



**Approved
No Redaction Required**

THE COURT OF APPEAL

**Court of Appeal Record Number: 2026/1
Neutral Citation Number [2026] IECA 120**

**Faherty J.
Allen J.
Burns J.**

BETWEEN/

TINKA ZAPRYANOVA

**PLAINTIFF/
APPELLANT**

- AND -

MARTINS NIPERS NIPEROVICS

**DEFENDANT/
RESPONDENT**

JUDGMENT of Ms. Justice Faherty delivered on the 3rd day of July 2026

1. This is the plaintiff’s appeal of the Order of the High Court (Coffey J. (“the Judge”)) dated 26 November 2025 as perfected on 4 December 2025 that the plaintiff within two weeks of the Order furnish the defendant’s solicitors with copies of all medical reports upon which she proposes to rely in the within proceedings. The terms of the Order also provided

that the defendant furnish the plaintiff with copies of all medical reports upon which he intends to rely. It further provided that in the event the plaintiff does not propose to rely on medical reports in the proceedings, she was to inform the solicitors for the defendant of that.

2. Before addressing the issues that arise on the appeal, I take the opportunity, at this juncture, to advert to the plaintiff's application at the outset of the appeal hearing that I recuse myself on grounds of objective bias, and to outline the reasons I gave on the day of the hearing for refusing her application for my recusal.

3. The basis of the application was that I was part of the Panel which decided the plaintiff's appeal concerning COA Record Number 2023/285, which was the plaintiff's appeal of the refusal of the High Court to grant her leave to seek judicial review. The underlying factual matrix of the plaintiff's application for leave had at its core the within proceedings. She alleged in her leave application, *inter alia*, that a legal practitioner had taken the decision to initiate the proceedings without her approval, following which she had complained him to the Legal Services Regulation Authority (LSRA). The High Court refused to grant her leave for judicial review in respect of the Determination issued by the LSRA which rejected her complaint as "*frivolous and vexatious*". In a judgment delivered on 31 July 2024 ([2024] IECA 198), this Court dismissed her appeal of the High Court's refusal.

4. The plaintiff's contention on the recusal application was that having previously considered and ruled upon the legal parameters of the dispute the subject matter of the leave application, a reasonable, fair-minded and informed observer could conclude that there existed a real possibility of prejudgment on my part in respect of the within appeal.

5. I disagreed that there could be any reasonable apprehension of objective bias. I reprise here the substance of my ruling on the plaintiff's application:

- Objective bias is where there is a reasonable apprehension or suspicion that the decision-maker was or could be biased (*Orange Ltd v. Director of Telecoms (No. 2)* [2000] IESC 22, [2000] 4 I.R. 159).
- The test is objective (*Bula Ltd v. Tara Mines Ltd. (No. 6)* [2004] 4 I.R. 412).
- The apprehension of bias is to be measured by the standard of the reasonable person and not according to the views of the parties or the court (*O'Callaghan v. Mahon* [2008] 2 I.R. 514).
- The reasonable person must be taken to be armed with all of the correct relevant facts and circumstances (*O'Callaghan v. Mahon; Nurendale Ltd t/a Panda Waste Services v. Dublin City Council* [2013] 3 I.R. 417).
- The reasonable person has various characteristics, including (but not limited to) being fair-minded, not unduly sensitive or cynical, robust, aware that a standard for objective bias that is met if even a suspicion can be voiced could result in a near-impossible test which could be too easily invoked; they are not paranoid or prone to conspiracy theories but rather are capable of fine judgment; they must not be complacent and must appreciate the imperative that justice must be seen to be done but would not leap to the conclusion that there may be bias. In fact, what these attributes add up to is a fair-balanced and objective person (*Kelly v. Minister for Agriculture* [2021] 2 I.R. 624, [2021] IESC 23; *O'Callaghan v. Mahon; Helow v. Secretary of State for the Home Department and another (Scotland)* [2008] UKHL 62, 1 WLR 2416).
- There must be a cogent and rational link between the grounds of alleged bias and the issue to be decided in the case where objective bias is alleged on the

part of the decision-maker or the Judge as the case may be (*O’Ceallaigh v. An Bord Altranais* [2011] IESC 50). As put more recently by O’Donnell C.J. in *Kelly v. University College Dublin* [2025] IESC 6, at para.10, “*There must be a cogent and rational link between the issue raised and its capacity to influence the decision to be made.*”

- The burden of proof is on the plaintiff (*O’Callaghan v. Mahon*).

6. As I explained when giving my decision on the recusal application, the present appeal relates to a ruling made by the Judge (in an interlocutory application) with the objective of progressing the plaintiff’s personal injury action. I was satisfied that a reasonable person, apprised of all the circumstances surrounding the plaintiff’s leave application, and apprised of the nature of the application brought by the defendant which is the subject of the within appeal, would not take the view that there was any suspicion of bias on my part given that the issue which fell to be considered in the within appeal is entirely different to the issue which arose in the plaintiff’s leave application. Accordingly, I refused the plaintiff’s recusal application a decision with which Allen and Burns JJ. concurred: Allen J. adding in his concurring remarks that, as stated by O’Donnell C. J. in *Kelly v. University College Dublin*, the mere fact that a judge has previously decided a case against a litigant is not a basis upon which a reasonable fully informed observer would take the view that there was any basis for apprehension of bias.

7. I turn now to the within appeal. As already intimated, the underlying proceedings are personal injury proceedings which issued on 16 February 2021 in respect of injuries the plaintiff sustained in a road traffic accident which occurred on 13 November 2017.

8. The Order under appeal has its origins in a notice of motion filed by the defendant on 7 November 2024 which sought:

“1. An Order and/or such Directions with regard to case management of the within proceedings whether before the Judge assigned to deal with personal injuries matters or otherwise.

2. An Order directing the Plaintiff to furnish a disclosure schedule (in compliance with S.I. 391/1991) listing the expert reports upon which she intends to rely in the hearing of the matter.

3. An Order directing the Plaintiff to furnish a composite final figure with regard to her claim for special damages.

4. An Order directing the Plaintiff to furnish [a] verifying affidavit in respect of previous pleadings and her ultimate claim for special damages.

5. Such further and other relief and/or Directions as to this Honourable court shall deem fit.”

9. The said motion was before the High Court for mention on 26 November 2025 having previously come before the Court on a for mention basis on a number of occasions prior to that date, of which more anon.

Background

10. Before turning to the plaintiff’s appeal of the 26 November 2025 Order, it is useful to set out the trajectory of the proceedings from their inception in February 2021.

11. Following the issuing of , the personal injuries summons on 16 February 2021 by the solicitors then on record for the plaintiff, Power & Co Solicitors, an appearance was entered by the defendant’s solicitors, Dillon Eustace LLP on 9 February 2022.

12. A notice for particulars issued on 11 February 2022 to which replies were sent on 3 March 2022 by the plaintiff personally, she having discharged her solicitors by Notice of Discharge filed on 13 August 2021.

13. The defendant's defence was delivered on 14 February 2022. As is apparent from paragraph 1 of the defence, the liability of the defendant for the collision is not in issue in the case.

14. No pleadings remain outstanding. On 7 February 2023 the plaintiff filed a notice of intention to proceed. It is instructive to set out what transpired thereafter.

15. On 14 April 2023, the plaintiff filed a motion by which she sought an order that An Garda Síochána (AGS) provide her with particulars regarding the criminal prosecution which arose out of the accident on 13 November 2017. The replying affidavit of the defendant's solicitor (Ms. Lorna Kennedy) to that motion indicated-as was clear from the defence which had been delivered-that the defendant was conceding negligence. As I understand it, the motion was struck out by the High Court (Coffey J.).

16. On 19 June 2023, the plaintiff filed a further motion seeking that AGS would provide her with particulars of the criminal offence and sanction against the defendant. By order of the High Court (Coffey J.) dated 24 July 2023, that motion was struck out.

17. By notice of motion dated 10 July 2023, returnable for 15 November 2023 before the Master of the High Court, the plaintiff sought discovery against the defendant: requesting that the defendant discover, *inter alia*, a copy of the offence with which he was charged and the sentence imposed. Upon being advised that two similar motions had been rejected by Coffey J., that motion was struck out by the Deputy Master on 16 January 2024.

18. The plaintiff's appeal to the High Court against the striking out of that motion was initially listed for 11 March 2024. As she was due in the Court of Appeal on that date in relation to a separate matter, she sought another date for her appeal of the Deputy Master's Order. According to the defendant's, written submission (para. 11), in her communication of 24 January 2024 to the defendant's solicitors seeking a new date, she advised "I would also like the substantial matter to be set down for trial in the next few months. We are on the same page on this".

19. The plaintiff's appeal against the Deputy Master's order was ultimately heard by the High Court (Coffey J.) on 8 April 2024. The High Court dismissed the appeal. On that date, the defendant sought and was granted liberty to issue a motion returnable to Coffey J. seeking the orders set out at para. 5 above.

20. As previously referred to, the motion was filed on 7 November 2024. The defendant's grounding affidavit was sworn by Ms. Kennedy. At para. 2, she averred that the application was being brought "to seek some assistance from the Court with regard to case management in order to bring this case to a conclusion and hearing date" in circumstances where the accident the subject matter of the proceedings had occurred in November 2017 and liability for the claim had been admitted on the part of the defendant. Following reference to the various applications for discovery the plaintiff had made, and the difficulties the defendant had encountered in obtaining a definitive final figure with regard to the plaintiff's loss of earnings, Ms. Kennedy went on to aver: -

"5. I say that we are at a loss with regard to the Plaintiff's medical reports which she has not furnished.

6. I say that these matters were openly discussed with the Plaintiff and it was understood and agreed that the Plaintiff would furnish the documentation in order for

the action to proceed to hearing. The Plaintiff has repeatedly refused an offer or suggestion that she would engage the services of another legal team in the context of an assessment only claim. I say that at this stage I believe that unless directed by the Court to make appropriate disclosures and to present her case to the defendant in order that we can ascertain what reports can be agreed and what is at issue together with items of special damage the matter will continue to linger and inappropriate and unnecessary Motions will continue to issue.”

21. At para. 8, she averred that despite recent representations in court, the plaintiff “has outright indicated a refusal to attend for medical examination”. This, she said, was despite the matter having been ongoing for a number of years and the defendant’s admission of liability.

22. Ms. Kennedy went on to point out that the motion for case management was being brought not just against the background just recited, but also against the background of the plaintiff having instituted judicial review proceedings against the Garda Commissioner which have their origin in the accident the subject matter of the within proceedings.

23. The defendant’s motion was initially returnable to 19 November 2024. When the matter came before the High Court on that date, the motion was adjourned to 28 January 2025 for mention, further the plaintiff’s wish to reply to same and her wish to deliver further particulars of injury not in the PI Summons.

24. The plaintiff swore a relying affidavit on 25 November 2024 in response to the defendant’s motion although she did not really engage in her affidavit with the substance of the matters raised by Ms. Kennedy save to assert, at para. 12, that the reliefs sought by the defendant violated her fundamental right to a fair trial as provided for in Article 40.3 of the Constitution and Article 6 of the European Convention on Human Rights. The thrust of her

affidavit was directed to the complaint that Ms. Kennedy of “Dillon Eustace” was acting for the defendant “per the instructions of AXA Insurance DAC” to “Dillon Eustace Solicitors and not Dillon Eustace LLP”. She asserted at para. 6 that “it is unclear which partner of Dillon Eustace Dillon LLP is responsible for [the notice of motion’s] preparation and submission” and “[i]t is also unclear on foot of whose instructions this Notice of Motion was issued”. Various other complaints are made (at paras. 6-10) that the notice of motion and grounding affidavit were not in compliance with the Rules of the Superior Courts (Order 52, r.7, Order 40, r.10(1) and Order 40, r. 15) and/or otherwise fell foul of what was required for a valid motion to be before the court.

25. As we shall see, the plaintiff’s submissions on the appeal continue the theme of questioning Dillon Eustace LLP’s authority to act in the proceedings or to benefit from the Order made on 26 November 2025.

26. The defendant’s motion came again before Coffey J. on 28 January 2025 on a “for mention” basis at which time the plaintiff confirmed she would attend for medical examination. The matter was put back to 8 April 2025 for mention. By 8 April 2025, no progress had been made but (the defendant says) on that occasion the plaintiff agreed in discussions to furnish her disclosure schedule and medical reports. Accordingly, the matter was again put back for mention to 8 October 2025. I note that in her reply to the defendant’s appeal submissions, the plaintiff took issue with the defendant’s counsel’s description of what had transpired on 8 April. However, for the purposes of the appeal, I do not consider that this difference of opinion has any bearing on the issues that arise for consideration by the Court.

27. In the meantime, according to the defendant’s written and oral submissions to this Court, rather than furnishing the documents she had agreed to furnish, in or about August

2025 the plaintiff wrote to the defendant requesting a copy of the PIAB medical report and reports AXA Insurance (the defendant's insurer) had commissioned. These were duly furnished to her on 14 August 2025 albeit with an indication that the defendant did not necessarily intend to rely on them. When furnishing the said reports the defendant reminded the plaintiff that she had agreed to furnish her medical reports, disclosure schedule, affidavits of verification and particulars of injury. She was requested to send on the medical reports upon which she intended to rely.

28. By 8 October 2025, which was the last occasion the matter was before the High Court prior to 26 November 2025, no progress had been made by the plaintiff in furnishing the defendant with the requested information. On that occasion, she intimated to the Judge that she wished to amend her proceedings. She was given 6 weeks to do so. That six-week period expired in or about mid-November 2025 without any application to amend having been made. However, during the six-week period, the plaintiff wrote to the defendant requesting confirmation that liability was not in issue in the case. On 14 November 2025, she received correspondence from the defendant's solicitors, and from AXA, that the liability of the defendant for the accident was not in issue. As indeed observed by the Judge on 26 November 2025, that was something that had been confirmed previously to her on numerous occasions in open court.

The High Court ruling of 26 November 2025

29. As appears from the DAR transcript of 26 November 2025, the application made by the defendant on that date was that the plaintiff would comply with the Rules, furnish a schedule of witnesses and disclose her expert reports. As again the transcript shows, the defendant's core request on the day, "with regard to advancing the case", was that the plaintiff would provide the defendant with "whatever medical reports she intends to rely

upon”. On that basis, the defendant would deliver back their replying reports and ascertain whether they needed to arrange any further medical examination.

30. Noting that the plaintiff had had eight years to prepare her case, and that she had been indulged for two years in respect of the medical reports where no progress had been made, the Judge duly directed the plaintiff to furnish her medical reports to the defendant within two weeks from 26 November 2025 and, as referred to earlier, he made a similar order in respect of the defendant. The Judge went on to observe that if it was the case that the plaintiff had no reports, she could inform the defendant of this and thus she would be compliant with the court order.

31. It is from this ruling, and the ensuing High Court Order, that the plaintiff now appeals to this Court.

The Appeal

Grounds 1, 2, 3, 5 and 6: Procedural unfairness; lack of jurisdiction; and breach of RSC

32. Grounds 1-3 and Grounds 5 and 6 of the notice of appeal assert, variously, procedural unfairness, lack of jurisdiction and a breach of the RSC on the part of the Judge.

33. It is said that the Judge erred in law and procedure in making a substantive order imposing obligations on the plaintiff on a date when the matter was listed for mention only and so where the procedural purpose of the listing did not confer jurisdiction on him to determine such matters. The plaintiff’s written submissions assert, *inter alia*, that the Judge’s ruling amounted to an “*Ultra Vires Determination on a ‘Mention’ listing*” without notice to her, thereby violating the *audi alteram partem* principle. She further asserts that the matter was determined in the absence of a notice of motion and grounding affidavit contrary to Order 40, r. 1 RSC.

34. The thrust of the plaintiff's oral submissions on the appeal was that there was no evidence before the High Court upon which the Judge could make the Order he made, her contention being that the motion and affidavit upon which the defendant now relies had only ever been filed in the "List Room", had never been put before the Judge, and most certainly was not before the Judge on 26 November 2025. In those circumstances, she argued, the Judge had operated "in a vacuum", her fundamental submission being that by virtue of the foregoing, he lacked jurisdiction to make the Order he made. In aid of her argument, she pointed to the transcript of the High Court hearing on 26 November 2025 from which, she said, it was clear that the Judge himself, in response to the plaintiff having queried the basis upon which the defendant was proceeding, had acknowledged that he was operating in a vacuum when he stated "It's not a motion, it's a for mention". Yet, the Judge had gone on to make a substantive order in such circumstances, i.e. in the absence of any papers.

35. There is no merit in the plaintiff's arguments, in my view. In the first instance, as is evident from the High Court transcript of the 26 November 2025 hearing, the attendance of the parties in the High Court on that date was the culmination of numerous prior court attendances which had their foundation in the motion filed by the defendant on 7 November 2024 grounded of the affidavit of the defendant's solicitor (Ms. Kennedy) which the defendant had been given liberty by the Judge to file and which sought, *inter alia*, case management of the proceedings and the plaintiff's compliance with S.I. 391. It is common case that this motion had been adjourned from time to time on a for mention basis for the purposes of permitting the plaintiff to do what she was ultimately ordered to do on 26 November 2025. Whilst the matter may indeed only have been listed for mention on the various dates already set out above, it is also common case that on each of those occasions, the parties appeared in the High Court and, as the Judge's own words show, on each of those dates there had been engagement with the court as to what was required from the plaintiff

and what indeed she had agreed to. As the defendant's counsel (and the Judge) pointed out, on each of those occasions the High Court had afforded the plaintiff the opportunity to address matters.

36. It is also asserted by the plaintiff in her grounds of appeal and her submissions that the motion was not properly grounded upon a "compliant" affidavit (and indeed the plaintiff's replying affidavit asserts as much, and she intimated as much before the High Court on 26 November 2025).

37. There is no substance in this complaint. The grounding affidavit was sworn by Ms. Kennedy of Dillon Eustace LLP. The fact that she may have referred, at para. 1, to "Dillon Eustace" being on record for the defendant is neither here nor there, in my view. As is plain to be seen from the affidavit, it was filed on 7 November 2025 by Dillon Eustace LLP, the solicitors on record for the defendant.

Alleged frailty in the Order made on 26 November 2025

38. The other principal argument advanced by the plaintiff relates to the Order made by the Judge on 26 November 2025. In her written and oral submissions, she asserts that the Order of 26 November 2025 is "unperfected", and she describes it as "inherently defective" "having been made in the name of a non-existent entity".

39. Insofar as she asserts it is "unperfected", I would only observe that the Order was made on 26 November 2025 and was perfected on 4 December 2025 from which the plaintiff then appealed on 2 January 2026, presumably using, as required, a certified copy of the Order.

40. In oral submissions, the plaintiff expanded on her contention that the Order was invalid and inoperative. It was so, she said, because it was made to benefit a non-existent entity. The thrust of her argument was that an Appearance to her PI Summons had been filed by Dillon

Eustace LLP. Yet, the Order which followed upon the Judge's ruling of 26 November 2025 had listed "Dillon Eustace" on the face of the Order. In those circumstances, she said, the Order was could not be given legal authority or otherwise benefit Dillon Eustace LLP, it having issued to "Dillon Eustace". Moreover, the plaintiff's research had shown that "Dillon Eustace" did not exist as a legal entity. She further contended that the Order was in breach of s.125(8) of the Legal Services Regulation Act 2015 which provides that all limited liability partnerships are obliged to use "LLP" in all their business and legal dealings. The plaintiff also pointed out that Dillon Eustace LLP had never asked for the Order to be corrected. For the reasons the plaintiff articulated, she submitted that it was not appropriate that Dillon Eustace LLP would benefit from the terms of the Order or that she, the plaintiff, would have to comply with a deficient Order. She also asserted in her written submissions that the Order compels disclosure of "Special Category Data" (health data) to an entity that has not established its legal standing, and thus offends against GDPR requirements.

41. As can be seen, the plaintiff's argument on this limb of her appeal centres on the fact that the Order on its face records "Dillon Eustace" and not Dillon Eustace LLP. That this has occurred does not, in my view, render the Order invalid or inoperative. The Order emanated on foot of the ruling given by the Judge further to an application made by the solicitors on record for the defendant, Dillon Eustace LLP. The notice of motion is signed "Dillon Eustace LLP". I have already referred to the fact that the grounding affidavit was filed by that firm. Whilst it might have been prudent for the defendant to have applied to the Judge under the "slip rule" to amend the Order to record "Dillon Eustace LLP", again, I reiterate that the fact that this was not done (or has not been done to date) renders the Order neither inoperative nor invalid.

42. I should also add that the fact that AXA insurance may have referred in correspondence to having instructed “Dillon Eustace Solicitors” or indeed “Dillon Eustace” to act for the defendant is neither here nor there in circumstances where Dillon Eustace LLP (a recognised legal entity) clearly and unambiguously are the solicitors on record for the defendant. Indeed, the plaintiff herself recognises Dillon Eustace LLP as an entity capable of providing legal services. That being the case, there can be no question of any breach of the GDPR legislation.

43. At the end of the day, Dillon Eustace LLP, a registered legal entity, are the solicitors on record for the defendant, as appears from the Appearance entered on 9 February 2022. That is as much as the plaintiff need be concerned about.

44. Turning again to the issue of alleged unfairness by the turn of events on 26 November 2025, there is no question of the plaintiff having been taken by surprise on that date. As the Judge reminded her, she had known from her last occasion in court on 8 October 2025 that the matter was again to come before the High Court on 26 November. Moreover, as demonstrated by the High Court transcript, she was at all relevant times aware of the issue being overseen by the Judge over a considerable period of time, which was the requirement on her to list and share the medical reports upon which she intends to rely at the hearing of her action for damages. Consequently, her contention in her written and oral submissions that she did not have a reasonable opportunity to present her case is without merit. Indeed, as the High Court transcript again shows, she canvassed several arguments as to why she was not under an obligation to furnish the medical reports she had in her possession. The fact that these arguments did not ultimately find favour with the Judge does not render the hearing of the 26 November any way unfair. The plaintiff, as did the defendant, got to make her arguments to the Judge, following which he made his decision.

45. The Judge reached his decision in the context of managing or overseeing the progress of the plaintiff's personal injury action. Quite clearly, the matter which was the subject of the 26 November 2025 ruling was an exercise in case management by Coffey J., even if no formal order directing case management had emanated from the High Court. The decision given by the Judge was the culmination of an almost two-year process during which the plaintiff had agreed to furnish the documents the defendant had requested but failed to do so.

46. The value of case management by the High Court is well recognised by the appellate courts. As said by Denham C.J. in *Talbot v. Hermitage Golf Club* [2014] IESC 57:

"13. The use of judicial case management is crucial to the effective conduct of litigation including where litigants are unrepresented by lawyers. This approach helps to define the key issues and to clarify the responsibilities between the parties. It enables managed use of limited court resources. It can assist by making the case more understandable for all those concerned, and may facilitate an early settlement between the parties.

14. Further, case management assists a court in determining a case within a reasonable timeframe. This is important for all parties in an action."

47. In his concurring judgment in *Defender Limited v HSBC France (formerly HSBC Institutional Trust Services (Ireland) Limited)* [2020] IESC 37, [2021] 1 ILRM 1, Charleton J. put it as follows:

"Complex cases, without case management, waste resources both for the system of justice and for those seeking justice." (at page 60)

48. It follows from the foregoing that appellate courts should be slow to interfere in case management decisions made by the High Court. As said by Clarke J. (as he then was) in *Dowling v Minister for Finance* [2012] IESC 32, at para. 3.1:

“... There would be no reality to the achievement of the undoubted advantages which flow from case management if this Court were, on anything remotely resembling a regular basis, to entertain appeals from parties who were dissatisfied with the precise directions given or orders made by the Court arising out of failure to comply.”

49. At para. 3.5 he stated that an appellate court *“should only intervene if there is demonstrated a degree of irremediable prejudice created by the relevant case management directions such as could not reasonably be expected be remedied by the trial judge (or at least where the chances of that happening were small) and where therefore, unusually, the safer course of action would be for this Court to intervene immediately to alter the case management directions.”* Palpably, the plaintiff has not established that this threshold has been met.

50. While in *Wallace v HSE* [2021] IECA 141, this Court (referring to *Dowling* and to *PJ Carroll v Minister for Health and Children* [2005] 1 IR 294) recognised that certain case management directions may have such far-reaching effect on one party or the other that immediate appellate intervention is warranted, this case is not such a case. Here, the Order made by the Judge was made entirely within his discretion. Moreover, it was made with a view to the plaintiff’s action getting a hearing, surely something entirely in ease of the plaintiff whose claim is for damages for personal injuries she sustained in an accident that occurred almost nine years ago, and in circumstances where all that is to be determined at

trial are the extent of the damages to be awarded to the plaintiff, the defendant having conceded liability.

Other concerns raised by the plaintiff

51. I note that in her written submissions, the plaintiff asserts that the Order of 26 November 2025 compels her to provide what she describes as “sham” or “flawed” medical reports, thereby exposing her to potential criminal liability pursuant to s. 14 of the Civil Liability and Courts Act 2004 and or mandatory dismissal of her proceedings under s. 26 of that Act.

52. The Order under appeal does not subject the plaintiff to the hazards of which she complains. As the defendant points out, the Order only directs her to furnish the reports she intends to rely on. It must be borne in mind that she is not the author of the reports to which the Order speaks. Moreover, insofar as she may take issue with such reports, she is only required to provide those upon which she intends to rely. Insofar as there may be matters in the reports upon which she does want to rely at trial that she may wish to comment on or clarify (by way of example, statements in the reports which are attributed to her and with which she does not agree), it will be open to her to comment on such matters in her evidence at the hearing of the action.

53. For all the reasons set out above, Grounds 1, 2, 3, 5, and 6 are not made out.

Ground 4: Failure to give reasons

54. Ground 4 asserts that the Judge erred in law in failing to give any reasons for the Order made notwithstanding that it was substantive in nature, imposed obligations on the plaintiff and adversely affected her rights and legal position. It is also said that the absence of reasons renders the Order opaque and prevents meaningful appellate review.

55. In her written submissions, the plaintiff invokes Article 40.3 of the Constitution, Article 6(1) ECHR, Article 296 of the Treaty on the Functioning of the European Union and Article 41 of the Charter of Fundamental Rights of the EU, in aid of her argument. She cites *Mallak v. Minister for Justice* [2012] IESC 59 and *Hadjianastassiou v. Greece* App. No.12945/87 a decision of the ECtHR, in further support of her argument on the duty to give reasons.

56. The first observation I would make is that the plaintiff's EU rights are not engaged here in circumstances where the subject matter of the within proceedings comprise a claim in negligence and pursuant to domestic legislation for damages.

57. The second and most fundamental observation, however, is that the decision the plaintiff seeks to impugn is not devoid of reasons or such that she is rendered incapable of understanding the Judge's rationale for the Order made. The bases upon which the Order was made were clearly outlined by the Judge when he set out that it was incumbent on the plaintiff to prepare her case for hearing, part of which was the requirement to advise the defendant of, and furnish to the defendant, such reports as she intends to rely on at the trial of her action for damages. Moreover, as the transcript shows, the plaintiff was reminded by the Judge that he had been dealing with the issue in hand for a considerable period of time. So, in terms of the Judge having outlined the reasons for his Order, nothing could be clearer, in my view. Furthermore, the ruling made clear that the plaintiff was being directed to furnish only those medical reports upon which she wished to rely at trial. The ruling came against a backdrop where the plaintiff had been indulged by the High Court for almost two years, and against a backdrop where the accident the subject matter of the proceedings had occurred as far back as 2017.

58. From the history of the proceedings to date, and, more particularly, the various court appearances pertaining to the defendant's motion that have ensued since the motion first came before the High Court, I am satisfied that the plaintiff can have no doubt as to why the Judge made the Order he did or as to his reasons for doing so.

59. Ground 4 is not made out.

Ground 7: Cumulative procedural unfairness

60. Ground 7 of the notice of appeal asserts that the Judge erred in failing to recognise what the plaintiff describes as the cumulative effect of the matters of which she complains in Grounds 1-6 such that it renders the Order of 26 November 2025 unsafe. Since, however, I have found that no procedural or substantive frailty attaches to the Judge's decision on any of these grounds, the plaintiff cannot succeed on ground 7.

Ground 8: Failure to consider the statutory obligations of the Mediation Act 2017

61. Ground 8 of the notice of appeal asserts that the Judge failed to consider the statutory obligations of the Mediation Act 2017. Save this bare contention, this ground is not pursued in the plaintiff's written or oral submissions. In any event, I fail to see the relevance of the Mediation Act to the issue that was under consideration on 26 November 2025.

Summary

62. For all the reasons set out above, I would dismiss the plaintiff's appeal.

63. I should add that insofar as the plaintiff, in the event the Court (as it has) were to uphold the High Court Order, requested that a stay be put on the Order, I would decline such relief. It is not in the interests of justice that the Court would grant a stay. At its heart, the Order is an exercise in case management directed to progressing personal injury proceedings that

issued in 2021 on foot of an accident that occurred in 2017. As Denham C.J. put it in *Talbot v. Hermitage Golf Club*, “*case management assists a court in determining a case within a reasonable timeframe. This is important for all parties in an action*”. The issue for the trial is a net one, namely the assessment of the damages to be awarded to the plaintiff for her injuries: it is in the interests of justice that the plaintiff abides the Order of 26 November 2025 with a view to the matter proceeding to trial.

64. The Court will in due course advise the parties of the date for the making of final orders and to address the question of costs.

65. As this judgment is being delivered electronically, Allen J. and Burns J. have indicated their agreement therewith and the order I have proposed.