

Case No: CL2021000532

Neutral Citation Number: [2022] EWHC 731 (Comm)

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
COMMERCIAL COURT

The Rolls Buildings
Fetter Lane
London EC4A 1NL

Friday, 4 March 2022

BEFORE:

HIS HONOUR JUDGE PELLING QC
(Sitting as a High Court Judge)

BETWEEN:

MICHAEL WILSON AND PARTNERS LIMITED

Claimant

- and -

**JOHN FORSTER EMMOTT
AND OTHERS**

Defendants

MR DALBY SC appeared on behalf of the Claimant
MR KIRBY QC appeared on behalf of the First Defendant
MR DOUGHERTY appeared on behalf of the Second Defendant

JUDGMENT
(Approved)

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JUDGE PELLING:

1. This is an application for permission to appeal. The test is whether there is a realistic prospect of success. I am satisfied there is no realistic prospect of success for the following reasons.
2. I have applied the principles of law which are entirely conventional. The only issue in respect of which it might be argued there is a novel point, concerns the degree to which, if at all, documents referred to in documents attached to witness statements, affidavits, and the like should themselves be the subject of disclosure by reason of being impliedly mentioned.
3. As to that, first of all I consider there is no realistic prospect that the Court of Appeal reaching the conclusion that a document mentioned in the document attached has been sufficiently mentioned for the purposes of the rule. Secondly I made clear that if and to the extent that was the basis on which the application was advanced, it would be neither reasonable nor proportionate.
4. In those circumstances, as it seems to me this was an application which depended upon the application of entirely conventional principles. It was an application that was incidentally grossly overblown.
5. The application for permission to appeal is refused.

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This transcript has been approved by the Judge