THE COURT OF APPEAL

CIVIL

UNAPPROVED

NO REDACTIONS NEEDED

Record No 2025/153

Whelan J.

Faherty J.

Buter J.

Neutral Citation Number [2026] IECA 135

Between/

MATTHEW WALES

APPLICANT/APPELLANT

AND

THE SOLICITORS' DISCIPLINARY TRIBUNAL

AND

THE LAW SOCIETY OF IRELAND

RESPONDENTS

Judgment (COSTS) of Ms. Justice Máire Whelan delivered on the 21st day of July 2026

1. The substantive judgment in this appeal was delivered on 3rd June 2026 [2026] IECA 103. The respondents were entirely successful in resisting the appellant's appeal against the

High Court's refusal of his application that he be permitted to make further amendments to the Statement of Grounds supporting his application for Judicial Review in the High Court. In its judgment this court indicated that the respondents were presumptively entitled to their Costs in respect of this appeal.

2. The statutory and procedural position on costs is governed by sections 168 and 169(1) of the Legal Services Regulation Act 2015 (the Act of 2015) and O. 99, rr. 2 & 3 of the Rules of the Superior Courts 1986 (as amended). The default position is that *"costs follow the event"* where a party has been *"entirely successful"* unless the court orders otherwise *"having regard to the particular nature and circumstances of the case, and the conduct of the proceedings by the parties"*, including matters set out at (a) to (g) in section 169(1) of the Act of 2015. The burden rests with the unsuccessful party to satisfy the court that a valid legal basis exists which warrants deviating from the presumptive position as to entitlement to costs as provided under the legislation as jurisprudence such as *Grimes v Punchestown Developments Co. Ltd* [2002] 4 IR 515 makes clear.

3. The statutory provisions were considered by the Court of Appeal (Murray J.) in *Chubb European Group SE v Health Insurance Authority* [2020] IECA 183. At para. 19 of his judgment the following general principles were set out: -

> *"(a) The general discretion of the Court in connection with the ordering of costs is preserved (s.168(1)(a) and O.99, r.2(1)).*
>
> *(b) In considering the awarding of costs of any action, the Court should 'have regard to' the provisions of s.169(1) [(O.99, r.3(1))].*
>
> *(c) In a case where the party seeking costs has been 'entirely successful in those proceedings', the party so succeeding 'is entitled' to an award of costs against the unsuccessful party unless the court orders otherwise (s.169(1)).*

(d) In determining whether to 'order otherwise' the court should have regard to the 'nature and circumstances of the case' and 'the conduct of the proceedings by the parties' (s.169(1)).

(e) Further, the matters to which the court shall have regard in deciding whether to so order otherwise include the conduct of the parties before and during the proceedings, and whether it was reasonable for a party to raise, pursue or contest one or more issues (s. 169(1)(a) and (b)).

(f) The Court, in the exercise of its discretion may also make an order that where a party is 'partially successful' in the proceedings, it should recover costs relating to the successful element or elements of the proceedings (s.168(2)(d)).

(g) Even where a party has not been 'entirely successful' the court should still have regard to the matters referred to in s.169(1)(a)-(g) when deciding whether to award costs (O.99, r.3(1)).

(h) In the exercise of its discretion, the Court may order the payment of a portion of a party's costs, or costs from or until a specified date (s.168(2)(a))."

"entirely successful"

4. The appellant brought this appeal against the decision of the High Court which had refused certain amendments to the Statement of Grounds filed in support of his Judicial Review Application which he had commenced in 2019 seeking, inter alia, prohibition of a hearing by The Solicitors Disciplinary Tribunal into complaints of professional misconduct made against him as a solicitor. Apart from one net point which concerned Relief No 7 being sought by the appellant in his Judicial Review Application which was swiftly and unequivocally conceded by both respondents in their respective Notices and Submissions

and was not the subject of any argument in this appeal, the respondents fully contested the other 15 grounds of appeal and were entirely successful in opposing same.

5. The appellant in his written submissions concerning costs outlined a number of alternatives to an order for costs *simpliciter* in favour of both respondents which he contended should be preferred by the court:

- Firstly, that this court make no order as to the costs of the appeal.
- Secondly, in the alternative, this court grant a stay on the costs pending the determination of the substantive 2019 Judicial Review Proceedings.
- The third option advanced is that this court reserve determination of the costs of this appeal so that the issue be determined by the High Court hearing the substantive Judicial Review proceedings.
- Finally, it is argued that if this court awards costs in favour of the respondents a stay of execution of such order should be granted to the appellant.

6. The appellant in his submissions asserts that the respondents were not entirely successful in opposing the appeal nor could the outcome be "*characterised as one of unqualified success*". Here he relies on the fact that the issue/ground raised by him on appeal in regard to Relief 7 was successful. However, I am satisfied that there is no merit in this argument because, as is clear from the submissions of the respondents and the documentary evidence before this court at the appeal hearing both respondents moved at pace once the issue was raised in this appeal to concede that point. They did so explicitly and at a very early stage and the appellant could have been in no doubt that the point was never in contention between the parties. Thus continuing on with the other grounds of appeal was not warranted and the appellant failed on all of the grounds of appeal which were live and opposed by the respondents at the appeal hearing. It is illusory to assert that the respondents were not entirely successful when clearly once they had conceded the point raised it was open to him

to progress the Judicial Review hearing with the benefit of their concession as regards Relief 7. This is an appeal where the issue of costs falls to be determined on the basis that the respondents were entirely successful in their opposition to the appeal that was heard before this court.

7. The appellant seeks to reagitate issues unsuccessfully advanced in the course of the appeal as supporting his arguments that there be no order for costs of this appeal made against him or at the very least that any such order not be readily enforceable against him pending conclusion of the substantive litigation. This court has found that there was no *default* and no *delay* on the part of the respondents in the filing of their statements of opposition. The appellant has not established any delay which would warrant deviation from the normal rules and principles as to the awarding of costs in an unsuccessful appeal.

8. The appellant appears to contend that the fact that he self-represented in the High Court and insofar as successful was awarded his *"reasonable expenses*" in effect gives rise to a disparity of treatment. However, this argument does not withstand scrutiny. The appellant, who is a qualified and highly experienced lawyer, elected to self-represent. The respondents retained legal representation and that was entirely proper – particularly given the gravity of the issues, and the public interest at stake in ensuring that public confidence is maintained in the legal profession and the proper and expeditious determination of issues and complaints when raised. There is force in the arguments of the first respondent that the decision of the Supreme Court in *Dawson v Irish Brokers Association* [2002] IESC 36 is relevant. The appellant's personal litigation strategy is a matter for himself and it is unarguable that his approach of self-representation meant he is limited to recovering his reasonable expenses. This could not give rise to any diminution in the entitlement of the respondents to be entitled to be indemnified in respect of the legal costs incurred in opposing the appeal to be ascertained in default of agreement. Recently this court (Butler J.) in

Corcoran & Anor v Permanent TSB PLC & Ors [2026] IECA 116 considered the relevant jurisprudence in relation to the allocation of costs for successful litigants-in-person, however that judgment does not avail the appellant in any material aspect.

9. No basis is identified for making no order as to costs. Neither is a basis made out that it is not possible to justly adjudicate on the issue of liability for the costs of this particular appeal. Having regard to s. 169(1)(b) it was not reasonable for the appellant to continue to raise, pursue and contest the remaining grounds of appeal once the respondents had expeditiously conceded the point as regards Relief 7. Such conduct substantially precludes deviation from the default position which is that these respondents are entitled to an order for their costs.

10. As regards the granting of a stay, this court has explored the issue of a stay of execution of a costs order in *Keena v Promontoria (Aran) Ltd & Ors* [2023] IECA 319 and followed the reasoning in *Permanent TSB v Skoczylas* [2020] IECA 152. The appellant's arguments are starkly at variance with the statutory scheme. The appellant has failed to demonstrate that it would not be in the interests of justice to make an order for costs which was immediately enforceable. The granting of a stay of execution would not be in keeping with the statutory framework as outlined or the established jurisprudence on the appropriateness of staying enforcement of a costs order.

11. The idea of refraining from making any determination as to costs and reserving the issue of costs of this appeal to be determined by the High Court in the substantive Judicial Review proceedings is singularly unattractive and at variance with Order 99 rule 2(3) of the Rules of the Superior Courts and risks giving rise to injustice in rewarding unsuccessful litigants and penalising successful litigants.

12. The many grounds of appeal pursued to a determination in this appeal were conclusively determined against the appellant.

13. This court's decision falls to be treated as the "*event*". As outlined in the *Veolia* jurisprudence unreasonable procedural applications may be pursued but carry a costs consequence when unsuccessful. To grant a stay on the costs order pending determination of the judicial review proceedings would be unwarranted and operate unfairly against the successful respondents.

Conclusion

14. The substantive judgment sets out the position of the court clearly and is to be read herewith and is not repeated here. The appellant sought to launch further and new issues in the appeal regarding alleged failures to file Statements of Opposition which were not successful as outlined in the substantive judgment, *inter alia*, in light of the decision of the Supreme Court in *Lough Swilly*. No novel points or public interest issues arose in this appeal and all of the issues in contention at the appeal hearing were unmeritorious and resolved against the appellant and in favour of the respondents.

15. The respondents seek their costs without a stay on the basis that they successfully opposed the appeal and had expeditiously conceded the initial point concerning Relief 7 as outlined in the judgment and above. I am satisfied that they both approached the appeal in a reasonable and measured way.

16. There is no basis identified to make no order as to costs. No basis to reserve costs to the trial of the matter in the High Court. There is no basis made out for a stay – either pending the determination of the substantive judicial review proceedings nor a stay of execution of the costs order to which the respondents are clearly entitled in respect of this appeal, which includes the costs in connection with these submissions.