



13 MAR 2009  
kim

**CO/10408/07**

**DATED the 13<sup>th</sup> day of March 2009**

**IN THE HIGH COURT OF JUSTICE**

**QUEEN'S BENCH DIVISION**

**ADMINISTRATIVE COURT**

**BEFORE THE HONOURABLE MR JUSTICE SIMON**

**IN THE MATTER of a claim for Judicial Review**

**THE QUEEN ON THE APPLICATION OF**

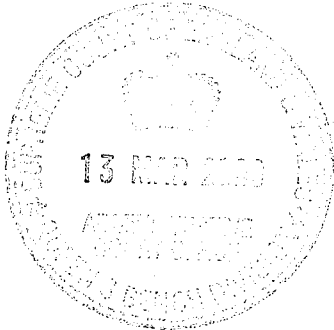
- 1. DOUGLAS FRASER**
- 2. KEVIN SHORT**

**VERSUS THE NATIONAL INSTITUTE FOR  
HEALTH AND CLINICAL EXCELLENCE**

**INTERESTED PARTY:**

**"B.B."**

**(by his mother and Litigation friend, Jane Bryant)**



**UPON HEARING** Mr J. Hyam of Counsel on behalf of the Claimants, Miss K. Hollan (Judgment only) of Counsel on behalf of Messrs Leigh Day & Co the Solicitor for the Claimants, Mr C. Bear Q.C. of Counsel with Mr T. Child, a Solicitor Advocate, on behalf of the Defendant and Mr C. Hallin of Counsel on behalf of the Interested Party upon the claim dated the 21<sup>st</sup> day of November 2007 for Judicial

Review of the Defendant's Clinical Guideline 53 promulgated on the 22<sup>nd</sup> day of August 2007

**AND UPON READING** the written evidence submitted on behalf of the Claimants and the Defendant and Interested Party

**AND** no order for costs having been sought nor made save as is hereinafter provided:

**IT IS ORDERED** that this claim be dismissed

**IT IS FURTHER ORDERED** that Messrs Leigh Day & Co, the solicitor acting on behalf of the Claimants herein, shall, within 14 days from today's date, respond to the letter dated the 12<sup>th</sup> day of March 2009 from Messrs Beachcroft LLP, the solicitor acting on behalf of the Defendant herein

**IT IS FURTHER ORDERED** that the said Defendant be at liberty to respond, if so advised, within 7 days thereafter

**IT IS FURTHER ORDERED** that Messrs Leigh Day & Co be at liberty to respond, if so advised, within 7 days thereafter

**IT IS FURTHER ORDERED** that the issue of whether Messrs Leigh Day & Co should be directed to show cause why a Wasted Costs order should not be made against them be thereafter determined by the Honourable Mr Justice Simon on the papers, and, if appropriate, further directions be made at that stage

**AND IT IS FURTHER ORDERED** that the costs of the Claimants be subject to a detailed Community Legal Service funding assessment

*[This matter occupied the time of the Court from 10.30am to 12.58pm and from 2.15pm to 4.15pm on the 11<sup>th</sup> day of February 2009; from am to pm and from pm to pm on the 12<sup>th</sup> day of February 2009 and from 10.31am to 1.10pm and 2.10pm to 4.45pm on the 12<sup>th</sup> day of February 2009 and from 10.34am to 10.50am on the 13<sup>th</sup> day of March 2009]*

***By the Court***

**DATE 13<sup>th</sup> March 2009**

**IN THE HIGH COURT OF  
JUSTICE**

**QUEEN'S BENCH DIVISION**

**ADMINISTRATIVE COURT**

**MR JUSTICE SIMON**

**O R D E R**

**CO/10408/07**

**Claimants' Solicitor**

Leigh Day & Co  
DX 53326 Clerkenwell

**Ref:** JB TB Fraser/Short

**Defendant's Solicitor**

Beachcroft  
DX 45 London

**Ref:** SH/EXT/NAT120-0508409

**Interested Party's Solicitor**

Saunders  
DX 82950 Mayfair

**Ref:** KIM/45198