



## **2. Applicant/Appellant Details**

Where there are two or more applicants/appellants by or on whose behalf this notice is being filed please provide relevant details for each of the applicants/appellants

Appellant's full name **Vincent O'Donoghue lay litigant**

Original status **Plaintiff / Applicant / Appellant**

Solicitor **N/A**

Counsel **N/A**

If the Applicant / Appellant is not legally represented please complete the following

Current postal address **67 Church Street, Four Courts, Dublin 7.**

e-mail address **odonoghuev@gmail.com**

Telephone no. **087 3331887**

How would you prefer us to communicate with you? **E-mail odonoghuev@gmail.com**

## **3. Respondent Details**

Where there are two or more respondents affected by this application for leave to appeal, please provide relevant details, where known, for each of those respondents

Respondents' full names

- 1. Allied Irish Bank PLC**
- 2. The Minister for Finance of Ireland**
- 3. Ireland**
- 4. The Attorney General**

Original status **Defendants / Respondents**

**Solicitor for first named Respondent**

Name of firm **Helen Dooley in house solicitor Allied Irish bank PLC**

Email .....

Address **Block K4 Bankcentre, Ballsbridge, Dublin 4**

Telephone no. **01 6600311**

Document Exchange no.

Postcode .....

Ref. ....

How would you prefer us to communicate with you?

Document Exchange .....

E-mail .....

Post .....

Other (please specify) .....

Counsel

Name **Denis McDonald SC**

Email .....

Address .....

Telephone no. **01 817 5069**

Document Exchange no **DX 815206**

Postcode .....

Counsel

Name **Paul Fogarty BL**

Email .....

Address .....

Telephone no. **01 817 4705**

Document Exchange no. **DX 813095**

Postcode .....

How would you prefer us to communicate with you?

Document Exchange .....

E-mail .....

Post .....

Other (please specify) .....

**Solicitor for second, third and fourth named Respondents**

Name of firm **Eileen Creedon Chief State Solicitor**

Email .....

Address **Osmond House, Ship Street Little, Dublin 8**

Telephone no. **01 4176100**

Document Exchange no.

Postcode .....

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Post .....

Other (please specify) .....

Counsel

Name **Brian Kennedy SC**

Email .....

Address .....

Telephone no. **01 872 9488**

Document Exchange no. **DX 812143**

Postcode .....

Counsel

Name **Patrick McCann SC**

Email .....

Address .....

Telephone no. **01 8175106**

Document Exchange no. **DX 815305**

Postcode .....

How would you prefer us to communicate with you?

Document Exchange .....

E-mail .....

Post .....

Other (please specify) .....

#### **4. Information about the decision that it is sought to appeal**

Please set out below:

1. Whether it is sought to appeal from (a) the entire decision or (b) a part or parts of the decision and if (b) the specific part or parts of the decision concerned
2. (a) A concise statement of the facts found by the trial court (in chronological sequence) relevant to the issue(s) identified in Section 5 below and on which you rely (include where relevant if certain facts are contested)
- (b) In the case where it is sought to appeal in criminal proceedings please provide a concise statement of the facts that are not in dispute
3. The relevant orders and findings made in the High Court and/or in the Court of Appeal

**The Appellant is seeking leave to appeal the decision of the Court of Appeal:**

- i. **Dismissing the Appellant's appeal**
- ii. **Ordering the Appellant pay to the Defendants the costs of the appeal**

## **5. Reasons why the Supreme Court should grant leave to appeal**

*In the case of an application for leave to appeal to which Article 34.5.3° of the Constitution applies (i.e. where it is sought to appeal from the Court of Appeal)—*

Please list (as 1, 2, 3, etc) concisely the reasons in law why the decision sought to be appealed involves a matter of general public importance and / or why in the interests of justice it is necessary that there be an appeal to the Supreme Court

*In the case of an application for leave to appeal to which Article 34.5.4° of the Constitution applies (i.e. where it is sought to appeal to the Supreme Court from the High Court)—*

Please list (as 1, 2, 3, etc) concisely the reasons in law:

i. why the decision sought to be appealed involves a matter of general public importance and / or why in the interests of justice it is necessary that there be an appeal to the Supreme Court and

ii. why there are exceptional circumstances warranting a direct appeal to the Supreme Court

1. **The matters at issue in the within proceedings concern a matter of general public importance i.e. the obligation on the judicial arm to intervene to prevent the executive arm acting unlawfully in circumstances where the executive arm proposes to act in a manner that is contrary to the common good. If the Government acts otherwise than in accordance with the provisions of the Constitution and in clear disregard thereof, the courts are not only entitled but obliged to intervene.**

## 6. Ground(s) of appeal which will be relied on if leave to appeal is granted

Please list (as 1, 2, 3, etc) concisely:

1. the specific ground(s) of appeal and the error(s) of law related to each numbered ground
2. the legal principles related to each numbered ground and confirmation as to how that/those legal principle(s) apply to the facts or to the relevant inference(s) drawn therefrom
3. The specific provisions of the Constitution, Act(s) of the Oireachtas, Statutory Instrument(s) and any other legal instruments on which you rely
4. The issue(s) of law before the Court appealed from to the extent that they are relevant to the issue(s) on appeal

### 1. Ground

**The Court of Appeal erred in law in finding that the Appellant's action amounted to a non justiciable political controversy that was bound to fail.**

### 2. Legal Principle

**The Court of Appeal failed to engage in any meaningful way with the requirements of the common good principle enshrined in the Irish Constitution and failed to weigh in the balance the competing rights and obligations enshrined in Article 6.1 and Article 10.3.**

**Whereas Article 10.3 provides**

*Provision may be made by law for the management of the property which belongs to the State by virtue of this Article and for the control of the alienation, whether temporary or permanent, of that property.*

**this right of alienation must be balanced with and tempered by the Article 6.1 common good principle. The honourable Court of Appeal judges failed to have regard to their obligation to engage in that balancing exercise as a result of which they fell into error.**

### 3. Provision of the Constitution on which the Appellant relies:

**Article 6.1 of the Constitution provides:**

*All powers of government, legislative, executive and judicial derive, under God, from the people, whose right it is to designate the rulers of the State and, in final appeal, to decide all questions of national policy, according to the requirements of the common good.*

Name of solicitor or (if counsel retained) counsel or applicant/appellant in person: **Vincent O'Donoghue lay litigant**

### **7. Other relevant information**

Neutral citation of the judgment appealed against e.g. Court of Appeal [2015] IECA 1 or High Court [2009] IEHC 608

**Court of Appeal reference number 2017/242**

**High Court reference number 2017 / 2583 P**

References to Law Report in which any relevant judgment is reported **N/A**

### **8. Order(s) sought**

Set out the precise form of order(s) that will be sought from the Supreme Court if leave is granted and the appeal is successful:

- i. An Order setting aside the finding of the Court of Appeal dismissing the Appellant's appeal;**
- ii. An Order restraining the Defendants, or any of them, from taking any steps in furtherance of the sale by the Minister for Finance of any or all of his shares in the first named Defendant.**

What order are you seeking if successful?

Order being appealed: **set aside**

Original order: **set aside**

If a declaration of unconstitutionality is being sought please identify the specific provision(s) of the Act of the Oireachtas which it is claimed is/are repugnant to the Constitution **N/A**

If a declaration of incompatibility with the European Convention on Human Rights is being sought please identify the specific statutory provision(s) or rule(s) of law which it is claimed is/are incompatible with the Convention **N/A**

Are you asking the Supreme Court to:

- i. depart from (or distinguish) one of its own decisions? NO**
- ii. make a reference to the Court of Justice of the European Union? NO**

Will you request a priority hearing? **YES There is considerable urgency attaching to this appeal as an IPO is scheduled to take place during late June 2017 which will potentially render the within proceedings / appeal moot.**