

Professional Indemnity Forum Conference: 2 – 4 July 2012

“The Final Countdown”

Top 5 drawbacks when handling Irish claims

Straight in at Number 5 ...

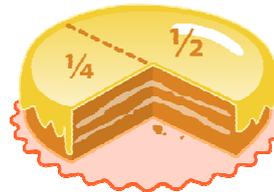
UNBALANCED SYSTEM

- Weighted in Plaintiffs' favour
- Costs process favours drawn out litigation
- No legal aid – but availability of no foal, no fee
- No group litigation – no global settlement
- Over-reliance on barristers
- Need to know the 'tricks of the trade'



Making a splash at Number 4 ...

CIVIL LIABILITY ACT - 1% RULE



- Disincentive to discontinue
- Disincentive to provide co-defendant indemnity
- Leading to 'unbalanced' commercial settlements
- Knowledge is power - understand the risks

Climbing the charts at Number 3 ...

OPINIONS ON COMPLIANCE - ARCHITECTS/ENGINEERS

- No building control authority approval
- Self-certification – no statutory system
- What is 'substantial compliance'?
- New Dawn – Draft Building Control (Amendment) Regulations 2012
- How to protect against the inevitable



A new entry in at Number 2 ...

SOLICITORS' NEGLIGENCE CLAIMS

- New wave of solicitor claims – 'no transaction cases'
- *ACC Bank plc v Johnston*
- *KBC Bank Ireland plc v BCM Hanby Wallace*
- Early assessment of liability



Topping the charts at Number 1 ...

INFORMATION VOID

- No pre-action protocol process
- No incentive to provide claim details
- No impetus to exchange expert reports
- Trial by Ambush
- Use all the tools at your disposal



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All is not lost...

- Commercial List
- Mediation Bill
- Taxation change – more favourable costs decisions
- Legal Services Regulation Bill

