

**THE HIGH COURT**

**2009 106 SA**

**IN THE MATTER OF ANN O'NEILL, SOLICITOR,  
MCKEEVER ROWAN SOLICITORS,  
5 HARBOURMASTER PLACE, I.F.S.C. DUBLIN 1.**

**AND**

**IN THE MATTER OF AN APPLICATION BY  
EDWARD STEVENSON**

**TO THE SOLICITORS DISCIPLINARY TRIBUNAL**

**AND**

**IN THE MATTER OF THE SOLICITORS ACT, 1954 – 2008  
DISCIPLINARY TRIBUNAL RECORD NO: 7013/DT48/09**

**BETWEEN**

**EDWARD STEVENSON**

**APPELLANT**

**AND**

**ANN O'NEILL**

**RESPONDENT SOLICITOR**

**JUDGMENT of Kearns P. delivered on the 11th day of January, 2010.**

This is an appeal brought by the appellant pursuant to s.7 of the Solicitors (Amendment) Act, 1960 (as substituted by s.17 of the Solicitors (Amendment) Act, 1994 and amended by s.9 of the Solicitors (Amendment) Act, 2002) against the decision of the Solicitors Disciplinary Tribunal dated 29th October, 2009 which held that there was no *prima facie* case for an inquiry in respect of various allegations brought against the respondent solicitor by the appellant.

The appellant's central complaint against the respondent solicitor relates to a communication which she had with Anglo Irish Bank, Dublin, on Friday, 15th October, 2004 relating to bank accounts held by the applicant in that bank. This communication arose in the context of family law proceedings in which the appellant was then engaged and which were in fact at hearing before McKechnie J. in the High Court by way of appeal from the Circuit Court.

The appellant's present complaint is not a new complaint. It was fully ventilated before McKechnie J. and was the subject matter of a previous complaint to the Solicitors Disciplinary Tribunal by the appellant in 2006.

I have read the transcript of the relevant hearings before McKechnie J. and all the documentation and affidavits filed in respect of the subsequent complaints brought to the Tribunal. On 24th February, 2006 it was the decision of the Solicitors Disciplinary Tribunal that there was no *prima facie* case of misconduct made out against the respondent solicitor in respect of the events which occurred on the 15th October, 2004.

This finding was the subject matter of an appeal to Finnegan P. who by judgment delivered on 26th July, 2006 dismissed the appellant's appeal. He was satisfied that there was no reasonable prospect of the complaint made by the appellant being upheld at an inquiry and affirmed the decision of the Tribunal.

The appellant brought a further complaint against the respondent solicitor in 2008. This complainant was of a slightly different character, alleging that the respondent solicitor caused a mark to be made on the cover of the Circuit Court record of the matrimonial proceedings with the intent of perverting the record. This complaint was in turn rejected by a differently constituted Tribunal which held that there was no *prima facie* case of misconduct made out against the respondent solicitor.

The present complaint was initiated in May, 2009. It is a complaint which replicates entirely that which was the subject matter of the ruling by the Solicitors Disciplinary Tribunal in 2006. By a decision delivered on the 29th October, 2009 a differently constituted Disciplinary Tribunal held there was no *prima facie* case to warrant an enquiry, stating specifically in relation to each complaint:-

*"in the premises and having regard to the two aforesaid High Court judgments, this Tribunal considers that this complaint or any other complaint that similarly arises from the communication or communications by the respondent solicitor with Anglo Irish Bank on Friday, 15th October, 2004 or that in any other respect arises from actions or alleged actions of the respondent solicitor in her capacity as the solicitor for the other party to the*

*aforesaid family law proceedings should not have been, subsequent to the said High Court judgment of Finnegan P. of 26th July, 2006, the subject of a complaint by the applicant herein to this Tribunal."*

The Tribunal effectively found that the present complaint was *res judicata* by reason both of its previous decision in relation thereto and the judgment of Finnegan P. already referred to.

In his affidavit grounding this appeal, the appellant complains of a number of defects in the affidavit sworn by the respondent for the purposes of the present complaint. It is clear that the affidavit filed on behalf of the respondent on the 24th June, 2009 did contain a number of errors which were addressed in a further affidavit sworn by her on the 5th August, 2009. An affidavit in response was sworn by the appellant on 25th August, 2009 and the matter was thereafter considered by the Tribunal on 22nd October, 2009 and its decision was delivered on 29th October, 2009.

In his affidavit sworn on the 10th November, 2009 to ground this appeal, the appellant makes complaint about the inadequacies of the respondent's affidavit. He further complains that the Tribunal gave no reasoned decision for saying that the various complaints had been adequately rebutted by the respondent solicitor. Finally, he seeks an order from this Court suspending all *"non pending proceedings before the Disciplinary Tribunal until a prudential examination of procedures and regulations applicable to those procedures has been concluded."*

I am satisfied that this appeal falls entirely into the realm of the vexatious and should be dismissed.

The complaints have already been the subject matter of adjudication and must, in my view, following the judgment delivered by Finnegan P., be regarded as *res judicata*.

In my view the Solicitors Disciplinary Tribunal were not only entitled but obliged to take the view as it did on 29th October, 2009 that all of these complaints should be rejected subsequent to the judgment delivered herein by Finnegan P.

I am of the same view and regard the present appeal as an abuse of process of this Court. I will accordingly not only dismiss this appeal but will also make what is commonly known as an *"Isaac Wunder"* order restraining the appellant from bringing any further complaints against the respondent solicitor arising out of these family law proceedings.