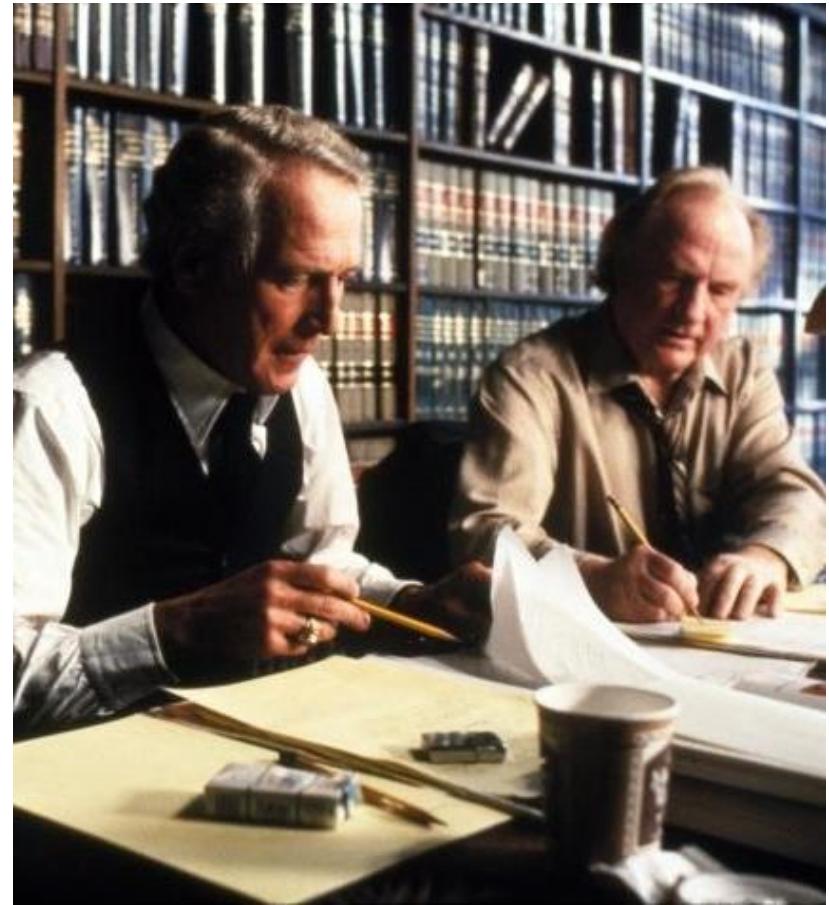


TROJAN HORSES, BOILER PLATES,
KITCHEN SINKS AND PERFECT
AMBUSHES; BEING PARTICULAR ABOUT
PARTICULARS AND DISCOVERY IN
LIGHT OF RECENT JUDGEMENTS

Brenda Power BL

DISCOVERY; THE KEY TO THE VERDICT

- *SKILLED, LABOUR INTENSIVE AND CONTENTIOUS**
- *A SENSE OF YOUR CASE'S STRENGTHS AND WEAKNESSES**
- *IMPORTANT TOOL FOR INSIGHT INTO CLIENT AND CASE**
- *MAY PROMPT SETTLEMENT, CONCESSION ON LIABILITY, MEDIATION**



RELEVANCE

- **RELEVANCE: WILL IT EITHER ADVANCE THE ENQUIRING PARTY'S CASE OR DAMAGE HIS RIVAL'S?**
- **DOES IT GO TO A WITNESS'S CREDIBILITY RATHER THAN THE CRUX OF THE CASE?**
- **EVEN IF RELEVANT, IS IT BEING SOUGHT AS A TACTIC OF WAR?**
-
- **LEADING AUTHORITY ON RELEVANCE:**
- **PERUVIAN GUANO CASE [1882] 11 QBD 55,63**
-
- **ALSO SEE: RYANAIR PLC V AER RIANTA CPT [2003] IESC 62**
- **DUDGEON V SUPERMACS IRELAND LTD [2020] IEHC 600**

NECESSITY

- **NECESSITY: A DOCUMENT CAN BE RELEVANT WITHOUT BEING NECESSARY.**
- **IN DETERMINING NECESSITY, COURT WILL LOOK AT BURDEN, SCALE COST.**
- **ALSO, PROPORTIONALITY AND POTENTIAL ALTERNATIVE SOURCES OF INFORMATION**
-
- **SEE: O'BRIEN V RED FLAG CONSULTING AND ORS [2017] IECA 258**
- **PRE- AND POST-ACCIDENT MEDICAL DISCOVERY: MCCORRY V MCCORRY [2021] IEHC 104**
- **POWER V TESCO IRELAND [2016] IEHC 390**

BEING PARTICULAR ABOUT PARTICULARS

- **OBJECTIVE: TO SET FORTH CLEARLY BOTH PARTIES FORMAL LEGAL POSITIONS**
- ***DRAFT CLEARLY TO MINIMISE DISCOVERY PROCESS**
- ***AVOID 'KITCHEN SINK' PARTICULARS**
- ***PLEADINGS WILL DETERMINE PARTICULARS TO BE FURNISHED**
- ***AVOID PRO FORMA REQUESTS**
- ***AVOID COMPOUND REQUESTS**
- ***O'DONNELL V SALTAN PROPERTIES [2020] IECA 226**
- *** MAHON V CELBRIDGE SPINNING CO LTD [1967] I IR: THE 'BROAD OUTLINE' PRINCIPAL**

REPLYING TO PARTICULARS

- ***'A MATTER FOR EVIDENCE'**
- ***'WITHIN YOUR CLIENT'S KNOWLEDGE'**
- ***THE DIFFERENCE BETWEEN FACTS AND EVIDENCE IN PARTICULARS: THE 'WHAT' RATHER THAN THE 'HOW'.**
- **AIB PLC V AIG EUROPE [2018] IEHC 677**
- **MOORVIEW DEVELOPMENTS V FIRST ACTIVE PLC [2005] IEHC 329**

**TIME AND CENTS; PARTICULARS AS A MEANS
OF LIMITING RANGE OF DISCOVERY**

- **NATIONAL TRUCK RENTAL CO LTD V MAN IMPORTERS IRELAND LTD [2022] IEHC 404**
- **RESISTING OVER-BROAD REQUESTS FOR PARTICULARS:**
- **ARMSTRONG V MOFFATT [2013] IEHC 148**

FINALLY, THE TROJAN HORSE...



- **BOILERPLATES, TROJAN HORSES, RED HERRINGS AND PREGNANT DENIALS**
- **DOYLE V DONOVAN [2020] IEHC 119**
- **CREAN V HARTY AND ORS [2020] IECA 264**