

PAYNE HICKS BEACH

VLADIMIR OLEGOVICH POTANIN -and- NATALIA NIKOLAEVNA POTANINA

Press Release upon Judgment in Supreme Court Appeal: 31st January 2024

1. Payne Hicks Beach (the team comprising **Baroness Shackleton of Belgravia, Nick Manners, Camellia Buckmaster and Marina-Fitzalan Howard**) have achieved a significant and landmark victory for their client Mr. Vladimir Potanin in the Supreme Court which will have a long-lasting impact on applications for financial relief following an overseas divorce under Part III of the Matrimonial and Family Proceedings Act 1984. The judgment achieves substantial change for those seeking to bring applications under Part III.
2. Instructing **Edward Faulks KC, Rebecca-Carew-Pole KC and Professor Rebecca Bailey-Harris**, it was successfully argued that the case law that had built up around the legislation was procedurally unfair in respect of the high hurdle faced by a respondent in an application to set aside leave to proceed granted at an ex parte hearing. It was also successfully argued that the threshold for granting leave to proceed is higher than had been accepted to date in the case law. In other words, the leave filter is strengthened.
3. The case raised questions of the interpretation of the leave filter in the legislation and the case law, the appropriate use of judicial resources and public expenditure and most importantly, the fundamental principle of procedural fairness.
4. The Supreme Court justices were unanimous in relation to the threshold of what constitutes a substantial, solid case for leave to bring proceedings following an overseas divorce. This may well lead to a marked reduction in successful leave applications, and may ultimately deter 'divorce tourism'. The judgment also achieves justice for the respondent, such as Mr Potanin, against whom permission to proceed is granted at an ex parte hearing, in removing by a majority the unfair requirement of having to demonstrate a 'knock out blow', very narrowly interpreted in past case law.
5. Full details of the background to the case can be found here:
<https://www.supremecourt.uk/cases/uksc-2021-0130.html>.
6. Baroness Shackleton commented: *"I am delighted, and grateful to the Supreme Court for its careful analysis of how this troubling practice had developed in family law and for putting it right. The judge at first instance wished to change his mind having heard from both parties and I am pleased that he has been vindicated for doing so. Divorce tourists will now have their claims subject to fair and robust scrutiny before being granted leave in this jurisdiction. It is long overdue."*

ENDS

For further media enquiries, please contact
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Notes for Editors

- a) This case marks another victory achieved by Payne Hicks Beach in the Supreme Court, 23 years after the seminal and ground-breaking decision in the case of *White* (where PHB represented the successful wife), which changed divorce law in England forever.
- b) PHB had throughout this case contended that the current practice as seen in the Family Courts had encouraged those who had no connection to England initiating proceedings in our Courts, which had serious ramifications in terms of the cost and workload of the over-stretched British judicial system. This ruling should start to inhibit this dangerous and unjust practice.