

48/2019

No. 1

O. 58, r. 15



SUPREME COURT



Record No:

Application for Leave to Appeal

Part I

The information contained in this part will be published. It is the applicant's responsibility to also provide electronically to the Office a redacted version of this part if it contains information the publication of which is prohibited by any enactment or rule of law or order of the Court

1. **Date of Filing:** 27/02/2019 (updated form sent on 06/03/19)
2. **Title of the Proceedings:** *[As in the Court of first instance]*

Kane -v- Hallahan

3. **Name of Applicant:** Marion Kane

What was the applicant's role in the original case: *[Plaintiff, Defendant, Applicant, respondent etc]* Applicant

4. **Decision of Court of Appeal (where applicable):** Dismissed

Record No: 2017 278

Date of Order: 08/02/19

Perfection Date: 11/02/19

Date of Judgment: 08/02/2019

Names of Judges: Justice Peart, Justice McGovern, Justice Baker

5. Decision of the High Court: Dismissed

Record No: 2017 20 SA

Date of Order: 18th May 2017

Perfection Date: 19th May 2017

Date of Judgment: 18th May 2017

Names of Judge(s): Justice Peter Kelly, President to the High Court

Where this application seeks leave to appeal directly from an Order of the High Court has an appeal also been filed in the Court of Appeal in respect of that Order?

Yes No

6. Extension of Time:

Yes No

If an application is being made to extend time for the bringing of this application, please set out concisely the grounds upon which it is contended time should be extended.

This form was initially submitted on 27/02/2019. It was received by the office on 01/03/2019 and returned as information was missing on the submission. I, Marion Kane, am a blind woman who is representing herself and help was required to complete the form correctly. I request an extension of time in order to re-submit this documentation for review.

7. Matter of general public importance:

If it is contended that an appeal should be permitted on the basis of matter(s) of general public importance please set out precisely and concisely, in numbered paragraphs, the matter(s) alleged to be matter(s) of general public importance justifying appeal to the Supreme Court.

This section should contain no more than 500 words and the word count should appear at the end of the text.

1. The applicant was unable to obtain legal representation. Marion Kane was representing herself. Marion is legally blind. As such, Marion Kane was disadvantaged throughout the court proceedings and unable to refer to documentation to support the appeal.
2. The case was taken under misconduct; however the appeal judge stated that negligence on the part of the solicitor (Hallahan) and lack of duty of care would have been the correct legal process.
3. Miss Hallahan had the advantage of being a professional solicitor and her counsel had an advantage in terms of knowledge of the legal proceedings. Marion had attempted to get legal representation but had been refused due to the action being taken.
4. Negligence and lack of duty of care from the solicitor are of a very serious nature and the appeal is of the public interest, as well as necessary to come to the correct outcome.
5. The appeal is being made in order for a hearing which is needed to outline the lack of duty of care and negligence and unprofessional behaviour on behalf of the solicitor (Miss Hallahan). The solicitor was aware of information which she did not divulge to the appropriate bodies. Miss Hallahan also failed to represent Marion Kane during court proceedings and this resulted in a negative outcome. This was a failure to carry out the instructions of her client. She failed to deal with correspondence in a timely manner and this had a negative impact on the client, Marion Kane.
6. Marion Kane is now unable to receive legal representation and court decisions have impacted negatively on her, both emotionally and in terms of the public perception of her good character.
7. I strongly believe the ruling and court proceedings are a matter of general public importance and the appeal needs to be heard.

Word count - 303

8. Interests of Justice:

If it is contended that an appeal should be permitted on the basis of the interests of justice, please set out precisely and concisely, in numbered paragraphs, the matters relied upon.

This section should contain no more than 300 words and the word count should appear at the end of the text.

1. The applicant was unable to obtain legal representation. Marion Kane was representing herself. Marion is legally blind. As such, Marion Kane was disadvantaged throughout the court proceedings and unable to refer to documentation to support the appeal.
2. The case was taken under misconduct; however the appeal judge stated that negligence on the part of the solicitor (Hallahan) and lack of duty of care would have been the correct legal process.
3. Miss Hallahan had the advantage of being a professional solicitor and her counsel had an advantage in terms of knowledge of the legal proceedings. Marion had attempted to get legal representation but had been refused due to the action being taken.
4. Negligence and lack of duty of care from the solicitor are of a very serious nature and the appeal is of the public interest, as well as necessary to come to the correct outcome.
5. The appeal is being made in order for a hearing which is needed to outline the lack of duty of care and negligence and unprofessional behaviour on behalf of the solicitor (Miss Hallahan). The solicitor was aware of information which she did not divulge to the appropriate bodies. Miss Hallahan also failed to represent Marion Kane during court proceedings and this resulted in a negative outcome. This was a failure to carry out the instructions of her client. She failed to deal with correspondence in a timely manner and this had a negative impact on the client, Marion Kane.
6. Marion Kane is now unable to receive legal representation and court decisions have impacted negatively on her, both emotionally and in terms of the public perception of her good character.

7. I strongly believe in the interests of justice the appeal to be heard. My human rights have been breached due to my disadvantage in the court as a blind woman representing myself.

Word count - 313

9. Exceptional Circumstances: Article 34.5.4:

Where it is sought to apply for leave to appeal direct from a decision of the High Court, please set out precisely and concisely, in numbered paragraphs, the exceptional circumstances upon which it is contended that such a course is necessary.

This section should contain no more than 300 words and the word count should appear at the end of the text.

8. The applicant was unable to obtain legal representation. Marion Kane was representing herself. Marion is legally blind. As such, Marion Kane was disadvantaged throughout the court proceedings and unable to refer to documentation to support the appeal.
9. The case was taken under misconduct; however the appeal judge stated that negligence on the part of the solicitor (Hallahan) and lack of duty of care would have been the correct legal process.
10. Miss Hallahan had the advantage of being a professional solicitor and her counsel had an advantage in terms of knowledge of the legal proceedings. Marion had attempted to get legal representation but had been refused due to the action being taken.
11. Negligence and lack of duty of care from the solicitor are of a very serious nature and the appeal is of the public interest, as well as necessary to come to the correct outcome.
12. The appeal is being made in order for a hearing which is needed to outline the lack of duty of care and negligence and unprofessional behaviour on behalf of the solicitor (Miss Hallahan). The solicitor was aware of information which she did not divulge to the appropriate bodies. Miss Hallahan also failed to represent Marion Kane during court proceedings and this resulted in a negative outcome. This was a failure to carry out the instructions of her client. She failed to deal with correspondence in a timely manner and this had a negative impact on the client, Marion Kane.
13. Marion Kane is now unable to receive legal representation and court decisions have impacted negatively on her, both emotionally and in terms of the public perception of her good character.
14. I strongly believe exceptional circumstances are in place and request the appeal to be heard.

Word count -

10. Grounds of Appeal

Please set out in the Appendix attached hereto the grounds of appeal that would be relied upon if leave to appeal were to be granted.

11. Priority Hearing:

Yes

No

If the applicant seeks a priority hearing please set out concisely the grounds upon which such priority is sought.

15. Legal Aid: NOT APPLICABLE/APPLICANT SELF-REPRESENTED

In the case of an application by a defendant from an order in a criminal trial please confirm that a Legal Aid (Supreme Court) certificate has been granted by the Court below and please provide a copy of same.

Signed: (Marion Kane)

Marion Kane

(Solicitor for) the Applicant

Date: 12/03/19

To be served on:

(Solicitors for) Respondent(s)

Please file your completed form in:

**The Office of the Registrar of the Supreme Court
The Four Courts
Inns Quay
Dublin 7**

together with a certified copy of the Order and the Judgment in respect of which it is sought to appeal.

Appendix

Notice of Appeal

1. Title of the Proceedings: [As in the Court of first instance]

Kane -v- Hallahan

2. Grounds of Appeal:

Please set out in numbered paragraphs the Grounds of Appeal relied upon if leave to appeal were to be granted.

1. The applicant was unable to obtain legal representation. Marion Kane was representing herself. Marion is legally blind. As such, Marion Kane was disadvantaged throughout the court proceedings and unable to refer to documentation to support the appeal.
2. The case was taken under professional misconduct; however the appeal judge stated that negligence on the part of the solicitor (Hallahan) and lack of duty of care would have been the correct legal process. Marion Kane was unable to access legal representation and has no legal knowledge herself and as such the case was taken under professional misconduct without legal input as to the correct direction the case should have been taken under and that is; negligence and lack of duty of care.
3. Miss Hallahan had the advantage of being a professional solicitor and her counsel had an advantage in terms of knowledge of the legal proceedings. Marion had attempted to get legal representation but had been refused due to the action being taken.
4. Negligence and lack of duty of care from the solicitor are of a very serious nature and the appeal is of the public interest, as well as necessary to come to the correct outcome.
5. The appeal is being made in order for a hearing which is needed to outline the lack of duty of care and negligence and unprofessional behaviour on behalf of the solicitor (Miss Hallahan). The solicitor was aware of information which she did not divulge to the appropriate bodies. Miss Hallahan also failed to represent Marion Kane during court proceedings and this resulted in a negative outcome. This was a failure to carry out the instructions of her client. She failed to deal with correspondence in a timely manner and this had a negative impact on the client, Marion Kane. New evidence that is vital to the outcome of the hearing was not made available in due time to be considered (Report from Togher Family Centre that was in Miss Hallahan's possession but not provided to Marion Kane in due time).
6. Marion Kane is now unable to receive legal representation and court decisions have impacted negatively on her, both emotionally and in terms of the public perception of her good character.
7. I strongly believe exceptional circumstances are in place and request the appeal to be heard.

3. Order(s) sought

Please set out in numbered paragraphs the order(s) sought if the Appeal were to be successful.

1. A hearing for the case of negligence on behalf of the solicitor Miss Hallahan and lack of duty of care in failing to represent her client, Marion Kane.