



DATE: 25 September 2018

CIVIL APPEALS OFFICE

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COURT OF APPEAL NUMBER: 20182325

TITLE: THE CO-OPERATIVE BANK PLC & ORS -v- BERRY

ORDER APPEALED: 14 September 2018

Receipt is acknowledged of the following documents relating to this case:

- Appellant's Notice

The appellant's notice will be treated as filed in the Civil Appeals Office on 18 September 2018 and has been allocated the number above. This case number will form part of the full Court of Appeal reference when it has been entered in the Court's records.

The receipt of these documents does not necessarily signify that (a) the court accepts jurisdiction or (b) that they are necessarily in order for the Court. You will be informed of any defects found but it remains your responsibility and not that of the Civil Appeals Office, to ensure any documents lodged comply with the Court's requirements.

A sealed copy of your appellant's notice attached and the attached Form N161B (headed Important notes for respondents) together with a copy of this receipt document, must now be served on all respondents by **02-OCT-18**. **You must ensure that the case number is added to the appellant's notice before service.** You are reminded that whenever you are required to serve documents you should either deliver them by hand or send them by First Class post or other similar delivery service. Service by First Class post is deemed to take place 2 working days after posting.

It is permitted to photocopy the sealed appellant's notice for service on the respondent(s), if this is necessary.

If the appellant's notice includes an application for permission to appeal, a copy of the skeleton argument must also be served on the respondent. Where an appellant seeks permission to appeal a respondent is permitted, and is encouraged, within 14 days of service of the appellant's notice, or skeleton argument if later, to file and serve upon the appellant and any other respondent, a brief statement of reasons why permission should be refused in whole or in part. See Practice Direction 52C paragraph 19.

If permission to appeal has already been given or is not required the timetable for service of the appeal skeleton argument, respondent's skeleton argument and for agreement of the bundle index runs from the listing window notification letter sent by the court.

If permission to appeal has already been given or is not required the Respondent may:

- ask for the lower court order to be varied, for which permission to appeal will be required; or
  - ask that the order be upheld for different or additional reasons than those given by the lower court;
- or

- ask that the order be upheld for the same reasons relied on by the lower court;  
or
- do nothing.

If the Respondent wishes to vary or to uphold the order being appealed for different or additional reasons, **they need to complete a respondent's notice** (Form N162) and send it to the Civil Appeals Office. **There is very limited time to do this** (see CPR 52.13).

**If the Respondent does not complete a respondent's notice or file a skeleton argument**, they will not be able to rely on any additional arguments at the hearing of the appeal which were not raised in the lower court. The court may refuse to hear argument on a point not included in a skeleton argument filed within the prescribed time.

# Important

## notes for respondents

You have been served with a copy of an appellant's notice (an appeal).

If the notice includes an application for permission to appeal, you need do nothing unless and until you receive notice from the court that permission has been given.

If permission is given, you will only have a limited time in which to reply to the appeal. You must decide what to do quickly.

You can:

- ◆ also appeal against the same order; or
- ◆ ask for the order to be varied; or
- ◆ ask that the order be upheld by the appeal court for different or additional reasons than those given by the lower court (the court who made the order being appealed); or
- ◆ ask that the order be upheld for the same reasons relied on by the lower court; or
- ◆ do nothing

If you wish to appeal, vary or uphold the order being appealed for different or additional reasons, you **need to complete a Respondent's Notice** (Form N162) and send it to the court. **You have a very limited time to do this.** This form, the notes for guidance for completing it and a leaflet *I want to appeal* can be obtained free from any court office or Judges' Interim Applications Office at the Royal Courts of Justice, Strand, London, WC2A 2LL. They will explain about time limits and tell you the documents you will need to support your appeal.

You may also complete a respondent's notice if you simply wish to ask the appeal court to uphold the order for the reasons given in the lower court but have additional arguments to make to the appeal court. Alternatively you may set these additional arguments out in a 'skeleton argument', i.e. a document which just sets out the points you wish to make to the appeal court. Form N163 can be used to set out your skeleton argument. This form can also be obtained from any court office or the Royal Courts of Justice at the above address.

Information about making an appeal to the Court of Appeal can be obtained from the Civil Appeals Unit, Registry, Room E307, Royal Courts of Justice, Strand, WC2A 2LL.

**If you do not complete a respondent's notice or file a skeleton argument,** you will not be able to rely on any additional arguments at the hearing of the appeal which were not raised in the lower court unless the court gives you permission.