



IN THE COURT OF APPEAL, CIVIL DIVISION

REF: A2/2011/2166 and 0761

(TH:26.05.11)



LORD ASHCROFT KCMG –v– FOLEY & ORS

ORDER made by the Rt. Hon. Dame JANET SMITH

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal the orders of Eady J dated 17 March 2011 and 1 July 2011

Decision: granted, refused, adjourned. An order granting permission may limit the issues to be heard or be made subject to conditions.

PERMISISON GRANTED ON BOTH APPLICATIONS.

Reasons

There is some overlap between these two applications. In my view, it is arguable that the judge has erected too high a barrier for the defendants to surmount at the stage of pleading justification.

Information for or directions to the parties**Where permission has been granted, or the application adjourned**

- a) time estimate (excluding judgment) please consult the parties
- b) any expedition

Signed: *Janet Smith*

Date: 6 October 2011

By the Court

- Rule 52.3(6) 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) Rule 52.3(4) and (5) provide that where the appeal court, without a hearing, refuses permission to appeal that decision may be reconsidered at a hearing, provided that the request for such a hearing is filed in writing within 7 days after service of the notice that permission has been refused. Note the requirement imposed on advocates by paragraph 4.14A of the Practice Direction.
 - (3) Where permission to appeal has been granted, the appeal bundle must be served on the respondents within 7 days of receiving this order (see para. 6.2 of the Practice Direction to CPR Part 52). A letter of notification will be sent to the appellant or his solicitors, as soon as practicable (see para. 6.3).