

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**

**Claim No: HQ05X02706**

**BETWEEN:**

**POST OFFICE LIMITED**

**Claimant**

**-and-**

**LEE CASTLETON**

**Defendant**

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**CLAIMANT'S SKELETON  
ON CMC TO BE HEARD  
ON MONDAY 23<sup>rd</sup> OCTOBER 2006**

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1. This is the skeleton argument of the Claimant ("C") on the hearing of its application for a case management conference ("CMC").
2. This action was transferred from Scarborough County Court of its own motion on 14<sup>th</sup> September 2005. The trial of this action is set down for a 5 day hearing<sup>1</sup> to commence in a 5 day window from 4<sup>th</sup> December 2006. Subject to one issue about whether the High Court is the appropriate venue, the Claimant presently wishes to keep the trial date if possible.
3. C has sought this CMC so as to obtain effective and proportionate directions to take this action to trial on 4<sup>th</sup> December 2006. A witness statement explaining the present procedural position appears behind tab 12 in bundle 2, p.77 *et seq.*
4. Now set out below are short explanations of the relief sought:

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<sup>1</sup> C considers that a 5 day estimate is somewhat optimistic, but enquiries have suggested that the Court could accommodate a 10 day hearing, which should be sufficient. C's Counsel's best estimate for the length of the trial is presently 7 days.

**Permission to Amend**

- a. D consents to the C's amended Particulars of Claim and Reply and Defence to Counterclaim on the usual terms, as evidenced in a letter to be shown to the Court.

**Inspection**

- b. The Defendant ("D") exchanged his list of documents on 19<sup>th</sup> May 2006. C sought to inspect those documents, but D was unable to provide inspection of certain documents (now excluding the listed cash accounts). C now seeks an order for inspection of those documents identified in the schedule to its application notice (bundle 2, tab 9, page 65). D's position is set out in his solicitors' letter of 11<sup>th</sup> August 2006 (bundle 2, tab 12, pages 105 & 106). C is entitled to inspect documents in D's list and is entitled to a copy pursuant to CPR 31.15(c) and C seeks an Order to that effect in relation to the documents identified in the schedule.

**Witness Statements**

- c. By letter dated 16<sup>th</sup> October 2006<sup>2</sup> C invited D to state whether he is ready willing and able to exchange witness statements. D seeks some further time. C invites the Court to direct that witness statements of witnesses of fact be exchanged on or before 4pm on Friday 27<sup>th</sup> October 2007.

**Experts**

- d. Pursuant to the Order of Master Fontaine (bundle 1, tab 5, p.37) the parties have permission to rely on the evidence of experts in the fields of accounting and information technology. This expert evidence is meant to go to D's assertion that in some way the losses recorded by him were not real losses. C has sought clarification of the way D intends to make his case but still does not understand how D says losses did not in fact occur (see D's Further Information at bundle 1, tab 4, p.17 to p.29). The cost of expert evidence is high (even more so in a case worth only some

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<sup>2</sup> Bundle 2, tab 13, p.131.

£25,000) and D's statements of case do not enable C's experts to be instructed to focus on any particular aspects of thousands of transactions conducted within the relevant period. D accepts that sequential exchange is desirable. In the circumstances C invites the Court to direct that there be sequential exchange of experts' reports within a timetable that allows C some time to respond, alternatively that there be no expert evidence at the trial, given that it is now so late and D does not seem to have any expert evidence ready to advance.

**Venue**

- e. The claim in the action is worth in the region of £25,000, whilst the counterclaim appears at best to have nominal value. C thinks it prudent to invite the Court to consider whether the High Court is the appropriate venue for such a trial on grounds of the quantum of the claim alone. Weighing against a transfer are the facts that the case is already on transfer and that the factual issues, if explored to their fullest extent, might involve serious allegations being made by D against C in relation to the operation of its business. However, C does not press the Court for a transfer but simply invites the Court to consider the position as part of C's duties to the Court.

**RICHARD MORGAN**

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