

ROYAL COURT
(Samedi Division) 103.

6th June, 1995

Before: The Judicial Greffier

Between Conder U.K. Limited
formerly Conder Construction Limited
(trading as Court Consultants) Plaintiff

And Hotel de France (Jersey) Limited
(trading as Hotel de France) Defendant

(by original action)

AND

Between Hotel de France (Jersey) Limited
(trading as Hotel de France) Plaintiff

And Conder U.K. Limited
formerly Conder Construction Limited
(trading as Court Consultants) Defendant

(by counterclaim)

Applications by both parties for directions in preparation for trial.

Advocate R.J. Michel for the Plaintiff in the original action;
Advocate W.J. Bailhache for the Defendant in the original action;

JUDGMENT.

5 THE JUDICIAL GREFFIER: This is a complicated action and counterclaim relating to substantial building works performed at the Hotel de France. The Plaintiff in the original action (hereinafter referred to as "the Plaintiff") has claims totalling about £70,000 and the Defendant in the original action (hereinafter referred to as "the Defendant") has a counterclaim totalling about 1 million pounds.

10 The first area which I was asked to look at related to experts' reports and it was clear to both parties that these should be exchanged by 14th July, 1995, and I am so ordering. The Plaintiff suggested that the three sets of experts should meet on a without prejudice basis and then attempt to agree common facts. The Defendant suggested that they should meet
15 before producing their reports, then produce their reports and then meet again in order to prepare a joint statement indicating

those parts of their evidence on which they are and those on which they are not in agreement.

5 It seems to me that in a complicated technical case such as this that it would be of immense value to the Court to know in advance those parts of the expert evidence which are and are not agreed and that a statement should be prepared jointly by the parties in relation to this. Precisely when the experts should or should not meet for this purpose and who should prepare the statement seems to me to be a matter for the parties to agree and 10 arrange and not a matter for an Order of the Court. Accordingly, I am ordering that the parties co-operate together in order to produce by 7th August, 1995, a joint statement as to the parts of the evidence of the experts which are agreed and the parts of the evidence of the experts which are not agreed 15 together with a statement of the different opinions.

20 The Plaintiff asked me to make an Order to the effect that each party be at liberty to call no more than three expert witnesses, one in each of the areas of combined heat and power, heating and ventilation and quantity surveying. The Defendant agreed that each party should be limited to one expert in each of these areas but objected to not being able to call expert 25 evidence which was required in any other area. It seems to me that, if expert evidence is required in relation to any other area, then it ought to be allowed and that such evidence of additional experts ought to be exchanged and dealt with as above but with liberty for each party to apply for the dates for exchanging and for the production of joint reports to be put 30 back.

35 The Plaintiff also asked for an Order that the Defendant serve on the Court and on the Plaintiff a written note of its opening address. It does not seem to me to be appropriate that one party be required so to do. I note that in the Practice Direction (Civil Litigation: Case Management) dated January 25th, 1995, in England, was included a provision to the effect that in cases estimated to take five days or more each party should, not less than two clear days before the hearing, lodge with the Court 40 and deliver to other parties, a chronology and a skeleton argument concisely summarising each party's submissions in relation to each of the issues and citing the main authorities relied upon.

45 It appears to me that it would be highly desirable in a case as complicated as this for each party to provide a chronology and a skeleton argument in this way. Indeed, the joint report of experts would provide some of the detail in relation to this. However, I am not clear at this point in time as to precisely how 50 detailed this should be in this case because of the mass of detailed matters which may be in issue and I will need to be addressed further on this point.

No Authorities.