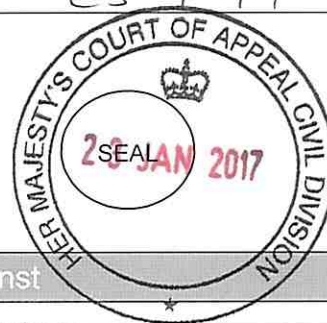


Appellant's notice

(All appeals except small claims track appeals and appeals to the Family Division of the High Court)

Notes for guidance are available which will help you complete this form. Please read them carefully before you complete each section.

| For Court use only | |
|-----------------------|-----------|
| Appeal Court Ref. No. | 2017/0159 |
| Date filed | 23.1.17 |



Section 1 Details of the claim or case you are appealing against

Claim or Case no. Fee Account no. (if applicable)

Help with Fees - Ref no. (if applicable) - -

Name(s) of the ☐ Claimant(s) ☒ Applicant(s) ☐ Petitioner(s)

(1) Anthony Victor Lomas, (2) Steven Anthony Pearson, (3) Paul David Copley, (4) Russell Downs, (5) Julian Guy Parr (The Joint Administrators of Lehman Brothers International (Europe) (In Administration))

Name(s) of the ☐ Defendant(s) ☒ Respondent(s)

(1) Burlington Loan Management Limited, (2) CVI GVF (LUX) Master S.A.R.L, (3) Hutchinson Investors, LLC, (4) Wentworth Sons Sub-Debt S.A.R.L, (5) York Global Finance BDH, LLC, (6) Goldman Sachs International

Details of the party appealing ('The Appellant')

Name

Goldman Sachs International

Address (including postcode)

c/o Cleary Gottlieb Steen & Hamilton LLP
City Place House
55 Basinghall Street
London
EC2V 5EH

Tel No. +44 20 7614 2200

Fax +44 20 7600 1698

E-mail jkelly@cgsh.com

Details of the Respondent to the appeal

Name

The Joint Administrators of Lehman Brothers International (Europe) (In Administration)

Address (including postcode)

c/o Linklaters LLP
One Silk Street
London
EC2Y 8HQ

Tel No. +44 20 7456 2000

Fax +44 20 7456 2222

E-mail patrick.robinson@linklaters.com

Details of additional parties (if any) are attached

☒ Yes ☐ No

Section 2 Details of the appeal

From which court is the appeal being brought?

☐ The County Court at

☐ The Family Court at

☒ High Court

☐ Queen's Bench Division

☒ Chancery Division

☐ Family Division

☐ Other (please specify)

What is the name of the Judge whose decision you want to appeal?

Mr Justice Hildyard

What is the status of the Judge whose decision you want to appeal?

☐ District Judge or Deputy

☐ Circuit Judge or Recorder

☐ Tribunal Judge

☐ Master or Deputy

☒ High Court Judge or Deputy

☐ Justice(s) of the Peace

What is the date of the decision you wish to appeal against?

5 October 2016

12 December

Is the decision you wish to appeal a previous appeal decision? ☐ Yes ☒ No

Section 3 Legal representation

Are you legally represented?

☒ Yes ☐ No

If Yes, is your legal representative (please tick as appropriate)

- ☒ a solicitor
- ☐ direct access counsel instructed to conduct litigation on your behalf
- ☐ direct access counsel instructed to represent you at hearings only

Name of your legal representative

Cleary Gottlieb Steen & Hamilton LLP

The address (including postcode) of your legal representative

City Place House
55 Basinghall Street
London
EC2V 5EH

| | |
|---------|---------------------|
| Tel No. | +44 20 7614 2200 |
| Fax | +44 20 7600 1698 |
| E-mail | jkelly@cgsh.com |
| DX | |
| Ref. | JK/JB/YJK/80277-022 |

Are you, the Appellant, in receipt of a Civil Legal Aid Certificate?

☐ Yes ☒ No

Is the respondent legally represented?

☒ Yes ☐ No

If 'Yes', please give details of the respondent's legal representative below

Name and address (including postcode) of the respondent's legal representative

Linklaters LLP
One Silk Street
London
EC2Y 8HQ

| | |
|---------|---------------------------------|
| Tel No. | +44 20 7456 2000 |
| Fax | +44 20 7456 2222 |
| E-mail | patrick.robinson@linklaters.com |
| DX | |
| Ref. | Tony Bugg/Patrick Robinson |

Section 4 Permission to appeal

Do you need permission to appeal?

☒

Yes

☐

No

Has permission to appeal been granted?

☒

Yes (Complete Box A)

☐

No (Complete Box B)

BOX A

Date of order granting permission

12 December 2016

Name of judge granting permission

Mr Justice Hildyard

BOX B

I

the Appellant('s legal representative)
seek permission to appeal.

If permission to appeal has been granted **in part** by the lower court, do you seek permission to appeal in respect of the grounds refused by the lower court?

☐

Yes

☐

No

Section 5 Other information required for the appeal

Please set out the order (or part of the order) you wish to appeal against

Declarations (ii), (iii), (vi) and (viii) to (xv) of the Order of Mr Justice Hildyard dated 12 December 2016, attached to this Appellant's Notice.

Have you lodged this notice with the court in time?
(There are different types of appeal -
see Guidance Notes N161A)

☐

Yes

☒

No

If '**No**' you must complete
Part B of Section 9 and Section 10

Section 6 Grounds of appeal

Please state, in numbered paragraphs, **on a separate sheet** attached to this notice and entitled 'Grounds of Appeal' (also in the top right hand corner add your claim or case number and full name), why you are saying that the Judge who made the order you are appealing was wrong.

☒

I confirm that the grounds of appeal are attached to this notice.

Section 7 Arguments in support of grounds for appeal

- ☐ I confirm that the arguments (known as a 'Skeleton Argument') in support of the 'Grounds of Appeal' are set out **on a separate sheet** and attached to this notice.

OR (in the case of appeals other than to the Court of Appeal)

- ☐ I confirm that the arguments (known as a 'Skeleton Argument') in support of the 'Grounds of Appeal' will follow within 14 days of filing this Appellant's Notice. A skeleton argument should only be filed if appropriate, in accordance with CPR Practice Direction 52B, paragraph 8.3.

Section 8 What are you asking the Appeal Court to do?

I am asking the appeal court to:-
(please tick the appropriate box)

- ☐ set aside the order which I am appealing
- ☒ vary the order which I am appealing and substitute the following order. Set out in the following space the order you are asking for:-

An order setting aside declarations (ii), (iii), (vi) and (viii) to (xv) of the Order of Mr Justice Hildyard dated 12 December 2016, and granting in their place the declarations set out in the attached set of draft declarations.

- ☐ order a new trial

Section 9 Other applications

Complete this section **only** if you are making any additional applications.

Part A

- ☐ I apply for a stay of execution. (You must set out in Section 10 your reasons for seeking a stay of execution and evidence in support of your application.)

Part B

- ☒ I apply for an extension of time for filing my appeal notice. (You must set out in Section 10 the reasons for the delay and what steps you have taken since the decision you are appealing.)

Part C

- ☒ I apply for an order that:

As agreed between the parties, (1) Goldman Sachs International and the Senior Creditor Group (consisting of Burlington Loan Management Limited, CVI GVF (LUX) Master S.A.R.L and Hutchinson Investors, LLC) may file their skeleton arguments in support of their Grounds of Appeal by 12 May 2017, and (2) the Joint Administrators of Lehman Brothers (Europe) and Wentworth Sons Sub-Debt S.A.R.L may file their skeleton arguments in response by 28 July 2017.

(You must set out in Section 10 your reasons and your evidence in support of your application.)

In support of the application(s) in Section 9, I wish to rely upon the following reasons and evidence:

Part B

The Appellant applies for an extension of time of one day for filing the Appellant's Notice.

It had been arranged that the Appellant's Notice would be filed on Friday, 20 January 2017 pursuant to the Order dated 12 December 2016 made by Mr Justice Hildyard. Unfortunately, due to an oversight on the part of the Cleary Gottlieb representative who attended at Court to file the Appellant's Notice, he had taken an incomplete set of documents to Court. Immediately before he left the office for the Court, he had put down the set of appeal papers. When he picked up the papers to travel to Court, he did not notice that certain of the papers, including the Appellant's Notices, had been placed out of sight under a bag. By the time he discovered the mistake, called the office, and the misplaced documents were located, the court fees counter had closed at 4.30 p.m., and Cleary Gottlieb was unable to file the Appellant's Notice on Friday, 20 January 2017.

A copy of the signed Appellant's Notice and all supporting documents were sent to all parties by email on the evening of Friday, 20 January 2017, together with a letter explaining the position and explaining that the Appellant would file the Appellant's Notice on Monday, 23 January 2017.

This Appeal, and the request for an extension of time, is being lodged following the opening of the Court today on Monday, 23 January 2017, being the first opportunity after the error was made to lodge the appeal papers with the court. The Appellant respectfully requests that the Court makes an order extending the time for filing the Appellant's Notice by one day to 23 January 2017.

Part C

The timetable for filing skeleton arguments proposed in Section 9 has been agreed between the parties, in circumstances where the issues raised on the appeal are substantial and several of the parties are engaged in a separate appeal on other aspects of the same proceedings during April 2017. The Appellant understands that the parties jointly seek the Court of Appeal's approval of this proposed timetable.

Statement of Truth – This must be completed in support of the evidence in Section 10
I believe (The appellant believes) that the facts stated in this section are true.

Full name

Name of appellant's legal representative firm

Signed  position or office held

Appellant ('s legal representative) (if signing on behalf of firm or company)

To support your appeal you should file with this notice all relevant documents listed below. To show which documents you are filing, please tick the appropriate boxes.

If you do not have a document that you intend to use to support your appeal complete the box over the page.

In the County Court or High Court:

- ☐ three copies of the appellant's notice for the appeal court and three copies of the grounds of appeal;
- ☐ one additional copy of the appellant's notice and grounds of appeal for each of the respondents;
- ☐ one copy of the sealed (stamped by the court) order being appealed;
- ☐ a copy of any order giving or refusing permission to appeal; together with a copy of the judge's reasons for allowing or refusing permission to appeal; and
- ☐ a copy of the Civil Legal Aid Agency Certificate (if legally represented).

In the Court of Appeal:

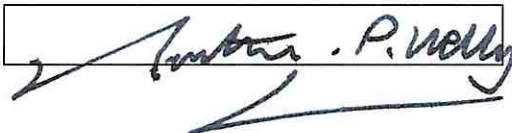
- ☒ three copies of the appellant's notice and three copies of the grounds of appeal on a separate sheet attached to each appellant's notice;
- ☒ one additional copy of the appellant's notice and one copy of the grounds of appeal for each of the respondents;
- ☒ one copy of the sealed (stamped by the court) order or tribunal determination being appealed;
- ☒ a copy of any order giving or refusing permission to appeal together with a copy of the judge's reasons for allowing or refusing permission to appeal;
- ☐ one copy of any witness statement or affidavit in support of any application included in the appellant's notice;
- ☐ where the decision of the lower court was itself made on appeal, a copy of the first order, the reasons given by the judge who made it and the appellant's notice of appeal against that order;
- ☐ in a claim for judicial review or a statutory appeal a copy of the original decision which was the subject of the application to the lower court;
- ☐ one copy of the skeleton arguments in support of the appeal or application for permission to appeal;
- ☒ a copy of the approved transcript of judgment; and
- ☐ a copy of the Civil Legal Aid Certificate (if applicable).

Reasons why you have not supplied a document and date when you expect it to be available:-

| Title of document and reason not supplied | Date when it will be supplied |
|--|-------------------------------|
| Skeleton Argument - The Appellants propose to file their skeleton arguments by 12 May 2017, for the reasons given above in Section 10. | 12 May 2017 |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

Section 12 The notice of appeal must be signed here

Signed

A handwritten signature in blue ink, appearing to read 'P. Velly', is written over a horizontal line within a rectangular box.

Appellant's legal representative

Details of additional parties

Name

Burlington Loan Management Limited, CVI GVF (LUX) Master S.A.R.L, Hutchinson Investors, LLC (together the "Senior Creditor Group")

Address (including postcode)

c/o Ropes & Gray International LLP
60 Ludgate Hill
London EC4M 7AW

| | |
|---------|-----------------------------|
| Tel No. | +44 20 3201 1628 |
| Fax | +44 20 3201 1758 |
| E-mail | James.Douglas@ropesgray.com |

Name

Wentworth Sons Sub-Debt S.A.R.L

Address (including postcode)

c/o Kirkland & Ellis International LLP
30 St Mary Axe
London EC3A 8AF

| | |
|---------|---------------------------|
| Tel No. | +44 20 7469 2000 |
| Fax | +44 20 7469 2001 |
| E-mail | jifree.cader@kirkland.com |

Name

York Global Finance BDH, LLC

Address (including postcode)

c/o Michelmores LLP
12th Floor
6 New Street Square
London EC4A 3BF

| | |
|---------|---------------------------------|
| Tel No. | +44 20 7659 7660 |
| Fax | +44 20 7659 7661 |
| E-mail | charles.maunder@michelmores.com |