

THE HIGH COURT

[2023] IEHC 237

2020 No. 7098P

BETWEEN

ALAN MOYNE

PLAINTIFF

AND

**SAM TODD, EUGENE F COLLINS SOLICITORS, PAUL DEMPSEY, ABIGAIL
BUTLER, MARK WALSH, AILISH COLGAN, KARL SMITH, PATRICK MABRY
and STEVE RODGERS**

DEFENDANTS

JUDGMENT of Ms. Justice Eileen Roberts delivered on 5 May 2023

Introduction and background

1. The plaintiff is a lay litigant who, on 20 October 2020, issued these proceedings against the defendants. The first named defendant is a barrister-at-law who represented his client Tanager DAC in Circuit Court proceedings Record no. 2015/00325 (the “**Circuit Court Proceedings**”) in which Tanager DAC seeks possession of property owned by the plaintiff and his wife, Elena Moyne. The second named defendant is the firm of solicitors who acted for Tanager DAC in the Circuit Court Proceedings. The third, fourth and fifth named defendants are partners in the second named defendant firm. The

sixth, seventh and eighth named defendants are sued as directors of Tanager DAC. The Circuit Court Proceedings are ongoing.

2. The present proceedings allege that the defendants, *“each acting individually, together collectively in collusion”*, conducted themselves in the Circuit Court Proceedings in a manner intended to damage the plaintiff’s good name and standing in the eyes of the Court and thereby defamed him contrary to the Defamation Act 2009. It is specifically pleaded in the plenary summons that the first named defendant was instructed to and did

“produce an altered copy and/or utter instrument (D2004XSO16529N of folio WH24905F) to have been altered and produce same in open public court with the intention to defame and cause damage to the good name and standing of the plaintiff in the eyes of the Court, the public and community to which the plaintiff belongs.”

It is further pleaded that in the Circuit Court Proceedings the plaintiff was accused by the first named defendant, on instructions from the other defendants,

“of suppression and failure to produce evidential material, alteration of statutory instrument..., use of a false instrument, making a copy of said instrument by forgery and alterations to create a false instrument and exhibiting same under oath as an exhibit attached to a sworn affidavit of 6th March 2019 with the intent to commit perjury and perverting the course of justice...”.

3. The plaintiff pleads that these actions were carried out by the defendants with the intent to damage the reputation of the plaintiff *“by making statements of malicious falsehoods in a public place by making accusations of criminal acts”*. The plaintiff claims damages

against the defendants for defamation, malicious falsehood, loss of reputation and breach of constitutional rights.

4. The plaintiff delivered his statement of claim on 28 February 2022 in which the particulars of wrongdoing alleged against the defendants are set out in more detail. It is alleged specifically that the alleged defamation occurred at Mullingar Circuit Court on 7 November 2019. It is pleaded that the defendants made “*deliberate defamatory statements*” and that same “*were entirely separate and discrete from the net issue before the Court, that being the plaintiff’s application for the DAR*”.
5. Appearances were filed on 21 October 2021 and 8 April 2022 by AMOSS LLP who is now acting for all defendants and also now for Tanager DAC in the Circuit Court Proceedings. A defence was delivered 18 May 2022 on behalf of all defendants. It pleads that the plaintiff’s claim fails to disclose a reasonable cause of action, is frivolous, vexatious and bound to fail. It pleads that the plaintiff’s claim for damages is one that cannot succeed because the defendants have the full defence of absolute privilege pursuant to section 17(2)(g) of the Defamation Act 2009, as the first named defendant was acting in his role as a legal counsel during the course of proceedings presided over by a Judge when the material complained of was uttered and/or published. The allegations themselves are also denied in full. The defendants plead that all statements to the court were accurate and made in good faith.

The motion before this court

6. The motion before this court is the defendants’ motion issued on 10 May 2022 in which the defendants seek to strike out these proceedings either pursuant to Order 19, rule 28 of the Rules of the Superior Courts as being frivolous or vexatious and/or disclosing no cause of action or in the alternative pursuant to the court’s inherent jurisdiction as being

an abuse of process and bound to fail. The defendants also seek an order restricting the plaintiff from bringing further proceedings relating to the same subject matter without leave of the President of the High Court – in essence an *Isaac Wunder* Order.

The defendants' submissions

7. The defendants say that these proceedings are for defamation. While reference is made in the plenary summons to damages for malicious falsehood and loss of reputation, they submit these claims must come within the scope of a claim for defamation. I agree. The plaintiff also claims a breach of his constitutional rights but fails in the proceedings to identify the constitutional rights which he claims have been breached.
8. The defendants say that the plaintiff's grievance arises out of submissions or statements made by the first named defendant in the Circuit Court Proceedings, in open court during the conduct of the Circuit Court Proceedings at a hearing on 7 November 2019. The claim against the remaining defendants appears to be founded on an allegation that some or all of those defendants instructed or caused the first named defendant to make those submissions to the Circuit Court.
9. The detailed circumstances of the statements made to the Circuit Court are stated by the defendants to have arisen during the course of the Circuit Court Proceedings when an application was made by the plaintiff to Judge Johnson sitting in the Circuit Court in Mullingar for a copy of the DAR of the hearing which had taken place before the same judge on 30 July 2019. At that earlier hearing, Judge Johnson had adjourned the proceedings to a callover listed for 6 November 2019. The plaintiff had appealed against the making of that order and sought a copy of the DAR in aid of his appeal. The first named defendant, during the course of that application by the plaintiff, drew the attention of Judge Johnson to a discrepancy between two versions of a land registry

instrument concerning the property the subject of the Circuit Court Proceedings. In his affidavit sworn on 9 May 2022 grounding this motion, the first named defendant explains that a version of the instrument exhibited by the plaintiff was incomplete and, in particular, that two pages identifying the plaintiff and his spouse as owners of the property had been omitted from the version exhibited by the plaintiff. The first named defendant indicated to the Circuit Court that this omission was material to the matters at issue in the Circuit Court Proceedings as the plaintiff had denied any interest in the property and that this omission appeared to favour the plaintiff. This submission to Judge Johnson is the statement which the plaintiff alleges was defamatory of him.

10. The defendants do not deny the publication. However, they deny that it was defamatory. Furthermore, they rely on the defence of absolute privilege pursuant to section 17(2)(g) of the Defamation Act 2009 as they say that the first named defendant was clearly acting in his capacity as counsel during the course of the Circuit Court Proceedings, presided over by a Judge performing a judicial function, when the material complained of was uttered and/or published. In those circumstances the defendants say the plaintiff's claim is bound to fail and should now be struck out.
11. In relation to the *Isaac Wunder* order, the defendants submit that the plaintiff's conduct warrants the making of such an order restraining him from issuing any further proceedings against these defendants relating to the same issues without leave of the High Court. The defendants say there is no legitimate basis upon which the plaintiff could ever have cause to issue proceedings against the defendants as lawyers and directors. They refer to the decision of Dignam J in *Towey v Government of Ireland* [2022] IEHC 559 as supporting their position regarding proceedings issued against legal representatives of parties. I will deal with this aspect later in this judgment. The defendants argue at para 28 of their submissions that these proceedings are an

“outrageous action...brought to embarrass and intimidate Tanager DAC’s legal advisers and officers”. The defendants acknowledge that *Isaac Wunder* orders are generally granted where there has been a pattern of repeated abusive proceedings. This is the first set of proceedings by the plaintiff against the defendants but the defendants say the court should have regard to the abusive nature of these proceedings and the fact that the plaintiff has continued with the proceedings despite the defence of absolute privilege having been explained to him. The defendants also refer to criminal complaints made by the plaintiff to the Gardaí concerning the defendants’ conduct. The defendants point out that granting such an order would not in any way preclude the plaintiff from defending the Circuit Court proceedings.

The plaintiff’s submissions

12. The plaintiff submits that the first named defendant in his exchanges with the Circuit Court made no reference to “missing pages”. Referring to the transcript of the DAR from the hearing on 7 November 2019, the plaintiff notes that the first named defendant stated in the Circuit Court that the plaintiff had *“exhibited an altered copy that landed squarely in his favour”*. Furthermore, the first named defendant advised the Circuit Court that the copy of the instrument he had was different to the copy of this instrument exhibited by the plaintiff on affidavit and that *“the only differences relate to areas where his name appears as purchaser of the property.”* The plaintiff also denies that the relevant pages were in fact missing in any event from the original exhibit AM01/G which he served on the second named defendant. He was, however, unable to produce that original exhibit to this court. Even if some of these pages were missing, the plaintiff says this was obvious on the face of the document and that the pages in question bore no reference to him or his spouse as owners of the property. The

statements made by the first named defendant were, on the plaintiff's case, therefore untrue and defamatory. The plaintiff complains that he was not advised in advance by the defendants that there was any issue with the exhibit to his affidavit and that had he been, he may have been in a position to address matters. Instead the defendants brought the matter to the attention of the Circuit Court Judge without any prior warning. The plaintiff says this was deliberate and designed to increase the level of damage to his reputation. In his affidavit grounding the application to dismiss these proceedings, the plaintiff argues that in fact the first named defendant, on the authority of all defendants, has committed offences contrary to the provisions of the Criminal Justice (Perjury and Related Offences) Act 2021.

13. The plaintiff also argues that there can be no privilege maintained in respect of a document once it has been referred to in pleadings or affidavits. However, this particular line of argument confuses the concept of "legal professional privilege" (which is generally waived or lost once this material is published or deployed in court) with the concept of "absolute privilege" which is an entirely different form of privilege altogether and operates as a defence to a claim in defamation.
14. The plaintiff maintains that the absolute privilege referred to in section 17(2)(g) of the Defamation Act 2009, is "*overridden by express language of Statue, Criminal Justice (Perjury and Related Offences) Act 2021*". He refers to the statutory definition of perjury set out in that 2001 Act and submits that it is in the public interest that officers of the court are held to the highest standards "*and are not enabled to deceive the courts in oral submissions or written affidavit nor instruct counsel to do so*". He says that if any statement is proved to be false, misleading and perjurious contrary to the Criminal Justice, (Perjury and Related Offences) Act 2021 that any claim of privilege, absolute or otherwise is "*summarily dissolved by statute*".

15. In relation to the claim for an *Isaac Wunder* order, the plaintiff disputes the defendant's entitlement to same. He says that the making of criminal complaints by him was obligatory under section 19 of the Criminal Justice Act 2011.. He did so because of his belief that the defendants were in possession of an altered copy of the relevant instrument and attempted to use same to pervert the course of justice. He also says that he was required to complain about the altered instrument held by the defendants under section 21 of the Criminal Justice (Theft and Fraud Offences) Act 2001. He submits at paragraph 39 of his submissions that "*it is absurd proposition that any person should fear the admonishment by a Civil Court for reporting the suspicion of a criminal offence, which that person reasonably believes has taken place*".

16. Finally, the plaintiff states that he

"has been accused in the Circuit Court (publicly) of a criminal offence regarding the alteration of the statutory instrument, with no opportunity of response in the true course of justice, violating this plaintiff's Constitutional rights, Article 4.3.2, Article 38, and Article 6 European Convention of Human Rights".

Analysis

The Application to Dismiss – principles to apply

17. There is well established jurisprudence in relation to applications to strike out proceedings prior to trial. The jurisdiction to dismiss or strike out proceedings derives both from Order 19, rule 28 of the Rules of the Superior Courts and as part of the court's inherent jurisdiction. Proceedings can be struck out where the pleadings on their face disclose no reasonable cause of action. In addition, proceedings can be struck out where they are frivolous or vexatious or where it is clear that the plaintiff's claim must fail and so a defendant should not be required to defend it and the resources of the

courts should not be taken up with advancing such matters. Recognising however, that at this stage of the proceedings there is an incomplete amount of evidence before the court, a court must view the plaintiff's claim at its height) to ensure there is no injustice in striking out proceedings before the plaintiff has the opportunity to present his claim fully at an oral hearing. The jurisdiction was explained by Clarke J (as he then was) in *Lopes v Minister for Justice* [2014] IESC 21, [2014] 2 IR 301 where he stated at para 17:

“An application under the RSC is designed to deal with a case where, as pleaded, and assuming that the facts, however unlikely that they might appear, are as asserted, the case nonetheless is vexatious. The reason why...an inherent jurisdiction exists side-by-side with that which arises under the RSC is to prevent an abuse of process which would arise if proceedings are brought which are bound to fail even though facts are asserted which, if true, might give rise to a cause of action. If, even on the basis of the facts as pleaded, the case is bound to fail, then it must be vexatious and should be dismissed under the RSC. If, however, it can be established that there is no credible basis for suggesting that the facts are as asserted and that, thus, the proceedings are bound to fail on the merits, then the inherent jurisdiction of the court to prevent abuse can be invoked.”

18. Clarke J further stated at para 19 in *Lopes* that

“In order to defeat a suggestion that a claim is bound to fail on the facts, all the plaintiff needs to do is to put forward a credible basis for suggesting that it may, at trial, be possible to establish the facts which are asserted and which are necessary for success in the proceedings.”

19. The plaintiff referred to the judgment of Clarke J in *Moylist Construction Limited v Doheny* [2016] IESC 9, [2016] 2 IR 283 which emphasises the caution that a court should exercise when dealing with a strike out application. I fully accept that position. Clarke J stated at page 288, para 8 (approving his earlier judgment in *Keohane v Hynes* [2014] IESC 66):

“... all of the jurisprudence emphasises that the jurisdiction is to be sparingly exercised and only adopted when it is clear that the proceedings are bound to fail rather than where the plaintiff’s case is very weak or where it is sought to have an early determination on some point of fact or law. It is against that background that the extent of the court’s entitlement to look at the facts needs to be judged”.

20. The question I must ask in considering the strike out application therefore is not whether the plaintiff would succeed at trial (as this would necessarily involve me making some evaluation of evidence which, at this time is incomplete) but rather asking whether the plaintiff could possibly succeed if he was allowed to proceed to trial, assuming he could establish the facts he alleges. This is the basis on which I consider the present application.

The defence of absolute privilege in defamation proceedings

21. In the present case, it is necessary to consider in some detail the defence of absolute privilege in defamation proceedings and in particular the circumstances in which that defence is relied on by the defendants.
22. Absolute privilege is provided for in section 17 of the Defamation Act 2009 which states, where relevant, as follows:

“(1) It shall be a defence to a defamation action for the defendant to prove that the statement in respect of which the action was brought would, if it had been

made immediately before the commencement of this section, have been considered under the law in force immediately before such commencement as having been made on an occasion of absolute privilege.

(2) ...without prejudice to the generality of subsection (1), it shall be a defence to a defamation action for the defendant to prove that the statement in respect of which the action was brought was—

...(g) made by a party, witness, legal representative or juror in the course of proceedings presided over by a judge, or other person, performing a judicial function...”.

- 23.** The defendants rely on the decision of the Court of Appeal in *Scanlon v Gilligan* [2022] IECA 270 in which (amongst other issues) the plaintiff claimed that legal professionals had defamed her in the course of earlier proceedings. Haughton J (at para 46 of his judgment) observed as follows:

“Ms. Scanlon sought to rely on her claim to have been defamed by these respondents. However the conduct of proceedings and statements made either in pleadings or in court are covered by an absolute privilege designed to protect the administration of justice, which now has an express statutory basis under section 17(2)(g) of the Defamation Act 2009. Consequently, even if it were the case that anything said or done by the second and third respondents in the 2015 proceedings were to have caused the appellant unjustified reputational damage (something which it is not accepted has occurred), the lawyers would be absolutely immune from suit...”.

- 24.** As was confirmed by Mr Justice Hedigan in *Reid v. Commissioner of an Garda Síochána* [2014] IEHC 246 at page 7 of his judgment, when dealing with the absolute

privilege which attaches to proceedings in court he stated *“This privilege is agreed to exist. It is hard to see how the plaintiff can get past this. Not even malice or improper motive, neither of which are present, can defeat this privilege.”*

25. Absolute privilege clearly applies to proceedings in court. Of considerable importance to the present case, absolute privilege is a complete defence in defamation cases. In that regard it can be distinguished from qualified privilege which is a privilege that applies only if a defendant has not acted with actual malice. The purpose of absolute privilege in the context of court proceedings is to protect the administration of justice and to ensure that courts are presented with evidence and materials without fear that the parties producing same will be subject to claims in defamation. Indeed, the plaintiff in this case – who himself makes direct allegations of perjury against the first named defendant – benefits from this protection. It is not a matter therefore which is designed solely for the protection of lawyers, as the plaintiff incorrectly asserts.

26. Furthermore, the defence does not only apply to “relevant” statements made in court proceedings, as is suggested by the plaintiff. In *RC v KE* [2018] IEHC 548, Noonan J stated at paragraph 13 of his judgment as follows: –

“Counsel for the plaintiff made the argument that the statements in question have nothing to do with the childcare proceedings or indeed the welfare of the child. That may or not be correct and I express no view on that. However, it seems to me that if it were necessary for the court to embark upon parsing and analysing of pre-trial, or indeed during the course of trial, statements as to whether they related directly to the subject matter of the proceedings, or perhaps something else gratuitously inserted by the person against whom the complaint was made, it would be virtually impossible for the court to operate if witnesses and other parties were to be exposed to an analysis of what they said to see if it was directly

pertinent. I am satisfied for that reason that the rule as to absolute privilege is a rule that is clear and requires to be upheld if the process of the court is to be protected and witnesses are to be free to give evidence without their ability to do so being in some way fettered by a concern as to whether what they say is going to be the subject matter of analysis and possible defamation proceedings”.

Decision of this court on the Strike Out Application.

27. I am satisfied in the circumstances of this case that whether the court approaches this motion under Order 19, rule 28 or under the court’s inherent jurisdiction, the plaintiff’s claim against the defendants should be struck out. It is not contested that the statements were made during the course of the Circuit Court Proceedings and thus arose on a clear and undisputed occasion of absolute privilege. I do not have to determine any of the factual disputes surrounding the statements made in order to decide this matter. It does not matter what statements were made, whether they were made maliciously, whether they were true or whether they related to the actual application before the Circuit Court. Even if I take the plaintiff’s claim at its height and, for the purposes of the present application assume (without of course making any such determination) that the plaintiff could prove the statements were untrue, defamatory, malicious and irrelevant, the fact is that the defendants would still be entitled to avail of the complete defence of absolute privilege. Therefore, the plaintiff’s case cannot succeed. Neither would it be improved by an amendment to the pleadings or through the utilisation of pre-trial procedures such as discovery or by evidence at trial. In those circumstances, the plaintiff’s claim is bound to fail and it would be an abuse of process to require the defendants to continue to have to deal with these proceedings and for further court resources to be expended on them.

- 28.** Furthermore, I reject the plaintiff's arguments regarding the Criminal Justice (Perjury and Related Offences) Act 2021. That legislation does not "override" or "dissolve" the provisions of the Defamation Act 2009 as is suggested by the plaintiff. It provides that a person commits the offence of perjury when they knowingly make a material false statement while sworn as a witness (or interpreter) or on affidavit or in a statement of truth in judicial proceedings. It does not disapply the protection of the defence of absolute privilege to the presentation of cases in court by lawyers on behalf of the parties.
- 29.** As the court noted in *Scanlon*, a lawyer owes a duty of care to the party for whom he/she is acting, but generally owes no duty of care to the opposing party. Insofar as the plaintiff suggests that any of the lawyers breached their professional standards, even if this were the case (and it is firmly denied) it would not be actionable by the plaintiff in these or any legal proceedings.
- 30.** The sixth, seventh and eighth named defendants do not appear to be sued in a representative capacity nor can I discern any pleas specific to them (other than a generalised plea that they instructed the first named defendant to make statements to the Circuit Court). It appears that the plaintiff has conflated the individual directors with the company, Tanager DAC, who was the plaintiff in the Circuit Court proceedings. However, absent any representative order, the company directors cannot be conflated with the company.
- 31.** I have considered the claim advanced by the plaintiff that his constitutional rights were breached. Even taking the plaintiff's claim at its height, this argument would not prevent the strike out of these proceedings. In the Supreme Court decision of *Shatter v Guerin* [2019] IESC 9, [2021] 2 IR 415, O'Donnell J (as he then was) noted at para 45 of his judgment that

“the good name of the citizen is one of the personal rights the State is obliged to defend and vindicate.... In most contexts, the legal protection of a person’s good name as required by the Constitution is to be found in the law of defamation....Some commentary which is damaging to a citizen’s good name may not be actionable without proof of malice, or even at all, such as a statement made on an occasion of absolute privilege. It is not the case, therefore, that the Constitution requires that even false statements which are damaging to a person’s reputation should always give rise to a remedy at law”.

Isaac Wunder Order

32. The final issue to be determined by this court relates to the defendants’ application for an *Isaac Wunder* order against the plaintiff.
33. The jurisdiction to make *Isaac Wunder* orders has been described at para 16-121 in *Delany and McGrath on Civil Procedure, 4th Ed (2018)* as “...a necessary extension of the powers of the courts to strike out claims that are frivolous or vexatious or an abuse of the process of the courts”.
34. The recent decision of the High Court in *Towey v Government of Ireland* [2022] IEHC 559 sets out the relevant authorities and case law at some length. It is of course a jurisdiction of a somewhat exceptional nature and care must be taken, in the words of Collins J in *Údarás Eitlíochta na hÉireann v Monks* [2019] IECA 309 (para 2), that “*Isaac Wunder orders are made only where the court called upon to make such an order is satisfied that it is proportionate and necessary*”. This of course reflects the constitutional protection of the right of access to the courts.
35. A common feature of cases in which *Isaac Wunder* orders are granted is where there has been, in the words of Haughton J at para 26 of his judgment in *Monks*, “*the habitual*

or persistent institution of vexatious or frivolous proceedings against parties to earlier proceedings.” The present proceedings are the first set of proceedings by the plaintiff against the defendants. This is a factor which would weigh against granting an *Isaac Wunder* order at this time. However, another feature of cases in which such orders have been granted include cases where there has been *“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”* (per Haughton J in *Monks*, at para 26).

36. In *Kearney v Bank of Scotland* [2020] IECA 92 Whelan J stated:

“Where a strike out order can be made or an order dismissing litigation whether as an abuse of process or pursuant to the inherent jurisdiction of the court or pursuant to the provisions of O. 19, r. 28, same is to be preferred and a clear and compelling case must be identified as to why, in addition, an Isaac Wunder type order is necessitated by the party seeking it”.

37. Collins J in *Monks* emphasised at para 7 of his judgment that

“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 must be framed as narrowly as possible (consistent with achieving the order’s objective).”

38. The defendants argue that the plaintiff’s conduct warrants the making of an *Isaac Wunder* order restraining him from issuing any further proceedings against the

defendants relating to the same issues without leave of the High Court. They say that there can be no legitimate basis upon which the plaintiff could ever have cause to issue proceedings as against the defendants as lawyers and directors, but if a legitimate situation arises then the plaintiff is not prejudiced by being only required to seek leave in the first instance. While I agree that it is hard to envisage any circumstances that would form a legitimate basis for the plaintiff to sue the defendants as lawyers and company directors, I believe there is some prejudice to every party against whom an *Isaac Wunder* order is made. The defendants also submit that this court should, in determining whether to make an *Isaac Wunder* order, take into account the abusive nature of the proceedings and the fact that criminal complaints have been made by the plaintiff regarding the defendants' conduct. I am not satisfied that the making of criminal complaints is a relevant factor for this court in determining whether an *Isaac Wunder* order should be granted. Nor is it the case that the making of such an order has any impact on whether a party can make complaints to the Gardai or to any other body.

- 39.** The defendants say they are concerned that striking out the proceedings might not mark the end of the matter. There is no evidence however from the plaintiff that he intends to issue further proceedings against the defendants. If he does so, having had the benefit of this judgment which is intended to clearly set out the legal position for him, then the defendants would be in a far stronger position at that point to seek an *Isaac Wunder* order against him. On balance therefore, I decline to make an *Isaac Wunder* order against the plaintiff at this time.

Conclusion

40. For the reasons which I have set out in detail in this judgment, I strike out the plaintiff's proceedings in full as proceedings that are vexatious, an abuse of process and bound to fail.
41. On balance, and primarily because this is the only occasion on which the defendants have been sued by the plaintiff, I decline to make an *Isaac Wunder* order at this time. However, if with the benefit of this judgment, the plaintiff were to persist with further litigation against the defendants arising out of their role as legal advisers (or company directors) in the Circuit Court Proceedings then it is in my view very likely that a court would conclude, given a then pattern of repeated abuse of process, that an *Isaac Wunder* order would be appropriate and proportionate. It is essential that lawyers are free to represent their clients without the threat of litigation against them for defamation. This is the very purpose of the absolute privilege rule for court proceedings.
42. I will list this matter for mention at 10:45 AM on 17 May to allow the parties to make submissions in relation to legal costs and any other issues arising from this judgment.