

Rules of Service Turn out to be a right hassle for Litigant in Person

The Supreme Court have upheld the decisions of the lower Courts in *Barton v. Wright Hassall LLP* [2018] UKSC 12 not to afford a litigant in person special dispensation in relation to the usual rules of service.

The Appellant had served a claim form on the Respondent's solicitor by e-mail, without obtaining prior confirmation that they were willing to accept e-mail service of the document, in accordance with CPR 6.15(4). The Respondent's solicitor did not reply until some days later to explain that they did not accept service by this method and, as a result, the claim form was not served in accordance with the relevant limitation period.

The Appellant sought an order that his e-mail to the Respondent's solicitor be validated as service under CPR 6.15(2). His request was refused by a District Judge on the basis that there was "no good reason" to make the order requested as the usual routes for service within the CPR had not been exhausted first, notwithstanding that the claim form had been received by the Respondent's solicitor. The District Judge's decision was upheld, although re-reasoned by a Circuit Judge, before the Appellant unsuccessfully renewed his appeal to the Court of Appeal and then the Supreme Court.

Interestingly, two of the Supreme Court's Judges (Lord Briggs and Lady Hale) dissented, taking the view that the Appellant's misconception, namely that service could be permitted by e-mail, was reasonable in the circumstances. They questioned how long the current constraints on service by e-mail will continue to serve a useful purpose. It is widely expected that the Civil Procedure Rule Committee will review these provisions following the Court's judgments.