IN THE COUNTY COURT AT LIVERPOOL

Liverpool Civil and Family Court
35 Vernon Street
Liverpool
L2 2BX

Date: 25/02/2015

Before :

DISTRICT JUDGE JENKINSON

Case No: A14YJ039

Between:-

KIMBERLEY ALLEN — **Claimant**

and

JET2.COM LIMITED — **Defendant**

Mr Simon Murray (instructed by **Bott & Co**) for the **Claimant**

Mr Charles Béar QC and Mr Tom Bird (instructed by **Bird and Bird**) for the **Defendant**

Case No: 3YQ64970

Between:-

ROBERT LAZARE — **Claimant**

and

JET2.COM LIMITED — **Defendant**

Mr Robert Lazare in person

Mr Tom Bird (instructed by **Bird and Bird**) for the **Defendant**

Case No: A51YM358

Between:-

ALEXANDER DOMBOVICH **Claimant**

and

WIZZ AIR HUNGARY LIMITED **Defendant**

Mr Simon Murray (instructed by **Bott & Co**) for the **Claimant**

Mr Charles Béar QC and Mr Tom Bird (instructed by **Bird and Bird**) for the **Defendant**

Case No: A00BL834

Between:-

KELLY BARNES **Claimant**

and

RYANAIR LIMITED **Defendant**

Mr Henry Vanderpump (instructed by **Hughes Walker**) for the **Claimant**

Mr Max Davidson (instructed by **Ince & Co**) for the **Defendant**

Hearing date: 25/02/2015

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JUDGMENT

Background

1. Pursuant to an EU regulation (Regulation (EC) No. 261/2004), ("the Regulation") airline passengers whose flights are subject to cancellation or to a delay of more than 3 hours, may be entitled to claim compensation of between €250 and €600 each from the airline concerned. The carrier is, however, by way of Article 5(3) of the Regulation, afforded a defence to such a claim if it can prove that the cancellation or delay was caused by "*extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken*".

2. Unsurprisingly, the interpretation of this particular provision has been the subject of contested litigation. I will refer, for ease of reference, to the opposing parties in such litigation as "the passengers" and "the airlines". To the extent that I adopt similar terminology when describing the parties in these applications, no disrespect is intended.

3. This litigation has culminated so far in England and Wales with the judgment of the Court of Appeal in the case of Jet2.Com Limited v Ronald Huzar [2014] EWCA Civ 791 ("Huzar"). That judgment is well known to all those involved in the litigation of these claims. In essence, the Court of Appeal found in favour of the passengers, and held that technical problems are not generally considered to be an '*extraordinary circumstance*' so as to afford the airlines the benefit of that defence.

4. Before the judgment of the Court of Appeal, many hundreds of these cases were issued at the County Court at various locations. Many, if not the majority, were transferred to the County Court at Liverpool for case management by specified District Judges, of whom I am one. The reason for this was twofold. Firstly, to ensure a unified approach in their case management. Secondly, to facilitate the collation of individual claims arising from the same flight, in order that, if and when issues fell to be determined at a hearing, there could be a single determination of the issues in respect of each flight, rather than the same issues being litigated in the County Court at

various locations, which would be an inappropriate use of court resources, and which could also potentially lead to inconsistent findings being made.

5. This court took the stance of staying claims in which the airline was raising the defence of extraordinary circumstance in the form of a technical problem, pending the decision of the Court of Appeal on this issue. Immediately after that judgment became available, the unsuccessful airline submitted an application for permission to appeal to the Supreme Court. In the light of this, it was decided to extend the above stays pending either the decision of the Supreme Court as to whether to grant permission for an appeal, or, if such permission was granted, the outcome of that appeal. At that stage, it was felt, balancing the interests of both passengers and airlines that it would be in accordance with the overriding objective (see below) to do so. Whilst these cases are individually worth comparatively little, it was felt appropriate to await an imminent decision of the highest court in England & Wales, rather than possibly require airlines to meet such cases with an appeal pending which might have reversed their obligation to do so. It is to be noted, however, that there was a known and fairly short timescale in that regard. By way of update on the Supreme Court's website dated 9 September 2014, it was advised that a decision on the application for permission to appeal would be made in early November 2014, and (if successful) the full hearing would take place in the first half of 2015, with a judgment anticipated a few weeks thereafter.

6. It is worth adding at this stage that the firms representing the majority of passengers in these cases did not take issue with this court's approach of staying claims pending the outcome of the application to the Supreme Court. They did not, as far as I am aware, make any applications, as they would have been entitled to do pursuant to Rule 3.3 (5) of the Civil Procedure Rules ("CPR"), to request the court to revisit that position.

7. In fact, on 30 October 2014, it was announced that the Supreme Court had refused the airline's application for permission to appeal.

8. The substantive text of the Supreme Court's Order (Lord Neuberger, Lord Sumption and Lord Reed) reads:

"...permission to appeal BE REFUSED in Jet2.com because the application does not raise a point of law of general public importance and, in relation to the point of European Union law said to be raised by or in response to the application, it is not necessary to request the Court of Justice to give any ruling, because the Court's existing jurisprudence already provides sufficient answer."

9. At that point, and based on my experience of case managing these cases at this court, many of the airlines began to meet these claims, and a large number of settlements followed. Their reasons for doing so are matters for them that need not concern the court, and which are irrelevant insofar as these applications are concerned. However, a number of airlines, and for today's purposes Jet2.Com Limited, Wizz Air Hungary Limited, and Ryanair Limited, have, as they are perfectly entitled to do, taken a different stance, and have made applications to stay these claims further. The above four cases have been listed together today for the hearing of those applications, and it is intended, I understand, that this judgment may be utilised more widely insofar as the approach to similar claims is concerned.

10. The basis for these applications is that on 28 May 2014 a preliminary reference to the Court of Justice of the European Union (CJEU) was made in a Dutch case, Van der Lans v Koninklijke Luchtvaart Maatschappij NV (C-257/14) ("Van der Lans") seeking clarification as to the applicability of the above defence in circumstances when a flight delay or cancellation was caused by a technical problem.

11. Whilst those representing many if not the majority of passengers may have acquiesced in the staying of these claims pending the decision of the Supreme Court, in response to this request by the airlines for yet a further stay, they have "cried foul". These applications were hotly opposed, both by Claimants who were represented by counsel instructed by firms heavily involved in this litigation, and by Mr. Lazare, who represented himself at the hearing today.

12. The airlines and passengers stand together in their respective positions in respect of these applications. It is therefore appropriate to deal with these cases by way of a composite judgment, and to address the respective parties' positions together.

The airlines' position

13. On behalf of the airlines, it is submitted:-

a) There is no reason to suppose that the CJEU will refuse to answer the reference made in Van der Lans. By reason of Article 99 of the Consolidated version of the Rules of Procedure of the Court of Justice dated 25 September 2012 the CJEU is vested with the option of ruling by way of reasoned order where a question referred to them for a preliminary ruling is identical to a question upon which they have already ruled, where the reply can clearly be deduced from existing case law, or where the answer to the question referred for a preliminary ruling admits of no reasonable doubt. The fact that the CJEU has not adopted this summary procedure is evidence, say the airlines, that the CJEU sees an issue worthy of full consideration;

b) According to the 2013 annual report of the CJEU, it took an average of 16.3 months for the CJEU to give a preliminary ruling. Applying that average, the ruling of the CJEU in Van der Lans might be expected by about September 2015, unless the request is withdrawn, and there is nothing to suggest that it will be;

c) The existing CJEU case law is ambiguous and was acknowledged as such by the Court of Appeal in "Huzar". The reference seeks clarification from the CJEU on specific points of ambiguity directly relevant to the present cases. In support of this contention, Mr Béar took me through the European case law. The airlines' position is summarised at paragraphs 20 to 29 of the skeleton argument submitted by the applicant airline in the case of Kimberley Allen v Jet2.com

Limited and I will not rehearse it here. Essentially, Mr Béar (addressing the court here on behalf of all of the airlines, his submissions being adopted by Mr Bird and Mr Davidson) articulated the arguments that Jet2.Com Limited had ventilated, unsuccessfully, before the Court of Appeal in Huzar.

d) It is possible that the CJEU will add to or even modify the judgment or the Court Of Appeal in "Huzar". By reason of Section 3 of the European Communities Act 1972, the English courts are bound by any rulings of the CJEU as to the proper interpretation of the Regulation. If, say the airlines, there is a possibility of the CJEU adding to or modifying Huzar, then justice dictates that claims the outcome of which may be affected thereby should be stayed. It is wrong, say the airlines, that they should be required to deal with these cases on the basis of a binding precedent of the Court of Appeal in Huzar, which in many cases would result in judgment or of necessity settlements in favour of the passengers, when an awaited decision of the CJEU may mean that those passengers had then received compensation to which they should not have been entitled;

e) The Regulation is an instrument of European law and it is desirable that it is applied consistently by courts throughout the European Union. This is not achieved if the court proceeds on the basis of a precedent set by the Court of Appeal of England & Wales on the determination of an issue of European law;

f) It is almost invariably appropriate to grant a stay when an issue of law arising in the proceedings has been made the subject of a reference to the CJEU. In that regard, the airlines refer to two cases of the Court of Appeal, Johns v Solent SD Limited [2008] EWCA Civ 790 and Boehringer Ingelheim KG v Springward Limited [2008] EWCA Civ 83 which, they submit, are authority for the proposition that the balance of prejudice should weigh heavily in favour of a stay in such circumstances;

g) The prejudice to the airlines in being required to meet these claims (in accordance with the existing binding authority of Huzar) considerably eclipses the prejudice to the passengers in awaiting the outcome of the CJEU referral. Specifically:-

i. In those circumstances the airlines would be required to pay considerable amounts (to which I will return below), which it would be difficult if not impossible to recover from individual passengers in the event that the CJEU ultimately supports the airlines' position that they have a valid defence to such claims. Settlements made in the interim could not be reopened. Judgments may need to be appealed, if procedurally possible, and if so attempts then made to recover damages from a large number of individuals, which the airlines submit would be a difficult if not impossible and certainly expensive exercise;

ii. On the other hand, the only prejudice to the passengers in awaiting the outcome of the CJEU referral is a delay of approximately 7 months (adopting their above best estimate of September 2015 for the outcome of the CJEU referral) in receiving compensation, if, at that stage the CJEU does not support the airlines position. The airlines contend that the passengers can be properly compensated in interest in that regard. On behalf of his clients, Mr Béar was able, today, to offer an undertaking of behalf of the airlines to compensate passengers for interest for the period of any stay, and although he was unable to offer a specific rate of interest in that regard, was prepared to leave that in the hands of the court should I take the view that this offer negates the passengers' contention that they are prejudiced in that specific regard. Moreover, say the airlines, the passengers are not actually out of pocket (save perhaps in respect of court

fees for those passengers whose disbursements have not been funded by solicitors). Effectively, there would simply be a delay in their receipt of the fixed monetary award applicable under the Regulation. The position can be distinguished from that of a Claimant who has actually lost money (for example loss of earnings). They are benefiting from a windfall or bonus imputed by the Regulation, and there is no real prejudice to a passenger in awaiting those funds if the CJEU subsequently supports their entitlement to them;

iii. Any stay need not be open-ended. The court could judicially manage the stay by way of periodic review hearings, and if needs be lift it if it was felt that the airlines were being dilatory, or that there was no real prospect of an imminent judgment in the Van der Lans case;

iv. Passengers who have delayed in some cases years between the delayed flight and bringing their claims should not be entitled to criticise the delay imputed by a stay, in circumstances in which their actions have not demonstrated any degree of urgency in the recovery of the compensation on their part.

h) The decision of the Supreme Court to refuse permission in the Huzar appeal, did not utilise language to suggest that the panel considered there was no arguable point of law (contrast the terminology used by the Supreme Court when at the same time refusing permission in the appeal in Dawson v Thomson Airways Limited [2014] EWCA Civ 845). Rather, the terminology used by the Supreme Court implied that they considered that any point of law was not appropriate to be considered at this time;

i) The applicant to the Supreme Court (Jet2.com Limited) did not ask the Supreme Court to stay the appeal pending Van der Lans. Accordingly

the Supreme Court did not have to consider any overlap between domestic proceedings and a pending reference to the CJEU;

j) As is made clear by paragraph 3.3.3 of the Supreme Court Practice Direction 3, a decision of the Supreme Court to refuse permission to appeal should not be treated as a precedent and accordingly it would be wrong for this court to rely upon the reasoning given by the Supreme Court in refusing permission, and summarised at paragraph 8 (above).

The passengers' position

14. In response, on behalf of the passengers, it is submitted:-

a) It is premature on the basis of the information presently available to assume that the CJEU sees any merit in the reference made in Van der Lans. At this stage there is effectively no information available as to the point that proceedings within the CJEU have reached. This court does not even know whether or not that case has yet been allocated to an Advocate General;

b) There is a lack of realistic information as to the likely timescale of Van der Lans. Moreover, the passengers point to other airline cases considered by the CJEU, where the timescale between referral and judgment was in the region of, if not in excess of, 2 years. There is no evidence, say the passengers, that this issue is going to be addressed by the CJEU within the timescale contended for by the airlines, or by any imminent date;

c) The existing CJEU case law is clear and entirely consistent with the judgment of the Court of Appeal in Huzar for the reasons set out at paragraphs 25 to 41 of the passenger's skeleton argument in Kimberley Allen v Jet2.Com Limited. The airlines ventilated the identical arguments before the Court of Appeal, without success. The Supreme Court refused their application for permission to appeal. Effectively,

say the passengers, the airlines are inviting this court to rehear the issue and to reach a different conclusion;

d) There is no authority to the effect that cases should be stayed in England and Wales even if there is a possibility that a pending case before the CJEU may take a different view, and even potentially result in a variation of the position previously taken in this jurisdiction. Each member state has its own judicial process, and in the present case the issue has been considered by the two highest courts in England and Wales. The matter rests with the considered and definitive opinion of the Court of Appeal in Huzar. It would be untenable, say the passengers, if the judicial process of individual states was required to be put on hold every time the CJEU was possibly considering a potentially relevant referral from another state. The cases relied upon by the airlines in support of their contention that a stay is desirable if not usual in such circumstances, are fact specific, distinguishable, and do not lay down any principle of general application. The only principle is that the court has an unfettered discretion in determining whether or not to stay these claims, as long as that discretion is exercised judiciously and in accordance with the overriding objective (below);

e) The passengers have by way of stay(s) imposed thus far, been prevented from pursuing further, and if necessary to final hearing, compensation to which they became entitled as of the date of the delayed flight, and to which they remain entitled on the basis of a decision of the Court of Appeal in England and Wales. It is naive, say the passengers, to assume that if Van Der Lans is resolved in their favour (in accordance, they say, with existing CJEU law and Huzar) these airlines will promptly settle their claims. The likelihood is, say the passengers, that the airlines will seek refuge in another European case, or seek to re-litigate any issues arising from any further uncertainties through the courts in England and Wales and ultimately,

potentially, the CJEU again. The passengers are, they contend, on an airline driven merry-go-round that shows no sign of stopping;

f) In refusing permission to appeal, the Supreme Court was aware of the Van der Lans reference. They were invited to make a reference themselves, but declined to do so. Throughout the course of its progression through the courts of England and Wales, it would have been open to District Judge Dignan, who heard the case at first instance (in his case subject to CPR rule 68.2(2)(b)), His Honour Judge Platts (who heard the first appeal), and the Court of Appeal to make a reference to the CJEU if they considered it appropriate. No such reference was made.

g) The Supreme Court Practice direction is intended to prevent the possibility of a party relying on their refusal to allow permission to appeal as a precedent to the effect that their Lordships have determined the issue in favour of the court below, and hence effectively elevating that decision to the status of one of the Supreme Court. It would be foolhardy, however, for a lower court to disregard such orders, albeit recognising that they do not stand as precedent.

The applicable rules

15. I am entitled to stay these claims pursuant to Rule 3.1 (1) (f) of the CPR. Whether to do so or not is a case management decision. In exercising my discretion in that regard, I am required (by CPR 1.2) to seek to give effect to the overriding objective of dealing with the case justly and at proportionate cost (CPR 1.1 (1)). Doing so, includes, so far as is practicable (CPR 1.1 (2)):-

(a) Ensuring that the parties are on an equal footing;

(b) Saving expense;

(c) Dealing with the case in ways which are proportionate –

(i) to the amount of money involved;

(ii) to the importance of the case;

(iii) to the complexity of the issues; and

(iv) to the financial position of each party;

(d) Ensuring that it is dealt with expeditiously and fairly;

(e) Allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases; and

(f) Enforcing compliance with rules, practice directions and orders.

Discussion

16. As is invariably the case when considering such a list, some factors are more relevant to the individual case than others. I am of the view that in the application of the overriding objective here the most relevant factors are the need to deal with these cases justly, in a manner proportionate to the amount of money involved, expeditiously and fairly.

17. The airlines make this application to stay these claims further. The burden of persuading the court to do so rests with them. They seek to delay further a right to compensation that, according to the appeal process as now exhausted in England & Wales, the passengers have under the Regulation.

18. The financial value of these claims to each passenger is easily ascertained. It is a set amount as set out at paragraph 1 (above). Individually these are not large claims. They fall well within the ambit of the small claims track.

19. I do not accept, however, that these sums represent a windfall or bonus to these passengers, so as to reduce the prejudice that they suffer as a consequence of the delay that the airlines seek, when compared to a Claimant who has, for example, been put out of pocket by way of say lost earnings or

damaged property. The passengers may not be out of pocket in that sense, but a stay of proceedings still withholds from their pockets an award to which they are presently entitled by way of a judgment of the Court of Appeal, and which they should under present law have paid to them now, to use as they think fit.

20. I do not consider that the issue of interest features heavily in the consideration of prejudice attendant on delay. Taking even the judgment debt rate of 8%, only very small sums would be involved given the amounts in issue.

21. Neither am I persuaded by the airlines' submission that a passenger who has not brought their claim timeously cannot realistically complain about the further delay that a stay of proceedings would impute. This would require a case by case analysis as to the reason for the delay in bringing the claim, when the passenger became aware of their entitlement to do so etc. Furthermore, whilst some claims have been brought long after the delayed flight, others have been brought remarkably quickly, such as that of Mr Dombovich, who issued his claim at the County Court within 2 months of the delayed flight.

22. What then is the potential prejudice to the airlines in refusing a stay? I accept that many cases may then proceed to settlement or judgment in the light of the binding authority of the Court of Appeal in Huzar. I also accept as a matter of common sense that the recovery of sums paid, if the Van der Lans decision ultimately results in a change in the law of England & Wales, may be impossible or at least impractical in many if not most cases. There is, therefore, undoubtedly potential prejudice to the airlines which I must and do weigh in the overall balance when considering these applications to stay.

23. I do not consider that it is necessary, for the purposes of this judgment, for me to embark on a detailed analysis of the existing European Law. This was considered by the Court of Appeal in Huzar. The issues were further ventilated at paragraphs 11 onwards of the appellant airline's application for permission to appeal to the Supreme Court. The airlines' submissions did not find favour with either court. Their Lordships explained their reasons for refusing

permission to appeal as set out at paragraph 8 (above). Reminding myself that this is not a precedent, I respectfully agree.

24. For these purposes, however, I will assume (as the airlines invite me to do) that there is a *possibility* that there may follow a decision of the CJEU that might affect the presently established position. To go further and attempt to quantify that possibility is in my judgment inappropriate. On the other hand, to dismiss such a situation as a complete impossibility would be unrealistic.

25. Even making that assumption, I do not accept that this imputes an obligation to stay these claims, or that this is the presumed or usual course of action. Each case is determined on it's own facts, and I am satisfied that the cases that the airlines have referred me to in that regard are fact specific cases based on unusual facts, and are distinguishable from the present situation. There is, of course, an obligation to exercise my discretion in determining the issue on the facts of these cases in accordance with the overriding objective.

26. The airlines have not, in my judgment, adduced adequate evidence on either the likely length of the delay or their possible exposure in financial terms in the meantime. The reference to the CJEU was made in Van der Lans 9 months ago. The airlines would, I have little doubt, have been aware of this at an early stage. I have no doubt that they were aware of the reference by 8 July 2014, as it was brought to the attention of the Supreme Court in Jet2.Com Limited's application for permission to appeal of that date. As is clear from the evidence that was adduced for the purposes of this hearing, those representing Jet2.Com Limited are in contact with, and are receiving some co-operation from the airline involved in Van der Lans. I find it, surprising, therefore, that the best that the airlines are able to tell me as to the likely timescale is based on averages as summarised at paragraph 13 b) above, with an assertion that the CJEU's procedure has become somewhat quicker since the cases that passengers refer to in suggesting that the delay may in fact be rather longer.

27. What I find more surprising, however, is the lack of information before this court as to the extent of the financial exposure of the applicant airlines in the

event that existing and future claims fall to be dealt with under Huzar during the period when they would otherwise have been stayed if these applications succeed. This is clearly a very relevant factor to be considered, not least when considering the proportionality of the approach that the airlines invite me to take. Specifically:-

a) In opening on behalf of the airlines, Mr Béar provided me with what are, I find, fairly vague estimates based on the totality of flights to or from European destinations. These estimates of course include the flights of all airlines operating such flights, many of whom do not seek a stay, and who are not a party to these applications;

b) When specifically asked by me, Mr Béar was able to take instructions and tell me that Jet2.Com had around 450 litigated claims and around 3 times that number of intimated claims. Wizzair Hungary Limited, I was told, have only around 20 litigated claims. They estimate that around 75% of these involve a Huzar issue;

c) Having sought further information over the lunchtime adornment, Mr Béar was able to give me some more figures. Apparently Jet2.Com Limited's system record as "new" correspondence received in respect of a newly intimated claim, and as "further" correspondence received on an already intimated claim. Between October 2012 and June 2014 they received approximately 10,000 pieces of correspondence on "new" claims and 7,400 on "further" claims. The figures for the period from June 2014 to last week were 6,300 and 7,500 respectively. I find these figures based on pieces of correspondence to be unhelpful, and difficult to reconcile with the figures given at paragraph 27 b) (above);

d) I say so in this context. I am aware from my experience of the case management of many of these cases that airlines have available to them data that enables them to say with precision which of their flights were delayed, by what extent and why. That information invariably features in defences filed, as for example it does in the defence in the

case of Kimberley Allen v Jet2.Com Limited, wherein the Defendants plead the scheduled departure and arrival times of the flight, the actual departure and arrival times, and the reason for the delay;

e) Despite this, this court has been provided with estimates that are rudimentary in the extreme, based on national figures for all flights, assumptions and estimates, numbers of letters received etc. The assessment of the number of passengers who have potential claims based on a past flight sufficiently delayed for a technical reason should have been readily obtainable. Whilst that figure is no guarantee as to the extent of future flight delays/their reasons, and accepting that the percentage of past passengers presenting claims is not necessarily indicative of the future (as passengers may be becoming more aware of the potential for such claims or may, as the airlines suggest, have been awaiting this decision) those figures would have formed a far better starting point. I was told that Jet2.Com Limited have a figure in their accounts for these claims. That figure, it is presumed, has not been plucked from nowhere, and its constituents would have assisted in estimating the possible financial consequences of staying these claims as requested, or not. Ryanair Limited, I add, have assisted no further. I have a witness statement in support of their application to stay stating that a "*huge number of these claims have already been issued*" and that they are "*receiving each week a substantial number of claims to which (Ryanair) considers the Article 5 (3) defence applies*". The witness goes on to calculate that airlines potential financial exposure from each delayed fight as upwards of €47,000, assuming of course that the flight was full and every passenger claims. The court could have been given far more precise figures as to the number of delayed flights attendant upon a technical fault, the numbers of passengers involved and claims intimated.

28. Many passengers are represented by solicitors, but many, including one of the 4 passengers involved in this hearing, Mr Lazare, are not. In the context of claims worth between €250 and €600 it is not in my judgment reasonable or

proportionate to have, as the airlines suggest, periodic review hearings to monitor the progress of the Van der Lans reference and the duration of the stay. Recoverable costs of that exercise if the passengers succeed will almost inevitably be restricted by the small claims track regime. The involvement of Litigants in person in particular in such reviews may be restricted by restraints of time and expense. The airlines would inevitably be represented. There is therefore a real risk, contrary to the overriding objective, of the parties not being on an equal footing.

29. The airlines are inviting me to stay, for a presently indeterminate period, the claims of passengers whose rights of action have been upheld by a binding precedent of the Court of Appeal, in case, in the future, the Van der Lans case precipitates a change to the law in this jurisdiction, without any assurance that matters would stop there if the Van der Lans case were to be determined in the passengers favour. The airlines have (as they are fully entitled to do) fought these issues at every judicial level in England and Wales. This court has stayed claims to facilitate this. However, in my judgment, a line should now be drawn. Justice delayed is justice denied. Whilst recognising the reality of the airlines argument that they may suffer prejudice as a consequence should Van der Lans be determined in their favour, in the application of the overriding objective I find that the passengers are entitled to have their cases proceed now, rather than be delayed once again.

30. In the light of the above I do not need to address the argument advanced by Mr Vanderpump on behalf of Kelly Barnes that her case is not a Huzar type case and should therefore proceed even if the other claims are stayed.

Conclusion

31. The Defendants applications to stay these claims pending determination of the case of Van der Lans v Koninklijke Luchtvaart Maatschappij NV (C-257/14) are dismissed.

Related matters

32. As the parties are aware, I will hand down this judgment in open court at 10.30 am on Thursday 26 February 2015. I understand that the parties may either be unrepresented, or represented by agents. I will ensure that the judgment is emailed to the parties.

33. As further discussed with the parties at the conclusion of the hearing today, the parties should try to agree any attendant matters. If this is not possible, any written representations should be made within 7 days. If it is likely that an oral hearing will be required to address such matters, the parties should liaise with the court office in respect of estimated length of hearing and their availability.

Lee D. Jenkinson
District Judge
25 February 2015