



**THE SUPREME COURT**

**[Appeal No: 217/2019]**

**Clarke C.J.  
O'Donnell J.  
MacMenamin J.  
Dunne J.  
Charleton J.**

**Between/**

**John Gibbons**

**Plaintiff/Appellant**

**and**

**Daniel Doherty and ADT Investments Limited**

**Defendants/Respondents**

**Ruling of the Court, delivered on February 8<sup>th</sup> 2021.**

1. The Court gave judgment in this matter on December 11 of last year. For the reasons set out in the judgment of MacMenamin J., the defendants/respondents succeeded and have now substantially been successful in defending the proceedings. As is usual practice in current conditions, the judgment of the Court was delivered to the parties electronically and published on the Court's website. Thereafter, any issues arising concerning costs or the form of the court order are normally dealt with by written submissions together with an oral hearing if that is considered necessary. In that context the defendants/respondents have filed submissions in which they seek the full costs of the proceedings across all three jurisdictions.

2. However, disputes have arisen between the plaintiff/appellant ("Mr Gibbons") and his solicitors ("Eugene F Collins") which have now led the Eugene F Collins bringing an application before the Court seeking to come off record. The basis for that application is that it is said that the relationship between that firm and Mr Gibbons has broken down. Mr Gibbons contests the application. Counsel for the defendants/respondents had no objection to the application but did emphasise a desire to have the issue of costs dealt with within a reasonable timeframe.

3. The disputes which have arisen between Mr Gibbons and Eugene F Collins concern the payment of fees. It should be recorded that the legal team which acted on behalf of Mr Gibbons (being Eugene F Collins and counsel instructed by them) appeared on behalf of Mr Gibbons in his initial appeal to the Court of Appeal on the basis that they would not be paid unless the appeal was ultimately successful and costs were awarded in favour of Mr Gibbons. Counsel had also acted (on the instructions of different solicitors) in the High Court on a similar basis.

4. However, when a further appeal to this Court came about, the same legal team indicated that they were unwilling to continue to act on that basis and correspondence was entered into which would appear to establish an agreement on the part of Mr Gibbons to pay fees to his legal team on a specified basis. The underlying issue which has arisen between Mr Gibbons and his lawyers stems from what is said to be a failure on that part of Mr Gibbons to comply with the agreed terms. On that basis Eugene F Collins wrote to Mr Gibbons indicating that they did not wish to provide further services to him or to act further in these proceedings. In turn, Mr Gibbons suggested that he might complain Eugene F Collins to the Legal Services Regulatory Authority if they did not continue to act.

5. It is unfortunate that these issues have arisen between Mr Gibbons and his lawyers but the Court has no option but to conclude that the relationship has now broken down to an extent that it would not be appropriate for the Court to insist on Eugene F Collins continuing to act in circumstances where there is at least an arguable case that previously agreed terms for their acting on the substantive appeal to this Court were not met by Mr Gibbons. In those circumstances the Court will make the order sought on behalf of Eugene F Collins to come off record.

6. However, the Court is mindful of the need to bring this appeal to finality. The Court will, therefore, fix March 18 for the hearing of all issues relating to the costs of these proceedings. That date is peremptory and will not be adjourned. The Court does note that Mr Gibbons should be free, if he so wishes, to seek to engage the services of any other lawyers with whom he may be able to agree terms. It is important to emphasise that, in the light of the peremptory nature of the fixing of the date for the hearing of the costs application, any steps which Mr Gibbons may wish to

take in order to secure such services should be taken immediately so as to enable any new legal team he may wish to engage to be in a position properly to deal with the costs application of March 18.

7. To ensure the smooth conduct of that hearing, the matter will be put in for mention on Monday March 1, before MacMenamin J. to ascertain the up to date position. In order that the questions to be considered by the Court on March 18 are as clear as possible, it will be necessary for Mr Gibbons, either by himself or through such other legal team as he may instruct, to file written submissions setting out his position on the costs issues not later than March 10.

8. In summary, therefore, the Court will make the order sought by Eugene F Collins on the motion which is before the Court and which is to the effect that they may come off record. The Court will put the question of costs in for mention on March 1, will direct written submissions on the part of Mr Gibbons or such new legal team as he may instruct, by March 10 and will peremptorily fix March 18 for the hearing of the costs issues.