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Claim No: BL-2018-001413

**IN THE HIGH COURT OF JUSTICE**
**BUSINESS AND PROPERTY COURTS**
**BUSINESS LIST (ChD)**

Royal Courts of Justice, The Rolls Building
7 Rolls Buildings, London, EC4A 1NL

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**Before**:

**MASTER SHUMAN**

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**Between:**

**(1) SEAMUS DALY**
**(2) PHOTO IMAGES LIMITED** — **Claimants**

**- and –**

**(1) THOMAS GERRARD RYAN**
**(2) RYAN CORPORATION (UK) LIMITED** — **Defendants**

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**MR. D. LOWE, counsel,** (instructed by **Mishcon de Reya LLP** ) for the **Claimants**
**The Defendants appeared In Person through the Thomas Ryan, the First Defendant**

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# JUDGMENT

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**MASTER SHUMAN :**

1. This is the judgment in clam number BL-2018-001413. I heard submissions on 6th July 2020 but those took up the entirety of the time allocated for the hearing.

2. The defendants' application was made by letter dated 9th May 2020, sent as an attachment to an email to the court dated 10th May 2020. This was not copied to the claimants. The defendants, who act through the first defendant, a litigant in person, seek to set aside my order made on 27th April 2020, which I amended under the slip rule of my own volition on 5th May 2020. I will refer to that as "the May order".

3. The hearing of the application has proceeded on the agreed basis that I am determining whether to set aside the May order and if I decide to do that, then I will give directions for the determination of the underlying application by the defendants to set aside judgment entered against them.

The Procedural Background

4. The claim concerns events between 2010 and 2014, when it was alleged that the defendants induced the claimants into making various payments and caused them to incur costs in connection with proposed business ventures. The claim was brought in deceit, conspiracy and breach of contract.

5. On 6th March 2020, Deputy Master Arkush entered judgment against the defendants following a request by the claimants under CPR 3.5 ("the 6 March 2020 order"). This rule applies where striking out occurs automatically because of non-compliance with the terms of an order.

6. The request, as happened here, can be made by way of prescribed form, where the solicitor states that the right to enter judgment has arisen because a court order has not been complied with. The defendants failed to comply with an unless order made by the court on 12th September 2019 in regard to providing certain further information and filing that information together with statements of truth at court ("the 12 September 2020 order"). As a result of the defendants' failure to comply with that order, the defence was struck out and they were debarred from defending the claim.

7. On 31st March 2020, the defendants applied under CPR 3.6 to set aside the judgment.

8. The application notice dated 31st March 2020 records at box 1: "What is your name, or if you are a legal representative, the name of your firm?" "Thomas Ryan". It says: "You are acting for the defendant", it says at 3: "What order are you asking the court to make and why?" and it records: "I am applying to the court to set aside the order made on 6th March 2020 delivered to me by email on March 17 and by post on March 18. (The order was made without notice to me and without my knowledge) The order was made on the basis of false and inaccurate assertions which I had did not have the —" and then it ends at that point.

9. "No draft of the order applied for was attached". There is no criticism of that, it does not necessarily need to be. It says: "How do you want to have this application dealt with?" Ticked: "At a hearing". "How long do you think the hearing will last?" "Four hours". "Is the time estimate agreed by all parties?" "No".

10. Then it goes on in box 10, where one normally sees evidence if it is not contained in an attached witness statement. None of the boxes, which are: "The attached witness statement", "The statement of case" and "The evidence set out in the box below" are ticked and what box 10 says is: "What information will you be relying on in support of your application?" All that is then set out is: "The mis evidence presented to the court by the claimants".

11. That application, given the time estimate recorded for the hearing, according to Mr. Ryan, was therefore referred to me. An email was sent out by a clerk to Mr. Ryan copied to the claimants' solicitors on 2nd April 2020 at 12.25 and it says this: "I'm emailing in relation to the application dated 31st March 2020 submitted in regard to the above case. This filing has been referred to Master Shuman who has responded as follows".

12. "Before your application will be listed for hearing you must (1) file and serve a witness statement signed with a statement of truth identifying, (i) the alleged false and inaccurate assertions made by the claimants that gave rise to the order of Deputy Master Arkush dated 6th March 2020; (ii) the misleading evidence given by the claimant, your position and what evidence you rely on to support your case. (2) Provide a time estimate agreed with the claimants' solicitors for the hearing with pre-reading separately identified". Then it concludes: "Please submit any further correspondence to this email via the court's CE file system".

13. Next in the sequence of communications was a letter sent to the court dated 14th April 2020 by the claimants' solicitors, cc'd to Mr. Ryan by email, setting out what the claimants' position was. In short, what that complains of is that

on 27th March 2020, Mr. Ryan emailed Mr. Karagoz and the court and indicated that he intended to apply to set aside the judgment in the order. However, his email did not include an application notice, nor did it include any evidence in support of such an application.

14. It records the email sent out by the court on 2nd April and then there is a complaint by the claimants' solicitors about the defendants' delay in this matter, that Mr. Ryan had had ample time to engage with the proceedings and had repeatedly failed to do so. It went on to say that the defendants have also failed to pay the costs ordered on 12th September 2019 in the sum of £19,323.60 including VAT, and then, "Our clients are extremely frustrated with Mr. Ryan's actions and are keen to avoid any further delay and proceed with considering enforcement of the order against the defendants as they see fit".

15. Having received that letter, it was again referred to me and on 21st April 2020 at 12.47 my clerk sent out an email to the claimants' solicitors, copied to Mr. Ryan, which said this: "With reference to your letter to the court dated 14th April 20, the 2nd April 20 email from the court sent to both Mr. Ryan and yourselves records that an application was filed at court by Mr. Ryan. That application sought a listing of four hours and was therefore referred to the Master. Her directions are set out in the 2nd April 20 email. No witness statement has been filed at court by Mr. Ryan and no agreed time estimate has been provided. In those circumstances and in light of the contents of your letter to the court, the Master has asked if you are now seeking a dismissal of the application on the papers".

16. That did trigger a response from Mr. Ryan by email dated 22nd April. He emailed my clerk copying in the claimants' solicitors, saying: "I confirm that we are currently preparing the witness statement and a statement of truth as directed by Master Shuman. This will identify the false and inaccurate assertions made which gave rise to the order of Deputy Master Arkush dated 6th March 2020 and the misleading evidence given by the claimant. When this is close to completion I will liaise with the claimant's solicitors to provide a time estimate for the honourable court as directed by Master Shuman".

17. What that does not do is set out any timeframe as to when that witness statement will be provided. On 23rd April 2020, the claimants' solicitors sent a letter to the court again copied to Mr. Ryan which again complained about the background to the matter. In answer to my question about whether they were seeking a dismissal of the application on the papers, they said this: "The claimants are seeking the dismissal of the application. The defendants have failed to file any evidence in support of the application and the time permitted for them to apply to set aside the order under CPR 3.6, 14 days, has now expired. … We invite the court to dismiss the application on the papers. The claimants rely on the letter dated 14th April 2020 and this letter in support of their position." They also enclosed a draft order for my consideration.

18. It goes on to say: "As detailed in our letter dated 14th April 2020, the order and documents filed in support of the order were provided to the defendants on 17th March 2020". … "Mr. Ryan has had over five weeks since he was provided with the relevant documents in order to identify the false and inaccurate assertions and misleading evidence. Mr. Ryan has also had almost

three weeks since receiving Master Shuman's direction of 2nd April 2020 to produce the relevant witness statement. Despite having had ample time and opportunity to produce the necessary evidence, the defendants have failed to do so".

19. "Nothing in Mr. Ryan's email of 22nd April provides an explanation or justification for the delay. Furthermore, Mr. Ryan does not confirm when the witness statement will be completed. It is the claimants' position that Mr. Ryan continues to demonstrate a complete disregard for the court's procedures, rules and deadlines. There is nothing in Mr. Ryan's email which justifies any further delay and the claimants respectfully invite the court to dismiss the application on the papers".

20. A draft order was put before me and it was made on 27th April 2020. What that recorded was that: "Upon the claimants making a request for judgment under CPR 3.5 against the defendants dated 19th February 2020, upon Deputy Master Arkush granting judgment under CPR 3.5 and upon the defendants' application notice dated 31st March 2020 seeking to set aside the judgment, and upon the defendants not serving or filing any evidence in support of the application in accordance with CPR part 23.7.3(a), 23A PD 9.3 and 9.6, and upon reading the claimants' letters to the court dated 14th April, 23rd April and the defendants' email to the court dated 22nd April, it is ordered that: (1) the application be dismissed. The defendants shall pay the claimants' costs of the application to be assessed if not agreed".

21. That order was served on Mr. Ryan under cover of a letter dated 27th April 2020 and on 30th April 2020, Mr. Ryan filed a four-page witness statement which appears on the CE file on 1st May 2020 with various exhibits.

22. In the meantime I caused the 27th April order to be amended under the slip rule because I had made that order albeit under the request of the claimants, but I had made it without hearing the parties and therefore I provided under the slip rule for there to be provision for the defendants to apply to set aside or vary that order on seven days' notice.

23. It would appear that the order that I made on 27th April led to Mr. Ryan filing the witness statement at court, certainly putting it into the system by 30th April 2020.

24. So that is the long background to this matter and some extracts of the key documents. Mr. Ryan's application is, as I have indicated, to set aside the May order. He submits that the claimant has told lies to the court. That it will be fair and just to take this matter to trial and the 6 March 2020 order is based on the claimants' solicitors' alleged deceptions and should therefore be set aside. He also stated that the claimants had run a dirty campaign against him.

25. This is summarised in his skeleton argument that was filed in connection with the hearing on 6th July. What that says by way of background in paragraph 6 is: "It is the defendants' contention that the premature judgment was obtained by presenting incorrect facts to the Deputy Master Arkush and further, the hearing for this judgment was secretised, denying the defendant of his right to defend and subsequently denying true judgment which the defendant believes

he will achieve if the claimants' action is forced to proceed. The defendant believes the claimants' case to be at best spurious and is destined to fail".

26. Mr. Ryan set out very clearly in his submissions to me that he was bewildered by the suggestion on the part of the claimants that he had made no application. He pointed to the application notice and reiterated that he had paid a fee. He also asserted on a number of occasions before me that his evidence in support of the application was filed with his application notice. I questioned this on several occasions and I then referred Mr. Ryan specifically to an extract from his witness statement.

27. I gave Mr. Ryan time to consider this because the witness statement contained an extract of the email that I had caused to be sent out by the court on 2nd April 2020, so after his application was filed. It is clear that the witness statement of Mr. Ryan could not have been submitted with his original application notice. Having considered the matter further, Mr. Ryan accepted that point and said that: "It was sent to comply with my direction to file evidence".

<u>The Application</u>

28. As Mr. Ryan is applying to set aside the order that I made, the hearing takes place by way of re-hearing. So I have to determine whether he should be permitted to pursue his application under CPR 3.6. That approach is supported in *Al-Zahra (PVT) Hospital v DDM* [2019] EWCA Civ 1103 specifically at paragraph 67. It is a matter for the court in its case management discretion whether to admit further evidence at such a rehearing, and I have permitted Mr. Ryan to rely on the witness statement that he filed around 30th April 2020.

29. One of the criticisms that Mr. Ryan makes is about secrecy, secrecy in the context of how the claimants obtained judgment against him and the second defendant. However, CPR 3.5 contains no requirement to give notice to the other party. However, what the rules do provide is a protection or a mechanism for parties where such a request has been made and judgment given, and that protection is provided in CPR 3.6, which states at sub-paragraph (i): "A party against whom the court has entered judgment under rule 3.5 may apply to the court to set the judgment aside". Sub-paragraph (ii): "An application under paragraph (i) must be made not more than 14 days after the judgment has been served on the party making the application".

30. The application under CPR 3.6 is by way of application notice under CPR part 23. CPR 23.6 requires that: "An application must state what order the applicant is seeking and why the applicant is seeking the order". The notes to the White Book of 2020 at 23.6.1 explain why that is necessary and it says: "Grounds for the application should be stated briefly but they must also be adequate". By that what is meant is that the court and importantly the respondent should have sufficient information to be able to understand the case that is being made on the application so that the respondent can meet that in evidence, if necessary.

31. Usually with an application notice, the evidence is set out in box 10 or as an attached witness statement. CPR 23.7 provides that: "A copy of the application notice must be served as soon as practicable after it is filed" and sub-paragraph (iii) "— when a copy of an application notice is served it must be accompanied by (a) a copy of any written evidence in support".

32. So here not only did the application notice not set out the grounds for the application so that they were adequate, it failed to file any evidence in support, whether within the application notice itself or by separate witness statement.

33. Practice Direction 23A paragraph 9 explains the need for evidence in this way. 9.1: "The requirement for evidence in certain types of applications is set out in some of the rules and Practice Directions. Where there is no specific requirement to provide evidence it should be borne in mind that, as a practical matter, the court will often need to be satisfied by evidence of the facts that are relied on in support of or for opposing the application".

34. Practice Direction 23A paragraph 9.3 provides that: "Where evidence is not contained in the application itself, the evidence should be served with the application notice". 9.6: "Evidence must be filed with the court as well as served on the parties".

35. The court does retain a general discretion to extend time for compliance, which leads me on to the next point of whether this is a case that falls within CPR 3.9 which requires the defendants to obtain relief from sanctions.

36. Some rules or orders expressly set out a sanction so CPR 3.9, relief from sanctions, plainly applies. Where the sanction is not expressly set out it may be treated as being implied so that CPR 3.9 still applies. In *R(Hysaj) v Secretary of State for the Home Department* [2014] EWCA Civ 1633 it was considered that applications for an extension of time for filing an appeal notice contained an implicit sanction that the right of appeal is lost if the time-limit is not complied with. In the notes to the White Book 2020 at paragraph 3.1.2 it is stated that if the court exercises its power to extend the time-limit under CPR

3.1 (2) after the period has expired "the court decides what if any extension of time to allow in accordance with the principles in *Denton v TH White Limited* [2014] EWCA Civ 906". The principles are well known but in summary the court has to assess (1) the seriousness and significance of the failure to comply; (2) why the default occurred; and (3) whether it is just to grant relief in all the circumstances of the case with the factors in CPR 3.9.1(a) and (b) given particular importance. CPR 3.9.1: "(a) For litigation to be conducted efficiently and at proportionate cost" and (b): "To enforce compliance with Rules, Practice Directions and orders".

37. In *Mark v Universal Coatings & Services Ltd* [2018] EWHC 3206 (QB) the judge assessed whether a particular rule carried an implied sanction by considering what the default position would be if the application was refused. He considered that a failure to serve a medical report or schedule of loss in respect of a personal injury case although technically required under PD 16.4 did not fall within CPR 3.9 so that the defaulting party did not need to seek relief from sanction. If I apply that test the failure by the defendants to make an application within the prescribed time limit in CPR 3.6 setting out the grounds for the application and supported by evidence means that no application was effectively made and the judgment will not be set aside.

38. If I am wrong and CPR 3.9 does not apply the court has a general case management discretion under CPR 3.1(2). The discretion must be exercised in accordance with the overriding objective of enabling the court to deal with cases justly and at proportionate cost and the non-exhaustive list of factors set out in CPR 1.1(2)(a) to (f).

39. I start by asking myself the question, was the defendants' application notice defective and if so, in what way? I have set out the information provided in the application notice under box 3 and box 10. It plainly did not satisfy the requirements of CPR 23.6. It does not enable the court or the claimants to understand the basis for the application, and that is indeed what prompted me to have an email sent out on 2nd April 2020 specifically referring to the need to file and serve a witness statement with a statement of truth identifying the alleged false and inaccurate assertions made by the claimant that gave rise to 6 March 2020 order, and the misleading evidence said to have been given by the claimant. Mr. Ryan was invited on behalf of himself and the second defendant to set out the position and what evidence he relied on in support of his case.

40. So, when I consider the application to set aside the 6 March order, not only is the application notice defective of itself, but it is also defective in that it has set out no evidence in support of the application. When I consider the documents that have been presented to court, there is no application for an extension of time, whether in the application notice itself or indeed in the letter to the court that prompted the listing of the application to set aside the May order.

41. So what has happened is that the defendants have filed a defective application notice without evidence and then at a later stage filed evidence. That evidence was late.

42. In light of the deficiencies in the defendants' application under CPR 3.6 I am satisfied that the appropriate test to apply is that under CPR 3.9 so that the

defendants must obtain relief from sanction in order to continue with their application. I will then go on to consider the test set out in *Denton*.

43. The first question is, was this a serious and significant breach? The defendants' breach was both in relation to failing to make an effective application within the 14-day period and failing to file and serve evidence as required. Indeed, as I have indicated, the witness evidence was not filed until 30th April 2020, and then to compound matters was not served on the claimants when it was filed at court.

44. The rationale of CPR 3.6 is clear. When a judgment is obtained under the mechanism in CPR 3.5, there is a tight time limit after service of that order on a party to apply to set aside the judgment. That deadline is 14 days. Parties are entitled to finality in proceedings. They are entitled that if CPR 3.5 bites, to apply for judgment to be entered and then to be able to enforce that judgment.

45. So I do consider that the failure by the defendants to serve an effective application within the 14-day period and then to serve witness evidence only on 30th April 2020 is a serious and significant failing. That is highlighted by the fact that the defendants were warned in terms about the need to file evidence. That was by the email of 2nd April 2020. They were told that they needed to file evidence before the application could be listed and heard. By that stage the defendants were already late.

46. What the defendants seem to suggest is that the email of 2nd April 2020 then gave them apparently an unlimited indulgence to file the witness statement when they chose to. That is to misconstrue the 2nd April 2020 email. It was

emphatically not a relaxation of the rules for the defendants but an encouragement for the defendants to get on and remedy the defect. What the defendants then did was wait another four weeks before they did anything.

47. That is compounded by the fact that the claimants' solicitors set out their position very clearly in their letter of 14th April 2020, copied to the defendants. No witness statement filed then, no triggering, no request at that stage for an extension of time or indeed at any time subsequently. The court then enquiring a week later as to what the claimants were asking the court to do, again copied to the defendants, which then led to the email from Mr. Ryan saying that he was currently preparing a witness statement and would liaise with the claimants' solicitors.

48. It then took a further week, just over, for that witness statement to be filed at court and one can only deduce that that preparation was hurried along when the court order was served on Mr. Ryan dismissing his application.

49. The second question, why did the default occur? The defendants have not addressed this in the four-page witness statement that has been submitted to court, in the skeleton argument that was filed at court before the hearing and indeed in oral submissions before me. For the sake of repetition, the court informed Mr. Ryan that it was necessary to provide evidence on 2nd April 2020, yet it was not until 30th April that that was provided.

50. As I have indicated, Mr. Ryan has suggested in his statement of 30th April that he believed he had some latitude with filing witness evidence, but that does not sit with an email to the court where he indicated that he was immediately setting about drafting a statement along with assembling appropriate evidence.

51. In light of the delays in this matter and the serious nature of this matter, I would have expected there to be clear explanation from the defendants as to why delay had occurred.

52. Mr. Ryan did say that he set about the task immediately, "Although at this time I was subject to self-isolation as I am a vulnerable subject". However, what he does not do is explain what effect that had on him, if any, with his ability to prepare the relevant witness statement that should have been filed with the application notice. Simply referring to the pandemic as an excuse without more, does not provide an excuse to justify delay. So no good reason has been proffered by the defendants for their failure to comply with the time limits.

53. The third question, should relief be granted in all the circumstances of the case? I have accepted that the breach is serious and significant. I have accepted that there is no excuse for the delay. I also consider all the circumstances and one has to bear in mind that the claim form in this case was filed on 22nd June 2018. Judgment under CPR 3.5 was entered in March 2020. Even before that stage the case had not proceeded to close of pleadings.

54. I am specifically tasked in CPR 3.9.1(a) and (b) with having regard to litigation being conducted efficiently and at proportionate cost and to enforce compliance with Rules, Practice Directions and orders. It does seem to me that there has been inexcusable and substantial delay in this litigation and there has been a failure to comply with Rules, Practice Directions and orders by the defendants.

55. The defendants seek to argue that the judgment obtained in the 6 March order was obtained on a false basis. Counsel for the claimants reminds me that I should not go into the merits of the underlying application or indeed the defence unless there are exceptional reasons for doing so: none have been identified here.

56. I do note the defendants failed to comply with the 12 September 2019 order, which was subject to an unless order. The request for further information was originally made on 29 January 2019. When there was no response the claimants made an application dated 29 March 2019. That came before Deputy Master Rhys on 17 April 2019, by that stage the defendants had provided an incomplete response on 8 April 2019, and he ordered the defendants to respond subject to their right to object to specific requests. The defendants then responded on 20 May 2019 and 5 June 2019, which the claimants considered inadequate. They made a further application for the defendants to respond on 12 June 2019 to be backed up with an unless order. That led to the 12 September 2020 unless order. The response eventually served on 31 October 2019 contained no statement of truth and was only filed at court on or about 30 April 2020, some 6 months later.

57. This is a case where it is the defendants' own failure to comply with the rules and orders that led it to this position. The overriding objective has not been furthered and there has been serious delay caused in this case. So, the defendants have not satisfied the test under CPR 3.9 as set out in *Denton* and I do not grant relief from sanctions. The application to set aside the May 2020 order is dismissed.

58. I have also considered an alternative argument, albeit it was not fully articulated by Mr Ryan, that the application falls to be considered under CPR 3.1(2) as an application seeking retrospective permission for an extension of time to make an application under CPR 3.6. The court has a general power to extend time for compliance with rules and orders, even when that time has expired.

59. I must consider the overriding objective. It is not there at the start of the CPR as an idle point for the parties to have some regard to, it underpins how the civil justice system works.

60. What it says at CPR 1.1 is that: "It is a new procedural code with the overriding objective of enabling the court to deal with cases justly and at proportionate cost". Sub-paragraph (2) says: "Dealing with a case justly and at proportionate cost includes so far as practicable ensuring parties are on an equal footing, saving expense, dealing with cases in ways which are proportionate, ensuring it is dealt with expeditiously and fairly and allotting to it an appropriate share of the court's resources while taking into account the need to allot resources to other court cases," and at (f) "enforcing compliance with rules, Practice Directions and orders".

61. I have already set out the relevant points in relation to the background procedural history and the manner in which the defendants have approached this litigation, rules, practice directions and court orders. This case has already taken up a disproportionate amount of the court's resources. It would not further the overriding objective to allow this application to proceed by granting an extension of time.

62. If this did constitute such an application, which I doubt, I would refuse the application for an extension. There must be finality to litigation.

(For proceedings, see separate transcript)

MASTER SHUMAN:

63. So, this is an application by the claimant for its costs. Under CPR 44.2 the court has a wide discretion as to costs. The general rule is that the unsuccessful party will be ordered to pay the costs of the successful party and in 44.2.4: “In deciding what order if any to make about costs, the court will have regard to all the circumstances, including a) the conduct of all the parties; b) whether a party has succeeded on part of its case, even if that party has not been wholly successful, and c) any admissible offer”.

64. Mr. Ryan’s response to the application by the claimant for costs is to resist firstly because he is on Universal Credit. He is housed by Westminster Council and therefore any order for costs made against him would be futile. Secondly, he seeks an order that it be costs in case, which as I indicated to Mr. Ryan, cannot work because his case has concluded when judgment was entered against the defendants on 6 March 2020. Thirdly, Mr. Ryan says that he will appeal my order.

65. In relation to costs, the general rule is that the unsuccessful party be ordered to pay the costs of the successful party. No-one has specifically referred me to conduct of the parties or any relevant offer. It seems to me that the claimant has been entirely successful in this case. There is nothing within the

circumstances that would warrant a different order being made on costs, and I order the defendant to pay the claimants' costs on a standard basis.

(For proceedings, see separate transcript)

MASTER SHUMAN:

66. Having made a costs order, I am now asked to summarily assess statements of costs in relation to the application before me. Mr. Ryan objects to the statements of costs on the basis he has no money other than very limited Universal Credit and it would be futile to make any order for costs against him.

67. What I have before me is a statement of costs with £31,373.50 and a statement of costs I presume in relation to the hearing today, which was judgment of £2,957. That is in total, so net of VAT, £34,330.50.

68. In the scheme of cases even in the High Court, that is eye-watering. This is an application by Mr. Ryan to set aside an order that I made on the papers dismissing his application. Even though that is by way of re-hearing, there was very limited witness evidence served by Mr. Ryan in relation to this matter. Although Mr. Lowe has sought to justify the costs in this matter by referring me to the fact that this related to a three-month period, that some of the costs can be attributed to the conduct of the defendant, for example, the claimants' solicitors would have to obtain documents from the court file because they were not served by the defendant as they should have done, and more generally in relation to this work, I do not consider that £34,330.50 is in any way reasonable and proportionate for a two-hour hearing.

69. The reason this had a two-hour hearing was to accommodate Mr. Ryan, who is a litigant in person, and at that stage it should have enabled judgment to have been given at that time. So I am going to assess these costs down. I do not consider, even though there was limited involvement with a partner at grade A at £500 per hour that it is reasonable to have her involvement. Whilst I accept there has been a division of work between B and D, I am told, the managing associate that has done a lot of work on this has still an hourly rate of £410. So when I look at attendances on client, I see 2.7 hours, that is £1,107. £1,312 for telephone attendances on client. Attendances on others, 4.2 hours of partner's time at £2,100. Letters out 7.6 hours of B time at £3,116.

70. Whilst Mr. Lowe set out an extremely detailed skeleton argument, a £5,000 fee for a two-hour hearing, given the nature of the application, is not reasonable or proportionate. So, summary assessment by its nature is crude and broad-brush, but I am going to reduce those costs down to £12,000 plus VAT. So that is £14,400.

71. In relation to payment of that sum, Mr. Lowe, Mr. Ryan has already indicated he has no assets. That will be a matter between your solicitors and Mr. Ryan how you go about enforcing that, if Mr. Ryan has no income and no assets.

(For proceedings, see separate transcript)

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