the costs of unsuccessful proceedings – were all present in the plaintiff's action.

McCabe v Minister for Justice, High Court, Mr Justice Murphy, 29/6/2006 [FL12830]

PROPERTY LAW

Evidence

Practice and procedure – rock band memorabilia – appeal by rehearing from Circuit Court – conflict of evidence – whether property gifted to appellant – whether auction of property could be restrained.

In Circuit Court proceedings, the respondent rock band had sought, among other things, to restrain the appellant, their former personal stylist, from auctioning personal memorabilia related to their rock band. The

appellant sought to appeal by way of rehearing the adverse decision of the President of the Circuit Court, claiming that the memorabilia had been gifted to her and that she had already returned a significant amount of memorabilia to the band.

Peart J affirmed the Circuit Court order, holding that the case had to be determined by way of credibility of witnesses only. The appellant had not adduced any witness to support or corroborate her account of ownership and lacked credibility. No motive of ill will could be attributed to the respondents by their actions. The appellant had not established ownership as a matter of probability.

Clayton, Evans, Hewson, Mullen (a firm trading as U2) v Cashman, High Court, Mr Justice Peart, 15/11/2006 [FL12964] G

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News from the EU and International Affairs Committee
 Edited by TP Kennedy, Director of Education, Law Society of Ireland

Recent developments in European law

DATA PROTECTION

Cases C-317/04 and C-318/04, *European Parliament v Council of the European Union* and *European Parliament v Commission of the European Communities*, 30 May 2006. The USA introduced legislation requiring air carriers operating flights to, from or across US territory to provide US authorities with electronic access to the data contained in their reservation and departure control systems. This data is called 'passenger name records' or PNR. The commission considered that this legislation could conflict with EC data protection legislation. It started negotiations with the US authorities. Following these negotiations, the commission took a decision finding that the US Bureau of Customs and Border Protection (CBP) ensured an adequate level of protection for PNR data transferred from the EU. In May 2004, the council approved a decision approving the conclusion of an agreement between the EC and the USA on the processing and transfer of PNR data by air carriers established in the EC to the US CBP. The agreement was signed in Washington on 28 May 2004 and entered into force on the same day. The European Parliament applied to the ECJ for annulment of the council and commission decisions. It contended that the decision on adequacy was *ultra vires*, that article 95 was not an adequate legal basis for the decision approving the conclusion of the agreement and that, in both cases, fundamental rights

were infringed. The European Data Protection Supervisor intervened in support of the parliament. The ECJ annulled both decisions. It examined whether the commission could adopt the decision on adequacy on the basis of the *Data Protection Directive* (directive 95/47/EC). Article 3(2) of the directive excludes from its scope the processing of personal data in the course of an activity that falls outside the scope of EC law and processing operations concerning public security, defence, state security and the activities of the state in criminal law. The transfer of PNR data to the US CBP constitutes processing operations concerning public security and the activities of the state in criminal law. The decision did not concern data processing necessary for a supply of services, but data processing regarded as necessary for safeguarding public security and for law enforcement purposes. The transfer of the PNR data falls within a framework established by the public authorities that relates to public security. The decision on adequacy thus does not fall within the scope of the directive. The court went on to find that article 95 of the treaty, read in conjunction with article 25 of the directive, cannot justify EC competence to conclude the agreement with the US. The agreement relates to the same transfer of data as the decision on adequacy and therefore relates to data-processing operations that are excluded from the scope of the directive. Thus, the court annulled the council decision approving the conclusion of the agreement.

EMPLOYMENT

Cases C-131/04 and C-257/04, *CD Robinson-Steele v RD Retail Services Ltd*, *Michael Jason Clarke v Frank Staddon Ltd*, *JC Caulfield and Others v Hanson Clay Products, formerly Marshalls Clay Products Ltd*, 16 March 2006. The *Working Time Directive* (93/104/EC) provides that member states must take the measures necessary to ensure that every worker is entitled to paid annual leave of at least four weeks. This minimum period of leave cannot be replaced by an allowance in lieu. Under the British regulations transposing the directive, any contractual remuneration paid to a worker in respect of a period of leave goes towards discharging any liability of the employer to make payments under the regulation in respect of that period. The applicants are employees of the respondents. They were paid for annual leave in the form of a payment included in the hourly remuneration, rather than paid for a specific period of leave. This system is known as 'rolled-up holiday pay'. The applicants applied to the Leeds Employment Tribunal claiming payment for annual leave. The case was appealed to the Court of Appeal. It asked the ECJ whether the system of rolled-up holiday pay is compatible with the *Working Time Directive*. The court found that the entitlement of every worker to paid annual leave is an important principle of EC social law from which there can be no derogation. Holiday pay is intended to enable the worker to actually take the leave to which he is

entitled. The term 'paid annual leave' means that remuneration must be maintained for the duration of the leave and that workers must receive their normal remuneration for that period of rest. The directive precludes part of the remuneration from being attributed to payment for annual leave without the worker receiving a payment additional to that for work done. There can be no derogation from that entitlement by contractual arrangement. There is no provision in the directive expressly providing when payment for annual leave must be made. However, the purpose of the requirement of payment for that leave is to put the worker, during such leave, in a position that is comparable to periods of work as regards remuneration. Accordingly, the point at which payment for annual leave is made must, as a rule, be fixed in such a way that, during that leave, the worker is put in a position comparable to period of work as regards remuneration. Furthermore, a regime of rolled-up holiday pay may lead to situations in which the minimum period of paid annual leave is, in effect, replaced by an allowance in lieu. The directive prohibits this (except where the employment relationship is terminated) in order to ensure that a worker is normally entitled to actual rest. Thus, the court held that payment for minimum annual leave through a system of rolled-up holiday pay is contrary to the directive. The court considered that sums already paid in respect of leave through this system can be set off against the payments for specific leave.

Such payments must have been transparent and comprehensible. The burden of proof of this is on the employer. The court pointed out that member states are required to take the measures appropriate to ensure that practices incompatible with the provisions of the directive relative to annual leave are not continued.

Case C-124/05, *Federatie Nederlandse Vakbeweging v Staat der Nederlanden*, 6 April 2006. The Dutch Ministry of Social Affairs and Employment published a brochure indicating that an employer and employee could agree in writing that if an employee did not use his minimum leave entitlement in a year, financial compensation could be paid in the following year. The applicant brought an action seeking a declaration that this statement was inconsistent with the *Working Time Directive*. The matter was referred to the ECJ. The court noted that the entitlement to paid annual leave is an important principle of EC social law. Workers are entitled to actual rest to ensure effective protection of their health and safety. It is only when the employment relationship is terminated that payment of an allowance in lieu of paid annual leave is permitted. The court said that the positive effect that leave has for health and safety is deployed fully if the leave is taken in the prescribed year. The significance of the rest period for the protection of the workers remains if it is taken during a later period. The possibility of financial compensation, in respect of the minimum period of annual leave carried over, would create an incentive, incompatible with the objectives of the directive, not to take leave or to encourage employees not to do so. Consequently, the court held that the directive precludes the replacement by an allowance in lieu of the minimum period of paid annual leave, where that leave is carried

over to a subsequent year. It is immaterial whether financial compensation for paid annual leave is or is not based on a contractual arrangement.

ESTABLISHMENT/ SERVICES

Case C-451/03, *Servizi Ausiliari Dottori Commercialisti Srl v Giuseppe Calafiori*, 30 March 2006. The provision of certain kinds of tax advice and assistance is reserved by Italian law to tax advice centres. This advice and assistance includes activities relating to the annual declaration of the income of employees. These centres can only be established by certain bodies, such as trade unions or employers' associations. They carry on their business under authorisation from the Ministry of Finance. They receive a payment from state funds for each declaration completed and filed with the tax authorities. In 2003, the tax advice centre in Milan adopted new statutes to take account of the fact that it was also providing tax assistance for undertakings, workers and pensioners. The notary responsible for taking the minutes of the meeting adopting the new statutes (the respondent) refused to file that decision in the companies' registry. He believed that the amendment to the statutes was contrary to the Italian legislation on tax advice centres. The Milan centre brought proceedings in the Italian courts against the refusal of the registration sought. The Court of Appeal in Milan requested a preliminary ruling from the ECJ on the compatibility of the Italian legislation with the EC rules on the freedom to provide services, the freedom of establishment and state aid. The court found that the legislation was incompatible with EC rules on the freedom of provide services. The legislation reserves certain advice and assistance activities to some centres

and thus completely prevents access to the market for those services by economic operators established in other member states. The legislation was also found to be incompatible with the freedom of establishment. The legislation restricted the right to form such advice centres to certain bodies meeting strict conditions. These restrictions completely prevent or make it more difficult for operators from other member states establishing themselves in Italy to provide these services. The ECJ did not find a justification for the Italian restrictions. There is no public interest justification, as the bodies authorised to set up these centres do not offer any guarantee of particular professional abilities. The court said that it was for the national court to determine whether the payment made to the centres from state funds constituted state aid within the meaning of the treaty.

INSOLVENCY

Case C-341/04, *Eurofood IFSC Ltd*, 2 May 2006. Eurofood is an Irish company with its registered office in Dublin. It is a wholly owned subsidiary of an Italian company, Parmalat Spa. On 24 December 2003, Parmalat was placed under extraordinary administration in Italy with an administrator, Mr Bondi. Bank of America NA applied to the Irish High Court seeking the liquidation of Eurofood on account of its debts. On 27 January 2004, the High Court appointed Mr Farrell as provisional liquidator of Eurofood. He was given powers to take possession of Eurofood's assets, manage its affairs, open a bank account in its name and instruct lawyers on its behalf. On 9 February 2004, Eurofood was placed under the extraordinary administration in Italy of Mr Bondi. The District Court of Parma scheduled a hearing for 17 February 2004 on

an application for a declaration of Eurofood's insolvency. Mr Farrell was informed on 13 February. On 20 February 2004, the court in Parma determined that it had international jurisdiction to determine whether or not Eurofood was insolvent, as Eurofood's centre of main interests was in Italy. On 23 March 2004, the High Court held that the insolvency proceedings against Eurofood had been opened in Ireland on the date of the application by the Bank of America. It held that the Irish proceedings were the main proceedings, as the centre of Eurofood's interests was in Ireland. The High Court found Eurofood insolvent, ordered its liquidation and appointed Mr Farrell as liquidator. Mr Bondi challenged that judgment in the Irish courts. The Supreme Court referred several questions to the ECJ on the interpretation of regulation 1346/2000. It wished to determine, in particular, which court had jurisdiction to liquidate Eurofood. The regulation provides that the court with jurisdiction to open the main insolvency proceedings, applying to the debtor's assets situated in all member states, is the court of the state where the centre of the debtor's main interests is situated. The ECJ looked to article 3(1) of the regulation, which provides that the centre of the main interests of a debtor company is presumed to be the place of the registered office where the debtor regularly administers its interests. This presumption can be rebutted only if factors that are objective and ascertainable by third parties enable it to be established that an actual situation exists that is different from that which locates it at the registered office. An instance of this would be a company not carrying on any business in the territory of the member state where its registered office is situated. Where a company carried on its business in the territory of the member

state where its registered office is situated, the fact that its economic choices are or can be controlled by a parent company in another member state is not enough to rebut the presumption linked to the place of the registered office. The court then turned to consider the question of recognition of the decision to open main insolvency proceedings by the courts of other member states. Article 16(1) provides that insolvency proceedings opened in one member state are to be recognised in all the member states from the time that they produce their effects in the state of opening. This is known as the rule of priority. The principle of mutual trust requires that the courts of the other member states recognise the decision opening the main insolvency proceedings, without being able to review the jurisdiction of the court of the state where proceedings were opened. This could be seriously disrupted if the courts of member states, hearing applications based on a debtor's insolvency at the same time, could claim concurrent jurisdiction over an extended period. To ensure the effectiveness of the system, the court held that a decision handed down by a court of a member state, based on the debtor's insolvency and seeking the opening of the procedures in the regulation involving divestment of the debtor and the appointment of a liquidator, constitutes a decision opening insolvency proceedings. Such divestment involves the debtor losing the powers of management that he has over his assets. The grounds to refuse to recognise insolvency proceedings opened in another member state set out in article 26 are where such recognition would produce effects clearly contrary to its public policy, its fundamental principle, or the constitutional rights and liberties of the individual. In the context of insolvency, the rights of creditors or their rep-

resentatives to participate in accordance with the equality of arms principle is of particular importance. Thus, a member state may refuse to recognise insolvency proceedings opened in another member state where the decision to open the proceedings was taken in flagrant breach of the fundamental right to be heard, which a person concerned by such proceedings enjoys.

INTELLECTUAL PROPERTY

Case T-322/03, *Telefon & Buch Verlagsgesellschaft mbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) – Herold Business Data GmbH & Co KG*, 16 March 2006. In 1996, the applicant applied to OHIM for an EC trademark in respect of 'WEISSE SEITEN' to cover various goods, including IT goods and printed matter, reference works and classified directories. The mark was registered in 1999. Herold Business Data then sought cancellation of the registration. In 2003, the Board of Appeal of OHIM cancelled the mark, as 'weiße Seiten' was a customary term for telephone directories for private individuals. The applicants challenged the Board of Appeal's decision before the Court of First Instance. It argued that the basis of the board's decision was incorrect. The CFI held that the term 'weiße Seiten' had become generic in Germany for telephone directories for private individuals. Given that the applicants had not drawn any distinction within the category "printed matter, reference works, classified directories" to which telephone directories in paper form belong, the mark had to be declared invalid for the whole of that category. The court noted that telephone directories for private individuals are available not only on paper but also in electronic form

on the internet or on CD-ROM. Therefore the term 'weiße Seiten' must also be considered as a customary term for electronic directories. As the applicants had not drawn any distinction between the goods within the category "magnetic data carriers and recorded storage media for data processing installations and equipment, in particular tapes, discs, CD-ROMs", the mark had to be cancelled in respect of all those goods. Since the term has become a synonym in German for telephone directories for private individuals, it may also be considered to be descriptive of the products for which it is regarded as being a customary term. As publishing services and editing of written texts concern the creation and drawing-up of those products, the term 'weiße Seiten' may also be regarded as descriptive of those services, as it describes their intended purpose. The link between the mark and the characteristics of all the goods and services in dispute is so close that the mark, being descriptive, should not have been registered.

JURISDICTION

Case C-234/04, *Rosmarie Kapferer v Schlank & Schick GmbH*, 16 March 2006. The applicant lives in Austria and received advertising material periodically from Schlank, a company established under German law. Schlank operates a mail-order business in Austria and other countries. Ms Kapferer received a letter from Schlank informing her that a

prize of €3,906.16 was waiting for her. The award of the prize was subject to a test order without obligation. She returned an order form to Schlank but it was not possible to establish whether she placed an order. She did not receive the prize she believed that she had won. She claimed that prize on the basis of Austrian consumer protection law. She sought an order from her local court for the prize amount, together with interest. Schlank argued that the Austrian courts lacked jurisdiction on foot of regulation 44/2001. The Austrian court rejected this argument. On the merits of the claim, the court rejected all Ms Kapferer's claims. She appealed to an appellate court. Schlank did not challenge the lower court's decision on jurisdiction and thus that decision became final. The Appellate Court asked the ECJ whether it had an obligation under the *EC Treaty* to reopen and set aside a final and conclusive judgment on jurisdiction if that judgment were proved to be contrary to EC law. The court referred to the importance of the principle of *res judicata*. In order to ensure both the stability of the law and legal relations and the sound administration of justice, it is important that judicial decisions that have become final can no longer be called into question. Thus, EC law does not require a national court to disapply its internal rules of procedure in order to review and reopen a final judicial decision if that decision should be contrary to EC law. **G**

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Registration of Title Act 1964

An application has been received from the registered owners mentioned in the schedule hereto for the issue of a land certificate in substitution for the original land certificate issued in respect of the lands specified in the schedule, which original land certificate is stated to have been lost or inadvertently destroyed. A new certificate will be issued unless notification is received in the registry within 28 days from the date of publication of this notice that the original certificate is in existence and in the custody of some person other than the registered owner. Any such notification should state the grounds on which the certificate is being held.

(Register of Titles), Central Office, Land Registry, Chancery Street, Dublin
(Published 8 December 2006)

- Regd owner: Elaine Fitzgerald and Derek Byrne; folio: 16635F; lands: Moneybeg and barony of Idrone East; **Co Carlow**
- Regd owner: John Condren (deceased); folio: 321; lands: Rathedan and barony of Idrone East; **Co Carlow**
- Regd owner: Alan and Neville Moore; folio: 9012F; lands: Carlow and barony of Carlow; **Co Carlow**
- Regd owner: Alan and Neville Moore; folio: 8976F; lands: south side of Brownhill Road and barony of Carlow; **Co Carlow**
- Regd owner: Brian Mackey and Elizabeth Mackey, Keelagh, Ballyjamesduff, Co Cavan; folio: 2860F; lands: Keelagh Glebe; area: 0.2655 hectares; **Co Cavan**
- Regd owner: Michael O'Reilly and Catherine O'Reilly, Drumalee, Cavan, Co Cavan; folio: 16513F; lands: Drumroragh; area: 0.2650 hectares; **Co Cavan**
- Regd owner: James Cleary; folio: 3296F and 6017F; lands: townland of Cappaduff and barony of Leitrim; **Co Clare**
- Regd owner: Anthony Hayes and Mary Hayes; folio: 15694; lands: townland of Feakle and Coolreagh; area: 44.0626 hectares and 0.3490 hectares and barony of Tulla Upper; **Co Clare**
- Regd owner: Michael Coughlan; folio: 17812; lands: townland of Croaghaun (Inchiquin By) and barony of Inchiquin; area: 8.2353 hectares; **Co Clare**
- Regd owner: Roy O'Donnell; folio: 4163F; lands: townland of Cratloekeel and barony of Bunratty Lower; area: (1) 7.4211 hectares, (2) 2.0392 hectares; **Co Clare**
- Regd owner: Tadhg O'Callaghan; folio: 22160F; lands: plot of ground situate in the townland of Gooseberryhill in the barony of Duhallow and the county of Cork; **Co Cork**
- Regd owner: Wesco Aluminium Limited; folio: 3630F; lands: plot of ground situate in the townland of Shinagh, in the barony of Kinalmeaky and the county of Cork; **Co Cork**
- Regd owner: Elizabeth Ann Mahony; folio: 10180; lands: townland of Ballyanly and barony of Muskerry East; area: 5.4590 hectares; **Co Cork**
- Regd owner: John McCarthy (deceased); folio: 14962F; lands: plot of ground situate in the townland of Gortgarraff, in the barony of Bear and the county of Cork; **Co Cork**
- Regd owner: Nancy Harrington and Bernard Harrington (deceased); folio: 9855F; lands: plot of ground situate in the townland of Cappyaughna in the barony of Bear and the county of Cork; **Co Cork**
- Regd owner: Michael J Cronin (deceased); folio: 21963; lands: plot of ground situate in the townland of Ballydesmond in the barony of Duhallow and in the county of Cork; **Co Cork**
- Regd owner: Don Browne, Ballyarrell, Killygordon, Co Donegal; folio: 12261; lands: Ballyarrell; area: 15.3907 hectares; **Co Donegal**
- Regd owner: Hugh Gerard Boyle and Charles Doherty, c/o Beleem Limited, Gweedore Road, Dungloe, Co Donegal; folio: 9709F; lands: Meenmore; area: 0.2379 hectares; **Co Donegal**
- Regd owner: Hugh Gerard Boyle and Charles Doherty, c/o Beleem Limited, Gweedore Road, Dungloe, Co Donegal; folio: 17726F; lands: Meenmore; area: 0.2170 hectares; **Co Donegal**
- Regd owner: Howard Green, c/o WT McMenamin and Son, Solicitors, Ballybofey, Co Donegal; folio: 43532; lands: Saintjohnstown; area: 0.5994 hectares; **Co Donegal**
- Regd owner: John Gerard Doherty and Marian Doherty, Gortin, Ballyloskey, Carndonagh, Co Donegal; folio: 43402; lands: Ballyloskey; area: 37.975 acres, 5.500 acres, 5.500 acres, 30.038 acres, 7.938 acres, 2.625 acres and 5.250 acres; **Co Donegal**
- Regd owner: Patricia Branagan, 25 Dun-an-Oir, Old Bawn, Tallaght, Co Dublin; folio: 2934F; lands: Dunglow; area: 0.825; **Co Donegal**
- Regd owner: Patrick McLoughlin, Fabmore, Gleneely, Lifford PO, Co Donegal; folio: 14130; lands: Leitrim; area: 16.686 hectares and 1.6187 hectares; **Co Donegal**
- Regd owner: Anita Preston and Tony Preston; folio: DN123902F; lands: property situate in the townland of Artane West and barony of Coolock; **Co Dublin**
- Regd owner: Christopher O'Keeffe and Alice O'Keeffe; folio: DN55850L; lands: property known as 36 Seagrang Drive, situate in the parish and district of Baldoyle; **Co Dublin**
- Regd owner: Michael Hogan; folio: DN3084L; lands: property known as St Catherine's Brookville, situate on the west side of the Malahide Road and property situate in the townland of Coolock and barony of Coolock; **Co Dublin**
- Regd owner: Seamus Cannon; folio: DN12528; lands: property situate in the townland of Ballymastone and barony of Nethercross; **Co Dublin**
- Regd owner: David Mangan and Louise Mangan; folio: DN98366F; lands: property situate in the townland of Murphystown and barony of Rathdown; **Co Dublin**
- Regd owner: Patrick Junior Weldon; folio: DN3339F; lands: property situate in the townland of Rush and barony of Balrothery East, part of the property situate to the east side of Skerries road, in the parish of Lusk and town of Rush; **Co Dublin**
- Regd owner: Kevin Murtagh and Amanda Murtagh; folio: DN106262L; lands: property being an apartment known as duplex unit no 20, first floor, block 2, cluster 1, Waterville Row, Waterville, Snugborough Road, Blanchardstown, being part of the townland of Corduff and barony of Castleknock; **Co Dublin**
- Regd owner: Vincent Thomas and Jean Thomas; folio: 45889L; lands: 26 Glensdown Lawns in the townland of Templeogue and barony of Dublin; area: 0.028 hectares; **Co Dublin**
- Regd owner: Joseph O'Rahilly Sealy; folio: DN12820L; lands: property situate in the townland of Whitehall and barony of Uppercross; **Co Dublin**
- Regd owner: James Manning; folio: DN14885; lands: a plot of ground situate on the north side of Lorcan Grove, in the parish of Santry, district and city of Dublin; **Co Dublin**
- Regd owner: Valerie Shortland; folio: DN69126F; lands: property situate in the townland of Johnstown and barony of Rathdown, known as 14 Granitefield, Rochestown Avenue; **Co Dublin**
- Regd owner: Michael Byrne and Kathleen Byrne; folio: DN54009F; lands: property situate in the townland of Tymon South and barony of Uppercross; **Co Dublin**
- Regd owner: Oliver McNamee; folio: DN20601L; lands: property situate to the south of Collins Avenue in the parish of Artane and district of Clontarf; **Co Dublin**
- Regd owner: Donal Lynch and Niamh O'Regan; folio: DN161093F; lands: property known as 37 St Canice's Court, Cappagh Green, Finglas, situate in the townland of Cardiffscastle and barony of Castleknock; **Co Dublin**
- Regd owner: John Cooney and Maria Cooney; folio: DN38380F; lands: the property known as 22 Clannmoyle Road, situate in the parish of Clontarf and district of Clontarf; **Co Dublin**
- Regd owner: Philip Cushen and Karen Ellis; folio: DN94758F; lands: property situate to the west of Yellowmeadows Road in the town and parish of Clondalkin; **Co Dublin**
- Regd owner: Shane Russell and Katherine O'Shea; folio: DN97036L; lands: an apartment known as no 9, second floor, block 2, Annaly Grove, Ongar Lodge, Ongar, in the townland of Hanfield or Phibblestown and barony of Castleknock; **Co Dublin**
- Regd owner: Marie O'Gara; folio: DN89342F; lands: property known as site no 134 Carysfort Park, situate in the parish of Stillorgan and borough of Dun Laoghaire; **Co Dublin**
- Regd owner: Anthony Cummins; folio: 25749; lands: townland of (1) Lackabaun (Leitrim By), (2) Cloonlee, (3) and (4) Coppnagh (Loughrea By); area: (1) 10.7646 hectares, (2) 1.2014 hectares, (3) 0.4755 hectares, (4) 0.2655 hectares; **Co Galway**
- Regd owner: Gerard Regan; folio: 28108F; lands: townland of Rinmore and barony of Galway; **Co Galway**
- Regd owner: Sean Murphy; folio: 4688F; lands: townland (1), (4), (5), (7), (8) Cornamucklagh; (2), (6), (9) Castlegar East; (3) Weston, (10), (11) Kilglass and barony of (1), (3), (4), (5), (6), (7), (8), (10), (11) Clonmacnwen; (2), (6), (9) Killian; area: (1) 6.3160 hectares, (2) 13.9590 hectares, (3) 6.3430 hectares, (4) 2.0560 hectares, (5) 4.2360 hectares, (6) 13.9590 hectares, (7) 1.3830 hectares, (8) 4.2360 hectares, (9) 13.9590 hectares, (10) 2.8870 hectares, (11) 2.1240 hectares; **Co Galway**
- Regd owner: Louis Perrugia; folio: 17368F; lands: townland of Boolard and barony of Ballynahinch; area: 0.1367 hectares; **Co Galway**
- Regd owner: Patrick J Noonan; folio: 31944; lands: townland of Deepark (Clonmacnwen By) and barony of Clonmacnwen; area: 0.1340 hectares; **Co Galway**
- Regd owner: Thomas Grealley; folio: 9867F; lands: townland of Ballymanagh and barony of Dunkellin; area: 0.1493 hectares; **Co Galway**
- Regd owner: Ellen Kenny; folio: 718F; lands: townland of Rinmore and barony of Galway; area: 0.0404 hectares; **Co Galway**
- Regd owner: Roderick Mullion; folio: 14613; lands: townland of Inishlackan

and barony of Ballynahinch; **Co Galway**

Regd owner: Patrick Kearns; folio: 31252; lands: townland of Headford and barony of Clare; area: 2.2230 hectares; **Co Galway**

Regd owner: Mary O'Connor; folio: 12918; lands: townland of Shanaknock (ED O'Brennan) and barony of Trughanacmy; **Co Kerry**

Regd owner: John and Margaret O'Sullivan; folio: 18382; lands: townland of Cloonlour and barony of Trughanacmy; **Co Kerry**

Regd owner: Edmond Murphy; folio: 6380F; lands: Killeasy and barony of Knocktopher; **Co Kilkenny**

Regd owner: Kevin Hamill; folio: 6382L; lands: townland of Clane and barony of Clane; **Co Kildare**

Regd owner: Breda O'Reilly (deceased); folio: 1819F; lands: Mountrath and barony of Maryborough West; **Co Laois**

Regd owner: James McDermott, Leckaun, Leckaun PO; folio: 4183F; lands: Leckaun and Fawnary; area: 9.5482 hectares and 2.5418 hectares; **Co Leitrim**

Regd owner: Thomas Geoghegan, Annaghselherney, Kilmagross, Carrick-on-Shannon, Co Leitrim; folio: 494; lands: Annaghselherney; area: 12.1431 hectares; **Co Leitrim**

Regd owner: Thomas Lenihan; folio: 78; lands: townland of Shanid Lower and barony of Shanid; **Co Limerick**

Regd owner: Francis O'Connor; Rathcor, Riverstown, Dundalk, Co Louth; folio: 8855; lands: Rathcor; area: 8.7336 hectares; **Co Louth**

Regd owner: Alexander Charles Smart; folio: 12812F; lands: townland of Churchfield Lower and barony of Ross; area: 0.1962 hectares; **Co Mayo**

Regd owner: Michael Quirke and Mary Daly; folio: 4422F; lands: Knockanillaun and barony of Tirawley; area: 0.1998; **Co Mayo**

Regd owner: James Flanagan; folio: 13543; lands: townland of Gortaphuill (parts) and barony of Carra; area: 28 acres; **Co Mayo**

Regd owner: Anthony Gill (deceased); folio: 34613; lands: townland of Cartrungolbert and barony of Tirawley; area: 0.0632 hectares; **Co Mayo**

Regd owner: Vincent McEvitt and Irene McEvitt, Main Street, Clonee, Co Meath; folio: 9388F; lands: Clonee; area: 0.1416 hectares; **Co Meath**

Regd owner: Joseph Duignan and Doreen Duignan, Pagestown, Killoone, Co Meath; folio: 20001F; lands: Pagestown; area: 1.945 hectares; **Co Meath**

Regd owner: John McGee; folio: MH26627; lands: property situate in the townland of Dunmoe and barony of Navan Lower; **Co Meath**

LAW SOCIETY Gazette

PROFESSIONAL NOTICE RATES

RATES IN THE PROFESSIONAL NOTICE SECTION ARE AS FOLLOWS:

- **Lost land certificates** – €132 (incl VAT at 21%)
- **Wills** – €132 (incl VAT at 21%)
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All notices must be paid for prior to publication. **CHEQUES SHOULD BE MADE PAYABLE TO LAW SOCIETY OF IRELAND.** Deadline for Jan/Feb Gazette: 18 January 2007. For further information, contact Catherine Kearney or Valerie Farrell on tel: 01 672 4828 (fax: 01 672 4877)

Regd owner: Betty Steenson, Terrygreehan, Doohamlet PO, Castleblaney, Co Monaghan; folio: 6309, 6285; lands: Terrygreeghan and Drumgrole; area: 7.1850 hectares and 6.2470 hectares; **Co Monaghan**

Regd owner: Paul Hannigan, Lisdrumturk, Carrickmacross, Co Monaghan; folio: 19486; lands: Lisdrumturk; area: 3.2140 hectares; **Co Monaghan**

Regd owner: Geraldine and Patrick McCooey; folio: 2657F; lands: Drumacoon, Newbliss; area: 0.750 acres; **Co Monaghan**

Regd owner: Joseph Patrick Connolly; folio: 11918; lands: townland of Fairymount and barony of Ballintober South; area: 4.7828 hectares; **Co Roscommon**

Regd owner: Patrick O'Connor; folio: 18676; lands: townland of Bellahy and barony of Leyny; area: 2.3961 hectares; **Co Sligo**

Regd owner: Robert Bourke; folio: 24641; lands: townland of Moanmore (ED Emly) and barony of Clanwilliam; **Co Tipperary**

Regd owner: Ben Lyons; folio: 13126; lands: townland of Kilmakill and barony of Eliogarty; **Co Tipperary**

Regd owner: Daniel and Bernadette Cleary; folio: 24924F; lands: townland of Spafield and barony of Middlethird; **Co Tipperary**

Regd owner: Anthony Wixted; folio: 32306; lands: townland of Birdhill and Annaholty and barony of Owney and Arra; **Co Tipperary**

Regd owner: Maurice Lenihan; folio: 12603; lands: plot of ground being part of the townland of Parkeennaglogh in the barony of Decies without Drum and the county of Waterford; **Co Waterford**

Regd owner: Peter Reilly, Togher, Castletown-Finea; folio: 15978; lands: Togher, Clareisland or Derrymacegan, Moneybag; **Co Westmeath**

Regd owner: Martin and Ann Marshall, Knockmore, Ballingore, Co Westmeath; folio: 13207 and 8682; lands: Knockycosker; area: 8.4984 hectares; **Co Westmeath**

Regd owner: Alex Bethal and Christina Bethal, 19 Crestfield, Whitehall, Dublin 9; folio: 17028; lands: Ballyharney; **Co Westmeath**

Regd owner: Health Service Executive; folio: 2512; lands: Enniscorthy and barony of Scarawalsh; **Co Wexford**

Regd owner: John and Kathleen Mernagh; folio: 4621; lands: Jacketstown and Killane and barony of Forth; **Co Wexford**

Regd owner: Robert Murphy; folio: 43F; lands: Ballinaberney and barony of Scarawalsh; **Co Wexford**

Regd owner: Nicholas Murphy (deceased); folio: 4200F; lands: Ballinrooaun (ED Ardcolum) and barony of Ballaghkeen; **Co Wexford**

Regd owner: Ballygarrett/Realt na Mara GAA Club; folio: 12232F; lands: Ballinagam Lower and barony of Ballinagam North; **Co Wexford**

Regd owner: I and S English; folio: 22239; lands: Ferns Upper and barony of Scarawalsh; **Co Wexford**

Regd owner: John Kelly (deceased); folio: 12399; lands: Monasootagh and barony of Scarawalsh; **Co Wexford**

WILLS

Condron, Michael Joseph (deceased), late of Blackwood, Scraggan, Tullamore, Co Offaly. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, who died on 16 September 1994, please contact Brian P Adams & Company, Solicitors, Cormac Street, Tullamore, Co Offaly; tel: 057 932 1866, fax: 057 935 1443

Daffy, Maura (deceased), late of 40 West Priory, Navan Road, Dublin 7. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, who died on 14 August 2005, please contact Hanrahan & Associates, Solicitors, First Floor, 61 O'Connell Street, Ennis, Co Clare; tel: 065 684 1569, fax: 065 684 2349, email: carolohj@eircom.net

Doyle, John (Jack) (deceased), late of 270 Galtymore Road, Drimnagh, Dublin 12. Would any person having knowledge of the whereabouts of a will executed by the above-named deceased, who died on 15 October 2006, please contact Michael Doyle of 4 Wellmount Court, Finglas, Dublin; tel: 01 864 0769

Garvey, Mary (deceased), late of Cahir, Kiltimagh, Co Mayo, and formerly Shanvaghara, Knock, Co Mayo, who died on 15 September 2006. Would any person having knowledge of the whereabouts of a will executed by the above-named deceased, who died on 15 September 2006, please contact Gilmartin & Murphy, Solicitors, Main Street, Kiltimagh, Co Mayo; tel: 094 938 1204 or fax: 094 938 1226

Kavane, Daniel (deceased), late of Ballyristeen, Dingle, Co Kerry; date of death in or about 30 September 2006. Would any person having knowledge of any will executed by the deceased please contact Edmund Butler, LK Shields, Solicitors, 39/40 Upper Mount Street, Dublin 2; tel: 01 661 0 866, fax: 01 661 0 883, email: ebutler@lkshields.ie

Keeley, Annie (deceased), late of 23 Larkfield Gardens, Kimmage, Dublin 6. Would any person with knowledge of a will executed by the above-named deceased, who died on 28 October 1988 at St James Hospital, Dublin, please contact Anthony Diamond of AT Diamond & Co, Solicitors, 217 Clontarf

Road, Clontarf, Dublin 3; tel: 01 833 3792, fax: 01 833 4126, email: anthony.diamond@diamonddlaw.ie

McKenzie, Maureen (née Donkin) (deceased), late of Cork Hill, Clara, Co Offaly. Would any person having knowledge of a will executed by the above-named deceased, who died on 5 December 2004, please contact CSSO, State Property Division, Osmond House, Little Ship Street, Dublin 8; ref: DCH; tel: 01 417 6250

Mulvany, Brendan (deceased), late of Proudstown Road, Navan, Co Meath. Would any person having knowledge of a will executed by the above-named deceased, who died on 25 March 2006 at St Joseph's Hospital, Trim, Co Meath, please contact Oliver Shanley & Co, Solicitors, 62-63 Bridge Street, Navan, Co Meath; tel: 046 909 3200, fax: 046 902 9937

Walsh, Edward (deceased), late of 6 Canal Court, Canal Road, and formerly of Headford, Co Galway. Would any solicitor holding or having knowledge of a will made by the above-named deceased, who died on 30 September 2006, please contact William B Glynn, Solicitors, Aengus House, Long Walk, Galway; tel: 091 594 777, fax: 091 567 316

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TITLE DEEDS

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) No 2 Act 1978: an application by Oakstead Limited

Take notice that any person having an interest in the freehold estate of the land at Pigeon House Road, situate in the parish of St Mary, Donnybrook, barony of Dublin, being part of the land and premises held under a lease dated 30 January 1964 and made between Southern Properties Limited of the one part and Irish Paints Limited of the other part for the term of 300 years from 1 January 1964, indemnified against the payment of £53, being portion of the entire yearly rent of £78.

Take notice that Oakstead Limited intends to submit an application to the county registrar for the city of Dublin for the acquisition of the freehold interest in the aforesaid property, and any party or parties asserting that they hold a superior interest in the aforesaid premises are called upon to furnish evidence of title to the aforementioned property to the below named within 21 days from the date of this notice.

In default of any such notice being received, Oakstead Limited intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the city of Dublin for directions as may be appropriate on the basis that the persons or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid premises are unknown or unascertained.

Date: 8 December 2006

Signed: McEvoy Partners (solicitors for the applicant), Canada House, 65-68 St Stephens Green, Dublin 2

In the matter of an application for a reversionary lease pursuant to part III of the Landlord and Tenant (Amendment) Act 1980 and in the matter of proceedings entitled John J O'Donoghue and Margaret O'Donoghue (plaintiffs) and the representatives of Elizabeth Leader Lucas and John Thomas R Lucas (defendants)

Take notice that any person having interest in the freehold estate of the following property: that portion of 35 Main Street, Killarney, Co Kerry, abutting Bohereen Caol, off Main Street in the town, parish and urban district of Killarney, barony of Magunihy and county of Kerry, being portion of the property comprised in and demised by an indenture of lease dated 6

October 1888 and made between Elizabeth Leader Lucas and others of the one part and John Curran of the other part for the term of 100 years.

Take notice that John J O'Donoghue and Margaret O'Donoghue (the plaintiffs) intend to submit an application to the Circuit Court for a reversionary lease in the aforesaid premises, and any party asserting that they hold a superior interest in the aforesaid premises are called upon to furnish evidence of the title to the aforementioned premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, the applicants intend to proceed with the application before the Circuit Court at the end of 21 days from the date of this notice and will apply to the Circuit Court for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforementioned property are unknown or unascertained.

Date: 8 December 2006

Signed: Niall Brosnan & Co (solicitors for the applicants), 5 St Anthony's Place, College Street, Killarney, Co Kerry

In the matter of the Landlord and Tenant Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) No 2 Act 1978, and in the matter of an application by Timothy O'Driscoll, Daniel O'Connell and Martin Twomey

Take notice that any person having an interest in the freehold estate or any superior interest in the property known as: all that and those the hereditaments and premises known as 376 Blarney Street in the parish of Saint Mary Shandon, city of Cork, being a portion of the hereditaments and premises comprised in and demised by an indenture of surrender and lease dated 28 April 1937 made between Harry Franks of the one part and Elizabeth Murphy of the other part held for the term of 100 years from 29 September 1936, subject to the yearly rent of 12 pounds and to the covenants and conditions on the part of the lessee therein contained.

Take notice that Timothy O'Driscoll, Daniel O'Connell and Martin Twomey intend to submit an application to the county registrar for the city of Cork for the acquisition of the freehold interest and any intermediate interest in the aforesaid property, and any party or parties asserting that they hold a superior interest in the aforesaid property are called upon to furnish evidence of title in the aforementioned property to the below named within 21 days from the date of this notice.

In default of any such notice being received, Timothy O'Driscoll, Daniel O'Connell and Martin Twomey intend to proceed with the application before

the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the city of Dublin for directions as may be appropriate on the basis that the persons or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid premises are unknown or unascertained.

Date: 8 December 2006

Signed: HV O'Donoghue Solicitors (solicitors for the applicants), 8 South Mall, Cork

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) No 2 Act 1978, and in the matter of an application by Boylan Bros Limited

Take notice that any person having a freehold estate or any intermediate interest in all that and those the messuage house or tenement situate at and formerly known as 15A Bishop Street and 41 Lower Kevin Street in the city of Dublin, now known as 15/15A Bishop Street and 40/41 Lower Kevin Street in the city of Dublin, more particularly described in a lease dated 21 May 1777 between Robert Byrne of the one part and John Connelly and Alexander Gordon of the other part and a lease dated 12 October 1914 made between John White and James Davis of the one part and the Moravian Union (Incorporated) of the other part.

Take notice that Boylan Bros Limited intends to submit an application to the county registrar for the city of Dublin for the acquisition of the freehold interest in the aforesaid properties, and any party asserting that they hold a superior interest in the aforesaid premises (or any of them) are called upon to furnish evidence of title to the aforementioned premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, Boylan Bros Limited intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the city of Dublin for directions as may be appropriate on the basis that the persons or persons beneficially entitled to the superior interest including the freehold reversion in each of the aforesaid premises are unknown or unascertained.

Date: 8 November 2006

Signed: Creagh Joy and Company (solicitors for the applicant), 2 Prince of Wales Terrace, Bray, Co Wicklow

In the matter of the Landlord and Tenant Acts 1967-2005 and in the matter of an application under the section 17 of the Landlord and Tenant (Ground Rents) Act 1967, between Navoro Limited (applicant) and Green Estate (first respondent) and Christmas Estate (second respondent) and Villiers Stuart Estate (third

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respondent) and Friel Estate (fourth respondent) and Ford Estate (fifth respondent) and unknown or unascertained person (sixth respondent): an application by Navoro Limited

Any person having any interest in the freehold estate of the property Parnell House, situate at Parnell Street and John Street in the parish of Saint John's within the city of Waterford.

Take notice that Navoro Limited intends to submit an application to the county register for county of the city of Waterford for the acquisition of the freehold interest of the aforesaid premises, and any party asserting that they hold a superior interest in the aforesaid premises (or any of them) are called upon to furnish evidence of the title to the aforementioned premises to the below named within 42 days from the date of the publication of this notice.

In default of any such notice being received, Navoro Limited intends to proceed with the application before the county register at the end of 42 days from the date of the publication of this notice and will apply to the county registrar for the county of the city of Waterford for directions as may be appropriate on the basis that the persons beneficially entitled to a superior interest including the freehold reversion in the aforesaid premises are unknown or unascertained.

Date: 8 December 2006

Signed: Peter O'Connor and Sons (solicitors for the applicant), Wyse House, Adelphi Quay, Waterford

In the matter of the *Landlord and Tenant Acts 1967-1994* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, and in the matter of the lands with buildings erected thereon at Braemor Road, Churchtown, Dublin 14: an application by LDB Developments Limited, having its registered office at unit 68 Western Parkway Business Park, Lower Ballymount, Dublin 12

Take notice that any person having interest in the freehold estate or any intermediate interests in the following property: all that and those the premises demised by indenture of lease dated 5 April 1957 and made between Jane Egan of 'Corona', Sutton, in the county of the city of Dublin of the one part and Joseph Samuel Deane of 1 Clare Street in the city of Dublin of the other part, and therein described as "all that part of the lands of Little Newtown situate in the parish of Rathfarnham, barony of Rathdown and county of the city of Dublin, which are more particularly delineated on the map or plan thereof hereon endorsed and thereon edged with a red verge line" (which premises was previously known as Braemor Road Service Station, Braemor Road,



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Churchtown, Dublin 14) for a term of 500 years from 1 July 1951, subject to the yearly rent of one shilling thereby reserved and the covenants on the part of the lessee and conditions therein contained.

Take notice that LDB Developments Limited intends to submit an application to the county registrar for the city of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7, for the acquisition of the freehold interest in the aforesaid property and that any party asserting that they hold a superior interest in the aforesaid property are called upon to furnish evidence of title to the below named within 21 days from the date of this notice.

In default of any such notice being received, LDB Developments Limited intends to proceed with the application before the county registrar at the end of 21 days from the day of this notice and will apply to the county registrar for the city of Dublin for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid property are unknown or unascertained.

Date: 8 December 2006

Signed: P J Walsh and Company (solicitors for the applicant), 12 Upper Fitzwilliam Street, Dublin 2

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of the purchase of the freehold estate of property situate at 7 Thompson Cottages, North Circular Road, Dublin 1: an applica-

tion by Adrian Graham and Genevieve Maiden

Take notice that any person having an interest in the freehold estate of the property known as 7 Thompson Cottages, North Circular Road, Dublin 1, being portion of the property held under:

1) An indenture of lease dated 8 August 1878 and made between the Honourable Charles Spencer Cowper of the one part and John Thompson of the other part for the term of 200 years from 1 May 1878, subject to the yearly rent of £40 and the covenants and conditions therein contained and

2) An indenture of lease dated 11 January 1878 and made between Luke Reilly of the one part and John Thompson of the other part for the term of 91 years from 1 November 1877, subject to the yearly rent of £65 and the covenants and conditions therein contained and

being all of the property held under:

3) An indenture of assignment and conveyance dated 1 June 1984 and made between William Terence O' Dea of the one part and Thomas O'Connor of the other part for the unexpired residue of the terms of the leases dated 8 August 1878 and 11 January 1878, subject to the covenants and conditions therein contained and assigned and conveyed to Adrian Graham and Genevieve Maiden by deed of assignment and conveyance dated 1 September 2006.

Take notice that Adrian Graham and Genevieve Maiden intend to submit an application to the county registrar for the city of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7, for the acquisition of the freehold interest in the aforesaid property and that any party asserting that they hold a superior interest in the aforesaid property are called upon to furnish evidence of title to the below named within 21 days from the date of this notice.

In default of any such notice being received, Adrian Graham and Genevieve Maiden intend to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the city of Dublin for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid property are unknown or unascertained.

Date: 8 December 2006

Signed: Porter Morris & Company (solicitors for the applicant), 10 Clare Street, Dublin 2

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant

(Ground Rents) (No 2) Act 1978 and in the matter of the lands with buildings erected thereon previously known as 141 Townsend Street and 20A Mark Street, Dublin 2, and now contained within the development known as Hyde Court, Townsend Street, Dublin 2: an application by Rambler Properties Limited, having its registered office at Castle House, Citywest Business Campus, Naas Road, Dublin 24

Take notice that any person having an interest in any intermediate leasehold estate of the following property: all that and those the premises demised by indenture of lease dated 13 October 1824 and made between George Donovan of the one part and John Ferrall of the other part and therein described as "all that dwellinghouse, messuage or tenement now known as number 141 situate, lying and being in Townsend Street at the corner of Mark Street as formerly in the possession or occupation of John Daly, merchant, and as lately in the possession and occupation of Richard Oulton, gentleman, or his under tenants, said premises being bounded on the east by Mark Street aforesaid, on the west by the house now or formerly in the possession of Nathaniel Corrigan, on the south by the house now or formerly in the possession of Mrs Kelly, widow, and on the north by Townsend Street aforesaid" (which premises was previously known as 141 Townsend Street and 20A Mark Street, Dublin 2, and is now contained within the development known as Hyde Court, Townsend Street, Dublin 2) for a term of 950 years from 13 October 1824, subject to the yearly rent of £34.2.6 sterling thereby reserved and the covenants on the part of the lessee and the conditions therein contained.

Take notice that Rambler Properties Limited intends to submit an application to the county registrar for the city of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7, for the acquisition of any intermediate leasehold interests in the aforesaid property and that any party asserting that they hold a superior interest in the aforesaid property are called upon to furnish evidence of title to the below named within 21 days from the date of this notice.

In default of any such notice being received, Rambler Properties Limited intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the city of Dublin for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior intermediate leasehold interests in the aforesaid property are unknown or unascertained.

Date: 8 December 2006

Signed: P J Walsh & Company (solicitors for the applicant), 12 Upper Fitzwilliam Street, Dublin 2

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of the lands with buildings erected thereon previously known as 144 Townsend Street, Dublin 2, and now contained within the development known as Hyde Court, Townsend Street, Dublin 2: an application by Rambler Properties Limited, having its registered office at Castle House, Citywest Business Campus, Naas Road, Dublin 24

Take notice that any person having an interest in the freehold interest of the following property: all that and those the premises demised by indenture of lease dated 15 October 1885 and made between Thomas Christian Scott, Margaret Scott, Mary Smith and Eleanor Smith of the one part and William White of the other part and therein described as "all that and those the dwellinghouse known as North Townsend Street in the parish of St Mark and county of the city of Dublin" (previously more commonly known as 144 Townsend Street, Dublin 2, and now forming part of the development at Hyde Court, Townsend Street, Dublin 2) for a term of 500 years from 25 March 1885, subject to the yearly rent of £6 sterling and the covenants on the part of the lessee and the conditions therein contained.

Take notice that Rambler Properties Limited intends to submit an application to the county registrar for the city of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7, for the acquisition of the freehold interest in the aforesaid property and that any party asserting that they hold a superior interest in the aforesaid property are called upon to furnish evidence of title to the below named within 21 days from the date of this notice.

In default of any such notice being received, Rambler Properties Limited intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the city of Dublin for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid property are unknown or unascertained.

Date: 8 December 2006

Signed: P J Walsh & Company (solicitors for the applicant), 12 Upper Fitzwilliam Street, Dublin 2

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant

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Email: nvd@cvslaw.co.uk

(Ground Rents) (No 2) Act 1978: an application by William Owens

Take notice that any person having interest in the freehold estate of the property known as 3 Thompson's Cottages, North Circular Road, Dublin 1, being portion of the property held under an indenture of lease dated 8 August 1878 and made between the Honourable Charles Spencer Cowper of the one part and John Thompson of the other part for the term of 200 years from 1 May 1878, subject to the yearly rent of IR£40 and the covenants and conditions therein contained, and an indenture of lease dated 11 January 1878 and made between Luke Reilly of the one part and John Thompson of the other part for a term of 91 years from 1 November 1877, subject to the yearly rent of IR£65 and the covenants and conditions therein contained and being all of the property the subject of a deed of assignment dated 24 July 2000 between Francis O'Neill and Shirley Fagan of the one part and William Owens of the other part.

Take notice that William Owens intends to submit an application to the county registrar for the county of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7, for the acquisition of the freehold interest in the aforesaid property and that any party asserting that they hold superior interest in the aforesaid property are called upon to furnish evidence of title to the below named within 21 days from the date of this notice.

In default of any such notice being received, William Owens intends to pro-

ceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the city of Dublin for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid property are unknown or unascertained.

Date: 8 December 2006

Signed: O'Scannail & Co (solicitors for the applicant), 41 Main Street, Swords, Co Dublin

RECRUITMENT

Co Louth: two experienced solicitors required for young, busy, medium-sized dynamic practice; firstly, family law and conveyancing solicitor, secondly, conveyancing housing estate development, commercial property and possibly some company law. Immediate start. Excellent salary. Apply in writing to principal of Catherine Allison & Co, 6 Roden Place, Dundalk, Co Louth; tel: 042 932 0854 or direct email: catherine@callison.ie

Wanted: general practice position. UK-qualified solicitor with broad experience, mainly civil property litigation, looking for work in the Limerick, North Cork, North Kerry and West Tipperary areas. On roll with Irish Law Society. Full time and part time considered. Reply to box no 100/06

NOTICE TO THOSE PLACING RECRUITMENT ADVERTISEMENTS IN THE LAW SOCIETY GAZETTE

Please note that, as and from the August/September 2006 issue of the *Law Society Gazette*, **NO recruitment advertisements will be published that include references to years of post-qualification experience (PQE).**

The *Gazette* Editorial Board has taken this decision based on legal advice, which indicates that such references may be in breach of the *Employment Equality Acts 1998 and 2004*.

Due to restructuring, FB Keating & Company, Limerick, require a **litigation solicitor**. Excellent career prospects. Apply with CV to: enquiries@fbk.ie

Solicitor required for busy general practice. Good general experience preferred. Reply to Liam Keane & Company, Solicitors, The Old Toll House, Dunshaughlin, Co Meath; email: law@liamkeaneandco.ie

Assistant solicitor required for a busy progressive solicitors' practice in Cootehill, Co Cavan. The applicant must have a good background of experience in conveyancing, probate, capital taxation, with some District Court experience an advantage. The applicant must also be computer literate. Pleasant working atmosphere with support staff and colleagues. Salary negotiable with experi-

ence. Apply in strictest confidence with curriculum vitae to Brendan O'Reilly Esq, O'Reilly Solicitors, Market Street, Cootehill, Co Cavan

Solicitor's practice for sale

Well-managed, long-established general practice for sale. South Dublin suburbs. Principal retiring but willing to work part-time at outset if required. Large will cabinet, good turnover. Would suit a partnership, branch office or sole practitioner. Ref: ST/2091. Contact: Sonya Tighe, Moore Stephens Caplin Meehan, Chartered Accountants, Blackhall Green, Blackhall Place, Dublin 7; tel: 01 646 9000 or email: stighe@msscaphinmeehan.ie

CONSULTATION ROOM HIRE RATES

(With effect from 1 January 2007)

- €45 for one hour if payment on the spot and used before 4pm
- If invoiced €60 for one hour (if greater than 1 hour, €45 per hour)
- €60 for 2 hours
- €200 per day

From 1 January 2007, the Four Courts consultation room will be a broadband 'hotspot' for wireless enabled laptops. No laptop? Simply use the internet kiosks in the Four Courts consultation room office.

The Law Society's partners in this initiative are GlobalAirNet International Ltd.

TEL: 01 668 1806

Property & Probate Solicitor

Meath

€Excellent

This practice firm has built a strong reputation for its quality of work with both commercial and private clients. The firm wishes to appoint an experienced Solicitor to join their current team.

The Role

- Advise on all aspects of residential/commercial property transactions, landlord/tenant matters, property finance as well as probate matters.
- This role can offer excellent opportunities for career progression as well as flexible working arrangements.

The Person

- The successful candidate must be a team player with an approachable and friendly personality.
- Residential conveyancing and probate experience.
- Must have accurate drafting and file handling skills.

This firm offers an opportunity to enjoy high quality work and autonomy in your role with your efforts recognised and well rewarded.

Interested candidates can contact John Madden in the strictest confidence on 01 4621000 or email your CV to JMadden@brightwater.ie



36 Merrion Square, Dublin 2
Tel: 01 662 1000

dublin@brightwater.ie
www.brightwater.ie

The Mental Health (Criminal Law) Review Board seeks applications from suitably qualified solicitors for membership of the Mental Health (Criminal Law) Legal Representatives Panel.

The Board was established pursuant to the Criminal Law (Insanity) Act 2006 on 27th September, 2006. It is independent in the exercise of its functions under the Act and is responsible for reviewing the detention of patients in a designated centre (currently the Central Mental Hospital) who have been referred there arising from a decision by the courts that they are unfit to stand trial or found to be not guilty of an offence by reason of insanity.

It will also review the detention of prisoners, including military prisoners, who have been transferred to a designated centre from prison and military personnel who have been referred to a designated centre by tribunals under the relevant Defence acts. It operates a legal aid scheme which provides legal representation to patients before hearings of the Board.

Applicants must be practising solicitors, who have relative experience as a practising solicitor ending immediately before application. Solicitors in private practice or individual solicitors within firms may apply. For further information, details of how to apply and an application form, please submit an email to Ann_d._Casey@justice.ie

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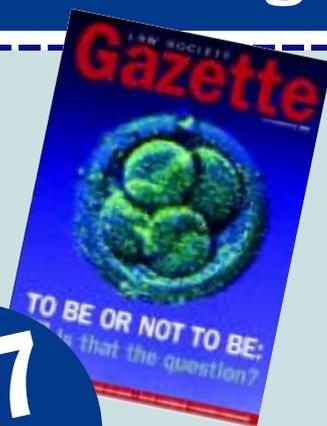
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Our Finance Department is Ireland's largest financial practice, consistently at the forefront of many developments in domestic and international banking, financial services and capital markets. Lawyers in the Department advise on a wide range of securitisations and other structured finance transactions. As well as acting for a variety of international financial institutions, the team has a very strong domestic client base.

Due to an increase in demand for our services, we are looking for lawyers to join our Finance Department to work principally in the areas of securitisation and capital markets. Prior experience is preferable although we are willing to consider candidates from other backgrounds with a strong academic record and who are looking for a new challenge.

If you are looking for that challenge, enjoy dealing directly with clients and would like to work for the European Law Firm of the Year 2006 (Legal Business) and Irish Law Firm of the Year 2006 (Chambers) then you will be ideally suited to joining us.

Please send applications to:

Ruth Dalton, Arthur Cox, Earlsfort Centre, Earlsfort Terrace, Dublin 2, Ireland.
Email: ruth.dalton@arthurcox.com Tel: 01 618 6810

www.arthurcox.com



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CURRENT OPPORTUNITIES INCLUDE:

- **Corporate Lawyer – Prestigious mid tier firm. Dublin city centre – €80,000+**
Lawyer with excellent corporate experience required for prestigious law firm in the Dublin 2 area. Must have sound knowledge of corporate transactions, be able to work in a pressurised but friendly environment and have exceptional client management skills.
- **Investment Funds Lawyer – Top Tier firm. Dublin City Centre – €85,000+**
Lawyer with experience both advising on and establishing investment funds is required by the hugely successful department of a Top 5 firm in Dublin city centre. Enviably client portfolio, friendly working atmosphere and excellent career progression for the right candidate.

We would like to take this opportunity to wish all our candidates and clients a merry Christmas and a happy and prosperous 2007

If you are interested in finding the right position in the right firm with an agency who genuinely respects your need for confidentiality contact Stephen Kelly B.A., LL.B. at Stelfox Legal on (01) 679 3182 or email your CV to Stephen@stelfox.ie

Log on to our new website for a list of more opportunities

www.stelfox.ie



For information on these vacancies or to discuss other career opportunities, please contact John Cronin Solicitor.

PRC Recruitment Limited, 11 Hume Street, Dublin 2. Tel: 01-6381020 or e-mail johncronin@prc.ie

EMPLOYMENT LAWYER – DUBLIN CITY CENTRE

€60K+

Our client, a leading commercial law firm, is now recruiting an employment lawyer. The successful lawyer will be drafting and advising on employment contracts and employee policies, creating and implementing employee programs for its clients, advising on terms and conditions of employment, post-termination restrictive covenants and implementing redundancy programs as well as involved in transfer of undertaking issues in corporate sales and takeovers.

SENIOR PROPERTY SOLICITOR – DUBLIN CITY CENTRE

€90K +

A leading commercial law firm in Dublin are now seeking a solicitor with experience in commercial conveyancing. The successful candidate will have experience in large deal commercial transactions advising investors, developers and financial institutions and investigating title as well as good working knowledge of landlord and tenant issues.

CONSTRUCTION LAWYER (NON-CONTENTIOUS) – DUBLIN 2

€60-80K

Top 5 law firm requires a solicitor for its construction department. The firm advises a range of public and local authorities, private sector developers, contractors and designers in relation to all aspects of construction and engineering. The successful candidate will have experience in construction and planning.

IN-HOUSE COMPETITION & REGULATORY LAWYER – DUBLIN

€60K+

Our client based in Dublin is a leading company which is now seeking a legal advisor to take responsibility for the provision of competition law. Its remit will also require that the successful candidate assist with its corporate governance procedures and adhere to regulatory requirements.

CONVEYANCING SOLICITOR – MONAGHAN

€50-60K

This is an opportunity to join a thriving and expanding law firm. As a result of this development, our client is now looking for a conveyancing solicitor to join its team. An interest in cross-border legal practice would be beneficial. Strong partnership potential for ambitious solicitor.

COMMERCIAL SOLICITOR – CORK

€70K +

Our client, based in Cork has experienced exceptional growth in its commercial department in the last year. Due to this growth it is now seeking a good company/corporate solicitor to join its team.

Head of Private Client

Dublin

€80,000+

Our Client is a dynamic and progressive firm of solicitors, based in Dublin. The firm prides itself on delivering a prompt, efficient, high quality legal service and has enjoyed rapid growth over the last number of years. The Partners are now seeking to hire a Head of Private Client, as they continue their strategic expansion. This is an exceptional opportunity for a strong practitioner looking for more autonomy, responsibility and recognition in their job.

The Role

- Managing a team - you will lead from the front in offering a professional service to the firm's private clients.
- On-going Marketing/Practice Development role.
- Exploiting synergies across practice areas of the firm.
- Advising on all aspects of residential property law.

The Person

- Strong practitioner.
- Excellent management skills are essential.
- Must have superb interpersonal and client liaison skills.
- Excellent organisational skills required.
- Team player.
- Willingness to embrace technology (Case Management / digital dictation).

Interested candidates should contact John Madelin in the strictest confidence on 01 6621000 or email your CV to jmadelin@brightwater.ie

36 Merton Square, Dublin 2
Tel: 01 662 1000



Email: dublin@brightwater.ie
Web: www.brightwater.ie



LONDON?

If you are considering looking at the London market, whether a UK or US law firm, you need to speak to a recruiter with serious connections. Taylor Root deals with all the leading firms in London and a selection of our clients are listed below. We have many positions in London for Irish lawyers at all levels in corporate, banking, construction, capital markets, projects/energy, IT or employment law. Interested applicants should contact either Erica MacKinnon or David Thomson on +44 (0)131 226 0640 or email ericmackinnon@taylorroot.com or davidthomson@taylorroot.com

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In House

Asset Finance Dublin

Prestigious top 5 practice requires an experienced solicitor to join their expanding team. Previous experience advantageous, but not essential as strong on-li-licee from other areas will be considered. Excellent salary and career prospects. (ref: 14202)

Banking Dublin

Prestigious law firm requires Solicitors to join their leading banking team of approximately 30. Working alongside the partners you will have some experience in banking or corporate work. Excellent training and continual professional development offered. (ref: 15227/1)

Banking Dublin

Prestigious practice requires Banking Solicitors to join their leading banking team. Previous experience of a wide range of banking issues essential. This is an outstanding opportunity for ambitious lawyers to become part of a major law firm. (ref: 17292)

Capital Markets Dublin

Leading law firm requires experienced Capital Markets Lawyers to join their leading established practice. Working directly with partners and clients you will have previous experience in a similar environment. Excellent career progression and financial package offered to the successful on-licee. (ref: 17292)

Commercial Property Dublin

Solicitors required for this expanding practice in this top 5 law firm. Representing international investors, developers and large financial institutions you will have a strong property background with experience in commercial developments and investments. (ref: 16202/6)

Commercial Property Dublin

Senior lawyer required for rapidly expanding practice in this prestigious medium size law firm. Advising a broad client base on issues including commercial leasing, land acquisition and development, funding and security, taxation issues, planning and environmental law. (ref: 15227/2)

Construction Dublin

Respected leading law firm requires an experienced lawyer to join their construction practice. Advising a wide range of private and public bodies on all aspects of construction, you will have experience in a similar environment gained in a large or medium size practice. (ref: 15226/1)

Corporate Tax Dublin

Prestigious Corporate Tax practice requires Solicitors to join their expanding team. Advising on a diverse range of Corporate Tax matters on-licee will ideally have experience in a similar environment, but strong on-licee from other areas will be considered. AII qualification a distinct advantage. (ref: 15226/2)

Employment Dublin

Experienced solicitor required to join the expanding team in this leading practice. Managing a broad range of non-contentious issues for an exceptional corporate client list. Experience in tenure and conditions of employment, post-termination restrictive covenants and implementing re-structuring programmes advantageous. (ref: 15226/3)

Corporate Dublin

Prestigious niche practice requires two Associates Corporate Solicitors to join their expanding practice. Working on a wide variety of high quality work for an outstanding client list, you will have strong experience gained in a similar environment in the UK, Ireland or other leading jurisdiction. (ref: 16202/1)

EU Regulatory Dublin

Ireland's leading life sciences practice requires an experienced EU solicitor to join their team. This role will involve advising on regulatory issues to an enviable client base covering the food, pharmaceutical and agricultural sectors. This is an excellent opportunity to join a legal 500 firm with a superb reputation. The salary and benefits package are commensurate with experience. (ref: 15225/1)

Financial Services (In House) Dublin

Multinational bank are looking for experienced solicitors to join their financial services team. This is a great opportunity to get some in-house experience with one of the most well known names in the business. The role will suit on-licee with experience who can demonstrate experience in a similar role. (ref: 15226/2)

Funds Dublin

Opportunity to join one of Ireland's leading law firms in their renowned funds team with an enviable client portfolio. Ideally you will have experience in a similar environment, but strong on-licee from other practices areas will be considered. (ref: 15226/3)

Funds (In House) Dublin

Senior Funds Solicitor required by this leading investment house to consult on compliance and legal issues involving funds. On-licee should have extensive experience gained in a leading investment company or law firm. (ref: 16226/1)

IP Dublin

Prestigious top tier Irish law firm seeks an IP solicitor to work within their IT/IP practice. Covering a broad range of non-contentious and/or contentious IP work you will have an extensive working knowledge of a broad range of IP issues preferably gained in a similar environment. Excellent continued training programs and career prospects offered to the successful on-licee. (ref: 15226/2)

IT Dublin

Opportunity to join a leading practice within this leading law firm. Previous experience in a wide range of contentious and non-contentious issues is desirable. On-licee should be ambitious and driven and looking to move to an Associate or senior associate position. Fantastic salary and benefits package above market rate offered as well as a defined career path. (ref: 15226/2)

Dublin Office

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Wishing you a Merry Christmas and a Happy New Year

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General Practice

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Litigation Dublin

Outstanding opportunity for two solicitors to join the litigation practice in this Top 5 law firm. Experience in a wide range of commercial litigation matters desirable along with a keen to progress and develop within this firm. Excellent continued training programme and career prospects offered to the successful candidates. (ref: 15295/26)

Litigation P&L Dublin

Unique opportunity for an experienced Litigation Solicitor to join the expanding team as a Professional Support Lawyer. Experience in a wide range of commercial litigation matters and know how legal systems essential. (15290/27)

PPP/PII Dublin

Opportunity to join one of Ireland's leading and most prestigious law firms in their PPP/PII team. You will have extensive experience in a similar environment along with a determination to succeed in this award winning firm. (ref: 17297/6)

Private Client Dublin

Experienced solicitor required to join the private client practice in this top 5 firm. You will ideally have experience in a similar environment or a strong general practice. Outstanding training and continued professional development offered. (ref: 15296/8)

Tax Dublin

Ireland's leading law firm seeks an experienced lawyer to join their respected tax practice. You will have extensive knowledge of commercial transactions. This is an excellent opportunity to join a top tier practice in their leading heli-copter tax practice. Excellent training and continued professional development offered. (ref: 15260/5)

Compliance (In House) London/ Frankfurt

Blue chip financial services company requires a senior compliance lawyer to oversee the development, implementation and management of a risk-based compliance program for business unit compliance with various regulatory or compliance requirements and functional programs for assigned business areas.

(ref: 12172/6)

Commercial Conveyancing Dublin City Centre

General practice in Central Dublin requires an experienced commercial conveyancing solicitor to join their team. Candidates will ideally have experience in working with large scale developers. This is an excellent opportunity to join a well respected team with a high quality reputation. (ref: 15297/1)

General Practice North Dublin

General practice in North Dublin requires a solicitor to join their expanding team. Candidates will need to be fully experienced in all areas of residential conveyancing, particularly mortgages and be able to run files from start to finish. Salary and benefits are commensurate with experience. (ref: 16265/3)

General Practice South Dublin

Small general practice requires an experienced solicitor on a locum basis for approximately 6 months. Candidates should have strong experience in residential conveyancing as well as probate and be looking for a role that will provide a high degree of independence. (ref: 12791/1)

General Practice Co. Carlow

General practice firm in County Carlow requires an experienced solicitor to join their team. This role will mainly involve residential conveyancing, as well as probate. Experience of general litigation and family law would be advantageous. Excellent opportunity to join a close knit team where hard work will be rewarded. (ref: 16226/1)

General Practice Cork City Centre

One of Cork's most well respected firms, requires an experienced solicitor to join their team. Candidates should have strong experience in all aspects of conveyancing including residential developments, investment properties, office developments and CPO's. (ref: 17225/1)

General Practice Co. Fermanagh

Our client in Co. Fermanagh requires a qualified solicitor to join their expanding team. Candidates should be able to show experience in all aspects of residential and commercial conveyancing as well as commercial transactions to satisfy large and varied client base. (ref: 16762/2)

General Practice Galway City

Small general practice in Galway requires a solicitor to join their team. Interested parties will need to demonstrate good knowledge of residential conveyancing as well as probate and be able to work independently. This role will suit candidates with some experience in a similar role. (ref: 17315/1)

General Practice Co. Monaghan

Progressive law firm in Co. Monaghan requires a qualified solicitor to join their expanding team. Candidates should be able to show experience in all aspects of residential and commercial conveyancing. Cross border experience would also be an advantage. (ref: 16762/3)

General Practice Co. Waterford

County Waterford general practice requires a qualified solicitor to join their expanding practice. The ideal candidates will have experience of conveyancing and probate work, with the capability to manage their own files. An outstanding opportunity to join one of the leading firms in the South East. (ref: 16725/5)

Litigation Co. Louth

General practice in Dun-lough requires a solicitor to join their expanding team. Those interested in this role should be able to demonstrate strong litigation experience, particularly relating to PI and RTA. This role will also involve some probate and family law. Salary and benefits are commensurate with experience. (ref: 16227/2)

Legal Secretary Dublin City Centre

Legal Secretary required for mid-tier firm located in central Dublin. This role will involve assisting the head of the Private Client Department and interested candidates should have experience of residential conveyancing. This is an interesting and challenging role with a well respected firm. (ref: 16725/1)

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A selection of opportunities for December 2006.

In-house Commercial Lawyer – Associate to Senior Associate Level

IHE0004

Our client, a successful Irish plc, has a vacancy for a talented professional to join its Legal Department. The successful applicant will be involved in a diverse range of legal activities, including commercial, banking and property law, contract drafting and review. A sound knowledge of EU and international trading law would be a distinct advantage.

Banking Solicitor – Junior to Mid Level

PP0014

This front ranking practice seeks junior to mid level banking solicitors for its rapidly expanding department. You will be dealing with an interesting and diverse workload and have a solid background in commercial banking matters.

Corporate/Commercial Solicitor – Associate Level

A progressive mid tier firm is seeking an ambitious solicitor to deal with a range of high quality work including mergers and acquisitions, private equity, IPOs and venture capital investments. Working closely with the managing partner, this is an excellent opportunity for rapid career advancement.

Commercial Conveyancing Solicitor – Associate Level

PP0156

A leading Dublin-based law firm is seeking an experienced solicitor to join its commercial conveyancing department. The successful candidate will be an ambitious and enthusiastic practitioner.

Corporate Commercial Solicitors – Associate to Senior Associate Level

PP0154

This highly successful Dublin-based law firm is seeking solicitors to join its Corporate Commercial Department. You will be exposed to a wide variety of commercial transactions advising both Irish and international public and private companies.

Medical Negligence Solicitor – Senior Associate Level

PP0155

This well-established law firm is seeking a litigation solicitor specialising in medical negligence. You will be dealing with an interesting and diverse workload which will include high-profile cases.

Experienced Professional Support Lawyer

PP0172

One of Ireland's leading corporate law firms is seeking a Professional Support Lawyer to join its existing team. You will assist with the ongoing development of a Knowledge Management System for professional staff and provide professional support services to Fee Earners specifically in Corporate/Commercial, Financial Services, Banking, Asset Management and Investment Funds.

Senior Tax Solicitor

PP0170

This top-flight Dublin law firm seeks to recruit a senior lawyer to join the Tax Department. You will be advising a broad range of international and domestic clients in all major business sectors including finance, technology, communications, construction, leisure and entertainment. It would be beneficial, but not essential, to be ATT-qualified.

Junior Tax Lawyer

PP0171

Our client is in expansion mode and seeking to recruit a junior lawyer to join the Tax Department. You will work with a team of tax lawyers, accountants and consultants to advise a broad range of clients. This innovative team is seen as a market leader in the area of tax planning.

IT/IP Solicitor – Associate level

Leading Dublin firm requires a solicitor with strong exposure to IT/IP work to join its existing team. You will be dealing with an interesting and varied workload of high quality work. The group is an expanding and profitable part of the firm's practice.

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Senior Employment Lawyer 0611-89

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Junior Banking Lawyer 0611-05

This top 10 law firm is seeking junior lawyers interested in a career in banking and finance law. Suitable candidates should have excellent communication and interpersonal skills and a determination to succeed. Full training relevant to each specific area shall be provided. Outstanding package on offer.

Commercial Litigation Solicitor 0611-46

A key role is on offer for a senior Commercial Litigation Solicitor within this twelve solicitor general practice in Dublin 2. Partnership is a possibility for the successful candidate. €70k +

Commercial Conveyancing Solicitor (Secondment) 0611-78

This top 5 Dublin law firm is seeking an experienced Commercial Conveyancing Solicitor to work on a secondment basis for eight months within an international telecommunications company. Once the eight-month period has expired, the successful candidate will rejoin the challenging work environment of this leading law firm. Excellent opportunity with fantastic salary.

Commercial Conveyancing Solicitor 0611-12

This boutique law firm based in Dublin 2 employs approximately 45 staff and requires two further Commercial Conveyancing Solicitors at both junior and senior level. Knowledge of banking, whilst not essential, would be desirable. Salary will be commensurate with experience.

General Practice Solicitor (Co. Carlow) 0611-35

This country practice requires a candidate with a modern outlook to work alongside the Principal of the firm as an Assistant Solicitor. All areas of law, with the exception of criminal law, will be covered in this role. €50k +

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Residential and Commercial Property Solicitor of Associate level is required for large city firm. Flexibility on working hours is on offer. €55k +

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Financial Services Lawyer

Dublin €Excellent terms on offer

Major international investment bank requires a junior lawyer to join its in-house team. As one of the global leaders in corporate banking/securities and asset management, the bank provides financial solutions for demanding clients. The successful candidate will have a background in one of the following areas: general banking, structured finance, securitisation. Ref: 13222. **Please contact Portia White.**

Corporate/Commercial Lawyer

Cork €65k plus

Our client a leading Cork firm, requires a junior lawyer to join a busy corporate commercial department. You will have the ability to assess and identify commercial and financing issues and apply legal reasoning to how these issues are addressed. You will have high quality transactional experience with exposure to asset and share purchase agreements and other related commercial agreements. Drafting and negotiation skills a must. Ref:13762. **Please contact Portia White.**

Pensions Lawyer

Dublin €70K

Our client requires an investment/pensions lawyer to join its legal team based in the city centre. You will provide legal advice to the large client base in the areas of pensions, employment and trust law, as well as drafting ancillary legal documentation. Relevant experience in pensions and employment law, gained either in-house or in private practice, is highly desirable. Ref:11184. **Please contact Portia White.**

Newly Qualified Corporate/Banking

Dublin €Excellent terms on offer

Our client, a leading firm with a strong domestic and international focus, is looking to recruit commercial and banking lawyers. You will have strong academics and have apprenticed in a mid-sized or leading firm. Most importantly you will have a desire to develop your career within a leading corporate. Ref: 14840. **Please contact Sharon Swan.**

Corporate Lawyer

Dublin €Excellent

Our client is a boutique firm with an excellent reputation among its clients and is looking to recruit a commercial lawyer at associate level for a team based role. You will have experience in one or more of the following: mergers and acquisitions, venture capital, joint ventures, privatisations and flotation's. Ref: 12667. **Please contact Sharon Swan.**

Construction Lawyer

Dublin €90k

Small, but expanding, practice based in the city centre is seeking to appoint a construction lawyer at associate level. You will preferably have experience in non contentious construction work, but candidates with contentious backgrounds will also be considered. This is an excellent opportunity to develop your career within a highly autonomous role. Ref: 14428. **Please contact Sharon Swan.**

Commercial Property Lawyer

Cork €65k

Leading firm in Cork require a junior lawyer to join an expanding and progressive team. You will have experience in commercial property transactions with regard to acquisitions, disposals, letting of property and other property related matters. Experience of acting for landlords, tenants and developers with a view to expanding this commercial activity is essential. The successful candidate will have the ability to take responsibility and act in a fast paced environment. Ref 13454. **Please contact Portia White.**

Junior Financial Services Lawyer

Dublin base with international travel €60k

The European headquarters of this leading provider of financial services is looking to recruit a junior lawyer. You will have gained excellent training and now wish to develop your career in-house. Excellent basic and bonus are offered, as well as international travel to other global financial centres, including New York and Hong Kong. Ref: 6432. **Please contact Sharon Swan.**

Corporate/Trust Lawyers

Off-shore Cayman Is, Guernsey, Jersey €Excellent

Leading off-shore law firm is seeking lawyers for its international offices. You will have gained experience in a leading firm and now want to consider making a move off-shore. Lawyers at all levels will be considered. City of London salaries are offered and excellent tax rates will apply. Relocation assistance will also be offered. Ref: 14568. **Please contact Sharon Swan.**

Junior Corporate Lawyer

London €100k+

We are representing a number of Magic Circle and second tier firms based in London. Our clients are looking for corporate lawyers at all levels and offer the opportunity to work on high profile corporate transactions. Ref: 12354. **Please contact Sharon Swan.**

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