IN THE COURT OF APPEAL, CIVIL DIVISION

REF: **A2/2017/1648** & A2/2015/2839(B) [SEAL]

Her Majesty's Court of Appeal
12 FEB 2018

PARIS & ANR –v– LEWIS ANR

ORDER made by the Rt. Hon. Lady Justice Sharp

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal

Decision: REFUSED AS TOTALLY WITHOUT MERIT

An order granting permission may limit the issues to be heard or be made subject to conditions.

Reasons

1. There are two applications for permission to appeal. Both applications are totally without merit and are refused. The first (A2/2017/1648) is an application for permission to appeal the order made on the Pre-trial Review of the action on 2 February 2015, in which HHJ Seys Llewellyn (the judge) refused to reinstate a claim for harassment that had previously been withdrawn. There is a separate *second* application to re-open the appeal on fresh evidence (A2/2015/2839B). Judgment was entered against the applicants by Order of the judge on 15th July 2015. Subsequent applications for permission to appeal were refused: (i) A2/2015/2839 permission to appeal was refused on 19 January 2016 on the papers by Floyd LJ; renewed to an oral hearing on 22 March 2016 and refused by Simon LJ; (ii) A2/2015/2839A the applicants sought to re-open the appeal and argued for the recusal of Simon LJ on grounds of bias. Refused on 28 November 2016 by Simon LJ.

2. A2/2017/1648 This application, brought more than two years out of time, with no reasonable explanation, is a hopeless attempt on vexatious grounds to challenge an unimpeachable case management decision made by the judge. The application before the judge was made extremely late; it would have led the vacation of the trial date, which was imminent, and as the judge found it would have vastly widened the scope of proceedings with the consequent implications for court resources and costs. Further, as the judge pointed out, to the extent the evidence was relevant to the defamation claim it could be used without amendment. The material put forward as fresh evidence does not meet the criteria for admission on any basis. The extract from without prejudice correspondence was before Simon LJ in the first application to re-open the appeal. For the reasons given by Simon LJ this is privileged material and in any event does not assist the applicants. The applicants' video footage appears to be a different camera angle of footage disclosed at trial; it adds nothing to the merits, and was available at the time of the trial.

3. A2/2015/2839(B) The requirements of CPR 52.30 are not met. The fresh evidence includes the video footage already referred to, and is not admissible as such for the reasons already given. The judgment in *Monroe v Hopkins* [2017] EWHC 433 (QB) is not evidence, fresh or otherwise: it is a decision of the court of no relevance to these proceedings. The allegations of actual and perceived bias against Simon LJ and therefore the assertion that he should have recused himself are misconceived. The fact that Simon LJ determined the first application for permission to appeal on 22 March 2016 was no bar to his determining subsequent applications, including the one that apparently provoked the allegations of bias, namely that the Respondents be given opportunity to reply to the Applicants' submissions in the first application to re-open the appeal: see *Otkritie International Investment Management Ltd v Urumov* [2014] EWCA Civ 1315.

4. The applicants should understand that if any further such applications are made directly or tangentially in connection with these proceedings, and the issues considered in them, the court will be bound to consider making a Civil Restraint Order against them pursuant to CPR Practice Direction 3C.

HER MAJESTY'S COURT OF APPEAL E&W

Information for or directions to the parties

Mediation:

Where permission has been granted or the application adjourned:

Does the case fall within the Court of Appeal Mediation Scheme (CAMS) automatic pilot categories (see below)? Yes ☐ No ☐

Pilot categories:

- Personal injury and clinical negligence cases;
- All other professional negligence cases;
- Small contract cases below £500,000 in judgment (or claim) value, but not where principal issue is non-contractual;
- Boundary disputes;
- Inheritance disputes.

If yes, is there any reason not to refer to CAMS mediation under the pilot? Yes ☐ No ☐

If yes, please give reason:

Non-pilot cases: Do you wish to make a recommendation for mediation? Yes ☐ No ☐

Where permission has been granted, or the application adjourned

a) time estimate (excluding judgment)

b) any expedition

Signed:

Date: 9 February 2018

By the Court

Notes

(1) Rule 52.6(1) provides that permission to appeal may be given only where –
   a) the Court considers that the appeal would have a real prospect of success; or
   b) there is some other compelling reason why the appeal should be heard.

(2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed. See rule 52.5 and section 54(4) of the Access to Justice Act 1999.

(3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 14 days of the date of the Listing Window Notification letter and seek to agree the bundle within 49 days of the date of the Listing Window Notification letter (see paragraph 21 of CPR PD 52C).

Case Number: **A2/2017/1648**

DATED 9TH FEBRUARY 2018
IN THE COURT OF APPEAL

ANGEL GARDEN
- and -
STEPHANE PARIS
- and -
MELANIE BYNG
- and -
ANDREW LEWIS

ORDER

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