

spoken to DNQC

- agree with DN + no distance between us
- fairly horrified
- procedural structure - how arrived at
 - relational contract + implied terms
 - "completely binary" - 1st yr law student wouldn't be involved
 - serious errors in the judgement → cost
 - but in meantime 2nd trial. Risk of how trial is conducted
 - poor case management

• Trial on common issues

- provisions of the contract → implied terms
- sensible starting position
- but has trespassed into matters that logically fall to be considered later (breach, damages etc).
- can't restrain himself from expressing "concluded" views (views he can't come back from). on merits eg breach of contract, whether training facilities were OK, helpline, knowledge of shortfalls, dominant processes, harassment.

All items for breach end.
to investigate on "half baked evidence" as no formal disclosure. left in evidence, wouldn't strike out
→ have to presume some is relevant, so then need to challenge

- Judge obviously regards as relevant.
- post contractual materials - forming conclusions on it on half baked evidence - we didn't read evidence

"taken leave of his senses"

- at next trial will be impossible to shift him away from his views - why would he?

"real dogs breakfast"

- because in a sequence of trial & views expressed demonstrate bias → no choice

"strong advice" "strong case" → no choice.

v. strong arguments to support us.

- (1) Refusal
- (2) Adjournment of trial
- (3) Permission to appeal CIT

(3)

Recusal

- v. important, needs to be done urgently
- implied term analysis "low grade stuff"
 - stocking
- relational contacts "woodswallow"
- implication of good faith

Analysis is poor + arrogant

- * - need to make as soon as possible but must be done properly. They are preparing schedule
 - common issues made to terms
 - how judgement went beyond those issues + into territory of late trial (breach + damages)
 - other matters where he expresses a concluded view of our behaviour (harassment, didn't listen, threatening behaviour etc)

Wont use dict "serious prospect of success"

"implied or apparent bias"

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(4)

Judge feeding into mediation narrative

"apparent bias"

- reached a concluded view
of the merits of the case.

- constantly warned about it in the
trial + prior to that...

exceedingly unusual

piling heresy on heresy