



Neutral Citation Number: [2018] EWCA Civ 2839

Case No: B3/2017/3220

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
Sir Robert Nelson
HQ15C04535

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 19 December 2018

Before:

LORD JUSTICE McCOMBE
LADY JUSTICE KING
and
LADY JUSTICE NICOLA DAVIES

Between:

XX	<u>Appellant</u>
- and -	
WHITTINGTON HOSPITAL NHS TRUST	<u>Respondent</u>

Christopher Johnston QC and Claire Watson (instructed by Irwin Mitchell LLP) for the Appellant
Lord Faulks QC and Charles Feeny (instructed by Bevan Brittan LLP) for the Respondent

Hearing dates: 7-8 November 2018

JUDGMENT

Lord Justice McCombe:

1. Today the court has handed down its judgments on the appeal and on the cross appeal in this case. The parties have most helpfully agreed a draft order dealing with consequential matters arising following our judgments. We make an order in that form. There is only one outstanding point of disagreement and that is upon the Respondent's application for permission to appeal to the Supreme Court. We have considered that application, with the benefit of written submissions for both parties.
2. Having considered the points made by the parties, the court refuses permission to appeal. However, it recognises that it has not followed an earlier decision of this court and it appreciates that the case has raised a point of law of general public importance. However, it has no desire to grant permission to appeal before a panel of the Supreme Court has had an opportunity to consider whether a further full appeal is really necessary, particularly in view of the consequences of any further delay for the Appellant. It is noted that no arguments have been presented by the Respondent as to why this court's decision is said to be wrong.