



HM Courts & Tribunals Service

To: CoA Order in Mckillen v Misland
Fax Number: 02070985271

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FORM 269C1



IN THE COURT OF APPEAL, CIVIL DIVISION

REF: A3/2012/2515



McKillen –v– Misland (Cyprus) Inv. Ltd

ORDER made by the Rt. Hon. Lady Justice Arden

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: granted, refused, adjourned. An order granting permission may limit the issues to be heard or be made subject to conditions.
 Permission given for the grounds which are set out in the notice of appeal

Reasons
 Arguable for the reasons given in the appellant's skeleton argument.
 I have read the respondents' submission but concluded that it makes points which can more appropriately be made on the appeal and does not make points which render the appeal grounds unarguable.
 If points were not taken below, the appellant will need leave to raise them in this court. The permission which I am giving is to be read as subject to that qualification. I am satisfied, however, that there are in any event sufficient points to which objection is not taken on this ground to merit the grant of permission

Information for or directions to the parties
 In the light of the representations made by Herbert Smith Freehills LLP, and subject to any representations by the respondents to the contrary received on or before 5 pm on 31 October 2012, I consider that exceptionally this appeal is suitable for **expedition** as it concerns the entitlement to a significant stake in the ultimate owner of very substantial assets, and that that question needs to be determined expeditiously because of the owner's financial circumstances. I therefore direct that the appeal be expedited and heard if possible within 5 weeks of today. The parties will need to liaise with the listing office over dates.

- In view of that direction, the parties must co-operate with the Court. In particular:
1. The parties must keep this court informed of any material events likely to affect the question whether the appeal needs to be expedited, and if the need for expedition diminishes, the court will consider varying or withdrawing the direction for expedition.
 2. The parties must isolate from the wealth of material the real material that is relevant to the limited issues to be decided.
 3. The appellant's skeleton is over long and deals with matters which are purely background and not essential for the legal arguments. I direct that they shall within 7 days produce a skeleton of not more than 25 A4 pages setting out only the issues for decision and the legal arguments and authorities relied on. The respondents should aim to do this too.
 4. Please produce a core bundle and include cross-references in the skeletons to it. To make the core bundle manageable the judge's judgment and other substantial documents may be included copied double-sided but no copying 2 pages to a page please.
 5. The skeleton arguments must also identify all the relevant paragraphs in the judgment which are criticised. All skeletons to be supplied in electronic copy as well as hard copy.
 6. Bundles of authorities to be lodged one week before the hearing date and sidelined by each party (identifying whose sidelining is whose).

By the Court

This case falls within the Court of Appeal Mediation Scheme automatic pilot categories*. Yes No

Recommended for mediation Yes No

If not, please give reason:

Where permission has been granted, or the application adjourned

- a) time estimate (excluding judgment)
- b) any expedition

Signed: *MH Arden*
Date: 26 October 2012



Notes

- (1) 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 16(1) of CPR PD 52C.
- (3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 7 days of the date of the listing window notification letter and seek to agree the bundle within 21 days of the date of the listing window notification letter (see paragraph 21 of CPR PD 52C).

DATED 26TH OCTOBER 2012
IN THE COURT OF APPEAL

PATRICK MCKILLEN

- and -

MISLAND (CYPRUS) INVESTMENTS LIMITED & ORS

ORDER

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Lower Court Ref. NO8690OF2011