

Message

From: Rodric Williams [REDACTED] **GRO**
Sent: 25/08/2016 09:19:38
To: Lukas, Elisa [/O=BOND PEARCE/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Elisa Lukasd54]
CC: Parsons, Andrew [/O=BOND PEARCE/OU=First Administrative Group/cn=Recipients/cn=ap6]; Prime, Amy [/O=BOND PEARCE/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Amy Prime439]
Subject: RE: Group action: transfer to Commercial Court [BD-4A.FID26896945]

Thanks Elisa.

The advice is noted. This line action can now be closed.

There is no need to prepare a decision paper for the Steering Group given the issue is purely legal/procedural.

Thanks again, Rod

From: Lukas, Elisa [REDACTED] **GRO**
Sent: 25 August 2016 10:13
To: Rodric Williams
Cc: Parsons, Andrew; Prime, Amy
Subject: Group action: transfer to Commercial Court [BD-4A.FID26896945]

Rod

We have considered the chances of success of an application to transfer the group action to the Commercial Court from the Queen's Bench Division (QBD) and do not consider that the merits justify it.

Under CPR 30.5 the Court can order the transfer of proceedings to another division however it is Southern Rock Insurance Company Ltd v Brightside Group Ltd that is the authority on the appropriate considerations when deciding whether a case should be transferred to a specialist court. In Southern Rock, it was made clear that it is the subject matter of the case that is the most important consideration when deciding which Court should hear the claim, with other matters such as expedition and costs being secondary.

In the group action, the subject matter is the status of postmasters' contracts, and the need (or otherwise) to imply certain duties and terms into those contracts. Having reviewed CPR 58.1 (which sets out the expertise of the Commercial Court) and QBD guide para 1.5.4 (which sets out the expertise of the QBD), whilst the Commercial Court has the more detailed working knowledge of financial systems, both Courts have expertise in breach of contract claims and the group action falls within the remit of both Courts.

There are arguments that the Commercial Court would be preferable from a case management perspective, such as that it has a more tailored process for listing applications (which will be useful in the group action where there may be many applications) and that Commercial Court judges are better versed in e-disclosure, however the QBD has more experience with group litigation orders (GLOs). In any event, these arguments will be secondary to the primary consideration of whether the subject matter is such that the Commercial Court is significantly more suitable than the QBD.

On the basis that both Courts have the expertise to deal with the subject matter of the group action, it would be difficult to persuade a judge that the Commercial Court would be significantly more suitable than the QBD on secondary case management benefits alone. We therefore do not consider that the merits of an application to transfer justify the costs of making it. If you still want to consider making an application to transfer, I can prepare a decision paper for the steering group, otherwise please let me know if this email will suffice to close the point.

Kind regards,
Elisa

Elisa Lukas

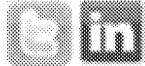
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