

CA on appeal from the Peterborough County Court (His Honour Judge De Mille) before Thorpe LJ : 3<sup>rd</sup> December 2002

**JUDGMENT : LORD JUSTICE THORPE:**

1. This is an application by Edyth Agnes Day for permission to appeal an order made by His Honour Judge De Mille on 13th June 2002 in the Peterborough County Court. His final paragraph dismissed Mrs Day's applications for leave to appeal orders made as long ago as 1989 in this court and also dismissed an application which she had issued in November 2001 in order to review a consent order made by Judge De Mille on 21st September 1999.
2. The chances of Mrs Day obtaining permission to appeal do not appear to me to be very strong, given that, as the judgment below records, she had made an offer to compromise the case set out in paragraph 9 of the judge's judgment. Her former husband's response to that offer was certainly not sterile. It is recorded in paragraph 11 of the judgment below, and in my opinion shows that there was a potential compromise available to put an end to this long-running saga.
3. Unfortunately, Mrs Day rejected further progress along the path to consent. However, this morning she has said that she would be prepared to re-explore the road to consent with a mediator as a guide.
4. Accordingly, I will adjourn this application for permission indefinitely and will direct that a letter be addressed to her former husband in Spain inviting him to join in a process of mediation under the supervision of the Court of Appeal. He may accept that invitation and there may then be progress towards conclusion, but Mrs Day has to understand that the process of mediation involves give and take on both sides. It is no good going into mediation saying, "Be reasonable. Do it my way." It is necessary for her to credit her former husband with honourable intentions if he should offer to make contingency provision for her by way of a charge on his estate to cover what, after all, is only an unlikely eventually, namely that his present wife, who I am told is some five years younger than him, should predecease him.
5. I will say that a transcript of this short judgment be made at public expense and that it should be enclosed with the letter of invitation to Mr Day.

Order: Application adjourned as above.

The Applicant appeared in person.

The Respondent did not appear and was unrepresented.