



# IN THE COURT OF APPEAL, CIVIL DIVISION

REF: CA-2024-001924-Y



KULKARNI –v– GWENT HOLDINGS LIMITED &amp; ANR

CA-2024-001924-Y

## ORDER made by the Rt. Hon. Lord Justice Newey

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal on additional grounds and permission to rely on a 30 page skeleton argument

### Decision:

**Permission to appeal is granted in respect of grounds 1 and 4-7 but is refused in respect of ground 3**

**The appellant is granted permission to rely on the skeleton argument he has filed**

### Reasons

While there is much to be said for the Judge's construction of clause 7.1(d) of the shareholders' agreement, there is sufficient substance in the arguments advanced in the skeleton argument for the appellant to have a real prospect of success on ground 1.

Grounds 4-7 all relate to whether the Judge was right to hold that the various breaches were capable of remedy. There is, overall, sufficient scope for argument as to that for the grant of permission to appeal to be warranted and, that being so, it is likely to be convenient for all of grounds 4-7 to be before the Court.

In contrast, ground 3 would have no real prospect of success. There is no likelihood of the Court being persuaded to overturn the Judge's conclusion that "there remained too much uncertainty on key aspects of what had been agreed for there to be a binding agreement". The Judge, of course, had had the advantage of hearing the witnesses.

On that basis, paragraphs 65-74 of the skeleton argument, extending over just over three pages, are now redundant. In effect, therefore, the appellant is now seeking permission to rely on a skeleton argument of about 27 pages. On balance, it is appropriate to grant such permission.

### Information for or directions to the parties

### Court of Appeal Mediation Scheme (CAMS)

Where permission has been granted or the application adjourned:

a) Does the case fall within the Automatic Referral Scheme (see below)? No

#### Automatic Referral Scheme categories:

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• All cases involving a litigant in person (other than immigration and family appeals)</li> <li>• Personal injury and clinical negligence cases;</li> <li>• All other professional negligence cases;</li> <li>• Small contract cases below £500,000 in judgment (or claim) value, but not where principal issue is non-contractual;</li> </ul> | <ul style="list-style-type: none"> <li>• Boundary disputes;</li> <li>• Inheritance disputes.</li> <li>• EAT Appeals</li> <li>• Residential landlord and tenant appeals</li> </ul> |
|---|---|

b) If yes, is there any reason not to refer to CAMS mediation under the Automatic Referral Scheme? N/A

c) If yes, please give reason: N/A

d) Cases outside the Automatic Referral Scheme: Do you wish to make a recommendation for mediation? No

### Where permission has been granted, or the application adjourned

- a) time estimate (excluding judgment) 2 days  
b) any expedition No

Signed: BY THE COURT  
Date: 27 September 2024

**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).

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