
From: David Neuberger [GRO]
Sent: Tue 09/04/2019 9:40:22 AM (UTC)
To: Rob Smith [GRO]
Subject: DEN 12 RE: Lord Neuberger advice

Rob,
In Zurich sitting on a case management conference, so short answer.
Happy with this.
This seems sensible, but will still involve consideration of a long judgment (over 1120 paragraphs plus appendices).
A stage 1 view by 15th April would be tight but should just about be manageable, if I can discuss with David on Monday morning and I see proposed grounds of appeal tomorrow morning.
David

From: Rob Smith [GRO]
Sent: 09 April 2019 10:19
To: David Neuberger [GRO]
Subject: FW: Lord Neuberger advice

David,
Please see the below.
Let's speak when you are free.
Thanks
Rob

Robert Smith
www.oecclaw.co.uk

Direct dial:
Switchboard:
Mobile:



From: Andrew Parsons [GRO]
Sent: 09 April 2019 10:16
To: Rob Smith [GRO] >
Cc: David Cavender [GRO]; Tom Beezer [GRO]; Amy Prime [GRO]
Subject: Lord Neuberger advice

Rob
I've spoken to PO and we would like Lord Neuberger to help us in two stages. Please do feel free to pass this email on to Lord Neuberger if that is the easiest thing to do.
Stage 1 is a review of the Grounds of Appeal (that David is kindly preparing) alongside the Judgment with a view to addressing two questions:

1. Is the scope of the appeal appropriate?
2. Would a Judge in the Court of Appeal on a first reading of the Grounds of Appeal consider the appeal to be a fair and reasonable course of action?

There are a large number of points that could be appealed in the Judgment. David has gone through these in detail and identified those that he believes are appropriate to be appealed. This task has been subject to two competing pressures. There are numerous points in the Judgment that we believe to be wrong. The overlap and interplay between these points means that we believe there are no discrete cornerstone points that could be targeted so any appeal is inevitably going to be extensive. However, Post Office wishes to avoid appealing points that might give the impression that it is trying to litigate every issue and win this litigation through attrition. It is most concerned at the moment with the negative comments from Mr Justice Fraser that it has behaved reprehensively, both in conducting its business historically and in the conduct of this litigation. It wishes to avoid a repeat of such criticism in the Court of Appeal. There is therefore a balance to be struck in scoping the Grounds of Appeal and Post Office is prepared to drop what might be good legal points if they convey the wrong impression.

For Stage 1, I should be grateful if Lord Neuberger would:

- Review the Judgment and draft Grounds of Appeal.
- Discuss the above questions as needed with David Cavender.
- Attend a Post Office board meeting to advise on the above points.

The above work does not require Lord Neuberger to offer a view on the merits of the appeal (see Stage 2 below). I expect the Post Office board meeting to be held at 5pm on Monday 15th April. Will that give Lord Neuberger sufficient time?

Stage 2 will likely be an in-depth review of the appeal grounds and arguments with a view to providing an opinion on the merits. This will take place later and over a longer timeframe. I will provide further instructions on this in due course.

Kind regards

Andy

Andrew Parsons

Partner

Womble Bond Dickinson (UK) LLP

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