

**Application to the High Court for parties to any action to the Record Proceedings and related matters, electronically and manually in all public courts and tribunals;  
Courts of first instance, constitutional courts and those set up/conferred jurisdiction under statute i.e. court with no inherent jurisdiction.**

- A.** Ireland (26 Counties), The Republic operates a common law legal system, where the doctrine of precedent applies.
- B.** The Lower Courts follow the decision of Higher Courts. This rule is found in Article 34.4 of the Constitution, Bunreacht Na hÉireann 1937.
- C.** Precedent and, or stare decisis the process by which judicial decisions are binding on Certain Courts. Three (3) conditions must be present in order for precedent to exist in a legal systems:
  - 1. Hierarchy of Courts
  - 2. Law Reporting (recording legal decisions)
  - 3. Values of consistency, certainty, predictability etc. of the law.
- D.** The three (3) essential elements as listed in **C**above, underpin a proper and well-functioning and fair Common Law Legal System.
- E.** There is serious disparity however, uncovered, witnessed by ordinary men and women of this land and ostensibly widely supported by the ‘competent’ authorities, entrusted in the administration of Justice to the detriment of those it purports to serve (the people).
- F.** I personally have witnessed first-hand serious anomalies in recording (DAR) of court proceedings, and in particular the lower courts (of limited and local jurisdiction), District and Circuit Court and in court case reference No ....., where I was a co-defendant.
- G.** The lower courts (of limited and local jurisdiction) and not specifically referred to in the Constitution, Bunreacht Na hÉireann 1937, may have ‘persuasive’ value in its determinations, but as pointed out already herein, based on false/incomplete and unreliable representations, by public officials.
- H.** I refer to ***Mogulof Ireland Ltd v Tipperary (NR) Co. Co. (1976) I.R.2*** – where, held per Henchy J.: ...” a balance has to be struck between rigidity and vacillation, and to achieve that balance the later court must, at the least, be clearly of opinion that the earlier decision was erroneous.” “Even if the later court is clearly of the opinion that the early decision was wrong, it may decide in the interests of justice not to overrule it if it has become inveterate and if, in a widespread or fundamental way, people

have acted on the basis of its correctness to such an extent that greater harm would result from overruling it than from allowing it to stand.”

- I. I am unsure that the comments as per Henchy J.as described in **H**above are Ratio Decidendi or just Obiter Dictum. It is quite clear that such comments and such discretion afforded to Judges allowing for manoeuvrability and bypassing precedent and where lower courts in particular carry on its business in obscurity, without complying to the values of consistency, certainty and predictability of the law (as per **C**above), one of the fundamental corner stones of a proper and fair legal system, is to undermine ones trust, faith and belief in such systems, which situation, should it continue is unforgivable.
- J. Henchy J. as described in **H** above supported the view that if a practice was widely believed and accepted to be true/correct in a ‘widespread or fundamental way’ and where ‘people have acted on the basis of its correctness’ and that in his opinion that it would cause greater harm to expose such error, justified ‘allowing it to stand’ despite it being wrong. It is possible then the next judge deliberating on similar issues could have a completely different view and decision, moving away from the previous judgement by deeming the previous judgement as Obiter Dictum.
- K. I am of the strong view and I am well aware and having witnessed first-hand a widely and accepted culture of corrupt practices by various if not all limbs of governance, namely and in no particular order, An Garda Siochana, The Courts Services, The Department of Justice and the State, (executive, legislative and judiciary).
- L. I refer to Affidavit of Wayne Nash, case ref ....., struck out; where Wayne was wrongfully set up under false claims and prosecution by members of An Garda Siochana, and only for Wayne had recorded the incident, to prove his innocence, he would most certainly have been found guilty of the bogus claims by those who would wilfully perjure themselves and intent on breaking the law. This is only one instance of many being perpetrated by those in privileged positions – entrusted to uphold the law. I refer also to the ‘whistleblowers’- Garda John Wilson, Garda Sergeant Maurice McCabe, Garda Keith Harrison and Garda Nicky Keogh.
- M. This ‘culture’ prevalent and widely accepted practice by the establishment and not the people has supported inter alia other heinous and despicable crimes against humanity (church and state rape of The Nation’s Children) which has and continue to cause serious damage/destruction of this nations reputations.
- N. The ‘culture is being exposed and due in no small part to our strenuous efforts e.g. ACT (Anti-Corruption Taskforce), Integrity Ireland, Anti-Eviction Taskforce, The Hub

Ireland etc. for the common good and has prompted Chief Justice Susan Denham to call for the setting up of a 'Judicial Council' to safeguard Ireland's damaged reputation on the International scene, (legal reputation).

- O.** The lower 'Courts', courts of limited and local jurisdiction with no inherent jurisdiction are regularly and obviously the more accessible or approached courts in dealing with matters. With that, such 'courts' deal with the majority of legal issues albeit, the less contentious issues generally and therefore have an immediate and direct impact on the 'perception' of the justice system by the public at large. There are 24 District (District Courts) with 63 ordinary judges, 1 additional member and president of the District Court and 8 Circuits under Circuit Court jurisdiction with 38 judges including the president of the Circuit Court.
- P.** The lower 'Courts' facilitate members of An Garda Síochána bringing convictions as prosecutor. I have also witnessed where the court services manager Mr Peter Mooney in my own case where I am a defendant issued summons for the Garda prosecutor, Garda Sergeant Naomi de Rís, and where he, Mr Peter Mooney is also witness for the prosecution against me.
- Q.** This serious conflict of interest at this level and where Mr Mooney as manager of the court services in Castlebar, Co. Mayo has care and charge of the DAR Recording System and which at times has been inactivated, not switched on with very important evidence not recorded or to hand for such failings to maintain its proper function and which would vindicate and support my position is yet another reason to support my motion this court.
- R.** In this and other instances, the independent and reliability of the DAR Recording System is seriously compromised and to the detriment and contrary to best and proper interests of judicial probity and justice. It (DAR Recording System) in its inability to remain above reproach as a device in protecting and serving the interests of justices is seriously flawed and open to abuse.
- S.** It seems that the two tiered legal system i.e. the one with inherent (constitutional authority) jurisdiction and the one at the lower end of the scales operates at great 'distance' and is far removed from the proper authority – High and Supreme Court. Yet all/most of the damage is being done to the trust in the legal system, due to the lack or non-existent and necessary oversight and governance being provided. In the absence of such governing authority over the reckless and free reining lower authorities (District/Circuit Court, Court Services and An Garda Síochána as prosecutors) and the general perception shown and advertised to the general public

that they act properly – when in fact they do not and are acting criminally, the propaganda machine and State Control must be tempered and taken down and one such progressive measure/step is to grant my motion.

- T.** In recognition of the two tiered legal system, it is incumbent on the Higher Authority and Courts of inherent jurisdiction in upholding the proper law (Rule of Law) and the directions of the Constitution, Bunreacht Na hEireann 1937, to take charge, show leadership and take responsibility in guiding the misguided and out of control courts of limited local jurisdiction (not specifically named in the constitution) and to protect the people and serve the common good and one such measure and good will gesture in appeasing and regaining a semblance of trust in the system by the people would be to grant my motion.
- U.** In further support and call for the necessity on the part of ‘ordinary’ men and women (the people) in providing extra and much needed protection in terms of our inherent rights (rights which can’t be taken or given away), rights to fair hearings and natural justice, there is much concern over the selection process for appointing judges and the need for reform and their oversight. There is a huge difference identified and experienced in the calibre and abilities (moral/legal) of judges, particularly at the lower levels e.g. District and Circuit Courts and in their worrisome decision making. There are too many examples of such lower judges where they have abandoned and ignored the precedent/directions of the Supreme Court and in the main surrounding the ‘Rateable Value’ saga involving unlawful/illegal evictions of families from their homes, resulting in mass suicide (homicide through wilful negligence) and the homelessness epidemic. Due to inefficiencies in maintaining records and the D.A.R System and which is in the control of such rogue (in my strong opinion) Judges, Registrars and Court Officials in such cases and in my own case (as defendant), I hereby advance and present the first-hand accounts of such illegal/unlawful actions and wrongdoing by those who experience its ill effects daily, those diligent, courageous and stalwarts of justice, members of The Anti-Corruption Taskforce, Integrity Ireland, The Hub, The Anti-Eviction Taskforce and others as experts on this subject and as Amicus curiae.
- V.** There is also efforts (in my very strong opinion) being made by elements within the establishment/state to stereotype and ostracise men/women, people like me, we intent only on seeking a fair and just legal system, being deemed ‘subversives’. Justice Michael Peart made his views known to a gathering of legal professionals and flanked by legal executives of Allied Irish Bank while he acted as chair of the meeting,

referring to a case in Canada Meade v Meade and a Judge Rooke. This case was an opportunity by the Judge Rooke to deal with the 'Pseudo' legal. Likewise Justice Michael Peart on the back of this case (foreign case of persuasive value) sought to deal with the 'phenomenon' of the 'Pseudo legal/lay litigants' and the 'threat to the Rule of Law'. Such outrageous comments and twisted/skewed views especially from such high ranking/influential judicial figurehead should have been kept very private. His views seem to be widely supported though and pervasive in such legal fraternity and highlighted by the strong response to our legitimate efforts to expose wrongdoing in the courts, where we encounter excessive numbers of heavy handed members of An Garda Síochána and armed units especially at the 'eviction' courts and other forms of intimidation being provoked against us in defence of our lawful rights. Such response by the establishments to our lawful and genuine concerns under the threat and fear of sanction and the disturbing views of Justice Michael Peart and others is a kin to his declaring some kind of 'Casus belli'. In the State (Quinn) v Ryan (1965) IR 70, Walsh J held and reminds of a very important truth. *"The Supreme Court which was set up under the Courts Act 1961 is not a successor to the House of Lords but an Irish Creation..."* The significance of this statement and in particular the word **creation** is fundamental to understanding who we are 'Irish' refers to Ireland (26 Counties part of the real Ireland) and Bunreacht Na hÉireann 1937 which created the Supreme Court. In turn preceding its creation, we, the people created 'Ireland', the Republic. The people are the creators and the sovereigns of this Republic. The system is there to serve us. Let the significance of the term 'Republic' be not demeaned or diminished in any way.

**W.** It is therefore imperative to accede to my application to preserve and protect our nations reputation and dignity of its people, this Republic, from internal attack by those figure heads in authority who see themselves as above the law, beyond reproach and unaccountable. To grant my motion would advance and send out a clear and decisive message and a reinstating of those necessary elements, which ensure a proper and fair common law legal system and as, mentioned below.

1. Hierarchy of Courts
2. Law reporting (recording legal decisions) and
3. Values of consistency, certainty, predictability etc. of the law

It would also send out a message and act as a form of cease and desist deterrent to those bent on reserving the system to their ends.

- X. It is important to note and take stock of the purpose and intent behind my application – My application is a courtesy being extended to the court and judiciary and a means by which it can do the right thing, the honourable and correct thing by standing with and for the people it is entrusted to serve and against those corrupt forces of tyranny. My application in no way is to be construed as conceding/surrendering or giving up or limiting of any of my rights under the social contract or any inference or derogation of my essence/nature as a man. I have every right to protect myself from unjust attack and threats to my bodily integrity and peace of mind and while I cause no harm to others. Therefore one of the most appropriate and sensible methods is by means of technology and the use of recording devices. There can be no denial of the facts, what was said, how it was said, the demeanour and behaviour of those involved and the context in which events occurred (mens rea and actus rea). The recording of events is recognised and an established and accepted fundamental element of the doctrine of precedent (when in the right hands), it should not therefore be denied, restricted, curtailed or limited to only parts of the legal system.
- Y. I welcome the court’s decision and reasoning in arriving at its judgement, however, I require a distinction between what is deemed **Ratio Decidendi** and what is deemed **Obiter Dictum**.
- Z. In all of the circumstances I pray orders of this Honourable Court, in the terms of the ex parte document Notice of Motion and pray such future or others orders as may be deemed appropriate in all circumstances.

Sworn by the said Colm Granahan  
Of Ballyduane, Kincon, Ballina in the  
County of Mayo this \_\_\_\_\_ day of  
November 2016 before me a  
Practising Solicitor/ Commissioner  
for Oaths and I know the Deponent.

