

①

AGQC
DCQC
GideonC

Tam Beezer Notes
Lord Grahame QC says
@ OEC 18 March 2019

- Draft J' went 2pm → 3.20pm
- notes
- Agree Neuberger view
- Procedural structure:
 - procedure presupposes no 'crs' by way appeal. Relationship contracts.
 - 20+ implied terms.
 - danger - serious errors.
 - want to go to Ct 'appeal'.
 - BUT 2nd contract underway
 - Findings impact 2nd Trial.
 - Really poor case management

- Case might be barking
- Supposed to be Trial CIT.
 - To determine what contractual AND Implied Terms - if any.
 - BUT what he has done → trespassed into matters for later steps.
 - Not been able to restrain himself from straying into later matters.
- Findings breaches.
- finding facts.



ONE ESSEX COURT

2
Judge investigates these extra matters despite Strike Out applic'.

Judge regards extra stuff as relevant he is investigating. Gone too far.

Judges re reaches conclusions w/o pol evidence.

- Judge take leave of senses
- Judge forming facts + concluded views in his mind.
- won't be able to script him from concluded views. Will be tied to Judgement 1
- Is a dogs breakfast.
- But new sequence of trials.
- But have to ask him to recuse
- Strong advice to do it = recuse
- Strong arguments to support complaint
- you have to do it.



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- ① recusal
- ② Adjourn current trial
- ③ provisional CfA.

recusal to be done deal urgency.

APPEAL:

Implied term analysis is rubbish

- shocking.
- "relational" contract = Coddwallow
- implication of good faith is developing but gone too far.

BIG Important Issues.

- First point recusal + adjournment application.

- make ASAP. But prepare.

- Gideon doing schedule:

• what CIT Issues are

• Implied terms

Then how J'ment proceeded - how matters in J'ment by topic went beyond into later trial areas. (Breach/damages)

Then quotes which reveal concluded view on POL behaviour.

List it all out.



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Jare:

appeal on law.

recusal. highly sensitive.

Sensitive given our ownership.

UKGI will not be involved in

overseen BEIS → Greg Clarke

UKGI Investment holds the shares

↳ They have oversight of POL.

POL has been criticised - harsh & oppressive
number of times

Board worried that looks aggressive.

If don't take action will lose.

AGC

- Board has no choice
 - Strong view right course of action
 - I think you have a strong case.
 - I do think serious prospect of success
- Judge has done unbelievable nonsense
Judge has apparent bias.
Have no choice.

Appeal on law w/o recusal goes back
to him. Hopeless



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David Naberger has a v. clear view.
Board has to do what it has to do. Has
no choice.

- of Board of 8 2 are conflicted.
- Ken McCall SID
 - Carla Audit
 - Chief of Lloyds

we will proceed as basis will prepare.
must get on with it

Confident success CPA.

on going trial - so urgent matter.
JANE.

Inst' $\Rightarrow$ prepare as basis will go.

need to get Board over line.

Call today

Sch B meet next monday.

Send DCQC version PDF



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• DCQC

if no refusal - appeal as law.
Court may ask why not ask refusal.

DCQC

Real risk is decisions in Horizon trial
are happening now - expert view -
has to decide between - once done
we are stuck with that for all time
for a breach trial.

So if not seek refusal the trial
rolls on. W/o refusal CypA
not urgent - so the trial
finishes and we are stuck with
facts found.

Lord G:

- reputable lawyers say get on with it
do duty to company.
They have obligation to get on with it.

Apparent bias - not actual bias.
Seems he has reached a concluded view

AGQC → got no choice. Got v. case to make
applic. —



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if I thought so/sa would say so.
he has got v. badly wrong

business must get on with it. have to do it.
no choice

Stand up & be counted.