

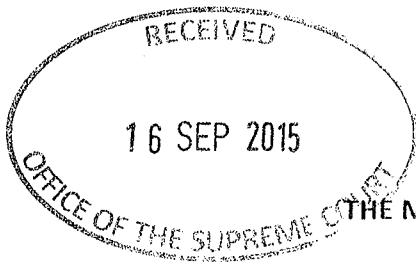
RESPONDENT'S NOTICE OF OPPOSITION TO APPLICATION PURSUANT TO
ARTICLE 64 OF THE CONSTITUTION OF IRELAND

BETWEEN:

DANIEL GALLAGHER

APPLICANT

AND



THE MINISTER FOR JUSTICE, EQUALITY AND LAW REFORM

RESPONDENT

TAKE NOTICE that pursuant to the provisions of Order 58 Rule 28 of the Rules of the Superior Courts (as amended by S.I. 485/2014) the Respondent herein opposes the within application seeking to cancel the Direction by the Chief Justice under Article 64.3.1° of the Constitution of Ireland transferring the determination of the within appeal to the Court of Appeal.

AND FURTHER TAKE NOTICE that the Respondent opposes the said application on the following grounds:

1. Article 64.3.1° provides that the Chief Justice may, if satisfied that it is in the interests of the administration of justice and the efficient determination of appeals to do so, and with the concurrence of the other judges of the Supreme Court, give a direction under the seal of the Court providing that each appeal to which this section applies falling within a class of appeals specified in the direction shall be heard and determined by the Court of Appeal and, where such a direction is given, the Court of Appeal shall, subject

to subsection 3° hereof¹ have jurisdiction to hear and determine each appeal the subject of that direction accordingly.

2. Article 34.5.3° of the Constitution of Ireland further states that *“The Supreme Court shall, subject to such regulations as may be prescribed by law, have appellate jurisdiction from a decision of the Court of Appeal if the Supreme Court is satisfied that-*

*i the decision involves a matter of general public importance, or
ii in the interests of justice it is necessary that there be an appeal to the Supreme Court.”*

3. Article 34.5.4° of the Constitution of Ireland states that *“Notwithstanding section 4.1° hereof, the Supreme Court shall, subject to such regulations as may be prescribed by law, have appellate jurisdiction from a decision of the High Court if the Supreme Court is satisfied that there are exceptional circumstances warranting a direct appeal to it, and a precondition for the Supreme Court being so satisfied is the presence of either or both of the following factors:*

*i the decision involves a matter of general public importance, or
ii the interests of justice.”*

4. It is submitted that in order to consider cancellation of the effect of such a direction this Court would require to be satisfied that the decision concerned either involved a matter of general public importance or that the interests of justice require that there be an appeal to the Supreme Court.
5. The present case relates to a July 2011 High Court dismissal of the applicant's claim in damages for personal injury following less than two full days of hearing and is not a matter concerning any question of public or private law of such fundamental importance as would render it necessary in the interests of justice to have the matter determined the Supreme Court rather than the Court of Appeal. Therefore the premises required to overturn the original Article 64 direction are clearly not present.

¹ Article 64.3.3° permitting cancellation of the effect of such direction.

