

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY

BETWEEN:

MARK ANTHONY TAYLOR

Claimant/Appellant

-and-

- (1) ANSHU JAIN (CO-CEO OF DEUTSCHE BANK)**
(2) DEUTSCHE BANK AG
(3) HSBC PLC
(4) BARCLAYS BANK PLC
(5) UBS AG
(6) JPMORGAN CHASE BANK, N.A.
(7) CITIGROUP
(8) ROYAL BANK OF SCOTLAND GROUP PLC

Defendants/Respondents

THIRD RESPONDENT'S SUBMISSIONS UNDER CPR PD52C §19(1)(a)

INTRODUCTION

1. These submissions are filed in accordance with CPR PD52C §19(1)(a) and the Court of Appeal guidance in *Jolly v Jay* [2002] EWCA Civ 277. Accordingly, it does *not* address the merits of the appeal, and addresses only the issues of:
- 1.1 Material inaccuracies in the papers placed before the Court; and
- 1.2 The failure of the Claimant's ("C's") application to meet the threshold test.

THE FIRST INSTANCE DECISION

2. The Court is respectfully referred to the Section A of D1/D2's submissions for a summary of the claim, and to D1/D2s submissions generally. At the first instance hearing ("the Hearing") C's claim was struck out by HHJ Simon Brown QC because:
- 2.1 The claim had no basis in fact or law:
- 2.1.1 No facts to justify the claim were pleaded;
- 2.1.2 The claim did not implicate the Ds;
- 2.1.3 No cause of action in contract, tort or breach of statutory duty was pleaded or sustainable.

- 2.2 No properly particularised loss claim was pleaded.
 - 2.3 The claims for punitive and aggravated damages were not recoverable.
 - 2.4 Further, the POC was not concise.
 - 2.5 The claim was vexatious, was not a proper use of the Court's precious resources and should have been struck out at an earlier stage.
3. The claim was recorded as being "*totally without merit*" and an Extended Civil Restraint Order was made, in part "*in [C's] interests*" and "*for your benefit*".¹ C was ordered to pay costs, but has failed to do so.

MATERIAL INACCURACIES

4. C's application contains numerous material inaccuracies, both as to the facts of the underlying claim and the Hearing itself. These submissions concern only the events of the Hearing:²
- 4.1 The learned judge did not act "*as an inquisitor...and as echo-board for [Ds]*" or "*discriminate against [C as a [LiP]]*". At the commencement of the Hearing, C was offered the opportunity to "*consult a barrister in Birmingham, my clerk can arrange that...if you would like to have someone's advice this morning I'm willing to give you that adjournment*".³ C was also given brief adjournments whenever he requested them, and when asked at the close of his submissions whether he wished to add anything, stated "*I think I've said enough I should convince you, and convince any judge...*".⁴
 - 4.2 The learned judge was correct in stating that the Ds had not filed defences. They were not obliged to prior to the Hearing, and the judge's observation of this was not "*an ambush defence for the [Ds]*".
 - 4.3 It is inaccurate to allege that the Judge was "*dishonest*", "*disingenuous*", "*irrational*", "*abused rules of procedure*" or "*assisted the [Ds]*" in not permitting oral evidence, or otherwise "*conspired with [Ds]*". The Learned Judge properly applied the law and procedure applicable to a strike out hearing, and did not "*ignore*" C's requests for evidence. He explained why C was not entitled to oral evidence, and confirmed he had spent the previous day reading into the case.

¹ This is from a note of the judgment. A transcript is awaited.

² Submissions as to the underlying facts go to the merits.

³ This is from a note of the judgment. A transcript is awaited.

⁴ *Ibid.*

CPR r. 52.3(6) THRESHOLD NOT MET

5. Permission to appeal should only be granted if the appeal would have a real prospect of success, or there is some other compelling reason to hear the appeal. C's application does not come close to meeting that threshold:
 - 5.1 The decision was a case management decision. The Court of Appeal could therefore only interfere in that decision if the Judge's decision was so plainly wrong as to be outside the generous ambit of the Judge's discretion⁵. C has no prospect of establishing this.
 - 5.2 C's claim was incapable of case management, still less trial. The Judge's decision was unimpeachable.
 - 5.3 As a matter of law, C's damages claims were bound to fail. C has not identified any failure by the Judge to apply the law as it stands.
 - 5.4 The findings that the claim was vexatious and an abuse of process were proper. This was C's third attempt to litigate his grievances, and it is trite law that it is an abuse of process to pursue a claim without any proper foundation.⁶
 - 5.5 C's criticisms of the Judge are incorrect, improper and without foundation.
6. The CRO was properly applied. The learned Judge accepted three instances of C making applications that were totally without merit (the Claim itself, the application for cross examination and the application for disclosure). The Learned Judge was properly taken to the authorities⁷ and reached his conclusion after careful consideration in Chambers.

CONCLUSION

7. In the circumstances, permission to appeal should be refused. The Court is invited to record that C's application for permission is "*totally without merit*".

15 September 2015

ALEXIA KNIGHT
3 Verulam Buildings
Gray's Inn, WC1R 5NT
0207 831 8441

⁵ *Royal & Sun Alliance Insurance plc v. T&N Limited* [2002] EWCA Civ 1964, [38]; *Walbrook Trustee (Jersey) Limited v. Fattal* [2008] EWCA Civ 427, [33]. As the Court of Appeal has recognised, it is vital that an appeal court should uphold robust fair case management decisions made by first instance judges: *Mitchell v. News Group Newspapers Ltd* [2014] 1 WLR 795, [52].

⁶ *Three Rivers DC v Governor & Company of the Bank of England* [2001] UKHL 16, 94-95 (*per* Lord Hope), 175 (*per* Lord Hobhouse) 193 (*per* Lord Millett). Whilst Lord Hobhouse and Lord Millett dissented on the question of whether there was material to support the allegations of the claimants in *Three Rivers*, there was no suggestion that the principles to which they referred did not reflect the law.

⁷ In particular as to the requirement for persistent conduct, and the guidance in the White Book 3.11.1.