



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case Nos: 1304/7/7/19  
1305/7/7/19

**BETWEEN**

**JUSTIN GUTMANN**

Applicant / Proposed Class Representative

-and-

**(1) FIRST MTR SOUTH WESTERN TRAINS LIMITED**  
**(2) STAGECOACH SOUTH WESTERN TRAINS LIMITED**

Respondents/Proposed Defendants

**AND BETWEEN**

**JUSTIN GUTMANN**

Applicant / Proposed Class Representative

-and-

**LONDON & SOUTH EASTERN RAILWAY LIMITED**

Respondent/Proposed Defendant

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**REASONED ORDER**

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**UPON** reading the correspondence from the parties

**IT IS ORDERED THAT**

1. The Respondents' application to adjourn the applications is refused.
2. The Respondents have liberty to renew their application following the decision of the Supreme Court on the application for permission to appeal in *Merricks v Mastercard Inc.*

## **REASONS:**

1. It is at present unclear (a) whether the Supreme Court will give permission to appeal (“PTA”) and (b) on what grounds the Respondents will object to the CPO applications. In those circumstances, a stay or adjournment of the applications is premature.
2. If the Supreme Court grants PTA and if the Tribunal should then decide that it is appropriate to stay the applications, it is possible that after the judgment of the Supreme Court the Respondents may seek to amend their Responses. However, that risk and potential expense is insufficient to justify staying the proceedings at this stage, when (a) if the Supreme Court refuses PTA, the hearing fixed for November 2019 should proceed; and (b) if the Supreme Court grants PTA but eventually upholds the judgment of the Court of Appeal, the Responses should require little or no amendment.

**The Hon Mr Justice Roth**

President of the Competition Appeal Tribunal

Made: 4 June 2019

Drawn: 5 June 2019