
Sent: Wed 17/10/2018 7:12:48 AM (UTC)
To: Watson, Richard - UKGI [REDACTED] GRO
Cc: Clarke, Stephen - UKGI [REDACTED] GRO; Aldred, Tom - UKGI [REDACTED] GRO; Fox, Joshua - UKGI [REDACTED] GRO
Subject: RE: Post Office Group Litigation - SUBJECT TO LEGAL PRIVILEGE - DO NOT FORWARD

I suspect they were concerned about PR rather than the judge's ability to ignore irrelevant material.

Interested to hear what

Tom Cooper
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From: Watson, Richard - UKGI
Sent: 17 October 2018 07:52
To: Cooper, Tom - UKGI [REDACTED] GRO
Cc: Clarke, Stephen - UKGI [REDACTED] GRO; Aldred, Tom - UKGI [REDACTED] GRO; Fox, Joshua - UKGI [REDACTED] GRO
Subject: Re: Post Office Group Litigation - SUBJECT TO LEGAL PRIVILEGE - DO NOT FORWARD

Tom

You will see I have asked to see the judgement.

I am concerned that the Judge felt PO had impugned the court and made the application for improper purposes but need to understand the detail.

I infer that the Judge is getting a little tired of the satellite litigation and wants the parties to focus on the trial and possible resolution of this case.

His criticism of the PO's conduct in their litigation tactics should not influence the legal issues he has to decide but may be relevant in decisions on costs, not only of the failed application (which I assume they will have to pay) but also more widely.

It is easy to be wise with the benefit of hindsight but on the assumption that the PO were concerned some witness evidence was not relevant to the issues in the first trial I am a little surprised PO were advised to make this application. Judges are very used to disregarding irrelevant evidence and submissions about that aspect could have been made at the start of the trial so he was on notice as to the PO's position.

Kind regards

Richard
Sent from my BlackBerry — the most secure mobile device

From: Tom.Cooper [GRO]
Sent: 16 October 2018 6:31 pm
To: Richard.Watson [GRO]
Cc: Stephen.Clarke [GRO]; Tom.Aldred [GRO]
Subject: FW: Post Office Group Litigation - SUBJECT TO LEGAL PRIVILEGE - DO NOT FORWARD

Richard

What's your view of this?

Tom

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From: Jane MacLeod [mailto:[GRO]]
Sent: 16 October 2018 17:35
To: Watson, Richard - UKGI <[GRO]>; Fox, Joshua - UKGI <[GRO]>
Cc: Cooper, Tom - UKGI <[GRO]>; Rodric Williams <[GRO]>
Subject: Post Office Group Litigation - SUBJECT TO LEGAL PRIVILEGE - DO NOT FORWARD

Richard, Josh,

Further to Rod's emails on 9 and 10 October 2018, the Managing Judge Mr Justice Fraser has now ruled on our application to strike out as inadmissible parts of the Claimants' evidence. We received the judgement late last night.

We were not successful on the application:

- the application was decided on case management grounds for which the Managing Judge has considerable discretion;
- applying that discretion, the Managing Judge set a very high threshold for strike out, and concluded that we had not established to the necessary standard that the Claimants' evidence could never be relevant to the case, given the number of Common Issues, the "considerable legal analysis" each will require, and what our case on those issues is.
- However he confirmed that he will apply properly the law on admissibility when it comes to trial, and that the November 2018 Common Issues Trial will not rule on matters which concern Horizon or whether Post Office actually "breached" its obligations to the Claimants (matters to which most of the disputed evidence goes and which will be dealt with in later trials).

As previously discussed, the Managing Judge therefore appears to be continuing his theme of wanting to give the Claimants their "day in court" while applying the orthodox legal position. That said, we lost the application and can

expect the Claimants to be awarded their costs of it when that question is dealt with on the first day of trial (estimated to be c£120k).

In deciding the application, the Managing Judge was critical of our conduct of the case, including intimating that we were not acting cooperatively and constructively in trying to resolve this litigation (which criticism was levelled equally between the parties); and that we had impugned the court and its processes by making the application for improper purposes.

This response is extremely disappointing given the approach we have been adopting, and his challenge as to the purpose for which we had applied for strike out is at odds with comments he had made during various procedural hearings over the past year. Nevertheless, we are refining our preparation for trial – including our reactive communications plan – in the context of the Judge’s remarks.

Kind regards,

Jane



Jane MacLeod

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