

MPL @6263

Exported on: Oct 17, 2024
By MIPL @

eTabella



Powered by
eTabella.com

er

Between

ert

Claimant

- and -

ert

Respondent

- before -

Demo session

Thursday , 17 Oct 2024

ert

er

Highlights

Page	Source text	Note	Issues
1	jgh jgh jgh		<div></div> Unassigned
2	hg ghj		<div></div> Unassigned
1	g		<div></div> Unassigned

1 11:00:00 PROCEEDINGS

2 11:00:00 (11.00 am)

3 11:00:03 HIS HONOUR: Thank you. 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