

IN THE COURT OF APPEAL, CIVIL DIVISION



REF: C3/2013/1680



SOMERFIELD STORES LTD & ORS -v- OFFICE OF FAIR TRADING

ORDER made by the Rt. Hon. Lord Justice Lewison

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.

GRANTED

Reasons

1. Although the CAT appears to have set out the legal principles correctly the argument that it then failed to apply those principles to the facts has force.
2. Despite the fact that the CAT was exercising a discretion I am persuaded (just) that the OFT's argument has sufficient strength to justify the grant of permission to appeal.

Information for or directions to the parties

If the parties disagree with my time estimate they must notify the Civil Appeals Office immediately.

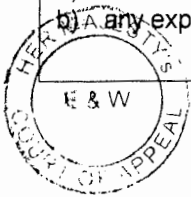
This case falls within the Court of Appeal Mediation Scheme automatic pilot categories*. Yes No

Recommended for mediation Yes No

If not, please give reason:

Where permission has been granted, or the application adjourned

- a) time estimate (excluding judgment) 1 day
- b) any expedition



By the Court

Signed:

Date:

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 23RD JULY 2013
IN THE COURT OF APPEAL

ORDER

Copies to:

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6th Floor
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EC4Y 8JX
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Burges Salmon Llp
One Glass Wharf
Bristol
BS2 0ZX
Ref: MS11/LC01/15762.221

Slaughter And May
One Bunhill Row
London
EC1Y 8YY
Ref: BFJL/IAMT/MJXR/JPXC

Lower Court Ref: 11971112&12001112