

Message

From: Jane MacLeod
on behalf of Jane MacLeod
Sent: 15/02/2019 11:30:15
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Subject: Postmaster Litigation - CONFIDENTIAL AND SUBJECT TO LEGAL PRIVILEGE - DO NOT FORWARD

All

We have had two procedural Court hearings this week in relation to the Postmaster Litigation. The key points arising from these were:

Common Issues Judgement

- The judge advised us yesterday that he is on track to deliver his draft judgement at the end of February – although he flagged that this may slip a few days. So my expectation is that we will receive the embargoed judgement between Thursday 28 February and Tuesday March 5th. As the Horizon trial starts on Monday 11th, I anticipate that the formal judgement is most likely to be handed down on Thursday 7th/Friday 8th March, although this is not definitive.
- We are reviewing the contingency planning in light of that timeframe.

Horizon Trial

- All expert evidence has now been filed and our team has been responding to the new material raised in Jason Coyne's (the Claimant's expert) supplementary statement - particularly as this supplementary report is 270 pages (20 pages longer than his 'report'), and raised a number of new issues. Rob Houghton has reviewed this report and fed through comments, and is meeting our Counsel team on Monday to assist with the strategic positioning.
- We had the Pre-Trial Review yesterday at which the timetable for the Horizon trial was agreed as follows:
 - Monday 11th – Opening submissions
 - Tuesday 12th – Thursday 21st – non-expert witnesses. For the Claimants this includes 5 postmasters from the wider claimant group (not lead claimants), Richard Rolls (formerly of Fujitsu and the source of the remote access allegations), and Ian Henderson of Second Sight. To support our case we have 9 witnesses: 5 from Post Office including Angela van den Bogerd and 4 Fujitsu witnesses.
 - Monday 25 – Friday 29 : the Court is not sitting due to Brexit contingency plans
 - Monday 1st – Friday 5 April – expert evidence (2.5 days per expert)
 - Week commencing 8 April – closing submissions – timing still to be determined.
- Overall we are satisfied with this timetable, although there is a significant amount of work to be done. The forced 'Brexit break' in the middle of the trial will provide extra preparation time ahead of the cross-examination of the two expert witnesses.

3rd Trial

- The scope of this trial was determined at the CMC on Tuesday. The 4 week trial starting on 4 November will address breach and limitation issues using 2 of the lead claimants as examples. This trial will address the issue as to whether their claims - which would otherwise be 'time-barred', can in fact be included. In order for the Claimants to achieve this outcome they must establish deceit, concealment or mistake by Post Office. We have not yet received any pleadings from the Claimants on these issues so do not know the basis of their allegations, however the Court has required detailed pleadings to be filed. Limitation issues affect those Claimants whose claims arose more than 6 years before the commencement of the litigation – this is nearly half the Claimant group.

- In addition there will also be a consideration of the measure of loss suffered by 4 of the lead claimants; this will address the question as to how a Claimant's loss should be calculated when their contract termination involved a breach of duty by Post Office.
- The judge has now set out the timetable by which the various process steps must be completed ahead of the November trial and has set dates for further Case Management Conferences.
- Again, we felt that overall the CMC went well for us with the Judge's decision reflecting the orders we had requested.

4th Trial

- The Court also determined that there will be a 4th trial in March 2020 (also for 4 weeks) to address issues relevant to a wider group of Claimants than can be addressed through the current 6 lead claimants, and has specified the process for selecting Test Claimants, however the planning for that trial remains at a preliminary stage.

We are providing regular updates to UKGI, and the Board Litigation sub-Committee is scheduled to meet next Thursday at which the Horizon QC - Tony de Garr Robinson, will provide his view of the strengths and weaknesses of the expert reports.

By the time of the next Board meeting at the end of March, the Horizon trial will be underway and we will have heard all the factual evidence (but not the expert witnesses) and will be able to provide an update on progress. In the meantime, I am of course happy to answer any specific questions.

Kind regards,

Jane



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