IN THE HIGH COURT OF JUSTICE
TECHNOLOGY AND CONSTRUCTION COURT

Case No. HT-2022-000293

Neutral Citation Number: [2024] EWHC 3572 (TCC)

Courtroom No. 27

The Rolls Building
7 Rolls Buildings
Fetter Lane
London
EC4A 1NL

Tuesday, 30th April 2024

Before:
DEPUTY HIGH COURT JUDGE ADRIAN WILLIAMSON KC

B E T W E E N:

HENDERSON & JONES LIMITED & OTHERS

and

GRANGE HEATING SERVICES LIMITED & OTHERS

MR P LAWRENCE KC and MR M GRANT (instructed by Cardium Law) appeared on behalf of the Claimants
MR J EVANS-TOVEY appeared on behalf of the First Defendant
NO APPEARANCE by or on behalf of the Second Defendant

COSTS JUDGMENT

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This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must

ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

DHCJ WILLIAMSON KC:

1. This is an application to amend particulars of claim in a modest claim by TCC standards; "modest" in the sense that essentially the allegations that the claimant companies who run or used to run a well-known hotel in Ludlow had not been well served by the defendants in relation to work, services or advice which were given in respect of the defective plumbing and electrical services at the hotel.
2. The damages claimed are of the order of £3,000,000. In directions given for the current application to amend, the point which arises at the moment is that the first defendant which is for present purposes the end-in-line defendant and the end end-in-line respondent to this application served on 24 April what were described as "written submissions" running to approximately 68 pages. The TCC Guide at section 6.5.4 says that for detailed guidance as to the form, content and length of skeleton arguments, reference should be made to the relevant provisions in the King's Bench Guide, the Chancery Guide and the Commercial Court Guide.
3. I have, therefore, referred counsel to each of those guides. It is not necessary to set out *in extensio* what they say but the gist of it is all that skeleton arguments should be short, no longer than 20 to 25 pages, should not take the place of oral submissions and should not set out extensively matters or law or fact. It is submitted on behalf of the first defendant that the provision I have read from paragraph 6.5.4 of the TCC Guide applies only to applications after the first CMC whereas we are concerned here with an application before the first CMC. It seems to me that is, with respect, an absurd reading of the rule. I put to Mr Evans-Tovey rather that would lead to the conclusion that the TCC was quite content to have unlimited skeleton arguments before the first CMC but then required them to be brief and to the point thereafter. I do not think that is the intention of the guidance.
4. As an alternative, Mr Evans-Tovey submits this: that despite the fact that no application was made to the Court for a longer skeleton argument until his email of Sunday that this document should nonetheless be admitted. I have read the document at pace. I cannot profess to have mastered every detail of the matters Mr Evans-Tovey has sought to put forward, it does not seem to me that this is a proper skeleton argument within the context of the rules. Not only is it very long but it ranges far and wide across matters of fact, law and evidence. It does not seem to me that that is consistent with any of the guidance in any of the guides.
5. That being so, I am not prepared to admit the skeleton argument. It seems to me that as I urged counsel in an email exchange over the weekend, it is necessary for them and the Court to seek to identify matters which can be dealt with within the confines of a one-day hearing allowing for the fact that the Court has to consider the submissions made and unless a reserves judgment is unavoidable, to give judgment today or at the end of the hearing so the parties know where they are with the pleadings.
6. Can I just give this indication? It is an indication merely and non-binding. It seems to me that when dealing with amendments, the Court has to be careful, first of all, to ensure that there is not irretrievable prejudice to the responding party by which I mean, in particular, allowing a new claim which may be subject to a limitation defence to be included as it were "through the back door". Accordingly, if there are objections of principle relating to limitation then those clearly need to be dealt with. I think that there as such objections.
7. At the other end of the spectrum; again, this is really an indication, if it is said that a claim is weak or can briefly be disposed of at trial or is subject to substantial legal objection, it does not seem to me that save in an exceptional case that is a ground for refusing an amendment

but it may well form, as Mr Lawrence KC has suggested, the basis of an application for a preliminary issue, a strikeout, summary judgment or whatever the case may be. In between those, it is not said that there is a question of prejudice through lateness here, so it seems to me that it would be helpful for submissions to be addressed and for me to determine the issues of principle in the sense that I have indicated and to prioritise those as compared to other matters.

End of Judgment.

Transcript of a recording by Acolad UK Ltd
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