
From: Anthony Grabiner [GRO]
Sent: Tue 16/04/2019 10:44:11 AM (UTC)
To: David Neuberger [GRO]
Cc: Gideon Cohen [GRO]; Owain Draper [GRO]; David Cavender [GRO]
Subject: DEN 21 Re: Recusal - Cs Objections [WBDUK-AC.FID26896945]

Indeed.

Lord Grabiner QC
One Essex Court
Temple
London, EC4Y 9AR

[GRO]
[GRO]

On 16 Apr 2019, at 11:32, David Neuberger <DNeuberger[GRO]> wrote:

With clients like this, who needs opponents?

From: Gideon Cohen <gcohen[GRO]>
Sent: 16 April 2019 11:22
To: Owain Draper <odraper[GRO]>; David Cavender <dcavender[GRO]>; Anthony Grabiner <agrabiner[GRO]>
Cc: David Neuberger <DNeuberger[GRO]>
Subject: RE: Recusal - Cs Objections [WBDUK-AC.FID26896945]

Thanks. How unbelievably irritating.

G

From: Owain Draper
Sent: 16 April 2019 11:21
To: David Cavender; Anthony Grabiner
Cc: David Neuberger; Gideon Cohen
Subject: Re: Recusal - Cs Objections [WBDUK-AC.FID26896945]

Dear All,

Following a call with Andy, he is going to provide a revised draft letter that takes account of two things.

- (1) The client will not commit to saying, without caveat, that it will appeal. That decision is being taken next week. The letter will have to say something watered-down about the proposed application.
- (2) Andy says the client will not sign off on a Skeleton Argument without having lots of time to review it. Given the problems created by Easter and Jewish holidays (and the fact that I only came into the appeal properly yesterday), we will not be able to get a draft skele to the client in time for it to be reviewed and approved next week.

I am going to finish re-drafting the grounds today (c.50 pages), and Gideon is already working on the skele. But it will be a very long document, given the number of issues.

Andy will ask whether the revised draft letter is worth sending. He anticipates that we may well say "No".

Kind Regards,

Owain

Owain Draper

One Essex Court, Temple

EC4Y 9AR

Switchboard: [GRO]

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From: David Cavender <dcavender@ [GRO] >
Date: Tuesday, 16 April 2019 at 11:00
To: Anthony Grabiner <agrabiner@ [GRO] >
Cc: David Neuberger <DNeuberger@ [GRO] >, Owain Draper <odraper@ [GRO] >, Gideon Cohen <gcohen@ [GRO] >
Subject: Re: Recusal - Cs Objections [WBDUK-AC.FID26896945]

I also agree.
Best
D

Sent from my iPhone

On 16 Apr 2019, at 09:18, Anthony Grabiner < [GRO] > wrote:

I agree.

Lord Grabiner QC
One Essex Court
Temple
London, EC4Y 9AR

GRO

On 16 Apr 2019, at 08:58, David Neuberger < [GRO] > wrote:

On a very very quick read (I am involved in another matter) this seems to make all the points.

DEN

From: Owain Draper < [GRO] >
Sent: 16 April 2019 08:50
To: Gideon Cohen < [GRO] >; David Neuberger < [GRO] >; David Cavender < [GRO] >
Anthony Grabiner < [GRO] >

Subject: Re: Recusal - Cs Objections [WBDUK-AC.FID26896945]

Importance: High

Morning All,

Andy has told me this morning that Post Office may give instructions today that it will appeal the Common Issues Judgment (not the precise grounds - just the decision to bring a substantial appeal).

He asked me to put together a short letter to inform the CA of this and ask that it await that application for permission before determining the application in the recusal appeal. I have not been involved in the discussions in relation to the proposed letter, but I have produced an initial draft to be torn apart and re-written: see attached.

Kind Regards,

Owain

Owain Draper

One Essex Court, Temple

EC4Y 9AR

Switchboard: [GRO]

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From: David Neuberger < [GRO] >

Date: Tuesday, 16 April 2019 at 07:00

To: David Cavender <[GRO]>
Cc: Andrew Parsons <[GRO]>, Anthony
Grabiner <[GRO]>, Gideon Cohen
<[GRO]>, Owain Draper <[GRO]>,
Amy Prime <[GRO]>, Tom Beezer
<[GRO]>

Subject: Re: Recusal - Cs Objections [WBDUK-AC.FID26896945]

I agree. It occurs to me that there is an additional advantage if we send in a letter making the point that the recusal PTA should not be considered separately from the common issues PTA. If Coulson LJ nonetheless goes ahead and rejects the former PTA, having sent the letter would make it easier for us to contend later that we can still argue for recusal in the CA because recusal has not been considered in the context of the common issues appeal. I am not saying that that argument would necessarily succeed, but if we end up before a generally sympathetic panel (which I think we have a good chance of doing in the light of the Judge's conclusions on interpretation) it could well be a point they accept.

I have not expressed myself very well as I am off to a meeting. But this is quite pressing as you imply.

Best
David

Sent from my iPhone

On 15 Apr 2019, at 19:43, David Cavender <[GRO]> wrote:

Andy - yes. Nothing (else) has changed.

Best

D.

Sent from my iPhone

On 15 Apr 2019, at 19:25, Andrew Parsons

<[GRO]> wrote:

Tony, David, David

I believe that Gideon has sent the attached to you already.

Would I be correct to assume that your advice over the weekend still stands – that PO needs to decide on whether to appeal and, if so, write to the Court of Appeal as soon as possible? In light of the attached having been filed, I assume that this is now urgent.

Kind regards

Andy

Andrew Parsons

Partner

Womble Bond Dickinson (UK) LLP

d: [GRO]
m:
t:
e:

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