



Neutral Citation Number [2023] EWHC 275 (SCCO)

Case No: SC-2021-BTP-000431

IN THE HIGH COURT OF JUSTICE
SENIOR COURTS COSTS OFFICE

Royal Courts of Justice
London, WC2A 2LL

Date: 23/01/2023

Before :

COSTS JUDGE NAGALINGAM

Between :

David Brierley

Claimant

- and -

Frank Otuo (1)

Defendants

Ruth Otuo (2)

Jason Adu-Gyamfi (3)

Mr Meehan (instructed by **Helix Law Ltd**) for the **Claimant**

Mr Otuo (acting as litigant in person) for the **Defendants**

Hearing dates: 17/01/2023

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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COSTS JUDGE NAGALINGAM

Costs Judge Nagalingam:

1. This judgment concerns the Defendants’ application “For the Claimant [to] redraw the Bill of Costs dated 12 January 2022.”
2. Section 10 of the application states “The Claimant's Bills Of Costs is miscertified as to accuracy and completeness insofar as it fails to identify the various fee earners by name, status (qualification and number of years post qualification experience) and hourly rate claimed by each fee earner for their work and identifying those works claimed accordingly. The Defendants are unable to provide any points of dispute to individual costs until such details are provided in a redrawn Bill of Costs.”.
3. The application attaches a set of the points of dispute which has been served on behalf of the Defendants. The points of dispute contain a single ‘general point’, which is subdivided into points a), b) and c). It is only sub-point c) which is referable to the terms of the index application. The remaining sub-points are otherwise capable of being addressed at a detailed assessment hearing.
4. Sub-point c) sets out the argument for re-drawing the bill as follows:

“The BoC remains miscertified as to accuracy and completeness insofar as it fails to identify the various fee earners by name, status (qualification and number of years post qualification experience) and hourly rate claimed by each fee earner for their work and identifying those works claimed accordingly. The BoC is intolerably opaque. The Paying Party is unable to provide any points of dispute to individual costs until such details are provided in an amended BoC after the current bill is amended or struck out.”
5. The Defendants’ application is dated 17 March 2022 and was sealed by the court on 19 March 2022.
6. The application followed correspondence dated 12 January 2022 serving the bill of costs.
7. An amended bill of costs was served on 30 March 2022. Whilst the covering letter serving the amended bill does not specify the reason for the amendment to be the paying parties’ application, it is obvious that the application prompted the amendment and, subject to arguments as to costs, the paying parties have been successful in securing the amendment their application set out to achieve.
8. The question thereafter is whether, within the terms of the application as presented, the amended bill is compliant given the court of appeal guidance following the case of *AKC -v- Barking, Havering & Redbridge University Hospitals NHS Trust* [2022] EWCA Civ 630.
9. Turning to the amended bill served on 30 March 2022, the narrative sets out the name, status and qualification of four solicitors (three of whom are partners) and their respective dates of admission to the roll of solicitors.
10. Mr Otuo took issue with the failure to spell out how many years of post-qualification experience each solicitor had, alleging that Mr Rimmer had spent a period of time

post qualification working for an insurance company in a capacity that would not count towards his post qualification years of experience.

11. Mr Meehan confessed to being caught off guard by this allegation, and it certainly did not form part of the application before the court nor the evidence presented in support.
12. Having reviewed paragraphs 39 to 41 of the court of appeal's guidance with respect to paper bills, I am satisfied the amended bill is compliant in providing the name, status (e.g. partner), qualification (e.g. solicitor) and date of admission to the roll of solicitors (from which years of post-qualification experience may be calculated).
13. It is thereafter entirely a matter for a paying party if they wish to raise in their points of dispute an argument that a fee earner's actual years of post-qualification experience is not commensurate with the hourly rate being sought.
14. In terms of the differing requirements identified by the court of appeal as between the fee earner information required of a paper bill as compared with an electronic bill, I also address Mr Otuo's argument that the paper bill served in fact ought to have been an electronic bill. I am not required to address this point because it is not in fact a properly articulated factor in the application. However, as a point of principle, if the wrong format of bill has been served it is better addressed at this stage than at the start of a detailed assessment hearing.
15. The genesis of Mr Otuo's argument is the judgment of Steyn J in the first appeal in *AKC*, i.e. [2021] EWHC 2607 (QB). Mr Otuo placed reliance on references to paragraph 5 of the practice direction to rule 47 of the Civil Procedure Rules, and referred to Steyn J's comment that "It is common ground that, in this case, an electronic bill was required in respect of work undertaken after 6 April 2018, whereas a paper bill was permissible in respect of work undertaken up to that date."
16. Mr Otuo raised an argument that the paper bill served on him includes work which post-dates 6 April 2018 and argued therefore he ought to have been served with an electronic bill for such work.
17. Mr Meehan relies on paragraph 5.1(a) of the practice direction to rule 47 of the Civil Procedure Rules and observes the underlying litigation from which the order for costs flows was not a Part 7 multi-track claim. In those circumstances, the receiving party may elect whether to present an electronic bill or a paper bill.
18. In the index matter, the receiving party has exercised their discretion to present a paper bill.
19. Accordingly, on all limbs of this application to redraw the bill, I find in favour of the receiving party and the application is therefore dismissed. There are no procedural irregularities that would otherwise compel or convince me that the latest version of the bill of costs needs to be redrawn and re-served.
20. The costs of this application will be reserved to be addressed at the conclusion of the detailed assessment in this matter. In the event the bill of costs is compromised, a standalone remote hearing may be listed to address the issue of the costs of this application.

COSTS JUDGE NAGALINGAM
Approved Judgment

21. Upon the handing down of this judgment, the parties will also receive sealed copies of a directions order which is intended to effectively case manage the matter to a detailed assessment hearing.