

Appeal reopened in *Head v Culver Heating Co Ltd*

The Court of Appeal has taken the very unusual step of reopening the appeal in *Head v Culver Heating Co Ltd* [2019] EWHC 1217 (QB), pursuant to CPR 52.30. The background to this decision is as follows:

- In a judgment handed down on 14 May 2019, Her Honour Judge Melissa Clarke (sitting as a Judge of the High Court) dismissed Mr Head's lost years claim.
- The Claimant applied to the Judge for permission to appeal but the application was refused on 17 June 2019.
- The Claimant applied to the Court of Appeal. Permission was refused on the papers by Lady Justice Simler on 18 July 2019.

Since 3 October 2016, parties who are refused permission to appeal to the Court of Appeal on the papers are not entitled to renew their application at an oral hearing. The only means of overturning such a refusal is to make an application under CPR 52.30, by which the Court of Appeal has the power to re-open final appeals in order to avoid real injustice in exceptional circumstances, where it is demonstrated that the integrity of the earlier litigation has been critically undermined.

The Claimant made an application under CPR 52.30 and contended that this was an exceptional case where the appeal should be re-opened.

Lady Justice Simler granted the application for permission to reopen the appeal on 17 July 2020, holding that the circumstances were exceptional and it was necessary to grant the application in order to avoid real injustice.

Pursuant to Lady Justice Simler's Order, the permission application shall be listed for an oral hearing, with the appeal to follow immediately if permission is granted, with a panel of three Lord/Lady Justices, one with personal injury expertise. The hearing has been listed for 16 to 17 December 2020.

Harry Steinberg QC and Kate Boakes act for the Claimant, instructed by Peter Williams of Fieldfisher.