



CASE No. CR-2008-000026

**IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES  
INSOLVENCY AND COMPANIES LIST (CHD)**

CR-2008-000026

**IN THE MATTER OF LEHMAN BROTHERS HOLDINGS PLC (IN ADMINISTRATION)  
AND IN THE MATTER OF THE INSOLVENCY ACT 1986**

**MR JUSTICE HILDYARD  
29 NOVEMBER 2023**

**BETWEEN**

**THE JOINT ADMINISTRATORS OF LEHMAN BROTHERS HOLDINGS PLC  
(IN ADMINISTRATION)**

**APPLICANTS**

**AND**

**(1) LB GP NO.1 LIMITED (IN LIQUIDATION)  
(2) LEHMAN BROTHERS HOLDINGS INC.  
(3) DEUTSCHE BANK A.G. (LONDON BRANCH)**

**RESPONDENTS**

---

**ORDER**

---

**UPON** the Applicants' application dated 14 March 2023 for directions under paragraph 63 of Schedule B1 to the Insolvency Act 1986 on Priority Legal Issues 1-5 as set out in that application ("**the Directions Application**" and the "**Act**")

**AND UPON** the application of the Third Respondent dated 27 April 2023 seeking to strike out aspects of the Directions Application including Priority Legal Issue 1 ("**the Strike Out Application**")

**AND UPON** reading the Sixth Witness Statement of Edward John Macnamara dated 14 March 2023, the First Witness Statement of Phillip Denis Taylor dated 27 April 2023, the Third Witness Statement of Ronald John Geraghty dated 30 June 2023 and the Second Witness Statement of Phillip Denis Taylor dated 28 July 2023

**AND UPON** Priority Legal Issues 2-5 having been withdrawn and the Strike Out Application

having been withdrawn save in so far as it related to Priority Legal Issue 1, and it having been ordered by consent by Order dated 12 October 2023 that the Directions Application and the Strike Out Application should proceed in respect of Priority Legal Issue 1 only

**AND UPON** the judgment of the Court of Appeal dated 20 October 2021 ([2021] EWCA Civ 1523) which determined that the claim against Lehman Brothers Holdings PLC (“**PLC**”) in respect of subordinated notes liabilities (in respect of which the First Respondent is the relevant creditor, or is the general partner of the relevant creditors, and in respect of which the Third Respondent has an economic interest) (“**Claim D**”) ranks in priority to the claim against PLC in respect of subordinated debt liabilities (in respect of which the Second Respondent is the relevant creditor) (“**Claim C**”)

**AND UPON** hearing Adrian Beltrami KC for the Applicants, Lexa Hilliard KC for the First Respondent, David Allison KC for the Second Respondent and Sonia Tolaney KC for the Third Respondent

**IT IS ORDERED AND DECLARED THAT:**

1. On Priority Legal Issue 1, statutory interest payable on Claim D falls to be paid in priority to the principal amount of Claim C.
2. In so far as it relates to Priority Legal Issue 1, the Strike Out Application is dismissed.
3. The hearing be adjourned in respect of any orders consequential on the Court’s decision (including orders as to costs and permission to appeal), with applications for such orders to be determined by the Court on the papers.
4. For the purposes of filing written submissions in connection with consequential matters referred to in paragraph 3 above, the parties have 14 days from the date of hand down of the judgment to file written submissions on those matters limited to 10 pages.
5. The time period for filing any appellant’s notice under CPR Rule 52.12(2) is extended until 21 days after the Court’s decision as to permission to appeal is delivered.

**Service of this Order**

The Court has provided a sealed copy of this Order to the serving party:

Hogan Lovells International LLP (solicitors for the Applicants)

FAO: John Tillman, Reuben Vandercruyssen

[John.Tillman@hoganlovells.com](mailto:John.Tillman@hoganlovells.com), [Reuben.Vandercruyssen@hoganlovells.com](mailto:Reuben.Vandercruyssen@hoganlovells.com)