

**THE SOLICITORS (SCOTLAND) ACT 1980  
THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL  
(SSDT RULES 2024)**

**I N T E R L O C U T O R**

in Appeal under Section 42ZA (9) of the Solicitors  
(Scotland) Act 1980 as amended

by

JOHN WILLIAM SULLIVAN, The PRG Partnership, 111  
Cowgate, Kirkintilloch

Appellant

against

THE COUNCIL OF THE LAW SOCIETY of SCOTLAND,  
Atria One, 144 Morrison Street, Edinburgh

First Respondent

and

IRENE ELIZABETH NEW, 17 Calderpark Avenue,  
Lochwinnoch

Second Respondent

By Video Conference, 15 May 2025. Having considered all the information before it and the particular circumstances of the case, the Tribunal granted the Appellant's motion to withdraw the Appeal; Orders that no expenses are due to or by either party; and Directs that publicity will be given to this decision in terms of Rules 53(1)(d) of the Scottish Solicitors Disciplinary Rules 2024.



**Catherine Hart**  
Vice Chair

## NOTE

A virtual procedural hearing called on 15 May 2025. The Appellant was represented by Johnston Clark, Solicitor, Dundee. The First Respondent was represented by their Fiscal, Breck Stewart, Solicitor Advocate, Edinburgh. The Second Respondent was present and unrepresented.

A Joint Minute, signed on behalf of the Appellant and the First Respondent, was lodged with the Tribunal on 14 May 2025. It stated that the Appellant was seeking to withdraw his Appeal as the matter had been resolved extra-judicially, and craved the Tribunal to dismiss the Appeal and find no expenses due to or by either party. The Joint Motion had not been intimated to the Second Respondent but implied that she had consented to it. The Tribunal asked for an explanation. Mr Clark explained that he had newly been instructed by the Appellant. His understanding was that the Appellant believed that the Second Respondent had instructed another solicitor and, therefore, the Appellant did not consider it appropriate to contact her. The Chair explained the content of the Joint Minute to the Second Respondent who was clear that she wanted to make representations to the Tribunal. She confirmed that she was not seeking expenses in relation to this appeal.

Mr Clark confirmed that, on reflection, the Appellant had accepted the decision and orders of the Professional Conduct Sub-Committee and stated that the focus of this hearing was to discuss expenses and publicity. In relation to publicity, he referred to Rule 53 of the 2024 which states that;

*“53(1) Every decision of the Tribunal shall be issued in writing and shall.....(d) subject to paragraph 14A of Schedule 4 to the [Solicitors (Scotland) Act] 1980 Act, be published in full.”*

Paragraph 14 to Schedule 4 of the 1980 Act states that every decision of the Tribunal shall be published, subject to paragraph 14A. The latter states that;

*“14 In carrying out their duty under paragraph 14, the Tribunal may refrain from publishing any names, places or other facts the publication of which would, in their opinion, damage, or be likely to damage, the interests of persons other than- (a) the solicitor against whom the complaint was made; or (b) his partners; or (c) their families; but where they so refrain they shall publish their reasons for so doing.”*

Mr Clark submitted that Rule 53 was a “mirror image” of Rule 41 which sets out requirements in relation to Complaints before the Tribunal. He argued that the withdrawal of an Appeal did not constitute a “decision” in this context as no facts had been proved. He pointed to the discretion of the Tribunal in terms of Rule 47 of the 2024 Rules in relation to the withdrawal of appeals; in particular, that, *“in granting leave to withdraw, the Tribunal may attach such conditions as to expenses or otherwise it thinks fit”*.

In addition, Mr Clark argued that, although it was not habitual for the Tribunal to issue an interlocutor without publicity, it was not unusual for it to do so. He referred to a recent case in which he was involved where the Tribunal ordered no publicity.

Mr Stewart confirmed that the Joint Minute was agreed and signed by him on 14 May 2025 and suggested that the very recent negotiation and agreement may explain why this was not intimated to the Second Respondent. He noted the terms of Rules 47, 53 and Paragraph 14 of Schedule 4 of the 1980 Act.

Mr Stewart said there was no formal opposition to the request of the Appellant to withdraw the Appeal, adding that his motion was to “leave matters in the hands of the Tribunal”. However, Mr Stewart observed that the case was on the Tribunal Roll so the public were aware it was calling and, therefore, were entitled to know the final outcome. He referred to the practice of Employment Tribunals and said that it published interlocutors only.

Noting Mr Clark’s submission that granting leave to withdraw an appeal does not amount to a “decision”, a member of the Tribunal pointed to Rule 3 of the 2024 Rules which states that “*‘decision’ includes any decision, order, determination or direction of the Tribunal*”, and asked Mr Johnston for his views on that. Mr Clark said that the Appellant’s request differed from decisions defined in Rule 3 because the Appellant in this case was asking the Tribunal to consent to an agreed position, as opposed to making a decision on opposing views.

The Second Respondent asked if the original decision of the Professional Conduct Sub Committee (“PCSC”) was published. Mr Clark’s understanding was that such decisions were anonymous and the Tribunal also understood that to be the case. The Second Respondent stated that she considered the actions of the Appellant to be “so bad” that they warranted publicity. Her view was that the final outcome of the case should be in the public domain. She submitted that no publicity would mean that the Appellant’s actions would be “kept secret” and said “that’s not right”. Mr Stewart made no further comment. Mr Clark stated his understanding that decisions on unsatisfactory professional conduct were selected for interest with the purpose of educating solicitors and informing the public, as opposed to “naming and shaming” individual solicitors.

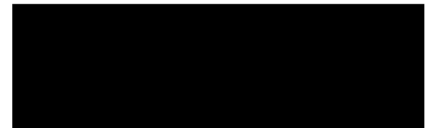
The Tribunal did not agree that granting leave for the Appellant to withdraw his appeal under Rule 47 did not constitute a decision. It referred to the interpretation provision in Rule 3 and was not satisfied by Mr Clark’s submission on that point. There had been no submissions on behalf of the Appellant to convince the Tribunal

that publicity in this case would cause, or be likely to cause, damage in terms of Paragraph 14A of Schedule 4 of the 1980 Act.

The Tribunal was familiar with the case which Mr Clark referred to in which no publicity was ordered. However, that involved a Complaint before the Tribunal, as opposed to an Appeal and, therefore, could be distinguished.

Having considered the full circumstances of this case, the Tribunal observed that the Appellant made the decision to raise the Appeal and, in doing so, took a risk that he may not be successful and that expenses and publicity may follow. The legislation is clear that the default position is to publish all Tribunal decisions unless there are clear reasons not to. The Tribunal did not find the Appellant's position to be compelling in this case.

In conclusion, the Tribunal granted an order giving the Appellant leave to withdraw the appeal. Publicity was ordered in terms of Rules 53(1)(d) with all parties to be named. The Tribunal directed that no expenses were due or by any party.



**Catherine Hart**  
Chair