The PEOPLES TRIBUNAL of IRELAND

Registration
CS/001/4-4

DETERMINATION

(full form)

Case No: CS/001/31.5.25 **Sponsored by: S.C. 003**

In the matter of: Aidan McGuiness, Applicant v Adrian Greaney, Respondent:
"An Application for an inter-parties enquiry into alleged solicitor negligence."

This matter having been brought to Council for consideration and assessment according to; (i) the Rule of Law; (ii) to existing positive (written) law in order of primacy; (iii) as per the procedures and protocols in the current version of the PTI Operations Manual; (iv) upon the lawful and constitutional authority and jurisdiction as laid out therein and in the PTI's other listed foundation documents; and (v) with due reference to the original sworn Statement(s) in this matter which are publicly available on the PTI website; the PTI Council hereby finds and determines as follows:

A. 'The Law' States:

"Fraud unravels everything. The court is careful not to find fraud unless it is distinctly pleaded and proved; but once it is proved, it vitiates judgments, contracts and all transactions whatsoever."

Lord Denning in Lazarus Estates Ltd v Beasley [1956] 1 QB 702.

B. The Solicitors Acts 1954 to 2015 (Regulation of Practice Committee) Regulations 2020 States:

(S.7) The (Law) Society has the power to investigate alleged misconduct whether or not the Society receives a complaint in relation to the solicitor.

[Noting that the Applicant's claim spans this transition of authority period; Council notes the transfer of jurisdiction for (new) complaints against solicitors from the Law Society to the newly-established Legal Services Regulatory Authority (LSRA) on 7 October 2019]

C. The Legal Services Regulatory Authority States:

The LSRA receives and investigates complaints about legal practitioners – solicitors and barristers. We handle three types of complaints about:

- Inadequate legal services: when the client considers the legal service was not of a standard that someone would reasonably expect.
- Excessive costs: when the client considers the costs sought for the legal service is excessive.
- Misconduct: a range of conduct which includes fraud, dishonesty, criminal activity and other acts.

D. The Irish Claims Board States:

Solicitor's Duties: (i) The duty of care requires a relevant professional person carries out his duties as a suitably qualified member of the profession would. He should consider common practices which involve obvious and unnecessary risks. Pure economic loss caused by negligent advice or the negligent provision of a service, may be recovered in negligence.

(ii) Solicitor's duties are generally defined & limited by common practice in the relevant area. In a claim for solicitor negligence, expert evidence by experienced solicitors practising in the area will be offered to define the duty, in the event of a dispute.[1]

(iii) (and) Where a solicitor gives incorrect advice on a clear and well-established point of law, it will generally be negligent.

(iv) (and) A solicitor may be negligent if he fails to give advice in relation to a transaction, or to fails to give particular advice. A solicitor may be liable in negligence where he has failed to make appropriate inquiries and discover certain matters, which with due care he would have discovered or having so discovered them, failed to communicate the same to his client, where relevant.

(v) A solicitor may be negligent in relation to litigation in several ways. Negligence could arise if the solicitor breached his duty of care in the failure to commence, prosecute or in the negligent prosecution or defence of a claim. A common basis of negligence is the failure to commence proceedings which should have been taken..

(vi) (and) Solicitor negligence could also come from a solicitor exposing his client to costs. In some cases, the failure to provide a letter of engagement setting out costs and other risk factors may be negligent.

(vii) Many cases of negligence arise from failures in communication. It may be negligent to fail to take instructions and put them into effect. It may be negligent not to liaise with a client and advise him of the position in the case.

(viii) The failure by a solicitor to comply with an undertaking is professional misconduct. Apart from liability in negligence, the obligation created by an undertaking may be enforced directly by order, on foot of summary application to the High Court.

(ix) Solicitors owe fiduciary duties to their clients. They may not abuse or take personal advantage of the circumstances or situation created by the relationship of solicitor and client. This would include profits made from his position. A solicitor who breaches this duty may be obliged to account to his client for all benefits received. This liability is not limited to compensation for loss actually incurred.

---

[1] *PTI Council notes that upon Respondent Solicitors' advice, the Applicant made 21 unsuccessful attempts to acquire an 'expert evidence' report in support of his High Court claim of professional negligence, but was denied or refused by all law-firms approached. On April 30th 2025, Justice Bolger noted the High Court may not require such an expert report to advance the Applicant's case; after opposition Counsel made reference to the July 1999 Supreme Court Ruling in 'Cook v Cronin', which states that "credible evidence" would in fact suffice.*

E. Under "Damages and Causation for Solicitor Negligence" the ICB further States:

(i) Notwithstanding that the solicitor may have failed in a duty of care, he will not be liable unless this can be demonstrated in the balance of probabilities to have caused the claimant's loss.

(ii) Causation will often be an issue in professional negligence claims against solicitors and barristers. The claimant must (for example) show that on the balance of probabilities, he would have acted differently but for the negligent advice.

(iii) Where claims arise from the acquisition of property, the measure of damages will generally be the difference in value between the diminution in value as a result of the negligence. This may be the difference between the actual market value with the known defect in the marketplace and the price paid.

(iv) Where a solicitor's negligence (occurs *[sic]*) in the course of a litigation transaction, the measure of damages will depend on what the claim would have realised if the relevant action was properly prosecuted. It may be necessary to consider the prospect or probability of winning.

(v) The prospects of success for a lost claim require analysis of the probabilities and contingencies. Account may be taken of the possibility of a settlement.

F. The 'PTI Reference Document – Definition of Solicitor Negligence' States:

Solicitor negligence occurs when a solicitor fails to meet the expected standard of care, resulting in harm or loss to their client. This can include failing to follow instructions, providing incorrect advice, missing deadlines, or making administrative errors. Essentially, it's a breach of the duty of care a solicitor owes to their client.

Key Elements of Solicitor Negligence:

a) Duty of Care: Solicitors have a duty to exercise reasonable care, skill, and diligence in their work on behalf of their clients.
b) Breach of Duty: The solicitor's actions or omissions fall below the expected standard of care.
c) Causation: The solicitor's negligence must be the direct cause of the client's harm or loss.
d) Damages: The client must have suffered actual harm or loss as a result of the solicitor's negligence.

Examples of Solicitor Negligence:

e) Missing Deadlines: Failing to file court documents or other important submissions within the required timeframes, potentially leading to the dismissal of a case or other adverse consequences.
f) Incorrect Advice: Providing legal advice that is inaccurate or incomplete, resulting in the client making a wrong decision.

g) Failure to Follow Instructions: Ignoring the client's specific instructions, such as failing to pursue a particular course of action.

h) Administrative Errors: Making mistakes in paperwork, failing to properly account for funds, or failing to communicate adequately with the client.

i) Failure to Act: Not taking appropriate steps to protect the client's interests, such as failing to investigate a potential claim.

Based upon the Statements and evidence provided the independent Adjudicators found:

No 1: Application upheld. No 2: Application upheld. No 3: Application upheld.

Finding / Determination:

1. The Applicant's claim is unanimously upheld. PTI Council accordingly affirms, in context of the authorities listed A-F in this CS/001 'long form' Determination, that the Respondent is in fact and in law, answerable to the Applicant in the latter's claim of negligent solicitor services.

2. Council further finds sufficient cause for the Applicant or any other interested or affected parties to pursue a civil claim in the Domestic Courts for damages as against the Respondent.

3. Council further finds probable cause for an allegation of criminal fraud sufficient to give rise to a criminal complaint to An Garda Siochana; and/or to be pursued in the District Court under *S.10 of the Petty Sessions (Ireland) Act 1851* (i.e. 'prosecuting by common informer').

4. This public document may be used in pursuance of any appropriate action seeking a lawful remedy to include a formal complaint to the Legal Services Regulatory Authority (LSRA).

Case No	CS/001/31.5.25	S.C. 003
Reg No/Pages/Para	CS/001/4-4	CS/MC/MP
D-Approval Date	9.6.25	*Original signed*

PTI

THE PEOPLES TRIBUNAL of IRELAND
• Independence
• Impartiality
• Integrity
PTI COUNCIL APPROVED

This full-form document is a true digital copy of the original signed and sealed by the PTI Executive