

## THE HIGH COURT

[2011 No. 7290 P.]

## BETWEEN

G. F. B.

PLAINTIFF

AND

T. B.

DEFENDANT

**JUDGMENT of Mr. Justice Barr delivered on the 16th day of February, 2016****Introduction**

1. The plaintiff in this case is a young man, having been born on 26th April, 1994. He alleges that he was sexually abused by the defendant, who was in *loco parentis* towards the plaintiff in his early years. It is alleged that the abuse was carried out on a frequent basis from the time that the plaintiff was approximately seven years of age until he was ten years of age. It is alleged that the defendant assaulted the plaintiff by inserting his hand under the plaintiff's clothing and touching him on the penis. It is alleged that the abuse took place in the defendant's car and in the living room in his house. In order to understand the background to this case, it is necessary to set out briefly the somewhat unusual family circumstances of the plaintiff.

2. The plaintiff's mother, M.B., had been in a relationship with the defendant from circa 1975 to 1985. Although they were not married, they lived together as man and wife. They resided in the defendant's home in Co. Kilkenny. During this relationship they had two daughters, S.B. and B.B. In 1985, the plaintiff's mother left the defendant and moved to a village in Co. Kerry. The plaintiff's mother then started a relationship with Mr. M.F., the plaintiff's father. She knew M.F. for years, as he had been married to one C.F., who lived near the plaintiff in Dublin.

3. The plaintiff's mother and M.F. had two children, a girl, J.F.B., and the plaintiff. It appears that the plaintiff's mother continued to reside in Co. Kerry. The plaintiff's father, who had moved to a house in Co. Kildare, used to travel down to Kerry a number of times each week to be with the family. The rest of the time he worked as a taxi driver in Kildare and Dublin.

4. During the school holidays, the plaintiff's mother used to bring the plaintiff and his older sister to live with the defendant in Co. Kilkenny. The plaintiff's mother, the plaintiff and his sister used to reside in the house, where the defendant lived with his mother during the holiday periods. The defendant worked in a bakery owned by a member of his family and also in a company which manufactured medical equipment. On occasion, the defendant used to deliver medical equipment, including beds and bed parts, to hospitals and nursing homes. It is common case that the defendant used to allow the plaintiff to accompany him when making deliveries of medical products and deliveries from the bakery.

5. The defendant maintains that the allegations of sexual abuse made by the plaintiff are a total fabrication. He alleges that the allegations have been made up by the plaintiff at the behest of his father, who was jealous of the good relationship which the defendant had with the plaintiff's mother, even after their relationship had ended. He also alleges that the allegations are an attempt to wrongfully extract money from him, as the plaintiff and his father know that he received money from a road traffic claim.

6. It is also noteworthy that the allegations of sexual abuse were first made by the plaintiff in August 2004, to M.F.'s ex-wife, C.F., with whom the plaintiff was staying while his father was out working. This event will be described in more detail later in the judgment. Suffice it to say at this stage, the plaintiff's mother and the defendant seemed to be on good terms even after the break-up of their relationship; similarly, the plaintiff's father and his ex-wife seemed to be on good terms after the break-up of their marriage.

**The allegations of sexual abuse**

7. The plaintiff stated that he had stayed at the defendant's house, along with his mother and sister, during the Easter, summer and Halloween school holidays. He stated that the defendant worked in a bakery, which was owned by his brother. He also worked in a medical equipment factory nearby. On occasion, the plaintiff stated that he would accompany the defendant in his car, when he was making deliveries of medical products or bakery products. He recalled that at various times, the defendant had a red Golf estate car and a blue Almera.

8. The plaintiff stated that the abuse began when he was going on these delivery runs with the defendant. The plaintiff stated that he would be sitting in the front passenger seat. The defendant would stretch across with his left hand and touch him on the leg. Then he would move his hand up the plaintiff's leg, pull down the zip on his jeans, insert his fingers into the crotch area and touch him on the penis.

9. The plaintiff stated that this activity started when he was seven or eight years of age and lasted until he was approximately ten years of age.

10. The plaintiff recalled one particular occasion when they were in the car making a delivery of bed parts to a nursing home. The plaintiff recalled that the defendant started by rubbing his leg and then moved his hand up, placed his hand under his underpants and began to touch him on the genitals. This lasted for a few minutes, until they were flagged down by a Garda; the defendant received a ticket for speeding. They then continued on their journey and, after a short while, the defendant again started to touch the plaintiff on his genitals. The plaintiff stated that this lasted for a couple of minutes.

11. The plaintiff stated that he also recalled an occasion when he and the defendant travelled to a market in Kildare town. They were bringing bakery products to a man named Colm, who had a stall at the market. On the way to the market, the defendant again touched him on the leg and the genitals. The plaintiff stated that he would be wearing jeans or tracksuit bottoms at the time. The plaintiff stated that this happened on a number of occasions when they went to various markets.

12. The plaintiff also stated that he was abused by the defendant in the living room in the defendant's house. He stated that he would be sitting on the couch in the living room and, when the others had gone to bed, the defendant would move over beside him and touch him on the genitals. He stated that sometimes the defendant ejaculated. He estimated that this took place more than five times.
13. The plaintiff also stated that on occasion the defendant made him touch the defendant's penis. He stated that this happened both in the car and at home in the defendant's house.
14. The plaintiff stated that the abuse came to an end when, on one occasion, the defendant moved over to sit beside him on the couch in the living room. The plaintiff stated that he told the defendant to stop and the defendant asked him "*What's wrong?*" The plaintiff said that he told the defendant that he did not want this anymore. He said that he would tell his mother. The defendant said that if he did tell his mother, the plaintiff would be sent away. The plaintiff stated that he was afraid when the defendant said this to him. However, there was no further abuse after that occasion.
15. The plaintiff stated that he disclosed the abuse in the following manner: on 20th August, 2004, he had been at home with his father in the village in Kildare. He telephoned his mother, who he had not seen for a number of weeks, and who was in Kilkenny. She came up in the car to see him and bring him back to Kilkenny. However, when she arrived at the house, the plaintiff said that he would not go with her to Kilkenny. He did not say why he would not go. The plaintiff's mother then got back into the car and headed back to Kilkenny. On the way back, she telephoned the plaintiff and listed off a number of names of people who might have upset him. The plaintiff stated that when she mentioned the defendant's name, he said "*Yes, that's why*". He did not elaborate on this.
16. The plaintiff stated that on that evening, he stayed with his father's ex-wife, C.F., while his father was out working in his taxi. The plaintiff was very upset that evening. He told C.F. how the defendant had abused him; that was why he was so upset. She then rang the plaintiff's father.
17. The plaintiff stated that after that, the HSE and the gardaí became involved. The plaintiff stated that he had received a lot of counselling in relation to the abuse which was perpetrated on him. He had an interview with Dr. Toby Sachsenmaier, a senior clinical psychologist with the HSE. He also had counselling in Tralee and Portlaoise. He stated that he last had counselling in 2015 in Portlaoise. He was getting counselling every second week. He stated that he would have a number of counselling sessions, take a break for a while, and then resume the counselling.
18. The plaintiff stated that he had been badly affected by the abuse and had missed a lot of time from school, so as to attend counselling. In addition, he had fallen out with his two half-sisters, who did not believe the allegations. He stated that his mother had also fallen out with her two daughters.
19. The plaintiff was cross examined by the defendant. He stated that in relation to the particular trip to Wexford, which he had described in evidence in chief, he could not recall any woman asking them for directions while they were on the journey. The plaintiff stated that he could not recall the size of the bed parts that were being delivered to the nursing home. He did remember that the nursing home was on a height, but he could not recall how long they were there. The plaintiff could not recall how far they were from the nursing home when they were stopped by the garda. He thought that the defendant had been doing 20mph over the speed limit. The plaintiff stated that he was wearing a seatbelt at the time. He could not recall what clothes he was wearing on that occasion. The plaintiff stated that the garda who stopped the defendant was a male garda. There was just one garda at the scene. The garda told the defendant that he had been speeding. The defendant had got out of the car at this stage. The plaintiff thought that the blue flashing light on the garda car was turned on.
20. The plaintiff stated that he went on numerous trips with the defendant. It was put to the plaintiff that the defendant had never invited him to come on these trips; the plaintiff said that that was untrue. He denied that it was he who was anxious to go on the trips with the defendant.
21. The plaintiff stated that he missed a lot of school to attend counselling. He had been traumatised by his experiences. He said that he had numerous sessions of counselling in Tralee and also with Mr. Kieran McGrath in Portlaoise.
22. The plaintiff accepted that he enjoyed going to Kilkenny to see his half-sisters. He said that the defendant's mother and his half-sisters made a fuss of him. The plaintiff denied that he made a fuss to be allowed to go on the trips with the defendant.
23. It was put to the plaintiff that his father did not approve of him going to Kilkenny. The plaintiff stated that his father had no problem with him going to visit the defendant in Kilkenny. The plaintiff stated that he had told his father that he was going on holidays with the defendant to Portugal. He said that that was not a problem with his father. He stated that when he refused to go to Kilkenny with his mother, his father asked him why that was, but he did not tell him. He stated that he first told Ms. C.F. of the abuse later that evening.
24. The plaintiff accepted that, for the most part, the abuse happened during the day time. He denied that the defendant had asked him to sit in the back of the car. He denied that he had refused to sit in the back of the car.
25. It was put to the plaintiff that if the defendant had been abusing him in the manner alleged, why did he continue to go on the trips with the defendant? The plaintiff stated that he was a child at the time.
26. The plaintiff stated that he could not recall at what time the defendant's mother would normally go to bed. He could not comment on the defendant's assertion that he went to bed at 18.00hrs, with a view to rising again at 21.00hrs and working in the bakery during the night.
27. The plaintiff was asked about the trip to the market in Kildare. He stated that he went to Kildare town with the defendant and that the defendant had touched his genitals on the way there. He stated that they went through traffic lights in the town and the defendant then touched him on the right thigh.
28. The plaintiff was asked about his relationship with his father. He stated that he had a good relationship with him. He stated that they moved from Kerry to Kildare when he was about twelve years old. He stated that he was happy going to Kildare. He denied that he was afraid of his father. He stated that he saw his father when he was living in Kerry, as his father visited about twice each week. He stated that he stayed with his father in Kildare to avoid going to Kilkenny during the summer of 2004. Earlier, in the course of his evidence in chief, the plaintiff had denied that he had been put up to telling this story by his mother or father. He denied that he was coached by them. He stated that he did not know in 2004 that the defendant had received compensation arising out of a road traffic

accident.

**Evidence of Ms. M.B. (the plaintiff's mother)**

29. Evidence was given by Ms. M.B., the plaintiff's mother. She stated that she had been in a relationship with the defendant from the mid-1970s until the mid-1980s. They lived in the defendant's house in Kilkenny. Their relationship broke up circa 1985. She could not recall when she started her relationship with Mr. M.F. She had been living in Co. Kerry after she broke up with the defendant. She had known M.F. for years. He lived at first in Dublin and then in a village in Kildare.

30. Ms. M.B. stated that when the children were young, she would bring them to the defendant's mother's house in Kilkenny. The three of them stayed with the defendant during the school holidays. The witness recalled one evening in the summer of 2004 when the plaintiff rang her in Kilkenny. He wanted to see her, but when she arrived up at the house in Kildare, he said that he was not going to accompany her to Kilkenny. The witness stated that some time later, as she was returning to Kilkenny, she telephoned the plaintiff, and said to him, "*Did somebody do something to you?*" She then listed out a number of names and when she mentioned the defendant, the plaintiff said "Yes". She stated that the plaintiff was very upset at this time.

31. The witness stated that she learned of the allegations when M.F. phoned her a couple of days later. Initially, she could not believe the allegations. She did not believe that the defendant would abuse her son. She stated that she was in denial for a long time.

32. Ms. M.B. stated that C.F. made her aware of the abuse allegations. They then contacted social welfare and social welfare workers came out to see them. Dr. Sachsenmaier interviewed them as part of the investigation into the complaints. The plaintiff was also interviewed by her.

33. The witness stated that she is terrified when the plaintiff goes out socialising, as he cannot bear anyone touching him. She is afraid what he might do under certain circumstances. She stated that his childhood had been taken away. Ms. M.B. stated that it was ridiculous to say that the plaintiff had been told by her to tell any lies against the defendant. She denied that her husband, M.F., was jealous of her relationship with the defendant.

34. In cross examination, Ms. M.B. stated that she met Mr. M.F. when his wife was a next door neighbour of hers. She accepted that her husband had stayed for a while in the defendant's house in Kilkenny.

35. It was put to the witness that if a child falls, he would normally tell his mother what had happened. The witness accepted that this was usually correct. She could not say why the plaintiff decided not to tell her of the abuse, but decided to tell C.F. about it. She stated that the plaintiff was very close to C.F. The witness stated that initially she had found it very hard to believe that the defendant had abused her son. It took her a long time to come to believe the allegations. She stated that after the plaintiff told C.F. of the abuse, M.F. rang her the next day and told her of the allegations.

36. It was put to Ms. M.B. that when the allegations were first made, the defendant could not believe them and he asked the witness to telephone the plaintiff and allow the defendant to speak to him. It was put to the witness that she replied: "*There would be no f...ing deal here*". The witness said that she did not recall any such conversation between them.

37. It was put to the witness that she had allowed her daughter, who was then aged seventeen, to go on the holiday with the defendant to Portugal in the summer of 2004, after the allegations had been made by the plaintiff. It was put to her that notwithstanding the allegations that had been made by the plaintiff, Ms. M.B. thought that her daughter would be safe with the defendant. The witness stated that the defendant had asked her daughter to go on the holiday and had built her up to it. Her daughter had her half-sisters with her for company. The witness stated that she could not recall going to a wedding with the defendant in 2005. She stated that once she took the plaintiff's side, she did not go anywhere after that with the defendant. She accepted that the defendant was a generous man and always brought something when he came to visit her. She accepted that he treated her children like his own children. She denied that she ever told her daughters to lie to the defendant, nor had she told the plaintiff to tell any lies. She stated that when the allegations were initially made she did not talk to the plaintiff, because he had wanted to speak with C.F. She stated that she believed that the defendant had abused the plaintiff.

**Evidence of Mr. M.F. (the plaintiff's father)**

38. Evidence was given by Mr. M.F., the plaintiff's father. He stated that he had been in a relationship with M.B. since 1985. He lived in a village in Kildare and his wife would come up and down to visit from Kerry.

39. He had a clear recollection of the day when the plaintiff told his mother that he would not go to Kilkenny. The witness stated that he was in another room. The plaintiff's bag was packed and ready, but when his mother arrived he would not go with her. He did not tell his father why he would not go to Kilkenny.

40. He recalled that later in the evening, M.B. rang to speak to the plaintiff. She went through a list of names and when the defendant's name came up, the plaintiff said that the problem was with him, but he would not say why. At this time, the plaintiff was feeling very sick. He was upset and anxious. When the plaintiff had calmed down, he brought him to stay with his ex-wife, C.F. Later, he received a call from C.F. to the effect that he needed to come back to her house. When he arrived at the house, she told him what the plaintiff had said to her about the abuse by the defendant.

41. The witness denied that he was motivated by jealousy of the defendant's relationship with his wife, M.B. He denied that he was abusive to his wife. He denied that he had coached the plaintiff to make the allegations against the defendant. He said that he was not aware that the defendant received compensation arising out of a road traffic accident in 2004.

42. In cross examination, Mr. M.F. denied that the plaintiff's violence came from him. He stated that he was not violent at home. It was put to him that he had punched the defendant in 1993 or 1994, because he was jealous of the relationship which the defendant had with his wife. The witness said that he did not punch the defendant as alleged, but that after the allegations were made by the plaintiff, he would have loved to punch the defendant. He denied that he had any problem with his wife visiting the defendant in Kilkenny with their children.

43. The witness stated that he stayed in the defendant's house for a few days each week, when he was working there for the defendant for about two months. He stated that he built a wall for the defendant. He denied that this took six months. He denied that he was jealous of the defendant getting on well with his children. He stated that he had no problem with it.

44. He stated that he let his daughter, J.F.B., go on holidays with the defendant, even after the allegations were made. He stated

that he left the decision to her, and did not try to influence her thinking. He let her make the decision herself, even though she was a minor. He stated that at the time, the plaintiff's mother was going through a lot, so he left it to her and to J.F.B. to decide for themselves if they wanted to go on the holiday.

45. He was asked how he could let his daughter, who was under eighteen years of age, to go on holiday with the defendant, if he believed the allegations that had been made by the plaintiff. The witness stated that he was not a dictator and that if her mother had no objection, he would let her go on the holiday. He thought that it was responsible of him to allow the mother and daughter to decide whether the daughter would go on the holiday with the defendant.

#### **Evidence of Ms. C.F.**

46. Ms. C.F. also gave evidence on behalf of the plaintiff. She stated that she remembered her ex-husband and the plaintiff coming to her home in August 2004. The plaintiff was very distressed at this time. He was reluctant to talk. After a while, he said that the defendant had touched him and that he had touched the defendant. He did not elaborate on it. The plaintiff said that she could tell his father, but he asked "*Would mummy get into trouble?*" He said that the abuse had been going on for a while. Ms. C.F. stated that she sensed that the abuse had been going on over a number of years.

47. The plaintiff told her that the abuse had happened in the car and in the sitting room in the house in Kilkenny. She thought that the plaintiff confided in her because she had a good relationship with him. She thought that he felt safe telling her of the abuse.

48. In cross examination, the witness stated that the plaintiff used to come regularly to her home. The plaintiff still visits her. She stated that the relationship between M.B. and M.F. was good. She denied that M.F. was a violent or controlling man.

#### **Evidence of Mr. Kieran McGrath**

49. The final witness on behalf of the plaintiff was Mr. Kieran McGrath. He holds a degree in law and a Masters in social work from University College Dublin. From 1981 to 1987, he worked as a social worker and social work manager with the Eastern Health Board in Wicklow and Kildare. From January 1988 until March 2002, he was Principal Psychiatric Social Worker in St. Claire's Child Sexual Abuse Assessment and Therapy Unit, Children's University Hospital, Temple Street, Dublin. In March 2002, he was appointed assistant director in St. Claire's Unit. In 1990, he had co-founded the Northside Inter-Agency Project (NIAP), a treatment service for young people who sexually abuse, the first service of its kind in Ireland. He was a clinician with NIAP from 1990 until 2002, when he became chair of its steering committee. He represented St. Claire's Unit on various expert working parties, including the Video Evidence Committee, which drew up guidelines for the taking of video statements from children and people with intellectual disabilities in cases of alleged abuse. In December 2003, he was included in the panel of three approved candidates from which the first Irish Ombudsman for Children was chosen. In January 2006, he established the Irish Child and Family Institute, an independent child welfare consultancy which operates in both Ireland and Spain. Since 2007, he has been consultant to the ATURAT project in Palma, Majorca, a service for the evaluation and treatment of young people convicted of sexual offences, which operates under the auspices of the Menors i Família section of the autonomous Government of the Balearic Islands.

50. Mr. McGrath stated that he was asked by the plaintiff's solicitor to examine the plaintiff and to do an assessment of him under two headings:-

(i) the plaintiff's credibility; and

(ii) the impact of the abuse on the plaintiff and the need for follow up treatment.

51. Mr. McGrath stated that he focused on the second question. He had access to a range of documents in the case and also interviewed the plaintiff and his parents in October, 2009.

52. Mr. McGrath stated that the plaintiff's parents were concerned about the effect that the abuse seemed to have on the plaintiff. He had outbursts of anger in school, in particular when a boy tried to pull down his pants and, on another occasion, when a boy photographed him in the toilet. The plaintiff became very angry at these two events.

53. At an interview conducted on 10th October, 2009, the plaintiff outlined to Mr. McGrath the abuse which he had suffered at the hands of the defendant. The plaintiff was not able to talk to his mother about it. Mr. McGrath stated that this was not unusual. In this case, the plaintiff told another close relative that he was afraid of reporting the defendant, because the defendant had told him that he would be sent away if he told anyone. The plaintiff had not been in formal counselling when he met Mr. McGrath. The witness was keen that the plaintiff would get appropriate counselling.

54. Mr. McGrath stated that in his experience when people are abused by people they know well, this adds to the stress of the abuse. Where a person delays in reporting the abuse, the issue goes on for longer. Mr. McGrath was of opinion that if the plaintiff had not told someone, the abuse would probably have gone on. This can give rise to psychiatric difficulties, as boys feel that they should be in a position to stop the abuse. Where there are episodes of intrusion, as in this case in the school, this can trigger memories in the abused person and they can react very strongly to the intrusion.

55. The plaintiff reported that he had difficulty concentrating on various things. He also reported that he experienced difficulty, when stories of sexual abuse arose on the television. He was ill at ease in sports changing rooms and for this reason had given up Gaelic football. Mr. McGrath noted that the plaintiff was sad at losing the relationship that he had had with his half-sisters. He had also experienced a lack of self-confidence.

56. During the interview, the plaintiff completed a questionnaire known as the Impact of Events Scale. This was a screening test rather than a diagnostic test; however, it could give an indication that a person may be suffering from Post Traumatic Stress Disorder. If the person reports issues such as flashbacks, this can explain why they have difficulty in concentrating. Mr. McGrath stated that the results of the test confirmed that the plaintiff was still experiencing significant difficulty associated with his abusive experiences, in keeping with the verbal description that he had given earlier in the interview. The plaintiff had had some counselling sessions; however, the results would suggest that he required ongoing psychotherapy. The plaintiff was experiencing evidence of intrusion, avoidance, and hyper arousal, years after the reported abuse.

57. Mr. McGrath also considered whether the plaintiff was suffering from Child Sexual Abuse Accommodation Syndrome (CSAAS). The witness explained that this syndrome can address why young people can experience sexual abuse and not report it and appear to accommodate it. The CSAAS attempts to explain, among other things, the apparent ability of some young people to, firstly, accommodate themselves to being sexually abused, not report it and then, if they do report it, to regret doing so. These apparently inconsistent behaviours can be explained. Mr. McGrath stated that the author of the CSAAS stated that accommodation may take

place, due to the fact that the abused child felt helpless and trapped in the abuse. They may try their own ways of coping, e.g. dissociation from it, they may wear more clothes, or they may go to different places. At some point, the child will overcome their sense of entrapment and will tell someone, or it will come out by accident. For some, reactions to their disclosures will be met with support and protection. Others experience denial and doubt which causes additional stress. They must then cope with the associated pressure of the investigation process. They may feel that the “*price*” of the abuse becoming known is just too much. The price may include: outright denial by the abuser, change of living circumstances, reaction/doubt by family members or close friends, having to keep on “*telling*”, coping with the investigation process, police, social services, etc., and being scapegoated by other friends or family members. If the child feels the price of disclosure is too high, they may be tempted to retract their disclosure in the hope that things would return to normal, or to convince their families that they are all right.

58. In this case, although the plaintiff may have been tempted to retract, he did not do so, in spite of the denial and loss of contact with some family members. He also has had to endure a difficult judicial process, which causes many others to give up, if not to totally retract.

59. Here, the plaintiff told his “*aunt*”, rather than his mother, as he was not confident that he would get support from her. This was a well known phenomenon. It describes the dynamic within the family circle.

60. In his conclusions, Mr. McGrath stated that he had no reason to doubt the plaintiff. The plaintiff presented as a pleasant but troubled boy. Mr. McGrath recommended that he should have therapy to deal with the issues which he had.

61. Mr. McGrath pointed out that the closer the relationship between the victim and the abuser, the more the trauma tends to be. Also the length of time over which the abuse is carried out, in this case a period extending to some years, means that the abuse is more traumatic for the child. If there was penetration, which there was not in this case, then the abuse would have been more traumatic. Mr. McGrath stated that if the child is believed, this can help considerably. If the abuser denies the allegations, this can add to the trauma for the child. Mr. McGrath was of the opinion that the plaintiff needed psychotherapy with a person who was expert in the area of child sexual abuse. He estimated that such psychotherapy would last for a number of years. It would start with weekly sessions and then over time become less frequent.

62. In cross examination, Mr. McGrath stated that he had met the plaintiff on one occasion for approximately three hours. He also interviewed his parents at that time. It was put to Mr. McGrath that the IES scale fell short of a diagnosis for PTSD. Mr. McGrath accepted that the IES scale was a screening tool, rather than a diagnostic tool. It is used to indicate whether further follow up treatment is needed. He agreed that the DSM V is used in the US manual to diagnose Post Traumatic Stress Disorder. It is used by psychologists and psychiatrists in the US and elsewhere. However, Mr. McGrath used the IES, which was a limited tool. He felt that it was appropriate to use it in the circumstances.

63. It was put to Mr. McGrath that the IES was designed for recent events and not for remote events. Mr. McGrath stated that when he saw the plaintiff in 2009, he thought it appropriate to use it, as the plaintiff was still suffering the effects of the abuse. He accepted that the IES is a self-reporting questionnaire. He did not think that it was biased. Self-reporting questionnaires are used widely throughout the world. In reaching his conclusions, he relied on the documentation supplied, together with the plaintiff’s account and the account given by his parents. The witness was not aware whether the plaintiff received any psychotherapy treatment. He certainly recommended that he should get such treatment at that time.

## **The Defendant’s Case**

### **Evidence of Ms. S.B.**

64. Evidence was given by Ms. S. B., who is a daughter of the defendant and of the plaintiff’s mother. She stated that she had initially moved to Kerry with her mother, but she did not like it there. She did not like the atmosphere in the home. There were two other men who stayed over in the house, as did M.F. The witness stated that she did not have a bedroom, as the two men had a bedroom. She slept in a camp bed with her sister. She stated that during her time in Kerry she cried a lot as she wanted to return to the defendant’s house in Kilkenny.

65. She stated that the defendant treated the plaintiff, as one of his own children. She stated that in the period 2002 to 2004, the plaintiff did not show any signs that he did not want to come to Kilkenny. She stated that her mother came to the house in Kilkenny, even after the allegations had been made, but did not speak to her about them. She stated that if there had been abuse, M.B. would not have cooked steak dinners for the abuser, as she had done for the defendant after the allegations were made. It was her belief that her mother never believed that the abuse had happened. She stated that she would have no problem leaving her two boys with the defendant.

66. The witness stated that when M.B. moved to Co. Kerry, she would go down to stay with her at weekends. She stated that there was a lot of shouting and rowing in the house between M.B. and M.F. She stated that on one occasion, she went into the bedroom and M.F. had the pillow over her mother’s face.

67. She recounted how on one occasion M.F. had sellotaped her thumb to the palm of her hand, to prevent her from sucking her thumb. She stated that he would lock the bedroom door and they were not able to get out to go to the toilet. She stated that if they did not eat the dinner the night before, they would have to eat it for breakfast on the following morning.

68. The witness stated that she saw M.F. punch the defendant in the face. She was in the back of the car when this happened. She recounted how, on one occasion, they had been driving in a car, driven by M.F., when her sister had got sick in the back of the car. M.F. pulled the car over to the side of the road and pulled her sister from the car and placed her in the boot of the car. He then continued on driving. The witness stated that she was happy when she returned to Kilkenny.

69. Ms. S.B. stated that the defendant would go to bed at around 18:00hrs because he would get up later in the night and go to work in the bakery. She stated that the plaintiff always loved to go to the bakery with the defendant. He would be upset the next day, if he had missed a trip to the bakery.

70. In cross examination, the witness accepted that sexual abuse would not normally happen in public. She stated that her mother came to Kilkenny on a frequent basis after the allegations had been made. She confirmed that she had had her own house in Kilkenny since approximately 2002. She stated that when in Kerry, she had a camp bed in her mother’s bedroom. When one of the men moved out, the girls got their own bedroom downstairs. They were locked in at night.

71. In re-examination, the witness stated that her mother did cook dinner for the defendant after the allegations had been made.

72. Her recollection was that a phone call had been made to the property in Kilkenny, at which time the plaintiff had told his mother that he had been abused by the defendant. When the defendant came back from work, they asked him what this was about. He was shocked by the allegations. He did not know what they were talking about. Ms. S.B. stated that this conversation took place when the defendant came back from work at approximately 17:00hrs. She stated that the plaintiff had told his mother on the phone what had happened to him. They were able to hear what was being said in the phone call because the phone was on speaker at that time.

#### **Evidence of Ms. B.B.**

73. Ms. B.B., a daughter of the defendant, gave evidence that after her sister S.B. had left Kerry, her mother wanted her to stay on there. However, she wanted to go back to Kilkenny as well. She did not like it when M.F. came down at weekends. There was always violence and fighting in the house during such visits. She stated that M.F. was a control freak.

74. Ms. B.B. stated that M.F. used to smoke in the car, which would make her feel sick. He would not allow them to open the windows. On one occasion she got sick in the car and M.F. put her into the boot and then continued on driving. He then stopped the car and threw her into a ditch and drove off. He came back for her later.

75. The witness stated that the defendant treated the plaintiff well and in the same way as he treated his own children. She stated that she did not notice any change in the plaintiff in 2001/2002. She stated that her mother continued to come to the property in Kilkenny, even after the allegations were made. She found that strange. The witness stated that she did not believe the allegations. She stated that the defendant did not single the plaintiff out for any special treatment. She had no problem leaving her daughter in the care of the defendant.

76. Ms. B.B. stated that on 20th August, 2004, she had gone to Kildare to collect the plaintiff for the purposes of going on holidays to Portugal with the defendant and the rest of the family. She stated that they had tea in the house and the plaintiff then went into the sitting room with his father. He came out after some time and said that he was not going to go to Kilkenny with them. She did not know what had happened in the sitting room.

77. She recalled that, later in the evening, M.F. and the plaintiff phoned her mother and when she asked what was wrong, the plaintiff said nothing. When they reached the house in Kilkenny, M.F. rang and said that there had been abuse. She stated that her mother knew of the allegation of abuse that evening, as did the defendant. She stated that they were the first to know of the allegations and not C.F. as maintained by the plaintiff.

78. In cross examination, the witness stated that they were going on holidays in August 2004. This was when the plaintiff made the allegations. The plaintiff was ten years old at the time. His sister J.F.B. was seventeen years old. Ms. B.B. stated that the defendant treated the plaintiff the same as he treated his daughters. She saw no change in the plaintiff until that day. Since then, relations between them had broken down. The plaintiff does not want to see the defendant. He has been back in the village in Kilkenny, but stays clear of the defendant.

79. The witness stated that on the day that the disclosure was made, the plaintiff knew that he was due to go on holidays to Portugal. However, his father, M.F., did not know that he was due to go on holidays; he only knew that the plaintiff was due to go to Kilkenny. When they arrived at the house in Kildare, the plaintiff refused to go to Kilkenny. Her mother did not know why this was. Later, when his mother phoned, and listed out to him the names of people with whom the plaintiff would come into contact in Kilkenny, in order to see if any of them were the source of his refusal to go to Kilkenny, the plaintiff said that the defendant was the problem. She thought that M.F. was aware of this, as he was in the house at the time the phone call was made.

80. She stated that M.F. and the plaintiff were on the phone to her mother in Kilkenny. On this basis, she thought that her mother knew of the abuse allegation before he told C.F. M.F. and the plaintiff had told her mother that the defendant had abused the plaintiff. The witness was present in the house at this time.

81. She recalled that in the telephone call which was made from the car on the way back to Kilkenny, her mother had given a list of names and the plaintiff had said "Yes" when she said the defendant's name. This telephone call occurred while they were in the car. Nothing more was said at that time. Later, M.F. phoned and told of the abuse allegation made against the defendant. The plaintiff said that the defendant had interfered with him. In the telephone conversation in the car, the plaintiff did not say what was the problem, that was said later in the phone call to the house in Kilkenny. She was of the view that they were the first people to know of the allegations.

82. It was her opinion that M.F. had stopped the plaintiff going on holidays to Portugal. It was later that he made the allegations of sexual abuse. It did not end that evening. It had gone on for twelve years. She stated that her father would never perpetrate sexual abuse against anyone. She accepted that if her child told her that they had been abused, she would not allow the child near the abuser. She accepted that the plaintiff has not been near the defendant since the allegations were made.

83. The witness stated that when they went to collect the plaintiff in Kildare, her mother had told her to lie to M.F. about going on holidays, because they were afraid of him.

#### **Evidence of the defendant, Mr. T.B.**

84. The final witness was the defendant. He stated that M.B. and he had never married. There was no mention of any penetration or ejaculation in any report that had been done in the matter. He stated that he never abused the plaintiff. He stated that he was not violent and that he had cared for the plaintiff for many years. He stated that M.F. was a violent man. His daughters had given evidence of how they were mistreated by him. He never found out about this abuse of them, until the allegations made by the plaintiff came to light. He stated that the plaintiff may have been abused by someone, but it was not by him.

85. The defendant stated that Mr. McGrath was a social worker, who had had one meeting with the plaintiff in a hotel. He wondered why there was no more recent report. The defendant stated that he had returned to full-time work, when he had been released from prison. He stated that his employer wrote a great reference for him. The defendant stated that he did not know what damage the plaintiff had suffered; the plaintiff said that he had missed time from school, but he had got his leaving certificate examination.

86. The defendant stated that he loved his daughters. He stated that he was lucky to be surrounded by family and friends. He was surprised that M.F. had denied hitting him in 1993. He stated that if M.F. had believed the allegations, he would have assaulted him once these allegations came to light. However, he had not done so. He stated that he had refused to admit any guilt in the earlier court proceedings so as to avoid going to prison. He stated that he had been in prison for nine months for something that he did not do. He stated that he was surprised that J.F.B. was allowed go on the holiday in 2004, if the plaintiff's mother and father actually believed the allegations.

87. The defendant stated that he was surprised that the plaintiff was about to join An Garda Síochána, as he claimed that he had ongoing damage. The defendant stated that he was a family man, who had three wonderful grandchildren and he loved them very much. He stated that it will break his heart when he will have to tell them about these allegations. He had attended the Innocence Project under Dr. Langwallner in Griffith College. He stated that he also now had a wonderful wife.

88. The defendant stated that he did not own any property at all. He had transferred his house into the names of his sisters, to ensure that his children would get the property. In addition, his mother had a right of residence in the property. He stated that the plaintiff was claiming damages for something that he could not prove.

89. In cross examination, the defendant stated that he had heard the allegations on many occasions. He had written a defence to the case. He accepted that he knew of the allegations for over ten years.

90. The defendant accepted that the plaintiff had accompanied him on a trip for the purpose of delivering bed parts to a nursing home, when he had got a ticket for speeding. However, he stated that the nursing home was in Bantown and not Gorey, as alleged by the plaintiff. He denied that he had abused the plaintiff on that journey.

91. The defendant also accepted that he worked in a bakery and that he would do deliveries to various markets. He accepted that he had been to the market in Kildare to make a delivery to a man called Colm from Ballyfermot. He stated that the plaintiff was not making up that part of the story, but he was making it up that the defendant had abused him. He stated that the plaintiff was telling the truth when he said that he stayed in Kilkenny and accompanied him on business trips. However, he was only on the road occasionally. He worked mainly in the medical equipment factory.

92. It was put to the defendant that the plaintiff had a specific memory of the trip to Gorey for the purpose of delivering bed parts to a nursing home. The defendant stated that they did not go to Gorey, but went to Knockeen Nursing Home on the Waterford Road. The defendant stated that he never abused the plaintiff. It was put to the defendant that the plaintiff also recalled that there was abuse on the trip to Kildare. The defendant stated that that was not true.

93. The defendant stated that he believed that, from day one, the plaintiff had been coached by his father. He stated that M.F. was always jealous of his relationship with M.B. and his two children. He stated that M.F. also saw him as a target for money. He was sure that M.F. had coached the plaintiff to make these allegations against him. He stated that the plaintiff may have been assaulted, but it was not by him.

94. The defendant stated that he was surprised that the plaintiff had gone on with these untrue allegations for so long. He thought that the plaintiff's father had targeted the money, which the defendant had received following his road traffic accident. He was not surprised that the civil action was not commenced until August, 2011. He thought that the plaintiff had commenced the action out of fear of his father. He could not say if the plaintiff was still afraid of his father.

95. The witness stated that the plaintiff had gone to C.F. and told her that he was abusing him. He told this to the social workers and to counsellors over the years. He also went to the gardaí and this led to the prosecution and conviction of the defendant. He stated that he had been convicted in the District Court and that he then appealed to the Circuit Court, where he had been convicted again. He accepted that he had been represented by solicitor and counsel in the Circuit Court. He stated that he subsequently received the plenary summons and statement of claim in August 2011. He stated that the plaintiff was making up these false allegations against him for over ten years, down to the present time. He stated that the plaintiff was stuck with the lie that he had told and he has to go through with it. He could not say why the plaintiff did not back off making these untrue allegations after the Circuit Court hearing. He stated that the plaintiff had taken this action looking for money. The plaintiff was now twenty-one years of age and was still making these allegations.

96. The defendant stated that the plaintiff had made his complaints, when he was aged ten years old, because he had been put up to it by his father. He stated that the plaintiff was stopped from going on holidays with him. The plaintiff and his father went into the sitting room and had a conversation lasting some ten minutes; then the plaintiff said he did not want to go on the holiday. The defendant stated that he could not recall if he had said this in the criminal cases.

97. The defendant stated that the false allegations were initially made up by the plaintiff's father, and that the plaintiff was now stuck with this lie and had to continue with it. He stated that he was bringing the case against him for money. He stated that the plaintiff thought that he had a home, but he did not own any house. He said that he was not working at present and was retired. He stated that the medical equipment factory was in liquidation and he had left the bakery in 2006. He stated that after he had served his prison sentence, he had gone back to work in the medical equipment company and had worked there for four or five years until it had been put into receivership.

98. The defendant stated that M.B. had come back to Kilkenny after the allegations had been made. He stated that the plaintiff had repeated the lies to social workers and to gardaí, since he first made them at age ten. He stated that half the plaintiff's story was true, he did go on trips with him, but the abuse part was a lie. He stated that the plaintiff had repeated this lie for many years. He could not back off it due to his father. He accepted that the plaintiff had given evidence in the District Court, when he was twelve years old. He testified that he had been abused by the defendant. He could not recall if the plaintiff gave any details of the abuse. He stated that the case did not take very long at hearing.

99. The defendant stated that the initial court hearing in Kilkenny had been very brief and the matter was then adjourned to Portlaoise. The plaintiff gave evidence there. The defendant could not believe what was happening to him. He stated that from day one it had all been lies. The plaintiff told the lies all over again in the Circuit Court hearing. He stated that the plaintiff was doing the same thing in this case. The defendant said that he was waiting for the plaintiff to admit the truth and withdraw the statements. He stated that the plaintiff was repeating all these allegations again now that he was twenty-one years of age. However, the defendant stated that it had all started with the plaintiff's father. Once the story had been started, the plaintiff could not retract it. The defendant stated that he had been waiting for him to retract his allegations. He accepted that the plaintiff was an adult now and that he was in different circumstances, than when he had initially made the allegations at age ten years. However, the defendant maintained that the plaintiff was still in fear of his father. The defendant stated that he knew that he did not commit any abuse against the plaintiff. He stated that he was found guilty of something that he did not do.

100. The witness accepted that M.F. had hit him in 1993, which was before the plaintiff was born. The defendant stated that M.B. and M.F. had allowed J.F.B. to go to Portugal after the allegations had been made. He accepted that she was 17 years old at that time. He stated that M.B. wanted to come on the holiday, but was stopped by the social workers, who said that if she went on the holiday she did not love her child.

101. The defendant wondered why the plaintiff would be embarrassed to tell his mother of the abuse allegations. He accepted that it would be somewhat embarrassing, but he found it strange that she was not told of them first. He accepted that the plaintiff had been consistent in relation to the allegations that he had made for over ten years. However, he denied that this was due to the fact that he had actually carried out these assaults on the plaintiff. He stated that that was not true. He stated that the plaintiff's story was half true, about going on the trips, but the abuse allegations were untrue.

## Conclusions

102. The first question that arises for determination is as to whether the allegations made by the plaintiff against the defendant, are true or false. The plaintiff gave detailed evidence in relation to the various assaults, which had been perpetrated against him by the defendant. His account of suffering abuse while in the car with the defendant, was given in a clear and straightforward manner. He was able to give specific details in relation to two particular trips that he had made with the defendant, being the trip to the nursing home to deliver bed parts, when the defendant was stopped by a garda for speeding, and the trip to deliver bread to a man named Colm at a market in Kildare. The defendant accepted that on one occasion he had been driving for the purpose of making a delivery, with the plaintiff accompanying him in the car, when he was stopped for speeding. However, the defendant stated that he was going to Barntown and not to Gorey, as alleged by the plaintiff. Moreover, the defendant denied that any abuse took place on this journey. I prefer the evidence of the plaintiff in relation to this particular trip. I am satisfied that he was abused on that trip in the manner alleged by him.

103. I am satisfied that the details which have been provided by the plaintiff in relation to these two particular trips, are accurate and did in fact take place. As already noted, the plaintiff gave his evidence in a clear and straightforward manner. He was not evasive in his answers. He answered all the questions that were put to him. I am satisfied that he was telling the truth in relation to the abuse that he suffered at the hands of the defendant.

104. The defendant accepts that the plaintiff has been consistent in the allegations that he has made, since the time that he first made the allegations when aged ten years. The plaintiff is now twenty-one years of age. It would appear that he has maintained the same story in his interviews with the social welfare authorities, the gardaí and during the criminal trial in the District Court and the appeal therefrom in the Circuit Court. He has repeated the allegations in the course of this litigation. I am satisfied that his consistency in making these allegations, is not due to any pressure which may have been exerted upon him by M.F., but rather is due to the fact that the allegations are true.

105. I am not satisfied that the defendant has told the truth. I have observed the defendant carefully during the course of the hearing and in particular, when he gave evidence on his own behalf. He did not strike me as a person, who was telling the truth. He simply repeated his denial of the allegations, rather than deal with the questions put to him. I am satisfied that he was lying when he stated that he did not abuse the plaintiff. It may be that over time he has convinced himself of the veracity of this lie, but that does not detract from the fact that his denial was indeed a lie.

106. In the circumstances, I am entirely satisfied that the plaintiff was abused in the manner alleged by the plaintiff from the time that he was aged approximately seven years, until he was aged ten years. I am satisfied that he was abused on numerous occasions during this period, both in the car when going on trips with the defendant and also in the living room in the defendant's house in Kilkenny. I accept the plaintiff's evidence that on these occasions the defendant touched him on the genitals and that on occasions he was made to touch the defendant's penis.

107. Turning now to the issue of the quantum of damages, I should make it clear at the outset, that it is not the function of this Court to punish the defendant. He has already been convicted in the District Court, which conviction was affirmed in the Circuit Court. He has served a term of imprisonment in respect of the offences with which he was charged. As such, he has paid his debt to society and there is no question of this Court imposing any further punishment on him.

108. This is an unusual case in that, while the plaintiff has established that he was sexually assaulted in a serious manner, over a number of years, when he was a young boy, it is not alleged that he has suffered any definable psychiatric injury as a result of these assaults. There was no medical evidence led at the trial on behalf of the plaintiff. The only report that was submitted, was a report from a social worker, Mr. McGrath, who stated that as a result of one of the tests which he carried out, there was an indication that the plaintiff may have suffered PTSD, but no such diagnosis was made by any medical expert.

109. I accept the evidence of Mr McGrath that the plaintiff's circumstances come within what has been termed Child Sexual Abuse Accommodation Syndrome, where he had to adapt himself to a highly stressful and secretive situation that he did not understand and which caused him great anguish. In spite of that he had the courage to report the abuse and then had to cope with, among other things, his mother doubting him, the denial of the abuser, the loss of family contacts, the stresses associated with the investigation process, as well as the criminal trial that followed.

110. The law is clear that the tort of trespass to the person, does not require any definable physical or psychiatric injury to be present, before such a trespass to the person can be actionable. In assessing damages, the court is entitled to have regard to the nature of the assault, the circumstances in which it was perpetrated, the frequency and duration of the assaults and the age of the victim at the time the assaults were carried out.

111. In his evidence, the plaintiff stated that he missed a lot of time from school due to receiving counselling. He continues to receive counselling up to the present time. In addition, the assaults and more particularly, the fact that the plaintiff made disclosure of the assaults, has caused him to lose contact with his half-sisters, with whom he was very close prior to the assaults being carried out.

112. In assessing damages, the court is mindful of the principles set down by the Supreme Court in *M.N. v. S.M.* [2005] IESC 17, where it was held that in assessing the level of general damages for sexual assault, there were a number of relevant factors to consider. An award of damages must be proportionate; it must be fair to the plaintiff and to the defendant; it should be proportionate to social conditions, bearing in mind the common good; and it should be proportionate with the legal scheme of awards made for other personal injuries. Thus, the three elements, fairness to the plaintiff, fairness to the defendant, and proportionality to the general scheme of damages awarded by a court, fall to be balanced, weighed and determined. The court also held that in assessing the injuries suffered by the plaintiff, it was relevant to consider the actions of the defendant and, in particular, whether he had made an early admission of guilt, whether he had entered an early plea to the criminal proceedings and whether any apology had been given, all of which may have helped to alleviate the suffering of the plaintiff in a particular case. In this case, none of these factors was present.

113. In his statement of claim, the plaintiff has also claimed aggravated and/or exemplary damages. In *O'Donnell v. O'Donnell* [2005] IEHC 216, Kelly J. (as he then was) stated as follows in relation to the awarding of aggravated damages in civil sexual abuse claims:-



*"Aggravated damages are compensatory in nature and can be awarded in cases in which the injury to the plaintiff has been aggravated by malice or insolence or arrogance accompanying it. The plaintiff complains that the defendant maintained a denial of liability in these proceedings and that he should be awarded damages in that regard. I am at one with the view of Finnegan P. in Noctor's case that the maintenance of a denial of liability is not an abuse of the process of the court. A defendant is entitled to require a plaintiff to prove his case. The denial of liability was not maintained up to trial as I have already recorded. That was a concession which the defendant was not obliged to make. In Noctor's case, Finlay P. approved a statement from the decision of Nourse L.J. in Sutcliffe v. Pressdram Limited [1990] 1 All E.R. 269, where he identified the factors which might lead to an award of aggravated damages. They are:-*

*'Conduct calculated to deter the Plaintiff from proceeding; persistence, by way of a prolonged or hostile cross examination of the Plaintiff or in turgid speeches to the jury; a plea of justification which is bound to fail; the general conduct either of the preliminaries or of the trial itself in a manner calculated to attract further wide publicity, and persecution of the plaintiff by other means.'*"

114. In *L.O'K. v. L.H.* [2006] IEHC 393, de Valera J. stated as follows in regard to making an award of aggravated damages in a sexual abuse case:-

*"Among the matters which I should take into consideration when considering aggravated damages is the manner in which the wrong was committed, the conduct of the wrongdoer after the commission of the offence and the conduct of the wrongdoer in the defence of the action up to and including the trial of the action. In this matter the first defendant has refused to take any part in the trial and I am satisfied that I am entitled to take this into consideration as well as his behaviour at the criminal trial which was the 'trigger' for L.O'K. in initiating this action."*

115. In the course of a very full defence filed in the proceedings, the defendant maintained strongly that he never abused the plaintiff. He made the clear allegation that the plaintiff was telling lies and further that the plaintiff had been coached to give false evidence in his previous criminal trials. Included with his defence, was a counterclaim that it was M.F. who had coached the plaintiff to make these false allegations against the defendant. He claimed that money and jealousy was the source of the allegations made by the plaintiff. In the course of the counterclaim, he stated that M.F. was always jealous of his good relationship with the plaintiff's mother, even after their partnership ended. The defendant stated that the abuse claim only came to light when he received a sum of money from a car accident insurance claim in March 2004. He claimed damages for severe personal injury, loss and damage, inconvenience and expense caused by the negligence and breach of duty, including statutory duty on the part of the defendants (sic) each or either of them, their respective servants or agents.

116. I am satisfied that in these circumstances, the court is entitled to take account of the fact that not only did the defendant in his defence put the plaintiff on proof of the allegations made by him, but also made the separate claim that the plaintiff had been coached to make false allegations against the defendant due to a desire on the part of the plaintiff and others to extract money wrongfully from the defendant.

117. In assessing damages in this case, I have had regard to the fact that the abuse was carried out over a number of years and at a time when the plaintiff was particularly vulnerable, being a young boy aged seven years to ten years. I have also had regard to the fact that the defendant was in a position of trust in relation to the plaintiff. The abuse itself was towards the lower end of the scale, as it did not include acts of rape or oral sex. I have also had regard to the fact that it has not been alleged that the abuse caused any definable physical or psychiatric injury to the plaintiff. Nevertheless, he did require counselling over a prolonged period, which is continuing.

118. In arriving at an award of general damages that I consider fair in all the circumstances, I have had regard to the amount awarded by the Supreme Court in 2005 in *M.N. v. S.M.* (supra). In that case, the Supreme Court reduced a jury award of €600,000.00 to €350,000.00. That was in respect of acts of sexual assault, which had gone on for five years, culminating in rape of the minor. As such, it can be seen as setting a benchmark for the assessment of damages in cases of very serious sexual abuse. The abuse in this case, while constituting serious sexual assaults, was not of that level. In all the circumstances, I award the plaintiff €105,000.00 for general damages.

119. It is also appropriate to award aggravated damages to take account of the fact that both in his pleadings and in his evidence, the defendant made the allegation that the plaintiff had been coached by his father to make these false allegations against him, which the plaintiff had continued to make in the course of these proceedings in an effort to wrongfully obtain money from the defendant. In so doing, the defendant went beyond merely putting the plaintiff on full proof of his claim; he went further, and alleged that the plaintiff had deliberately told lies over a number of years, culminating in these proceedings, in an effort to wrongly extract money from him. I award the plaintiff €25,000.00 as aggravated damages.

120. As the defendant has already been dealt with in the criminal courts, I do not consider that it is necessary or appropriate to award punitive damages in this case.

121. There are no items of special damages.

122. The defendant's counterclaim was not pursued at the trial of the action. In view of the findings that I have made in relation to the truth of the plaintiff's claim herein, I dismiss the defendant's counterclaim.