



Case No: J90PE914 AND K00LU633

Neutral Citation Number: [2025] EWHC 217 (KB)

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
PETERBOROUGH DISTRICT REGISTRY
SITTING IN THE COUNTY COURT AT NORWICH

Date: 3 February 2025

Before :

HHJ KAREN WALDEN-SMITH

Between :

(1) ABBOTSLEY LIMITED
(2) VIVIEN INEZ SAUNDERS

Claimants

- and -

(1) PHEASANTLAND LIMITED
(2) KEITH MALCOLM BLACKALL
(3) CHRISTINA BLACKALL
(4) JOHN ALAN GEARING
(5) VIRGINIA LYNN MELESI
(6) STEPHEN JOHN NEWLAND
(7) LAURENCE ANTONY HONEYWILL
(8) DARREN HONEYWILL
(9) ALAN JAMES STEELE
(10) VALERIE ANNE HOLLIMAN
(11) JOY CARROLL SEILLER
(12) NEIL RAYMOND WARREN (Deceased)
(13) JEREMY CHARLES IAN BRINDLEY
(14) A PERSON KNOWN AS COLM

Defendant

SECOND JUDGMENT

KERRY BRETHERTON KC and SAMUEL WARITAY (instructed by way of **DIRECT ACCESS**) for the **FIRST AND SECOND CLAIMANTS**
RICHARD BOTTOMLEY (instructed by **DEBENHAMS OTTAWAY LLP**) for the **FIRST DEFENDANT**
MOHAMMED HAFIAZ (of **LEEDS DAY**) for the **FIFTH DEFENDANT AND THIRTEENTH DEFENDANT**
SECOND, THIRD, FOURTH AND NINTH DEFENDANTS IN PERSON

HER HONOUR JUDGE KAREN WALDEN-SMITH:

1. This is the second judgment after my judgment dealing with applications to recuse, transfer and adjourn this matter. The application to adjourn was granted, the application to transfer was not granted and the application to recuse being marked as totally without merit. As this is a short point in which typographical and grammatical errors can be forgiven I am not giving time for corrections to be made and will simply hand down at 10am on Monday 3 February 2025. Time for any application for permission to appeal runs from that time.
2. The additional issue is with respect to whether there should be a CCMC relating to the consolidated claim which would include a re-visiting of the costs budgets.
3. As I have already set out in the first judgment, at the hearing on 3 April 2024, the two cases were consolidated together and I made an order that the 15-day hearing commence on 6 January 2025 and that there be a further costs case management hearing in June 2024, with the court to request the parties to provide dates to avoid. For reasons I have set out in the first judgment, that trial fixture was broken and was relisted to commence on 27 February 2025 but notice of the refixed hearing was not sent to the court until October 2024. No steps were taken by the court to list the CCMC and no enquires were made as to the availability of the parties. Ms Saunders set out in her fifth statement *“The court administration appears to have broken down completely.”*
4. Solicitors and counsel for the first defendant provided some proposed directions in an attempt to keep the trial but those were not agreed to by the claimants. That attempt to provide directions to save the trial dates were unfortunately described by leading counsel for the claimants in terms that *“she had never heard anything so ridiculous”*.
5. In my judgment it was not possible to keep the trial dates due to the errors that had occurred on the part of the court with respect to listing the CCMC when it should have done, and I have therefore adjourned the matter to commence at the end of April 2025 and into May 2025.
6. I have already given the following directions:
 - (i) The court dispenses with the obligation on the parties in the consolidated claims to re-draft their statements of case;
 - (ii) The consolidated claims shall comprise the Claimants and all the Defendants in both claims save for the Thirteenth Defendant whose trial shall be dealt with separately.
 - (iii) The trial of the consolidated claims shall be listed for 15 days commence on 29 April 2025 and to be listed through to 23 May 2025 (save for a carve-out for Counsel’s convenience);

- (iv) The part of the consolidated claims involving the Thirteenth Defendant is to be dealt with at the end of the 15-day matter will be heard on 27th and 28th May 2025.
9. I have already given directions for disclosure and inspection of documents and have ordered that there shall be a three hour remote hearing for the court to hear further arguments in relation to their respective costs budgets.
10. The claimant contend that they should be entitled to have their costs budgets revisited in light of the order for the claim to be consolidated. The first defendant contends that the issues have been determined and are therefore *res judicata*.

Costs

11. CPR rule 3 sets out the wide discretion the court has with respect to case management including cost budgeting. Included within the court's general powers of management in CPR r. 3.1 is the power to vary or revoke an order (CPR r.3.1(7)).
12. It is worth recalling that the purpose of costs management is that the court should manage both the steps to be taken and the costs incurred by the parties to any proceedings (or variation costs as provided in rule 3.15A) so as to further the overriding objective. The requirement to file and exchange budgets and budget discussion reports falls upon all parties to multi-track claims (save for the exceptions in CPR r.3.12), except litigants in person. CPR r.3.13(6) provides that although a litigant in person is not required to prepare a budget each other party, each other party (other than a litigant in person,) must provide a litigant in person with a copy of that party's budget.
13. The power to order a litigant in person to file and exchange costs budgets is contained in CPR r. 3.13(3)(a): "the court may, on its initiative or application order the parties ...". CPR r. 3.13(3)(b) makes it mandatory to file and exchange costs budgets if all parties consent to an application for such an order for costs. The defendants sought such an order, the second claimant (acting on behalf of herself and the first claimant) did not object to such an order. I did not take that as being an application consented to by all parties (although it strikes me that it could have been viewed in that way) but a matter where I needed to consider the exercise of my discretion.
14. Given the sums that she appears to be willing to pay counsel, I do not understand that Ms Saunders is without the means to instruct solicitors if she wished to. I understand that she was qualified as a solicitor and that she would have had a practising certificate at some point. By deciding to act as a litigant in person and represent the first claimant, of which she is a director, neither claimants nor the defendants nor the court obtain the benefit of a practising solicitor being engaged with the dispassion and skills that would involve.
15. While deciding not to instruct solicitors, the second claimant has decided to instruct counsel by way of direct access to act on her behalf, which I am told includes junior

counsel dealing with the preparatory work. Counsel instructed by Ms Saunders are senior junior counsel (1993 call), who specialises in property matters, and leading counsel (1992 call, 2016 KC), who is also specialist property counsel. Neither counsel are licensed to carry out litigation and I understand that Ms Saunders instructs them as and when she decides to. Plainly that is a matter for her, but the fees being charged by counsel when it was 12-day trial (even if including preparatory work by junior counsel), namely £357,600 out of a total sum of £377,899 for the whole litigation, plainly needed to be budgeted by the court. That was in order to fulfil the overriding objective and so that the costs, for the work being carried out by legal professionals, is budgeted in a way that is reasonable and proportionate.

16. The costs budgeting process means that the court may manage the costs to be incurred by any party in any proceedings (CPR r 3.15(1)) and make a costs management order (CPR r 3.15(2)) which, with respect to the budgeted costs which are not agreed, record the court's approval after making appropriate revisions (CPR r 3.15(2)(b)). Importantly, CPR r 3.15(8) sets out that a costs management order concerns the totals allowed for each phase of the budget, and while the underlying detail in the budget for each phase used by the party to calculate the total claimed is provided for reference purposes to assist the court in fixing a budget, it is not the role of the court in the costs management hearing to fix or approve the hourly rates claimed in the budget. Putting the matter briefly, the court's role is to assess whether the costs claimed – whether by way of time costs or disbursements – is reasonable and proportionate with respect to the work being carried out. It is not so simple as saying that a certain figure is appropriate for a particular phase. The court considers what work is being carried out in that phase and whether that work is reasonable and proportionate taking into account matters such as the complexity and value of the issues in dispute. Nothing prohibits a party from instructing whoever they may wish. Costs budgeting simply protects the paying party from potential excesses on the part of the successful party.
17. Having determined that it was appropriate to consolidate the proceedings I do consider that the costs budgets should be reconsidered as that is a significant development in accordance with the provisions of CPR 3.15A.
18. I have listed a three hour hearing for costs budgeting on 17 February 2025. At that hearing the parties can address me with respect to any issues relating to which costs should be permitted, so long as they abide by the order I make with respect to budgets. I may come to the same conclusions as before, or different conclusions.
19. In order that parties are not taken by surprise with respect to the costs that are to be budgeted, I am making an order that:
 - (i) The first defendant and the fifth and thirteenth defendants are to provide to the court and to the other parties updated and revised schedule H reports by no later than 4pm on 10 February 2025. The

claimants are to provide to the court and to the other parties summary costs reports setting out the phases of work, as set out in a Schedule H, and including details of disbursements and litigant in person costs.

- (ii) The claimants, the first defendant and the fifth and thirteenth defendants are to provide completed budget discussion reports in Precedent R by no later than 4pm on 13 February 2025.
- (iii) The claimant is to provide a bundle of documents containing the updated and revised Schedule H reports and summary and Precedent Rs for the use of the court by 9am on 17 February 2025.

20. As all the parties have shown themselves willing and able to deal with matters in this case by using email, and given the previous difficulties with service, I direct that service is to take place by the documents being sent by email.