

Reasons for allowing or refusing permission to appeal (including referral to the Court of Appeal (Civil Division))

The judge must complete this form on allowing or refusing an application for permission to appeal at a hearing or trial

Title of Case/Claim

(1) Canada Goose UK Retail Ltd -v- (1) Persons Unknown
(2) James Hayton (2) People for the Ethical Treatment of Animals (PETA) Foundation

Case/claim No

HQ17D04332

Hearing before (insert name of Judge)

Date of order

The Honourable Mr Justice Nicklin

20 September 2019

Nature of Hearing

Application by the Claimants for summary judgment.

Result of Hearing

Application refused. Interim injunction to be discharged. Further directions given.

Claimants' application for permission to appeal

Allowed

Refused

Brief reasons for decision to allow or refuse appeal
(to be completed by the Judge):

I do not consider that the Claimants' proposed grounds of appeal have any real prospect of success. I have applied the law from the recent decisions of *Cameron -v- Liverpool Victoria Insurance Co Ltd* [2019] 1 WLR 1471 (Supreme Court) and *Boyd -v- Ineos Upstream Limited* [2019] 4 WLR 100 (Court of Appeal). This case demonstrates that there are limits in trying to fashion civil injunctions against "persons unknown" that are effectively quasi public order restrictions against the whole world. Separately, the Claimants also have a fundamental problem as a result of not having validly served the Claim Form on any Defendant.

Nevertheless, I have granted permission on the basis that there is a compelling reason justifying permission being granted. In summary, this is a difficult and developing area of the law and there are few authorities. Although I have not been presented with conflicting authorities - *Cameron* and *Ineos* are clear – similar injunctions have been made in other protest cases. This was a summary judgment application and, for the reasons I have explained, the Claimants' claim simply disintegrated when measured against the principles to be applied on a summary judgment application.

Judge's signature

Matthew J Nidd

If permission is given the judge must also complete the reverse of this form

Date:

20 September 2019

Note: The appellant must file a copy of this completed form at the appeal court with the appellant's notice when issuing the appeal.

N460 Reasons for allowing or refusing permission to appeal and referred to the Court of Appeal

Do you consider the appeal should be referred to the Court of Appeal (Civil Division)?

Yes

No

If Yes, please indicate which of the following criteria apply:

There appear to be conflicting authorities

There is a point of practice and procedure of significant importance

There is a point of general principle and importance in the development of the substantive law

A number of appeals on similar points suggests that a theme, or trend, is developing which the Court of Appeal needs to consider

Additional reasons (please set out below)

I have granted a stay of the part of my order that discharges the interim injunction. I do not think that it is for me to grant expedition of an appeal, but as the effect of a stay is to continue restrictions on freedom of expression and freedom of association that I have held cannot be justified, the Court of Appeal may wish to consider whether the hearing of the appeal ought to be expedited.

Further, if the Second Defendant (PETA) does not participate as Respondent on the Appeal, then the Court of Appeal will be faced with the same difficulty that I had at first instance of having only one side making submissions. If this happens, the Court may wish to consider whether the case is one in which an Amicus would be of assistance.