

**THE HIGH COURT**

[2021] IEHC 188  
[2018 No. 3464P]

**BETWEEN**

**DAITHI ALLISON**

**PLAINTIFF**

**-AND-**

**ABBOTT IRELAND**

**RESPONDENT**

**JUDGMENT of The Hon. Mr. Justice Alexander Owens delivered on the 15th day of March, 2021.**

1. This is an application by the plaintiff for discovery. In his action he claims that he suffered psychiatric injury as a result of activities in the work environment. He alleges that his former employer has responsibility at law for this injury.
2. I have considered the pleadings, affidavits and exhibits and the matters raised in the submissions of counsel. It is unnecessary to engage in detailed analysis of the effect of the various authorities which were opened to me in the course of the application.
3. In order to be discoverable, documentary material must be relevant to issues which arise in the litigation according to the legal test applicable where disclosure of such written information is sought. The obligation to discover relates to categories of documentary material which the party seeking discovery defines with sufficient particularity in a request which identifies a real potential connection between the material sought and the issues. There is an obligation to ensure proportionality by precluding oppressive or speculative requests and by focusing on what is genuinely required for the purpose of disposing of the matter or of saving costs.
4. This ruling is given by reference to the categories of documents set out at 1-15 of the notice of motion dated 15 May 2020. An order will be drawn up in conformity with the ruling.
5. The following is my ruling on the categories of discovery sought in this application.
  1. I agree with the defendant's submission that this request is unduly broad and that this should not be allowed.
  2. I agree with the defendant that it is unnecessary to go back to 2010. It is sufficient that this go back to 1 July 2014, though the discovery will be extended to documents which came into existence prior to 1 July 2014 relating to any of the matters referred to which cover the period between 1 July 2014 and 3 March 2017. While the defence makes mention of the employment performance of the plaintiff from 2010 onwards, the claim relates to the actions of the defendant and its employees from 1 July 2014. As the plaintiff ceased to attend work on 3 March 2017 it is not necessary to seek documents after that date.
  3. My ruling on this is the same as my ruling on category 2.

4. As there is no claim relating to activities prior to July 2014, the category of documents sought will apply to documents covering the period between 1 July 2014 and 3 March 2017, to include any documents which cover that period and came into existence prior 1 July 2014. The category for that period will include the documents sought and will not be confined to the plaintiff's performance reviews or assessments. As the defendant has raised an issue of the plaintiff's performance since 2010 in its defence, the category will extend to performance assessments for the plaintiff since the beginning of 2010 and documentation relating to the communication to him of such performance assessments.
5. I agree that documents setting out goals allocated to other senior engineers working at the defendant's premises in Clonmel for the period going back to 2010 are not relevant. Goals set for other senior engineers at Clonmel from 1 July 2014 to 3 March 2017 are relevant because the plaintiff's case is that during this period he was set unrealistic goals which were not achievable and that he was allocated "60% blank goals" against an average of 10% and that he was overworked during this period.
6. The relevant category here are the records and so forth listed relating to the plaintiff from 1 July 2014 together with appraisals of his performance from 2010 and any documents relating to communications with him arising from such appraisals from 2010. The latter are already within category 4.
7. This category will be allowed and will be limited to such documents as relate to or were operative in the period between 1 July 2014 and 3 March 2017.
8. This category will be allowed for documents which relate to or cover the period between 1 July 2014 and 3 March 2017.
9. This category relates to category 8. The plaintiff alleges that he was being side-lined and overworked and that he complained about this. The category will be allowed for the period between 1 July 2014 and 3 March 2017.
10. This category of documents is too general and this is a speculative inquiry.
11. This category is discoverable for the period between 1 July 2014 and the eventual termination of the plaintiff's employment by the defendant.
12. This category will be confined to absences from work where the plaintiff relied on health grounds for the period between 1 July 2014 and the termination of the plaintiff's employment. This documentation is relevant.
13. Documents relating to the defendant's disciplinary policy for the period between 1 July 2014 and the date of termination of the plaintiff's employment are relevant and this category will be discovered with this limitation. Earlier documents relating to the defendant's disciplinary policy are not relevant.

14. It is clear that there was disciplinary interaction between the plaintiff and the defendant prior to the events which resulted in the eventual termination of his employment and in the period when he alleges that he was subjected to the events giving rise to the claimed cause of action. This category of documents is discoverable for the period from 1 July 2014 to the date of termination of his employment.
15. The request for all documents concerning the termination of the plaintiff's employment is a general one. The plaintiff alleges that he was unwell with work related stress from the time that he ceased working on 3 March 2017. The defendant disputed this on the basis of material from medical examiners and that failure to return to work resulted in disciplinary procedures and dismissal on 28 February 2018. The relevant documents are all documents relating to the disciplinary process which led to the termination of the plaintiff's employment.
21. The affidavit of discovery should be made by such person as the chief executive of the defendant's operations in Ireland may nominate. The affidavit should be completed within 12 weeks of perfection of the order giving effect to this ruling. My provisional intention is that costs of this application should be reserved to the hearing of the action. This is subject to hearing any submissions on costs. The order on costs will be finalised in the event that there are no such submissions within 14 days. The order will include electronically stored information in the relevant categories.