

## THE HIGH COURT

Record No. 2002/821 JR

Between:

EILEEN GOOLD

Applicant

– and –

MARY COLLINS A JUDGE OF THE DUBLIN METROPOLITAN DISTRICT COURT, THE DIRECTOR OF PUBLIC PROSECUTIONS,  
IRELAND AND THE ATTORNEY GENERAL AND JOHN JOSEPH (OTHERWISE JACKIE) GALLAGHER

Respondent

JUDGMENT of Mr Justice Max Barrett delivered on 3rd December, 2015.

**Part 1: Background.**

1. Ms Goold claims that she was approached by a solicitor in 2002. By her account, he encouraged her to commence certain judicial review proceedings against the State and undertook, in his capacity as a solicitor, that she would suffer no cost as a result. Ms Goold did as she claims this solicitor suggested to her to do. However, apart from swearing a single affidavit, she claims to have played no further part in the ensuing proceedings. She maintains too that before she accompanied a sick child to the United States for hospital treatment in 2003-04, she instructed the solicitor's firm to stop all proceedings in her name. Whether she did or not, the court does not know. Regardless, the proceedings continued until the Supreme Court stayed the entirety of the proceedings in *Goold v. Collins and Others* [2004] IESC 38.

2. Subsequent to the Supreme Court's judgment, the State obtained a costs order against Ms Goold. It has been seeking for some time to enforce that order. Notably, the firm of solicitors that brought the judicial review proceedings and the related Supreme Court appeal has never charged a cent to Ms Goold; neither has the solicitor with whom she originally met. However, Ms Goold considers that the undertaking that she allegedly received back in 2002 extends also to the costs that the State now seeks of her.

**Part 2: Matter for the Law Society.**

3. Ms Goold may be right in what she alleges regarding the solicitor, she may be wrong; the court has no idea; it has but heard her allegations. But if Ms Goold considers that a solicitor has acted in breach of a professional undertaking, her best first 'port of call' is the Law Society. That is the professional body for solicitors. It treats solicitors' undertakings as a serious ethical matter. Indeed most solicitors are careful about ever giving professional undertakings, and the form and substance of such undertakings as they do give, because they know that the Law Society treats members' professional undertakings with great seriousness, and that breach of an undertaking by a solicitor can lead to serious professional sanction. An additional attraction of making complaint to the Law Society about an alleged breach of an undertaking by a solicitor is that the Law Society does not charge for dealing with such complaints.

**Part 3: Non-interference with Supreme Court Order.**

4. This Court cannot interfere with the order of the Supreme Court against Ms Goold. Nor can it impede the State in proceeding to taxation pursuant to that order. If Ms Goold has a complaint about any eventual conclusion of the Taxing Master (no such conclusion has yet been reached), she may wish to bring an appeal concerning same. It may or may not be that, if Ms Goold brings a complaint to the Law Society concerning the alleged undertaking, the State will stay its hand for such time as it takes the Law Society to investigate and reach a conclusion on matters. But that is entirely a matter for the State; this Court makes no observation or suggestion as to how the State ought to proceed in this regard.

**Part 4: Potential for Increased Expense.**

5. Ms Goold should note that if she makes a complaint to the Law Society about the alleged breach of the purported undertaking and if this results in any delay in satisfaction by her of the costs order that the Supreme Court has made against her, the amount owing by her will almost certainly increase by virtue of interest payable.

**Part 5: Some Principles Raised.**

6. Ms Goold sought before this Court to rely on the 'wasted costs' provision in O.99, r.7 of the Rules of the Superior Courts (1986), as amended. This is the provision of the Rules of the Superior Courts that reflects the inherent jurisdiction of the superior courts to control court officers, such as solicitors, by ordering them to pay costs attributable to any (if any) misconduct or default on their part. Any argument that Ms Goold might seek to make on this ground comes too late. A costs order has been made by the Supreme Court, it contains no provision pursuant to O.99, r.7, and it is not open to this Court to vary that order.

7. Ms Goold has also made reference to the decision of Herbert J. in *D. v. Minister for Health and Children & Anor* [2008] IEHC 299. However, that was an appeal against a decision of the Taxing Master, a form of appeal that is also open to Ms Goold to bring when the Taxing Master reaches a decision in respect of the costs order against her.

**Part 6: A Closing Note.**

8. In closing, the court wishes to emphasise that the allegations made by Ms Goold against the solicitor are but allegations, nothing more. They were not substantiated in any way before the court and they may or may not prove eventually to be true. Like everyone else, the solicitor in question is entitled to his good name and his professional reputation unless anything is established against him, and it may never be.