



No 1
 SUPREME COURT
 CIVIL

Application for Leave and Notice of Appeal

For Office use

Supreme Court record number of this appeal		
Subject matter for indexing		

Leave is sought to appeal from		
<input type="checkbox"/> The Court of Appeal	<input checked="" type="checkbox"/>	The High Court

[Title and record number as per the High Court proceedings]

John Rooney		v	Ireland and The Attorney General	
Appellant			Respondents	
Record No. 2012/12844P				
Date of filing	TAILLE CURTE IDUNCAM STAMP OFFICE ***** OPEN 250.00 024 0081 A 2:36 PM 04-04-2015			
Name(s) of Applicant(s)/Appellant(s)	John Rooney			
Solicitors for Applicant(s)/Appellant(s)				
Name of Respondent(s)	Ireland and The Attorney General			
Solicitors for Respondent(s)	Chief State Solicitor			
Has any appeal (or application for leave to appeal) previously been lodged in the Supreme Court in respect of the proceedings?				
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
If yes, give Supreme Court record number(s)				
Are you applying for an extension of time to apply for leave to appeal?				
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
If Yes, please explain why				
1. Plaintiff/Appellant had a bona fide intention to appeal the Order of the Honourable Mr. Justice Feeney and, this intention was communicated to the Office of the Chief State Solicitor				

by emails of the 24th July 2013;

2. **Personal circumstances including illness of Plaintiff/Appellant's mother and Plaintiff/Appellant contributed to the delayed had from the 24th July 2013 in bringing the application for an enlargement of the time for appealing the Order of the Honourable Mr. Justice Feeney;**
3. **There are arguable grounds of Appeal;**
3. **Permitting an enlargement of time within which to appeal the Order of the Honourable Mr. Justice Feeney sits well with the spirit of Bunreacht Na hEireann in permitting the issue of the civil miscarriage of justice (arising out of the failure from practically 1987 to the present time of Plaintiff/Appellant's litigation to engage the issues of the repugnancy of non-statutory reactor grants to Article 15.2.1 of Bunreacht Na hEireann and the invalid transposition of Council Directives 77/391/EEC and 78/52/EEC into Irish law) to be confronted and fairly addressed by the Supreme Court.**

1. Decision that it is sought to appeal

Name(s) of Judge(s)	The Hon. Mr. Justice Feeney
Date of Order/Judgment	4 th July 2013

2. Applicant/Appellant Details

Where there are two or more applicants/appellants by or on whose behalf this notice is being filed please provide relevant details for each of the applicants/appellants

Appellant's full name	John Rooney
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Original status	Plaintiff <input checked="" type="checkbox"/>	Defendant
	Applicant	Respondent
	Prosecutor	Notice Party
	Petitioner	

Solicitor			
Name of firm			
Email			
Address		Telephone no.	
		Document Exchange no.	
Postcode		Ref.	

How would you prefer us to communicate with you?		<input type="checkbox"/> Document Exchange	<input type="checkbox"/> E-mail
		<input type="checkbox"/> Post	<input type="checkbox"/> Other (please specify)
Name		I	
E-mail			
Address		Telephone no.	
		Document Exchange no.	
Postcode			
Counsel Name			
E-mail			
Address		Telephone no.	
		Document Exchange no	
Postcode		Ref:	

If the Applicant/Appellant is not legally represented please complete the following

Current postal address
Bough Scotstown Co. Monaghan
e-mail address
seanrooneybl@gmail.com
Telephone no.

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)

3. Respondent Details

Respondent's full name		Ireland and The Attorney General	
Original status		Plaintiff	Defendant <input checked="" type="checkbox"/>
		Applicant	Respondent
		Prosecutor	Notice Party
		Petitioner	
Solicitor			
Name of firm		Chief State Solicitor	
Email			
Address		Osmond House Ship Street Little Dublin 8	Telephone no.
Postcode			Ref:
How would you prefer us to communicate with you?		<input type="checkbox"/> Document Exchange	<input type="checkbox"/> E-mail
		<input type="checkbox"/> Post	<input type="checkbox"/> Other (please specify)
		Counsel	
Name		Eamon Marray B.L.	
E-mail			
Address		158/159 Church Street Dublin 7	Telephone no.
			Document Exchange no.
Postcode			Ref:
		Counsel	
Name		Mark Sanfey S.C.	
E-mail			
Address		158/159 Church Street Dublin 7	Telephone no.
			Document Exchange no.
Postcode			Ref:

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If the Respondent is not legally represented please complete the following

Current postal address
e-mail address
Telephone no.
How would you prefer us to communicate with you?
<input type="checkbox"/> Document Exchange <input type="checkbox"/> E-mail <input type="checkbox"/> Post <input type="checkbox"/> Other (please specify)

4. Information about the decision that it is sought to appeal

<p>Please set out below:</p> <p>1. Whether it is sought to appeal from (a) the entire decision or (b) a part or parts of the decision and if (b) the specific part or parts of the decision concerned</p> <p>2. (a) A concise statement of the facts found by the trial court (in chronological sequence) relevant to the issue(s) identified in Section 5 below and on which you rely (include where relevant if certain facts are contested)</p> <p>(b) In the case where it is sought to appeal in criminal proceedings please provide a concise statement of the facts that are not in dispute</p> <p>3. The relevant orders and findings made in the High Court and/or in the Court of Appeal</p> <p>4.1 It is sought to appeal from the entire decision of the Honourable Mr. Justice Feeney</p> <p>4.2 Findings of fact:</p> <p>(a) there were not any findings of fact made by the Honourable Mr. Justice Feeney: the Order was made in respect of an interlocutory application made by Defendants/Respondents.</p> <p>4.3 Relevant Orders:</p>

- (a) Plaintiff's proceedings be dismissed on the grounds that no reasonable cause of action is disclosed and are frivolous and vexatious and constitute an abuse of process.

5. Reasons why the Supreme Court should grant leave to appeal

In the case of an application for leave to appeal to which Article 34.5.3° of the Constitution applies (i.e. where it is sought to appeal from the Court of Appeal)—

Please list (as 1, 2, 3, etc) concisely the reasons in law why the decision sought to be appealed involves a matter of general public importance and/ or why in the interests of justice it is necessary that there be an appeal to the Supreme Court

In the case of an application for leave to appeal to which Article 34.5.4° of the Constitution applies (i.e. where it is sought to appeal to the Supreme Court from the High Court)—

Please list (as 1, 2, 3, etc) concisely the reasons in law:

- i. why the decision sought to be appealed involves a matter of general public importance and / or why in the interests of justice it is necessary that there be an appeal to the Supreme Court and
- ii. why there are exceptional circumstances warranting a direct appeal to the Supreme Court

5.1(i) why the decision sought to be appealed involves a matter of general public importance and / or why in the interests of justice it is necessary that there be an appeal to the Supreme Court:

- (a) **the decision engages the necessity that the Supreme Court addresses the question of the repugnancy of non-statutory reactor grants (operated as a part of the Bovine Tuberculosis and Bovine Brucellosis Eradication Scheme by the Department of Agriculture) to Article 15.2.1° of Bunreacht Na hEireann; therefore the decision touches upon a matter of general public importance;**
- (b) **the decision engages the question of the non transposition/improper transposition of European Union law into Irish law and in particular the non transposition/improper transposition of Council Directives 77/391/EEC and 78/52/EEC into Irish law; therefore, the decision touches upon a matter of general public importance;**
- (c) **the decision engages the question whether the operation of non-statutory reactor grants breaches the rule of law in respect of the impact of non-statutory reactor grants upon Plaintiff/Appellant (ultimately a question of human rights law and in particular the law of the European Convention of Human Rights and Fundamental Freedoms and an application to the European Court of Human Rights upon exhaustion of domestic remedies); therefore, the decision touches upon a matter of general public importance;**
- (d) **the decision engages the question of, nature and extent of the duty borne by a member of the judiciary to ensure that deficiently drafted pleadings (and in particular pleadings drafted by a litigant in person) are rectified by amendment to set out a good**

cause of action or defence; therefore the decision touches upon a matter of general public importance;

- (e) the decision engages the question of the State's Köbler v Austria liability arising out of the manner in which issues of European Union law (the question of the non transposition/improper transposition of European Union law into Irish law and in particular the non transposition/improper transposition of Council Directives 77/391/EEC and 78/52/EEC into Irish law) were precluded by the failure and/or refusal of both the High Court and Supreme Court (in Plaintiff/Appellant's Superior Court litigation) to permit and/or facilitate deficiently drafted pleading be amended to set out a claim that Council Directives 77/391/EEC and 78/52/EEC have not been validly transposed into the law of the State; therefore, the decision touches upon a matter of general public importance.**

5.1(ii) why there are exceptional circumstances warranting a direct appeal to the Supreme Court

- (a) the Supreme Court has before it Appeals (111/1990 and 430/2010): the question of, the nature and extent of the duty borne by a member of the judiciary to ensure that deficiently drafted pleadings (by a litigant in person) are rectified to set out a good cause of action will feature in Appeals 111/1990, 430/2010 and herein Appeal (for which leave is sought).**
- (b) the Supreme Court has retained Appeals 111/1990 and 430/2010 in the process where a number of other Appeals were transferred to the Court of Appeal pursuant to Article 64.3.1 of Bunreacht Na hEireann. The issues in herein appeal (for which leave is sought) are closely linked to the issues (Article 15.2.1; invalid transposition of European Union law) in Appeals 111/1990 and 430/2010. It is submitted therefore that it is in the best interests of justice and the efficient determination of Appeals 111/1990, 430/2010 and herein appeal (for which leave is sought) that all three Appeals be heard and determined by the Supreme Court.**
- (c) the European Court of Human Rights has already commented on the fact that errors have been made by the Supreme Court in the coming before of the Supreme Court of Plaintiffs/Appellant's litigation touching upon the Department of Agriculture's operation of non-statutory reactor grants. It is submitted therefore that the Supreme Court should hear and determine Appeals 111/1990, 430/2010 and herein Appeal (for which leave is sought).**

6. Ground(s) of appeal which will be relied on if leave to appeal is granted

Please list (as 1, 2, 3, etc) concisely:

1. the specific ground(s) of appeal and the error(s) of law related to each numbered ground
2. the legal principles related to each numbered ground and confirmation as to how that/those legal principle(s) apply to the facts or to the relevant inference(s) drawn therefrom
3. The specific provisions of the Constitution, Act(s) of the Oireachtas, Statutory Instrument(s) and any other legal instruments on which you rely

4. The issue(s) of law before the Court appealed from to the extent that they are relevant to the issue(s) on appeal

6.1 the specific ground(s) of appeal and the error(s) of law related to each numbered ground

(a) **The Honourable Mr. Justice Feeney's decision to strike out Plaintiff/Appellant's action, continues and perpetuates the civil miscarriage of justice which has arisen since 1987 arising out of the failure of both the High Court and the Supreme Court to confront the deficiency in Plaintiff/Appellant's pleadings, which pleadings require rectification so as to facilitate the bringing into issue the questions of the repugnancy of non-statutory reactor grants to Article 15.2.1 of Bunreacht Na hEireann and the invalid transposition of Council Directives 77/391/EEC and 78/52/EEC into Irish Law.**

(b) **The Honourable Mr. Justice Feeney, in arriving at his decision to strike out Plaintiff/Appellant's action, failed to give any consideration to the fact that Plaintiff/Appellant's pleadings were deficient in not incorporating claims that non-statutory reactor grants were repugnant to the provisions of Article 15.2.1 of Bunreacht Na hEireann and that Council Directives 77/391/EEC and 78/52/EEC were invalidly transposed into Irish law.**

(c) **The Honourable Mr. Justice Feeney, in arriving at his decision to strike out Plaintiff/Appellant's action, erred in allowing himself to be persuaded by Counsel for Respondents/Defendants that the events and happenings of Plaintiff/Appellant's Superior Court litigation from 1987 to the present time mirrored the unbecoming happenings described in *Dykun -v- Oldshaw* 2000 ABQB 548. In particular the Honourable Mr. Justice Feeney erred in allowing himself be persuaded that Plaintiff/Appellant:**

(i) **has brought up one or more actions to determine an issue which has already been determined – there has never been a determination of the Article 15.2.1 issue or the issue of the invalid transposition of European Union law (the unreported Judgment of the High Court of the 13th July 2004 in *Rooney v Minister for Agriculture and Food and Others* specifically recognises the fact that the Supreme Court judgment in *Rooney v Minister for Agriculture and Food and Others* did not determine any Constitutional issue) – there are two undetermined issues in respect of the Department of Agriculture's operation of non-statutory reactor grants: the Article 15.2.1 issue and the invalid transposition of European Union law issue;**

(ii) **Plaintiff/Appellant's action is an action that cannot succeed because Plaintiff/Appellant's "claim" has already been decided – it plainly cannot, in fairness, be said that Plaintiff/Appellant's Article 15.2.1 claim and Plaintiff/Appellant's invalid transposition of European law claim "cannot succeed": the Article 15.2.1 and the invalid transposition of European Union law claims have not yet been properly pleaded and, thus, remain almost 28 years awaiting determination;**

(iii) **engaged in conduct amounting to harassment and oppression – it plainly, in fairness, cannot be said that Plaintiff/Appellant's unrelenting requesting of the Superior Courts to be allowed to bring to hearing and to have judicial determination of the questions of the repugnancy of non-statutory reactor grants to the provisions of Article 15.2.1 of Bunreacht Na hEireann and the invalid transposition of European Union law, amounts to "harassment and oppression" – the true position is that Plaintiff/Appellant does not and never will engage in the**

unbecoming conduct of *“harassment and oppression”*: this fact is well known to Defendants'/Respondents' legal team who have been made offers by Plaintiff/Appellant on the floor of the High Court and Supreme Court on a number of occasions to engage in talks aimed at an amicable resolve of Plaintiff/Appellant's litigation (unfortunately, Defendants'/Respondents' legal team do not appear to be desirous of engaging in meaningful talks aimed at an amicable resolve of Plaintiff/Appellant's litigation) – the same unfair accusation of harassment and oppression was levelled (and ignored by the European Court of Human Rights in its Judgment of 31st October 2013) against Plaintiff/Appellant in submissions made to the European Court of Human Rights by the legal representatives of the Government of Ireland in the case of *Rooney v Ireland* (Application No. 32614/2010);

(iv) has engaged in the rolling forward of issues from one action into subsequent actions (incorporated with actions against lawyers) – it plainly, in fairness, cannot be said that Plaintiff/Appellant has rolled forward issues from one action into subsequent actions or instituted actions against lawyers – to make such an unfair accusation against Plaintiff/Appellant is to misunderstand the civil miscarriage of justice which is ongoing in respect of Plaintiff/Appellant's litigation – the incontrovertible fact is that the issues of Constitutional law and European Union law (which give rise to the civil miscarriage of justice) have not been determined; thus rolling forward of such issues would be an utter impossibility;

(v) in failing to pay the costs of what Defendants/Respondents describe as previous *“unsuccessful proceedings”* should have his action struck out – it plainly, in fairness, when one considers the civil miscarriage of justice which is ongoing in respect of Plaintiff/Appellant's litigation, cannot be said that Plaintiff/Appellant has been a participant in *“unsuccessful proceedings”*: the so named *“unsuccessful proceedings”* did not hear or determine the issues of Constitutional law or European Union law (the failure of such issues to be properly before the Superior Courts constituting the civil miscarriage of justice which is ongoing in respect of Plaintiff/Appellant's litigation practically from 1987);

(a) has persistently taken *“unsuccessful appeals”* and, thus should have his action struck out - it plainly, in fairness (when one considers the fact that the so named *“unsuccessful appeals”* did not involve a hearing or a determination of the issues of Constitutional and European Union law) cannot be fairly said that Defendant/Respondent have been successful against Plaintiff/Appellant in the issues that cry to Bunreacht Na hEireann for determination (the issues which give rise to the ongoing civil miscarriage of justice) – to say that an injustice would be done to Defendants/Respondents by permitting Plaintiff/Appellant's litigation to continue upon rectification of deficient pleadings (that have played a significant part in the origination and continuation of the civil miscarriage of justice which has arisen in respect of Plaintiff/Appellant's litigation) is to ignore the spirit of Bunreacht Na hEireann and the issues of Constitutional and European Union law that cry to Bunreacht Na hEireann for determination.

(d) With every respect for the finality of decisions of the Supreme Court and every respect for Article 34.4.6 of Bunreacht Na hEireann, Plaintiff/Appellant submits that it is keeping with the spirit of Bunreacht Na hEireann that the civil miscarriage of justice

ongoing from practically 1987 in Plaintiff/Appellant's litigation be addressed in a manner that respects the finality of decisions of the Supreme Court: it is respectfully submitted that it for the Supreme Court itself to consider and implement a fair resolve of the civil miscarriage of justice ongoing in Plaintiffs/Appellant's litigation, in whatever manner the Supreme Court deems best accommodating of Article 34.4.6 of Bunreacht Na hEireann;

- (e) With every respect to the Honourable Mr. Justice Feeney's view that if an issue is not pleaded it is not before the court, it is respectfully submitted that the Honourable Mr. Justice Feeney erred in not giving consideration to the spirit of Bunreacht Na hEireann that pleadings deficiently drafted by a lay litigant may require rectification by amendment to incorporate perfectly obvious (to professionals involved in the litigation process) issues – it is respectfully submitted that the spirit of Bunreacht Na hEireann calls upon professionals (judiciary, counsel, solicitors) to be proactive in ensuring the rectification by amendment of lay litigant deficiently pleaded pleadings, in every instance and in particular in instances of Constitutional and European Union issues;
- (f) With every respect to the Honourable Mr. Justice Feeney's view that he was bound (by the hierarchy of the Courts) to accept the outcome of the recent (28th June 2013) application of Plaintiff/Appellant to the Supreme Court in Rooney No 1 and Rooney No. 2, it is respectfully submitted that the coming before the Supreme Court of Plaintiffs/Application of the 28th June 2013, should, in fairness, be viewed in the context of the civil miscarriage of justice which is ongoing in Plaintiff/Appellant's litigation from practically 1987 and, should in fairness, be further viewed in the context of the fact that one of the presiding Supreme Court judges, on the 28th June 2013, decided it was proper to exercise deliberative judicial functions notwithstanding the fact that the member of the Supreme Court had previously exercised deliberative judicial functions in relation to the Supreme Court Appeals at issue in Plaintiff/Appellant's application of the 28th June 2013 and had been so informed by Plaintiff/Appellant.
- (g) Notwithstanding the expiry of over twenty two months from the Order and decision of the Honourable Mr. Justice Feeney, it is submitted that it would be patently unfair and unjust not to afford Plaintiff/Appellant an enlargement of time to bring herein Appeal (which Plaintiff/Appellant respectfully submits can conveniently determined in conjunction with Appeals 111/1990 and 430/2010).

Name of applicant/appellant in person: **John Rooney.**

7. Other relevant information

Neutral citation of the judgment appealed against e.g. Court of Appeal [2015] IECA 1 or High Court [2009] IEHC 608

References to Law Report in which any relevant judgment is reported

White Maple Developments Ltd & Anor v Donegal County Council & Anor [2013] IEHC 83
Bederev -v- Ireland & ors [2015] IECA 38
McGowan v Labour Court & Ors [2013] IESC 21

8. Order(s) sought

Set out the **precise** form of order(s) that will be sought from the Supreme Court if leave is granted and the appeal is successful:

8.1 Set out the **precise** form of order(s) that will be sought from the Supreme Court if leave is granted and the appeal is successful:

(a) **an Order setting aside the Judgment and Order of the Honourable Mr. Justice Feeney of the 4th July 2013;**

(b) **an Order granting Appellant liberty to amend the Statement of Claim delivered on the 14th March 2013 to include a prayer for a Declaration that the non-statutory system of reactor grants operating as part of the TB Scheme and Brucellosis Scheme is repugnant to the provisions of Article 15.2.1 of Bunreacht Na hÉireann; to include a prayer for a Declaration that Council Directives 77/391/EEC and 78/52/EEC have not been validly transposed into the law of the Republic of Ireland**

(c) **costs.**

What order are you seeking if successful?							
Order being appealed:	set aside	<input checked="" type="checkbox"/>	vary/substitute	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Original Order:	set aside	<input type="checkbox"/>	restore	<input type="checkbox"/>	vary/substitute	<input type="checkbox"/>	<input type="checkbox"/>

If a declaration of unconstitutionality is being sought please identify the specific provision(s) of the Act of the Oireachtas which it is claimed is/are repugnant to the Constitution

The non-statutory system of reactor grants operating as part of the TB Scheme and Brucellosis Scheme is repugnant to the provisions of Article 15.2.1 of Bunreacht Na hÉireann

If a declaration of incompatibility with the European Convention on Human Rights is being sought please identify the specific statutory provision(s) or rule(s) of law which it is claimed is/are incompatible with the Convention

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?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes, please give details below:	

Will you request a priority hearing?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, please give reasons below:	
<p>1. the repugnancy of non-statutory reactor grants to Article 15.2.1 of Bunreacht Na hEireann first impacted detrimentally upon Plaintiff/Appellant's livelihood in 1984 and 1985, again from 1993 to 1996; and, Plaintiff/Appellant's livelihood suffers continuing detrimental impact to the present time: therefore, there are strong and pressing reasons supporting Plaintiff/Appellant's entitlement to a priority hearing;</p> <p>2. If leave is granted to bring herein Appeal, herein Appeal can be conveniently heard and disposed of in conjunction with Appeals 111/1990 and 430/2010.</p>	

Signed - Joe Reany

Please submit your completed form to:

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

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

This notice is to be served within seven days after it has been lodged on all parties directly affected by the application for leave to appeal or appeal.