

Demo session

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Between

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Claimant

- and -

sdfsd

Respondent

- before -

Demo session

Thursday , 17 Oct 2024

Annotations

Page	Source text	Note	Issues
1	t, to remind the parties that I would like a copy of		<div><div></div> GREEN</div> <div><div></div> YELLOW</div>
1	have been put together. They are certainly not in chronological order		<div><div></div> GREEN</div> <div><div></div> YELLOW</div>

Highlights

Page	Source text	Note	Issues
1	HIS HONOUR: Thank you. {R17} Before we begin, can I just mention		<div></div> Unassigned
1	bundles Also, I would like just a little help as to how the		<div></div> BLUE <div></div> GREEN <div></div> YELLOW

1	11:00:00	PROCEEDINGS
2	11:00:00	(11.00 am)
3	11:00:03	HIS HONOUR: Thank you. {R17} Before we begin, can I just mention
4	11:00:06	two points.
5	11:00:07	First, to remind the parties that I would like
6	11:00:09	a copy of the chronology cross-referenced to the
7	11:00:12	bundles.
8	11:00:13	Also, I would like just a little help as to how the
9	11:00:15	bundles have been put together. They are certainly not
10	11:00:18	in chronological order; what order are they in?
11	11:00:19	MR JONES: It's a very good question, the sort of question
12	11:00:21	that I --
13	11:00:24	HIS HONOUR: The rules require a chronological bundle, and
14	11:00:25	it is quite difficult thinking -- well, I would like to
15	11:00:27	see the letter to which that document is an answer, and
16	11:00:30	then you have to, by pure chance, go about four bundles
17	11:00:31	further on, which slightly ... (Pause)
18	11:00:33	But they have just been divided up with tabs.
19	11:00:36	MR JONES: I mean, one option is the parties assist you by
20	11:00:37	producing an agreed bundle -- hopefully when we have
21	11:00:39	done our written closings.
22	11:00:42	HIS HONOUR: I would be grateful. There was always a risk
23	11:00:43	anyway of seeing the document in two different places.
24	11:00:45	MR JONES: We'll secure that for you.
25	11:00:48	Could I ask your Honour, please, to take up the list

1 11:00:49

2 11:00:51 of issues. It can be found in bundle B at tab 2.

3 11:00:54 In tab 3, there are two sets of lists of issues.

4 11:00:55 There's a case memorandum list of issues from the --

5 11:00:57 HIS HONOUR: The parties weren't able to agree on the list

6 11:01:00 of issues?

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

8 11:01:03 HIS HONOUR: It's not unknown, Mr Jones.

9 11:01:06 MR JONES: The bank and the first defendant were able to

10 11:01:07 agree on what they thought were the list of issues.

11 11:01:09 HIS HONOUR: Of course. That goes without saying.

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

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

14 11:01:15 and made the point that the July 2003 dishonest

15 11:01:18 statement was not an issue.

16 11:01:19 I mean, that's absolutely right, because I'll

17 11:01:21 develop -- that's actually a point in our favour, but

18 11:01:24 perhaps, first of all, we could turn to page 19.

19 11:01:25 HIS HONOUR: Yes.

20 11:01:27 MR JONES: This is within the claimant's list of issues,

21 11:01:30 just to see how narrowly focused the misrepresentation

22 11:01:31 issue in the 2001 trial was.

23 11:01:33 One can see that summarised at paragraph 8, and then

24 11:01:36 in the subparagraphs which go over the page.

25 11:01:37 It's very clear, just looking at what those issues

1 11:01:39 are, in terms of the representations made.

2 11:01:42

3 11:01:43 Starting at subparagraph 16.1.1:

4 11:01:45 "The claimant's capital would be protected and they

5 11:01:48 would not lose money ...

6 11:01:49 16.1.2 There was only a negligible chance the

7 11:01:51 claimant's capital would fail to appreciate ..."

8 11:01:54 HIS HONOUR: Yes.

9 11:01:55 MR JONES: These are all pre-contractual representations.

10 11:01:57 They are very much focused at the early stage.

11 11:02:00 If one turns to the list of issues by the parties,

12 11:02:01 one can see at page 11, and then forward to page 18, for

13 11:02:03 example, in relation to the misrepresentation claim,

14 11:02:06 they are all focused on, again, pre-contractual

15 11:02:07 representations which have been relied on in the

16 11:02:09 re-amended particulars of claim. I think my learned

17 11:02:12 friend took you to those.

18 11:02:13 Unless you would like me to, I don't propose to take

19 11:02:15 you back to the claimant's re-amended particulars

20 11:02:18 of claim.

21 11:02:19 HIS HONOUR: It's the protection point.

22 11:02:21 MR TOMASON: Protection, exactly. It's all about what was

23 11:02:24 said to induce the claimant to enter into these

24 11:02:25 products.

25 11:02:27 Again, I'll develop this further, but this is the

1 11:02:30 only focus of attention in terms of agency at that

2 11:02:31 point -- again, subject to what happens.

3 11:02:33

4 11:02:36 In terms of tomorrow, having discussed it with my

5 11:02:37 learned friend, we are, I think, of the view that if we

6 11:02:39 were to start again at 9.30, we would hope to get

7 11:02:42 finished by lunch.

8 11:02:43 I have checked my schedule for Thursday. I can move

9 11:02:45 things, if needs be.

10 11:02:48 The difficulty I face is, unfortunately, with my

11 11:02:49 solicitors. Mr Marke can be here for a little bit on

12 11:02:51 Thursday morning, but my associate cannot.

13 11:02:54 So I would be flying solo if I were to appear past

14 11:02:55 about 11.30 on Thursday.

15 11:02:57 I understand that there are some difficulties also

16 11:03:00 with Thursday from the defendant's side, albeit those

17 11:03:01 can be resolved.

18 11:03:03 So I think the lawyers' preference would be fairly

19 11:03:06 focused submissions tomorrow morning and try and get

20 11:03:07 through them by lunch.

21 11:03:09 HIS HONOUR: I think we should make the decision now.

22 11:03:12 In light of what you have said, I think the decision

23 11:03:13 should be that we will finish tomorrow, one way or

24 11:03:15 the other.

25 11:03:18 If, for some reason, something trickles over, it can

- 1 11:03:19 be dealt with in writing, even though that is
- 2 11:03:21 undesirable and to be avoided if at all possible. But
- 3 11:03:24 we will not consider continuing on Thursday.
- 4 11:03:25