

Message

From: Jane MacLeod [GRO]
on behalf of Jane MacLeod [GRO]
Sent: 18/10/2018 11:52:54
To: Tim Parker [GRO]
CC: Diane Blanchard [GRO]; Paula Vennells [GRO]
Subject: Postmaster Litigation
Attachments: Bates v The Post Office - Judgment No..2 strike out application 15 Oct 1....doc

Hi Tim

I understand Tom Cooper has recommended you read the judgement from the hearing last week. This is attached.

We received the decision on Monday evening and the decision rejects our application for strike out of significant parts of the evidence continued in the Claimants' Witness Statements.

The application was decided on case management grounds for which the Managing Judge has considerable discretion; applying that discretion, the Managing Judge set a very high threshold for strike out, and concluded that we had not established to the necessary standard that the Claimants' evidence could never be relevant to the case, given the number of Common Issues; the "considerable legal analysis" each will require; and what our case on those issues is. However he confirmed that he will apply properly the law on admissibility when it comes to trial, and that the November 2018 Common Issues Trial will not rule on matters which concern Horizon or whether Post Office actually "breached" its obligations to the Claimants (matters to which most of the disputed evidence goes and which will be dealt with in later trials).

As previously advised, this is consistent with the Managing Judge's approach of wanting to give the Claimants their "day in court" while applying the orthodox legal position. That said, we lost the application and can expect the Claimants to be awarded their costs when that question is dealt with on the first day of trial (estimated to be c£120k).

In deciding the application, the Managing Judge was critical of our conduct of the case (see particularly paragraphs 55-57), including intimating that we were not acting cooperatively and constructively in trying to resolve this litigation (which criticism was levelled equally between the parties); and that we had impugned the court and its processes by making the application for improper purposes. This response is extremely disappointing given the approach we have been adopting, and his challenge as to the purpose for which we had applied for strike out is at odds with comments he had made during various procedural hearings over the past year. Nevertheless, we are refining our preparation for trial – including our reactive communications plan – in the context of the Judge's remarks.

Paula and I are catching up on this later today, and I know she would like to discuss it with you.

Kind regards,

Jane

**Jane MacLeod**

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