

In the High Court of Justice
High Court Appeal Centre Royal Courts of Justice
Order of Master Eastman dated 23 January 2014
Case number: HQ13D00493
Appeal ref: QB/2014/0169

T. Holroyde

20-xi-14

BETWEEN

PETER JOHN REYNOLDS

Claimant and Appellant

and

CHRISTOPHER BOVEY

Defendant and Respondent



ORDER

Before **the Honourable Mr Justice Holroyde** sitting at the Royal Courts of Justice, Strand, London, WC2A 2LL on the 20th day of November 2014

IT IS ORDERED THAT

1. Permission granted to the Appellant to bring this appeal out of time.
2. Appellant's application for permission to appeal on the merits is refused.
3. **REASONS** : I can see no basis on which the order of Master Eastman could successfully be challenged. Having considered the submissions of both parties, he concluded that your claim should be struck out, pursuant to CPR 3.4(2) because it was fundamentally defective and failed to comply with the provisions of the CPR and the rules of pleading in a claim of this nature.

As to your first ground of appeal: It is a mistake to think that the striking out procedure – which exists in order to ensure that claims with no prospect of success do not proceed, and so do not give rise to an unnecessary and disproportionate expenditure of court time and costs - is inherently contrary to Art 6. In the circumstances of this case, it is in my judgment impossible to argue that a proper exercise by the Master of that power, following an analysis of the deficiencies in your pleadings, was a breach of your rights under Art 6 of the Convention.

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As to your second ground of appeal: It is in my judgment equally impossible to argue, in the circumstances of this case, that a proper application by the court of the CPR and the rules of pleading was a breach of your rights under Art 17 of the Convention. As the Master said, relying upon the decision in O'Dwyer v ITV [2012] EWHC 3321 (QB), it was necessary to consider the position of both parties. You had commenced proceedings in an area of the law in which there are strict rules of pleading. I do not see how it can be argued that a requirement to comply with the procedural rules of the court deprives you of a right to bring proceedings. Although you assert that you were effectively unable to put your pleadings into proper order without the assistance of public funding, and although it is apparent that you are an intelligent and articulate man, you have given no indication of any steps taken by you to seek legal advice from a person or organisation prepared to offer it at no, or modest, charge; or to investigate whether a solicitor would be willing and able to act on a conditional fee basis; or to inform yourself from legal publications and internet sites available to you free or at modest cost. You had failed to take such steps even though you knew that the defendant would rely on the deficiencies in your pleadings. Although your skeleton argument submits that your Statement of Case is clear, and any deficiencies in it are minor and inconsequential, you have not shown any arguable answer to the points made against you in the judgment of Master Eastman.

4. The Appellant may, within seven days of receipt of this Order, apply for a hearing at which he may renew his application for permission to appeal. Such application may be made by post to the High Court Appeal Centre Royal Courts of Justice, Strand, London, WC2A 2LL quoting the above appeals reference number. Any such application must also be served on the Respondent(s).