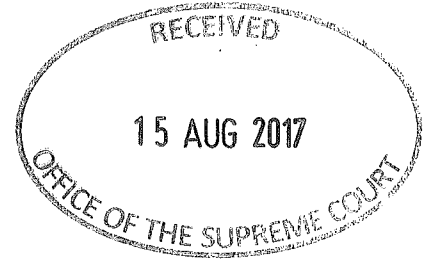


Appendix FF
No. 2

O. 58, r. 18(1)

SUPREME COURT

Respondent's Notice



Supreme Court record number	S:AP:IE:2017:000122
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WILLIAM JONES	V	COOLMORE STUD
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High Court Record No:	2016/3211P
Court of Appeal Record No:	2016/326 COA

Date of filing	15 August 2017
Name of respondent	Coolmore Stud
Respondent's solicitors	Arthur Cox
Name of appellant	William Jones
Appellant's solicitors	Litigant in Person

1. Respondent Details

Where there are two or more respondents by or on whose behalf this notice is being filed please also provide relevant details for those respondent(s)

Respondent's full name	Coolmore Stud
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The respondent was served with the application for leave to appeal and notice of appeal on

1 August 2017 (by email)

The respondent intends:

to oppose the application for an extension of time to apply for leave to appeal

not to oppose the application for an extension of time to apply for leave to appeal

to oppose the application for leave to appeal

not to oppose the application for leave to appeal

to ask the Supreme Court to dismiss the appeal

to ask the Supreme Court to affirm the decision of the Court of Appeal or the High Court on grounds other than those set out in the decision of the Court of Appeal or the High Court

Other (please specify)

If the details of the respondent's representation are correct and complete on the notice of appeal, tick the following box and leave the remainder of this section blank; otherwise complete the remainder of this section if the details are not included in, or are different from those included in, the notice of appeal.

Details of respondent's representation are correct and complete on notice of appeal:	<input type="checkbox"/>
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Respondent's Representation

Solicitor			
Name of firm	Arthur Cox		
Email	gavin.woods@arthurcox.com		
Address	Ten Earlsfort Terrace Dublin 2	Telephone no.	01-9201136
		Document Exchange no.	DX27
Postcode	D02 T380	Ref.	GW/C4M/MA429/021
How would you prefer us to communicate with you?			
<input type="checkbox"/>	Document Exchange	<input checked="" type="checkbox"/>	E-mail
<input type="checkbox"/>	Post	<input type="checkbox"/>	Other (please specify)

Counsel			
Name	Paul Gallagher SC		
Email	psa@paulgallagher.ie		
Address	Law Library Four Courts Dublin 7	Telephone no.	01-8175048
		Document Exchange no.	
Postcode			

Counsel			
Name	Joe Jeffers BL		
Email	joe@joejeffers.ie		
Address	Law Library Four Courts Dublin 7	Telephone no.	01-8175939
		Document Exchange no.	816640
Postcode			

If the Respondent is not legally represented please complete the following

Current postal address
Telephone no.
e-mail address

How would you prefer us to communicate with you?			
<input type="checkbox"/>	Document Exchange	<input checked="" type="checkbox"/>	E-mail
<input type="checkbox"/>	Post	<input type="checkbox"/>	Other (please specify)

2. **Respondent's reasons for opposing extension of time**

If applicable, set out concisely here the respondent's reasons why an extension of time to the applicant/appellant to apply for leave to appeal to the Supreme Court should be refused

3. **Information about the decision that it is sought to appeal**

Set out concisely whether the respondent disputes anything set out in the information provided by the applicant/appellant about the decision that it is sought to appeal (Section 4 of the notice of appeal) and specify the matters in dispute:

- (i) For the sake of clarity and completeness, on 1 July 2016, the Appellant filed a Notice of Expedited Appeal to the Court of Appeal in respect of the judgment of the High Court (Costello J.) delivered on 14 June 2016. The Notice of Expedited Appeal was accompanied by an affidavit which sought to identify the Appellant's grounds of appeal. At a directions hearing on 6 October 2016, the Appellant was directed to file a document setting out, in numerical form, his grounds of appeal. This was done on 17 October 2016. The grounds of appeal contained in that document were as follows:

The judgment is in breach of the rights of the appellant as enshrined in the Irish Constitution and the European Convention on Human Rights.

- (1) *It is blatantly biased throughout.*
- (2) *It repeatedly breaches the appellant's fundamental right to freedom of speech and expression.*
- (3) *It condones and promotes censorship.*
- (4) *It is wrong in law, as I have extensively detailed in an affidavit I provided to Arthur Cox on 20 September 2016. In the hearing on 6 October 2016, Mr Justice Ryan alluded to the affidavit, which sets out the reasons put forward to show the judgment is wrong, viz:*
 - 4.1: *The judgment applies incorrect case law relative to an application for injunctive relief in defamation proceedings.*
 - 4.2: *The Judge wrongly omitted the third relief sought, saying it was not open to the court to grant a declaration at an interlocutory stage. A court is open to granting this relief in defamation proceedings and the affidavit dated 16 September 2016 provides the relevant case law as proof.*
 - 4.3 *The application for injunctive relief concerned allegations of defamation and nothing else. The Judge was wrong to include "parallel jurisdictions" as a reason for refusing the application and case law to support this has been given in the affidavit dated 16 September 2016*

4. Respondent's reasons for opposing leave to appeal

If leave to appeal is being contested, set out concisely here the respondent's reasons why:

1. The decision of the Court of Appeal does not involve a matter of general public importance.
 - (i) The Appellant does not identify in his Application for Leave and Notice of Appeal any issue of general public importance arising from the decision of the Court of Appeal. Rather, the Appellant contends simply that the Court of Appeal erred in law in dismissing his appeal.
 - (ii) While there is no basis whatsoever for the Appellant to contend that he was denied a fair and impartial hearing by the Court of Appeal, this complaint does not involve a matter of general public importance
 - (iii) The decision of the Court of Appeal is confined to a consideration of the issues arising between the parties and does not consider broader matters of general public importance.
 - (iv) In these proceedings, the Appellant sought various injunctions restraining the Respondent ("Coolmore") from writing to distributors and booksellers asserting that a book written and published by the Appellant contained defamatory material.
 - (v) The proceedings raised a number of straightforward issues which were determined by the High Court by reference to, and through the application of, well-settled principles of law. In dismissing the Appellant's appeal, the Court of Appeal applied well-settled principles of law to the facts of this case.
 - (vi) The Appellant does not raise a novel or a generalised point of law of widespread public importance.
2. It is not, in the interests of justice, necessary that there be an appeal to the Supreme Court.
 - (i) The Appellant received a fair hearing in the High Court. A comprehensive written judgment was delivered in which all of the reliefs sought were refused. The Appellant's appeal was heard and determined in a timely fashion. The Court of Appeal also delivered a comprehensive written judgment setting out the reasons why the appeal was dismissed. Accordingly, there is no necessity for a further appeal to the Supreme Court.

5. Respondent's reasons for opposing appeal if leave to appeal is granted

Please list (as 1, 2, 3 etc in sequence) concisely the Respondent's grounds of opposition to the ground(s) of appeal set out in the Appellant's notice of appeal (Section 6 of the notice of appeal):

- (1) The Court of Appeal was entirely correct to reject the Appellant's submission that the trial judge had acted in a biased fashion. In so doing, the Court of Appeal correctly applied well-settled principles of law on the issue of bias.
- (2) The Appellant was afforded a full and proper opportunity to present his case in both the Court of Appeal and in the High Court. He was not censored or improperly restricted in any way.
- (3) The judgment of the Court of Appeal is not contrary to Article 40 and/or Article 46 of the Constitution of Ireland and/or Article 10 of the European Convention on Human Rights. On the contrary, the judgment correctly identifies the central question as being whether it was legally permissible for Coolmore's solicitors to correspond with booksellers and distributors in the

manner in which they did. The Court of Appeal correctly determined that such action on the part of Coolmore (through its solicitors) was legally permissible, particularly having regard to the provisions of section 27 of the Defamation Act, 2009. There is no basis for contending that the decision of the Court of Appeal is “*illogical, irrational and perverse*”.

- (4) The judgment of the Court of Appeal does not contain any errors of procedure and/or errors of law. The Appellant misunderstands the import and effect of the decisions in *Bonnard v Perryman* [1891] 2 Ch 269 and *American Cyanamid Co v. Ethicon Ltd* [1975] AC 396. Neither case supports the Appellant’s underlying application for injunctive relief to restrain Coolmore (and/or its solicitors) from corresponding with booksellers and distributors in the manner in which they did.
- (5)
- a. It is clear from ground 5 of the Appellant’s Application for Leave and Notice of Appeal that he misunderstands the decisions of both the High Court and the Court of Appeal. It is not the case that the High Court and the Court of Appeal determined that Coolmore could rely on the defence of innocent dissemination, as embodied in section 27 of the Defamation Act, 2009 to defeat the Appellant’s claim. Rather, it was held that it is implicit from the provisions of section 27 that a person who apprehends that a publication may contain defamatory material about him is entitled to communicate that to the distributor or seller or other person involved who is not the author, editor or publisher.
- b. It is denied that the Court of Appeal did not correctly address arguments advanced by the Appellant regarding damages and the balance of convenience. Having determined that there is no valid objection in law to a person seeking to protect his good name by notifying a distributor or other secondary disseminator of his complaint of defamation with a view to preventing distribution, there was no need for the Court of Appeal to consider the adequacy of damages and/or the balance of convenience.
- (6) It is denied that the core issue underpinning the judgments of the High Court and the Court of Appeal is different, as alleged. Even if the two lower courts differed in their summaries of Coolmore’s primary objection to the Appellant’s application, such a complaint is *nihil ad rem* and does not constitute an error of law and/or of fact.
- (7) It is denied that Coolmore is guilty of coercion, whether as alleged or at all. Both the High Court and the Court of Appeal have determined that the sending of letters to booksellers and distributors asserting that the book contained defamatory content was legally permissible.
- (8) Paragraph 51 of the judgment of the Court of Appeal sets out the reasons why the Appellant’s allegation of bias against the trial judge is mistaken and must fail. There is no want of reasoning on this issue.
- (9) It is assumed that “injunction 3” refers to the third relief sought in the Appellant’s General Indorsement of Claim: An order “*declaring that The Black Horse Inside Coolmore is not defamatory on the face of it and may be sold in outlets where books are sold*” and that “injunction 4” refers to the fourth relief sought in the Appellant’s General Indorsement of Claim: An order “*instructing the Defendant to provide the Plaintiff in this action all evidence without exception relating to their claim that (the Book) is defamatory*”. The reason why such relief was refused in the High Court is readily apparent from the judgment.

Name of counsel or solicitor who settled the grounds of opposition (if the respondent is legally represented), or name of respondent in person:

Joe Jeffers

6. Additional grounds on which decision should be affirmed

Set out here any grounds other than those set out in the decision of the Court of Appeal or the High Court on which the Respondent claims the Supreme Court should affirm the decision of the Court of Appeal or the High Court:

N/A

Are you asking the Supreme Court to:

depart from (or distinguish) one of its own decisions?

Yes

No

If Yes, please give details below:

make a reference to the Court of Justice of the European Union?

Yes

No

If Yes, please give details below:

Will you request a priority hearing?

Yes

No

If Yes, please give reasons below:

Signed:

Arthur Cox

Arthur Cox

Solicitors for the Respondent

Ten Earlsfort Terrace

Dublin 2

Please submit your completed form to:

The Office of the Registrar to the Supreme Court

The Four Courts

Inns Quay

Dublin

This notice is to be lodged and served on the appellant and each other respondent within 14 days after service of the notice of appeal.