

TRIBUNAL OF INQUIRY INTO PROTECTED DISCLOSURES MADE UNDER
THE PROTECTED DISCLOSURES ACT 2014 AND CERTAIN OTHER
MATTERS FOLLOWING RESOLUTIONS PASSED BY DÁIL ÉIREANN AND
SEANAD ÉIREANN ON 16 FEBRUARY 2017

ESTABLISHED BY INSTRUMENT MADE BY THE MINISTER FOR JUSTICE
AND EQUALITY UNDER THE TRIBUNALS OF INQUIRY (EVIDENCE) ACT
1921, ON 17 FEBRUARY 2017

SOLE MEMBER: MR. JUSTICE PETER CHARLETON, JUDGE OF THE
SUPREME COURT

SUBMISSIONS ON THE ISSUE OF COOPERATION
IN RELATION TO COSTS

HELD IN THE FOUR COURTS, DUBLIN 7
ON THURSDAY, 16TH MAY 2019

Gwen Malone Stenography
Services certify the
following to be a
verbatim transcript of
their stenographic notes
in the above-named
action.

GWEN MALONE STENOGRAPHY
SERVICES

APPEARANCES

SOLE MEMBER: MR. JUSTICE PETER CHARLETON,
JUDGE OF THE SUPREME COURT

REGISTRAR: MR. PETER KAVANAGH

FOR THE TRIBUNAL: MR. DIARMAID MCGUINNESS SC
MR. PATRICK MARRINAN SC
MS. KATHLEEN LEADER SC
MS. ELIZABETH MULLAN, SOLICITOR

FOR SUPT. TAYLOR: MR. MICHAEL O'HIGGINS SC
MR. JOHN FERRY BL

INSTRUCTED BY: MR. CARTHAGE CONLON
M. E. HANAHOE SOLICITORS
SUNLIGHT CHAMBERS
21 PARLIAMENT STREET
DUBLIN 2

FOR THE IRISH EXAMINER,
JUNO McENROE,
DANIEL McCONNELL
CORMAC O'KEEFFE,
TIM VAUGHAN &
MICK CLIFFORD: MR. OISÍN QUINN SC

INSTRUCTED BY: MR. DARRYL BRODERICK
RONAN DALY JERMYN SOLICITORS
THE EXCHANGE
GEORGE'S DOCK
IFSC
DUBLIN 1

FOR MICHELLE TAYLOR: MR. FELIX McENROY SC

INSTRUCTED BY: O'MARA GERAGHTY McCOURT
51 NORTHUMBERLAND ROAD
DUBLIN 4

FOR MR. JOHN BARRETT: MR. JOHN ROGERS SC
MR. TONY MCGILLI CUDDY BL

INSTRUCTED BY: MR. FELIX MCTIERNAN
NOBLE LAW SOLICITORS
FRANKFORT BUILDING
DUNDRUM ROAD
DUBLIN 14

FOR INSP. PATRICK O'CONNELL
AND MR. JOHN KENNEDY: MR. DESMOND DOCKERY SC

INSTRUCTED BY: MR. MICHAEL HEGARTY
REDDY CHARLTON SOLICITORS
12 FITZWILLIAM PLACE
DUBLIN 2

I N D E X

W I T N E S S	P A G E
SUBMI SSI ON BY MS. LEADER	5
SUBMI SSI ON BY MR. O' HI GGI NS	12
SUBMI SSI ON BY MR. ROGERS	22
SUBMI SSI ON BY MR. MCENROY	36
SUBMI SSI ON BY MR. DOCKERY	50
SUBMI SSI ON BY MR. QUI NN	64

1 THE HEARING COMMENCED ON THURSDAY, 16TH DAY OF
2 MAY, 2019 AS FOLLOWS:

3
4 MR. MCGUINNESS: Chairman, Ms. Leader SC, as she now
5 is, will be dealing with any issue that arise as a
6 result of any submissions the parties want to make. 10:01

7 CHAIRMAN: All right. Ms. Leader, it would help me, if
8 you wouldn't mind, just giving a brief outline in
9 relation to the law as to costs and tribunals, and then
10 I will hear everybody, and if people have an emergency, 10:02
11 like they need to get somewhere else, I will be very
12 happy to do you first, if that's all right with your
13 colleagues.

14
15 SUBMISSION BY MS. LEADER: 10:02

16
17 MS. LEADER: Yes, sir. In relation to the law in
18 connection with costs, Section 3 of the Tribunals of
19 Inquiry (Evidence)(Amendment) Act 1997 provides that:

20
21 "Where a tribunal or, if the Tribunal consists of more
22 than one member, the chairperson of the tribunal is of
23 the opinion that, having regard to the findings of the
24 Tribunal and all other relevant matters, including the
25 terms of the resolution passed by each House of the 10:02
26 Oireachtas relating to the establishment of the
27 tribunal or failing to cooperate with or provide
28 assistance to or knowingly give false or misleading
29 information to the tribunal, there are sufficient

1 reasons rendering it equitable to do so, the tribunal
2 or the chairperson, as the case may be, may, on
3 application by any person appearing before the
4 tribunal, order that the whole or part of the costs
5 may, of any person appearing before the tribunal by 10:03
6 counsel or solicitor as taxed by a Taxing Master of the
7 High Court, shall be paid to the person by any other
8 person named in the order."

9
10 So essentially, sir, it would appear from Section 6 of 10:03
11 the Act that the Tribunal has a discretion in the
12 matter of costs, and, as to how that discretion should
13 be exercised, that was considered extensively by the
14 Supreme Court in the case of Murphy V. Flood. That's
15 [2010] 3 I.R. 136. 10:03

16
17 In her judgment, Mrs. Justice Denham acknowledges at
18 paragraph 30 of that judgment that Section 6 of the Act
19 of 1979, which I have just referred to "gives to the
20 tribunal statutory powers in relation to costs. This 10:04
21 includes a specific reference enabling regard to be had
22 to failure to cooperate with the Tribunal."

23
24 Now, in relation to the matter of cooperation, she
25 deals with this in her -- in her judgment, and what she 10:04
26 says in relation to it is:

27
28 "Ordinarily, any party permitted to be represented at a
29 tribunal should have their costs paid out of public

1 funds. However, this may be lost if the party fails to
2 cooperate with the tribunal. Thus, a chairman has to
3 consider the conduct of or on behalf of a party before
4 a tribunal. The power to award costs is affected by
5 lack of cooperation, by non-cooperation with a
6 tribunal. Non-cooperation could include failing to
7 provide assistance or knowingly give false or
8 misleading information.

10:05

9
10 Fundamentally, the issue is whether a party has
11 cooperated with the tribunal so as to be entitled to
12 his or her costs. A person found to be corrupt, who
13 fell on his sword and fully cooperated with the
14 tribunal, would be entitled to assume, unless there
15 were other relevant factors, that he would obtain his
16 costs. This is to facilitate the running of the
17 tribunal."

10:05

10:05

18
19 Now, with regard to failing to cooperate with the
20 tribunal, she then continues on at paragraph 63 of the
21 judgment and says that:

10:05

22
23 "I am of the opinion that the issue for a chairman is
24 whether a party has cooperated with the tribunal."

10:06

25
26 And in relation to whether or not -- she then refers to
27 a judgment of Geoghegan J in Haughey v. Mr. Justice
28 Moriarty and Another and endorses that. And in
29 relation to that, Mr. Justice Geoghegan said:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

"As the question of costs does not really arise yet, I am reluctant to make any comments on it, but as it has featured so prominently in the arguments, I think I should say this:

10:06

In my opinion, power to award costs under the Act of 1997 is confined to instances of non-cooperation or obstruction of the Tribunal, but that of course would include the adducing of deliberately false evidence and that is why the statutory provision specifically requires regard to be had to the findings of the Tribunal as well as other relevant matters."

So, it would appear, sir, that, in relation to the exercise of your discretion in relation to costs, the question to be answered by you is whether or not a particular party has cooperated with the tribunal.

10:07

The second thing in relation to that is whether or not parties told the truth to the Tribunal, would appear to be relevant, having regard to what Mrs. Justice Denham said in Murphy V. Flood, and, of course, it is accepted that the default position is that people are entitled to their costs, but this entitlement may be lost when one looks at cooperation.

10:07

Now, I don't know if anybody else wants to say anything in relation to that, sir.

1 CHAIRMAN: Yes. Thank you, Ms. Leader. I am going to
2 do this in the way the European Court of Human Rights
3 does things, which is, I am going to tell you the
4 questions that are on my mind, and they are these:

5
6 Firstly, does anyone have any different view to that
7 expressed by Ms. Leader; in other words, that
8 cooperation includes telling the truth and that the
9 exercise of having a tribunal would be utterly
10 pointless in the event that people who simply didn't
11 tell the truth were awarded all of their costs?
12 So that is the first question.

13
14 Secondly, has anybody got any issue as to whether we
15 followed fair procedures in relation to not just
16 today's hearing but the letters you received in the
17 past, the first one asking you a number of questions, I
18 think there is five; are you seeking costs, are you
19 seeking costs against somebody else, et cetera,
20 et cetera? You know what the letter says. If
21 necessary, I can read it out to you if you have
22 forgotten.

23
24 The second letter then responded to your individual
25 applications for costs and pointed out particular
26 issues which the Tribunal might have and would like to
27 hear submissions on in relation to truthfulness and
28 cooperation, and those were specifically pointed out in
29 the letter. There was no necessity for anyone to

1 answer that letter, I think a couple of people did, and
2 if they did, fine, that's great, but the oral hearing
3 today is to try and tease that out, and I am here to
4 hear whatever submissions you want. So that is fair
5 procedures, have fair procedures been followed? 10:09

6
7 And the third question is, what percentage below which
8 I would be acting unreasonably, therefore flying in the
9 face of fundamental reason and common sense, and
10 disproportionately, in a sense of Meadows, as flying in 10:09
11 the face of fundamental reason and common sense in
12 going below; in other words, if I said 1%, would I be
13 flying in the face of fundamental reason and common
14 sense so as to generate a judicial review? I'd like a
15 submission on that. In other words, what is the 10:10
16 minimum percentage you claim you are entitled to? By
17 the way, you can say 100% if you want, but I would like
18 a more realistic submission than that. I am not saying
19 that anybody who is here isn't entitled to 100%; I am
20 saying let's not engage in negotiating process. 10:10

21
22 And then the fourth question is this:

23
24 Since this is a matter of public money, in other words
25 the taxpayers' money, is there any sense in which 10:10
26 compassion or mercy comes into consideration in any
27 order that the Tribunal might make?

28
29 So those are the four questions. Any disagreement with

1 Ms. Leader in relation to the truth? Secondly, fair
2 procedures, have they been followed? Thirdly, what
3 percentage below which do -- does an individual party
4 say I would be acting unreasonably? And then,
5 fourthly, is there any sense that mercy or compassion 10:11
6 comes into consideration in what is the distribution of
7 public money?

8
9 And my view, subject to any submission, is that what
10 Ms. Leader has said is correct, and my view also is 10:11
11 that the default position is that if someone, for
12 instance, tomorrow, admits to horribly scandalous
13 conduct, for instance, on the television and a tribunal
14 is set up, but the tribunal is set up and then they
15 say, well, I was telling lies all the way through and 10:11
16 it never happened, that person is entitled to costs.
17 It is cooperation and truth in front of the tribunal
18 that matters, and the default position is, because this
19 is not litigation, it is a public process, if the
20 Oireachtas sets up a tribunal, the default position is, 10:11
21 those who are required to appear should get their
22 costs, but they are also required to cooperate. Now,
23 those are my preliminary views, if anyone would like to
24 make submissions.

25 10:12
26 So, ladies and gentlemen, can I ask you, is anyone, in
27 terms of going first, do you want to do it in order of
28 call to the Inner Bar, or has somebody got an urgent
29 issue?

1 MR. ROGERS: well, I am not relying on any precedent,
2 if that's the question.

3 CHAIRMAN: well, then, the big question is --

4 MR. ROGERS: I think Mr. O'Higgins has a commitment in
5 a criminal matter in another building, so... 10:12

6 CHAIRMAN: Yes. well, that's very kind of you,
7 Mr. Rogers.

8 MR. ROGERS: well, it seems to be the approach that
9 should be adopted.

10 CHAIRMAN: Thank you, Mr. Rogers. 10:12

11

12 SUBMISSION BY MR. O'HIGGINS:

13

14 MR. O'HIGGINS: Chairman, I am much obliged to
15 Mr. Rogers. I will just, first of all, just go through 10:12
16 the answers to your questions. We accept the
17 submission of law as set out by Ms. Leader. No issue
18 arises on fair procedures. We are not seeking our
19 costs from any party.

20 10:12

21 In terms of the letter, I will address you in my short
22 submission on the points raised in the letter. In
23 terms of, would we submit what an appropriate deduction
24 would be and give it to you in ballpark terms, I
25 respectfully submit 10%, and I will slightly enlarge 10:13
26 upon that in my oral submission to you.

27 CHAIRMAN: You are looking for 10% of your costs?

28 MR. O'HIGGINS: No, 10% reduction.

29 CHAIRMAN: Oh.

1 MR. O' HIGGINS: And with regard to public money and
2 whether there is some ad misericordiam element to your
3 determination, in my respectful submission it's a
4 balancing exercise. There are many factors that come
5 into play. And what the tribunal is striving to do is 10:13
6 to obtain a result that is fair, and a fair result
7 involves looking at things in the round and it might
8 involve an element of compassion, but certainly there
9 is no -- there is no give my client costs on a
10 compassionate ground on its own. That's not an 10:13
11 argument.

12 CHAIRMAN: Mr. O'Higgins, you are appearing for
13 Superintendent David Taylor.

14 MR. O' HIGGINS: I beg your pardon. Superintendent
15 Taylor. 10:14

16 CHAIRMAN: Just so as everybody knows. Thank you.

17 MR. O' HIGGINS: Chairman, my submission is really
18 as follows:

19
20 Unlike, say, a criminal case where a person is 10:14
21 compelled to come to court or unlike a civil piece of
22 litigation where somebody elects to become a plaintiff
23 or where someone is a defendant because the system has
24 set up a situation -- or not a situation, has provided
25 for circumstances, if a citizen has a grievance, they 10:14
26 can go to court and air it and a person can elect
27 whether or not to participate in that process. This,
28 in my respectful submission, is a different type of
29 process. It is the Oireachtas that has set up a

1 tribunal of inquiry. It has done so in the public
2 interest. There are relevant part persons who, of whom
3 my client was one, who is deemed to have necessary
4 information and was requested and obliged to
5 participate in the event, and he did respond to that, 10:15
6 he did participate in it. He participated in it in
7 circumstances that involved a very, very significant
8 commitment to him and it involved the very public
9 examination of areas of his work in respect of which he
10 was always going to be found wanting and, I must 10:15
11 acknowledge, was very significantly found wanting in
12 the ultimate findings of the Tribunal, and that process
13 was precipitated by a protected disclosure which he
14 made, which was subsequently, the contents of which
15 became known outside the terms of the protected 10:15
16 disclosure, which, in turn, prompted the Government to
17 set up the Tribunal and which made his participation in
18 these events mandatory.

19
20 Has Superintendent Taylor cooperated? In my respectful 10:16
21 submission, there are facts, facts and factors to which
22 I can point to, indicating cooperation, but I also must
23 accept that there are negative and adverse findings
24 against him and I also must accept that, under the
25 decision opened to you, that is a factor which entitles 10:16
26 you, as Chairman, to take into account when awarding
27 costs. There could be circumstances where the lack of
28 cooperation could go so far as to say an awarding of
29 nil costs. It could go the other extreme, where you

1 would look at the overall picture and say this demands
2 a reduction, and it could be a much smaller reduction,
3 and obviously I am hoping to persuade you that we are
4 on that end of the spectrum.

5
6 In terms of the Tribunal itself, one of the terms of
7 reference was to investigate the allegations of my
8 client in his protected disclosure, that he was
9 "directed to draw journalists' attention to an
10 allegation of criminal misconduct made against Sergeant 10:16
11 McCabe and this was the root cause of his agenda,
12 namely revenge against the gardaí."

13
14 And ultimately, in my respectful submission, that term
15 of reference was upheld to have been factually 10:17
16 established, and, while it involves obviously some
17 degree of speculation, my client put his weight behind
18 that, in my respectful submission was of assistance to
19 the Tribunal, and it is a matter of record, I believe,
20 he is the only member of An Garda Síochána to actually 10:17
21 acknowledge that there was wrongdoing in place, that
22 there was actually a campaign to smear Sergeant McCabe,
23 and did so in circumstances where there was an
24 inevitable cost to himself. I do appreciate the
25 finding, and implicit in the finding is that he did so 10:18
26 not wholly out of any sense of good duty to the
27 citizen, that it was clouded by his own personal
28 agenda, and that, regrettably, is an inevitable
29 consequence or an inevitable observation or inference

1 to be drawn from the series of adverse findings which
2 are highlighted in your letter, Chairman, but it's
3 there.

4
5 He attended at all times with the investigators, he 10:18
6 gave statements, he gave information, he gave access to
7 emails, he gave access to handsets, he made admissions.
8 During the course of the hearing, we had the Clerkin
9 investigation as to the legitimacy of that, where there
10 were issues of his credibility were put to the fore, 10:18
11 which saved a lot of time, had he -- had he not made
12 such admissions. He was available for examination, he
13 was available for cross-examination. He was a key
14 witness in the case. And there were a number of
15 occasions, Chairman, where, during the course of a 10:19
16 hearing, you interrupted the evidence or broke the
17 evidence to ask my solicitor to clarify certain matters
18 with regard to instructions, and my recollection is
19 that, almost invariably, not only was the clarification
20 forthcoming but it was forthcoming in the same business 10:19
21 day, and sometimes even, whether it was morning or
22 afternoon, my solicitor left and obtained the
23 instruction. So there was, in my respectful
24 submission, significant cooperation in that regard.
25 Understandably, from your point of view, you wanted the 10:19
26 parties to put their case as clearly -- our intention
27 was specifically drawn to Browne v. Dunn, and we
28 complied with that in full. A situation arose where
29 journalists were asserting privilege over

1 communications with my client. My client released them
2 from any confidentiality which was owed to him during
3 those interactions. The journalists themselves, for
4 whatever reason, many of them were not prepared to
5 waive the privilege, but that is not my cause, but I 10:20
6 would just point out that my client didn't raise the
7 privilege and released any journalist from any duty of
8 confidentiality that they felt they owed towards him,
9 and was always willing to be a witness in the case,
10 unlike, I understand, many journalists simply did not 10:20
11 come forward at all or left the Tribunal in a position
12 right up to the last minute as to what their stance was
13 on any given issue. Superintendent Taylor, in my
14 respectful submission, was not to be lacking on any of
15 those fronts. 10:20

16
17 He was a person who has written to you, Chairman,
18 because he was clearly identified as a person who would
19 be of relevance to the Tribunal. Representation was
20 granted for all modules. Nothing arises, I believe, in 10:21
21 respect of module number 1. In module number 2, there
22 was a very short, limited attendance with respect to a
23 single witness.

24 CHAIRMAN: Just help me on that, Mr. O'Higgins, if you
25 don't mind. How do you mean, module number 1? Is 10:21
26 that --

27 MR. O'HIGGINS: The Harrison module.

28 CHAIRMAN: He wasn't there at all, I don't think.

29 MR. O'HIGGINS: Tusla. I beg your pardon. The Tusla

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

module.

CHAIRMAN: Oh, yes.

MR. O'HIGGINS: I don't believe anything arises on that.

CHAIRMAN: Yes, yes. No, I understand.

10:21

MR. O'HIGGINS: Similarly with the O'Higgins module, there was a guest appearance with respect to one witness. With respect to the module in which he features as a very central character, he was granted representation. It's very clear, in my respectful submission, to see why representation was granted. There were very complex issues that were arising. There was a huge volume of documentation. And I was instructed by M.E. Hanahoe & Company, Solicitors, who put one of their most senior staff there, Mr. Carthage Conlon, who was essentially tied and married to this case for months on end, and it was a huge time commitment and it was a commitment which prevented him working in other areas which he would usefully and gainfully have been employed had he not accepted instructions in this matter. As far as counsel was concerned, there was a large amount of documentation to read and subsume and contextualise and, for hearings purposes, it demanded exclusive attention.

10:21

10:22

10:22

10:22

Now, one of the difficulties, Chairman, in my respectful submission, in achieving a balancing exercise, is, there are, in my submission, some public policy considerations which go slightly wider than my

1 client's narrow interests in determining this issue. A
2 lawyer, of course, is never a guarantor of his client's
3 instructions, and, of course, if a plaintiff retains a
4 legal team and loses a case through telling lies, he
5 doesn't get his costs, and similarly, if a case is 10:23
6 defended in that manner, he doesn't get his costs. But
7 this is a situation where people who are involved in
8 the Tribunal are not there of their own volition; they
9 are effectively people who are compelled to attend,
10 they are effectively people who are compelled to engage 10:23
11 with the Tribunal and they are compelled in a case, in
12 issues as grave as these, to compel through a legal
13 team. And in my respectful submission, there could be
14 a very serious concern if, let us say, there are
15 witnesses appearing before a tribunal who are, and I am 10:24
16 talking generically here, who are tarnished in the
17 sense that they are offering accounts which objectively
18 do not appear to be credible. There is a real risk, in
19 my respectful submission, that they will not be able to
20 get legal representation because the representation 10:24
21 will be dependent upon them not telling lies or not
22 being found to tell lies, and that puts lawyers who
23 have to -- particularly solicitors firms who have to
24 tie up a solicitor for months on end, in a very
25 difficult position. Now, I want to make clear, 10:24
26 Chairman, I am not making that as a cornerstone of my
27 submission, but, in my respectful submission, it is
28 part of the tableau and it could have ongoing
29 consequences.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

In terms of the finding, Mrs. Justice Denham has accepted Mr. Justice Geoghegan's obiter dictum observations. She also says in her judgment that adverse findings, of themselves, can't be a factor for disallowing costs. Now, she is talking about something different; she is saying if you are found to be at fault, that's not a reason for not awarding costs against you, and I know that's not what is under discussion here. But it does, in my respectful submission, point out some of the tension between not relying on adverse findings which appear as the list of lies told by us, but I accept we are being called to account not because it's an adverse finding, we are being called to account because it's conduct that involves non-cooperation and made the Tribunal's work more difficult and possibly even more prolonged as a result, and that is what we are answerable for, but nonetheless, in my respectful submission, it is quite a fine line between the two. And in my respectful submission, if you look at Superintendent Taylor's conduct in the round, there are a long list of check-boxes which he can tick which indicates a level of cooperation. There are, regrettably, adverse findings about him which entitle you to exercise your discretion against him in awarding costs in whole or in part, but in my respectful submission, if you look at the matter globally, it is a circumstance in exercising discretion but the Court could deduct a portion, but,

1 in my respectful submission, looking at it in the
2 round, the deduction, in my respectful submission,
3 ought to be in the order of 10%

4 CHAIRMAN: All right. Mr. O'Higgins, thank you very
5 much for that submission. I am just wondering, 10:26
6 appreciating that people, in relation to damages and in
7 relation to costs, are doing the best they can and that
8 it's not an exact science, I am just wondering how the
9 figure of one-tenth comes into play? Why one-tenth as
10 opposed to half, for instance? And I am not asking you 10:27
11 to obviously rehearse your entire submission again, but
12 why that figure in particular?

13 MR. O'HIGGINS: I certainly couldn't do it
14 forensically, but I suppose what I would say, Judge, in
15 favour of the figure, the Tribunal marks its 10:27
16 disapproval of the non-cooperation. The extent to
17 which it's marked is tangible and discernible and
18 proportionate to the level to which he came up short in
19 terms of the mark he ought to have reached, and it's
20 reasonable and proportionate in that regard. 10:27

21 CHAIRMAN: Very good. Thank you very much for your
22 submission. I will give my decision in writing and it
23 will be put on the web.

24 MR. O'HIGGINS: I am most obliged, Chairman. And my
25 junior, Mr. Ferry, is going to remain here. 10:28

26 CHAIRMAN: Well, there is no need for anyone to stay,
27 Mr. O'Higgins. I think that's it. I don't think --
28 unless, Ms. Leader, you want to come back?

29 MS. LEADER: No.

1 CHAIRMAN: No. All right. Well, thank you.

2 MR. O'HIGGINS: I would ask, Chairman, in the event
3 that any other party makes a submission that would
4 benefit us, we would adopt it, as it were.

5 CHAIRMAN: Well, you can if you want, and, I mean, I 10:28
6 have no objection to people staying if they want, but,
7 I mean, what is ruled out is that the Act says you can
8 look for your costs against somebody else or somebody
9 else can look for their costs against you. Nobody has
10 in this instance. So, I don't know, it's a bit 10:28
11 unlikely that someone would jump up and start
12 saying what --

13 MR. O'HIGGINS: No, I am thinking if they make a
14 submission to you which finds favour, if it also
15 extends to us, I would just ask you would extend it to 10:28
16 us, that's all.

17 CHAIRMAN: Well, I didn't know that was part of the
18 plan, Mr. O'Higgins, but if somebody wants to stay,
19 that's fine.

20 MR. O'HIGGINS: I think it's a bit of an each-way bet. 10:28
21 Thank you, Chairman.

22 CHAIRMAN: Thank you.

23

24 SUBMISSION BY MR. ROGERS:

25 10:29

26 CHAIRMAN: Mr. Rogers, you don't have to stand up
27 unless you want to stand up.

28 MR. ROGERS: I think it's the habit of a lifetime,
29 Judge. If you don't mind, I will.

1 CHAIRMAN: Yes. Very good. And just help us, if you
2 wouldn't mind, in reminding, as it's --

3 MR. ROGERS: I appear for Mr. John Barrett. I am
4 instructed by Mr. McTiernan of Noble Solicitors, and
5 Ms. McGillicuddy is with me in this matter, as he was 10:29
6 before the Tribunal in the course of its deliberations
7 at Dublin Castle.

8
9 And, of course, Ms. Leader has very helpfully set out
10 for you, Judge, the legal principles that are to 10:29
11 influence you here. In my submission, in a sense there
12 is a rule, there is a rule, there is a first a priori
13 rule, which is that one is entitled to one's costs.
14 That has been stated by the Supreme Court, and, in
15 effect, a case would have to be made that a particular 10:30
16 participant before the Tribunal became disentitled to
17 their costs by virtue of their conduct. This became
18 evident first in the dictum of McCarthy Justice in
19 Goodman, where, at page 605, he referred to Section 6,
20 and the principle set out was that: 10:30

21
22 "Liability to pay costs cannot depend upon the findings
23 of the Tribunal as to the subject matter of the
24 inquiry."

25
26 And in the further statement by Mr. Justice McCarthy,
27 he went on to say:

28
29 "The expression 'the findings of the Tribunal' should 10:30

1 be read as the findings of the Tribunal to the
2 conduct -- as to the conduct of the parties at the
3 Tribunal."

4
5 So that was the first time it emerged that the issue of 10:31
6 conduct would be -- might be a central issue on the
7 subject. And then as Ms. Leader has referred to
8 Haughey v. Flood, the judgment of Mr. Justice
9 Geoghegan, in my submission, is centrally important
10 because there was specific language used by Mr. Justice 10:31
11 Geoghegan when he said at page 14 of the judgment in
12 [1999] 3 Irish:

13
14 "In my opinion, power to award costs under the Act of
15 1997 is confined to instances of non-cooperation with 10:31
16 or obstruction of the Tribunal, but that of course
17 would include the adducing of deliberately false
18 evidence, and that is why the statutory provisions
19 specifically requires regard to be had to the findings
20 of the tribunal as well as all other relevant matters." 10:32
21

22 Now, in my submission, that sentence is critically
23 important to your adjudication. The Supreme Court,
24 Mr. Justice Geoghegan in that instance speaking obiter,
25 made it clear that conduct that might justify some 10:32
26 adjustment in relation to costs, if it were a matter of
27 the giving of evidence, it had to be a matter of
28 deliberately false evidence, and if this court or
29 this -- you, Chairman, in this matter now, are

1 embarking upon a jurisdiction to make a discount in
2 respect of costs, in my submission, judging by the
3 words of Mr. Justice Geoghegan, you must be able to
4 find the justification for that in the findings of the
5 Tribunal. And specifically I say that, in respect of 10:33
6 Mr. Barrett, there is no finding that he gave
7 deliberately false evidence. There is no statement to
8 that effect, there is no statement to the effect that
9 he was dishonest. And when one looks again at how this
10 matter evolved in Murphy V. Flood, we have the ratio of 10:34
11 Mrs. Justice Denham at page 164, where she said:

12
13 "The power to award costs is affected by a lack of
14 cooperation, by non-cooperation."

15 10:34
16 Again, the emphasis is on an absence of cooperation.
17 There is no evidence in the Tribunal report of an
18 absence of cooperation on the part of Mr. Barrett.
19 Mrs. Justice Denham did say:

20 10:34
21 "Non-cooperation could include failing to provide
22 assistance or knowingly giving false or misleading
23 information."

24
25 With respect, Chairman, there is no such finding in the 10:35
26 Tribunal report in respect of the evidence of
27 Mr. Barrett.

28
29 So, it's my submission, Judge, that the question that

1 was posed for us in the letter from the Tribunal, which
2 was in effect to comment on two paragraphs that are on
3 the third page of that letter from Ms. Mullan, is that
4 in respect of the evidence given by Mr. Barrett in
5 respect of his discussion with Mr. Dunne, in effect 10:35
6 Ms. Mullan's paragraph seeks to condense, I suppose,
7 the findings of the Tribunal, and it is put no higher
8 than this: that the Tribunal was not satisfied that
9 the conversation ever took place at all or in the
10 manner as alleged. In my submission, that goes far 10:36
11 short of making a finding of deliberate falsehood on
12 the part of Mr. Barrett.

13
14 I think it's quite clear in respect of the second
15 matter, the memory of Garda McCabe in respect of the 10:36
16 reference to, I think it's called Block 1, the Tribunal
17 was much more circumspect as to the manner in which it
18 adjudicated on what Mr. Barrett said. It will be
19 recalled by you, sir, that the way it was put by the
20 Tribunal in the report was, inter alia: 10:37

21
22 "Possibly Mr. Barrett does not fully remember making
23 the remark or how serious it was likely to sound in the
24 febrile atmosphere of the time. Perhaps he was
25 speaking casually, but, if so, it was loose speech in 10:37
26 the wrong context."

27
28 That, in my submission, falls far short of the giving
29 of false evidence deliberately and knowingly.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

So, in my submission, sir, the question of the awarding of costs by a tribunal is a matter of very significant public importance. I don't want to parade a point exaggeratedly, sir, but the fact is, that without the cooperation of the public, tribunals of inquiry will not operate successfully. If it is to be the case that, as it were, a starting point of an adjudication on costs becomes the reverse of what seems to be stated in the precedents I have referred to and becomes a question, if the Tribunal found fault with your evidence in that it didn't accept your evidence, that will become a predicator for costs reduction or possibly even a costs order against you. Were that to become the rule, people would be shying away very quickly from going to tribunals. So there is a -- I suppose a very difficult balancing to be done by you, sir, on behalf of the State now, in that, like the Superintendent Taylor, like Mr. McCabe, like all the other witnesses who went before the Tribunal, they did so as a matter of compulsion. The power of the State was exercised to bring them to the Tribunal. Had they not cooperated with the Tribunal in some very obvious way, the Tribunal is empowered to take steps to correct that, and that has been known to happen in the past. People have been sent to prison for failure to make discovery, for instance. So, in my submission, you, sir, are undertaking a very difficult balancing act here, it's one that should be undertaken with very real

10:38

10:38

10:39

10:39

10:40

1 caution, and frankly -- speaking very frankly, sir, I
2 was slightly concerned that, at the outset, the
3 Chairman suggested that we should propose some level or
4 percentage of reduction or provision of costs.
5 Candidly, in the absence of hard findings in the 10:41
6 Tribunal report of the deliberate falsehood of
7 evidence, the creation of deliberately false evidence
8 and the giving of knowingly false evidence, that
9 question should not arise, and that doesn't seem to
10 emerge anywhere in the report, certainly as regards 10:41
11 Mr. Barrett. So, in my submission, this is not a case
12 where there should be a contemplation of a reduction in
13 respect of costs.

14
15 Could I say, sir, that your Tribunal was known as the 10:41
16 Protected Disclosures Tribunal. The Oireachtas enacted
17 an Act in 2014 with the purpose of giving some
18 protection to confidential informants, and there is a
19 provision in that Act, at Section 13, that a protected
20 informant who suffers detriment might bring an action, 10:42
21 and it is the central contemplation of that Act that
22 protected informants or confidential informants should
23 not suffer a detriment. So there is some evidence in
24 the, what I would call the statute,
25 statutorily-declared public policy of the State, that 10:42
26 confidential informants are entitled to rely on the
27 troublesome step they've taken in going forward to say
28 something which may not please authority. Thank you.
29 CHAIRMAN: I have just a couple of questions for you,

1 Mr. Rogers, if I may, I am looking for your help on a
2 couple of things. You say that people aren't obliged
3 to cooperate with tribunals, but what about Article 9
4 of the Constitution?

5 MR. ROGERS: I am sorry? 10:43

6 CHAIRMAN: what about Article 9 of the Constitution?

7 MR. ROGERS: I didn't say people weren't obliged to
8 cooperate with the Tribunal.

9 CHAIRMAN: Sorry, you were saying that -- well, what is
10 your submission as regards cooperation with the 10:43
11 Tribunal, then?

12 MR. ROGERS: I didn't say -- I didn't say anything like
13 that.

14 CHAIRMAN: I am not trying to be confrontational,
15 Mr. Rogers. If we misunderstood each other, I'm sure 10:43
16 it's my fault.

17 MR. ROGERS: well, I am very sorry if I have appeared
18 to be confrontational. I just didn't hear myself
19 saying those words and I was anxious to make it clear I
20 didn't. 10:44

21 CHAIRMAN: All right. The second point is, you will be
22 familiar with the tenor of judgments in the High Court
23 where a clear finding is made: I accept the evidence
24 of, let us say, Mr. O'Toole as opposed to the evidence
25 of Ms. O'Neill. Judges don't go on to say, in the 10:44
26 ordinary course of events, everything that Ms. O'Neill
27 said was a complete farrago of lies. So, if there is a
28 clear finding, there is a clear finding, and someone's
29 evidence not being accepted would seem to be a clear

1 finding. But you seem to be saying that what I have to
2 do is, I have to go further and say that someone
3 actually came in out of a deliberate policy and told a
4 lot of deliberate lies. Are you saying that I
5 should -- I am in a position to make that finding now, 10:45
6 if necessary?

7 MR. ROGERS: No, that's a finding, in my submission,
8 which ought to be found in the Tribunal report. And
9 that's my point, there isn't such a finding.

10 CHAIRMAN: You won't such findings, Mr. Rogers, in any 10:45
11 High Court judgment where a witness is preferred over
12 another witness. It just doesn't happen. Mr. Rogers,
13 it's a bit like a school report, isn't it - "could try
14 harder" means isn't doing a tap of work?

15 MR. ROGERS: I don't understand that to be -- what that 10:45
16 means. But with respect --

17 CHAIRMAN: well, you have children, and we all have
18 children, but if a school report says something in a
19 mild sense, it usually means something a bit more
20 serious. That's what I am saying. 10:45

21 MR. ROGERS: I really don't understand that to be
22 relevant, that type of analysis just now to be
23 relevant. I'm simply referring --

24 CHAIRMAN: well, maybe the first analysis is relevant,
25 that usually a clear finding is made without saying 10:45
26 that someone is a complete and utter liar.

27 MR. ROGERS: well, with respect, that's not what the
28 case law says. The case law says, per Mr. Justice
29 Geoghegan, that non-cooperation may arise through

1 deliberate falsehood, and that should be found in the
2 report of the Tribunal, and, with respect, it's not.
3 And we are all in the difficult situation now that that
4 is simply the fact. It was open to the Tribunal to
5 make those findings in respect of individuals, and it 10:46
6 didn't, and the case law is well-established, and I'm
7 relying on it. I mean, I am sorry to have to do this
8 again, but it is quite clear from the judgment of
9 Mr. Justice Geoghegan that that is the -- I don't know,
10 do you have my submissions, sir? 10:47

11 CHAIRMAN: I do, yes.

12 MR. ROGERS: Thank you.

13 CHAIRMAN: It says: "Non-Cooperation with or
14 obstruction of the Tribunal, but that of course would
15 include the adducing of deliberately false evidence and 10:47
16 that is why the statutory provision specifically
17 requires regard to be had to the findings of the
18 Tribunal as well as to all other relevant matters."

19 MR. ROGERS: Yes. But the court -- the Tribunal has to
20 have regard, on a costs application, to the findings of 10:47
21 the Tribunal when looking to see if there was
22 deliberate false evidence, and the Tribunal report does
23 not so record. There isn't a statement in the Tribunal
24 report that Mr. Barrett gave knowingly false evidence;
25 in fact, on the second issue that's raised in the 10:47
26 letter from Ms. Mullan, it is quite clear that the
27 Tribunal didn't have a clear view, very clear it didn't
28 have a clear view as to his knowingly giving false
29 evidence. And in my respectful submission, the

1 Tribunal there made it clear that it didn't have a
2 clear view, but regrettably, in respect of the first
3 issue concerning Mr. Dunne, the matter is not stated,
4 and I am at the disadvantage now of being asked to face
5 down what would appear to be a reduction in respect of 10:48
6 Mr. Barrett's costs on the back of a finding of the
7 Tribunal which doesn't meet the test set out by
8 Mr. Justice Geoghegan, and it's -- and I regret to have
9 to put it so simply, but that's it.

10 CHAIRMAN: All right. No, that's fine. And then can I 10:48
11 ask you, having made that submission, you don't
12 disagree -- you don't disagree with the law as stated
13 by Ms. Leader?

14 MR. ROGERS: with what the law says?

15 CHAIRMAN: well, what Ms. Leader said -- I am sorry, 10:49
16 with what Ms. Leader said the law was?

17 MR. ROGERS: I think there is something to be said for
18 looking at the public policy statement, if I may put it
19 like that, which is embraced by the 2014 Act, having
20 regard to the fact that your Tribunal was a Disclosures 10:49
21 Tribunal. There does appear to be a very clear public
22 policy statement there that persons who have made
23 protected disclosures should not suffer a detriment.

24 CHAIRMAN: But your client didn't make a protected
25 disclosure. 10:49

26 MR. ROGERS: well, actually he did.

27 CHAIRMAN: well, yes, I know he made a protected
28 disclosure in relation to having dinner in the McCabes'
29 house and a number of other things, but no protected

1 disclosure was made by your client that was relevant to
2 the Tribunal.

3 MR. ROGERS: Sorry, a very curious thing happened:
4 when the terms of reference of the Tribunal were
5 finalised, the cut-off date in respect of protected 10:50
6 disclosures was the day before the making of the
7 protected disclosure by Mr. Barrett to the Minister for
8 Justice. Now, that's, I am sure, I am sure, a matter
9 of coincidence. Mr. McGillicuddy reminds me that, at a
10 later point in the Tribunal's investigations, a bundle 10:50
11 of documents was furnished to the Tribunal by
12 Mr. McTiernan on behalf of Mr. Barrett, which included
13 that protected disclosure.

14 CHAIRMAN: Yes, I know. I read it.

15 MR. ROGERS: Thank you. I didn't -- 10:51

16 CHAIRMAN: Yes, I have just referred to it. The second
17 question is, has the Tribunal followed fair procedures?

18 MR. ROGERS: well, I don't make any case in that
19 regard. In respect of the costs issue?

20 CHAIRMAN: Yes. 10:51

21 MR. ROGERS: well, I suppose my difficulty is, at this
22 point, that the report is complete and there is no
23 finding in the report that would meet the test laid
24 down by the judges, and, that being so, I have been
25 asked to deal with something now that I can't deal 10:51
26 with.

27 CHAIRMAN: well, the question is simple: Has the
28 Tribunal followed fair procedures in relation to this?
29 I am asking everyone the same question.

1 MR. ROGERS: we are having this debate now and, in my
2 submission, that satisfies the requirement for fair
3 procedures.

4 CHAIRMAN: Yes. The third question is, what percentage
5 reduction am I entitled to make in relation to your 10:51
6 client's evidence below which I would be acting
7 unreasonably, flying in the face of common sense and
8 fundamental reason and acting disproportionately in
9 that regard?

10 MR. ROGERS: Having regard to the submission I have 10:52
11 made, in my submission no reduction should be made.

12 CHAIRMAN: And --

13 MR. ROGERS: It would defy the law, in my submission,
14 to make such a reduction.

15 CHAIRMAN: I am talking about fundamental reason and 10:52
16 common sense.

17 MR. ROGERS: well, with respect, the requirements of
18 the law are central to common sense.

19 CHAIRMAN: Yes.

20 MR. ROGERS: The requirements of the law are central to 10:52
21 common sense.

22 CHAIRMAN: Sometimes they don't coincide, Mr. Rogers?

23 MR. ROGERS: Sorry?

24 CHAIRMAN: Sometimes they don't coincide, Mr. Rogers.

25 MR. ROGERS: well, I don't think we are talking about 10:52
26 that now.

27 CHAIRMAN: well, I am asking a question. The answer
28 seems to be, if I don't give your client 100% of his
29 costs, I would be flying in the face of fundamental

1 reason and common sense.

2 MR. ROGERS: I think that would be the case.

3 CHAIRMAN: All right. And then the last thing is, is
4 there any sense in which compassion or mercy comes into
5 consideration in terms of my approach to this matter? 10:53
6 In other words, is it there, in other words, in the
7 round, in terms of the way the law is approached?
8 That's my question.

9 MR. ROGERS: It seems to me that it's not an issue of
10 compassion and mercy, it's an issue of what the 10:53
11 Tribunal found.

12 CHAIRMAN: No, but --

13 MR. ROGERS: And making adjustments having regard to
14 that.

15 CHAIRMAN: No, Mr. Rogers, I do understand that 10:53
16 submission, you have made that submission, and I do
17 understand it. But the wider submission is, is there
18 any consideration of compassion or mercy which comes
19 into consideration in the awarding of costs or a
20 proportion of costs? 10:53

21 MR. ROGERS: well, Mr. Barrett, if there was to be a
22 deduction in respect of what he might be entitled to in
23 respect of costs, would be suffering a detriment and,
24 in my submission, that should not arise in
25 circumstances where he fulsomely cooperated with the 10:54
26 Tribunal.

27 CHAIRMAN: well, I am not sure the use of the word
28 "fulsome" is appropriate.

29 MR. ROGERS: Sorry?

1 CHAIRMAN: But you are saying it doesn't come into
2 consideration?
3 MR. ROGERS: with respect, there is no finding that
4 Mr. Barrett did not cooperate with the Tribunal.
5 CHAIRMAN: It's a separate question. Obviously I have 10:54
6 to make my mind up, Mr. Rogers. It's a separate
7 question, and the question is: Does compassion or
8 mercy come into consideration in terms of the award of
9 costs in these circumstances, given that we are dealing
10 with public money? That's the question. The answer 10:54
11 may be yes or the answer may be no, but you may not
12 wish to answer that question, I don't know.
13 MR. ROGERS: It seems to me not to arise, sir.
14 CHAIRMAN: In terms of the law generally?
15 MR. ROGERS: That's right. 10:54
16 CHAIRMAN: At all?
17 MR. ROGERS: well, in this instance it doesn't arise
18 because I say this test hasn't been satisfied.
19 CHAIRMAN: Okay. Thank you, Mr. Rogers.
20 MR. ROGERS: Thank you. 10:55
21 CHAIRMAN: I don't know who is next. I presume it's
22 you, Mr. McEnroy?
23
24 SUBMISSION BY MR. McENROY:
25 10:55
26 MR. McENROY: Judge, do you mind if I stand? I
27 appeared for Mrs. Michelle Taylor. I was instructed by
28 a solicitor and I appeared on my own. My
29 involvement -- or our involvement in the work of the

1 Tribunal was extremely small. The work of the Tribunal
2 and my client's involvement in it can be broken down
3 into a number of specific areas, subject to the view of
4 the Tribunal.

5
6 The first is, there were the pre-hearing procedures to
7 be followed through, and we complied with all of that
8 and we answered correspondence and did the things that
9 we were required to do and we did all of that.

10
11 The second thing is that we came to the Tribunal. I
12 think the reason why I was instructed to appear in the
13 matter -- and, Judge, with your permission, could I
14 answer your questions in reverse order, which might
15 just get me quickly to the end of it?

16 CHAIRMAN: Any order is fine, provided it is an answer.

17 MR. McENROY: I think there are actually more than four
18 questions, but if I can go in reverse order. When you
19 talk about things like compassion and mercy, the first
20 thing is, and I think the reason why I was instructed
21 in the matter is, there was a specific family crisis of
22 a very significant type which was current at the time
23 and the Tribunal will know that I had approached the
24 Tribunal legal team in relation to how the matter would
25 be dealt with. The Tribunal dealt with the matter
26 impeccably. But that was a very real and substantial
27 worry which, although collateral to the work of a
28 tribunal, could have very definitely had an impact on
29 my ability to participate. And, in fact, Chairman, the

1 worry as to why I was there, in fact, crystalised, and
2 you got there long before I did, which relieved me of
3 the necessity to have to try to get up and resolve the
4 matter, and in the work that was done solving that, in
5 the outcome of it, the welfare of an individual was
6 protected in a very fulsome and appropriate way. 10:57

7
8 That leads me to the second aspect of the compassion
9 side of things, which is, my client was not directly a
10 party to the, if I use the phrase, the subject matter 10:57
11 of the investigation. What I was was, I was an
12 incidental player. And there were a number of really
13 important things -- the Tribunal wrote to us and set
14 all of this out. But there were really a number of
15 important things: what did I do, where did I do it, 10:57
16 who was I with, when did it happen, what did I say and
17 what did I hear? Now, in relation to all of that, it
18 would seem from a reading of part 3 of the Tribunal's
19 interim report that, in substance, the bulk of that
20 type of evidence has been accepted. There is one very 10:57
21 significant adverse finding against my client where the
22 commission -- sorry, where the Tribunal rejects her
23 evidence. Now, the formula used in the correspondence
24 from the solicitor is that her evidence isn't accepted.
25 I will just get you the actual page where you say it. 10:58
26 The evidence is on page 198, and that evidence is not
27 accepted. And if you go to page 204 of the report, the
28 phrase used is "the Tribunal rejects that evidence".
29 CHAIRMAN: well, do I need to say more than that? I

1 mean, are you adopting Mr. Rogers' submission that I
2 have to actually excoriate people's character in making
3 a finding?
4 MR. McENROY: well, sorry, I just want to say this
5 much, which is this: If you read the language that is 10:59
6 used in part 3 of the Interim Report, the first thing
7 is that when you start at the start of part 3, the
8 Tribunal makes it absolutely clear that you cannot read
9 that portion of the report without reading the bulk of
10 it, and I have done that. What is absolutely clear in 10:59
11 the way in which the Tribunal report is written is that
12 the Tribunal itself had a scale of language that it
13 used in relation to the decisions or determinations it
14 was making, like "lie", like "false", and the Tribunal
15 is quite clear about that. The language used here is I 10:59
16 either not accept or reject the evidence concerned. It
17 is not in the same category of language that is used in
18 relation to the same subject matter in the same part of
19 the report which is qualitatively different in relation
20 to the use of the words like "lie" and "false". So 11:00
21 the -- what I would say in relation to -- you asked one
22 of my other -- one of the other parties did they accept
23 what Ms. Leader said in relation to the law. Yes, I
24 do, but I think there's a tiny bit more to it, and
25 there are three points that I want to make in relation 11:00
26 to that.

27
28 The first is, that I respectfully say that a finding
29 that evidence is not accepted or rejected is not of

1 itself a prima facie finding of non-cooperation, it has
2 to be more. And in the language used by the report, in
3 the same subject matter there are multiple instances
4 where the language used goes much further like "lie"
5 and "false".

11:00

6
7 The second thing is, I am not going to delay opening, I
8 just want to make two pithy references.

9 (Same handed).

10
11 One is, your colleague, now in the Court of Appeal,
12 Ms. Justice Baker, in a case called Charles Chalke v.
13 Judge Alan Mahon, which is reported at [2014] 1 Irish
14 Reports at 788, I am not going to delay the Court in
15 opening the case at any length, but would you just look 11:01
16 at paragraph 17. It has just a very pithy summary,
17 it's very good because it applies -- it's the
18 application of the principles laid down in the law that
19 has been referred to by Ms. Leader. And what
20 Ms. Justice Baker says there is:

11:01

21
22 "As a matter of law and in accordance with the
23 statutory regime provided in the Acts, the Tribunal
24 must decouple its findings in its substantive report
25 from those matters which guide its discretion in its 11:01
26 costs decision. The legislation on the case law
27 clearly envisages a two-stage process, the stepping
28 stage being the decision or determination with regard
29 to the conduct or behaviour of a witness which leads a

1 tribunal to its decision on costs."

2

3 In my respectful submission, that very pithily and
4 carefully narrows down --

5 CHAIRMAN: It may, but I am not quite sure I understand 11:01
6 it. What does it mean?

7 MR. McENROY: Maybe I am wrong, but I thought -- maybe
8 I am wrong, but -- sorry, I left out a sentence at the
9 end of paragraph 17, Judge:

10

11:02

11 "In that context, the Tribunal came to consider the
12 question of cooperation costs after it published its
13 substantive report."

14 CHAIRMAN: Right. Well, the first stage is, presumably
15 you make your findings. 11:02

16 MR. McENROY: Yes.

17 CHAIRMAN: And then the second stage is you decide on
18 costs.

19 MR. McENROY: Yes. And it's a statutory --

20 CHAIRMAN: Well, that's what happens in every single 11:02
21 case everywhere in the whole world.

22 MR. McENROY: Yes, it's a statutory jurisdiction, it's
23 exercised judicially, it's subject to the requirements
24 or the manner in which the discretion is exercised,
25 and, in my respectful submission, I do not see that a 11:02
26 rejection of evidence by a witness and is itself prima
27 facie evidence of non-cooperation unless the report had
28 said so, especially having regard to the fact that the
29 report is very clear in the same subject matter in

1 other ways. I won't labour that point any further.

2
3 The next thing is in relation to the circumstances of
4 the individual concerned. The Tribunal was happy to
5 rely on all the other parts of her evidence in relation 11:03
6 to it. Her role in this is, this is not a Bonnie and
7 Clyde situation where somebody had entered into a joint
8 conspiracy to mislead and lie and frustrate this
9 Tribunal of Inquiry. That was never -- nobody ever,
10 ever made that suggestion or case here. This is a 11:03
11 woman who worked in the home, whose husband was in
12 circumstances of extraordinary distress. The time at
13 which she becomes involved in relation to the matters
14 that are relevant to the Tribunal are in the maelstrom
15 of that huge distress at home. The Tribunal is aware 11:03
16 of the other matters that she is trying to deal with
17 and trying to strike the balance there. And she gives
18 her evidence. The Tribunal is perfectly entitled to
19 reject her evidence, but in my respectful submission,
20 she has complied with the requirements of the section 11:03
21 in relation to an application for costs.

22
23 One other thing that I want to just briefly suggest to
24 the Court is, I have handed up, but again I am not
25 going to open it at any length, another authority, 11:04
26 because there is more than one competing public
27 interest in relation to the question of the exercise of
28 discretion, and this is a case called the Crown v.
29 Wagstaff, against the Secretary of State for Health,

1 [2001] 1 weekly Law Reports at page 292. I don't need
2 to make any reference to the subject matter of the
3 judgment, other than to say that if you go to the last
4 page at 322 and the last paragraph, I think there may
5 be material there that may influence your consideration 11:04
6 of the exercise of discretion here.

7
8 what happened in this judicial review case was, the
9 Secretary of State, in relation to the Shipman business
10 where elderly patients had been murdered, the Secretary 11:04
11 of State decided that there would be an inquiry in
12 private and that there would be no legal assistance to
13 people concerned, and they took a judicial review to
14 say this wasn't proper and correct. As it happened in
15 the judicial review, they quashed the decision of the 11:05
16 Secretary of State in relation to the decision to hold
17 the inquiry in private, and the Court -- or the
18 Tribunal may know that Dame Janet Smith subsequently
19 conducted a very, very remarkable inquiry. But really
20 importantly, the second limb was in relation to the 11:05
21 question of funding, and what Lord Justice Kennedy says
22 is as follows, he said that had they had gone on to
23 consider the question of funding, they would have also
24 quashed the decision of the Secretary of State in that
25 regard and remitted it back for proper consideration, 11:05
26 but what he says is:

27
28 "Thus, in our judgment, even if the decisions of
29 Secretary of State had been upheld, the attack upon the

1 decision of Lord Laming as to representation would be
2 likely to have succeeded. It is not so much a question
3 of parity between families and other witnesses and who
4 can be represented by lawyers instructed by the
5 professional associations and who are likely to be so 11:05
6 as they may be criticised. It is more a question of
7 enabling families to play their full part in this
8 inquiry."

9
10 And then he makes this really important observation: 11:06

11
12 "If the job is worth doing, it is worth doing well."

13
14 A tribunal of inquiry is an exceptional event. It
15 usually arises where there is a crisis of public 11:06
16 confidence in the public administration. It is, and
17 has, very exceptional compulsory powers which it
18 exercises in due course, and I make no complaint about
19 that, but the effect of that on an individual citizen
20 like my client is huge. And there are no circumstances 11:06
21 in which an ordinary citizen would be in a position to
22 discharge their costs in relation to participation with
23 the full rigours of a tribunal of inquiry. There is
24 simply none, certainly not somebody who works in the
25 home and is trying to manage her situation. Her 11:06
26 situation was different from her husband. And in my
27 respectful submission, there is a public interest in
28 the proportionality of all of this, in looking at it in
29 the round, to allow her to have the benefit of the

1 default rule that I suggest is part of the law in
2 relation to this, in relation to her costs. I know
3 it's not a big set of costs. She didn't put in some
4 Rolls Royce legal team. We did cooperate with the
5 Tribunal and we had a variety of other things to worry 11:07
6 about at the time.

7 CHAIRMAN: Maybe a BMW legal team?

8 MR. McENROY: Sorry?

9 CHAIRMAN: You were describing yourself as not being a
10 Rolls Royce. I think you are a bit unfair to yourself. 11:07

11 MR. McENROY: I like to think of myself as a Sport Fiat
12 500, with go-faster stripes at times.

13

14 Judge, I am a small player in all of this.
15 Proportionality, if you took Professor Tom O'Malley's 11:07
16 view, you look at who is the person involved and what
17 is the context in which they subsisted. If you look at
18 who I am and you look at the way in which I was
19 involved in this and you look at the question of
20 proportionality in the round, this is, on any 11:07
21 reckoning, an extraordinary burden.

22 CHAIRMAN: well, can I go -- are you finished?

23 MR. McENROY: Yes. I am sorry.

24 CHAIRMAN: well, subject to the four questions. First
25 of all, you do accept the law as stated by Ms. Leader? 11:07

26 MR. McENROY: with the two additional glosses I have
27 mentioned.

28 CHAIRMAN: well, the one -- well, one additional gloss
29 seems to be it's a two-part process, and everyone

1 accepts that.

2 MR. McENROY: Yes.

3 CHAIRMAN: And the second gloss would seem --

4 MR. McENROY: Is the remark that I'd made by Lord
5 Justice Kennedy. 11:08

6 CHAIRMAN: But what, I mean -- no, I appreciate that,
7 Mr. McEnroy, but in -- in England, they do things very,
8 very differently. I mean, if this was a tribunal in
9 England, if you were, for instance, tribunal for the --
10 counsel for the tribunal, you'd ask all the questions. 11:08
11 Anyone else would be able to ask a question only with
12 leave of the tribunal. There would be legal assistance
13 given to the very important key players, and I think
14 that's what that is about, and I am just tending to
15 wonder about the parallel. 11:08

16 MR. McENROY: They haven't amended their Tribunals Act,
17 which is the same, they haven't amended it to include
18 specifically the cost provision that has been included
19 in this jurisdiction. What I was trying to -- and,
20 look, maybe I didn't do it right -- what I was trying 11:08
21 to say was, that there is a public interest in the
22 citizen being able to participate effectively in a
23 tribunal of inquiry, and we have done it.

24 CHAIRMAN: Absolutely, yes. No, I take that point.

25 MR. McENROY: And that is as far as -- 11:09

26 CHAIRMAN: But, I mean, where does that bring me to?

27 MR. McENROY: Where does it bring you to? Well, she
28 did, I think there is no doubt about that. And then
29 the only question is, is the single finding that you

1 have made that is adverse to her, sufficient in itself
2 to bring up the case of non-cooperation? And I am
3 concerned that there isn't a legal basis for that. And
4 then the second thing is, in its substance, I -- if you
5 look at her evidence in the round and how much of her 11:09
6 evidence the Tribunal did accept, it seems to me that
7 to start discounting her ordinary entitlement is an
8 unfairness.

9 CHAIRMAN: Okay. well, secondly, have we followed fair
10 procedures? You can tell me that we didn't if we 11:09
11 didn't, but the case law in the matter is very
12 complicated. I am not putting that question in to
13 embarrass people. It's just, if there is anything else
14 that we were required to do, now would be the time to
15 make a submission, so... 11:10

16 MR. McENROY: No, my concern is just to make sure that
17 the application of the principles to the facts is done
18 in a fair way. That's my concern.

19 CHAIRMAN: All right. Okay. And then number 3, is
20 there a percentage below which, if I went, I would be 11:10
21 acting unreasonably in the sense already explained?

22 MR. McENROY: I think if you take Mrs. Justice Denham's
23 view on proportionality and the way she framed all of
24 this, I have to say, first of all, I go with that. And
25 what is really important about Mrs. Justice Denham's 11:10
26 judgment is, two other judges of the Supreme Court
27 unequivocally agreed with every word of her decision,
28 so her judgment is the controlling judgment in that
29 case, and Mr. Justice Finnegan, and I can't remember on

1 my feet the other judge --

2 CHAIRMAN: No, but the point is, if I said 10% of her
3 costs, would that be unreasonable? If I said 50%,
4 would that be unreasonable?

5 MR. McENROY: I believe it would be -- 11:10

6 CHAIRMAN: well, what is the point below which I can't
7 go?

8 MR. McENROY: I believe she is entitled to her full
9 costs.

10 CHAIRMAN: And if I don't award her her full costs, I 11:11
11 would be acting unreasonably?

12 MR. McENROY: In my respectful submission, yes.

13 CHAIRMAN: All right. well, that's fine, it's clear.
14 And then the last issue is the issue of public money
15 and whether, I suppose, compassion or mercy comes into 11:11
16 play in the sense of also, I suppose, seeking the
17 cooperation of people. Do you want to say anything
18 about that?

19 MR. McENROY: I think in the working of the inquiry,
20 there is no doubt but that she did cooperate. And then 11:11
21 the second thing is, the position of the citizen coming
22 up to engage with what is one of the most powerful
23 pieces of administrative architecture in the State is a
24 huge position. And if you had to try and balance that,
25 the other public interest which comes to mind, and this 11:11
26 in my area of childcare is becoming a real problem,
27 which is, if citizens are not able to engage with
28 public authorities in an effective way, then the system
29 itself becomes undermined. And the one thing you'd

1 have to say about this Tribunal is, it got its work
2 done in a prompt and effective way because of the
3 degree of engagement.

4 CHAIRMAN: well, on that, is there perhaps a point to
5 be made for Michelle Taylor which would perhaps justify 11:12
6 an award of at least some of her costs, which is that,
7 without her, her husband perhaps would not have been
8 there? And I am not saying he would get all of his
9 costs, I need to carefully consider all of the
10 submissions that have been made, but do you think that 11:12
11 is a point that is in play?

12 MR. McENROY: I have to be very sensitive about this.
13 I have distinct interests and --

14 CHAIRMAN: No, I know you do, and you have said it's
15 not a Bonnie and Clyde situation. I am saying nothing 11:12
16 about that. But what I am saying is, that without
17 Michelle Taylor, perhaps David Taylor wouldn't have
18 been there at all? And that's a question, by the way.
19 There is a question-mark at the end of that.

20 MR. McENROY: If she hadn't given evidence, you 11:12
21 wouldn't have had the structure in relation to the
22 locus in quo and all those other things in relation to
23 phone call communications and dealings and all the rest
24 of it, because she was proactive in some of it. I
25 mean, she herself rang Sergeant McCabe, and you know 11:13
26 all of this.

27 CHAIRMAN: Yes, I do.

28 MR. McENROY: So your chain of evidence would have got
29 stuck. And then look at it from the position of

1 Sergeant McCabe, if he didn't have the benefit of her
2 evidence, whatever he disputes about her on fact, if he
3 didn't have her benefit in relation to chain and
4 setting and context, and all the rest of it, he could
5 have found himself in difficulty. So from the 11:13
6 truth-finding function, there seems to me to be value
7 in what she did.

8 CHAIRMAN: Yes. So there is a certainly a case, you
9 would say, to be made, even if I am against you on the
10 other points in relation to her assistance in 11:13
11 cooperating, including through her husband and with
12 Sergeant McCabe in terms of the final, I suppose,
13 ability of the Tribunal to do any analysis at all.
14 That's -- that seems to be a summary of your point. If
15 I am getting it wrong -- 11:13

16 MR. McENROY: Yes, you have got it right. Thank you
17 very much. Can I be excused?

18 CHAIRMAN: Of course you can, yes, unless you feel that
19 someone else is going to say something good on your
20 behalf. If it is, I will have -- my ears will be wide 11:14
21 open.

22 MR. McENROY: I am very grateful. Thank you.

23

24 SUBMISSION BY MR. DOCKERY:

25

26 MR. DOCKERY: Good morning, Judge. I have a brief
27 application to make in response to correspondence
28 received from the Tribunal in connection with --
29 Desmond Dockery is my name -- in connection with

11:14

1 Inspector Patrick O'Connell's evidence on day 15 of the
2 Tribunal's business on the --

3 CHAIRMAN: Yes. Mr. Dockery, before you go on, and
4 forgive me for interrupting you at this point, but I am
5 just a little bit puzzled. Essentially, as I remember 11:14
6 it, you were appearing on behalf of everyone in the
7 AGSI, is that not right, or am I wrong? In other
8 words, your solicitor certainly represented multiple
9 people? And there is nothing wrong with that, that's a
10 very good idea. 11:14

11 MR. DOCKERY: No, my solicitor represented Garda
12 officers of inspector and sergeant rank - members of
13 the AGSI, in effect.

14 CHAIRMAN: And inspector -- the inspector comes into
15 that? 11:15

16 MR. DOCKERY: That's correct.

17 CHAIRMAN: And is there any issue in relation -- are
18 you making an application in the round in relation to
19 everyone under the AGSI?

20 MR. DOCKERY: No, not at this point, no. 11:15

21 CHAIRMAN: This is --

22 MR. DOCKERY: This is -- my application is confined to
23 Inspector O'Connell.

24 CHAIRMAN: Is confined to Inspector O'Connell. All
25 right. 11:15

26 MR. DOCKERY: And I will be making a very short
27 ancillary application then in respect of a retired
28 member of the gardaí who was summoned to give evidence
29 to the Tribunal on day 66, a man by the name of John

1 Kennedy. Now, he falls -- I don't think he was
2 represented by Mr. Hegarty on the basis that he was
3 still an active member of AGSI, but he was -- I think
4 he was a former sergeant, a retired member.

5 CHAIRMAN: Is the interaction with Mr. Rabbitte? 11:15

6 MR. DOCKERY: Yes, yes. Or he may have been a retired
7 garda, in fact. I think he was garda rank. But I
8 don't think Mr. Hegarty's representation of that man
9 was connected to membership of AGSI.

10 CHAIRMAN: Anyway, I am happy to hear you for both. 11:16

11 MR. DOCKERY: well, I will be very brief, Judge. You
12 know that Inspector O'Connell played a small role in
13 the subject matter which you are concerned with. The
14 law has been very well summarised by Ms. Leader and I
15 accept her summary of it. I like a quotation from 11:16
16 Mr. Justice Fennelly's judgment in Murphy v. Flood at
17 paragraph 119, Judge, where he said that:

18
19 "I think the ordinary presumption should be in favour
20 of reimbursement, otherwise the obligation to cooperate 11:16
21 with tribunals would impose loss without compensation
22 on individuals."

23
24 Others have made that point in a different way to you,
25 sir. 11:16

26
27 Did Inspector O'Connell's conduct before the Tribunal
28 amount to failure to cooperate? In my respectful
29 submission, emphatically it did not do so. You have

1 had the benefit, sir, of two written submissions on his
2 behalf in relation to costs, one of the 4th December
3 last and one of the other -- one of yesterday.

4 CHAIRMAN: Yes, I did, I got that yesterday. Thank
5 you.

11:17

6 MR. DOCKERY: He made extensive discovery of
7 documentation to the Tribunal and he submitted three
8 statements. The first, I think you took the view may
9 have been less than as comprehensive as the Tribunal
10 would have liked, and it was followed by two
11 emphatically comprehensive statements. As to his
12 evidence on day 15, sir, that was the 24th July 2017.
13 The one net issue identified in the Tribunal's letter
14 of the 8th May related to the question of his receipt
15 of an email from a representative of Rian by the name
16 of Fiona Ward, and evidence which he gave to the effect
17 that he couldn't recall seeing the email was described
18 by you as being not accepted by the Tribunal. You will
19 recall, sir, from the evidence he gave that day, that
20 he couldn't -- he told you that he couldn't remember
21 seeing the email. That, in my submission, is not an
22 outright denial that he saw it. He either overlooked
23 it, which he told you he must have done, or he
24 overlooked bringing it to Chief Superintendent
25 Sheridan's attention. That failing was his. He fully
26 accepted it. The Tribunal doesn't accept that he
27 didn't see the email. Even if he did see it, he failed
28 to act on it. He offered extenuating circumstances
29 which could contribute to an explanation as to why he

11:17

11:17

11:18

11:18

1 either didn't see it or did but failed to act on it,
2 and those were his leaving the division and attending a
3 gathering that day. But his failings in that regard,
4 sir, are wholly different to any suggestion of a
5 failure to cooperate with the business of the Tribunal. 11:19

6
7 There is no express finding made by you that he
8 knowingly or deliberately lied to the Tribunal about
9 whether he remembers seeing an email. He is a serving
10 member of the Garda Síochána of inspector rank. I 11:19
11 think it would have been outside his contemplation that
12 he would consider doing that. I think that you prefer
13 the evidence -- you preferred the evidence of the -- of
14 Ms. Ward that she sent it. The evidence emphatically
15 was that she sent it because the Tribunal saw the 11:19
16 email. The very fact that you didn't accept my
17 client's evidence that he couldn't remember seeing it
18 is not, in my respectful submission, a finding that he
19 knowingly mislead the Tribunal on that point or that he
20 deliberately obstructed the Tribunal's business or that 11:20
21 he was deceitful, or anything of that nature. You
22 raised a point with Mr. Rogers about judges routinely
23 in the High Court in judgments giving rulings in the
24 course of their decisions to the effect that the
25 evidence of one witness was preferred over the evidence 11:20
26 of the other. But in my experience, in the lower
27 courts, the Circuit Court, for example, judges
28 articulate the very same view, but as often as not, a
29 judge will add to that that there is no finding been

1 made by the court that the evidence of the witness not
2 preferred was in any way deliberately deceitful or
3 untruthful. Judges will often add that rider. Those
4 riders don't appear in written judgments, in my
5 experience, as a rule, but I am submitting to the Court 11:20
6 that the very fact that you preferred the evidence --
7 you preferred to draw the inference that he had seen
8 the email, without an express finding that his evidence
9 was deliberately deceitful, intended to mislead and so
10 forth, the inference to be drawn, the rational 11:21
11 inference to be drawn from a finding is that you
12 preferred to find that he must have seen the email, but
13 that's not a finding that he lied about it or that he
14 intended to mislead the Tribunal.

15 11:21
16 I draw the analogy, perhaps, and perhaps, sir, you
17 won't accept this, but I draw the analogy, my
18 impression from the finding is that -- is perhaps
19 illustrated by an analogy I would draw with a finding
20 about a road traffic accident where a judge will say: 11:21
21 "Well, this happened a few years ago, it happened in an
22 instant. There is a very contentious row before me
23 about whether the light was red or the light was orange
24 when the accident occurred at the crossroads. On
25 balance, I prefer the evidence of X over Y, but I 11:21
26 accept that both protagonists did their best to recall
27 what happened in those circumstances to the best of
28 their respective abilities and I don't suggest for a
29 moment that the plaintiff or the defendant or whichever

1 party I don't favour was deliberately seeking to
2 mislead the court." And I think if you, sir, were
3 intending to take a different view in your report, one
4 might have perhaps expected to see that expressed in
5 rather more stark terms. But I say that in support of 11:22
6 my proposition or submission that Inspector O'Connell
7 did not and would not have sought to mislead the
8 Tribunal knowingly or deliberately, I turn finally to
9 the other findings you made about his evidence. On
10 page 56, sir, of your third interim report of October 11:22
11 last, you observed that Inspector Patrick O'Connell
12 was, during these times, that is to say, I think,
13 2004 -- 2007, during his role as a training sergeant
14 visiting Bailieboro Station, and the time that he was
15 divisional clerk -- sorry, I will start that again. 11:23
16 CHAIRMAN: This is about him giving refreshing evidence
17 as opposed to --
18 MR. DOCKERY: Refreshingly direct evidence, Judge, yes.
19 CHAIRMAN: -- as opposed to beating around the bush?
20 MR. DOCKERY: Yes, yes. And, you see, on the opening 11:23
21 day, Judge, when he gave evidence, you tackled me about
22 the relevance --
23 CHAIRMAN: I am sorry you have to put it that way.
24 MR. DOCKERY: I had just arrived --
25 CHAIRMAN: I am sure you recovered from it, in any 11:23
26 event.
27 MR. DOCKERY: well, I wasn't expecting a full frontal
28 assault on my opening five questions, but you tackled
29 me on labouring a point about what was on the menu at

1 the gathering, and so forth, and that you really wanted
2 him to engage with the real issues that were on your
3 mind.

4 CHAIRMAN: Yes, well, I wasn't -- I know there was a
5 celebration, but whether they were having chicken or
6 whiskey, I really couldn't have cared less, but
7 anyway --

11:23

8 MR. DOCKERY: Absolutely.

9 CHAIRMAN: -- there it is, it's water under the bridge.
10 I am sure you will forgive me when I am dead and gone,
11 but anyway.

11:24

12 MR. DOCKERY: I think it was my second or third
13 question. Perhaps I was trying to contextualise
14 something. But in any event, the message was received
15 loudly and clearly that Inspector O'Connell was to
16 submit further statements in which he dealt with issues
17 that you were interested comprehensively and he
18 followed that through in his evidence to the point that
19 you noted how refreshing it was in its frankness and
20 directness.

11:24

11:24

21 CHAIRMAN: well, he was -- I am not saying he was
22 alone, but maybe fairly solitary in that regard.

23 MR. DOCKERY: Yes. And I will just conclude, sir, on
24 this, by pointing out that at page 95 of your interim
25 report you stated in the third-last paragraph that "The
26 Tribunal was driven to doubt bald assertions that
27 fellow gardaí had no problems with Maurice McCabe.
28 Some certainly did have problems with him, there is no
29 doubt about that. As regards feelings in respect of

11:24

1 him some testimony, did help."

2
3 And you quoted from Chief Superintendent Sheridan and
4 you quoted from Inspector O'Connell, Judge, and that,
5 in effect, is my submission. I say that he is
6 entitled, Judge, to his -- to the default position, and
7 that is to say he is entitled to his costs. I have
8 told you I already agreed with My Friend's summary of
9 the legal position. I have no issue about fair
10 procedures. I say that I am entitled to all of my

11:25

11 costs in the circumstances in which I have outlined.
12 CHAIRMAN: And there is no percentage below which you
13 say I would be acting unreasonably? The percentage is
14 100%, is it?

11:25

15 MR. DOCKERY: well, I am not prepared to make that
16 concession, Judge.

11:25

17 CHAIRMAN: No, I am not asking you really to make a
18 concession, Mr. Dockery. And also, when counsel make a
19 concession, frankly I don't act on it, I make my own
20 mind up.

11:25

21 MR. DOCKERY: Yes.

22 CHAIRMAN: But nonetheless, it is important that you
23 have the opportunity to say that if you wish, because,
24 I mean, when I leave, presumably there is going to be a
25 High Court judge in here, in which case someone can
26 start a judicial review upon my decision. So, I think
27 it's right to put it out there, and if you want to say
28 something about it --

11:25

29 MR. DOCKERY: No, I don't.

1 CHAIRMAN: -- I am delighted to hear it. If you don't,
2 fine.

3 MR. DOCKERY: I don't, sir. I think that the
4 inexorable logic of my submission has to be that I must
5 submit that I am entitled to all of my costs. 11:26

6 CHAIRMAN: Yes. And then the public money point and
7 compassion, if you want to say something about that,
8 again I would be delighted to hear it.

9 MR. DOCKERY: No, I don't wish to say anything about
10 that in connection with Inspector O'Connell, sir. I 11:26
11 say that, again, he gave his evidence, he submitted his
12 statements, he submitted his discovery. His evidence
13 was helpful in many respects and was acknowledged to be
14 so, and the mere fact is that you didn't accept whether
15 or not he saw an isolated email of whatever importance, 11:26
16 is insufficient grounds on which to refuse him his
17 costs. And I don't rely on the aspect of compassion.

18
19 Now, turning briefly then, Judge, to Mr. Kennedy's
20 evidence -- 11:26

21 CHAIRMAN: Do you think it's there in the law at all?

22 MR. DOCKERY: Do I what?

23 CHAIRMAN: Do you think it's there in the law at all?

24 MR. DOCKERY: To consider --

25 CHAIRMAN: well, let's suppose I was against you on 11:27
26 everything you say, am I entitled to award a percentage
27 of costs on a compassionate basis, or maybe do you
28 think it's not in the law at all? I am actually asking
29 you the question because I'd appreciate any submission

1 you had on the matter, and that was the same with
2 everybody else.

3 MR. DOCKERY: well, I do think it's -- I do think it's
4 in the law in the context of tribunals, for the reasons
5 submitted by others to you this morning, the 11:27
6 necessity -- the obligation, rather, to attend the
7 compulsive aspect of cooperating, and so forth, and the
8 obligation on a citizen, whether he is a member of the
9 gardaí or retired, or neither, to attend and cooperate
10 and give evidence. 11:27

11 CHAIRMAN: So there is a factor in turning up at all?

12 MR. DOCKERY: There is, Judge.

13 CHAIRMAN: Because I suppose if a person didn't turn up
14 at all, you wouldn't be able to see whether they were
15 telling the truth or assisting the Tribunal or not? 11:28

16 MR. DOCKERY: Yes, precisely. Yes. And, in fact, I am
17 going to rely on that.

18 CHAIRMAN: And there is a question-mark after that as
19 well.

20 MR. DOCKERY: Yes. I think it has more importance in 11:28
21 the case of the other man I want to refer to, Judge.
22 That is Mr. Kennedy.

23 CHAIRMAN: Yes.

24 MR. DOCKERY: Because here is a man who had retired
25 from the gardaí, I think in 2014, and was asked to 11:28
26 attend the Tribunal on the 18th April last year to
27 confirm his recollection -- or to confirm that he
28 recalled having a conversation with Mr. Rabbitte in
29 Mr. Rabbitte's car, when driving Mr. Rabbitte, four

1 years earlier, in 2014. And the evidence you heard was
2 to the effect that whatever -- whatever was -- whatever
3 comment was attributed to Mr. Kennedy was simply an
4 off-the-cuff remark and it was a very, very short
5 exchange. My impression from Mr. Kennedy's evidence 11:29
6 was that he was rather horrified and embarrassed at the
7 very notion that it would be suggested that he had made
8 any reference by way of a warning to Mr. Rabbitte in
9 whatever consequences -- circumstances, because he was
10 Mr. Rabbitte's driver, that he had made a comment which 11:29
11 could be taken as a warning about Mr. McCabe. My
12 impression from his evidence was that he was
13 embarrassed and mortified at the notion that anybody
14 would suggest such a thing. But, of course, I submit
15 to the Tribunal, sir, that if it was a remark that took 11:29
16 a number -- no more than a few seconds to make, in a
17 car, in 2014, either Mr. Kennedy, whose evidence you
18 didn't accept on the point, is deliberately misleading
19 the Tribunal or he simply doesn't recall it. And
20 perhaps if he doesn't recall it, sir, it's because he 11:30
21 doesn't -- he has convinced himself quite sincerely
22 that he never made that remark, with the passage of
23 time. And those of us who practise law and those of
24 you who sit on the bench are well familiar with the
25 notion of the man who crashes his car into the tree in 11:30
26 the single-vehicle accident and may be sued by a
27 passenger, and whose first reaction, two years later
28 when he served the proceedings, or a year later, is to
29 blame the tree and deny that he was responsible, say

1 the tree shouldn't have been put there by the county
2 council and somehow they should be joined in it as a
3 co-defendant.

4 CHAIRMAN: Yes. Well, it is more colourful than
5 anything I have heard, and I have heard a lot. 11:30

6 MR. DOCKERY: I am taking an extreme example to
7 illustrate the point of the condition, the human
8 condition, Judge, for somebody to sort of revise
9 history and convince themselves of something.

10 CHAIRMAN: I see the point. 11:30

11 MR. DOCKERY: You know the point I am making. And this
12 man was a genuine witness, and I don't think for a
13 moment that he was deliberately seeking to mislead the
14 Tribunal and, on that point, if I might just give you
15 one quotation, sir, to conclude, and I hope that you 11:31
16 won't consider it to be labouring the point. But on
17 the day he gave evidence, you said to him at the very
18 end of his evidence, in a manner that I think indicates
19 that you consider him to be a genuine person, you said:

20 "Look, Mr. Kennedy, obviously I am going to have to 11:31
21 think about what you said and what Mr. Rabbitte has
22 said, but one thing I am certain of, and it may set
23 your mind at rest, is that you are not a malicious
24 gossip and that you weren't going around spreading
25 rumours, and if this happened, and obviously I will 11:31
26 think about it, it was on the basis of a confidential
27 discussion. "
28
29

1 And you went on to say to him that:

2
3 "You know, we quite often in life blunder around in the
4 dark and, the more light there is, even sometimes if
5 it's from the source of rumours, at least if you know 11:31
6 about them you can check them out, so I want you to
7 know that, all right?"

8
9 And he said he appreciated that. I am simply
10 submitting that to you, Judge, as an indication that at 11:31
11 the time your impression of Mr. Kennedy was that,
12 whatever about accepting his evidence, he certainly
13 wasn't lying to you. That's my submission.

14
15 On the other points, I accept, again, the law. I 11:32
16 accept that, as regards Mr. Kennedy, fair procedures
17 have been applied. I submit that no deduction should
18 be made in his costs, for the reasons I have submitted;
19 that is to say, that he did not knowingly mislead the
20 Tribunal or intend to deceive the Tribunal. And as to 11:32
21 compassion and mercy with public monies, I say that if
22 you were to hold against him on that, that here is a
23 man who, in the purest sense, cooperated with the
24 Tribunal, at least to the extent that he attended, was
25 stressed by the experience, I think you detected that, 11:32
26 was horrified to find himself being asked to accept
27 that he passed on this gossip in whatever context to
28 Mr. Rabbitte, however extenuating or mitigating it was
29 in the particular context. I think it was a day that

1 he dreaded, and I think he dealt with it the best way
2 he could, and even if you were to hold against me, I
3 would ask for my costs on point number 4 in the
4 exercise of your compassion in his instance.

5 Thank you, sir.

11:33

6 CHAIRMAN: Thank you very much, Mr. Dockery.
7 Mr. Quinn.

8

9 SUBMISSION BY MR. QUINN:

10

11:33

11 MR. QUINN: Chairman, thank you. I might just use the
12 ledge here, if I can.

13 CHAIRMAN: Yes. Maybe just remind us who you are
14 appearing for.

15 MR. QUINN: I am for the three journalists who were
16 working with the Examiner: Daniel McConnell, Cormac
17 O'Keefe and Juno McEnroe, although Mr. McConnell
18 actually was an employee of INM at the time of the
19 relevant events, but at the time I think he was
20 engaging with the Tribunal, he was a journalist with
21 the Examiner. I will start, Chair, just perhaps --

11:33

22 CHAIRMAN: I am sorry, before you go on again, I am
23 sorry for interrupting you at such an early stage,
24 Mr. Quinn, but there was also -- there was a lot of
25 other people from the Cork Examiner gave evidence in
26 the Tribunal; Mr. Clifford is an obvious example, isn't
27 that correct?

11:33

28 MR. QUINN: Yes.

29 CHAIRMAN: And there doesn't seem to be any issue about

11:34

1 them?

2 MR. QUINN: No, no.

3 CHAIRMAN: Yes.

4 MR. QUINN: So the three other persons or entities that
5 we represented, instructed by Ronan Daly Jermyn, were 11:34
6 the Examiner newspaper itself, Mr. Tim Vaughan, an
7 editor, and then Mr. Clifford.

8 CHAIRMAN: Yes.

9 MR. QUINN: So we were for those six, if you like,
10 those three and then the three journalists. 11:34

11 CHAIRMAN: And they had representation, didn't they?

12 MR. QUINN: They all had representation, and they don't
13 seem -- there doesn't seem to be an issue in relation
14 to their costs.

15 CHAIRMAN: well, we haven't raised an issue. I think 11:34
16 we are obliged to raise an issue in the event that
17 there might be an issue. So what -- so, in that
18 regard -- well, I suppose in terms of, this is about
19 20% or 30% of the total Examiner evidence, as such, is
20 it or -- I am just finding it hard to -- 11:35

21 MR. QUINN: Yes, well, obviously Mr. Clifford was a
22 very substantial person --

23 CHAIRMAN: He was.

24 MR. QUINN: -- in the sequence, and he probably took
25 up -- the three we are concerned with today were all 11:35
26 heard on one day. They were perhaps relatively
27 shortish witnesses. Mr. Clifford was a more
28 substantial witness. Mr. Vaughan was a relatively
29 short witness, and I think then the company

1 itself was --

2 CHAIRMAN: So we are just dealing with these three, and
3 then any decision as to costs in relation to the rest
4 will simply follow.

5 MR. QUINN: will simply follow, Judge, yes, indeed. 11:35
6 And just tracking into the four questions and perhaps
7 thinking on the last one, obviously it's not something
8 that I say in terms of mercy or compassion applies to
9 Mr. McEnroe, Mr. O'Keefe or Mr. McConnell. Obviously
10 they were engaged with the Tribunal in relation to 11:36
11 their professional performance of their duties as
12 journalists and they were there as witnesses and
13 employees of the Examiner. But perhaps just in terms
14 of looking at the question, it seems, in our respectful
15 submission, that the law starts with sort of a default 11:36
16 assumption that a party who is granted representation
17 should get an order for their costs unless the Tribunal
18 is satisfied that the person, in the course of his or
19 her dealings with the Tribunal, failed to cooperate
20 and/or provide assistance and/or knowingly gave false 11:36
21 and misleading statement -- information to the
22 Tribunal. And that's in our written submission on
23 costs at paragraph 10 and it will also refer back to
24 Mr. Justice McCarthy. So, in some ways, to the extent
25 there is a robust public interest in parties having a 11:36
26 default position of cooperating with tribunals and
27 being represented in that regard, and one could see why
28 there would be a general public interest in that from
29 the point of view of facilitating the orderly running

1 of the Tribunal as opposed to parties turning up
2 unrepresented or not engaging at all or seeking to
3 avoid engaging with a tribunal, one could say that
4 there is a public interest that underpins that
5 position.

11:37

6 CHAIRMAN: No, I think we will accept that from
7 Ms. Leader, yes, that has to be correct.

8 MR. QUINN: The question then really is, are we moving
9 from that for some reason? And in relation to
10 Mr. McEnroe, Mr. McConnell and Mr. O'Keefe, my

11:37

11 submission in respect of those three witnesses is that
12 they should get 100% of their costs, notwithstanding
13 the fact that they invoked journalistic privilege and
14 notwithstanding the fact that, in your third report,
15 the Tribunal concluded that it did not accept that an
16 issue of journalistic privilege arose on the evidence
17 and the Tribunal considered that the privilege had been
18 waived by Superintendent Taylor, and that the evidence
19 given by, I think this applied in relation to

11:38

20 Mr. O'Keefe and Mr. McConnell, was given for reasons
21 best known to them. And notwithstanding that, I would
22 submit that they are entitled to 100% of their costs.

11:38

23 There is a difference, I would respectfully submit,
24 between a party that invokes in this case a
25 journalistic privilege and does so bona fide and in a
26 considered way and tries to apply it in as limited a
27 way as possible - obviously the witnesses answered a
28 raft of other questions - and a party that decidedly
29 decides not to cooperate and/or knowingly gives false

11:38

1 or misleading information. And that position is not,
2 in my respectful submission, disrupted, notwithstanding
3 the Tribunal's conclusion that privilege in this case
4 didn't arise.

5
6 Now, just in relation to that, Chair, you will recall
7 that the sequence, roughly, was, when Superintendent
8 Taylor was giving evidence, we wrote and arrived just
9 to say we are not going to cross-examine him and here
10 is why, and nothing was said further about that. There 11:39
11 was then inquiries as to whether or not there might be
12 submissions on privilege prior to the giving of
13 evidence, and I think the course decided upon was that
14 the journalists would give their evidence and then the
15 issue of submissions would be dealt with thereafter, 11:39
16 and I think that's what occurred. After the suite of
17 journalists and others had given their evidence, there
18 was a period of time set aside for submissions on
19 privilege. We delivered a speaking note that, Chair,
20 you have the benefit of, that sets out the rationale 11:39
21 why, notwithstanding Superintendent Taylor as a
22 potential source waiving privilege, we respectfully
23 took the view that it wasn't the source's privilege, it
24 was the journalists' privilege, and we set out both the
25 legal and practical rationale for that. Mr. Vaughan, 11:40
26 in his evidence, also set out what he said was the
27 practical rationale for it being the journalists'
28 privilege and not the sources and said that it would
29 have an effect on people in the future coming forward

1 to the journalists if, even when a source waived
2 privilege, that was deemed to be the end of the
3 privilege, and indeed in both -- the evidence, in terms
4 of practical examples, and there was some interesting
5 debate at various junctures about hypothetical examples 11:40
6 and including the interesting example of the list that
7 was raised and also from the cases, particularly the
8 Becker case where the Court of Human Rights just
9 analysed why. It's not simply down to whether the
10 source waives or not. And, of course, we gave examples 11:40
11 in our submission of circumstances in which people
12 subsequently, under pressure or otherwise, can decide
13 to waive privilege, and in this case Martin Callinan,
14 Nóirín O'Sullivan and the superintendent all signed
15 waivers, and it was explained why, from a journalist's 11:41
16 point of view, that was not considered to be the end of
17 the privilege.

18
19 Now, ultimately, there was also submissions as to what
20 should happen, was that not agreed with, and there was 11:41
21 the question of whether or not they would be recalled,
22 whether they would be directed to answer the question,
23 and, if they then refused, what would happen, and we
24 were asked to do a submission on process, which we did,
25 which could have involved obviously the person being 11:41
26 brought before the High Court and directed to answer
27 the question. And that didn't end up arising in those
28 circumstances.

29

1 But ultimately, without trespassing too much on your
2 time, Chair, there is a number of very small extracts
3 from day 90 which I think reflect an engagement that,
4 in our respectful submission, would not be consistent
5 with a view that the position of these individuals was 11:41
6 not bona fide and --

7 CHAIRMAN: well, it may help you, but, you know, there
8 can be circumstances where people do discreditable
9 thing and have a privilege and just hide behind it, and
10 there can be circumstances where people, perhaps 11:42
11 wrong-headedly, and I am not saying this is your
12 clients, or maybe even stupidly, say, I'm exercising
13 this privilege even though it doesn't exist. Now, I
14 didn't make any finding and I certainly don't feel that
15 any of the three journalists in question were just 11:42
16 picking up this privilege with a view to hiding behind
17 something discreditable they did. It just doesn't
18 arise, Mr. Quinn. But as to whether they should have
19 exercised it or not, may be a different matter. I
20 don't think that I am making a decision on that here. 11:42
21 It's already made in the Tribunal Report. But it seems
22 to me that what may be important in the sense of what
23 is set out in the letter that you received, is the
24 extent to which, because they were there and at least
25 answered some of the questions, I was able to get some 11:42
26 kind of inkling as to whether this, well, scheme of
27 calumny extended to Cork and the Cork Examiner.

28 MR. QUINN: well, I think it is fair to observe, having
29 reviewed the exchanges with the witnesses, that,

1 notwithstanding the privilege they sought to invoke,
2 there was a degree of careful questioning that one
3 could say would enable a fact-finder to draw
4 inferences, and I think certainly in relation to
5 Mr. McEnroe, you were clearly able to draw an inference 11:43
6 based on some questions that are asked as to when he
7 had found out certain things, and then you were able to
8 draw, perhaps from your point of view, fairly clear
9 inference as to --

10 CHAIRMAN: well, there was other questions as well, 11:43
11 such as: Look, did you ever meet Superintendent
12 Taylor, apart from sharing a cocktail sausage with him
13 at a function? Or something like that.

14 MR. QUINN: Yes.

15 CHAIRMAN: I mean, if you had no contact with somebody, 11:44
16 you can't be getting these enormous public secrets that
17 you are attempting to -- and journalistic privilege is
18 a legitimate thing, but you are not exercising it if
19 you haven't had any contact, isn't that right?

20 MR. QUINN: Not to get back into that particular 11:44
21 debate --

22 CHAIRMAN: No, and I am not trying to get back into
23 that debate. What I am trying to say is, look, is
24 there a case to be made that the fact that they were
25 there and were answering questions, such as when was 11:44
26 the last time you actually met a particular person,
27 that the Tribunal is able to get some sense of what
28 might be going on?

29 MR. QUINN: Indeed. And I think, Chairman, one of the

1 points -- and I am obliged, that helps shorten what I
2 would like to say. I think there is no doubt that
3 these were witnesses that were endeavouring to answer
4 as many questions as they thought reasonably possible
5 consistent with their view, so they weren't simply 11:44
6 clamming up, and I think there were secrets and
7 questions where, Chairman, you will recall, they were
8 generally disposed to being forthcoming with you in
9 terms of giving background and specifics about when
10 certain things had happened, and they were there to 11:45
11 enable you to raise those questions with them, indeed
12 obviously questions from the Tribunal's team as an
13 initial bedrock. And it can be seen from the report
14 that certain inferences were drawn, and those
15 inferences were drawn by virtue of the answers they 11:45
16 gave to questions that were raised. If I can just,
17 though, add a little rider to that by saying, Chairman,
18 as you will recall in your submission, we have -- and
19 the position, we did invite the Tribunal not to draw
20 inferences from the invocation of privilege, but 11:45
21 obviously that ultimately is a matter for the Tribunal.
22 But nonetheless, they were persons who presented, who
23 were bona fide and who were -- who were, I would
24 submit, cooperating as best they could, but
25 nonetheless, they were asserting the privilege. And 11:46
26 both explained in the written submissions and indeed at
27 various junctures, each of the three journalists in
28 question, and indeed Mr. Vaughan, endeavoured to
29 explain the practical rationale behind this, not least

1 one of which is the danger of even confirming somebody
2 is not a source, and I know that's -- there is an
3 interesting debate that was had at several junctures in
4 the course of that particular day's evidence with you,
5 Chair, about the example of some -- a rumour going 11:46
6 around about somebody being on a particular list and
7 the rumour being scotched and whether or not that had
8 an effect, and both Mr. O'Keeffe and I think
9 Mr. McConnell both raised what they saw the practical
10 difficulty as, what do you do when there is a rumour 11:46
11 about a name that is on the list? And so that debate
12 was had. But nonetheless, there is, leaving aside the
13 findings in the report, there nonetheless is, in my
14 respectful submission, a rational basis for the
15 position on a range of fronts that were taken by the 11:47
16 three journalists in question, and there is a rational
17 basis for a journalist refusing to confirm or deny that
18 a person is a source, even if that person isn't a
19 source.

20 CHAIRMAN: I know, Mr. Quinn, I can see your point, and 11:47
21 it's made very well, and I can see also where it's
22 leading, but what I really don't want to do is to be
23 put in a position where I am issuing a judgment on
24 journalistic privilege. I did, at the Tribunal, and I
25 did it without leaving the bench, and what I decided 11:47
26 was, I wasn't going to refer people to the High Court;
27 I am just going to get on with the work of the
28 Tribunal. So I think, you know, either accepting that
29 your clients are entitled to costs or saying that they

1 are not entitled to costs or a percentage of costs,
2 isn't a ruling on journalistic privilege. I am just
3 not going to do that. It's, instead, the extent of
4 which having them there helped the Tribunal, that's it,
5 and the refusal to answer questions to the extent to 11:47
6 which that didn't help the Tribunal, that's really what
7 it's all about. I am not engaging with journalistic
8 privilege. I am not trying to shut you down,
9 Mr. Quinn, not at all. But I think, my goodness, we
10 have really gone over that. 11:48

11 MR. QUINN: No, indeed, Chair. But if I can ask that
12 it be looked at in this way: that the starting
13 assumption should be that they are entitled to 100% of
14 their costs. And then the question is, is there a
15 solid rational basis within the jurisprudence for 11:48
16 departing from that? So as opposed to necessarily
17 saying, well, was their questioning helpful, and no
18 doubt portions of their evidence can point to where it
19 was, were they generally cooperative, no doubt that can
20 be pointed to where it was, but they don't have to 11:48
21 establish that they get to the starting point. They
22 are at the starting point of getting their costs. The
23 question then is, is there a rational solid basis
24 within the jurisprudence for departing from that? And
25 in my respectful submission, where there hasn't been 11:48
26 the kind of process that would have led to the
27 journalistic privilege being solidly undermined and
28 where it isn't suggested that their invocation of it
29 was other than bona fide, then there isn't a solid

1 basis for departing from the principle that they should
2 get their costs.

3 CHAIRMAN: well, you can be bona fide but you can be
4 wrong, Mr. Quinn.

5 MR. QUINN: Oh, yes.

11:49

6 CHAIRMAN: I mean, that happens.

7 MR. QUINN: Yes, yes. But that process wasn't, in
8 fact, gone through in the end of the day and wasn't
9 ultimately bottomed out, for perhaps the very practical
10 reason that you, Chair, have alluded to. But think of

11:49

11 it this way: If in circumstances where a journalist
12 came before a tribunal and invoked privilege and
13 invoked it bona fide but they weren't given their
14 costs, what would be the effect of that? What would
15 that be saying? In terms of the public interest

11:49

16 underpinning of the default position that a party
17 cooperating with a tribunal should get their costs, if
18 the position was, well, a journalist cooperating with a
19 tribunal, who does cooperate, who attends, who gives
20 answers to questions and bona fide invokes a privilege
21 which isn't obviously undermined by a reference to the
22 High Court directing them otherwise, if they are not to
23 get their costs or to have their costs reduced, that is
24 an infringement on their rights as a journalist, and
25 that is an infringement ultimately on the

11:50

26 constitutional rights that underpin that, because that
27 is treating them differently and in a material way
28 detrimentally without there being a finding that their
29 invocation of the privilege was other than bona fide.

1 So I would submit very cogently that there isn't a
2 clear, safe, rational basis for departing from the
3 default position for these three witnesses that they
4 should be entitled to their costs.

5 CHAIRMAN: All right. Was there anything else you 11:50
6 wanted to say about na ceithre ceisteanna?

7 MR. QUINN: There isn't an issue with the legal
8 summary, although perhaps the question of privilege is
9 a kind of -- and someone invoking privilege is a
10 nuanced -- 11:51

11 CHAIRMAN: Yes, it is, but, Mr. Quinn, it happens all
12 the time. People invoke legal professional privilege,
13 you know, for instance, and it's not a question of bona
14 fide. Obviously they have to do so in good faith with
15 a basis for it, but if they are wrong, they are wrong. 11:51
16 That's the difference.

17 MR. QUINN: Well, Judge, is it suggested here that they
18 were wrong to do it?

19 CHAIRMAN: Well, I mean, didn't I make my feelings
20 perfectly clear? Do I need to say any more than what I 11:51
21 said on the day?

22 MR. QUINN: Well --

23 CHAIRMAN: And if one moves from that position, and
24 let's not get stuck on that position, to what extent
25 was having them there and listening to them and their 11:51
26 answer to multiple questions, which they did not invoke
27 privilege on, assist the Tribunal? I seem to be
28 pushing that point, Mr. Quinn.

29 MR. QUINN: Yes.

1 CHAIRMAN: If I was a barrister, I would seem to be
2 pushing that point.

3 MR. QUINN: Yes. well, if I may push that point back,
4 Judge, yes -- Chair, yes.

5 CHAIRMAN: Yes, do. 11:51

6 MR. QUINN: No, I am not unalive to that, Chair, I
7 entirely accept that, and they were there and there was
8 definitely -- there is no doubt, when one looks at it,
9 several pages of careful questioning deployed
10 skillfully that elucidated certain answers that 11:52
11 obviously the Chair -- you, as Chair, found useful, and
12 I think no one could gainsay that those witnesses were,
13 in general, forthcoming and endeavouring to be straight
14 with the Tribunal in that regard, and it appears from
15 the Tribunal's findings that the Tribunal found that of 11:52
16 assistance in drawing certain inferences. But in
17 saying that, I suppose I do retreat back to the
18 position that the starting point is they are entitled
19 to their costs.

20 CHAIRMAN: No, I get that. 11:52

21 MR. QUINN: I suppose I don't have to climb the hill.
22 The question is --

23 CHAIRMAN: No, well, I mean, that's the first thing.
24 As I said, people who come in here and they take a case
25 about their neighbour's trees having been cut down 11:52
26 unlawfully, start a case. People who come into a
27 tribunal are pulled in because the public interest and
28 the Oireachtas has said you have to be there. So that
29 is the starting point, yes, I agree. So what

1 percentage can I not go below without acting
2 unreasonably?

3 MR. QUINN: well, I say their full costs, 100%.

4 CHAIRMAN: very well. Everybody said that except for
5 Mr. O'Higgins, and he says 90%. 11:53

6 MR. QUINN: Yes, I missed that. But, Judge, I suppose
7 because there is a rather binary point of principle
8 here in terms of these journalists. There was no
9 finding that their position was other than bona fide.
10 And if you are bona fide invoking a legal privilege not 11:53
11 to answer a question, how, under the jurisprudence, can
12 that be equated with knowingly giving false or
13 misleading information?

14 CHAIRMAN: well, I presume every judge who, for
15 instance, makes a finding in the Circuit Court, does so 11:53
16 bona fide, but may be reversed in the High Court.

17 MR. QUINN: Yes.

18 CHAIRMAN: Yes. Isn't that the reason?

19 MR. QUINN: Indeed, Judge. But how, in the context of
20 this exercise, does somebody bona fide invoking a 11:54
21 privilege, how can that be equated to --

22 CHAIRMAN: well, I am accepting your bona fide, in good
23 faith, exercising a privilege, but you can assert a
24 privilege and you can be incorrect. You can be
25 incorrect and have a perfectly clear conscience and 11:54
26 just get things wrong. So does that -- is there any
27 submission you want to make about that?

28 MR. QUINN: Yes, but that can't equate, in my
29 respectful submission, to knowingly giving false and

1 misleading information. That's the --
2 CHAIRMAN: well, it's not all that's there. It's
3 cooperation. One is obliged to cooperate.
4 MR. QUINN: Yes, yes. well, exactly.
5 CHAIRMAN: And if you make a mistake and don't 11:54
6 cooperate, even if you have acted in the best of good
7 faith, well then that may have consequences, so you are
8 saying it shouldn't have consequences and I shouldn't
9 give less than 100%. Do you want to move -- is there
10 any point in relation then to the public money issue 11:55
11 that you want to raise?
12 MR. QUINN: Is that question 4?
13 CHAIRMAN: Yes.
14 MR. QUINN: Not in terms of the mercy or compassion,
15 but from a different perspective, which is this: is 11:55
16 that where journalists have bona fide invoked
17 journalistic privilege, such as in this situation here,
18 if they are to have their costs reduced, that would be,
19 in my respectful submission, contrary to the public
20 interest. 11:55
21 CHAIRMAN: Okay.
22 MR. QUINN: Because it would be a definite detriment to
23 applied to them in circumstances where it would be
24 putting them in the same category as a person who has
25 failed to cooperate or has knowingly given false and 11:55
26 misleading information, and they are simply not on all
27 fours or in the same type of category at all. So
28 that's in relation to 4. And I think the others
29 have -- the other questions have, I think, been dealt

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

with.

CHAIRMAN: Yes. Okay, Mr. Quinn, is that it? Thank you very much.

MR. QUINN: Thank you, Chairman.

CHAIRMAN: Is that everybody then? Thanks, Ms. Leader. 11:56
Do you want to say anything in reply?

MS. LEADER: No.

CHAIRMAN: Oh, they are not here anyway so we would be breaking fair procedures. All right. Well, I am just reminded of Spenser's 'The Faerie Queene' in relation 11:56
to those persons in the Court of Queen Elizabeth who sometimes counsel took and sometimes tea. I have taken counsel now and I am going to have tea. All right.

THE HEARING THEN CONCLUDED

36:13, 36:17, 68:4, 70:18 arises [4] - 12:18, 17:20, 18:3, 44:15 arising [2] - 18:12, 69:27 arose [2] - 16:28, 67:16 arrived [2] - 56:24, 68:8 Article [2] - 29:3, 29:6 articulate [1] - 54:28 AS [1] - 5:2 aside [2] - 68:18, 73:12 aspect [3] - 38:8, 59:17, 60:7 assault [1] - 56:28 assert [1] - 78:23 asserting [2] - 16:29, 72:25 assertions [1] - 57:26 assist [1] - 76:27 assistance [9] - 5:28, 7:7, 15:18, 25:22, 43:12, 46:12, 50:10, 66:20, 77:16 assisting [1] - 60:15 associations [1] - 44:5 assume [1] - 7:14 assumption [2] - 66:16, 74:13 atmosphere [1] - 26:24 attack [1] - 43:29 attempting [1] - 71:17 attend [4] - 19:9, 60:6, 60:9, 60:26 attendance [1] - 17:22 attended [2] - 16:5, 63:24 attending [1] - 54:2 attends [1] - 75:19 attention [3] - 15:9, 18:24, 53:25 attributed [1] - 61:3 authorities [1] - 48:28 authority [2] - 28:28, 42:25 available [2] - 16:12, 16:13 avoid [1] - 67:3 award [8] - 7:4, 8:7, 24:14, 25:13, 36:8, 48:10, 49:6, 59:26 awarded [1] - 9:11 awarding [6] - 14:26, 14:28, 20:8, 20:26, 27:2, 35:19	aware [1] - 42:15 B background [1] - 72:9 Bailieboro [1] - 56:14 Baker [2] - 40:12, 40:20 balance [3] - 42:17, 48:24, 55:25 balancing [4] - 13:4, 18:27, 27:17, 27:28 bald [1] - 57:26 ballpark [1] - 12:24 Bar [1] - 11:28 BARRETT [1] - 3:1 Barrett [14] - 23:3, 25:6, 25:18, 25:27, 26:4, 26:12, 26:18, 26:22, 28:11, 31:24, 33:7, 33:12, 35:21, 36:4 Barrett's [1] - 32:6 barrister [1] - 77:1 based [1] - 71:6 basis [11] - 47:3, 52:2, 59:27, 62:27, 73:14, 73:17, 74:15, 74:23, 75:1, 76:2, 76:15 beating [1] - 56:19 became [3] - 14:15, 23:16, 23:17 Becker [1] - 69:8 become [3] - 13:22, 27:13, 27:15 becomes [4] - 27:9, 27:10, 42:13, 48:29 becoming [1] - 48:26 bedrock [1] - 72:13 beg [2] - 13:14, 17:29 behalf [6] - 7:3, 27:18, 33:12, 50:20, 51:6, 53:2 behaviour [1] - 40:29 behind [4] - 15:17, 70:9, 70:16, 72:29 below [8] - 10:7, 10:12, 11:3, 34:6, 47:20, 48:6, 58:12, 78:1 bench [2] - 61:24, 73:25 benefit [6] - 22:4, 44:29, 50:1, 50:3, 53:1, 68:20 best [7] - 21:7, 55:26, 55:27, 64:1, 67:21, 72:24, 79:6 bet [1] - 22:20	between [4] - 20:11, 20:20, 44:3, 67:24 big [2] - 12:3, 45:3 binary [1] - 78:7 bit [7] - 22:10, 22:20, 30:13, 30:19, 39:24, 45:10, 51:5 BL [2] - 2:11, 3:1 blame [1] - 61:29 Block [1] - 26:16 blunder [1] - 63:3 BMW [1] - 45:7 bona [15] - 67:25, 70:6, 72:23, 74:29, 75:3, 75:13, 75:20, 75:29, 76:13, 78:9, 78:10, 78:16, 78:20, 78:22, 79:16 Bonnie [2] - 42:6, 49:15 bottomed [1] - 75:9 boxes [1] - 20:23 breaking [1] - 80:9 bridge [1] - 57:9 brief [3] - 5:8, 50:26, 52:11 briefly [2] - 42:23, 59:19 bring [5] - 27:22, 28:20, 46:26, 46:27, 47:2 bringing [1] - 53:24 BRODERICK [1] - 2:20 broke [1] - 16:16 broken [1] - 37:2 brought [1] - 69:26 Browne [1] - 16:27 BUILDING [1] - 3:4 building [1] - 12:5 bulk [2] - 38:19, 39:9 bundle [1] - 33:10 burden [1] - 45:21 bush [1] - 56:19 business [5] - 16:20, 43:9, 51:2, 54:5, 54:20 BY [20] - 1:5, 1:8, 2:12, 2:20, 2:26, 3:3, 3:9, 4:3, 4:4, 4:5, 4:6, 4:7, 4:8, 5:15, 12:12, 22:24, 36:24, 50:24, 64:9	candidly [1] - 28:5 cannot [2] - 23:22, 39:8 car [3] - 60:29, 61:17, 61:25 cared [1] - 57:6 careful [2] - 71:2, 77:9 carefully [2] - 41:4, 49:9 CARTHAGE [1] - 2:12 carthage [1] - 18:15 case [38] - 6:2, 6:14, 13:20, 16:14, 16:26, 17:9, 18:17, 19:4, 19:5, 19:11, 23:15, 27:7, 28:11, 30:28, 31:6, 33:18, 35:2, 40:12, 40:15, 40:26, 41:21, 42:10, 42:28, 43:8, 47:2, 47:11, 47:29, 50:8, 58:25, 60:21, 67:24, 68:3, 69:8, 69:13, 71:24, 77:24, 77:26 cases [1] - 69:7 Castle [1] - 23:7 casually [1] - 26:25 category [3] - 39:17, 79:24, 79:27 caution [1] - 28:1 ceisteanna [1] - 76:6 ceithre [1] - 76:6 celebration [1] - 57:5 central [5] - 18:9, 24:6, 28:21, 34:18, 34:20 centrally [1] - 24:9 CERTAIN [1] - 1:4 certain [7] - 16:17, 62:23, 71:7, 72:10, 72:14, 77:10, 77:16 certainly [10] - 13:8, 21:13, 28:10, 44:24, 50:8, 51:8, 57:28, 63:12, 70:14, 71:4 certify [1] - 1:27 cetera [2] - 9:19, 9:20 chain [2] - 49:28, 50:3 Chair [11] - 64:21, 68:6, 68:19, 70:2, 73:5, 74:11, 75:10, 77:4, 77:6, 77:11 Chairman [21] - 5:4, 12:14, 13:17, 14:26, 16:2, 16:15, 17:17, 18:26, 19:26, 21:24, 22:2, 22:21, 24:29, 25:25, 28:3, 37:29, 64:11, 71:29, 72:7, 72:17, 80:4	chairman [2] - 7:2, 7:23 CHAIRMAN [149] - 5:7, 9:1, 12:3, 12:6, 12:10, 12:27, 12:29, 13:12, 13:16, 17:24, 17:28, 18:2, 18:5, 21:4, 21:21, 21:26, 22:1, 22:5, 22:17, 22:22, 22:26, 23:1, 28:29, 29:6, 29:9, 29:14, 29:21, 30:10, 30:17, 30:24, 31:11, 31:13, 32:10, 32:15, 32:24, 32:27, 33:14, 33:16, 33:20, 33:27, 34:4, 34:12, 34:15, 34:19, 34:22, 34:24, 34:27, 35:3, 35:12, 35:15, 35:27, 36:1, 36:5, 36:14, 36:16, 36:19, 36:21, 37:16, 38:29, 41:5, 41:14, 41:17, 41:20, 45:7, 45:9, 45:22, 45:24, 45:28, 46:3, 46:6, 46:24, 46:26, 47:9, 47:19, 48:2, 48:6, 48:10, 48:13, 49:4, 49:14, 49:27, 50:8, 50:18, 51:3, 51:14, 51:17, 51:21, 51:24, 52:5, 52:10, 53:4, 56:16, 56:19, 56:23, 56:25, 57:4, 57:9, 57:21, 58:12, 58:17, 58:22, 59:1, 59:6, 59:21, 59:23, 59:25, 60:11, 60:13, 60:18, 60:23, 62:4, 62:10, 64:6, 64:13, 64:22, 64:29, 65:3, 65:8, 65:11, 65:15, 65:23, 66:2, 67:6, 70:7, 71:10, 71:15, 71:22, 73:20, 75:3, 75:6, 76:5, 76:11, 76:19, 76:23, 77:1, 77:5, 77:20, 77:23, 78:4, 78:14, 78:18, 78:22, 79:2, 79:5, 79:13, 79:21, 80:2, 80:5, 80:8 chairperson [2] - 5:22, 6:2 Chalke [1] - 40:12 CHAMBERS [1] - 2:13 character [2] - 18:9, 39:2 Charles [1] - 40:12
	C			
	Callinan [1] - 69:13 calumny [1] - 70:27 campaign [1] - 15:22			

<p>CHARLETON [2] - 1:12, 2:3</p> <p>CHARLTON [1] - 3:10</p> <p>check [2] - 20:23, 63:6</p> <p>check-boxes [1] - 20:23</p> <p>chicken [1] - 57:5</p> <p>Chief [2] - 53:24, 58:3</p> <p>childcare [1] - 48:26</p> <p>children [2] - 30:17, 30:18</p> <p>Circuit [2] - 54:27, 78:15</p> <p>circumspect [1] - 26:17</p> <p>circumstance [1] - 20:28</p> <p>circumstances [19] - 13:25, 14:7, 14:27, 15:23, 35:25, 36:9, 42:3, 42:12, 44:20, 53:28, 55:27, 58:11, 61:9, 69:11, 69:28, 70:8, 70:10, 75:11, 79:23</p> <p>citizen [7] - 13:25, 15:27, 44:19, 44:21, 46:22, 48:21, 60:8</p> <p>citizens [1] - 48:27</p> <p>civil [1] - 13:21</p> <p>claim [1] - 10:16</p> <p>clamming [1] - 72:6</p> <p>clarification [1] - 16:19</p> <p>clarify [1] - 16:17</p> <p>clear [27] - 18:10, 19:25, 24:25, 26:14, 29:19, 29:23, 29:28, 29:29, 30:25, 31:8, 31:26, 31:27, 31:28, 32:1, 32:2, 32:21, 39:8, 39:10, 39:15, 41:29, 48:13, 71:8, 76:2, 76:20, 78:25</p> <p>clearly [5] - 16:26, 17:18, 40:27, 57:15, 71:5</p> <p>clerk [1] - 56:15</p> <p>Clerkin [1] - 16:8</p> <p>client [13] - 13:9, 14:3, 15:8, 15:17, 17:1, 17:6, 32:24, 33:1, 34:28, 38:9, 38:21, 44:20</p> <p>client's [5] - 19:1, 19:2, 34:6, 37:2, 54:17</p> <p>clients [2] - 70:12, 73:29</p> <p>Clifford [4] - 64:26,</p>	<p>65:7, 65:21, 65:27</p> <p>CLIFFORD [1] - 2:19</p> <p>climb [1] - 77:21</p> <p>clouded [1] - 15:27</p> <p>Clyde [2] - 42:7, 49:15</p> <p>co [1] - 62:3</p> <p>co-defendant [1] - 62:3</p> <p>cocktail [1] - 71:12</p> <p>cogently [1] - 76:1</p> <p>coincide [2] - 34:22, 34:24</p> <p>coincidence [1] - 33:9</p> <p>collateral [1] - 37:27</p> <p>colleague [1] - 40:11</p> <p>colleagues [1] - 5:13</p> <p>colourful [1] - 62:4</p> <p>coming [2] - 48:21, 68:29</p> <p>COMMENCED [1] - 5:1</p> <p>comment [3] - 26:2, 61:3, 61:10</p> <p>comments [1] - 8:3</p> <p>commission [1] - 38:22</p> <p>commitment [4] - 12:4, 14:8, 18:18</p> <p>common [8] - 10:9, 10:11, 10:13, 34:7, 34:16, 34:18, 34:21, 35:1</p> <p>communications [2] - 17:1, 49:23</p> <p>Company [1] - 18:14</p> <p>company [1] - 65:29</p> <p>compassion [16] - 10:26, 11:5, 13:8, 35:4, 35:10, 35:18, 36:7, 37:19, 38:8, 48:15, 59:7, 59:17, 63:21, 64:4, 66:8, 79:14</p> <p>compassionate [2] - 13:10, 59:27</p> <p>compel [1] - 19:12</p> <p>compelled [4] - 13:21, 19:9, 19:10, 19:11</p> <p>compensation [1] - 52:21</p> <p>competing [1] - 42:26</p> <p>complaint [1] - 44:18</p> <p>complete [3] - 29:27, 30:26, 33:22</p> <p>complex [1] - 18:12</p> <p>complicated [1] - 47:12</p> <p>complied [3] - 16:28, 37:7, 42:20</p> <p>comprehensive [2] -</p>	<p>53:9, 53:11</p> <p>comprehensively [1] - 57:17</p> <p>compulsion [1] - 27:21</p> <p>compulsive [1] - 60:7</p> <p>compulsory [1] - 44:17</p> <p>concern [3] - 19:14, 47:16, 47:18</p> <p>concerned [8] - 18:22, 28:2, 39:16, 42:4, 43:13, 47:3, 52:13, 65:25</p> <p>concerning [1] - 32:3</p> <p>concession [3] - 58:16, 58:18, 58:19</p> <p>conclude [2] - 57:23, 62:15</p> <p>concluded [1] - 67:15</p> <p>CONCLUDED [1] - 80:15</p> <p>conclusion [1] - 68:3</p> <p>condense [1] - 26:6</p> <p>condition [2] - 62:7, 62:8</p> <p>conduct [11] - 7:3, 11:13, 20:15, 20:22, 23:17, 24:2, 24:6, 24:25, 40:29, 52:27</p> <p>conducted [1] - 43:19</p> <p>confidence [1] - 44:16</p> <p>confidential [4] - 28:18, 28:22, 28:26, 62:27</p> <p>confidentiality [2] - 17:2, 17:8</p> <p>confined [4] - 8:8, 24:15, 51:22, 51:24</p> <p>confirm [3] - 60:27, 73:17</p> <p>confirming [1] - 73:1</p> <p>confrontational [2] - 29:14, 29:18</p> <p>CONLON [1] - 2:12</p> <p>Conlon [1] - 18:16</p> <p>connected [1] - 52:9</p> <p>connection [4] - 5:18, 50:28, 50:29, 59:10</p> <p>conscience [1] - 78:25</p> <p>consequence [1] - 15:29</p> <p>consequences [4] - 19:29, 61:9, 79:7, 79:8</p> <p>consider [8] - 7:3, 41:11, 43:23, 49:9, 54:12, 59:24, 62:16, 62:19</p>	<p>consideration [9] - 10:26, 11:6, 35:5, 35:18, 35:19, 36:2, 36:8, 43:5, 43:25</p> <p>considerations [1] - 18:29</p> <p>considered [4] - 6:13, 67:17, 67:26, 69:16</p> <p>consistent [2] - 70:4, 72:5</p> <p>consists [1] - 5:21</p> <p>conspiracy [1] - 42:8</p> <p>Constitution [2] - 29:4, 29:6</p> <p>constitutional [1] - 75:26</p> <p>contact [2] - 71:15, 71:19</p> <p>contemplation [3] - 28:12, 28:21, 54:11</p> <p>contentious [1] - 55:22</p> <p>contents [1] - 14:14</p> <p>context [8] - 26:26, 41:11, 45:17, 50:4, 60:4, 63:27, 63:29, 78:19</p> <p>contextualise [2] - 18:23, 57:13</p> <p>continues [1] - 7:20</p> <p>contrary [1] - 79:19</p> <p>contribute [1] - 53:29</p> <p>controlling [1] - 47:28</p> <p>conversation [2] - 26:9, 60:28</p> <p>convince [1] - 62:9</p> <p>convinced [1] - 61:21</p> <p>cooperate [20] - 5:27, 6:22, 7:2, 7:19, 11:22, 29:3, 29:8, 36:4, 45:4, 48:20, 52:20, 52:28, 54:5, 60:9, 66:19, 67:29, 75:19, 79:3, 79:6, 79:25</p> <p>cooperated [8] - 7:11, 7:13, 7:24, 8:18, 14:20, 27:23, 35:25, 63:23</p> <p>cooperating [6] - 50:11, 60:7, 66:26, 72:24, 75:17, 75:18</p> <p>COOPERATION [1] - 1:16</p> <p>cooperation [30] - 6:24, 7:5, 7:6, 8:8, 8:26, 9:8, 9:28, 11:17, 14:22, 14:28, 16:24, 20:16, 20:24, 21:16, 24:15, 25:14,</p>	<p>25:16, 25:18, 25:21, 27:6, 29:10, 30:29, 40:1, 41:12, 41:27, 47:2, 48:17, 79:3</p> <p>Cooperation [1] - 31:13</p> <p>cooperative [1] - 74:19</p> <p>Cork [3] - 64:25, 70:27</p> <p>CORMAC [1] - 2:18</p> <p>Cormac [1] - 64:16</p> <p>cornerstone [1] - 19:26</p> <p>correct [6] - 11:10, 27:24, 43:14, 51:16, 64:27, 67:7</p> <p>correspondence [3] - 37:8, 38:23, 50:27</p> <p>corrupt [1] - 7:12</p> <p>cost [2] - 15:24, 46:18</p> <p>costs [94] - 5:9, 5:18, 6:4, 6:12, 6:20, 6:29, 7:4, 7:12, 7:16, 8:2, 8:7, 8:16, 8:25, 9:11, 9:18, 9:19, 9:25, 11:16, 11:22, 12:19, 12:27, 13:9, 14:27, 14:29, 19:5, 19:6, 20:6, 20:8, 20:26, 21:7, 22:8, 22:9, 23:13, 23:17, 23:22, 24:14, 24:26, 25:2, 25:13, 27:3, 27:9, 27:13, 27:14, 28:4, 28:13, 31:20, 32:6, 33:19, 34:29, 35:19, 35:20, 35:23, 36:9, 40:26, 41:1, 41:12, 41:18, 42:21, 44:22, 45:2, 45:3, 48:3, 48:9, 48:10, 49:6, 49:9, 53:2, 58:7, 58:11, 59:5, 59:17, 59:27, 63:18, 64:3, 65:14, 66:3, 66:17, 66:23, 67:12, 67:22, 73:29, 74:1, 74:14, 74:22, 75:2, 75:14, 75:17, 75:23, 76:4, 77:19, 78:3, 79:18</p> <p>COSTS [1] - 1:17</p> <p>council [1] - 62:2</p> <p>counsel [6] - 6:6, 18:21, 46:10, 58:18, 80:12, 80:13</p> <p>county [1] - 62:1</p> <p>couple [3] - 10:1, 28:29, 29:2</p> <p>course [19] - 8:9, 8:23, 16:8, 16:15, 19:2,</p>
---	---	--	---	---

<p>19:3, 23:6, 23:9, 24:16, 29:26, 31:14, 44:18, 50:18, 54:24, 61:14, 66:18, 68:13, 69:10, 73:4</p> <p>Court [24] - 6:7, 6:14, 9:2, 20:29, 23:14, 24:23, 29:22, 30:11, 40:11, 40:14, 42:24, 43:17, 47:26, 54:23, 54:27, 55:5, 58:25, 69:8, 69:26, 73:26, 75:22, 78:15, 78:16, 80:11</p> <p>COURT [2] - 1:13, 2:3</p> <p>court [6] - 13:21, 13:26, 24:28, 31:19, 55:1, 56:2</p> <p>COURTS [1] - 1:20</p> <p>courts [1] - 54:27</p> <p>crashes [1] - 61:25</p> <p>creation [1] - 28:7</p> <p>credibility [1] - 16:10</p> <p>credible [1] - 19:18</p> <p>criminal [3] - 12:5, 13:20, 15:10</p> <p>crisis [2] - 37:21, 44:15</p> <p>critically [1] - 24:22</p> <p>criticised [1] - 44:6</p> <p>cross [2] - 16:13, 68:9</p> <p>cross-examination [1] - 16:13</p> <p>cross-examine [1] - 68:9</p> <p>crossroads [1] - 55:24</p> <p>Crown [1] - 42:28</p> <p>crystalised [1] - 38:1</p> <p>cuff [1] - 61:4</p> <p>curious [1] - 33:3</p> <p>current [1] - 37:22</p> <p>cut [2] - 33:5, 77:25</p> <p>cut-off [1] - 33:5</p>	<p>day's [1] - 73:4</p> <p>dead [1] - 57:10</p> <p>deal [3] - 33:25, 42:16</p> <p>dealing [3] - 5:5, 36:9, 66:2</p> <p>dealings [2] - 49:23, 66:19</p> <p>deals [1] - 6:25</p> <p>dealt [6] - 37:25, 57:16, 64:1, 68:15, 79:29</p> <p>debate [6] - 34:1, 69:5, 71:21, 71:23, 73:3, 73:11</p> <p>deceitful [3] - 54:21, 55:2, 55:9</p> <p>deceive [1] - 63:20</p> <p>December [1] - 53:2</p> <p>decide [2] - 41:17, 69:12</p> <p>decided [3] - 43:11, 68:13, 73:25</p> <p>decidedly [1] - 67:28</p> <p>decides [1] - 67:29</p> <p>decision [13] - 14:25, 21:22, 40:26, 40:28, 41:1, 43:15, 43:16, 43:24, 44:1, 47:27, 58:26, 66:3, 70:20</p> <p>decisions [3] - 39:13, 43:28, 54:24</p> <p>declared [1] - 28:25</p> <p>decouple [1] - 40:24</p> <p>deduct [1] - 20:29</p> <p>deduction [4] - 12:23, 21:2, 35:22, 63:17</p> <p>deemed [2] - 14:3, 69:2</p> <p>default [10] - 8:24, 11:11, 11:18, 11:20, 45:1, 58:6, 66:15, 66:26, 75:16, 76:3</p> <p>defendant [3] - 13:23, 55:29, 62:3</p> <p>defended [1] - 19:6</p> <p>definite [1] - 79:22</p> <p>definitely [2] - 37:28, 77:8</p> <p>defy [1] - 34:13</p> <p>degree [3] - 15:17, 49:3, 71:2</p> <p>delay [2] - 40:7, 40:14</p> <p>deliberate [6] - 26:11, 28:6, 30:3, 30:4, 31:1, 31:22</p> <p>deliberately [15] - 8:10, 24:17, 24:28, 25:7, 26:29, 28:7, 31:15, 54:8, 54:20, 55:2, 55:9, 56:1,</p>	<p>56:8, 61:18, 62:13</p> <p>deliberations [1] - 23:6</p> <p>delighted [2] - 59:1, 59:8</p> <p>delivered [1] - 68:19</p> <p>demand [1] - 18:24</p> <p>demands [1] - 15:1</p> <p>Denham [5] - 6:17, 8:22, 20:2, 25:11, 25:19</p> <p>Denham's [2] - 47:22, 47:25</p> <p>denial [1] - 53:22</p> <p>deny [2] - 61:29, 73:17</p> <p>departing [4] - 74:16, 74:24, 75:1, 76:2</p> <p>dependent [1] - 19:21</p> <p>deployed [1] - 77:9</p> <p>described [1] - 53:17</p> <p>describing [1] - 45:9</p> <p>Desmond [1] - 50:29</p> <p>DESMOND [1] - 3:8</p> <p>detected [1] - 63:25</p> <p>determination [2] - 13:3, 40:28</p> <p>determinations [1] - 39:13</p> <p>determining [1] - 19:1</p> <p>detriment [5] - 28:20, 28:23, 32:23, 35:23, 79:22</p> <p>detrimentally [1] - 75:28</p> <p>DIARMAID [1] - 2:6</p> <p>dictum [2] - 20:3, 23:18</p> <p>difference [2] - 67:23, 76:16</p> <p>different [10] - 9:6, 13:28, 20:7, 39:19, 44:26, 52:24, 54:4, 56:3, 70:19, 79:15</p> <p>differently [2] - 46:8, 75:27</p> <p>difficult [5] - 19:25, 20:17, 27:17, 27:28, 31:3</p> <p>difficulties [1] - 18:26</p> <p>difficulty [3] - 33:21, 50:5, 73:10</p> <p>dinner [1] - 32:28</p> <p>direct [1] - 56:18</p> <p>directed [3] - 15:9, 69:22, 69:26</p> <p>directing [1] - 75:22</p> <p>directly [1] - 38:9</p> <p>directness [1] - 57:20</p> <p>disadvantage [1] - 32:4</p>	<p>disagree [2] - 32:12</p> <p>disagreement [1] - 10:29</p> <p>disallowing [1] - 20:6</p> <p>disapproval [1] - 21:16</p> <p>discernible [1] - 21:17</p> <p>discharge [1] - 44:22</p> <p>disclosure [8] - 14:13, 14:16, 15:8, 32:25, 32:28, 33:1, 33:7, 33:13</p> <p>Disclosures [2] - 28:16, 32:20</p> <p>disclosures [2] - 32:23, 33:6</p> <p>DISCLOSURES [2] - 1:3, 1:4</p> <p>discount [1] - 25:1</p> <p>discounting [1] - 47:7</p> <p>discovery [3] - 27:27, 53:6, 59:12</p> <p>discreditable [2] - 70:8, 70:17</p> <p>discretion [9] - 6:11, 6:12, 8:16, 20:26, 20:29, 40:25, 41:24, 42:28, 43:6</p> <p>discussion [3] - 20:10, 26:5, 62:28</p> <p>disentitled [1] - 23:16</p> <p>dishonest [1] - 25:9</p> <p>disposed [1] - 72:8</p> <p>disproportionately [2] - 10:10, 34:8</p> <p>disputes [1] - 50:2</p> <p>disrupted [1] - 68:2</p> <p>distinct [1] - 49:13</p> <p>distress [2] - 42:12, 42:15</p> <p>distribution [1] - 11:6</p> <p>division [1] - 54:2</p> <p>divisional [1] - 56:15</p> <p>DOCK [1] - 2:21</p> <p>Dockery [4] - 50:29, 51:3, 58:18, 64:6</p> <p>DOCKERY [33] - 3:8, 4:7, 50:24, 50:26, 51:11, 51:16, 51:20, 51:22, 51:26, 52:6, 52:11, 53:6, 56:18, 56:20, 56:24, 56:27, 57:8, 57:12, 57:23, 58:15, 58:21, 58:29, 59:3, 59:9, 59:22, 59:24, 60:3, 60:12, 60:16, 60:20, 60:24, 62:6, 62:11</p> <p>documentation [3] - 18:13, 18:22, 53:7</p>	<p>documents [1] - 33:11</p> <p>done [8] - 14:1, 27:17, 38:4, 39:10, 46:23, 47:17, 49:2, 53:23</p> <p>doubt [8] - 46:28, 48:20, 57:26, 57:29, 72:2, 74:18, 74:19, 77:8</p> <p>down [8] - 32:5, 33:24, 37:2, 40:18, 41:4, 69:9, 74:8, 77:25</p> <p>draw [9] - 15:9, 55:7, 55:16, 55:17, 55:19, 71:3, 71:5, 71:8, 72:19</p> <p>drawing [1] - 77:16</p> <p>drawn [6] - 16:1, 16:27, 55:10, 55:11, 72:14, 72:15</p> <p>dreaded [1] - 64:1</p> <p>driven [1] - 57:26</p> <p>driver [1] - 61:10</p> <p>driving [1] - 60:29</p> <p>Dublin [1] - 23:7</p> <p>DUBLIN [6] - 1:20, 2:14, 2:22, 2:27, 3:5, 3:11</p> <p>due [1] - 44:18</p> <p>DUNDRUM [1] - 3:4</p> <p>Dunn [1] - 16:27</p> <p>Dunne [2] - 26:5, 32:3</p> <p>during [5] - 16:8, 16:15, 17:2, 56:12, 56:13</p> <p>duties [1] - 66:11</p> <p>duty [2] - 15:26, 17:7</p> <p>DÁIL [1] - 1:5</p>
E				
<p>each-way [1] - 22:20</p> <p>early [1] - 64:23</p> <p>ears [1] - 50:20</p> <p>editor [1] - 65:7</p> <p>effect [14] - 23:15, 25:8, 26:2, 26:5, 44:19, 51:13, 53:16, 54:24, 58:5, 61:2, 68:29, 73:8, 75:14</p> <p>effective [2] - 48:28, 49:2</p> <p>effectively [3] - 19:9, 19:10, 46:22</p> <p>either [5] - 39:16, 53:22, 54:1, 61:17, 73:28</p> <p>elderly [1] - 43:10</p> <p>elect [1] - 13:26</p> <p>elects [1] - 13:22</p>				

<p>element [2] - 13:2, 13:8</p> <p>ELIZABETH [1] - 2:8</p> <p>Elizabeth [1] - 80:11</p> <p>elucidated [1] - 77:10</p> <p>email [9] - 53:15, 53:17, 53:21, 53:27, 54:9, 54:16, 55:8, 55:12, 59:15</p> <p>emails [1] - 16:7</p> <p>embarking [1] - 25:1</p> <p>embarrass [1] - 47:13</p> <p>embarrassed [2] - 61:6, 61:13</p> <p>embraced [1] - 32:19</p> <p>emerge [1] - 28:10</p> <p>emerged [1] - 24:5</p> <p>emergency [1] - 5:10</p> <p>emphasis [1] - 25:16</p> <p>emphatically [3] - 52:29, 53:11, 54:14</p> <p>employed [1] - 18:20</p> <p>employee [1] - 64:18</p> <p>employees [1] - 66:13</p> <p>empowered [1] - 27:24</p> <p>enable [2] - 71:3, 72:11</p> <p>enabling [2] - 6:21, 44:7</p> <p>enacted [1] - 28:16</p> <p>end [11] - 15:4, 18:17, 19:24, 37:15, 41:9, 49:19, 62:18, 69:2, 69:16, 69:27, 75:8</p> <p>endeavoured [1] - 72:28</p> <p>endeavouring [2] - 72:3, 77:13</p> <p>endorses [1] - 7:28</p> <p>engage [5] - 10:20, 19:10, 48:22, 48:27, 57:2</p> <p>engaged [1] - 66:10</p> <p>engagement [2] - 49:3, 70:3</p> <p>engaging [4] - 64:20, 67:2, 67:3, 74:7</p> <p>England [2] - 46:7, 46:9</p> <p>enlarge [1] - 12:25</p> <p>enormous [1] - 71:16</p> <p>entered [1] - 42:7</p> <p>entire [1] - 21:11</p> <p>entirely [1] - 77:7</p> <p>entities [1] - 65:4</p> <p>entitle [1] - 20:25</p> <p>entitled [23] - 7:11, 7:14, 8:24, 10:16, 10:19, 11:16, 23:13,</p>	<p>28:26, 34:5, 35:22, 42:18, 48:8, 58:6, 58:7, 58:10, 59:5, 59:26, 67:22, 73:29, 74:1, 74:13, 76:4, 77:18</p> <p>entitlement [2] - 8:25, 47:7</p> <p>entitles [1] - 14:25</p> <p>envisages [1] - 40:27</p> <p>EQUALITY [1] - 1:9</p> <p>equate [1] - 78:28</p> <p>equated [2] - 78:12, 78:21</p> <p>equitable [1] - 6:1</p> <p>especially [1] - 41:28</p> <p>essentially [3] - 6:10, 18:16, 51:5</p> <p>establish [1] - 74:21</p> <p>established [2] - 15:16, 31:6</p> <p>ESTABLISHED [1] - 1:8</p> <p>establishment [1] - 5:26</p> <p>et [2] - 9:19, 9:20</p> <p>European [1] - 9:2</p> <p>event [7] - 9:10, 14:5, 22:2, 44:14, 56:26, 57:14, 65:16</p> <p>events [3] - 14:18, 29:26, 64:19</p> <p>everywhere [1] - 41:21</p> <p>EVIDENCE [1] - 1:9</p> <p>evidence [85] - 8:10, 16:16, 16:17, 24:18, 24:27, 24:28, 25:7, 25:17, 25:26, 26:4, 26:29, 27:12, 28:7, 28:8, 28:23, 29:23, 29:24, 29:29, 31:15, 31:22, 31:24, 31:29, 34:6, 38:20, 38:23, 38:24, 38:26, 39:16, 39:29, 41:26, 41:27, 42:5, 42:18, 42:19, 47:5, 47:6, 49:20, 49:28, 50:2, 51:1, 51:28, 53:12, 53:16, 53:19, 54:13, 54:14, 54:17, 54:25, 55:1, 55:6, 55:8, 55:25, 56:9, 56:16, 56:18, 56:21, 57:18, 59:11, 59:12, 59:20, 60:10, 61:1, 61:5, 61:12, 61:17, 62:17, 62:18, 63:12, 64:25, 65:19, 67:16, 67:18, 68:8,</p>	<p>68:13, 68:14, 68:17, 68:26, 69:3, 73:4, 74:18</p> <p>evidence" [1] - 38:28</p> <p>Evidence(Amendment [1] - 5:19</p> <p>evident [1] - 23:18</p> <p>evolved [1] - 25:10</p> <p>exact [1] - 21:8</p> <p>exactly [1] - 79:4</p> <p>exaggeratedly [1] - 27:5</p> <p>examination [3] - 14:9, 16:12, 16:13</p> <p>examine [1] - 68:9</p> <p>EXAMINER [1] - 16:21</p> <p>Examiner [7] - 64:16, 64:21, 64:25, 65:6, 65:19, 66:13, 70:27</p> <p>example [5] - 54:27, 62:6, 64:26, 69:6, 73:5</p> <p>examples [3] - 69:4, 69:5, 69:10</p> <p>except [1] - 78:4</p> <p>exceptional [2] - 44:14, 44:17</p> <p>exchange [1] - 61:5</p> <p>EXCHANGE [1] - 2:21</p> <p>exchanges [1] - 70:29</p> <p>exclusive [1] - 18:24</p> <p>excoriate [1] - 39:2</p> <p>excused [1] - 50:17</p> <p>exercise [9] - 8:16, 9:9, 13:4, 18:28, 20:25, 42:27, 43:6, 64:4, 78:20</p> <p>exercised [5] - 6:13, 27:22, 41:23, 41:24, 70:19</p> <p>exercises [1] - 44:18</p> <p>exercising [4] - 20:28, 70:12, 71:18, 78:23</p> <p>exist [1] - 70:13</p> <p>expected [1] - 56:4</p> <p>expecting [1] - 56:27</p> <p>experience [3] - 54:26, 55:5, 63:25</p> <p>explain [1] - 72:29</p> <p>explained [3] - 47:21, 69:15, 72:26</p> <p>explanation [1] - 53:29</p> <p>express [2] - 54:7, 55:8</p> <p>expressed [2] - 9:7, 56:4</p> <p>expression [1] - 23:29</p> <p>extend [1] - 22:15</p>	<p>extended [1] - 70:27</p> <p>extends [1] - 22:15</p> <p>extensive [1] - 53:6</p> <p>extensively [1] - 6:13</p> <p>extent [7] - 21:16, 63:24, 66:24, 70:24, 74:3, 74:5, 76:24</p> <p>extenuating [2] - 53:28, 63:28</p> <p>extracts [1] - 70:2</p> <p>extraordinary [2] - 42:12, 45:21</p> <p>extreme [2] - 14:29, 62:6</p> <p>extremely [1] - 37:1</p>	<p>25:7, 25:22, 26:29, 28:7, 28:8, 31:15, 31:22, 31:24, 31:28, 39:14, 66:20, 67:29, 78:12, 78:29, 79:25</p> <p>false" [2] - 39:20, 40:5</p> <p>falsehood [3] - 26:11, 28:6, 31:1</p> <p>familiar [2] - 29:22, 61:24</p> <p>families [2] - 44:3, 44:7</p> <p>family [1] - 37:21</p> <p>far [5] - 14:28, 18:21, 26:10, 26:28, 46:25</p> <p>farrago [1] - 29:27</p> <p>faster [1] - 45:12</p> <p>fault [3] - 20:8, 27:11, 29:16</p> <p>favour [4] - 21:15, 22:14, 52:19, 56:1</p> <p>featured [1] - 8:4</p> <p>features [1] - 18:9</p> <p>febrile [1] - 26:24</p> <p>FEBRUARY [2] - 1:6, 1:10</p> <p>feelings [2] - 57:29, 76:19</p> <p>feet [1] - 48:1</p> <p>FELIX [2] - 2:25, 3:3</p> <p>fell [1] - 7:13</p> <p>fellow [1] - 57:27</p> <p>felt [1] - 17:8</p> <p>Fennelly's [1] - 52:16</p> <p>ferry [1] - 21:25</p> <p>FERRY [1] - 2:11</p> <p>few [2] - 55:21, 61:16</p> <p>Fiat [1] - 45:11</p> <p>fid [15] - 67:25, 70:6, 72:23, 74:29, 75:3, 75:13, 75:20, 75:29, 76:14, 78:9, 78:10, 78:16, 78:20, 78:22, 79:16</p> <p>figure [3] - 21:9, 21:12, 21:15</p> <p>final [1] - 50:12</p> <p>finalised [1] - 33:5</p> <p>finally [1] - 56:8</p> <p>finder [1] - 71:3</p> <p>findings [24] - 5:23, 8:12, 14:12, 14:23, 16:1, 20:5, 20:12, 20:25, 23:22, 23:29, 24:1, 24:19, 25:4, 26:7, 28:5, 30:10, 31:5, 31:17, 31:20, 40:24, 41:15, 56:9, 73:13, 77:15</p> <p>fine [7] - 10:2, 20:20,</p>
F				
<p>face [6] - 10:9, 10:11, 10:13, 32:4, 34:7, 34:29</p> <p>facie [2] - 40:1, 41:27</p> <p>facilitate [1] - 7:16</p> <p>facilitating [1] - 66:29</p> <p>fact [18] - 27:5, 31:4, 31:25, 32:20, 37:29, 38:1, 41:28, 50:2, 52:7, 54:16, 55:6, 59:14, 60:16, 67:13, 67:14, 71:3, 71:24, 75:8</p> <p>fact-finder [1] - 71:3</p> <p>factor [3] - 14:25, 20:5, 60:11</p> <p>factors [3] - 7:15, 13:4, 14:21</p> <p>facts [3] - 14:21, 47:17</p> <p>factually [1] - 15:15</p> <p>Faerie [1] - 80:10</p> <p>failed [4] - 53:27, 54:1, 66:19, 79:25</p> <p>failing [5] - 5:27, 7:6, 7:19, 25:21, 53:25</p> <p>failings [1] - 54:3</p> <p>fails [1] - 7:1</p> <p>failure [4] - 6:22, 27:26, 52:28, 54:5</p> <p>fair [16] - 9:15, 10:4, 10:5, 11:1, 12:18, 13:6, 33:17, 33:28, 34:2, 47:9, 47:18, 58:9, 63:16, 70:28, 80:9</p> <p>fairly [2] - 57:22, 71:8</p> <p>faith [3] - 76:14, 78:23, 79:7</p> <p>falls [2] - 26:28, 52:1</p> <p>false [20] - 5:28, 7:7, 8:10, 24:17, 24:28,</p>	<p>face [6] - 10:9, 10:11, 10:13, 32:4, 34:7, 34:29</p> <p>facie [2] - 40:1, 41:27</p> <p>facilitate [1] - 7:16</p> <p>facilitating [1] - 66:29</p> <p>fact [18] - 27:5, 31:4, 31:25, 32:20, 37:29, 38:1, 41:28, 50:2, 52:7, 54:16, 55:6, 59:14, 60:16, 67:13, 67:14, 71:3, 71:24, 75:8</p> <p>fact-finder [1] - 71:3</p> <p>factor [3] - 14:25, 20:5, 60:11</p> <p>factors [3] - 7:15, 13:4, 14:21</p> <p>facts [3] - 14:21, 47:17</p> <p>factually [1] - 15:15</p> <p>Faerie [1] - 80:10</p> <p>failed [4] - 53:27, 54:1, 66:19, 79:25</p> <p>failing [5] - 5:27, 7:6, 7:19, 25:21, 53:25</p> <p>failings [1] - 54:3</p> <p>fails [1] - 7:1</p> <p>failure [4] - 6:22, 27:26, 52:28, 54:5</p> <p>fair [16] - 9:15, 10:4, 10:5, 11:1, 12:18, 13:6, 33:17, 33:28, 34:2, 47:9, 47:18, 58:9, 63:16, 70:28, 80:9</p> <p>fairly [2] - 57:22, 71:8</p> <p>faith [3] - 76:14, 78:23, 79:7</p> <p>falls [2] - 26:28, 52:1</p> <p>false [20] - 5:28, 7:7, 8:10, 24:17, 24:28,</p>			

<p>22:19, 32:10, 37:16, 48:13, 59:2</p> <p>finished [1] - 45:22</p> <p>Finnegan [1] - 47:29</p> <p>Fiona [1] - 53:16</p> <p>firms [1] - 19:23</p> <p>first [20] - 5:12, 9:12, 9:17, 11:27, 12:15, 23:12, 23:18, 24:5, 30:24, 32:2, 37:6, 37:19, 39:6, 39:28, 41:14, 45:24, 47:24, 53:8, 61:27, 77:23</p> <p>firstly [1] - 9:6</p> <p>FITZWILLIAM [1] - 3:10</p> <p>five [2] - 9:18, 56:28</p> <p>Food [5] - 6:14, 8:23, 24:8, 25:10, 52:16</p> <p>flying [5] - 10:8, 10:10, 10:13, 34:7, 34:29</p> <p>follow [2] - 66:4, 66:5</p> <p>followed [9] - 9:15, 10:5, 11:2, 33:17, 33:28, 37:7, 47:9, 53:10, 57:18</p> <p>following [1] - 1:28</p> <p>FOLLOWING [1] - 1:5</p> <p>follows [2] - 13:18, 43:22</p> <p>FOLLOWS [1] - 5:2</p> <p>FOR [7] - 1:8, 2:6, 2:10, 2:16, 2:25, 3:1, 3:7</p> <p>fore [1] - 16:10</p> <p>forensically [1] - 21:14</p> <p>forgive [2] - 51:4, 57:10</p> <p>forgotten [1] - 9:22</p> <p>former [1] - 52:4</p> <p>formula [1] - 38:23</p> <p>forth [3] - 55:10, 57:1, 60:7</p> <p>forthcoming [4] - 16:20, 72:8, 77:13</p> <p>forward [3] - 17:11, 28:27, 68:29</p> <p>four [5] - 10:29, 37:17, 45:24, 60:29, 66:6</p> <p>FOUR [1] - 1:20</p> <p>fours [1] - 79:27</p> <p>fourth [1] - 10:22</p> <p>fourthly [1] - 11:5</p> <p>framed [1] - 47:23</p> <p>FRANKFORT [1] - 3:4</p> <p>frankly [3] - 28:1, 58:19</p> <p>frankness [1] - 57:19</p>	<p>Friend's [1] - 58:8</p> <p>front [1] - 11:17</p> <p>frontal [1] - 56:27</p> <p>fronts [2] - 17:15, 73:15</p> <p>frustrate [1] - 42:8</p> <p>full [7] - 16:28, 44:7, 44:23, 48:8, 48:10, 56:27, 78:3</p> <p>fully [3] - 7:13, 26:22, 53:25</p> <p>fulsome [2] - 35:28, 38:6</p> <p>fulsomely [1] - 35:25</p> <p>function [2] - 50:6, 71:13</p> <p>fundamental [6] - 10:9, 10:11, 10:13, 34:8, 34:15, 34:29</p> <p>fundamentally [1] - 7:10</p> <p>funding [2] - 43:21, 43:23</p> <p>funds [1] - 7:1</p> <p>furnished [1] - 33:11</p> <p>future [1] - 68:29</p>	<p>68:17, 75:13, 79:25</p> <p>globally [1] - 20:28</p> <p>gloss [2] - 45:28, 46:3</p> <p>glosses [1] - 45:26</p> <p>go-faster [1] - 45:12</p> <p>Goodman [1] - 23:19</p> <p>goodness [1] - 74:9</p> <p>gossip [2] - 62:25, 63:27</p> <p>Government [1] - 14:16</p> <p>granted [4] - 17:20, 18:9, 18:11, 66:16</p> <p>grateful [1] - 50:22</p> <p>grave [1] - 19:12</p> <p>great [1] - 10:2</p> <p>grievance [1] - 13:25</p> <p>ground [1] - 13:10</p> <p>grounds [1] - 59:16</p> <p>guarantor [1] - 19:2</p> <p>guest [1] - 18:7</p> <p>guide [1] - 40:25</p> <p>GWEN [1] - 1:32</p> <p>Gwen [1] - 1:27</p>	<p>23:1, 29:1, 58:1, 70:7, 74:6</p> <p>helped [1] - 74:4</p> <p>helpful [2] - 59:13, 74:17</p> <p>helpfully [1] - 23:9</p> <p>helps [1] - 72:1</p> <p>herself [1] - 49:25</p> <p>hide [1] - 70:9</p> <p>hiding [1] - 70:16</p> <p>High [9] - 6:7, 29:22, 30:11, 54:23, 58:25, 69:26, 73:26, 75:22, 78:16</p> <p>higher [1] - 26:7</p> <p>highlighted [1] - 16:2</p> <p>hill [1] - 77:21</p> <p>himself [4] - 15:24, 50:5, 61:21, 63:26</p> <p>history [1] - 62:9</p> <p>hold [3] - 43:16, 63:22, 64:2</p> <p>home [3] - 42:11, 42:15, 44:25</p> <p>hope [1] - 62:15</p> <p>hoping [1] - 15:3</p> <p>horribly [1] - 11:12</p> <p>horrified [2] - 61:6, 63:26</p> <p>house [1] - 32:29</p> <p>House [1] - 5:25</p> <p>huge [5] - 18:13, 18:17, 42:15, 44:20, 48:24</p> <p>human [1] - 62:7</p> <p>Human [2] - 9:2, 69:8</p> <p>husband [4] - 42:11, 44:26, 49:7, 50:11</p> <p>hypothetical [1] - 69:5</p>	<p>impose [1] - 52:21</p> <p>impression [4] - 55:18, 61:5, 61:12, 63:11</p> <p>IN [2] - 1:17, 1:20</p> <p>incidental [1] - 38:12</p> <p>include [6] - 7:6, 8:10, 24:17, 25:21, 31:15, 46:17</p> <p>included [2] - 33:12, 46:18</p> <p>includes [2] - 6:21, 9:8</p> <p>including [3] - 5:24, 50:11, 69:6</p> <p>incorrect [2] - 78:24, 78:25</p> <p>indeed [8] - 66:5, 69:3, 71:29, 72:11, 72:26, 72:28, 74:11, 78:19</p> <p>INDEX [1] - 4:1</p> <p>indicates [2] - 20:23, 62:18</p> <p>indicating [1] - 14:22</p> <p>indication [1] - 63:10</p> <p>individual [5] - 9:24, 11:3, 38:5, 42:4, 44:19</p> <p>individuals [3] - 31:5, 52:22, 70:5</p> <p>inevitable [3] - 15:24, 15:28, 15:29</p> <p>inexorable [1] - 59:4</p> <p>inference [6] - 15:29, 55:7, 55:10, 55:11, 71:5, 71:9</p> <p>inferences [5] - 71:4, 72:14, 72:15, 72:20, 77:16</p> <p>influence [2] - 23:11, 43:5</p> <p>informant [1] - 28:20</p> <p>informants [4] - 28:18, 28:22, 28:26</p> <p>information [10] - 5:29, 7:8, 14:4, 16:6, 25:23, 66:21, 68:1, 78:13, 79:1, 79:26</p> <p>infringement [2] - 75:24, 75:25</p> <p>initial [1] - 72:13</p> <p>inkling [1] - 70:26</p> <p>INM [1] - 64:18</p> <p>Inner [1] - 11:28</p> <p>inquiries [1] - 68:11</p> <p>INQUIRY [2] - 1:3, 1:9</p> <p>Inquiry [2] - 5:19, 42:9</p> <p>inquiry [11] - 14:1, 23:24, 27:6, 43:11,</p>
G		H		
<p>gainfully [1] - 18:20</p> <p>gainsay [1] - 77:12</p> <p>Garda [4] - 15:20, 26:15, 51:11, 54:10</p> <p>garda [2] - 52:7</p> <p>gardaí [5] - 15:12, 51:28, 57:27, 60:9, 60:25</p> <p>gathering [2] - 54:3, 57:1</p> <p>general [2] - 66:28, 77:13</p> <p>generally [3] - 36:14, 72:8, 74:19</p> <p>generate [1] - 10:14</p> <p>generically [1] - 19:16</p> <p>gentlemen [1] - 11:26</p> <p>genuine [2] - 62:12, 62:19</p> <p>Geoghegan [9] - 7:27, 7:29, 24:9, 24:11, 24:24, 25:3, 30:29, 31:9, 32:8</p> <p>Geoghegan's [1] - 20:3</p> <p>GEORGE'S [1] - 2:21</p> <p>GERAGHTY [1] - 2:26</p> <p>given [10] - 17:13, 26:4, 36:9, 46:13, 49:20, 67:19, 67:20,</p>	<p>habit [1] - 22:28</p> <p>half [1] - 21:10</p> <p>Hanahoe [1] - 18:14</p> <p>HANAHOE [1] - 2:12</p> <p>handed [1] - 42:24</p> <p>handed [1] - 40:9</p> <p>handsets [1] - 16:7</p> <p>happy [3] - 5:12, 42:4, 52:10</p> <p>hard [2] - 28:5, 65:20</p> <p>harder [1] - 30:14</p> <p>Harrison [1] - 17:27</p> <p>Haughey [2] - 7:27, 24:8</p> <p>headedly [1] - 70:11</p> <p>Health [1] - 42:29</p> <p>hear [8] - 5:10, 9:27, 10:4, 29:18, 38:17, 52:10, 59:1, 59:8</p> <p>heard [4] - 61:1, 62:5, 65:26</p> <p>HEARING [2] - 5:1, 80:15</p> <p>hearing [5] - 9:16, 10:2, 16:8, 16:16, 37:6</p> <p>hearings [1] - 18:23</p> <p>HEGARTY [1] - 3:9</p> <p>Hegarty [1] - 52:2</p> <p>Hegarty's [1] - 52:8</p> <p>HELD [1] - 1:20</p> <p>help [7] - 5:7, 17:24,</p>	<p>I</p> <p>I.R [1] - 6:15</p> <p>idea [1] - 51:10</p> <p>identified [2] - 17:18, 53:13</p> <p>IFSC [1] - 2:22</p> <p>illustrate [1] - 62:7</p> <p>illustrated [1] - 55:19</p> <p>impact [1] - 37:28</p> <p>impeccably [1] - 37:26</p> <p>implicit [1] - 15:25</p> <p>importance [3] - 27:4, 59:15, 60:20</p> <p>important [9] - 24:9, 24:23, 38:13, 38:15, 44:10, 46:13, 47:25, 58:22, 70:22</p> <p>importantly [1] - 43:20</p>		

<p>43:17, 43:19, 44:8, 44:14, 44:23, 46:23, 48:19</p> <p>INSP [1] - 3:7</p> <p>Inspector [10] - 51:1, 51:23, 51:24, 52:12, 52:27, 56:6, 56:11, 57:15, 58:4, 59:10</p> <p>inspector [4] - 51:12, 51:14, 54:10</p> <p>instance [11] - 11:12, 11:13, 21:10, 22:10, 24:24, 27:27, 36:17, 46:9, 64:4, 76:13, 78:15</p> <p>instances [3] - 8:8, 24:15, 40:3</p> <p>instant [1] - 55:22</p> <p>instead [1] - 74:3</p> <p>instructed [7] - 18:14, 23:4, 36:27, 37:12, 37:20, 44:4, 65:5</p> <p>INSTRUCTED [5] - 2:12, 2:20, 2:26, 3:3, 3:9</p> <p>instruction [1] - 16:23</p> <p>instructions [3] - 16:18, 18:21, 19:3</p> <p>INSTRUMENT [1] - 1:8</p> <p>insufficient [1] - 59:16</p> <p>intend [1] - 63:20</p> <p>intended [2] - 55:9, 55:14</p> <p>intending [1] - 56:3</p> <p>intention [1] - 16:26</p> <p>inter [1] - 26:20</p> <p>interaction [1] - 52:5</p> <p>interactions [1] - 17:3</p> <p>interest [11] - 14:2, 42:27, 44:27, 46:21, 48:25, 66:25, 66:28, 67:4, 75:15, 77:27, 79:20</p> <p>interested [1] - 57:17</p> <p>interesting [3] - 69:4, 69:6, 73:3</p> <p>interests [2] - 19:1, 49:13</p> <p>interim [3] - 38:19, 56:10, 57:24</p> <p>Interim [1] - 39:6</p> <p>interrupted [1] - 16:16</p> <p>interrupting [2] - 51:4, 64:23</p> <p>INTO [1] - 1:3</p> <p>invariably [1] - 16:19</p> <p>investigate [1] - 15:7</p> <p>investigation [2] - 16:9, 38:11</p> <p>investigations [1] -</p>	<p>33:10</p> <p>investigators [1] - 16:5</p> <p>invite [1] - 72:19</p> <p>invocation [3] - 72:20, 74:28, 75:29</p> <p>invoke [3] - 71:1, 76:12, 76:26</p> <p>invoked [4] - 67:13, 75:12, 75:13, 79:16</p> <p>invokes [2] - 67:24, 75:20</p> <p>invoking [3] - 76:9, 78:10, 78:20</p> <p>involve [1] - 13:8</p> <p>involved [7] - 14:7, 14:8, 19:7, 42:13, 45:16, 45:19, 69:25</p> <p>involvement [3] - 36:29, 37:2</p> <p>involves [3] - 13:7, 15:16, 20:16</p> <p>IRISH [1] - 2:16</p> <p>Irish [2] - 24:12, 40:13</p> <p>isolated [1] - 59:15</p> <p>ISSUE [1] - 1:16</p> <p>issue [29] - 5:5, 7:10, 7:23, 9:14, 11:29, 12:17, 17:13, 19:1, 24:5, 24:6, 31:25, 32:3, 33:19, 35:9, 35:10, 48:14, 51:17, 53:13, 58:9, 64:29, 65:13, 65:15, 65:16, 65:17, 67:16, 68:15, 76:7, 79:10</p> <p>issues [6] - 9:26, 16:10, 18:12, 19:12, 57:2, 57:16</p> <p>issuing [1] - 73:23</p> <p>itself [8] - 15:6, 39:12, 40:1, 41:26, 47:1, 48:29, 65:6, 66:1</p>	<p>journalistic [9] - 67:13, 67:16, 67:25, 71:17, 73:24, 74:2, 74:7, 74:27, 79:17</p> <p>journalists [14] - 16:29, 17:3, 17:10, 64:15, 65:10, 66:12, 68:14, 68:17, 69:1, 70:15, 72:27, 73:16, 78:8, 79:16</p> <p>journalists' [3] - 15:9, 68:24, 68:27</p> <p>Judge [26] - 21:14, 22:29, 23:10, 25:29, 36:26, 37:13, 40:13, 41:9, 50:26, 52:11, 52:17, 56:18, 56:21, 58:4, 58:6, 58:16, 59:19, 60:12, 60:21, 62:8, 63:10, 66:5, 76:17, 77:4, 78:6, 78:19</p> <p>JUDGE [2] - 1:12, 2:3</p> <p>judge [6] - 45:14, 48:1, 54:29, 55:20, 58:25, 78:14</p> <p>judges [6] - 29:25, 33:24, 47:26, 54:22, 54:27, 55:3</p> <p>judging [1] - 25:2</p> <p>judgment [17] - 6:17, 6:18, 6:25, 7:21, 7:27, 20:4, 24:8, 24:11, 30:11, 31:8, 43:3, 43:28, 47:26, 47:28, 52:16, 73:23</p> <p>judgments [3] - 29:22, 54:23, 55:4</p> <p>judicial [5] - 10:14, 43:8, 43:13, 43:15, 58:26</p> <p>judicially [1] - 41:23</p> <p>July [1] - 53:12</p> <p>jump [1] - 22:11</p> <p>junctions [3] - 69:5, 72:27, 73:3</p> <p>junior [1] - 21:25</p> <p>Juno [1] - 64:17</p> <p>JUNO [1] - 2:17</p> <p>jurisdiction [3] - 25:1, 41:22, 46:19</p> <p>jurisprudence [3] - 74:15, 74:24, 78:11</p> <p>Justice [16] - 7:27, 7:29, 20:3, 23:18, 23:26, 24:8, 24:10, 24:24, 25:3, 30:28, 31:9, 32:8, 33:8, 43:21, 46:5, 66:24</p> <p>JUSTICE [3] - 1:8,</p>	<p>1:12, 2:3</p> <p>justice [11] - 6:17, 8:22, 20:2, 25:11, 25:19, 40:12, 40:20, 47:22, 47:25, 47:29, 52:16</p> <p>justification [1] - 25:4</p> <p>justify [2] - 24:25, 49:5</p>	<p>40:18, 40:22, 40:26, 45:1, 45:25, 47:11, 52:14, 59:21, 59:23, 59:28, 60:4, 61:23, 63:15, 66:15</p> <p>lawyer [1] - 19:2</p> <p>lawyers [2] - 19:22, 44:4</p> <p>LEADER [6] - 2:7, 4:3, 5:15, 5:17, 21:29, 80:7</p> <p>leader [18] - 5:4, 5:7, 9:1, 9:7, 11:1, 11:10, 21:28, 23:9, 24:7, 32:13, 32:15, 32:16, 39:23, 40:19, 45:25, 52:14, 67:7, 80:5</p> <p>Leader [1] - 12:17</p> <p>leading [1] - 73:22</p> <p>leads [2] - 38:8, 40:29</p> <p>least [5] - 49:6, 63:5, 63:24, 70:24, 72:29</p> <p>leave [2] - 46:12, 58:24</p> <p>leaving [3] - 54:2, 73:12, 73:25</p> <p>led [1] - 74:26</p> <p>ledge [1] - 64:12</p> <p>left [3] - 16:22, 17:11, 41:8</p> <p>legal [15] - 19:4, 19:12, 19:20, 23:10, 37:24, 43:12, 45:4, 45:7, 46:12, 47:3, 58:9, 68:25, 76:7, 76:12, 78:10</p> <p>legislation [1] - 40:26</p> <p>legitimacy [1] - 16:9</p> <p>legitimate [1] - 71:18</p> <p>length [2] - 40:15, 42:25</p> <p>less [3] - 53:9, 57:6, 79:9</p> <p>letter [12] - 9:20, 9:24, 9:29, 10:1, 12:21, 12:22, 16:2, 26:1, 26:3, 31:26, 53:13, 70:23</p> <p>letters [1] - 9:16</p> <p>level [3] - 20:23, 21:18, 28:3</p> <p>Liability [1] - 23:22</p> <p>liar [1] - 30:26</p> <p>lie [4] - 39:14, 39:20, 40:4, 42:8</p> <p>lied [2] - 54:8, 55:13</p> <p>lies [7] - 11:15, 19:4, 19:21, 19:22, 20:13, 29:27, 30:4</p> <p>life [1] - 63:3</p>
J			K	
			<p>KATHLEEN [1] - 2:7</p> <p>KAVANAGH [1] - 2:5</p> <p>Kennedy [9] - 43:21, 46:5, 52:1, 60:22, 61:3, 61:17, 62:21, 63:11, 63:16</p> <p>KENNEDY [1] - 3:7</p> <p>Kennedy's [2] - 59:19, 61:5</p> <p>key [2] - 16:13, 46:13</p> <p>kind [4] - 12:6, 70:26, 74:26, 76:9</p> <p>knowingly [16] - 5:28, 7:7, 25:22, 26:29, 28:8, 31:24, 31:28, 54:8, 54:19, 56:8, 63:19, 66:20, 67:29, 78:12, 78:29, 79:25</p> <p>known [4] - 14:15, 27:25, 28:15, 67:21</p> <p>knows [1] - 13:16</p>	
			L	
			<p>labour [1] - 42:1</p> <p>labouring [2] - 56:29, 62:16</p> <p>lack [3] - 7:5, 14:27, 25:13</p> <p>lacking [1] - 17:14</p> <p>ladies [1] - 11:26</p> <p>laid [2] - 33:23, 40:18</p> <p>Laming [1] - 44:1</p> <p>language [7] - 24:10, 39:5, 39:12, 39:15, 39:17, 40:2, 40:4</p> <p>large [1] - 18:22</p> <p>last [11] - 17:12, 35:3, 43:3, 43:4, 48:14, 53:3, 56:11, 57:25, 60:26, 66:7, 71:26</p> <p>LAW [1] - 3:3</p> <p>Law [1] - 43:1</p> <p>law [29] - 5:9, 5:17, 12:17, 30:28, 31:6, 32:12, 32:14, 32:16, 34:13, 34:18, 34:20, 35:7, 36:14, 39:23,</p>	

<p> lifetime [1] - 22:28 light [3] - 55:23, 63:4 likely [3] - 26:23, 44:2, 44:5 limb [1] - 43:20 limited [2] - 17:22, 67:26 line [1] - 20:20 list [5] - 20:12, 20:22, 69:6, 73:6, 73:11 listening [1] - 76:25 litigation [2] - 11:19, 13:22 locus [1] - 49:22 logic [1] - 59:4 look [16] - 15:1, 20:21, 20:27, 22:8, 22:9, 40:15, 45:16, 45:17, 45:18, 45:19, 46:20, 47:5, 49:29, 62:21, 71:11, 71:23 looked [1] - 74:12 looking [8] - 12:27, 13:7, 21:1, 29:1, 31:21, 32:18, 44:28, 66:14 looks [3] - 8:26, 25:9, 77:8 loose [1] - 26:25 Lord [3] - 43:21, 44:1, 46:4 loses [1] - 19:4 loss [1] - 52:21 lost [2] - 7:1, 8:25 loudly [1] - 57:15 lower [1] - 54:26 lying [1] - 63:13 </p>	<p> married [1] - 18:16 MARRINAN [1] - 2:7 Martin [1] - 69:13 Master [1] - 6:6 material [2] - 43:5, 75:27 matter [35] - 6:12, 6:24, 10:24, 12:5, 15:19, 18:21, 20:28, 23:5, 23:23, 24:26, 24:27, 24:29, 25:10, 26:15, 27:3, 27:21, 32:3, 33:8, 35:5, 37:13, 37:21, 37:24, 37:25, 38:4, 38:10, 39:18, 40:3, 40:22, 41:29, 43:2, 47:11, 52:13, 60:1, 70:19, 72:21 matters [9] - 5:24, 8:13, 11:18, 16:17, 24:20, 31:18, 40:25, 42:13, 42:16 MATTERS [1] - 1:5 Maurice [1] - 57:27 MAY [2] - 1:21, 5:2 McCabe [9] - 15:11, 15:22, 26:15, 27:19, 49:25, 50:1, 50:12, 57:27, 61:11 McCabes' [1] - 32:28 McCarthy [3] - 23:18, 23:26, 66:24 McConnell [7] - 2:17, 64:16, 64:17, 66:9, 67:10, 67:20, 73:9 McCOURT [1] - 2:26 McEnroe [5] - 2:17, 64:17, 66:9, 67:10, 71:5 McEnroy [31] - 2:25, 36:22, 36:24, 36:26, 37:17, 39:4, 41:7, 41:16, 41:19, 41:22, 45:8, 45:11, 45:23, 45:26, 46:2, 46:4, 46:7, 46:16, 46:25, 46:27, 47:16, 47:22, 48:5, 48:8, 48:12, 48:19, 49:12, 49:20, 49:28, 50:16, 50:22 MCENROY [1] - 4:6 McGillicuddy [2] - 23:5, 33:9 MCGILLICUDDY [1] - 3:1 MCGUINNESS [1] - 2:6 McGUINNESS [1] - 5:4 </p>	<p> McTiernan [2] - 23:4, 33:12 MCTIERNAN [1] - 3:3 Meadows [1] - 10:10 mean [15] - 17:25, 22:5, 22:7, 31:7, 39:1, 41:6, 46:6, 46:8, 46:26, 49:25, 58:24, 71:15, 75:6, 76:19, 77:23 means [3] - 30:14, 30:16, 30:19 meet [3] - 32:7, 33:23, 71:11 MEMBER [2] - 1:12, 2:3 member [7] - 5:22, 15:20, 51:28, 52:3, 52:4, 54:10, 60:8 members [1] - 51:12 membership [1] - 52:9 memory [1] - 26:15 mentioned [1] - 45:27 menu [1] - 56:29 mercy [11] - 10:26, 11:5, 35:4, 35:10, 35:18, 36:8, 37:19, 48:15, 63:21, 66:8, 79:14 mere [1] - 59:14 message [1] - 57:14 met [1] - 71:26 MICHAEL [2] - 2:10, 3:9 Michelle [3] - 36:27, 49:5, 49:17 MICHELLE [1] - 2:25 MICK [1] - 2:19 might [14] - 9:26, 10:27, 13:7, 24:6, 24:25, 28:20, 35:22, 37:14, 56:4, 62:14, 64:11, 65:17, 68:11, 71:28 mild [1] - 30:19 mind [11] - 5:8, 9:4, 17:25, 22:29, 23:2, 36:6, 36:26, 48:25, 57:3, 58:20, 62:24 minimum [1] - 10:16 MINISTER [1] - 1:8 Minister [1] - 33:7 minute [1] - 17:12 misconduct [1] - 15:10 miserordiam [1] - 13:2 mislead [8] - 42:8, 54:19, 55:9, 55:14, 56:2, 56:7, 62:13, </p>	<p> 63:19 misleading [9] - 5:28, 7:8, 25:22, 61:18, 66:21, 68:1, 78:13, 79:1, 79:26 missed [1] - 78:6 mistake [1] - 79:5 misunderstood [1] - 29:15 mitigating [1] - 63:28 module [7] - 17:21, 17:25, 17:27, 18:1, 18:6, 18:8 modules [1] - 17:20 moment [2] - 55:29, 62:13 money [8] - 10:24, 10:25, 11:7, 13:1, 36:10, 48:14, 59:6, 79:10 monies [1] - 63:21 months [2] - 18:17, 19:24 Moriarty [1] - 7:28 morning [3] - 16:21, 50:26, 60:5 mortified [1] - 61:13 most [3] - 18:15, 21:24, 48:22 move [1] - 79:9 moves [1] - 76:23 moving [1] - 67:8 MR [174] - 1:12, 2:3, 2:5, 2:6, 2:7, 2:10, 2:11, 2:12, 2:19, 2:20, 2:25, 3:1, 3:1, 3:3, 3:7, 3:8, 3:9, 4:4, 4:5, 4:6, 4:7, 4:8, 5:4, 12:1, 12:4, 12:8, 12:12, 12:14, 12:28, 13:1, 13:14, 13:17, 17:27, 17:29, 18:3, 18:6, 21:13, 21:24, 22:2, 22:13, 22:20, 22:24, 22:28, 23:3, 29:5, 29:7, 29:12, 29:17, 30:7, 30:15, 30:21, 30:27, 31:12, 31:19, 32:14, 32:17, 32:26, 33:3, 33:15, 33:18, 33:21, 34:1, 34:10, 34:13, 34:17, 34:20, 34:23, 34:25, 35:2, 35:9, 35:13, 35:21, 35:29, 36:3, 36:13, 36:15, 36:17, 36:20, 36:24, 36:26, 37:17, 39:4, 41:7, 41:16, 41:19, 41:22, 45:8, 45:11, </p>	<p> 45:23, 45:26, 46:2, 46:4, 46:16, 46:25, 46:27, 47:16, 47:22, 48:5, 48:8, 48:12, 48:19, 49:12, 49:20, 49:28, 50:16, 50:22, 50:24, 50:26, 51:11, 51:16, 51:20, 51:22, 51:26, 52:6, 52:11, 53:6, 56:18, 56:20, 56:24, 56:27, 57:8, 57:12, 57:23, 58:15, 58:21, 58:29, 59:3, 59:9, 59:22, 59:24, 60:3, 60:12, 60:16, 60:20, 60:24, 62:6, 62:11, 64:9, 64:11, 64:15, 64:28, 65:2, 65:4, 65:9, 65:12, 65:21, 65:24, 66:5, 67:8, 70:28, 71:14, 71:20, 71:29, 74:11, 75:5, 75:7, 76:7, 76:17, 76:22, 76:29, 77:3, 77:6, 77:21, 78:3, 78:6, 78:17, 78:19, 78:28, 79:4, 79:12, 79:14, 79:22, 80:4 MS [7] - 2:7, 2:8, 4:3, 5:15, 5:17, 21:29, 80:7 Mullan [2] - 26:3, 31:26 MULLAN [1] - 2:8 Mullan's [1] - 26:6 multiple [3] - 40:3, 51:8, 76:26 murdered [1] - 43:10 Murphy [4] - 6:14, 8:23, 25:10, 52:16 must [8] - 14:10, 14:22, 14:24, 25:3, 40:24, 53:23, 55:12, 59:4 </p>
M				
<p> M.E [2] - 2:12, 18:14 MADE [2] - 1:3, 1:8 maelstrom [1] - 42:14 Mahon [1] - 40:13 malicious [1] - 62:24 Malone [1] - 1:27 MALONE [1] - 1:32 man [7] - 51:29, 52:8, 60:21, 60:24, 61:25, 62:12, 63:23 manage [1] - 44:25 mandatory [1] - 14:18 manner [5] - 19:6, 26:10, 26:17, 41:24, 62:18 mark [3] - 21:19, 49:19, 60:18 marked [1] - 21:17 marks [1] - 21:15 </p>				N
				<p> name [4] - 50:29, 51:29, 53:15, 73:11 named [2] - 1:29, 6:8 namely [1] - 15:12 narrow [1] - 19:1 narrows [1] - 41:4 nature [1] - 54:21 necessarily [1] - 74:16 necessary [3] - 9:21, 14:3, 30:6 necessity [3] - 9:29, </p>

<p>38:3, 60:6 need [6] - 5:11, 21:26, 38:29, 43:1, 49:9, 76:20 negative [1] - 14:23 negotiating [1] - 10:20 neighbour's [1] - 77:25 net [1] - 53:13 never [4] - 11:16, 19:2, 42:9, 61:22 newspaper [1] - 65:6 next [2] - 36:21, 42:3 nil [1] - 14:29 NOBLE [1] - 3:3 Noble [1] - 23:4 nobody [2] - 22:9, 42:9 Non [1] - 31:13 non [12] - 7:5, 7:6, 8:8, 20:16, 21:16, 24:15, 25:14, 25:21, 30:29, 40:1, 41:27, 47:2 Non-Cooperation [1] - 31:13 non-cooperation [12] - 7:5, 7:6, 8:8, 20:16, 21:16, 24:15, 25:14, 25:21, 30:29, 40:1, 41:27, 47:2 none [1] - 44:24 nonetheless [6] - 20:19, 58:22, 72:22, 72:25, 73:12, 73:13 NORTHUMBERLAN D [1] - 2:26 note [1] - 68:19 noted [1] - 57:19 notes [1] - 1:29 nothing [4] - 17:20, 49:15, 51:9, 68:10 notion [3] - 61:7, 61:13, 61:25 notwithstanding [6] - 67:12, 67:14, 67:21, 68:2, 68:21, 71:1 nuanced [1] - 76:10 number [13] - 9:17, 16:14, 17:21, 17:25, 32:29, 37:3, 38:12, 38:14, 47:19, 61:16, 64:3, 70:2 Nóirín [1] - 69:14</p>	<p>59:10 O'CONNELL [1] - 3:7 O'Connell's [2] - 51:1, 52:27 O'Higgins [8] - 12:4, 13:12, 17:24, 18:6, 21:4, 21:27, 22:18, 78:5 O'HIGGINS [17] - 2:10, 4:4, 12:12, 12:14, 12:28, 13:1, 13:14, 13:17, 17:27, 17:29, 18:3, 18:6, 21:13, 21:24, 22:2, 22:13, 22:20 O'Keefe [5] - 64:17, 66:9, 67:10, 67:20, 73:8 O'KEEFFE [1] - 2:18 O'Malley's [1] - 45:15 O'MARA [1] - 2:26 O'Neill [2] - 29:25, 29:26 O'Sullivan [1] - 69:14 O'Toole [1] - 29:24 obiter [2] - 20:3, 24:24 objection [1] - 22:6 objectively [1] - 19:17 obligation [3] - 52:20, 60:6, 60:8 obliged [8] - 12:14, 14:4, 21:24, 29:2, 29:7, 65:16, 72:1, 79:3 observation [2] - 15:29, 44:10 observations [1] - 20:4 observe [1] - 70:28 observed [1] - 56:11 obstructed [1] - 54:20 obstruction [3] - 8:9, 24:16, 31:14 obtain [2] - 7:15, 13:6 obtained [1] - 16:22 obvious [2] - 27:23, 64:26 obviously [16] - 15:3, 15:16, 21:11, 36:5, 62:21, 62:26, 65:21, 66:7, 66:9, 67:27, 69:25, 72:12, 72:21, 75:21, 76:14, 77:11 occasions [1] - 16:15 occurred [2] - 55:24, 68:16 October [1] - 56:10 OF [6] - 1:3, 1:9, 1:12, 1:16, 2:3, 5:1 off-the-cuff [1] - 61:4</p>	<p>offered [1] - 53:28 offering [1] - 19:17 officers [1] - 51:12 often [3] - 54:28, 55:3, 63:3 Oireachtas [5] - 5:26, 11:20, 13:29, 28:16, 77:28 OISÍN [1] - 2:19 ON [5] - 1:6, 1:10, 1:16, 1:21, 5:1 one [42] - 5:22, 8:26, 9:17, 14:3, 15:6, 18:7, 18:15, 18:26, 21:9, 23:13, 25:9, 27:29, 38:20, 39:21, 39:22, 40:11, 42:23, 42:26, 45:28, 48:22, 48:29, 53:2, 53:3, 53:13, 54:25, 56:3, 62:15, 62:23, 65:26, 66:7, 66:27, 67:3, 71:2, 71:29, 73:1, 76:23, 77:8, 77:12, 79:3 one's [1] - 23:13 one-tenth [2] - 21:9 ongoing [1] - 19:28 open [3] - 31:4, 42:25, 50:21 opened [1] - 14:25 opening [4] - 40:7, 40:15, 56:20, 56:28 operate [1] - 27:7 opinion [4] - 5:23, 7:23, 8:7, 24:14 opportunity [1] - 58:23 opposed [6] - 21:10, 29:24, 56:17, 56:19, 67:1, 74:16 oral [2] - 10:2, 12:26 orange [1] - 55:23 order [10] - 6:4, 6:8, 10:27, 11:27, 21:3, 27:14, 37:14, 37:16, 37:18, 66:17 orderly [1] - 66:29 ordinarily [1] - 6:28 ordinary [4] - 29:26, 44:21, 47:7, 52:19 OTHER [1] - 1:4 otherwise [3] - 52:20, 69:12, 75:22 ought [3] - 21:3, 21:19, 30:8 outcome [1] - 38:5 outline [1] - 5:8 outlined [1] - 58:11 outright [1] - 53:22</p>	<p>outset [1] - 28:2 outside [2] - 14:15, 54:11 overall [1] - 15:1 overlooked [2] - 53:22, 53:24 owed [2] - 17:2, 17:8 own [5] - 13:10, 15:27, 19:8, 36:28, 58:19</p>	<p>passage [1] - 61:22 PASSED [1] - 1:5 passed [2] - 5:25, 63:27 passenger [1] - 61:27 past [2] - 9:17, 27:25 patients [1] - 43:10 Patrick [2] - 51:1, 56:11 PATRICK [2] - 2:7, 3:7 pay [1] - 23:22 people [26] - 5:10, 8:24, 9:10, 10:1, 19:7, 19:9, 19:10, 21:6, 22:6, 27:15, 27:26, 29:2, 29:7, 43:13, 47:13, 48:17, 51:9, 64:25, 68:29, 69:11, 70:8, 70:10, 73:26, 76:12, 77:24, 77:26 people's [1] - 39:2 per [1] - 30:28 percentage [11] - 10:7, 10:16, 11:3, 28:4, 34:4, 47:20, 58:12, 58:13, 59:26, 74:1, 78:1 perfectly [3] - 42:18, 76:20, 78:25 performance [1] - 66:11 perhaps [19] - 26:24, 49:4, 49:5, 49:7, 49:17, 55:16, 55:18, 56:4, 57:13, 61:20, 64:21, 65:26, 66:6, 66:13, 70:10, 71:8, 75:9, 76:8 period [1] - 68:18 permission [1] - 37:13 permitted [1] - 6:28 person [20] - 6:3, 6:5, 6:7, 6:8, 7:12, 11:16, 13:20, 13:26, 17:17, 17:18, 45:16, 60:13, 62:19, 65:22, 66:18, 69:25, 71:26, 73:18, 79:24 personal [1] - 15:27 persons [5] - 14:2, 32:22, 65:4, 72:22, 80:11 perspective [1] - 79:15 persuade [1] - 15:3 PETER [3] - 1:12, 2:3, 2:5 phone [1] - 49:23 phrase [2] - 38:10,</p>
P				
<p>page [11] - 23:19, 24:11, 25:11, 26:3, 38:25, 38:26, 38:27, 43:1, 43:4, 56:10, 57:24 PAGE [1] - 4:2 pages [1] - 77:9 paid [2] - 6:7, 6:29 parade [1] - 27:4 paragraph [9] - 6:18, 7:20, 26:6, 40:16, 41:9, 43:4, 52:17, 57:25, 66:23 paragraphs [1] - 26:2 parallel [1] - 46:15 pardon [2] - 13:14, 17:29 parity [1] - 44:3 PARLIAMENT [1] - 2:13 part [14] - 6:4, 14:2, 19:28, 20:27, 22:17, 25:18, 26:12, 38:18, 39:6, 39:7, 39:18, 44:7, 45:1, 45:29 participant [1] - 23:16 participate [5] - 13:27, 14:5, 14:6, 37:29, 46:22 participated [1] - 14:6 participation [2] - 14:17, 44:22 particular [9] - 8:18, 9:25, 21:12, 23:15, 63:29, 71:20, 71:26, 73:4, 73:6 particularly [2] - 19:23, 69:7 parties [7] - 5:6, 8:21, 16:26, 24:2, 39:22, 66:25, 67:1 parts [1] - 42:5 party [15] - 6:28, 7:1, 7:3, 7:10, 7:24, 8:18, 11:3, 12:19, 22:3, 38:10, 56:1, 66:16, 67:24, 67:28, 75:16</p>				

<p>38:28 picking [1] - 70:16 picture [1] - 15:1 piece [1] - 13:21 pieces [1] - 48:23 pithily [1] - 41:3 pithy [2] - 40:8, 40:16 PLACE [1] - 3:10 place [2] - 15:21, 26:9 plaintiff [3] - 13:22, 19:3, 55:29 plan [1] - 22:18 play [5] - 13:5, 21:9, 44:7, 48:16, 49:11 played [1] - 52:12 player [2] - 38:12, 45:14 players [1] - 46:13 point [46] - 14:22, 16:25, 17:6, 20:11, 27:4, 27:8, 29:21, 30:9, 33:10, 33:22, 42:1, 46:24, 48:2, 48:6, 49:4, 49:11, 50:14, 51:4, 51:20, 52:24, 54:19, 54:22, 56:29, 57:18, 59:6, 61:18, 62:7, 62:10, 62:11, 62:14, 62:16, 64:3, 66:29, 69:16, 71:8, 73:20, 74:18, 74:21, 74:22, 76:28, 77:2, 77:3, 77:18, 77:29, 78:7, 79:10 pointed [3] - 9:25, 9:28, 74:20 pointing [1] - 57:24 pointless [1] - 9:10 points [5] - 12:22, 39:25, 50:10, 63:15, 72:1 policy [5] - 18:29, 28:25, 30:3, 32:18, 32:22 portion [2] - 20:29, 39:9 portions [1] - 74:18 posed [1] - 26:1 position [27] - 8:24, 11:11, 11:18, 11:20, 17:11, 19:25, 30:5, 44:21, 48:21, 48:24, 49:29, 58:6, 58:9, 66:26, 67:5, 68:1, 70:5, 72:19, 73:15, 73:23, 75:16, 75:18, 76:3, 76:23, 76:24, 77:18, 78:9 possible [2] - 67:27, 72:4</p>	<p>possibly [3] - 20:17, 26:22, 27:14 potential [1] - 68:22 power [5] - 7:4, 8:7, 24:14, 25:13, 27:21 powerful [1] - 48:22 powers [2] - 6:20, 44:17 practical [6] - 68:25, 68:27, 69:4, 72:29, 73:9, 75:9 practise [1] - 61:23 pre [1] - 37:6 pre-hearing [1] - 37:6 precedent [1] - 12:1 precedents [1] - 27:10 precipitated [1] - 14:13 precisely [1] - 60:16 predicator [1] - 27:13 prefer [2] - 54:12, 55:25 preferred [7] - 30:11, 54:13, 54:25, 55:2, 55:6, 55:7, 55:12 preliminary [1] - 11:23 prepared [2] - 17:4, 58:15 presented [1] - 72:22 pressure [1] - 69:12 presumably [2] - 41:14, 58:24 presume [2] - 36:21, 78:14 presumption [1] - 52:19 prevented [1] - 18:18 prima [2] - 40:1, 41:26 principle [3] - 23:20, 75:1, 78:7 principles [3] - 23:10, 40:18, 47:17 priori [1] - 23:12 prison [1] - 27:26 private [2] - 43:12, 43:17 privilege [41] - 16:29, 17:5, 17:7, 67:13, 67:16, 67:17, 67:25, 68:3, 68:12, 68:19, 68:22, 68:23, 68:24, 68:28, 69:2, 69:3, 69:13, 69:17, 70:9, 70:13, 70:16, 71:1, 71:17, 72:20, 72:25, 73:24, 74:2, 74:8, 74:27, 75:12, 75:20, 75:29, 76:8, 76:9, 76:12, 76:27, 78:10, 78:21, 78:23, 78:24,</p>	<p>79:17 proactive [1] - 49:24 problem [1] - 48:26 problems [2] - 57:27, 57:28 procedures [13] - 9:15, 10:5, 11:2, 12:18, 33:17, 33:28, 34:3, 37:6, 47:10, 58:10, 63:16, 80:9 proceedings [1] - 61:28 process [10] - 10:20, 11:19, 13:27, 13:29, 14:12, 40:27, 45:29, 69:24, 74:26, 75:7 professional [3] - 44:5, 66:11, 76:12 Professor [1] - 45:15 prolonged [1] - 20:17 prominently [1] - 8:4 prompt [1] - 49:2 prompted [1] - 14:16 proper [2] - 43:14, 43:25 proportion [1] - 35:20 proportionality [4] - 44:28, 45:15, 45:20, 47:23 proportionate [2] - 21:18, 21:20 propose [1] - 28:3 proposition [1] - 56:6 protagonists [1] - 55:26 Protected [1] - 28:16 PROTECTED [2] - 1:3, 1:4 protected [13] - 14:13, 14:15, 15:8, 28:19, 28:22, 32:23, 32:24, 32:27, 32:29, 33:5, 33:7, 33:13, 38:6 protection [1] - 28:18 provide [4] - 5:27, 7:7, 25:21, 66:20 provided [3] - 13:24, 37:16, 40:23 provides [1] - 5:19 provision [5] - 8:11, 28:4, 28:19, 31:16, 46:18 provisions [1] - 24:18 public [32] - 6:29, 10:24, 11:7, 11:19, 13:1, 14:1, 14:8, 18:28, 27:4, 27:6, 28:25, 32:18, 32:21, 36:10, 42:26, 44:15, 44:16, 44:27, 46:21,</p>	<p>48:14, 48:25, 48:28, 59:6, 63:21, 66:25, 66:28, 67:4, 71:16, 75:15, 77:27, 79:10, 79:19 published [1] - 41:12 pulled [1] - 77:27 purest [1] - 63:23 purpose [1] - 28:17 purposes [1] - 18:24 push [1] - 77:3 pushing [2] - 76:28, 77:2 put [14] - 15:17, 16:10, 16:26, 18:15, 21:23, 26:7, 26:19, 32:9, 32:18, 45:3, 56:23, 58:27, 62:1, 73:23 puts [1] - 19:22 putting [2] - 47:12, 79:24 puzzled [1] - 51:5</p>	<p>Quinn [9] - 64:7, 64:24, 70:18, 73:20, 74:9, 75:4, 76:11, 76:28, 80:2 quite [8] - 20:19, 26:14, 31:8, 31:26, 39:15, 41:5, 61:21, 63:3 quo [1] - 49:22 quotation [2] - 52:15, 62:15 quoted [2] - 58:3, 58:4</p>
R				
<p>Rabbitte [6] - 52:5, 60:28, 60:29, 61:8, 62:22, 63:28 Rabbitte's [2] - 60:29, 61:10 raft [1] - 67:28 raise [4] - 17:6, 65:16, 72:11, 79:11 raised [7] - 12:22, 31:25, 54:22, 65:15, 69:7, 72:16, 73:9 rang [1] - 49:25 range [1] - 73:15 rank [3] - 51:12, 52:7, 54:10 rather [4] - 56:5, 60:6, 61:6, 78:7 ratio [1] - 25:10 rational [6] - 55:10, 73:14, 73:16, 74:15, 74:23, 76:2 rationale [4] - 68:20, 68:25, 68:27, 72:29 reached [1] - 21:19 reaction [1] - 61:27 read [6] - 9:21, 18:23, 24:1, 33:14, 39:5, 39:8 reading [2] - 38:18, 39:9 real [5] - 19:18, 27:29, 37:26, 48:26, 57:2 realistic [1] - 10:18 really [15] - 8:2, 13:17, 30:21, 38:12, 38:14, 43:19, 44:10, 47:25, 57:1, 57:6, 58:17, 67:8, 73:22, 74:6, 74:10 reason [13] - 10:9, 10:11, 10:13, 17:4, 20:8, 34:8, 34:15, 35:1, 37:12, 37:20, 67:9, 75:10, 78:18</p>				

<p>reasonable [1] - 21:20 reasonably [1] - 72:4 reasons [4] - 6:1, 60:4, 63:18, 67:20 recalled [3] - 26:19, 60:28, 69:21 receipt [1] - 53:14 received [4] - 9:16, 50:28, 57:14, 70:23 reckoning [1] - 45:21 recollection [2] - 16:18, 60:27 record [2] - 15:19, 31:23 recovered [1] - 56:25 red [1] - 55:23 REDDY [1] - 3:10 reduced [2] - 75:23, 79:18 reduction [10] - 12:28, 15:2, 27:13, 28:4, 28:12, 32:5, 34:5, 34:11, 34:14 refer [3] - 60:21, 66:23, 73:26 reference [8] - 6:21, 15:7, 15:15, 26:16, 33:4, 43:2, 61:8, 75:21 references [1] - 40:8 referred [6] - 6:19, 23:19, 24:7, 27:10, 33:16, 40:19 referring [1] - 30:23 refers [1] - 7:26 reflect [1] - 70:3 refreshing [2] - 56:16, 57:19 refreshingly [1] - 56:18 refusal [1] - 74:5 refuse [1] - 59:16 refused [1] - 69:23 refusing [1] - 73:17 regard [25] - 5:23, 6:21, 7:19, 8:12, 8:22, 13:1, 16:18, 16:24, 21:20, 24:19, 31:17, 31:20, 32:20, 33:19, 34:9, 34:10, 35:13, 40:28, 41:28, 43:25, 54:3, 57:22, 65:18, 66:27, 77:14 regards [4] - 28:10, 29:10, 57:29, 63:16 regime [1] - 40:23 REGISTRAR [1] - 2:5 regret [1] - 32:8 regrettably [3] - 15:28, 20:24, 32:2</p>	<p>rehearse [1] - 21:11 reimbursement [1] - 52:20 reject [2] - 39:16, 42:19 rejected [1] - 39:29 rejection [1] - 41:26 rejects [2] - 38:22, 38:28 related [1] - 53:14 relating [1] - 5:26 RELATION [1] - 1:17 relation [56] - 5:9, 5:17, 6:20, 6:24, 6:26, 7:26, 7:29, 8:15, 8:16, 8:20, 8:29, 9:15, 9:27, 11:1, 21:6, 21:7, 24:26, 32:28, 33:28, 34:5, 37:24, 38:17, 39:13, 39:18, 39:19, 39:21, 39:23, 39:25, 42:3, 42:5, 42:13, 42:21, 42:27, 43:9, 43:16, 43:20, 44:22, 45:2, 49:21, 49:22, 50:3, 50:10, 51:17, 51:18, 53:2, 65:13, 66:3, 66:10, 67:9, 67:19, 68:6, 71:4, 79:10, 79:28, 80:10 relatively [2] - 65:26, 65:28 released [2] - 17:1, 17:7 relevance [2] - 17:19, 56:22 relevant [13] - 5:24, 7:15, 8:13, 8:22, 14:2, 24:20, 30:22, 30:23, 30:24, 31:18, 33:1, 42:14, 64:19 relieved [1] - 38:2 reluctant [1] - 8:3 rely [4] - 28:26, 42:5, 59:17, 60:17 relying [3] - 12:1, 20:12, 31:7 remain [1] - 21:25 remark [5] - 26:23, 46:4, 61:4, 61:15, 61:22 remarkable [1] - 43:19 remember [5] - 26:22, 47:29, 51:5, 53:20, 54:17 remembers [1] - 54:9 remind [1] - 64:13 reminded [1] - 80:10 reminding [1] - 23:2</p>	<p>reminds [1] - 33:9 remitted [1] - 43:25 rendering [1] - 6:1 reply [1] - 80:6 Report [2] - 39:6, 70:21 report [29] - 25:17, 25:26, 26:20, 28:6, 28:10, 30:8, 30:13, 30:18, 31:2, 31:22, 31:24, 33:22, 33:23, 38:19, 38:27, 39:9, 39:11, 39:19, 40:2, 40:24, 41:13, 41:27, 41:29, 56:3, 56:10, 57:25, 67:14, 72:13, 73:13 reported [1] - 40:13 Reports [2] - 40:14, 43:1 representation [10] - 17:19, 18:10, 18:11, 19:20, 44:1, 52:8, 65:11, 65:12, 66:16 representative [1] - 53:15 represented [7] - 6:28, 44:4, 51:8, 51:11, 52:2, 65:5, 66:27 requested [1] - 14:4 required [4] - 11:21, 11:22, 37:9, 47:14 requirement [1] - 34:2 requirements [4] - 34:17, 34:20, 41:23, 42:20 requires [3] - 8:12, 24:19, 31:17 resolution [1] - 5:25 RESOLUTIONS [1] - 1:5 resolve [1] - 38:3 respect [29] - 14:9, 17:21, 17:22, 18:7, 18:8, 25:2, 25:5, 25:25, 25:26, 26:4, 26:5, 26:14, 26:15, 28:13, 30:16, 30:27, 31:2, 31:5, 32:2, 32:5, 33:5, 33:19, 34:17, 35:22, 35:23, 36:3, 51:27, 57:29, 67:11 respectful [33] - 13:3, 13:28, 14:20, 15:14, 15:18, 16:23, 17:14, 18:10, 18:27, 19:13, 19:19, 19:27, 20:10, 20:19, 20:20, 20:27, 21:1, 21:2, 31:29,</p>	<p>41:3, 41:25, 42:19, 44:27, 48:12, 52:28, 54:18, 66:14, 68:2, 70:4, 73:14, 74:25, 78:29, 79:19 respectfully [4] - 12:25, 39:28, 67:23, 68:22 respective [1] - 55:28 respects [1] - 59:13 respond [1] - 14:5 responded [1] - 9:24 response [1] - 50:27 responsible [1] - 61:29 rest [4] - 49:23, 50:4, 62:24, 66:3 result [4] - 5:6, 13:6, 20:18 retains [1] - 19:3 retired [5] - 51:27, 52:4, 52:6, 60:9, 60:24 retreat [1] - 77:17 revenge [1] - 15:12 reverse [3] - 27:9, 37:14, 37:18 reversed [1] - 78:16 review [5] - 10:14, 43:8, 43:13, 43:15, 58:26 reviewed [1] - 70:29 revise [1] - 62:8 Rian [1] - 53:15 rider [2] - 55:3, 72:17 riders [1] - 55:4 rights [2] - 75:24, 75:26 Rights [2] - 9:2, 69:8 rigours [1] - 44:23 risk [1] - 19:18 ROAD [2] - 2:26, 3:4 road [1] - 55:20 robust [1] - 66:25 Rogers [14] - 12:7, 12:10, 12:15, 22:26, 29:1, 29:15, 30:10, 30:12, 34:22, 34:24, 35:15, 36:6, 36:19, 54:22 ROGERS [42] - 3:1, 4:5, 12:1, 12:4, 12:8, 22:24, 22:28, 23:3, 29:5, 29:7, 29:12, 29:17, 30:7, 30:15, 30:21, 30:27, 31:12, 31:19, 32:14, 32:17, 32:26, 33:3, 33:15, 33:18, 33:21, 34:1, 34:10, 34:13, 34:17,</p>	<p>34:20, 34:23, 34:25, 35:2, 35:9, 35:13, 35:21, 35:29, 36:3, 36:13, 36:15, 36:17, 36:20 Rogers' [1] - 39:1 role [3] - 42:6, 52:12, 56:13 Rolls [2] - 45:4, 45:10 RONAN [1] - 2:20 Ronan [1] - 65:5 root [1] - 15:11 roughly [1] - 68:7 round [8] - 13:7, 20:22, 21:2, 35:7, 44:29, 45:20, 47:5, 51:18 routinely [1] - 54:22 row [1] - 55:22 Royce [2] - 45:4, 45:10 rule [6] - 23:12, 23:13, 27:15, 45:1, 55:5 ruled [1] - 22:7 ruling [1] - 74:2 rulings [1] - 54:23 rumour [3] - 73:5, 73:7, 73:10 rumours [2] - 62:26, 63:5 running [2] - 7:16, 66:29</p>
S				
<p>safe [1] - 76:2 satisfied [3] - 26:8, 36:18, 66:18 satisfies [1] - 34:2 sausage [1] - 71:12 saved [1] - 16:11 saw [4] - 53:22, 54:15, 59:15, 73:9 SC [9] - 2:6, 2:7, 2:7, 2:10, 2:19, 2:25, 3:1, 3:8, 5:4 scale [1] - 39:12 scandalous [1] - 11:12 scheme [1] - 70:26 school [2] - 30:13, 30:18 science [1] - 21:8 scotched [1] - 73:7 SEANAD [1] - 1:6 second [15] - 8:20, 9:24, 26:14, 29:21, 31:25, 33:16, 37:11, 38:8, 40:7, 41:17,</p>				

<p>43:20, 46:3, 47:4, 48:21, 57:12</p> <p>secondly [3] - 9:14, 11:1, 47:9</p> <p>seconds [1] - 61:16</p> <p>Secretary [6] - 42:29, 43:9, 43:10, 43:16, 43:24, 43:29</p> <p>secrets [2] - 71:16, 72:6</p> <p>section [1] - 42:20</p> <p>Section [5] - 5:18, 6:10, 6:18, 23:19, 28:19</p> <p>see [13] - 18:11, 31:21, 41:25, 53:27, 54:1, 56:4, 56:20, 60:14, 62:10, 66:27, 73:20, 73:21</p> <p>seeing [4] - 53:17, 53:21, 54:9, 54:17</p> <p>seeking [7] - 9:18, 9:19, 12:18, 48:16, 56:1, 62:13, 67:2</p> <p>seeks [1] - 26:6</p> <p>seem [10] - 28:9, 29:29, 30:1, 38:18, 46:3, 64:29, 65:13, 76:27, 77:1</p> <p>senior [1] - 18:15</p> <p>sense [21] - 10:9, 10:10, 10:11, 10:14, 10:25, 11:5, 15:26, 19:17, 23:11, 30:19, 34:7, 34:16, 34:18, 34:21, 35:1, 35:4, 47:21, 48:16, 63:23, 70:22, 71:27</p> <p>sensitive [1] - 49:12</p> <p>sent [3] - 27:26, 54:14, 54:15</p> <p>sentence [2] - 24:22, 41:8</p> <p>separate [2] - 36:5, 36:6</p> <p>sequence [2] - 65:24, 68:7</p> <p>sergeant [3] - 51:12, 52:4, 56:13</p> <p>Sergeant [5] - 15:10, 15:22, 49:25, 50:1, 50:12</p> <p>series [1] - 16:1</p> <p>serious [3] - 19:14, 26:23, 30:20</p> <p>served [1] - 61:28</p> <p>Services [1] - 1:27</p> <p>SERVICES [1] - 1:32</p> <p>serving [1] - 54:9</p> <p>set [16] - 11:14, 12:17,</p>	<p>13:24, 13:29, 14:17, 23:9, 23:20, 32:7, 38:13, 45:3, 62:23, 68:18, 68:24, 68:26, 70:23</p> <p>sets [2] - 11:20, 68:20</p> <p>setting [1] - 50:4</p> <p>several [2] - 73:3, 77:9</p> <p>shall [1] - 6:7</p> <p>sharing [1] - 71:12</p> <p>Sheridan [1] - 58:3</p> <p>Sheridan's [1] - 53:25</p> <p>Shipman [1] - 43:9</p> <p>short [8] - 12:21, 17:22, 21:18, 26:11, 26:28, 51:26, 61:4, 65:29</p> <p>shorten [1] - 72:1</p> <p>shortish [1] - 65:27</p> <p>shut [1] - 74:8</p> <p>shying [1] - 27:15</p> <p>side [1] - 38:9</p> <p>signed [1] - 69:14</p> <p>significant [5] - 14:7, 16:24, 27:3, 37:22, 38:21</p> <p>significantly [1] - 14:11</p> <p>similarly [2] - 18:6, 19:5</p> <p>simple [1] - 33:27</p> <p>simply [14] - 9:10, 17:10, 30:23, 31:4, 32:9, 44:24, 61:3, 61:19, 63:9, 66:4, 66:5, 69:9, 72:5, 79:26</p> <p>sincerely [1] - 61:21</p> <p>single [4] - 17:23, 41:20, 46:29, 61:26</p> <p>single-vehicle [1] - 61:26</p> <p>sit [1] - 61:24</p> <p>situation [10] - 13:24, 16:28, 19:7, 31:3, 42:7, 44:25, 44:26, 49:15, 79:17</p> <p>six [1] - 65:9</p> <p>skillfully [1] - 77:10</p> <p>slightly [3] - 12:25, 18:29, 28:2</p> <p>small [4] - 37:1, 45:14, 52:12, 70:2</p> <p>smaller [1] - 15:2</p> <p>smear [1] - 15:22</p> <p>Smith [1] - 43:18</p> <p>so.. [2] - 12:5, 47:15</p> <p>SOLE [2] - 1:12, 2:3</p> <p>SOLICITOR [1] - 2:8</p> <p>solicitor [8] - 6:6,</p>	<p>16:17, 16:22, 19:24, 36:28, 38:24, 51:8, 51:11</p> <p>solicitors [1] - 19:23</p> <p>Solicitors [2] - 18:14, 23:4</p> <p>SOLICITORS [4] - 2:12, 2:20, 3:3, 3:10</p> <p>solid [3] - 74:15, 74:23, 74:29</p> <p>solidly [1] - 74:27</p> <p>solitary [1] - 57:22</p> <p>solving [1] - 38:4</p> <p>someone [8] - 11:11, 13:23, 22:11, 30:2, 30:26, 50:19, 58:25, 76:9</p> <p>sometimes [6] - 16:21, 34:22, 34:24, 63:4, 80:12</p> <p>somewhere [1] - 5:11</p> <p>sorry [17] - 29:5, 29:9, 29:17, 31:7, 32:15, 33:3, 34:23, 35:29, 38:22, 39:4, 41:8, 45:8, 45:23, 56:15, 56:23, 64:22, 64:23</p> <p>sort [2] - 62:8, 66:15</p> <p>sought [2] - 56:7, 71:1</p> <p>sound [1] - 26:23</p> <p>source [7] - 63:5, 68:22, 69:1, 69:10, 73:2, 73:18, 73:19</p> <p>source's [1] - 68:23</p> <p>sources [1] - 68:28</p> <p>speaking [4] - 24:24, 26:25, 28:1, 68:19</p> <p>specific [4] - 6:21, 24:10, 37:3, 37:21</p> <p>specifically [7] - 8:11, 9:28, 16:27, 24:19, 25:5, 31:16, 46:18</p> <p>specifics [1] - 72:9</p> <p>spectrum [1] - 15:4</p> <p>speculation [1] - 15:17</p> <p>speech [1] - 26:25</p> <p>Spenser's [1] - 80:10</p> <p>Sport [1] - 45:11</p> <p>spreading [1] - 62:25</p> <p>staff [1] - 18:15</p> <p>stage [5] - 40:27, 40:28, 41:14, 41:17, 64:23</p> <p>stance [1] - 17:12</p> <p>stand [3] - 22:26, 22:27, 36:26</p> <p>stark [1] - 56:5</p> <p>start [8] - 22:11, 39:7, 47:7, 56:15, 58:26,</p>	<p>64:21, 77:26</p> <p>starting [6] - 27:8, 74:12, 74:21, 74:22, 77:18, 77:29</p> <p>starts [1] - 66:15</p> <p>State [10] - 27:18, 27:21, 28:25, 42:29, 43:9, 43:11, 43:16, 43:24, 43:29, 48:23</p> <p>statement [7] - 23:26, 25:7, 25:8, 31:23, 32:18, 32:22, 66:21</p> <p>statements [5] - 16:6, 53:8, 53:11, 57:16, 59:12</p> <p>Station [1] - 56:14</p> <p>statute [1] - 28:24</p> <p>statutorily [1] - 28:25</p> <p>statutorily-declared [1] - 28:25</p> <p>statutory [7] - 6:20, 8:11, 24:18, 31:16, 40:23, 41:19, 41:22</p> <p>stay [2] - 21:26, 22:18</p> <p>staying [1] - 22:6</p> <p>stenographic [1] - 1:29</p> <p>stenography [1] - 1:27</p> <p>STENOGRAPHY [1] - 1:32</p> <p>step [1] - 28:27</p> <p>stepping [1] - 40:27</p> <p>steps [1] - 27:24</p> <p>still [1] - 52:3</p> <p>straight [1] - 77:13</p> <p>STREET [1] - 2:13</p> <p>stressed [1] - 63:25</p> <p>strike [1] - 42:17</p> <p>stripes [1] - 45:12</p> <p>striving [1] - 13:5</p> <p>structure [1] - 49:21</p> <p>stuck [2] - 49:29, 76:24</p> <p>stupidly [1] - 70:12</p> <p>subject [12] - 11:9, 23:23, 24:7, 37:3, 38:10, 39:18, 40:3, 41:23, 41:29, 43:2, 45:24, 52:13</p> <p>SUBMISSION [12] - 4:3, 4:4, 4:5, 4:6, 4:7, 4:8, 5:15, 12:12, 22:24, 36:24, 50:24, 64:9</p> <p>submission [82] - 10:15, 10:18, 11:9, 12:17, 12:22, 12:26, 13:3, 13:17, 13:28, 14:21, 15:14, 15:18, 16:24, 17:14, 18:11,</p>	<p>18:27, 18:28, 19:13, 19:19, 19:27, 20:11, 20:19, 20:21, 20:27, 21:1, 21:2, 21:5, 21:11, 21:22, 22:3, 22:14, 23:11, 24:9, 24:22, 25:2, 25:29, 26:10, 26:28, 27:2, 27:27, 28:11, 29:10, 30:7, 31:29, 32:11, 34:2, 34:10, 34:11, 34:13, 35:16, 35:17, 35:24, 39:1, 41:3, 41:25, 42:19, 44:27, 47:15, 48:12, 52:29, 53:21, 54:18, 56:6, 58:5, 59:4, 59:29, 63:13, 66:15, 66:22, 67:11, 68:2, 69:11, 69:24, 70:4, 72:18, 73:14, 74:25, 78:27, 78:29, 79:19</p> <p>SUBMISSIONS [1] - 1:16</p> <p>submissions [12] - 5:6, 9:27, 10:4, 11:24, 31:10, 49:10, 53:1, 68:12, 68:15, 68:18, 69:19, 72:26</p> <p>submit [10] - 12:23, 12:25, 57:16, 59:5, 61:14, 63:17, 67:22, 67:23, 72:24, 76:1</p> <p>submitted [5] - 53:7, 59:11, 59:12, 60:5, 63:18</p> <p>submitting [2] - 55:5, 63:10</p> <p>subsequently [3] - 14:14, 43:18, 69:12</p> <p>subsisted [1] - 45:17</p> <p>substance [2] - 38:19, 47:4</p> <p>substantial [3] - 37:26, 65:22, 65:28</p> <p>substantive [2] - 40:24, 41:13</p> <p>subsume [1] - 18:23</p> <p>succeeded [1] - 44:2</p> <p>successfully [1] - 27:7</p> <p>sued [1] - 61:26</p> <p>suffer [2] - 28:23, 32:23</p> <p>suffering [1] - 35:23</p> <p>suffers [1] - 28:20</p> <p>sufficient [2] - 5:29, 47:1</p> <p>suggest [4] - 42:23, 45:1, 55:28, 61:14</p> <p>suggested [4] - 28:3,</p>
--	---	---	--	--

<p>61:7, 74:28, 76:17 suggestion [2] - 42:10, 54:4 suite [1] - 68:16 summarised [1] - 52:14 summary [5] - 40:16, 50:14, 52:15, 58:8, 76:8 summoned [1] - 51:28 SUNLIGHT [1] - 2:13 Superintendent [11] - 13:13, 13:14, 14:20, 20:21, 27:19, 53:24, 58:3, 67:18, 68:7, 68:21, 71:11 superintendent [2] - 17:13, 69:14 support [1] - 56:5 suppose [13] - 21:14, 26:6, 27:17, 33:21, 48:15, 48:16, 50:12, 59:25, 60:13, 65:18, 77:17, 77:21, 78:6 Supreme [4] - 6:14, 23:14, 24:23, 47:26 SUPREME [2] - 1:13, 2:3 SUPT [1] - 2:10 sword [1] - 7:13 system [2] - 13:23, 48:28 Síochána [2] - 15:20, 54:10</p>	<p>television [1] - 11:13 tending [1] - 46:14 tenor [1] - 29:22 tension [1] - 20:11 tenth [2] - 21:9 term [1] - 15:14 terms [25] - 5:25, 11:27, 12:21, 12:23, 12:24, 14:15, 15:6, 20:2, 21:19, 33:4, 35:5, 35:7, 36:8, 36:14, 50:12, 56:5, 65:18, 66:8, 66:13, 69:3, 72:9, 75:15, 78:8, 79:14 test [3] - 32:7, 33:23, 36:18 testimony [1] - 58:1 THE [12] - 1:4, 1:8, 1:9, 1:12, 1:16, 1:20, 2:3, 2:6, 2:16, 2:21, 5:1, 80:15 themselves [3] - 17:3, 20:5, 62:9 THEN [1] - 80:15 thereafter [1] - 68:15 therefore [1] - 10:8 they've [1] - 28:27 thinking [2] - 22:13, 66:7 third [7] - 10:7, 26:3, 34:4, 56:10, 57:12, 57:25, 67:14 third-last [1] - 57:25 thirdly [1] - 11:2 three [13] - 39:25, 53:7, 64:15, 65:4, 65:10, 65:25, 66:2, 67:11, 70:15, 72:27, 73:16, 76:3 THURSDAY [2] - 1:21, 5:1 tick [1] - 20:23 tie [1] - 19:24 tied [1] - 18:16 TIM [1] - 2:18 Tim [1] - 65:6 tiny [1] - 39:24 TO [1] - 1:17 today [2] - 10:3, 65:25 today's [1] - 9:16 Tom [1] - 45:15 tomorrow [1] - 11:12 TONY [1] - 3:1 took [8] - 26:9, 43:13, 45:15, 53:8, 61:15, 65:24, 68:23, 80:12 total [1] - 65:19 towards [1] - 17:8 tracking [1] - 66:6</p>	<p>traffic [1] - 55:20 training [1] - 56:13 transcript [1] - 1:28 treating [1] - 75:27 tree [3] - 61:25, 61:29, 62:1 trees [1] - 77:25 trespassing [1] - 70:1 TRIBUNAL [2] - 1:3, 2:6 tribunal [42] - 5:21, 5:22, 5:27, 5:29, 6:1, 6:4, 6:5, 6:20, 6:29, 7:2, 7:4, 7:6, 7:11, 7:14, 7:17, 7:20, 7:24, 8:18, 9:9, 11:13, 11:14, 11:17, 11:20, 13:5, 14:1, 19:15, 24:20, 27:3, 37:28, 41:1, 44:14, 44:23, 46:8, 46:9, 46:10, 46:12, 46:23, 67:3, 75:12, 75:17, 75:19, 77:27 Tribunal [132] - 5:21, 5:24, 6:11, 6:22, 8:9, 8:13, 8:21, 9:26, 10:27, 14:12, 14:17, 15:6, 15:19, 17:11, 17:19, 19:8, 19:11, 21:15, 23:6, 23:16, 23:23, 24:1, 24:3, 24:16, 25:5, 25:17, 25:26, 26:1, 26:7, 26:8, 26:16, 26:20, 27:11, 27:20, 27:22, 27:23, 27:24, 28:6, 28:15, 28:16, 29:8, 29:11, 30:8, 31:2, 31:4, 31:14, 31:18, 31:19, 31:21, 31:22, 31:23, 31:27, 32:1, 32:7, 32:20, 32:21, 33:2, 33:4, 33:11, 33:17, 33:28, 35:11, 35:26, 36:4, 37:1, 37:4, 37:11, 37:23, 37:24, 37:25, 38:13, 38:22, 38:28, 39:8, 39:11, 39:12, 39:14, 40:23, 41:11, 42:4, 42:9, 42:14, 42:15, 42:18, 43:18, 45:5, 47:6, 49:1, 50:13, 50:28, 51:29, 52:27, 53:7, 53:9, 53:18, 53:26, 54:5, 54:8, 54:15, 54:19, 55:14, 56:8, 57:26, 60:15, 60:26, 61:15, 61:19,</p>	<p>62:14, 63:20, 63:24, 64:20, 64:26, 66:10, 66:17, 66:19, 66:22, 67:1, 67:15, 67:17, 70:21, 71:27, 72:19, 72:21, 73:24, 73:28, 74:4, 74:6, 76:27, 77:14, 77:15 Tribunal' [1] - 23:29 Tribunal's [9] - 20:16, 33:10, 38:18, 51:2, 53:13, 54:20, 68:3, 72:12, 77:15 TRIBUNALS [1] - 1:9 tribunals [7] - 5:9, 27:6, 27:16, 29:3, 52:21, 60:4, 66:26 Tribunals [2] - 5:18, 46:16 tries [1] - 67:26 troublesome [1] - 28:27 truth [7] - 8:21, 9:8, 9:11, 11:1, 11:17, 50:6, 60:15 truth-finding [1] - 50:6 truthfulness [1] - 9:27 try [4] - 10:3, 30:13, 38:3, 48:24 trying [10] - 29:14, 42:16, 42:17, 44:25, 46:19, 46:20, 57:13, 71:22, 71:23, 74:8 turn [3] - 14:16, 56:8, 60:13 turning [3] - 59:19, 60:11, 67:1 Tusla [2] - 17:29 two [10] - 20:20, 26:2, 40:8, 40:27, 45:26, 45:29, 47:26, 53:1, 53:10, 61:27 two-part [1] - 45:29 two-stage [1] - 40:27 type [5] - 13:28, 30:22, 37:22, 38:20, 79:27</p>	<p>48:29, 74:27, 75:21 underpin [1] - 75:26 underpinning [1] - 75:16 underpins [1] - 67:4 understandably [1] - 16:25 undertaken [1] - 27:29 undertaking [1] - 27:28 unequivocally [1] - 47:27 unfair [1] - 45:10 unfairness [1] - 47:8 unlawfully [1] - 77:26 unless [6] - 7:14, 21:28, 22:27, 41:27, 50:18, 66:17 unlike [3] - 13:20, 13:21, 17:10 unlikely [1] - 22:11 unreasonable [2] - 48:3, 48:4 unreasonably [7] - 10:8, 11:4, 34:7, 47:21, 48:11, 58:13, 78:2 unrepresented [1] - 67:2 untruthful [1] - 55:3 up [25] - 11:14, 11:20, 13:24, 13:29, 14:17, 17:12, 19:24, 21:18, 22:11, 22:26, 22:27, 36:6, 38:3, 42:24, 47:2, 48:22, 58:20, 60:11, 60:13, 65:25, 67:1, 69:27, 70:16, 72:6 upheld [2] - 15:15, 43:29 urgent [1] - 11:28 useful [1] - 77:11 usefully [1] - 18:19 utter [1] - 30:26 utterly [1] - 9:9</p>
T			U	V
<p>tableau [1] - 19:28 tackled [2] - 56:21, 56:28 tangible [1] - 21:17 tap [1] - 30:14 tarnished [1] - 19:16 taxed [1] - 6:6 Taxing [1] - 6:6 taxpayers' [1] - 10:25 TAYLOR [2] - 2:10, 2:25 Taylor [13] - 13:13, 13:15, 14:20, 17:13, 27:19, 36:27, 49:5, 49:17, 67:18, 68:8, 68:21, 71:12 Taylor's [1] - 20:21 tea [2] - 80:12, 80:13 team [6] - 19:4, 19:13, 37:24, 45:4, 45:7, 72:12 tease [1] - 10:3</p>			<p>ultimate [1] - 14:12 ultimately [6] - 15:14, 69:19, 70:1, 72:21, 75:9, 75:25 unalive [1] - 77:6 UNDER [2] - 1:3, 1:9 under [8] - 8:7, 14:24, 20:9, 24:14, 51:19, 57:9, 69:12, 78:11 undermined [3] -</p>	<p>value [1] - 50:6 variety [1] - 45:5 various [2] - 69:5, 72:27 VAUGHAN [1] - 2:18 Vaughan [4] - 65:6, 65:28, 68:25, 72:28 vehicle [1] - 61:26 verbatim [1] - 1:28 view [20] - 9:6, 11:9,</p>

<p>11:10, 16:25, 31:27, 31:28, 32:2, 37:3, 45:16, 47:23, 53:8, 54:28, 56:3, 66:29, 68:23, 69:16, 70:5, 70:16, 71:8, 72:5</p> <p>views [1] - 11:23</p> <p>virtue [2] - 23:17, 72:15</p> <p>visiting [1] - 56:14</p> <p>volition [1] - 19:8</p> <p>volume [1] - 18:13</p>	<p>wonder [1] - 46:15</p> <p>wondering [2] - 21:5, 21:8</p> <p>word [3] - 35:27, 41:21, 47:27</p> <p>words [10] - 9:7, 10:12, 10:15, 10:24, 25:3, 29:19, 35:6, 39:20, 51:8</p> <p>works [1] - 44:24</p> <p>worry [3] - 37:27, 38:1, 45:5</p> <p>worth [2] - 44:12</p> <p>writing [1] - 21:22</p> <p>written [6] - 17:17, 39:11, 53:1, 55:4, 66:22, 72:26</p> <p>wrong-headedly [1] - 70:11</p> <p>wrongdoing [1] - 15:21</p> <p>wrote [2] - 38:13, 68:8</p>
W	
<p>Wagstaff [1] - 42:29</p> <p>waive [2] - 17:5, 69:13</p> <p>waived [2] - 67:18, 69:1</p> <p>waivers [1] - 69:15</p> <p>waives [1] - 69:10</p> <p>waiving [1] - 68:22</p> <p>wants [2] - 8:28, 22:18</p> <p>Ward [1] - 53:16</p> <p>ward [1] - 54:14</p> <p>warning [2] - 61:8, 61:11</p> <p>water [1] - 57:9</p> <p>ways [2] - 42:1, 66:24</p> <p>web [1] - 21:23</p> <p>Weekly [1] - 43:1</p> <p>weight [1] - 15:17</p> <p>welfare [1] - 38:5</p> <p>well-established [1] - 31:6</p> <p>whichever [1] - 55:29</p> <p>whiskey [1] - 57:6</p> <p>whole [3] - 6:4, 20:26, 41:21</p> <p>wholly [2] - 15:26, 54:4</p> <p>wide [1] - 50:20</p> <p>wider [2] - 18:29, 35:17</p> <p>willing [1] - 17:9</p> <p>wish [3] - 36:12, 58:23, 59:9</p> <p>WITNESS [1] - 4:2</p> <p>witness [13] - 16:14, 17:9, 17:23, 18:8, 30:11, 30:12, 40:29, 41:26, 54:25, 55:1, 62:12, 65:28, 65:29</p> <p>witnesses [11] - 19:15, 27:20, 44:3, 65:27, 66:12, 67:11, 67:27, 70:29, 72:3, 76:3, 77:12</p> <p>woman [1] - 42:11</p>	<p style="text-align: center;">Y</p> <p>year [2] - 60:26, 61:28</p> <p>years [3] - 55:21, 61:1, 61:27</p> <p>yesterday [2] - 53:3, 53:4</p> <p>yourself [2] - 45:9, 45:10</p>
	É
	<p>ÉIREANN [2] - 1:5, 1:6</p>