THE HIGH COURT

[2025] IEHC 58

[Record No. 2020/8318P]

BETWEEN

EUGENIE HOUSTON

PLAINTIFF

AND

LEONIE REYNOLDS, IRELAND AND THE ATTORNEY GENERAL

DEFENDANTS

JUDGMENT of Mr Justice Mark Sanfey delivered on the 5th day of February 2025.

Introduction

1. This judgment concerns an application by the second and third named defendants for a litigation restriction order – or, as it is commonly known, an Isaac Wunder Order – in which the applicants seek an order restraining the plaintiff from issuing proceedings "against any of the persons and/or classes of persons and/or potential defendants / respondents identified in [the schedule to the notice of motion] in the absence of an Order of the President of the High Court or a Judge of the High Court nominated by the President of the High Court granting leave to issue such proceedings."

2. For convenience, I shall refer in this judgment to the second and third named defendants collectively as 'the defendants', although it should be noted that the first named defendant took no part in the present application.

3. The classes of persons or entities in respect of whom the order is sought are set out as follows in the schedule to the notice of motion:

> Schedule
>
> (a) Any person who holds or has held the office of Judge of the District Court and/or Judge of the Circuit Court and/or Judge of the High Court and/or Judge of the Court of Appeal and/or Judge of the Supreme Court;
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> (b) any person who holds or has held the office of Registrar of the District Court and/or Registrar of the Circuit Court and/or Registrar of the High Court and/or Registrar of the Court of Appeal and/or Registrar of the Supreme Court;
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> (c) the Minister for Justice, Ireland and/or the Attorney General and/or any person who holds or has held the offices of Minister for Justice and/or Attorney General;
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> (d) the Courts Service and/or any employee of the Courts Service;
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> (e) any member of the legal profession, including any person who is or was a practising barrister or solicitor; and
>
> (f) such other persons and/or classes of persons as the court may determine should be identified in this schedule.

4. The notice of motion issued on 09 February 2023 and was grounded on a substantial affidavit sworn on behalf of the defendants on 09 February 2023 by Natalie Hayes, a solicitor in the Office of the Chief State Solicitor. Further affidavits were sworn by Ms Hayes on 17 April 2023, and by John Hiney, also a solicitor in the Chief State Solicitor's Office, on 07 March 2023, 20 April 2023 and 24 April 2023. The purpose of these affidavits was primarily to update the court in relation to correspondence passing between the parties. Further

affidavits were sworn in these proceedings by Ms Hayes and Ms Houston respectively, although this exchange of affidavits related to issues arising from a separate application by the defendants.

5. This latter application comprised an application ('the dismissal application') by the defendants *inter alia* to strike out the plaintiff's plenary summons and statement of claim and/or to dismiss the plaintiff's action on the basis that the pleadings disclosed no reasonable cause of action and/or the action was frivolous and/or vexatious. The application was prosecuted in October and December 2023; on 07 February 2024, I delivered a written judgment in which I acceded to the application: see [2024] IEHC 64. On 13 February 2024, I heard submissions in relation to the orders to be made, and made an order pursuant to the inherent jurisdiction of the court dismissing the proceedings. An order for costs in favour of the defendants was made. At the request of counsel for the defendants, I agreed to place a stay on these orders so that the present application could be prosecuted.

6. The present application came on for hearing on 26 June 2024. It was not possible to conclude the case on the following day. The matter was listed for resumption on three separate occasions before the end of Trinity Term; on each occasion, the plaintiff maintained that she was too unwell to participate.

7. Ultimately, the hearing to conclude the application took place on 19 December 2024. The plaintiff swore an affidavit on 18 December 2024 setting out her position. The defendants took no exception to the filing of this affidavit, notwithstanding that it was delivered well outside the time for service stipulated by the court.

8. Both sides proffered written submissions. The defendants' submissions were extremely extensive, and counsel sought and received the permission of the court to exceed the usual limit of 10,000 words. The plaintiff's submissions on the other hand were only two pages long and, although delivered after receipt of the defendants' submissions and the oral

submissions in court by counsel for the defendants, did not engage with the detail of the submissions made by the defendants.

Background: *Houston v Doyle*

9. The events which have led to the current application have been set out in numerous judgments of this Court and the Court of Appeal. In my judgment on the dismissal application at [2024] IEHC 64, I set out at paragraphs 24 to 32 the circumstances of the proceedings in '*Eugenie Houston v. Wendy Doyle practising under the style and title of Wendy Doyle Solicitor*, High Court Record No. 2017/6661P' ('*Houston v Doyle*' or '*Houston v Doyle No. 3'*). In the present proceedings, Ms Houston was severely critical of the conduct by the first named defendant of the *Houston v Doyle No. 3* proceedings in the High Court. The Court of Appeal found those criticisms to be unfounded, save in one respect; that court allowed Ms Houston's appeal against the Isaac Wunder Order made against her by the High Court: see [2020] IECA 289.

10. When the judgment was delivered by this Court on the dismissal application, indicating that the present proceedings would indeed be dismissed, the second and third named defendants indicated that they wished to prosecute that portion of their application which sought an Isaac Wunder Order against Ms Houston, and sought and were granted a stay on the dismissal order for that purpose. The application for the Isaac Wunder Order proceeded as outlined above.

11. The *Houston v Doyle No. 3* proceedings were in fact the third set of proceedings initiated by Ms Houston against Ms Doyle. There had previously been proceedings in the High Court [Record No. 2014/3904P, '*Houston v Doyle No. 1*'] and in the District Court ['*Houston v GD Gendist and Wendy Doyle*, District Court Record No. 3965/15, '*Houston v Doyle No. 2*']. The proceedings in *Houston v Doyle No. 1* were settled before hearing on 14 February 2017, and an order was made by the High Court (Mac Eochaidh J) on consent

providing for the payment by Ms Houston of Ms Doyle's costs. The claim in *Houston v Doyle No. 2* was dismissed by the District Court in April 2017, and costs were awarded in favour of Ms Doyle. The costs recoverable on the District Court scale totalled €4,700. The District Court Order was not appealed by Ms Houston.

12. Costs payable on foot of the order of Mac Eochaidh J. in *Houston v Doyle No. 1*, together with two other costs orders made in the course of those proceedings on 27 February 2015 and 12 October 2015, were taxed by the Taxing Master in a total amount of €58,888.89 and a certificate of taxation in that amount issued on 14 July 2017.

13. On 26 April 2023, Ms Houston issued further proceedings in this Court against Ms Doyle (Record no. 2023/1876P, '*Houston v Doyle No. 4*'). In those proceedings, Ms Houston alleged that registration by Ms Doyle of judgment mortgages in respect of the various costs orders in her favour against property owned by Ms Houston was invalid for a number of reasons, and that, *inter alia*, Ms Doyle had wrongfully procured registration of them. Ms Doyle brought an application to strike out the proceedings on the basis that they were an abuse of process, that they disclosed no *bona fide* cause of action, and were frivolous and vexatious and bound to fail.

14. The application was heard by Kennedy J, who delivered judgment on 06 March 2024: see [2024] IEHC 104. The court acceded to Ms Doyle's application dismissing the proceedings. A very helpful appendix summarising the *Houston v Doyle* litigation and enforcement steps between the parties is attached to the judgment. A further set of proceedings [High Court, Record no. 2023/3686P, '*Houston v Doyle No. 5*'] issued on 26 July 2023. There is no indication on the High Court Search database – at time of writing – that this matter has proceeded beyond the issue of a plenary summons.

Doyle v Houston

15. For completeness, I should refer to the judgment of the Court of Appeal in *Doyle v Houston* [2020] IECA 86. This was an appeal by Ms Houston against the judgment and order of the High Court in special summons proceedings issued on 05 September 2017 seeking a declaration that sums secured by four judgment mortgages – relating to the various costs orders obtained by Ms Doyle against Ms Houston in the *Houston v Doyle* proceedings referred to above – stood well charged on folio 25772F County Kildare, a property owned by Ms Houston, and for an order for sale of the premises. On 27 March 2019, the High Court (Allen J) declared that the sum of €58,888.89 for principal and interest was well charged in respect of the three judgment mortgages, and that a sum of €4,700 in respect of District Court costs and interests from 21 April 2017 was well charged in respect of a fourth judgment mortgage. The court made an order that in default of payment of these sums within three months, the lands and premises be sold. The costs of the application were awarded to Ms Doyle on the Circuit Court scale.

16. In its judgment delivered on 07 April 2020, the Court of Appeal dismissed the appeal and affirmed the order of the High Court.

The 'Bar Council Proceedings'

17. In her grounding affidavit, at paras. 70 to 81, Ms Hayes referred to "five linked proceedings bearing High Court record numbers 2014/5258P, 2014/5715P, 2014/10610P, 2017/10507P and 2018/785P (the "Bar Council Proceedings")." The defendants were, at all material times, members of the General Council of the Bar of Ireland ('the Bar Council'), the Professional Practices Committee of the Bar Council, the Barristers Professional Conduct Tribunal, or the Barristers Professional Conduct Appeals Board. The five actions were consolidated; at paras. 2 to 4 of his judgment at [2019] IEHC 601, Twomey J. summarised what was at issue as follows:

"2. This case can be summarised as follows. Ms. Houston directly contacted clients of two solicitors who had previously instructed her as a barrister, notwithstanding that the Code of Conduct provided at that time that a barrister could only make contact with a client *'at a consultation at which the client and the solicitor are both present'* or *'in writing to the client through the solicitor'*. At the time when Ms. Houston made direct contact with the clients, there was no provision under the Code of Conduct for a barrister to make direct contact with a client. The two solicitors separately complained about Ms. Houston, in one case to the PPC and in the other case to the Tribunal. The most significant outcome of the two complaints was not a penalty or censure but rather an *'advisory'* decision by the Tribunal which advised Ms. Houston not to engage with previous, or existing clients, in the manner giving rise to the complaint herein, or in any other manner contrary to the Code of Conduct for the Bar of Ireland.

3. Somehow the handling by the defendants of this relatively minor complaint which led to an advisory decision by the Tribunal, asking Ms. Houston to only contact clients in accordance with the Code of Conduct, has led to a very extreme reaction from Ms. Houston (*e.g.* she has described herself as having been treated by the defendants like a Jew in Nazi Germany and how at one stage she felt she was going to die because of the defendants), and has led to five sets of proceedings issued by Ms. Houston over the course of five years, and some €500,000 has been incurred in legal costs by the defendants in defending these proceedings.

4. The majority of this judgment deals with the application to dismiss made by the defendants at the close of Ms. Houston's evidence, on the grounds that she had not made out a *prima facie* case."

18. The court acceded to the application of the defendants to dismiss the various proceedings. Ms Houston appealed the judgment and order of Twomey J. That appeal was dismissed by the Court of Appeal: see [2020] IECA 365. The court was critical in its judgment of the manner in which the appeal was prosecuted, stating at para. 24 that it "gives rise to disquiet on our part … [W]e deprecate in clear terms the way which this appeal was conducted by Ms. Houston." At para. 21 of its judgment, the Court of Appeal stated as follows:

> "21. It seems to us that the change in attitude from the very positive tone being expressed [in oral submissions to Twomey J on 09 July 2019], to a situation where she now claims that she was treated unfairly and observed hatred in the judge's eyes, has more to do with the outcome of the proceedings than any issue with the procedures actually followed. We are satisfied that the outcome was determined by the nature of the proceedings and their inherent weakness, rather than by reference to the procedures followed. Indeed, it has to be said that Ms. Houston has been indulged to a very considerable extent; indeed, a great many people would say to an unwarranted extent."

Other Proceedings Conducted by Ms Houston

19. In her grounding affidavit, Ms Hayes refers to a "search of the public High Court case search database on the website of the Courts Service carried out on my behalf on 7 February 2023" [para. 82]. She sets out the following results of her search, exhibiting the appropriate records retrieved from the search; at the hearing before me, it was not disputed by Ms Houston that she is the plaintiff in each of these proceedings.

(i) Eugenie Houston v Hugh Geoghegan, Daithi O'Ceallaigh, the Institute of International and European Affairs, Niall Greene, Grainne Clohessy, Eunan O'Halpin,

Trinity College Dublin, Donal O'Kelly, the General Council of the Bar of Ireland, and Patrick McCann (High Court Record No. 2016/1054P);

(ii) Eugenie Houston v Breda O'Malley P/A Hayes Solicitors, Carol Fawsitt P/A Hayes Solicitors, Legal Island, Barry Philips, John McMullen, and Wrigleys LLP (High Court Record No. 2017/11558P);

(iii) Eugenie Houston v Ireland, the Minister for Justice and the Attorney General (High Court Record No. 2020/8018P);

(iv) Eugenie Houston v Trustees, Benchers and Council of the Honourable Society of the Kings Inns (High Court Record No. 2020/8656P);

(v) Eugenie Houston v Property Registration Authority (High Court Record No. 2021/3487P);

(vi) Eugenie Houston v Courts Service, Ireland, the Attorney General, the Minister for Justice and Paul Behan (High Court Record No. 2021/4730P);

(vii) Eugenie Houston v Ronan Brennan T/A Brennan & Co, LLP & Stephen Brennan T/A Brennan & Co LLP (High Court Record No. 2022/387P).

20. The documentation retrieved from the search and exhibited to Ms Hayes' affidavit suggests that none of the foregoing proceedings had at the date of swearing of that affidavit (09 February 2023) been advanced by the plaintiff; there were no listings, orders or judgments recorded in respect of any of them. A database search conducted on behalf of the court prior to finalising this judgment shows that a Statement of Claim appears to have been delivered in the proceedings referred to at (iii) and (vi) of the paragraph above, on 03 November 2023 and 07 November 2023 respectively. There does not appear to have been any further pleadings or steps from the plaintiff or any other party in those proceedings; in none of the other five proceedings listed above does the court file suggest that the plaintiff has

taken any further substantive step in those proceedings, beyond the issue of the plenary summons.

Houston v Denham

21. At para. 8 of their submissions, the defendants draw attention to the fact that on 30 March 2023, the plaintiff commenced plenary proceedings bearing High Court Record No. 2023/1456P against 23 current or former judges of the Superior Courts: Susan Denham, Paul Gilligan, Colm Mac Eochaidh, Michael White, Miriam O'Regan, Senan Allen, Leonie Reynolds, Mary Irvine, Gerard Hogan, Brian McGovern, Michael Peart, Caroline Costello, Robert Haughton, Maurice Collins, Charles Meenan, Peter Kelly, Max Barrett, Brian Cregan, Seamus Noonan, Michael Twomey, Teresa Pilkington, David Barniville and Michael Quinn. Apparently a copy of the plenary summons for that action was emailed by the plaintiff to the Chief State Solicitor's Office on 14 April 2023; the defendants make the point that this was after the filing of the present Isaac Wunder Order application on 09 February 2023 and after service of that motion and grounding affidavit on the plaintiff on 15 February 2023.

The Ambit of the Present Application

22. While I have set out the course of litigation initiated by Ms Houston which forms a backdrop to the present application, it should be noted that the defendants in the present proceedings do not seek an Isaac Wunder Order generally against Ms Houston; the order sought is restricted to the categories of individuals or entities set out in the schedule to the notice of motion as set out at para. 3 above.

23. In effect, the defendants seek an order restraining the plaintiff from issuing proceedings, in the absence of an order of the President of the High Court or a Judge of the High Court nominated by the President granting leave to issue such proceedings, against any past or present Judge or Registrar of the courts, Ireland, any past or present Minister for Justice or Attorney General, the Courts Service or any employee of the Courts Service, any

past or present member of the legal profession, or "such other persons and/or classes of persons as the Court may determine should be identified…".

24. In answer to a question from the court, counsel for the defendants, having taken instructions, confirmed that the Isaac Wunder order was being sought on a prospective basis only, i.e. that the relief, if granted, would apply only to the issue of further proceedings after the making of the order and not for any existing proceedings: see transcript Day 1, pages 83-84. I had asked the question, as dicta of Whelan J. in the Court of Appeal judgment in *Kearney v. Bank of Scotland Plc & Anor* [2020] IECA 92 appeared to suggest that an Isaac Wunder Order could apply to existing proceedings:

> "Isaac Wunder type orders can be made by the High Court pursuant to its inherent jurisdiction to restrain the further prosecution by a party to proceedings without leave of the court. The power of a superior court to attach such restraint to the institution or continued prosecution of civil litigation extends to existing proceedings and to new proceedings and also to proceedings before any of the lower courts. …" [para. 131].

The Plaintiff's Position

25. In the course of the defendants' exhaustive written and oral submissions, the principles relating to Isaac Wunder orders were set out with reference to relevant case law. Ms Houston did not engage in any way with the detail of these principles: she did not seek to argue that those cases were wrongly decided, or that the principles did not apply to her factual position or circumstances. Rather, she sought to argue that:

- the application was "an abuse of power by the applicants for the benefit of their allies and supporters" [para. 4, affidavit of 18 December 2024];
- the motion was brought on behalf of persons "in this action in which they are not parties"; and "by persons and entities without standing: and without any basis in law…" [para. 5];

- "[t]he applicants have no standing at all…" [para. 7];
- "the motion is an abuse of process…" [para. 10].

26. Ms Houston goes on to aver that:

> "…the Court has no jurisdiction to make the Orders sought. I request a preliminary reference to the Court of Justice of the European Union as to whether so-called Isaac Wunder Orders are permitted to be made by Judges who are sitting as European judges of local jurisdiction. As the Court is sitting as [a] European Court and is being asked to deny and remove guaranteed EU law rights and is a Judge and therefore an intended beneficiary of the application, it **must** make the reference" [para. 13 affidavit – emphasis in original].

Isaac Wunder Orders: Principles

27. The principles regarding Isaac Wunder orders have been set out in a number of decisions of the Court of Appeal and Supreme Court. I do not intend to embark on a treatise on the law in this area, which must be regarded as well-settled. The defendants referred to and relied upon many of the leading decisions in the area, most notably *Riordan v. Ireland (No. 4)* [2001] 3 IR 365 (Supreme Court); *Barrett (T/A Corporate Recovery Services) v. Beglan & Anor* [2007] IEHC 188 (Peart J.); *Údarás Eitlíochta Na hÉireann & Ors. v. Monks & Anor*. [2019] IECA 309; *Fitzsimons v. Bank of Scotland Plc & Anor.* [2019] IECA 336; and *Kearney v. Bank of Scotland Plc & Anor.* [2020] IECA 92. Substantial reference was also made to the dicta in the related cases of *Houston v. Barniville* [2019] IEHC 601 (Twomey J.) and [2020] IECA 365, and *Houston v. Doyle (No. 3)* [2020] IECA 289 (Collins J.) in relation to Isaac Wunder orders.

28. The rationale for making an Isaac Wunder order was expressed in following terms by Noonan J. in *Fitzsimons v. Bank of Scotland Plc*:

"24. With the increase in recent years in the amount of litigation [pursued] in our courts by litigants in person, the making of restraining orders has perhaps become more common. However, by no measure can the making of such orders be regarded as in any sense routine. They are, of course, a serious restriction on the constitutional right of access to the court and, as the authorities make clear, should only be made sparingly and in relatively rare circumstances. Where the circumstances warrant however, the court has the inherent jurisdiction to make such orders and indeed a duty to do so to protect parties from habitual and costly vexatious litigation. The making of an Isaac Wunder order is not an abrogation of the constitutional right of access to the court, but rather a proportionate filtering mechanism to protect the opposing party from the injustice of having to incur what are often very significant and unrecoverable costs, in meeting oppressive and abusive claims. The right of access to the court is not absolute – see *O'Reilly v. McCabe v. Minister for Justice, Equality and Law Reform* [[2009] IESC 52].

25. Quite apart from the interest of the oppressed party, the court must also have regard to protecting its own processes from abuse, which result in scarce court resources being wasted to the detriment of other parties with genuine claims. All the cases recognise that a primary indicator of the necessity for a restraining order is the habitual or persistent institution of frivolous and vexatious proceedings against parties to earlier proceedings – see *McMahan v. W.J. Law and Co. LLP* [2007] IEHC 51 and *Tracey v. Burton* [[2016] IESC 16]."

29. The courts have however repeatedly emphasised that such an order should be made sparingly. As Collins J. commented in *Houston v. Doyle No. 3*:

"64. Courts are, rightly, reluctant to make such orders and the circumstances in which it is appropriate to do so will be " *very rare*" [*O'Malley v. Irish Nationwide Building*

Society (Unreported, High Court, 21 January, 1994), at page 10], given the important constitutional value attaching to the right of access to the courts. But that right is not absolute and other rights and interests are also engaged in this context, including the right of citizens *"to be protected from unnecessary harassment and expense*." [*Riordan v. An Taoiseach (No. 4)*, at 370]. Apart from the stress of being sued, defendants may incur significant cost in defending themselves against even unmeritorious claims. As Keane CJ observed in *Riordan v Ireland (No 4),* courts would be failing in their duty if they allowed their processes " *to be repeatedly invoked in order to reopen issues already determined or to pursue groundless and vexatious litigation."* [also at p.370]. As I observed in *Irish Aviation Authority v Monks,* in addition to the *private* rights of rights of persons to be protected from vexatious claims, there is an important *public* interest in avoiding limited court resources being taken up in dealing with such claims. Finality of litigation is another important *public* interest in this context." [emphasis in original].

30. At para. 132 of her judgment in *Kearney v. Bank of Scotland,* Whelan J. set out an extensive list of matters which may inform the court's view as to the necessity of making an order. In *Údarás Eitlíochta na hÉireann (Irish Aviation Authority) v. Monks,* at para. 26 of his judgment, Haughton J. adopted the following dicta of MacMenamin J. in *McMahon v. W.J. Law & Co. LLP* [2007] IEHC 51 at para. 20 identifying the principles regarding the jurisdiction to grant an Isaac Wunder order:

"Among features identified by Ó Caoimh J. in *Riordan v. Ireland (No. 5)* [2001] 4 I.R. 463 as justifying such an order, or militating against the vacating of such an order already granted are: -

1. The habitual or persistent institution of vexatious or frivolous proceedings against parties to earlier proceedings.

2. The earlier history of the matter, including whether proceedings have been brought without any reasonable ground, or have been brought habitually and persistently without reasonable ground.

3. The bringing up of actions to determine an issue already determined by a court of competent jurisdiction, when it is obvious that such action cannot succeed, and where such action would lead to no possible good or where no reasonable person could expect to obtain relief.

4. The initiation of an action for an improper purpose including the oppression of other parties by multifarious proceedings brought for the purposes other than the assertion of legitimate rights.

5. The rolling forward of issues into a subsequent action and repeated and supplemented, often with actions brought against the lawyers who have acted for or against the litigant in earlier proceedings.

6. A failure on the part of a person instituting legal proceedings to pay the costs of successful proceedings in the context of unsuccessful appeals from judicial decisions."

31. In a passage in the same case on which the present defendants lay some emphasis, Collins J., in concurring with the judgment of Haughton J., stated as follows:

"It is, therefore, critically important that a court asked to make an *Isaac Wunder* order should anxiously scrutinise the grounds advanced for doing so. It should not be seen as some form of ancillary order that follows routinely or by default from the dismissal of a party's claim, whether on its merits or on a preliminary strike-out motion. That is so even if considerations of *res judicata* and/or *Henderson v Henderson* arise. The court must in every case ask itself whether, absent such an order, further litigation is likely to ensue that would clearly be an abuse of process. Unless the court is satisfied

> that such is the case, no such order should be made. It is equally important that, where a court concludes that it is appropriate to make such an order, it should explain the basis for that conclusion in terms which enable its decision to be reviewed. It is also important that the order made be framed as narrowly as practicable (consistent with achieving the order's objective)" [para. 7].

The Plaintiff's Conduct of Proceedings

32. The defendants seek an Isaac Wunder order as regards the issue of proceedings by the plaintiff against any judge of the District Court, Circuit Court, High Court, Court of Appeal or Supreme Court, past or present; any past or present registrar of any of those courts; Ireland, and any Minister for Justice or Attorney General past or present; and the Courts Service or any employee of the Courts Service. In doing so, the defendants referred to the pleadings and judgments in the various cases referred to above, and exhibited to the affidavits of Ms Hayes and Mr Hiney all correspondence between the parties and certain transcripts of hearings before the first named defendant (Reynolds J.), Cregan J. and O'Moore J.

33. What follows is a concise but non-exhaustive summary of the matters on which the defendants rely to demonstrate the necessity for an Isaac Wunder order as regards the aforesaid individuals and entities in the Schedule to the Notice of Motion.

Judges

34. In *Houston v. Reynolds (No. 3)*, the plaintiff made a litany of specific complaints about the conduct of the first named defendant. These are summarised at para. 34 of my judgment on the dismissal application. I held that such claims were "vexatious and an abuse of process… [T]o the extent that the claims are based on factual assertions relating to misconduct or misfeasance, there is no credible basis for suggesting that the facts are as asserted" [paras. 100 to 101]. These findings were consistent with the views expressed by Collins J. in *Houston v. Doyle (No. 3)* that "no evidence whatever of any wrongful or

improper conduct on the part of the Judges has been put before this Court" [para. 40, cited at para. 98 of my judgment on the dismissal application]. In addition to unfounded allegations against the first named defendant, I referred at para. 74 of the dismissal application judgment to "…the many personal, gratuitous and very unpleasant remarks in the statement of claim about the first defendant and, at one point, a deceased close relative of the first defendant who is entirely unconnected with the proceedings."

35. Such unnecessary remarks were not confined in the statement of claim to the first named defendant. As I stated at para. 73 of the judgment, "[T]he statement of claim is replete with references to persons who are not parties to the litigation and who have no conceivable connection with it. Gratuitous, unwarranted and objectionable allegations are made against many of these persons." The targets of these references included several judges of the High Court and Circuit Court.

36. The defendants also claim that there is "further compelling support" for the granting of an Isaac Wunder order, in that "…the Plaintiff has made a number of series of "*scurrilous or outrageous statements*" about Cregan J. in correspondence and oral submissions and has named him among 23 defendants in a High Court plenary action issued on 30 March 2023" [para. 62 written submissions]. A long-running passage of events involving appearances by the plaintiff before Cregan J. between October 2022 and April 2023 is exhaustively analysed by the defendants at paras. 62 to 105 of their submissions, with reference in particular to the transcripts of various of the appearances.

37. The plaintiff sought the recusal of Cregan J. in relation to the defendant's present application for an Isaac Wunder order. The matter came to a head on 20 April 2023 when the court, addressing the plaintiff and Douglas Clarke SC – counsel for the defendants – stated as follows:

> "…it seems to me that what has happened in this case was that from the moment, Mr. Clarke, that your clients indicated that they intended to bring a motion to strike out the proceedings and an application for an Isaac Wunder order, something happened. I remember that Ms. Houston said that she was shocked by this, or words to that effect, and I think she said 'This is now war'. And I thought what she meant by that comment was that she was going to wage war on you, Mr. Clarke, and on your clients. Unfortunately, it's turned out that she has actually waged war on me. Because a number of things have happened.
>
> First of all, she has made a series of extraordinary allegations in correspondence and e-mails – which, for the record, none of which I accept. Secondly, she has made an application to the Judicial Council, or a complaint to the Judicial Council. Thirdly, she has written a series of letters to An Taoiseach and the Minister for Justice which can only be regarded, in my view, as entirely defamatory. And fourthly, she has now issued proceedings against me. So I think in all of those circumstances, it would be unwise for me to continue to hear this application…".

38. The letters to An Taoiseach and the Minister for Justice to which Cregan J. refers – and in particular, an email of 18 April 2023 to the Chief State Solicitor's Office copied to the Taoiseach and the Minister for Justice – were not just defamatory, but were indeed in terms scurrilous and outrageous. I do not propose to dignify those allegations by repeating them here. As Whelan J. points out at para. 132 of her judgment in *Kearney*, in considering whether "a clear case has been made out that demonstrates the necessity of the making of the orders in the circumstances", regard can be had by the court to the nature of the allegations and in particular where "scurrilous and outrageous statements" are asserted. While these dicta were intended to refer primarily to allegations against parties to the litigation "or their legal representatives or other professionals connected with the other party to the litigation…", it

must be the case that, in considering whether an Isaac Wunder order should be made in respect of future proceedings against judges, the nature of the allegations against judges made by the offending party are capable of being taken into account.

39. As we have seen, 23 judges or former judges including Reynolds J. and Cregan J. have been sued by the plaintiff in *Houston v. Denham*. As will be apparent from the list of litigation in para. 19 above, the plaintiff has also issued proceedings against "trustees, benchers and counsel of the Honourable Society of Kings Inns (High Court Record No. 2020/8656P). Most of the defendants are sitting or past judges of the Superior Courts. The late Hugh Geoghegan J. was one of a number of defendants in *Houston v. Geoghegan* [Record No. 2016/1054P].

Repeated Applications for Recusal of Judges

40. There is one other aspect of Ms Houston's conduct in relation to judges which bears comment. Ms Houston has repeatedly applied to judges to recuse themselves from hearing cases in which she is a party. The judgments to which I have referred above reflect this pattern. At para. 124 of his judgment in *Houston v. Barniville*, Twomey J. records that he was asked by Ms. Houston to recuse himself after delivery of the judgment but before making final orders. This application was refused; however, Ms Houston continued to make allegations of bias against Twomey J. on appeal. The Court of Appeal rejected any such suggestion in this regard, holding that the proceedings were "misconceived and are, and always were, without merit" [para. 23].

41. In *Houston v. Doyle (No. 3),* Reynolds J. was asked by Ms. Houston to recuse herself when the matter came before her on 3 December 2019, on the grounds of actual bias: see paras. 21 to 24 of the judgment of the Court of Appeal. Reynolds J. declined to recuse herself. The Court of Appeal upheld this decision and rejected the suggestion that there was

any actual bias on the part of Reynolds J.: see the Court of Appeal judgment, Collins J., at paras. 35 to 43.

42. In relation to criticism of judges generally in the appeal in that case, Collins J. stated as follows:

> "33. Ms Houston has also severely criticised various third parties in her submissions, including a number of judges of the High Court. There is no evidence before the Court that could on any view justify any of these criticisms. Ms Houston has also made statements relating to the capacity, character and conduct of the Judge that lack any evidential foundation in the material before the Court. It would be quite unfair to those parties, none of whom are represented in this appeal, to give further circulation to what Ms Houston has said about them and I do not propose to do so.
>
> 34. Finally, at the outset of the appeal hearing Ms Houston referenced the fact that the members of the Court were all judicial benchers of the King's Inns. While making it clear that she was not seeking anyone's recusal, she asserted that, as benchers, the members of the Court were biased against her. A similar issue was raised by Ms Houston in her appeal from the judgment and order of Allen J in the Well-charging proceedings and is addressed in paragraph 34 of the judgment of Costello J, with which Haughton J and I agreed: [2020] IECA 86. For the avoidance of doubt, I reject any suggestion that the fact that I and the other members of the Court are benchers of the King's Inns gives rise to any bias, or any reasonable perception of bias, against Ms Houston."

43. In the course of the dismissal application, an application was made to me that I would recuse myself on the grounds of objective bias. In my view, the grounds advanced did not support this contention, and accordingly I refused the application: see paras. 21 to 23 of the judgment in the dismissal application in the present proceedings.

44. As we have seen, Cregan J., while not acceding to the recusal application, considered that he had no alternative but to withdraw from hearing the various applications in the present proceedings due to a "series of extraordinary allegations" against him. This court is aware of recusal applications which have been brought or mooted by Ms Houston in other proceedings; although he does not refer to it in his judgment, Kennedy J. also rejected an application by Ms Houston to him to recuse himself in *Houston v. Doyle (No. 4).*

Registrars, the Courts Service and Courts Service Employees

45. As can be seen from para. 19 above, the plaintiff has issued proceedings against the Property Registration Authority (Record No. 2021/3487P) and the Courts Service (Record No. 2021/4730P).

46. In her statement of claim in the present proceedings, Ms Houston made several allegations regarding the conduct of courts staff. At para. 6, she stated that "[T]he plaintiff has been obstructed by the Courts Service from obtaining personal data to which she is entitled and in consequence has been obstructed in the assertion of her rights." At para. 30 she alleged that "[T]he plaintiff was assaulted in [the] Central Office of the High Court" without any elaboration of the circumstances or who the alleged perpetrator might have been. At para. 42 she alleged "misfeasance by the Courts Service in cancelling a scheduled appointment that would have allowed [defamation] proceedings to issue within one year". At para. 43, Ms Houston stated that "[T]he plaintiff has been refused by the Courts Services copies of the notes taken by the Registrars and that would assist the plaintiff prove her case."

47. These grievances were aired by the plaintiff in various appearances before Cregan J.: see appendix D to the defendant's written submissions which sets out excerpts from transcripts of 24 October 2022, 28 October 2022 and 16 November 2022 in this regard.

Minister for Justice, Ireland and the Attorney General

48. The Minister for Justice, Ireland and the Attorney General are among the defendants in proceedings with High Court record numbers 2020/8018P and 2021/4730P. Those parties are also defendants in proceedings very recently issued by Ms Houston: see para. 71 below. Ireland and the Attorney General are the second and third named defendants in the present proceedings.

Members of the Legal Profession

49. The plaintiff appears to have issued proceedings against two firms of solicitors: *Houston v. O'Malley P/A Hayes Solicitors & Ors.* (Record No. 2017/11558P) and *Houston v. Brennan (T/A Brennan & Co. and Brennan & Co LLP)* (Record No. 2022/387P). The *Houston v. Geoghegan* proceedings also include several practising members of the legal profession as defendants.

50. In *Houston v. Barniville,* the defendants were all, at the time of issue of the proceedings, practising barristers and members of the General Council of the Bar of Ireland, the Professional Practices Committee of the Bar Council, the Barristers Professional Conduct Tribunal or the Barristers Professional Conduct Appeals Board: see para. 1 of the judgment of Twomey J. in this regard. As we have seen, all five sets of proceedings in the consolidated action were dismissed, and the High Court's decision in this regard was affirmed on appeal. As regards the various *Houston v. Doyle* cases, Ms Wendy Doyle, the defendant in those matters, is a practising solicitor.

51. In *Houston v. Doyle (No. 3),* one of the applications made by Ms Houston was a motion seeking the joinder of six individuals who were stated to be partners in the solicitor's firm of Tully Rinckey. The application appears to have been made on the basis that, whereas the proceedings had been commenced in July 2017, Ms Doyle's practice had been "subsumed and incorporated into Tully Rinckey" in July 2018. Ms Houston averred that, in those

circumstances, the partners of Tully Rinckey, including Ms Doyle, "*are now the correct defendants*." Ms Doyle opposed the application, swearing an affidavit in which she averred that she was at a "*complete loss*" as to the basis upon which the partners of Tully Rinckey should be joined, and characterised their proposed joinder as a further abuse of process on Ms Houston's part. An affidavit was also sworn by Conor Robinson, a partner in Tully Rinckey, stating that the statement of claim in the matter made "no identifiable allegation against [Tully Rinckey]. As a matter of pleadings, no claim is disclosed and the claim raised in the Motion against [Tully Rinckey] is therefore bad as a matter of law …" [see the judgment of Collins J., at paras. 15 to 19 [2022] IECA 289, in which the background to the matter is set out].

52. Reynolds J. dismissed the joinder application when it came before her on 3 December 2019. Her decision in this regard was upheld by the Court of Appeal; Collins J. stated at para. 59 of his judgment that "the application was devoid of any legal or factual foundation."

53. The statement of claim in the present proceedings is replete with allegations of a highly contentious nature – to put it mildly – against numerous practising barristers and solicitors. Many of these are contained in para. 28 of the statement of claim. The allegations – even if they were substantiated or well-founded – have little or no relevance to the dispute in the present proceedings. As my judgment on the dismissal application makes clear, no attempt was made in the context of that application to corroborate or stand over the many "scurrilous and outrageous" allegations made against those practitioners.

Proceedings Brought by the Plaintiff "without any reasonable ground, or …brought habitually and persistently without reasonable ground"

54. The heading above cites the criterion identified by Haughton J. in *Údarás Eitliochta* and cited at para. 30 above. Indeed, the first four criteria identified by Haughton J. are related and may be considered together.

55. The defendants rely heavily on the outcome of *Houston v. Barniville* and *Houston v. Doyle No. 3*. They assert that, in both of these sets of proceedings, there were orders dismissing or striking out the plaintiff's proceedings, "… with both Orders being upheld on appeal by the Court of Appeal and with costs Orders made against her in both proceedings which the Plaintiff asserts an inability to discharge …" [para. 20, written submissions].

56. Counsel for the defendants referred in particular in this regard to paras. 107-108 of the judgment of Twomey J. in *Houston v. Barniville*:

> "107. In relation to the numerous claims made, and the reliefs sought by Ms. Houston, the evidence provided by her is insufficient to be reasonably relied upon for any of those claims or reliefs and so, in respect of all the claims made by her, the application to dismiss is successful. This Court concludes that Ms. Houston has not made out a *prima facie* case for her claims and so dismisses these proceedings. It is difficult not to feel sympathy for the enormous toll these proceedings have taken on Ms. Houston over the past five years. However, she is not in Court seeking sympathy, she seeks damages and other court orders and as this judgment has gone against her, she may not take any notice of this Court's hope that this litigation would now come to an end to enable her to concentrate her energies on her legal career.
>
> …
>
> 108. It remains to be observed that although this Court has found that the claims made by Ms. Houston are without any merit, and so the defendants have 'won' this litigation, in reality the defendants have 'lost', since they have had to spend hundreds of thousands of euro to defend these unmeritorious claims. While any losing plaintiff, such as Ms. Houston, is likely to have costs awarded against her, Ms. Houston advised the Court that she does not have any money and that she had made the decision to file for bankruptcy and so, it is probable that the defendants will not

> recover any of their legal costs from her. In essence therefore, Ms. Houston, who appeared without solicitor or counsel, was litigating at little or no financial cost to herself, or to use a colloquial expression, she had '*no skin in the game*', while all the time inflicting at will hundreds of thousands of euro in costs on the defendants."

57. I have already referred to the disposition of the appeal in that matter by the Court of Appeal: see para. 18 above. The judgment of the Court of Appeal is severely critical of the way in which the appeal was conducted, as is clear from the dicta at paras. 21 and 24 of the judgment cited above.

58. In *Houston v. Doyle (No. 3),* the Court of Appeal upheld the decision of Reynolds J. in all respects, save in relation to her decision to impose an Isaac Wunder order against Ms Houston; that is to say, Ms Houston's appeal from the judge's decision to recuse herself, her appeal from the order dismissing the proceedings, and her appeal from the order striking out the application for joinder of the proposed Tully Rinckey defendants, were each dismissed. The Court of Appeal affirmed the High Court order as to costs awarded against Ms Houston, and in a further ruling – see [2020] IECA 316 – awarded Ms Doyle 75% of her costs of the appeal, with the Tully Rinckey parties awarded their costs of attendance at a directions hearing on 13 March 2020.

59. While the court allowed Ms Houston's appeal against the imposition of an Isaac Wunder order against her, Collins J. stated in the substantive appeal judgment as follows:

> "71. However, I would add that, as she is a barrister, Ms Houston is or ought to be well aware that she is not entitled to relitigate the issues which have been determined in the Well-charging proceedings and which she has sought to agitate again in these proceedings. Any attempt to do so – whether by way of further proceedings against Ms Doyle and/or action against Tully Rinckey – would be an abuse of process and

would clearly expose Ms Houston to a serious risk of an *Isaac Wunder* order being made against her in the future."

60. Notwithstanding these dicta, *Houston v. Doyle No. 4* involved the plaintiff challenging steps taken by the defendant to register judgment mortgages in respect of the costs orders against the plaintiff's home. The defendant had already obtained well-charging orders and an order for vacant possession on foot of these orders in *Doyle v. Houston*, and the decision of Allen J. in this regard was affirmed by the Court of Appeal: see paras. 15 to 16 above.

61. The defendant sought orders striking out the proceedings, and this application was granted by Kennedy J.: see paras. 13 to 14 above. The court noted that the plaintiff had unsuccessfully defended well-charging proceedings, both in the High Court and on appeal, and that the plaintiff had "repeatedly been refused leave to appeal related issues to the Supreme Court", and noted that "the Plaintiff [had] also previously issued proceedings ventilating essentially the same issues, which were struck out by the High Court as a collateral attack on previous court orders, a decision affirmed by the Court of Appeal, with the Supreme Court refusing leave to appeal once again." This was a reference to *Houston v. Doyle No. 3*, in which Collins J. stated at para. 54 of his judgment:

> "54. The Judge [i.e. Reynolds J.] concluded that these proceedings amounted to a collateral attack on the costs orders. That conclusion was inevitable, in my view. They are also a collateral attack on the judgment mortgages registered against Ms Houston's property in Co. Kildare and on the orders made in the Well-charging proceedings. Insofar as the pleadings disclose any grounds for Ms Houston's challenge to the orders and the judgment mortgages, those grounds appear to be the same as those on which she unsuccessfully defended the Well-charging proceedings against her. While "duress" does not appear to have been argued in the Well-charging

> proceedings, at least in explicit or identifiable terms, it does not at all follow that Ms Houston could properly rely on a duress claim in these proceedings, having regard to the principle in *Henderson v Henderson* (1843) 3 Har 100. That principle would appear to apply with more than usual force in the circumstances here. In any event, no claim of duress is in fact made in these proceedings nor is there a scintilla of evidence to support any such claim before the Court."

62. Kennedy J. addressed the plaintiff's objections to the registration of the judgment mortgages, stating that "I do not believe that her objection could justify these proceedings in any event. Any such point could and should have been made in the Well-Charging Proceedings…" [para. 37]. At para. 39, the court concluded as follows:

> "39. Accordingly, I am satisfied that all claims in these proceedings are precluded by the doctrine of *res judicata* (and/or the rule in *Henderson v Henderson*) and are frivolous, vexatious, bound to fail and an abuse of process for that reason, and because they constitute an impermissible collateral attack on previous judicial determinations. Clearly, if there were evidence to suggest falsification or forgery of documents the position would be different. However, there is no evidence before the Court, nor any matter properly raised in submissions to suggest any basis for such contention."

<u>"Rolling forward of issues in a subsequent action"</u>

63. In *Údarás Eitlíochta,* Haughton J. endorsed the identification by MacMenamin J. of "[T]he rolling forward of issues into a subsequent action…" as a factor which might justify the imposition of an Isaac Wunder order. The foregoing matters, involving collateral attacks on the findings and orders made in *Doyle v. Houston* in relation to the well-charging orders, illustrate how the plaintiff refuses to accept the decision of the court and has mounted successive collateral attacks against those orders; as the third feature identified by

MacMenamin J. puts it, "…[T]he bringing up of actions to determine an issue already determined by a court of competent jurisdiction, when it is obvious that such action cannot succeed, and where such action would lead to no possible good or where no reasonable person could expect to obtain relief" [cited at para. 30 above].

64. In *Houston v. Doyle No. 3*, the judgment of the Court of Appeal was delivered on 22 October 2020. The court allowed Ms Houston's appeal against the imposition of an Isaac Wunder order by Reynolds J. Notwithstanding that the appeal process had vindicated Ms Houston's stance on this issue, Ms Houston sought in the present proceedings – and in particular, in the statement of claim delivered on 27 October 2022 – to agitate the issue, making it perhaps the most prominent of many complaints against the first named defendant.

65. In my judgment on the dismissal application in the present proceedings, I found at para. 97 that the allegations made by the plaintiff:

> "…have no sustainable basis. The plaintiff availed of her right to appeal the first defendant's orders; it was open to her to raise any issue relating to the conduct by the first defendant of the various hearings. Her appeal was unsuccessful in all but one respect; the Court of Appeal overturned the first defendant's *Isaac Wunder* order, and this was reflected in the costs order made by the Court of Appeal: see [2020] IECA 316. I am satisfied that these were orders made in the normal course of litigation, and do not give rise to a cause of action in favour of the plaintiff."

66. In particular, I held that the orders of Reynolds J., including the Isaac Wunder order, were not capable of giving rise to a cause of action against the first named defendant, "…particularly in circumstances where the Court of Appeal heard and determined the appeal of the orders of [Reynolds J.], partially in the plaintiff's favour. Such claims are vexatious and an abuse of process" [para. 100]. The decision of the Court of Appeal was the end of the

matter; the "rolling forward" of these issues into the present proceedings was entirely improper.

Failure to Pay Costs

67. The final point noted by MacMenamin J. and endorsed by Haughton J. in *Údarás Eitlíochta* related to "[A] failure on the part of a person instituting legal proceedings to pay the costs of successful proceedings in the context of unsuccessful appeals from judicial decisions."

68. Twomey J. addressed this aspect in some detail in his judgment in *Houston v. Barniville*, particularly at paras. 108 to 120, suggesting at para. 121 that "…[I]n the absence of any law which makes it financially unattractive for impecunious plaintiffs to take unmeritorious claims, it seems that the only way in which a defendant can stop an impecunious plaintiff, such as Ms. Houston, with unmeritorious claims, from inflicting further financial loss on them is by seeking an Isaac Wunder Order preventing that plaintiff taking any further proceedings, without court approval …", although the court did not make such an order in the absence of an application in that regard.

69. There is no suggestion that the plaintiff has satisfied any of the numerous costs orders against her, or that she has the means to do so. In her appearance before Cregan J. in the present proceedings on 20 April 2023, the plaintiff asserted an inability to afford stamp duty for motion in the proceedings, as the transcript for that date shows. She has repeatedly launched collateral attacks against the orders deeming well-charged the judgment mortgages registered against her. All of this gives rise to a legitimate concern that the imposition of the costs orders are no deterrent to the plaintiff issuing further proceedings which may seek to relitigate issues already determined in earlier proceedings.

"Further litigation is likely to ensue that would clearly be an abuse of process"

70. The propensity of the plaintiff in the past to relitigate matters to which I have referred above would not inspire confidence that she would refrain from doing likewise in the future. At para. 35(c) of their written submissions, the defendants make the following points: -

(i) the plaintiff has on a number of occasions indicated an intention to commence a further action for defamation against Reynolds J., the defendants cite oral submissions to Cregan J. made by Ms Houston in October 2022 in this regard;

(ii) notwithstanding that the Court of Appeal on 30 November 2020 noted at para. 17 of its judgment in *Houston v Barniville* that Ms Houston had not "at least to date, sued the Benchers of the Kings Inns…", and that the court's finding that the five sets of consolidated proceedings had been correctly dismissed, the plaintiff – less than a month later, on 23 December 2020 – commenced a further action against the trustees, benchers and Council of the Honourable Society of Kings Inns (Record No. 2020/8656P);

(iii) the plaintiff has since the issue of the present motion issued proceedings against 23 judges past and present, including the first defendant (*Houston v Denham*, Record No. 2023/1456P). By letter of 14 April 2023, Ms Houston wrote to the Chief State Solicitor's Office to serve a copy of the plenary summons in those proceedings, and stated "...[K]indly note that the issues in respect of Leonie Reynolds are the same as those under High Court Record No 2020/8318P", *i.e.*, the present proceedings in which, as a result of this Court's judgment in the dismissal proceedings, any such issues have been dismissed as an abuse of process.

71. During the course of writing this judgment, the court was informed of the issue of further proceedings: *Houston v Holland & Ors.* (High Court Record No. HP 2025 No. 224). Among the defendants are seven sitting and former judges of the High Court and the Court of

Appeal, the Courts Service, a court official, Ireland, the Minister for Justice and the Attorney General, Wendy Doyle practising as Wendy Doyle Solicitors, the partners of Brennan & Co., LLP, and a junior counsel engaged by Ms Doyle in the various *Houston v Doyle* matters. The plenary summons sheds little light on what causes of action are alleged against the various defendants.

"Scurrilous and outrageous statements"

72. At para. 132 of her judgment in *Kearney v. Bank of Scotland plc*, Whelan J. noted that regard could be had to the nature of the allegations advanced "and in particular where scurrilous or outrageous statements are asserted…". Collins J. referred to this issue at para. 33 of his judgment in *Houston v Doyle* No. 3: see para. 42 above. Notwithstanding these comments, Ms Houston delivered a statement of claim over two years later in *Houston v Reynolds* in which the plaintiff repeatedly made scurrilous and outrageous statements, not just about the first named defendant, but about a wide range of individuals who had no connection whatsoever with the proceedings. Statements of this nature were made in relation to Reynolds J. and Cregan J. repeatedly in correspondence between the plaintiff and the Chief State Solicitor's Office.

73. Given the conduct of Ms Houston in this regard in the past – and in particular, given her stated intention to re-litigate the issues raised in the present proceedings in respect of the first named defendant in the *Houston v Denham* proceedings – one could have little confidence that Ms Houston is likely to moderate her behaviour to eschew the making of such scurrilous and outrageous statements in the future.

Conclusions on the Application of Principles to the Facts

74. On the basis of the evidence presented to the court and an examination of the various pleadings, judgments, orders, correspondence and transcripts relating to the various

proceedings initiated by Ms Houston, I conclude that the circumstances amply justify the imposition of an Isaac Wunder Order in the terms sought by the defendants.

75. To a large extent, the plaintiff has not engaged with the arguments made by the applicants. It would have been open to the plaintiff to put evidence before the court to show that the various proceedings which the plaintiff has initiated but not prosecuted were brought *bona fide* and in pursuance of a legitimate objective. The plaintiff has not done so. In such circumstances, the inference that the plaintiff will, if left unchecked, continue the existing pattern of pursuing frivolous and vexatious litigation is inescapable.

76. The courts have repeatedly emphasised that the court − as Noonan J. put it in *Fitzsimons,* quoted at para. 28 above – "must also have regard to protecting its own processes from abuse, which result in scarce court resources being wasted to the detriment of other parties with genuine claims." Collins J. states at para. 64 of his judgment in *Houston v Doyle No. 3* – quoted at para. 29 above – that "there is an important *public* interest in avoiding limited court resources being taken up in dealing with such claims …" [emphasis in original].

77. The effect of an Isaac Wunder order was most recently set out by the Court of Appeal (Meenan J.) in *Ulster Bank Ireland DAC & Ors. v McDonagh & Ors*. [2024] IECA 276 in the following terms:

> "An *Isaac Wunder* order requires the person subject to it to seek the leave of the court before instituting any proceedings or applications against any of the persons listed in the order or in relation to the subject matter with which it is concerned. It does not prevent the institution of proceedings *per se*, rather it imposes a screening mechanism to ensure that the party for whose benefit it is made is not subjected to further vexatious proceedings. Clearly if a person subject to an *Isaac Wunder* order can satisfy a court that they have a *bona fide* cause of action, the court will grant leave for the institution of proceedings reflecting that cause of action. Further, the existence of

an *Isaac Wunder* order does not impose any restriction on the defence of proceedings by the person subject to it, whether those proceedings are in being at the time of the making of the order or are issued subsequently" [para. 27].

78. In the present case, the conduct of the plaintiff, in particular in repeatedly issuing proceedings without any reasonable grounds; seeking to re-litigate or "roll forward" matters or issues which have been conclusively determined; making scurrilous and outrageous allegations which have no foundation, often against persons who are not parties to the litigation or have no connection with it; making repeated and unjustified applications to judges to recuse themselves; and in circumstances where the plaintiff acknowledges that she does not have the resources to discharge any of the costs orders made against her, justifies the granting of an order which will act as a "screening mechanism" and ensure that the plaintiff will litigate in future only *bona fide* causes of action which do not involve any of the aforesaid abuses of the courts' system.

Matters Raised by the Plaintiff

79. A number of issues were raised by the plaintiff in her written submissions, her affidavit sworn on 18 December 2024 and her oral submissions to the court on 19 December 2024.

I. The Standing of the Applicants

80. The affidavit sworn by the plaintiff on 18 December 2024 is mainly concerned with allegations that the applicants "have no standing at all" [paras. 3 and 7]; "[E]ach action of which [the applicants] complain is a private action and the applicants have no role. The application is an abuse of power by the applicants for the benefit of their allies and supporters…" [para. 4]; and "…the motion is an abuse of process…" [para. 10].

81. As the caselaw makes clear, the power of the court to make Isaac Wunder orders derives from the court's obligation to defend its own processes from abuse, and the public

interest in avoiding limited court resources being taken up with dealing with frivolous and vexatious claims.

82. The applicants are parties to the present proceedings, and are among the parties in the schedule to the notice of motion against whom it is sought to restrain the plaintiff from issuing proceedings without the leave of the President of the High Court or a judge of the High Court nominated by him. The applicants already have in their favour an order dismissing the present proceedings as an abuse of process, and as we have seen, are defendants in other proceedings issued but not prosecuted by the plaintiff.

83. It is certainly the case that the applicants seek orders in favour of categories of persons or entities who are not parties to the present proceedings. However, the applicants argue that the detailed circumstances of the litigation pursued by the plaintiff over numerous proceedings and over a period of many years as set out above warrants the making of the orders sought for the specific purposes for which the courts have consistently held the making of Isaac Wunder orders to be justified: the protection of court processes from abuse and the avoidance of waste of limited court resources. The applicants argue that the reliefs sought are proportionate in the circumstances. Moreover, the applicants' position is that they are entitled to bring the application, and do not require to obtain the consent of all parties who will benefit from the order, such as all judges and legal practitioners.

84. In my view, the applicants are uniquely placed to prosecute the present application, and are entitled to do so. They are parties to the present action, but are in any event directly and closely concerned with the operation of the administration of justice, and the protection of the courts system from abuse. They are entitled to bring to the attention of the court the institution of proceedings by the plaintiff in the past which constituted an abuse of process, and the circumstances that suggest a probability of the plaintiff perpetrating an abuse of the

court's processes in the future. They are also entitled to seek appropriate orders to address the anticipated abuse.

85. The submission by the plaintiff that the applicants have no standing because they have not sought the consent of every judge and legal practitioner in the country to the application is entirely without foundation. The evidence before this Court establishes to my satisfaction that the plaintiff has pursued frivolous and vexatious proceedings against judges and legal practitioners in the past, and is likely to do so again.

86. It is important to emphasise that the application is not being made on behalf of the categories of persons or entities in the schedule to the notice of motion, and therefore does not require their consent. The applicants seek orders to protect the courts system from vexatious proceedings which are an abuse of the process of the court. It is the activities of the plaintiff which necessitate the making of those orders.

87. It must be emphasised that the orders sought do not prevent or prohibit the plaintiff from issuing proceedings against the categories of persons or entities in the schedule to the notice of motion. If the order is made, the plaintiff will require to seek the leave of the President of the High Court or a judge nominated by him to issue such proceedings. What is at issue is, as Meenan J. put it in *Ulster Bank v. McDonagh*, a "screening mechanism to ensure that the party for whose benefit [the order] is made is not subjected to further vexatious proceedings." Applications for leave to initiate proceedings are not uncommon; an applicant must apply to the court for leave for judicial review pursuant to Order 84 of the Rules of the Superior Courts. A person must apply for leave to commence a derivative action – i.e. a claim made on behalf of a company rather than by the company itself - and must adhere to the procedures set out in Order 15, Rule 39 of the Rules of the Superior Courts in this regard.

88. If the order sought were made, and if the plaintiff were subsequently – for example – the innocent victim of a road traffic accident and wished to issue proceedings for personal injury against the negligent party, there would be no impediment to her doing so, unless the perpetrator came within one of the categories set out in the schedule to the notice of motion. In the latter case, one assumes that the *bona fides* of the proceedings would be recognised, and that directions for leave to issue such proceedings would be a formality. However, the need for a screening process is due entirely to the activities of the plaintiff. It may be the case that the category of "any member of the legal profession, including any person who is or was a practising barrister or solicitor" is widely drawn; however, the applicants cannot be expected to set out all the circumstances in which leave might be required, or not, as the case might be. It is unreasonable to expect the applicants to anticipate the circumstances in which the plaintiff may decide to launch further litigation against legal practitioners. If it can be readily demonstrated by the plaintiff that proposed proceedings against a legal practitioner are *bona fide*, the leave of the court to initiate the proceedings will be granted and the plaintiff is then free to prosecute those proceedings as she sees fit.

II. <u>Preliminary Reference</u>

89. At para. 13 of her affidavit, the plaintiff avers as follows:

> "The Court has no jurisdiction to make the Orders sought. I request a preliminary reference to the Court of Justice of the European Union as to whether so-called [Isaac] Wunder Orders are permitted to be made by Judges who are sitting as European Judges of local jurisdiction. As the Court is sitting as [a] European Court and is being asked to deny and remove guaranteed EU law rights and is a Judge and therefore an intended beneficiary of the application, it **<u>must</u>** make the reference" [emphasis in original].

90. In the course of the dismissal application, I was asked by the plaintiff to make a reference to the European Court of Justice (ECJ). At paras. 105 to 109 of my judgment, I dealt with that application and set out the reasons for my refusal. Those reasons are equally applicable to the application for a reference as set out above. I do not consider that a reference to the ECJ is necessary to enable me to give judgment; no coherent basis or rationale was advanced by the plaintiff to support the argument that a reference was necessary to enable the court to give judgment.

91. In the course of oral submissions, Ms Houston resiled from the proposition implicit in para. 13 of her affidavit that, as one of the persons covered by the categories in the proposed order, I was obliged to make a reference to the ECJ in the terms suggested: see transcript day 2, pp. 10 to 11.

92. This Court has a discretion whether or not to make a reference to the ECJ; in all the circumstances, I do not propose to exercise my discretion to do so.

III. Disapplying National Rules which Conflict with EU law

93. In her written submissions, the plaintiff stated at para. 5 that "the Court is asked to disapply each and all rules of the Superior Courts that permit the restriction and/ or discriminatory application of access to justice including but not limited to GDPR on the grounds that such rules are not in compliance with European law." Ms Houston developed this theme, and cited authorities in support of it, at paras. 5 to 6 of those submissions.

94. However, if it were to be inferred that Ms Houston was asking the court to disapply principles relating to Isaac Wunder orders – and it was entirely unclear to me that this was indeed what she was asking – no basis whatsoever was set out for the contention that Isaac Wunder orders are in breach of EU law, or that the Irish Courts are not entitled to make balanced and proportionate orders to protect their own processes.

95. At para. 2 of her affidavit, Ms Houston averred as follows:

> "I assert my guaranteed EU law rights including Article 47 of the Charter of Fundamental Rights of the European Union and Article 19(1). These have been engaged from the moment the within proceedings issued. At all times, each court has been sitting as a European Court of local jurisdiction and has been obliged to comply with European Law."

96. As counsel for the applicants points out, Article 47 – which relates to the right to an effective remedy and to a fair trial – is addressed to Member States only when they are implementing Union law in accordance with Article 51(1) of the Charter. In any event, no deprivation of any such right has been established by the plaintiff. The reference to "Article 19.1" is not understood, and does not appear to have been developed in argument by Ms Houston.

Fair procedures

97. I should say that a conspicuous feature of both the present application and the dismissal application was the scrupulous insistence on the part of the applicants that Ms Houston be given every opportunity to meet the applications. No objection was taken by the defendants when deadlines for submission of affidavits or submissions were missed or ignored by Ms Houston. Her affidavit was, in breach of the directions of the court, delivered the day before the resumption of the hearing on 19 December 2024; the defendants raised no difficulty with this, but addressed the points made in the affidavit in their oral submissions. A number of adjournments of the resumed date were sought by Ms Houston on the grounds of ill health; the defendants readily acceded to such applications. At all times Ms Houston was treated with consideration and courtesy by her opponents, and I believe also by the court.

Conclusion

98. I consider the relief sought at para. 1 of the notice of motion and quoted at para. 1 of this judgment to be balanced and proportionate in all the circumstances, and I will make an

order in those terms in relation to the categories of persons and entities at (a) to (e) of the Schedule to the Notice of Motion.

99. My preliminary view on costs is that the applicants are entitled to their costs, to be adjudicated in default of agreement. I will however give the parties a period of 10 days from delivery of this judgment should they seek to argue that I should make any further or other order. On receipt of those submissions, I will make my order without further reference to the parties unless I consider that a brief hearing to address the terms of the orders is necessary, in which case the parties will be informed.