



ABIDJAN PERSONAL INJURY GROUP LITIGATION
BEFORE MR JUSTICE WYN WILLIAMS
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

CLAIM NO: HQ06X03370 HQ06X03393
HQ07X00599 HQ07X01068
HQ07X01604 HQ07X02192
HQ07X02632 HQ08X02479
HQ08X02695 HQ08X02930
HQ08X03218 HQ08X03436
HQ08X03941 HQ08X04292
HQ08X04536 HQ08X04856
HQ09X00097 HQ09X00383
HQ09X00917 HQ09X01822
HQ09X02299 HQ09X02764
HQ09X03485 HQ09X01366

BETWEEN:

MR YAO ESAIE MOTTO & OTHERS

Claimants

- and -

TRAFIGURA LIMITED

- and -

TRAFIGURA BEHEER BV

Defendants

ORDER OF THE HONOURABLE MR JUSTICE MACDUFF

UPON HEARING Mr Robert Jay Q.C. Leading Counsel for the Claimants.

AND UPON READING the draft witness statement of Martyn Day (which will be signed and filed today).

WHEREAS:

- (1) Mr Justice Macduff is the Case Managing Judge of the Abidjan Personal Injuries Litigation in the United Kingdom.
- (2) Messrs Leigh Day & Co are and have been at all material times solicitors on the Court record acting for 29,624 Claimants, being the Claimants named on the Claim Form issued in the High Court of Justice Queen's Bench Division and subject to a Group Litigation Order made on 7th February 2007.
- (3) By a Settlement Agreement signed by the parties to the proceedings on 8th September 2009 and made fully effective by notice dated 19th September 2009 the claims of the 29,624 Claimants were compromised on the basis of the global payment by the Defendant of an agreed sum which was to be paid by the Defendant in Ivorian francs into an account in the name of Leigh Day & Co held at the Société General bank in Abidjan.
- (4) On 23rd September 2009 the High Court of Justice (Mr Justice Macduff presiding) approved the settlement in relation to the child Claimants and was fully apprised of the matters set out above.
- (5) On 23rd September 2009 the agreed sum was paid by the Defendant into the said bank account under the terms of the settlement agreement, thereby discharging the Defendants' liability to the 29,624 Claimants.
- (6) The said settlement sum, less payments contractually due the Claimants' representatives (namely, 3% of each Claimant's share of the settlement sum) is held on trust by Leigh Day & Co on behalf of the 29,624 named Claimants for whom they continue to act, for equal distribution to the Claimants (and none other) under the terms of the Settlement Agreement.

(7) The Court has been informed that the only sums thus far paid out of the said account at the order of Leigh Day & Co have been paid only to certain of the Claimants and the Claimants' representatives.

IT IS HEREBY ORDERED THAT

1. That on 23rd September 2009 the High Court of England & Wales approved the settlement agreed between the Claimants and the Defendants.
2. That the monies paid by the Defendants in accordance with the settlement agreement were solely and exclusively for the Claimants named in the Schedule to the Order (namely, the said 29,624 Claimants) and no other persons or entities.
3. That such monies are held on trust by Leigh Day & Co for distribution solely and exclusively to the Claimants named in the Schedule to the Order (subject to the said sums contractually due to the Claimants' representatives referred to under paragraph 7 of the preamble above) and to no other persons or entities.
4. That the High Court of England & Wales is deeply concerned that the sums paid in pursuance of the settlement agreement might be distributed to persons or entities other than the Claimants named in the Schedule to the Order and that this would amount to a frustration of the Order of the High Court of England & Wales.

Dated this 4th day of November 2009