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IN HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

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ON APPEAL FROM THE HIGH COURT OF JUSTICE (CHANCERY DIVISION)

IN THE MATTER OF CLOUGVALLEY STORES (NI) LIMITED (IN ADMINISTRATION)

BETWEEN:

MICHAEL QUINN AND BRIGID QUINN

Appellants/Respondents;

-and-

CLOUGHVALLEY STORES (NI) LIMITED by the Administrator, THOMAS KEENAN

Respondent/Petitioner.

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Before: Sir John Gillen, Sir Ronald Weatherup and Sir Reginald Weir

Sir Ronald Weatherup (delivering the judgment of the court)

[1] Thomas Keenan, as administrator of Cloughvalley Stores (NI) Limited ("the company"), applied for the winding up of the company and on 19 March 2015 Master Kelly made a winding up order. Michael and Brigid Quinn ("the Quinns"), as shareholders and directors of the company, appealed against the order of Master Kelly and on 25 October 2016 Horner J dismissed the appeal. Michael and Brigid Quinn then appealed to this court against the order of Horner J. Michael and Brigid Quinn were litigants in person and Mr David Dunlop appeared for the administrator.

The winding up order made by Master Kelly

[2] The background is that 98% of the share capital of the company is owned by Cloughvalley Stores Limited, a company registered in the Republic of Ireland which is in receivership. Michael and Brigid Quinn each own one share in the company. In 2011 Allied Irish Banks plc placed the company in receivership. Thomas Keenan was appointed by the directors of the company as administrator, with the consent of the Northern Bank Limited which held a floating charge over company assets. In 2014 the administrator made the application to wind up the company on the basis that the company was unable to pay its debts. The Quinns opposed the Petition and Master Kelly made the order which the Quinns appealed to Horner J.

The appeal against the winding up order

[3] The grounds of appeal included a ground that the 'centre of main interest' of the company was not in Northern Ireland and further that the appropriate person to bring an application to wind up the company was a receiver of the Republic of Ireland company. The 'centre of main interest' argument, by which the Quinns contended that any issue should be dealt with in the Republic of Ireland, had not been fully explored before the Master and accordingly the issue was remitted to the Master for further argument on that point.

The remittal back to Master Kelly

[4] At the resumed hearing before Master Kelly the Quinns were represented by Counsel and solicitors. Master Kelly rejected the 'centre of main interest' argument. The material factors were that within Northern Ireland were to be found the registered offices of the company, the economic activity of the company based at a convenience store, the company bank and banking arrangements, the company's statutory compliance obligations in respect of tax and VAT, the company regulatory obligations in respect of returns to Companies House and the company's creditors and potential creditors.

[5] At the same time, proceedings had been taken in the Republic of Ireland by Northern Bank Limited against the Quinns, who were resident in the Republic, to enforce guarantees given in respect of the company. In those proceedings the Quinns argued that proceedings in respect of the guarantees ought to have been instituted in Northern Ireland. This argument was rejected in the proceedings in the Republic of Ireland.

The hearing of the appeal by Horner J

[6] By judgment in writing dated 25 October 2016 Horner J stated that some of the Quinns' grounds of appeal had not been pursued and the main case made by the Quinns was that the Master should not have made the winding up order because the averments in the Petition and supporting affidavit were plainly wrong. On the

hearing of the appeal before Horner J the Quinns did not rely on the 'centre of main interest' argument that had been remitted to Master Kelly. Instead reliance was placed on a new ground of appeal raised on the eve of the hearing. The new argument was that the indebtedness of the company had been discharged in 2016 when the Quinns furnished a "promissory note" to pay the full amount of the debt owed by the company and that promissory note not having been returned.

[7] On the appeal coming on for hearing before Horner J the Quinns were represented by Counsel and solicitors, although Brigid Quinn was not present. As Horner J recites in his judgment, Counsel refused to advance an argument based on the affidavit sworn by Michael Quinn. The result was the discharge by the Quinns of Counsel and solicitors. Michael Quinn then sought an adjournment of the appeal for the Quinns to obtain alternative representation and to enable Brigid Quinn to be present. At the resumed hearing the Quinns did not have legal representation. The appeal was presented by Michael Quinn. Evidence of Mr Blackwood Hall on behalf of Northern Bank Limited confirmed the debt due by the company, the receipt of the purported promissory note and the return of the same to the Quinns. Michael Quinn cross-examined the witness. Horner J concluded that the promissory note defence "has no substance and is devoid of merit". Horner J went on to consider whether there were any other grounds on which the Quinns might rely in the appeal and found that there were none.

The appeal against Horner J

[8] The Quinns then lodged the present appeal on the grounds that they were denied legal representation, denied a fair procedure, that Horner J was not impartial and that evidence was admitted that was inadmissible and unreliable. Skeleton arguments were exchanged in relation to the grounds of appeal.

[9] As the hearing of the appeal approached the Quinns gave notice of amended grounds of appeal to add two new grounds. One ground was that the paperwork in the original application to put the company in administration was fundamentally flawed. The other ground was that Horner J was compromised by his personal involvement with Northern Bank Limited and should have recused himself from hearing the appeal.

The remittal to Treacy LJ

[10] As the issue of the flawed paperwork had not previously been raised and went to the essence of the winding up application, this court remitted the issue for determination by a Chancery Judge. The questions were as follows:

(i) Whether the notice of intention to appoint an administrator dated 17 October 2011 was valid.

(ii) What effect the failure of any file or record of the decision of the directors to appoint an administrator had on that appointment.

(iii) Whether in any event the subsequent lodgement of a copy of the notice of intention to appoint with a record of the decision of the directors attached has rectified any such failure.

[11] The issue was heard by Treacy LJ who delivered a decision on 20 April 2018 dismissing what we shall call the paperwork issue. The Quinns' assertions were summarised by Counsel for the administrator as follows:

(i) That Michael Quinn sought to appoint an administrator without proper authority and without the consent of his co-director Brigid Quinn.

(ii) That the notice of appointment did not have annexed to it a company resolution.

[12] On the first assertion Treacy LJ stated that it was simply wrong. The appointment of the administrator did not require a company resolution since the appointment was made by the directors of the company. He entertained no doubt that both directors approved the appointment of the administrator.

[13] As to the second assertion Treacy LJ accepted that the record of the decision of the directors was not attached to the notice of intention to appoint, which was contrary to the relevant insolvency rule. However, Treacy LJ concluded that it had not been intended by Parliament that non-compliance with that rule would result in total invalidity and in any event there was express provision in the Insolvency Rules that an irregularity would not invalidate insolvency proceedings unless there was "substantial injustice". Treacy LJ was satisfied that no substantial injustice had been caused. Accordingly it was concluded that:

(i) The notice of intention to appoint the administrator was valid.

(ii) The failure to file the record of the decision of directors did not invalidate the appointment.

(iii) A subsequent lodgement of a copy of a notice of intention to appoint with a record of the decision of directors had rectified any failure.

The appeal against Treacy LJ

[14] The Quinns issued a notice of appeal against the decision of Treacy LJ and the grounds of appeal stated that he had erred in law in reaching each of his conclusions stated above. This court determined that the grounds of appeal against the decision of Horner J and against the decision of Treacy LJ would be heard together. The

Quinns failed to file any skeleton argument in relation to the grounds of appeal against the decision of Treacy LJ.

[15] A matter of days prior to the resumed hearing of the appeal fixed for 22 October 2018 there were two developments. First of all a medical report from a general medical practice was received in respect of Brigid Quinn which stated baldly, "Mrs Quinn is currently medically unfit to attend court. I hope this can be taken into consideration." Secondly, a Notice of Originating Motion was lodged by Michael Quinn, by which he sought an order that the hearing of the appeals be stayed until such time as he was in possession of documents relating to the company, which he asserted were required to allow him to put forward a proper skeleton argument.

The application by Michael Quinn for a stay

[16] By affidavit grounding that application Mr Quinn referred to his letter dated 12 October 2018 to the Chartered Accountants of Ireland where he indicated that he was not in a position to file a completed skeleton argument until he had received appropriate responses from the Chartered Accountants of Ireland. By the letter of 12 October 2018 Mr Quinn refers to company records held by Des Kelly in respect of the company and the Republic of Ireland company, Des Kelly being the company accountant. The relevance of any company records in the control of Des Kelly to the issues in the appeal is not stated. Further, reference is made to Ken Fennell, receiver and manager of the Republic of Ireland company, who is alleged to have been engaged in various activities concerning the Republic of Ireland company. The relevance of any company records in the custody of Ken Farrell to the issues in the appeal is not stated. Thirdly, Mr Quinn refers to Thomas Keenan, the administrator of the company, and his connections with Northern Bank Limited. The relevance of any company records in the custody of Thomas Keenan to the issues in the appeal is not stated. The Notice of Originating Motion was before the court on the resumed hearing of the appeal.

[17] Michael Quinn was present when the appeal came on for hearing. The court inquired of Mr Quinn as to the medical condition of Mrs Quinn but he was unable to assist as he stated that they had separated. The court sought the submissions of Mr Dunlop, Counsel on behalf of the administrator, in relation to the position of Mrs Quinn. Mr Dunlop stated his opposition to any adjournment of the appeal and referred to a chronology outlining the history of the previous hearings. Mr Quinn interrupted but was asked to wait for his turn to speak. Mr Quinn then left the court and did not address the court on his application for a stay or on the substance of the appeal. His departure was within some three minutes of the commencement of the hearing.

[18] Mr Dunlop submitted that the hearing of the appeal should not be adjourned on the grounds relied on by Michael Quinn in his Notice as none of the matters referred to in that application was relevant to the Quinns' grounds of appeal. The

court considered the matters relied on by Michael Quinn in his written application for a stay. The issue of the company winding up had been proceeding for some years. The need for recovery of the documents to assist the Quinns in the appeal had been raised at the last minute. It was not apparent that any of the documents sought would be relevant to the grounds of appeal against the decision of Horner J or the decision of Treacy LJ. Nor was it apparent why the documents, if considered to be relevant, were not the subject of an earlier application in these proceedings. The court had the written arguments of the Quinns in relation to the grounds of appeal against the decision of Horner J. Accordingly, the court rejected Michael Quinn's application to adjourn the hearing of the appeals, having had Michael Quinn called outside the courtroom and he not responding.

The medical report from Brigid Quinn

[19] The medical report furnished on behalf of Brigid Quinn was completely inadequate and uninformative. It gave no indication of the nature of Mrs Quinn's condition or of her prospects for attendance at court and provided no basis for an informed conclusion on the significance of Mrs Quinn's medical condition. The court decided to proceed with the hearing of the appeal on the written material submitted on behalf of the parties, while deferring any final decision pending the opportunity afforded to Mrs Quinn to make further submissions on the grounds of appeal. Mr Quinn had voluntarily excluded himself from making submissions to the court when he would have had the opportunity to do so.

[20] The court heard from Counsel for the administrator, considered the written submissions made on behalf of the Quinns in relation to the proceedings before Horner J, being satisfied that the documents sought by Mr Quinn were not relevant to the issues arising on the appeal and in any event should have been sought much earlier in the proceedings, having called Michael Quinn and he not responding, made the decision that the appeal should be dismissed, subject to such further submissions as might be advanced by Brigid Quinn. Accordingly the court directed the respondent's solicitors to give notice to the Quinns of the outcome, including the opportunity for Mrs Quinn to make further submissions in writing within a period of 4 weeks, namely by 19 November 2018.

The original grounds of appeal

[21] The court's reasons for reaching the interim decision to dismiss the appeal are set out below, those reasons being subject to such further submissions as might be made by Mrs Quinn, as to which see the discussion below of events occurring after the hearing. The original grounds of appeal against the decision of Horner J may be considered under four headings, legal representation, fair procedure, partiality of the judge, inadmissible and irrelevant evidence.

[22] First, legal representation. The Quinns contend that Horner J deprived them of legal advice and representation and undermined their entitlement to legal aid.

As noted above the Quinns had legal representation by solicitors and Counsel at the commencement of the hearing before Horner J and the Quinns dispensed with those legal services. The hearing was then adjourned for the Quinns to secure alternative legal representation but they did not or were unable to do so.

[23] It was the decision of Michael Quinn to dismiss their legal representation. As appears from the judgment of Horner J this decision of Michael Quinn was precipitated by Counsel stating that he was not prepared to advance any argument based on the contents of Mr Quinn's affidavit. Horner J referred to the duty on a barrister not to knowingly or recklessly mislead or attempt to mislead the court and stated that he could well understand Counsel's refusal to endorse the contents of Mr Quinn's affidavit. The case to be made by Mr Quinn was then advanced by him personally, at the resumed hearing, based on the promissory note argument. This case was dismissed and amounted to what Horner J described as "a hopeless appeal". The Quinns had legal aid for the purposes of the appeal and the concerns of Horner J were such that he concluded his judgment by stating "I direct that this judgment be brought to the attention of the Legal Services Commission as I found it difficult to accept that it has been aware of all material facts."

[24] The evidence on the issue of the promissory note will be considered below but on the issue of legal representation the court is satisfied that the decision to dismiss Counsel and solicitors was made by Michael Quinn as a result of Counsel acting in accordance with his duty. The court is satisfied that the circumstances relating to legal representation do not afford the Quinns any ground of appeal against the decision of Horner J.

[25] Secondly, fair procedure. The Quinns contend that they were not afforded a reasonable time to prepare their case after the legal representation was dismissed and further that they were not afforded the opportunity to test the evidence before Horner J.

[26] The Quinns' skeleton argument contends that they were not allowed an adjournment when they had no legal representation and they were not allowed any time to prepare the case. The judgment of Horner J indicates that the Quinns obtained two adjournments to secure alternative legal representation or to make preparations to present the case personally. Michael Quinn then presented the case on the promissory note. As stated, Horner J described the point as "hopeless".

[27] As to the testing of the evidence it is again apparent from the judgment of Horner J that Michael Quinn availed of the opportunity to cross examine the witness. The court is satisfied that the circumstances relating to the timing of the hearing and the opportunity to cross examine do not afford any ground of appeal.

[28] Thirdly, the alleged partiality of Horner J. The Quinns furnished no particulars of this complaint other than to state that Horner J showed animosity and

almost contempt towards the Quinns. The court has no basis for finding that any ground of appeal is made out under this heading.

[29] Fourthly, inadmissible and unreliable evidence. The Quinns contend that reliance was placed on a without prejudice document which should have been inadmissible in evidence. It is understood that this document is the "promissory note" upon which the Quinns relied to advance the promissory note argument before Horner J. The document was handed into court by the respondent. The Quinns cannot rely on the document and then complain of its use as evidence.

[30] Further the Quinns contend that the evidence of Mr Blackwood Hall was unreliable and was not from an expert witness. Mr Blackwood Hall was not an expert witness but proved the debt due and the return of the purported promissory note. His evidence was challenged by the Quinns but accepted by the Judge. There is no basis advanced on which the acceptance of this evidence should be set aside.

[31] As to the substance of the Quinns' argument on the promissory note we are in agreement with Horner J as to the reasons that the argument should be dismissed.

The appeal on the ground of "flawed paperwork"

[32] The first additional ground of appeal concerned the flawed paperwork and led to the decision of Treacy LJ. The grounds of appeal state that Treacy LJ erred in law in reaching the conclusion that he did, itemising the three matters set out in paragraph [13] above. No skeleton argument was filed on behalf of the Quinns to develop the grounds of appeal against the ruling of Treacy LJ. This court has considered the judgment of Treacy LJ. He found that the appointment of the administrator did not require a company resolution since the appointment was by the directors of the company and not by the company itself. He found that both directors approved the appointment of the administrator. He found that the record of the decision of the directors was not attached to the notice of intention to appoint. However, he found that the procedural defect did not invalidate the insolvency proceedings and he declared the appointment of the administrator to be valid. We are satisfied that no document in the possession of Mr Kelly or Mr Fennell or Mr Keenan could have any bearing on that outcome. The court agrees with the judgment of Treacy LJ and finds no grounds for interfering with that judgment.

The appeal on the ground of the recusal of Horner J

[33] The second additional ground of appeal concerned the failure of Horner J to recuse himself.

[34] In the original application for leave to appeal dated 22 November 2016 and the original skeleton argument, the appellants had alleged that the learned trial judge "had showed bias against "the appellant and had "showed animosity and

almost contempt towards us as lay litigants and this interfered with his impartiality".

[35] The proposed amended application for leave to appeal dated 29 March 2017 revealed a new ground at paragraph (j) and contained the following:

> "The learned Lord Justice Horner was/is compromised by his involvement with Northern Bank Limited. Horner J should have excused himself from this case. Contrary to that he did not even make the position known to us. With respect justice must not only be done but must be seen to be done. The judgment is tainted"

[36] In the amended skeleton argument dated 29 March 2017 the same point is made and adds:

> "The matter has been dealt with in the affidavit of Bridget Quinn and exhibits thereto sworn on 29 March 2017."

[37] The affidavit of Bridget Quinn dated 29 March 2017 contains, inter alia, the following averments:

> "7. I say that in relation to our assertion that the Learned Judge Horner was/is compromised by his involvement with Northern Bank Limited, which was made known to the Court of Appeal on 27 March 2017, I have included this in my affidavit rather than the amended skeleton argument to the court.
>
> 8. I say that prior to the leave to appeal hearing on 27 March 2017 we became aware that the Learned Judge Horner was and still is a shareholder of a company registered in Companies House which has outstanding mortgages with Northern Bank Limited trading as Danske Bank and another bank. We were very surprised at this as we felt that Judge Horner should have made us aware of this prior to hearing our appeal. We made enquiries to make sure that this information was in fact correct. We believe that the Learned Judge Horner failed to disclose a serious and fundamental conflict of interest.
>
> 9. I say that from a search on the Companies House website which is a public record we discovered that

Judge Horner was a Director of a company TMKK Limited Company Registered Number NI040178 from its incorporation on 13 February 2001 until 19 November 2011. As at that date he resigned and his wife Karin Horner then became a Director on 19 November 2011. Judge Horner remains a shareholder in the company as of this date.

.....

12. I say that from the records at Companies House it appears that the company has three outstanding mortgages with Northern Bank Limited which were taken out when Judge Horner was a Director in 2001. The company also has two outstanding mortgages with Bank of Ireland.

13. The company is in the business of buying, owning, developing and selling residential and commercial property, to rent, lease and maintain same.

14. Until 2017 the company's assets were valued at £177,135.00. In 2007 mortgages/charges in favour of Bank of Ireland were registered. At that time the assets were valued at £2,065,040 and remained at that value until April 2016 when they were revalued by £1,115,040 to £950,000 to a decrease of nearly 50%.

….....

17. ....We only became aware of Judge Horner's connection with Northern Bank Limited by accident. We believe and are advised that the judge should have disclosed this information to us. We believe he had a choice, either to disclose this information and make the parties aware of his connection with Northern Bank Limited or recuse himself at the outset.

18. We believe that any realistic person with knowledge of the facts could consider that there was a conflict of interest and a prospect of bias.

19. I say that for the above reasons the judgment of the Learned Judge Horner should be set aside."

Principles governing bias

[38] The principles governing bias are well-established in our law. We need go no further than to cite four leading cases which contain the principles. These are:

- *Locabail (UK) Ltd v Bayfield Properties Ltd and Ors* [2000] QB451.

- *Porter v Magill* [2001] UKHL 67.

- *The Governor and Company of the Bank of Ireland and Tom Cavanagh v Brian O'Donnell and Mary Patrick O'Donnell* [2015] IECA 73 ("O'Donnell's case").

- *Willmott v Rotherham NHS Foundation Trust* [2017] EWCA Civ 181.

[39] Principles emerging from these authorities relevant to the submissions made in the instant appeal can be stated as follows:

(i) Judges have a duty to sit and hear a case in which they are not obliged to recuse themselves.

(ii) There is a duty on a judge to ensure the court is impartial and to disclose matters that may impair an impartial trial. There is a long practice /convention of the judiciary doing so.

(iii) It is routine for judges to disqualify themselves where it is appropriate.

(iv) If links are established subsequently the lack of knowledge or disclosure may be one of the factors, the weight of which will depend on the circumstances, leading to a reasonable apprehension of bias.

(v) It would be dangerous and futile to attempt to define or list the factors which may or may not give rise to a real danger of bias. Everything will depend on the facts which may include the nature of the issue to be decided.

(vi) The relevant test of bias to be applied in the instant case is whether a reasonable, objective and informed person in the circumstances would have a reasonable apprehension that the appellants would not have had a fair hearing from an impartial judge on the issues. This is an objective test.

(vii) The onus of establishing such a bias rests on the appellants.

[40] It is also important to recognise as one of the relevant circumstances the size of the jurisdiction in which Northern Ireland judges serve. It is even smaller than the jurisdiction of the Republic of Ireland. We respectfully concur with the words of

Finlay-Geoghegan J in O'Donnell's case in the Court of Appeal in the Republic of Ireland when he said at paragraph 62:

> "The appellants submitted that the judgment of the High Court (Hogan J) in *Irish Life and Permanent plc v Malcolm Duff and Susan Duff* [2013] IEHC 43, is authority for the proposition that a judge, prior to hearing a case to which a bank is a party, is bound to disclose any relationship with that bank. The court does not consider the judgment to be authority for such a proposition nor is it a correct statement of the obligation of a judge in Ireland hearing a case concerning a bank. Ireland is a small country with a relatively small number of commercial banks. As a matter of common sense, all judges have bank accounts and other banking facilities including in many cases a loan secured a mortgage on their home or other property."

[41] We consider precisely the same principle applies in Northern Ireland since all judges here will also have bank accounts and other banking facilities including in many cases loans secured by a mortgage on their home or other properties. All reasonable, objective and informed persons will be aware of this and there can be no reasonable expectation that it is necessary for a judge to declare this in every case involving a bank even where that bank is a party to proceedings before him/her.

[42] Every reasonable, objective and informed person would be aware that members of the judiciary may well also have shareholdings in either publicly listed or private companies (some of which they may not even be aware where the company is contained in a unit trust for example).

[43] It would unreasonably limit the duty of judges to sit and hear a case if they were obliged to either reveal he/she holds such shareholdings or, even more implausibly to recuse themselves in such circumstances.

[44] In the instant case, the appellants' case at its very height is that at the time of the hearing of this case Horner J was no more than a shareholder in a company which was indebted to Northern Bank. In these circumstances we find no obligation on the part of a judge to have either disclosed this or to have recused himself from the case in the circumstances. We are satisfied that no reasonable, objective or informed person, on these facts, would have reasonably apprehended the judge would not bring an impartial mind to bear on the adjudication of the particular facts in this case.

[45] Similarly, the fact that his wife was a Director of a company which was indebted to the bank is not dissimilar to conventional circumstances in which a

judge or judge's wife may have a loan secured by a mortgage on their home or other property. Once again, we are satisfied that no reasonable, objective or informed person would on these facts have reasonably apprehended that Horner J could not bring an impartial mind to bear on the adjudication of the case.

[46] Finally, having read his judgment, we find nothing that the judge said or did that would have given an objective appearance of bias or predetermination of matters addressed in the evidence. There was no unfairness or appearance of unfairness in his approach and accordingly we find no basis for the submission that there was actual bias in this case.

[47] In all the circumstances therefore we found no basis for this proposed ground of appeal.

Events occurring after the hearing of the appeal – Brigid Quinn.

[48] As stated above, the decision of the court was subject to such further submissions as might be made in writing by Brigid Quinn. Brigid Quinn made a written submission dated 19 November 2018. She outlined her health problems. Attendance at court in the near future appeared to be unlikely in the circumstances outlined. Mrs Quinn repeated various objections to the proceedings before Horner J that are addressed above and rejected by this court in considering the grounds of appeal. She also repeated two further objections that concerned the administrator, namely his power to act and the absence of her consent for him to act. These issues were considered by Treacy LJ and rejected and are addressed above and rejected by this court in considering the grounds of appeal.

[49] Mrs Quinn further requested a transcript of the hearing of the appeal to enable her to address properly the Orders made in her absence on 22 October 2018. A standard form undertaking in relation to a CD of the hearing was forwarded to Mrs Quinn and the signed form was returned to the court office dated 12 December 2018. Also forwarded by Mrs Quinn was a further note from her general medical practice indicating the nature of her health problems and her unavailability for court appearances for a period of at least six months.

[50] A CD of the hearing and a transcript of the hearing were forwarded to Mrs Quinn on 10 January 2019, the fee having been waived by the court. Mr Quinn had discharged the fee on his separate application for the CD. Mrs Quinn was informed that as it appeared unlikely she would be able to attend court in the near future, the appeal would proceed on written submissions made and any to be made and she should make any further written submission by 18 January 2019.

[51] Mrs Quinn made a further written submission dated 18 January 2019. She provided further information about her medical condition. This reaffirms the view of the court that Mrs Quinn would be unable to attend court in the near future. The

court remains of the view that the issues raised by the appeal may be dealt with on the material submitted, including the latest submission of Mrs Quinn.

[52] Mrs Quinn's latest submission takes exception to Mr Dunlop of Counsel's views expressed at the hearing in which he questioned Mrs Quinn's medical condition, the GP's preparation of the report and the purpose of the Quinns' appeal. The court does not take account of those remarks in addressing the substance of the appeal.

[53] An issue is raised about "cross border effect". The existence of proceedings north and south of the border has been noted. The issue of the centre of main interest of the Quinn enterprise has been considered. There is no basis for interfering with the finding made in this regard in the lower courts.

[54] Mrs Quinn states that due account has not been taken of the grounds of the notice of appeal against the judgment of Treacy LJ. For the reasons stated at paragraph [32] above the court finds no ground for interfering with the judgment of Treacy LJ.

[55] Various objections are raised to the role of Tom Keenan together with a reiteration of the earlier objections to the original court proceedings. Findings have been made against the Quinns and the court finds no basis for interfering with any such findings. The court has considered the substance of the grounds of appeal advanced by the Quinns and has rejected those grounds for the reasons set out above. The court has further considered the additional submissions advanced by Mrs Quinn since the date of hearing and finds no basis for upholding any ground of appeal.

[56] In addition, in her written submission of 18 January 2019, Mrs Quinn sought a further adjournment in order that she might address the court on her appeal. Nothing contained in the written submissions made by Mrs Quinn points to any basis on which she might succeed on any ground of appeal.

[57] Accordingly the court does not accede to Mrs Quinn's application to adjourn the final disposal of the appeal.

Events occurring after the hearing of the appeal – Michael Quinn.

[58] In the meantime, after the completion of the hearing of the appeal Mr Quinn wrote to the court office on 13 November 2018. He there sought a CD of the hearing, complained that he had had no opportunity to address the court and referred to papers that could not be delivered to his home on 19 October 2018 in the days before the hearing when he had been away and when he had then no time to collect the papers.

[59] As to addressing the court, Mr Quinn would have had every opportunity to do so had he not voluntarily left the court when the court was considering the application for adjournment. He contends that Mr Dunlop proceeded to address the substance of the appeal, that Mr Dunlop referred to papers Mr Quinn did not have and that he was denied the right to speak. While Mr Quinn was present in court, Mr Dunlop was addressing the history of the proceedings in his opposition to any adjournment and not dealing with the substance of the appeal. He was referring to a chronology that was in the papers that Mr Quinn would have had, although as appears below he did not bring the papers to court. When Mr Quinn interrupted he was informed that he could address the court in due course.

[60] As to the papers sent to his home, the court office has been informed by the respondent's solicitors that they sent a file for the hearing to Mr Quinn that contained all the papers that were already in his possession. In addition the respondent's solicitors state that papers were sent to Mr Quinn by email. In his letter Mr Quinn states that he had no papers in court, other than the papers lodged on his application to stay proceedings, so he did not bring to court the other papers he already had in his possession that related to the substance of the appeal.

[61] As to the CD, Mr Quinn completed the standard undertaking on 7 December 2018 and paid the fee on 28 December 2018. The CD and a transcript of the hearing were with Mr Quinn on 10 January 2019. He was notified that the judgment date would be 21 January 2019 and that Mrs Quinn could make any written submission by 18 January 2019. However on 10 January 2019 Mr Quinn sought an adjournment of the final judgment for him to have more time to respond to the CD and the transcript.

[62] Mr Quinn did not attend the hearing on 21 January 2019. He did send a written submission dated 21 January 2019 reiterating his objections to the proceedings that had taken place. Mr Quinn made written submissions on the grounds of appeal against the decision of Horner J. He made no written submissions on the grounds of appeal against the decision of Treacy LJ delivered on 20 April 2018 prior to the hearing on 22 October 2018, relying on the need for additional documents, the relevance of which the court rejected. He attended the hearing on 22 October 2018 but voluntarily left the court without making any submissions. He made no written submissions thereafter, relying on the absence of a transcript, although Mrs Quinn made written submissions on receipt of the transcript. At the hearing today he failed to attend but did make a written submission. The court is satisfied that Mr Quinn has not advanced any basis on which he might succeed on any ground of appeal.

[63] Accordingly, this court is satisfied that there are no grounds for adjourning the final judgment.

[64] It is in the interests of justice to all parties to litigation that matters proceed with reasonable expedition and fairness to the parties. The appellants have been

afforded every opportunity over a lengthy period and in many hearings to present their case. The hearings have proceeded from evidence before the Master, a referral back to the Master for a second hearing, an appeal to Horner J who again heard evidence on the appeal, on a further appeal to this court, a referral to Treacy LJ who heard further evidence and then the present appeal. As new points have been raised by the appellants at each stage the courts has examined the new points. The appellants have had the opportunity to make written submissions throughout the hearings. This court has examined all the proceedings and the grounds of appeal relied on by the appellants. We are satisfied that none of the grounds of appeal can be sustained.

Conclusion

[65] In so far as it is necessary to do so the court grants leave to the Quinns to appeal on the additional grounds, described above as the ground of the "flawed paperwork" and the ground of "recusal of Horner J". The court dismisses the appeal on all grounds.