

BETWEEN**AMY WALSH****PLAINTIFF****AND****WEXFORD WANDERERS RUGBY CLUB****DEFENDANT****JUDGMENT of Mr. Justice Barr delivered on the 7th day of April, 2017**

1. In this case the plaintiff seeks damages in respect of personal injuries suffered by her, when she tripped and fell to the ground while crossing the car park area at Wexford Wanderers Rugby Club at approximately 00:30 hours on 6th May, 2012. It is the plaintiff's case that her accident and the resulting injuries, were caused by the negligence and breach of duty of the defendant, for failure on its part to maintain the area in a safe and proper condition. In particular, the plaintiff states that there was a hole or depression in the car park and there was a large stone in the hole, into which her right foot came in contact and as a result she was caused to go over on her ankle, resulting in a fracture to the right ankle.

2. All matters are in issue between the parties. In particular, it is the defendant's case that, while the plaintiff did fall to the ground while in the car park, it was at a totally different area to that alleged by the plaintiff. While not admitting that there was any defect in the car park, in the area alleged by the plaintiff, they deny that there was any defect in the surface of the car park in the area where they allege that the plaintiff met with her accident. There is also an allegation in the defence that the plaintiff had consumed a considerable quantity of alcohol on the night in question, and that she fell due to her intoxicated condition. It is also alleged that she failed to take reasonable care for her safety while crossing the car park.

The evidence

3. The plaintiff was born on 1st April, 1981 and is currently 36 years of age. She is employed as a shop assistant in a supermarket. She stated that on 6th May, 2012, she had made an arrangement with her friends, Amy Farrell, Jennifer Farrell and Ashleigh Casey, to go to a function which was being held in the local rugby club and would then go on to a nightclub in Wexford. The plaintiff stated that on the day in question, she had gone to Naas with her mother for the purpose of doing some shopping and meeting up with a friend of her mother's. She said that she returned back home to Wexford at approximately 18:30 hours. She had a shower and then her mother dropped her to Amy Farrell's house, arriving at approximately 20:30 hours.

4. The plaintiff stated that Ashleigh Casey had already arrived at Amy Farrell's house and that Jennifer Farrell was also there prior to her arrival. When she got to the house, the other girls were in the process of straightening their hair. The plaintiff stated that she had one vodka and 7-Up in the house. The four of them went by taxi to the rugby club at approximately 21:00 hours. There was a social function going on in the rugby club, which had been hosting a "rugby blitz" that weekend.

5. The plaintiff stated that when she arrived at the rugby club, she had a standard sized mineral bottle in her bag which was $\frac{3}{4}$ full of vodka. One of her friends also had a similar sized bottle, also containing vodka. The idea was that they would smuggle these bottles of vodka into the nightclub later that night, due to the fact that alcoholic drink was quite expensive in the nightclub.

6. The plaintiff stated that she had two or three vodkas and 7-Up at the rugby club. She stated she had these drinks during the 3.5 hours that they were at the club.

7. The plaintiff stated that on the night in question she was wearing black coloured flat shoes, with a low heel. She stated that as she was 6 feet 1 inch tall, she did not wear shoes with high heels. She produced a photograph to the court showing the shoes that she was wearing on the night in question.

8. The plaintiff gave the following account of her accident: at approximately 00:30 hours the girls had decided to leave the rugby club. One of her friends had phoned for a taxi and the taxi driver had phoned her back to say that he had arrived at the club. She left the club house in the company of Jennifer Farrell. They had come out of the main door and out onto the decking area as shown in photograph no. 4. They had proceeded across the car park area shown in that photograph, walking towards the camera. She said that she had proceeded through the bollards which are shown in that photograph, which are designed to prevent vehicular traffic on the area immediately in front on the club house entrance. She stated that she had then walked across the main car park area to a point approximately 7 feet to the right of the open shed, as shown in photograph no. 2 of Mr. O'Reilly's photographs. She stated that there was a dip or hole in the surface of the car park and that her right foot went into it, where it struck a large stone that was in the hole and she went over on her ankle. This caused her to fall to the ground. She stated that she was helped up by Jennifer Farrell and by the taxi driver, who had got out of the taxi to come to her assistance. They helped her into the taxi. She stated that her companions were still in the rugby club at that time.

9. When the other girls emerged from the club, the taxi dropped them to the nightclub in Wexford town. However, she was not able to go into the nightclub due to severe pain in her right ankle. She and Amy Farrell got a taxi to her own house. She stated that at that time she thought that she had just sprained her ankle. Ms. Farrell made her comfortable on the couch in the downstairs living room and fetched a duvet for her from the bedroom. The plaintiff took some painkillers at that time. On the following day her ankle was still very painful. She went to hospital, where it was confirmed that she had suffered a fracture of the right ankle.

10. The plaintiff stated that her accident had been caused due to the unsafe and dangerous condition of the car park and also due to the fact that there was inadequate lighting in that area. In this regard, she stated that the light which was above the emergency doors at the gable end of the club house, as shown in photograph no. 8, was not switched on, on the night of her accident.

11. In cross-examination it was put to the plaintiff, that two of her friends, Ms. Amy Farrell and Ms. Ashleigh Casey, would state that she had arrived at Ms. Farrell's house much earlier than she said she did, and that she had in fact arrived there at approximately 18:00 hours. The plaintiff denied that that was true. When asked about her relationship with Ms. Amy Farrell, she stated that she had known Ms. Farrell for approximately ten years. They had worked together in Pettits Supermarket in Wexford. She stated that they had been friends, but that they had fallen out over this case.

12. It was put to the plaintiff that the evidence of her two friends would be that they had in fact consumed a considerable quantity of alcohol before leaving the house to go to the rugby club. Ms. Farrell and Ms. Casey would say that they had consumed two 750 ml bottles of vodka, almost two bottles of Peach Schnapps, a bottle of apple flavoured Mickey Finns and a bottle of strawberries and cream flavoured Mickey Finns. They would state that each of them, including the plaintiff had consumed approximately 10-15 drinks before leaving the house. The plaintiff denied that that was true. She was adamant that she had only had one vodka and 7-Up at the house. She did accept that the content of one bottle of vodka, had been split into two standard sized mineral bottles and that she had put one of the bottles into her bag, for consumption later in the evening.

13. In this regard, it was put to the plaintiff that Ms. Farrell and Ms. Casey, would state that while they were in the rugby club, mixers were bought at the bar and the four of them then went into the ladies toilet where the bottles of vodka were produced and were poured into the glasses containing the mixers. The plaintiff denied that that happened. She stated that it had never been intended to drink the vodka, which they had brought with them, in the rugby club, but they had intended to drink it when they got to the nightclub. It was put to her that that could not have been the intention, due to the fact that bags were searched prior to entering the nightclub. The plaintiff did not accept that and stated that it was always their intention to consume the vodka in the nightclub.

14. The plaintiff was asked about the area of the car park immediately in front of the front entrance and beyond the bollards as shown in photograph no. 4. She stated that she had not fallen in that area. She accepted that that portion of the car park appeared to be in good condition, as shown in the photographs. It was put to the plaintiff that the evidence of Ms. Farrell and Ms. Casey, would be that she had fallen in the area immediately in front of the decking and entrance to the club house itself. This was in the area beyond the bollards as shown in photograph no. 4. The plaintiff stated categorically that that was not true. She said that her friends were not telling the truth about how much they had to drink on the night in question, or about where she fell.

15. The plaintiff also gave evidence about the curious incident which occurred on 1st March, 2014. On that evening, the plaintiff and Ms. Amy Farrell and Ms. Casey had arranged to have dinner in Ms. Farrell's house. Ms. Jennifer Farrell was not going to be there, as she had returned to live in Scotland. Before arriving at the house, the plaintiff sent a text or facebook message to her two friends, informing them that she was on the way up to the house and that she just had "a thing for you to sign as well about when I fell". Ms. Casey asked her what it was that she wanted them to sign. She replied "just a note, you can change it according if you want, you can hang onto it till after the weekend or that." To which Ms. Casey replied "me and Amy were inside the rugby club when you fell, so we didn't even see what happened." The plaintiff stated that when she received these messages, she knew that her friends were not going to help her with her case against the rugby club, so she did not go up to the house for dinner. She did not see her friends again socially after that.

16. When the plaintiff was asked what she had tripped over, she stated that her foot went down into a hole, which had a large stone in it. She stated that her mother had gone to the rugby club a week later, and had taken photographs of the area where she fell.

17. Evidence was given by Mr. Jack O'Reilly, Consulting Engineer, on behalf of the plaintiff. He carried out an unofficial inspection of the site on 25th March 2014, when he simply drove onto the premises in the company of the plaintiff. She pointed out to him where she had fallen and he took a series of photographs of the general car park area. He stated that the surface of the car park was fairly typical for a car park in sports clubs and other such premises. It was an unbound surface, in that it was not made up of tarmac or concrete. The surface was sufficient for an area which was used as a car park, but it required maintenance, due to the fact that it would develop pot holes due to the passage of vehicular traffic across the surface.

18. Mr. O'Reilly stated that for a car park, one would typically find that the surface was made up of mill waste material, which was a by product of stone crushing. It was somewhat like a stone dust. It would be used for pot hole repair. In this case, stones of 1-2 inches in diameter had been used and this would not be part of the mill waste material. The presence of such stones were a hazard, due to the fact that the stones would be liable to move under foot. He thought that the defendant should have removed the stones, or overlaid the surface with mill waste. He stated that the presence of the stones on the surface as shown in the photographs, meant that the surface was similar to having marbles on the top of it. In relation to the lighting at the locus as pointed out by the plaintiff, Mr. O'Reilly stated that by arrangement with the defendant, he had re-attended at the premises on 30th March 2015 at 18:56 hours, when he had taken photograph no. 8, which showed the lighting around the club house. He stated that if the halogen light, which was placed above the emergency doors on the gable wall of the club, was switched on this would have provided dim lighting at the locus of the accident. Such lighting would have been sufficient to allow under foot conditions to have been visible to someone walking at the locus.

19. Mr. O'Reilly pointed out that on the date of the joint inspection in March 2015, he and the defendant's engineer, Mr. Walsh, had looked at the same area, which was the area identified by the plaintiff as being the area where she fell. Neither the defendant's engineer, nor anyone on behalf of the club, pointed out to him that it was suggested that the plaintiff fell in any other area of the car park. They did not examine any other area of the car park. He said that he was surprised to learn that the defendant thought that the accident had happened at a different area, because if they had such a belief, that would usually have been made known to him at the time of the joint inspection.

20. In cross examination, Mr. O'Reilly accepted that he had not made any reference to mill waste material in his written report. However, he had said that the surface was unsuitable and unsafe and likely to cause an accident. He did accept that the surface was typical of a club car park. However, he stated that it would be necessary to maintain the car park. He stated that he was critical of its condition at the time of his inspection. He confirmed that the plaintiff did not say anything to him about a hollow or hole in the surface of the car park.

21. Mr. O'Reilly stated that his informal inspection of the locus had been carried out almost two years post-accident. At that time there were pot-holes evident in the car park, as shown in photograph 6. He could not say what the surface was like at the time of the accident in 2012.

22. It was put to the witness that the defendant's evidence would be that in the days prior to the weekend of the rugby blitz, maintenance was carried out to the general car park area by club volunteers. Mr. O'Reilly stated that that would be appropriate.

The defendant's evidence

23. The defendant called Mr. Gerry White, who was a work colleague of the plaintiff's. He was also a member of the rugby club. He had been participating in the blitz that weekend. He stated that he met the plaintiff as she was entering the club at approximately 21:00 hours. He was leaving at that time. He formed the impression that she was quite drunk, due to the fact that he could smell alcohol on her breath and she was slurring her words. He had spoken to her for about two minutes.

24. When the content of Mr. White's evidence had been put to the plaintiff in cross examination, she denied that she had a strong smell of alcohol on her breath. She recalled that Mr. White had been very drunk that night. She stated that he was not an enemy of hers, but suggested he would lie about his encounter with her, because he was heavily involved in rugby club. When this was put to Mr. White, he denied that he had been drunk when he left the club that evening. He stated that he had played a match that day as part of the blitz, he had then gone home and changed and then returned to the rugby club. He stated that he had had one drink in the club when he returned. He stated that he did not have any drinks earlier in the evening, after the match. He denied that he had been drunk as alleged by the plaintiff.

25. Ms. Amy Farrell gave evidence about the consumption of alcohol in her house and about the pouring of vodka from the mineral bottles into glasses in the ladies toilet of the rugby club, along the lines that had been put to the plaintiff in cross examination. In cross examination, it was put to her that, on her account, she had had an extraordinary amount to drink that night. She stated that while they had had a considerable amount to drink, it was not more than she could handle on a normal night out. It was put to her that the intention had been to bring small mineral bottles of vodka into the nightclub in their bags, due to the expensive price of drinks in the nightclub. She stated that this was not possible, due to the fact that they would search peoples bags on entry to the nightclub. She stated that it had been their intention to drink the vodka in the rugby club. She stated that she was definitely with the plaintiff, when the plaintiff poured the vodka from the mineral bottle, into the glasses containing the minerals, while in the ladies toilet.

26. In relation to the plaintiff's fall, she stated that she had been inside in the bar in the club when the plaintiff fell. Her sister, Jennifer, came into the bar and told her what had happened. She stated that she went out the emergency doors in the gable wall of the club and turned to her right and walked around the club house. She stated that she saw the plaintiff lying on the ground. She was parallel to the steps to the decking area, as shown in photograph no. 4, and was halfway between the club house and the pitch. She stated that the plaintiff was quite drunk. She and Ashley Casey picked her up and brought her to the taxi. The taxi brought them to the nightclub. However, when the plaintiff got out of the taxi she found that she could not walk on her ankle. Ms. Farrell stated that she then got another cab and brought the plaintiff back to her own house. She brought the plaintiff into the house. The plaintiff could not go upstairs, so she got a duvet for her and brought it downstairs.

27. She stated that the plaintiff did not complain to her about the surface of the car park. Ms. Farrell stated that the lighting in the area where the plaintiff had fallen, was fine.

28. Ms. Farrell gave evidence in relation to the texts or messages which had passed between the plaintiff and Ms. Casey, on the night when there was due to be a dinner at Ms. Farrell's house. She confirmed the account which had been put to the plaintiff. She stated that after that, the plaintiff's mother had called to see her, to see if she would go as a witness on behalf of the plaintiff. She had refused to get involved in the case.

29. She was asked as to how she had come to be a witness for the defendant. She stated that she had contacted the rugby club in December 2016, when she had contacted a Mr. Declan Noctor, who was a member of the club committee. He put her in contact with the defendant's solicitor. She furnished a statement to the defendant's solicitor on the day before the action was due for hearing. She stated that she was a member of the rugby club and had played on the ladies team known as the "Vixens".

30. Evidence was also given by Ms. Ashleigh Casey. She stated that the plaintiff had been her best friend. She had worked with the plaintiff in Pettitts Supermarket. She, Amy Farrell and the plaintiff had been very good friends. In relation to the drinking before they went out, she was adamant that they had been on their first drink when the plaintiff arrived at Ms. Farrell's house, at approximately 18:30/19:00 hours. It was put to her that the plaintiff's evidence was that she had only arrived at 20:30 hours, she stated that that was not true, that they had all been in the house for a number of hours before going to the rugby club. She said that the plaintiff was telling lies, if she said that she only had one drink in the house. Ms. Casey also confirmed the account of the incident concerning the drinks in the ladies toilet, as recounted by Ms. Farrell.

31. In relation to the plaintiff's fall, she stated that she was at the main entrance to the club house as shown in photograph no. 5. She was looking back into the club to see if her friends were following. She had her back to the car park. She said that after the plaintiff fell, she turned around and saw the plaintiff on the ground just across from the decking as shown in photograph no. 5. She tried to lift the plaintiff from the ground, but was not able to do so. Jennifer Farrell went inside and got her sister, who came around from the back of the club and they both lifted the plaintiff up and brought her to the taxi.

32. Ms. Casey stated that on the night of the dinner party, when they refused to sign any letter for a solicitor, the plaintiff did not turn up to the dinner. She never saw her socially after that. She later received a text from the plaintiff's mother, saying that the plaintiff was under pressure and that if they signed the letter, it would help a lot. She stated that she ignored this text. Some time later, the plaintiff's mother called up to her house and said that if she did not sign such a letter, the plaintiff would be in danger of losing her home. She confirmed that the plaintiff had not complained to her about the surface of the car park on the night of the accident.

33. In cross examination, the witness stated that while she had consumed more than a bottle of spirits that night, she was well used to that amount of alcohol. She accepted that on occasions when she had drunk a lot, she may have woken up on the following morning and not remembered events from the night before. However, she denied that that had happened on this occasion. She stated that she did remember the events of that night. She stated that they had refused to sign a letter for the plaintiff's solicitor, as they did not want to get involved in the matter.

34. Finally, evidence was given on behalf of the defendant by Ms. Deborah Carty, who was the president of Wexford Wanderers Rugby Club at the time of the accident. She stated that the weekend in question was a very big event in the life of the club. They hosted a competition known as the "Casey Cup", which was a tournament between their rugby club and Greystones RFC, in memory of a young man who had lived and worked in both areas. During the weekend, all the teams in the club, from the "mini" rugby team right up to the senior team, and including the ladies team and the "golden oldies" team, would play matches against the corresponding teams from Greystones RFC.

35. She stated that in advance of the weekend, they would have a club clean up day, where volunteers would attend and would make sure that the club was in very good condition for the competition. This would involve redecorating the club, making sure that the lighting was in operation and carrying out maintenance work to the car park. She stated that the car park was well maintained throughout the year. However on the club clean up day, members would assist with tractors and diggers to maintain the car park for the weekend event. Extra stone would be brought in from Roadstone and would be laid by a team led by the club grounds-man, Mr. Billy Morris. Part of that work would have involved the filling in of any pot holes that existed in the car park. It was put to the witness that the photographs taken by the plaintiff's engineer in March 2014, showed the car park in considerable disrepair, with pot holes

evident in photograph no. 6. Ms. Carty stated that those photographs were taken when the season had been up and running for a number of months. She stated that the car park would have been in a better condition on the weekend of the blitz, after the club clean up day.

36. In relation to lighting at the locus, Ms. Carty stated she was a registered electrical contractor. She had overridden the timers on the halogen light above the emergency exit and on the bulkhead lights around the perimeter of the club house, so that they would stay on for the entire of the nights during the weekend. In addition, she stated that the area where the plaintiff fell was also illuminated by two sets of training lights, which could be seen in photograph no. 3. She stated that approximately eight years ago, the club had put in new lighting on the pitches. The old training lights were kept in situ, but were turned around so that they shone on the club house and car park. In addition, on the night in question, she had been working in the kitchen area, which was the flat roofed extension, which could be seen projecting from the front of the club house in photograph no. 6. She stated that she had been preparing a curry for approximately 500 people, which would be consumed on the following day. For this reason she was in and out of the kitchen during the night and the light from the kitchen window, as shown in photograph no. 5, would have shone onto the area in front of the decking.

37. The witness stated that she knew the plaintiff vaguely, as she was the same age as her sister and cousins. She recalled seeing the plaintiff on the night of the accident. She believed that the plaintiff had drink consumed and was intoxicated. She noticed that the plaintiff did not buy alcohol at the bar, but merely bought a 7-Up. She followed the plaintiff and saw her in the ladies' toilet, where she had a glass in her hand and a bottle with liquid in the other hand and was pouring it into the glass.

38. In the course of cross examination of this witness by junior counsel for the plaintiff, a strange thing happened. Counsel asked the witness to have a look at a series of photographs, which had been taken of the locus by the plaintiff's mother on 13th May, 2012. When objection was taken to the introduction of this evidence, Counsel applied to call the plaintiff's mother, Ms. Clare Walsh to prove the photographs.

39. The court permitted the cross examination of Ms. Carty to be halted, for the purpose of calling Ms. Clare Walsh as a witness. She stated that approximately one week after the accident, she and her friend, Mr. Leonard, went to the rugby club and took photographs of the car park. She gave the photographs to the plaintiff's solicitor. She also confirmed that on the day of the accident she and her daughter had been in Naas until approximately 17:30 hours. It took them approximately 1.5 hours to drive home to Wexford. After the plaintiff had got herself ready to go out, she dropped her daughter to Ms. Farrell's house at approximately 20:30 hours.

40. In cross examination, Ms. Walsh stated that she had been in Naas that day for the purpose of shopping and visiting a friend, called Mr. Leonard. They had left his house when he went to get ready to go to work as a bouncer in a nightclub. She confirmed the time at which she had dropped her daughter to Ms. Farrell's house. She did not know why Ms. Farrell was saying that the plaintiff had been there since approximately 18:00 hours. She accepted that she had sent texts to both Amy Farrell and Ashley Casey and had asked them to confirm that they had been in the rugby club on the night that the plaintiff fell. She stated that the plaintiff's solicitor had suggested that she should obtain such letters. When that had not proved successful, she had called to Ms. Casey's house, which had also been suggested by her solicitor. She stated that she asked Ms. Casey to sign a two line letter to confirm that she had been at the rugby club that night. She denied saying that the plaintiff would lose her house if Ms. Casey did not go to court, or that she would have pay her own hospital bills. She stated that she had paid the plaintiff's hospital bills. She confirmed that she had also called around to Ms. Farrell's house.

41. In relation to the four photographs that had been produced in court, she stated that she had taken these on her mobile phone. Mr. Leonard had also taken photographs on his phone. She could not recall exactly how many photographs she had taken in all.

42. When the cross examination of Ms. Carty resumed, she confirmed that she had been checking up on the plaintiff that night. She had seen the plaintiff buy 7-Up at the bar and had not seen her in the club before. She was annoyed that she brought her own drink to the club, as this was one of the main fund raising events in the club. She stated that she definitely saw the plaintiff pouring the drink from the mineral bottle into a glass in the ladies toilet. She did not confront the plaintiff at that time, as it was a social occasion. She accepted that she did not stop the plaintiff pouring the drink. She said maybe she should have. She confirmed that Ms. Farrell and Ms. Casey were on the "Vixens" team in the club.

Conclusions

43. One of the very few uncontroversial facts in this case is that the plaintiff suffered a fracture of her right ankle while crossing the car park at Wexford Wanderer's Rugby Club at approximately 00:30hrs on 6th May, 2012. Almost every other piece of evidence about the events of that evening was hotly contested between the parties.

44. The first area of controversy concerned the amount of alcohol consumed by the plaintiff prior to going to the rugby club that evening. Ms. Farrell and Ms. Casey said that they met up circa 17:30hrs and that while they were on their first drink, the plaintiff arrived at circa 18:00hrs. They stated that they consumed two bottles of vodka, almost two bottles of Peach Schnapps, almost a full bottle of Mickey Finns and a bottle of strawberry and cream shots, before leaving the house. The parties are in agreement that the third bottle of vodka was split into two smaller mineral bottles which were empty.

45. The plaintiff's evidence was that she had spent the day in Naas with her mother shopping and visiting a friend, Mr. Leonard. They drove back to Wexford at approximately 17:30hrs, arriving there circa 19:00hrs. She stated that her mother dropped her to Ms. Farrell's house circa 20:30hrs. The plaintiff was adamant that she had only one vodka and 7-Up in the house prior to going to the rugby club at 21:00hrs.

46. I prefer the accounts given by Ms. Farrell and Ms. Casey on this issue. It seems to me that there was no motive for them to lie about this aspect of the case. I also find that their account is supported by the evidence of Mr. White, who met the plaintiff on his way out of the rugby club, as she and her friends were arriving. I accept his evidence that the plaintiff appeared drunk, as he could smell alcohol on her breath and she was slurring her words. Either, Ms. Farrell, Ms. Casey and Mr. White are telling the truth, or they have conspired together to tell an elaborate lie about the plaintiff's consumption of alcohol and her condition, as she arrived at the rugby club. I have had regard to the fact that all three of these witnesses played on teams in the rugby club. However, I do not think that they have conspired together to tell lies about the plaintiff on this account. Accordingly, I am satisfied that the plaintiff was at Amy Farrell's house reasonably early that evening and had consumed a considerable quantity of alcohol prior to arriving at the rugby club.

47. The second area of controversy was whether the plaintiff poured vodka from the mineral bottle into glasses which had mixers in them, while in the ladies toilet at the rugby club. Ms. Farrell, Ms. Casey and Ms. Carty, say that this happened. The court was

impressed by Ms. Carty, who was president of the rugby club at the time. She very candidly said that she was suspicious when she saw the plaintiff buy mixers at the bar. She followed her into the toilet and saw the plaintiff and her three friends, pour liquid from the mineral bottles into glasses. She said that she was annoyed about this, as that evening was a major fundraising event for the club. However, she let it go and did not do anything about it at the time.

48. If I were to accept the plaintiff's evidence that that did not happen, I would have to find that these three witnesses had conspired together to concoct this story in order to blacken the plaintiff in relation to her activities that night. I simply do not think that these witnesses came together to give perjured evidence against the plaintiff. I accept their evidence that this event happened in the ladies toilet, as described by them.

49. However, these were merely peripheral matters, which did not touch upon the issue of liability, but concerned the issue of the plaintiff's credibility. The crux of this case concerns where in the car park, the plaintiff fell and what caused her to fall. The plaintiff's case is that she had proceeded out from the club house in the company of Jennifer Farrell and had gone from the decking area, down the two steps, across the front area went through the bollards and was going towards the taxi, when she stepped in a hole or depression which was almost 7 feet to the right of the shed structure, as shown in photograph 7. The plaintiff says there was a large stone in the hole, which caused her to go over on her ankle. She said that she was helped up by Ms. Farrell and the taxi driver, who got out of the taxi and helped her into it.

50. The evidence of Ms. Casey and Ms. Farrell was quite different. While neither of them saw the plaintiff fall, Ms. Casey, who was standing at the front door of the club house looking back into the club house itself, heard the plaintiff cry out and turned around. She said that she saw the plaintiff lying on the area of the car park some feet away from the decking area as shown in photographs 4 and 5. Ms. Farrell stated that she had been in the bar, when she was alerted by her sister to the accident. She went out the emergency doors as shown in photograph 8, walked around the club house and saw the plaintiff lying on the ground in front of the decking area, as shown in photographs 4 and 5.

51. To deal firstly with a discrete issue concerning the lighting at the alleged locus, the plaintiff made complaint about the level of lighting in that area. Ms. Carty stated that she had overridden the timer on the external lighting in the club house. She stated that the halogen light above the emergency exit doors, was switch on, on the night of the accident. The plaintiff's engineer Mr. O'Reilly accepted that if that light had been on, there would have been sufficient lighting in the area identified by the plaintiff, to allow underfoot conditions to be visible. I accept the evidence of Ms. Carty that the halogen light and the bulk head lights as well as the training lights, were switched on, on the night of the accident. Accordingly, I find that the lighting in the area identified by the plaintiff was adequate.

52. In cross examination, the plaintiff conceded that there did not seem to be anything wrong with the surface of the car park in the area immediately in front of the decking. She accepted that there was probably adequate lighting in that area, but she remained adamant that she did not fall in that area.

53. The plaintiff made the case that she had intended to call the taxi driver as a witness on her behalf, but that unfortunately he had died some days prior to the matter coming on for hearing. That was certainly a disadvantage to the plaintiff, but it was not the fault of the defendant. The court can only reach its decision on the evidence presented to it.

54. In relation to the issue as to the correct locus of the accident, in evidence, Mr. O'Reilly stated that at the time of his official joint inspection of the locus on 30th March, 2015, neither the defendant nor their engineer, stated that the plaintiff had fallen at any location other than that which had been nominated by the plaintiff, being the area in the main car park approximately 7ft to the right of the shed shown in photograph 2. Mr. O'Reilly stated that if the defendants thought that the accident had happened in a different area, they would usually state that at the joint inspection. I do not think that that criticism can validly be made against the defendant, having regard to the evidence of Ms. Farrell, which I accept, that it was only in December 2016, that she contacted Mr. Noctor, a member of the committee of the rugby club. I also accept her evidence that she made her statement sometime thereafter. Thus, at the time of the inspection in March 2015, the defendants would not have been aware of Ms. Farrell's evidence as to the locus of the accident.

55. On the issue of the locus of the accident, there is a stark conflict between the plaintiff's evidence and that of her two former friends. In considering this question, the court has had regard to the demeanour of the witnesses. The court has also had regard to the somewhat extraordinary situation regarding the photographs taken by the plaintiff's mother. The surface of this car park was a surface that was perfectly adequate if it was well maintained. Being a soft surface, as distinct from a hard surface like tarmacadam or concrete, it was liable to develop potholes from time to time, as vehicular traffic moved across it. For this reason, the surface required monitoring and maintenance on a constant basis. Thus, the surface would change from time to time, depending on the volume of traffic and the weather conditions.

56. Mr. O'Reilly very fairly conceded that because the surface would change over time, he could not say what the surface was like at the time of the accident based on his unofficial inspection, 22 months after the accident in March 2014. Mr. O'Reilly did not mention seeing Ms. Walsh's photos either in his report, or in his evidence. Mr O'Reilly is a very experienced and honourable expert witness. The court is satisfied that if he had been shown these photos, he would have mentioned that in his report, or in his evidence. Accordingly, I find as a fact that Mr. O'Reilly was not shown these photographs.

57. It was extraordinary that he was not shown the photographs taken by Mrs. Walsh on 13th May, 2012. These photographs captured the condition of the alleged locus, reasonably soon after the accident. In her evidence, Mrs. Walsh stated that she had gone to the car park on the Sunday following the accident, with her friend Mr. Leonard. Curiously, she did not state that the plaintiff was with her on that occasion. However, I do not draw any inference in that regard, as she was not specifically asked whether the plaintiff was with her, and if not, how she and Mr. Leonard identified the relevant locus.

58. I cannot see any logical reason why these photographs were not shown to Mr. O'Reilly, or why they were not led in evidence as part of the plaintiff's case. One can only conclude that for some reason, the plaintiff and her legal advisers decided not to use these photographs as part of her case and then changed their minds when Ms. Carty was being cross examined. Even then, when the court asked the plaintiff's senior counsel whether he wanted to recall the plaintiff and Mr. O'Reilly to comment on the photographs, he declined and said that he would just call Mrs. Walsh to prove the photographs. Thus, the court has been left with a set of photographs, without any engineering evidence on them. In these circumstances, the court will have to form an opinion on its own examination of the photographs.

59. The court has also had regard to the fact that the case made by the plaintiff at trial, was not the same account that she had given to her engineer. She told him that she slipped on loose stones. There was no mention of any hole or depression. Whereas in her

evidence, she stated that her foot had gone into a hole, with a large stone in it. There was no hole shown in the photos taken by Mrs. Walsh. Perhaps that is the reason why they were not used, or shown to the engineer. It is difficult to construe the plaintiff's actions in deliberately withholding vital photographs from her own engineer, as being consistent with anything other than a fraudulent motive.

60. Having considered all of the evidence, I am satisfied that Ms. Farrell and Ms. Casey have given a truthful account of what happened. I do not think that they have conspired to give false evidence as to the location of the plaintiff's fall. If they were going to do that, it would be logical that they would have given a false account of how the plaintiff came to fall in the first place. They did not do that. They conceded that they had not seen the plaintiff fall, but did see her on the ground after the fall. Ms. Casey said that she turned around when she heard the plaintiff shout out. She saw her lying on the ground in front of the decking. Ms. Amy Farrell said that she came around the corner of the club house, having been alerted to the accident by her sister, Jennifer. She found the plaintiff lying on the ground in front of the decking.

61. Having observed the plaintiff, Ms. Farrell and Ms. Casey give their evidence and having regard to the findings already made about the plaintiff's consumption of alcohol before going to the rugby club and the findings in relation to the toilet incident, I prefer the evidence of Ms. Farrell and Ms. Casey in this regard. I find that the plaintiff fell in the area to the front of the club house just beyond the decking. As the plaintiff does not make any complaint about the surface of the car park in that area, that is the end of the case.

62. However, even if I am wrong in my finding as to the locus of the accident, from a careful perusal of Mrs. Walsh's photographs, I am not satisfied that the area of the car park, as shown in those photographs, being the area where the plaintiff maintained that she met with her accident, was in an unsafe or dangerous condition at the time of the accident. There is no hole shown in the photographs. There is an area of lighter coloured stones shown in the photographs, which may have been used to level out a previous depression or pothole, but it does not seem to me to constitute a hole or depression of such depth, that it would render the area unsafe for people walking across it. Further, I do not accept that the presence of small stones on the surface of the car park, constituted a hazard or danger to persons traversing the car park. Having regard to the findings reached by the court in this case, I dismiss the plaintiff's action against the defendant.