

THE HIGH COURT

2000 No. 1628 P

BETWEEN/

MICHAEL COLIN GEOFFREY McMULLEN

APPLICANT/PLAINTIFF

AND

GILES J. KENNEDY, PRACTISING UNDER THE STYLE AND TITLE OF
GILES J. KENNEDY & COMPANY, SOLICITORS

RESPONDENT/DEFENDANT

Supplemental decision of Mr. Justice Roderick Murphy dated 24th July, 2007.

1. This supplemental decision arises out of the judgment given on 17th July, 2007, one week ago, where the court, in refusing the application for inspection of the litigation file of the respondent/defendant in relation to High Court proceedings 1998 No. 62188 P between the applicant and his former solicitors, Kent, Carty & Company. The court, having refused the application in respect of all but document No. 174 being a letter dated 17th May, 1989 between the respondent/defendant herein and its client, Admiral Underwriting Agencies (Ireland) Limited, in relation to which this Court held that privilege had been waived, ordered that the preceding three documents in Part II of the First Schedule of the affidavit of discovery of the respondent/defendant be examined by the court.

2. The documents were duly submitted to the court on 17th July last.

3. The documents conform to the short description given in Part II of the first Schedule to the affidavit of discovery. They are short, clear and unambiguous, deal with the defence in the action in a sequential way and form a continuum leading up to document No. 174 in respect of which the court has held privilege to have been waived.

4. Having examined the documents, the court finds no evidence nor, indeed, any reference whether direct or indirect of undue influence, improper incentives and/or coercion to induce the applicant's counsel to collaborate or undertake to give evidence without reference to privilege or otherwise in the action *McMullen v. Carty*.

5. Neither has the court found any reference to conspiracy or arrangement whereby the defendant was successful in defeating Mr. McMullen's complaint.

6. Furthermore, there is no basis in those letters that the defendant acted improperly in putting to the plaintiff's counsel incentives to ensure by underhand, deceit or coercive means that counsel complied in the giving of privileged testimony nor that the defendant acted improperly in any other way.

7. Accordingly, none of the documents come within the scope of the exceptions to the principles of legal professional privilege.

8. The court will return the three documents, 171 to 173 to the respondent/defendant.