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16 20-3-2019

POL BOARD DIAL IN
11.45 => 12.10

Jane M
Lord Grabbiner
TMB
Tim Parker
Tom C
2x female voice

BACKGROUND

Judge warned he was admit material

that would trickle over – warned.

He allowed material in – rejected S/O

- he appreciated what problem might
be. But at trial went well beyond

- Judge make conclusion oblig
on range issues breach contract
and credibility

ADVICE

View has been behave quite improper.

Proper to ask to him stand down

Unusual case procedurally as he will
do further trials. But has

concluded views on No matters.

The views are so strong that

2

he cannot approach trials with open mind.

no other way to deal with this
if not recuse he will do balancing
Trials. IF go to CofA later they
say why not? Would have
been possible to.

Firm – you have no choice but
to make the applic

Don't give guarantees But have
strong case.

Strong recommendation is should
instruct us to proceed.

Tim Parker: strong advice
unusual applic

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AGQC

Diff' between actual bias and apparent
bias. Through eyes reasonable
person appearance given unfairness

rare and unusual. This judge has
crossed line.

Also unusual circumstance due to
sequence of Trials
He will be looking at same
witnesses and same issues in
later trials.

[female voice]

POL BOARD Q'S:

If we do put in applic' and fail then
what.

QC:

If he refuses recusal – we will go to
CofA.

If we fail CofA we won't be
popular with Judge – he will be
emboldened –

But views he had already said
bad things about us already.

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So if we fail – he will be emboldened
but won't make diff to outcomes.

Middle way Q:

QC

If we do anything short of anything
short will fail

Need adjournment of horizon. No middle
course which works

Agree with DCQC email

Tom Cooper Q:

overall context of dispute. Assume it is
true all bad stuff about POL

Do recuse and

Judges analysis about good faith &
implied terms – wrong – he has law
wrong. So if law was right
in front diff judge.

Assume diff' judge

If another judge gives you a fair hearing
and you get to same place –
so be it.

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I understand you are reluctant to criticise
Trial judge.
But tell you my view.

[voice]
We should be avoiding £ downside to POL
there is material impact if things go
the way.

Q:
Is there any way of getting to same place
by a different route.

QC:
I cannot conceive any mech' that
would give you protection you entitled to

If don't take step you have certainty
he will be judge and you will get
more of the same. He has
concluded view.

If there were a middle way
I would have discussed it
you.

Cannot see another way.

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[voice]
Judges community will look @ this
tight knit

QC:
Impossible to know. Similar case Peter Snaith
Judicial appointment removed.
Conduct committee forced to resign.

I don't know about this Judge
low grade judge.
David N' agrees – don't higher
advice than that.

QC – have to go.