Demo session

ALPHA DEVELOPER 07

Exported on: Oct 17, 2024
By MIPL @

eTabella

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case description

Between

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Claimant

- and -

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Respondent

- before -

Demo session

Thursday , 17 Oct 2024

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1	11:00:04	{R19} {R17} P R O C E E D I N G S
2	11:00:05	(11.00 am)
3	11:00:08	HIS HONOUR: Thank you. Before we begin, can I just mention
4	11:00:10	two points.
5	11:00:14	First, to remind the parties that I would like
6	11:00:17	a copy of the chronology cross-referenced to the
7	11:00:18	bundles.
8	11:00:19	Also, I would like just a little help as to how the
9	11:00:24	bundles have been put together. They are certainly not
10	11:00:26	in chronological order; what order are they in?
11	11:00:27	MR JONES: It's a very good question, the sort of question
12	11:00:30	that I --
13	11:00:35	HIS HONOUR: The rules require a chronological bundle, and
14	11:00:40	it is quite difficult thinking -- well, I would like to
15	11:00:45	see the {A2-3} and {A3-4} to which that document is an
16	11:00:48	answer, and then you have to, by pure chance, go about
17	11:00:52	four bundles further on, which slightly ... (Pause)
18	11:00:53	But they have just been divided up with tabs.
19	11:00:58	MR JONES: I mean, one option is the parties assist you by
20	11:01:00	producing an agreed bundle -- hopefully when we have
21	11:01:05	done our written closings with reference in {A1-10} and
22	11:01:10	{A1-11}.
23	11:01:15	HIS HONOUR: I would be grateful. There was always a risk
24	11:01:17	anyway of seeing the document in two different places.
25	11:01:18	MR JONES: We'll secure that for you.

1 11:01:21   Could I ask your Honour, please, to take up the list

2 11:01:22   of issues. It can be found in {E2-34}.

3 11:01:25   In {B3-2}, there are two sets of lists of issues.

4 11:01:27   There's a case memorandum list of issues from the --

5 11:01:30   HIS HONOUR: The parties weren't able to agree on the list

6 11:01:35   of issues?

7 11:01:37   MR JONES: That's right, yes. Slightly --

8 11:01:42   HIS HONOUR: It's not unknown, Mr Jones.

9 11:01:43   MR JONES: The bank and the first defendant were able to

10 11:01:45   agree on what they thought were the list of issues.

11 11:01:47   HIS HONOUR: Of course. That goes without saying.

12 11:01:52   MR JONES: My learned friend took you to these yesterday in

13 11:01:53   relation to his submissions about the issue estoppel,

14 11:01:58   and made the point that the July 2003 dishonest

15 11:02:03   statement was not an issue.

16 11:02:05   I mean, that's absolutely right, because I'll

17 11:02:08   develop -- that's actually a point in our favour, but

18 11:02:11   perhaps, first of all, we could turn to {D2-12}.

19 11:02:12   HIS HONOUR: Yes.

20 11:02:13   MR JONES: This is within the claimant's list of issues,

21 11:02:16   just to see how narrowly focused the misrepresentation

22 11:02:18   issue in the 2001 trial was.

23 11:02:22   One can see that summarised at {A1-5}, and then in

24 11:02:25   the subparagraphs which go over the page.

25 11:02:29   It's very clear, just looking at what those issues

1   11:02:34   are, in terms of the representations made.

2   11:02:38   Starting at bundle {D1-9}, subparagraph 16.1.1:

3   11:02:43   "The claimant's capital would be protected and they

4   11:02:44   would not lose money ..."

5   11:02:47   In bundle {F1-5}:

6   11:02:49   "There was only a negligible chance the claimant's

7   11:02:51   capital would fail to appreciate ..."

8   11:02:55   HIS HONOUR: Yes.

9   11:02:58   MR JONES: These are all pre-contractual representations.

10   11:02:59   They are very much focused at the early stage.

11   11:03:03   If one turns to the list of issues by the parties,

12   11:03:04   one can see at {B3-19}, and then forward to page 10, for

13   11:03:09   example, in relation to the misrepresentation claim,

14   11:03:14   they are all focused on, again, pre-contractual

15   11:03:16   representations which have been relied on in the

16   11:03:21   re-amended particulars of claim.

17   11:03:23   I think my learned friend took you to those at

18   11:03:24   {A3-4} and {B2-4}.

19   11:03:28   Unless you would like me to, I don't propose to take

20   11:03:33   you back to the claimant's re-amended particulars of

21   11:03:36   claim.

22   11:03:37   HIS HONOUR: It's the protection point.

23   11:03:40   MR JONES: Protection, exactly. It's all about what was

24   11:03:41   said to induce the claimant to enter into these

25   11:03:44   products.

1 11:03:45   Again, I'll develop this further, but this is the

2 11:03:47   only focus of attention in terms of agency at that

3 11:03:51   point -- again, subject to what happens.

4 11:03:55   If I could open {C1-5}.

5 11:03:56   HIS HONOUR: {C1-5}, yes, I'm up to date with that.

6 11:03:59   MR JONES: Perfect.

7 11:04:00   Bundle {E2} should now be {E1} -- well, it's

8 11:04:02   19 pages on the PDF, but the last page is 25, and that's

9 11:04:04   been updated very recently.

10 11:04:05   I don't know if your Lordship has that last --

11 11:04:10   HIS HONOUR: No. What's come in recently in bundle {E4}?

12 11:04:14   MR JONES: Certainly I received it this morning. There is

13 11:04:15   a clip of about 8 or 12 pages, an email exchange and

14 11:04:17   a letter from the claimant a couple of days ago.

15 11:04:22   It sounds like Mr David is with us.

16 11:04:27   MR DAVID: Hold on one second. I'm on my telephone with the

17 11:04:29   technical support.

18 11:04:31   They say, first of all, I have to get online on my

19 11:04:36   telephone, and then they will do some magic to ensure

20 11:04:39   that I get on on my laptop.

21 11:04:43   So just for the technical support chap, do I now

22 11:04:46   come off the link on my telephone?

23 11:04:48   (Pause).

24 11:04:50   MR JONES: I don't know if it would be convenient to finish

25 11:04:54   off the housekeeping. I don't think Mr David will

1 11:04:58   accuse me of leaving him out.

2 11:05:01   HIS HONOUR: Yes.

3 11:05:04   MR JONES: So the final page of bundle {E5} is numbered 95.