

From: Andrew Parsons <[REDACTED] GRO>
To: Anthony de Garr Robinson <[REDACTED] GRO>, Owain Draper <[REDACTED] GRO>
Cc: Amy Prime <[REDACTED] GRO>
Subject: RE: Bates judgment
Date: Wed, 8 Nov 2017 18:08:17 +0000
Importance: Normal
Inline-Images: image001.gif; image002.jpg; image003.png; image004.png; image005.png; imagebfa38f.PNG; imagefbbcd2.PNG; image6ca1dc.PNG

Tony

I think we drop para 2. Seems petty and also he clearly caveats that the facts are hotly contested.

On the GLO, your recollection is correct.

Agree with para 12.

Amy – can you find the missing dates for the attached and also carefully review the correspondence on para 12 to make sure this is right. Then can you send to Rod to get his approval.

As to other applications, we now have instructions to apply for security. However, we have some further steps to take first: (i) I'm going to call Freeths to try to resolve this (ii) we need to write direct to Therium and (iii) we want to send a draft application to Freeths before issuing it. This is a job for next week.

Heads up for everyone – I'm going awol tomorrow – [REDACTED] GRO [REDACTED] I'm going to try to go a full day without looking at my emails (it will never happen but I can try!).

A

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

d:
m:
t:
e:

GRO



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From: Anthony de Garr Robinson [mailto:GRO]
Sent: 08 November 2017 17:37
To: Andrew Parsons; Owain Draper
Subject: RE: Bates judgment

Dear both of you,

I've knocked up a draft list of points on the draft judgment, which will need to be sent to the court tomorrow: see attached. Could you let me know if you have any comments, queries or further suggestions? Speaking for myself, I am not sure whether we should bother with para 2. I did wonder whether we should make any suggestions regarding his summary of our case in para 5, but it seems clear that quibbling with things like that will be counter-productive.

On para 5, my recollection is that we never opposed the GLO, we just sat on the fence for a while but then agreed it, long before the hearing. Is that not right? It would be helpful to include in the attached document a date of the letter in which we agreed to a GLO or some other indication as to how long before the GLO hearing we did so.

Para 12 raises a point suggested by Owain, and he is checking the correspondence to carefully make sure that it is correct in every material particular. Feel free to change it, not only to avoid error **but also to avoid any implication that we are criticising the claimants or seeking praise for ourselves.**

I agree with all the wider points you make below. It is worrying that Fraser almost seems to be one of those people who likes to think the worst of others, which (entirely coincidentally) allows him to feel better about himself for sorting out their deficiencies. I would like to comfort myself with the thought that his judgment goes out of its way to lay equal blame on the claimants, but at this stage it would, wouldn't it?

The most immediate concern is that he thinks we have acted against the overriding objective in failing to give disclosure of "obviously relevant documents": unless we come to court with a big offer on disclosure, the hearing in January next year is not going to be fun for us. And now he has fixed a hearing for March 2019, he might well be looking for a comprehensive disclosure timetable which could be totally unrealistic. The name of the game will be to produce cogent evidence in good time before the hearing which provides incontrovertible explanations as to the areas in which a swift disclosure timetable would be impossible to meet. I strongly suspect that it will be in our interests to serve this evidence before Christmas, shortly after the time we serve out EDQ. This would give Freeths an opportunity to serve responsive evidence to which we would have an opportunity to reply. I may be wrong, but I imagine that Freeths may well make a series of bad points which we will be able to demolish. This would put us in the best possible position at the hearing, I think. In any event, if we serve evidence at a time that makes it difficult for Freeths to respond in good time before the hearing, we know what the judge's reaction will be.

On the cut-off date, it is worth remembering that we (the whole legal team) would have preferred to offer an extension until October but were not given this latitude by the client. Given that the GLO itself anticipated a cut-off extension, we (and the client) knew we were risking trouble.

Notwithstanding his reference to pointless interlocutory skirmishes, if we have sensible applications to make, we should make them, and make them promptly. Are we seeking security for costs, for example?

Anyway, if I could have your comments on and details/drafting for the enclose list by mid- or late morning tomorrow, I would be grateful.

Best wishes,

Tony

From: Andrew Parsons [mailto:] GRO
Sent: 08 November 2017 14:59
To: Owain Draper [] GRO; Anthony de Garr Robinson [] GRO
Subject: Re: Bates judgment

Hmmm...

He seems to have got the wrong end of the stick on many points but we're stuck with that now.

We should at least correct para 5. We didn't oppose the GLO.

What makes me nervous is his willingness to characterise points of disagreement as unreasonable.

POL had genuine concerns with the cut off date, he ruled against which is fair enough, but I struggle to see that our stance was unreasonable.

Likewise with our idea that there should be a further CMC before fixing a trial date. He disagreed but our approach was not unreasonable.

This worries me going forward.

A

On Wed, Nov 8, 2017 at 2:27 PM +0000, "Rob Smith" <[REDACTED]> wrote:

Dear All,

Please see the attached and the below.

Kind regards

Rob

Robert Smith
www.oeclaw.co.uk

Direct dial:
Switchboard:
Mobile:

[REDACTED]



ONE ESSEX COURT

One Essex Court, London
Temple
London EC4Y 9AR
United Kingdom

One Essex Court, Singapore
Maxwell Chambers #02-15
32 Maxwell Road
Singapore 069115

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Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

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m:
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From: Clerks
Sent: 08 November 2017 13:55
To: Team A; Team C
Subject: FW: Bates judgment

From: Harries, Ann GRO
Sent: 08 November 2017 13:53
To: [clerks](#); GRO
Cc: Clerks
Subject: FW: Bates judgment

For the attention of Mr Patrick Green QC, Kathleen Donnelly and Ognjen Miletic and Mr Anthony De Garr Robinson QC, & Owain Draper.

Dear all

Please find attached the Draft Judgment in the above.. Please kindly note the date for return of any amendments for as you will also see at the top the Judge wishes to hand this down on Friday 10 at 10.15 am

Parties are excused attendance.

Clerks I would be grateful if you would kind pass this also to the solicitors for both sides.

I am grateful for your help.

Thank you.

Kind regards

Ann Harries
Clerk to The Hon Mr Justice Fraser
Royal Courts of Justice

Rolls Building 7 4th floor (Pod 10)
Fetter Lane
LONDON EC4 1NL

email: [REDACTED] **GRO**
Tel: [REDACTED] **GRO**
Mobile [REDACTED] **GRO**

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