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Local & National

Defendants warned they will be made pay if guilty

Listed simply: as Breslin & Ors v McKenna & Ors, the Omagh civil action has already made legal history. Chief Reporter **CHRIS THORNTON** observed its opening exchanges

Monday, April 07, 2008

Someone will be made to pay. As he began the opening statement of the Omagh civil action in a soft growl today, Lord Brennan QC told the High Court in Belfast that if the case was proven the five defendants will be pursued for the £14m at stake.

The Omagh bomb, he rumbled in the wood-panelled well of the court room, was a case of "private grief coupled with public outrage" that demands exemplary damages. This was not mere symbolism, it is meant to bite.

"Any damages will be enforced relentlessly," the families' barrister told the court.

He quoted one of his clients who said that if the case is successful and damages are pursued, then the result will be that every terrorist and terrorist family will have to live in fear of their essential belongings - house, car, everything will be taken from them.

Nearly a decade after the bombing, families of six people who died in the blast broke new legal ground today by laying out the case for damages against five men they say are the Real IRA bombers responsible for killing 29 adults and children and unborn twins.

After the failure of criminal cases against the suspected bombers, the families have turned to the civil courts where the penalties do not involve loss of freedom, but the standard of proof is lower.

"This is our last chance," said Michael Gallagher, whose son Aidan died in the bomb. "It's enormously difficult for all the families to deal with it but we feel we have no choice."

The civil action is unprecedented, Lord Brennan told the court at the outset, in that "for the first time private citizens are confronting terrorists in the High Court."

"The Real IRA and its members could never have contemplated that civilians could bring a civil action against terrorists," he said.

"For them it was never part of the scheme of things.

"It is now."

Such a radical legal departure began in fairly ordinary legal surroundings: the well appointed but otherwise unremarkable court room known as Queen's Bench 2, on this occasion crowded with wigged barristers and volumes of files that bare thousands of pages of evidence documenting the worst single atrocity of the Troubles.

It also began in fairly ordinary legal circumstances - a testy exchange between lawyers. Less than 20 minutes into his opening statement, Lord Brennan began reciting the convictions of the five defendants, describing them all as convicted terrorists. This brought objections from the four defendants who are legally represented, their lawyers saying that the convictions were not relevant, should not be aired in public and would be given undue prominence by the media.

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Michael Higgins QC, who represents convicted Real IRA leader Michael McKeivitt told the court: "I object to the description of my client as a terrorist."

He said it was an "utterly pejorative term".

The court heard earlier Mr McKeivitt will be allowed to view the proceedings through a video link to Portlaoise Prison.

Mr Justice Morgan smoothed over the exchange, reminding everyone that the matter will be decided on the evidence, not the language or content of the opening statement.

The shelves of files on either side of the court room stood in mute support of the judge's observation.

Their detail - mobile phone records, the evidence of an FBI informer, an account of an MI5 sting operation - will be telling.

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