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IN THE SHEFFIELD DISTRICT REGISTRY

No. D90SE097

The Law Courts, 50 West Bar  
Sheffield, South Yorkshire, S3 8PH

Tuesday 22 May 2018

Before:

DISTRICT JUDGE BELLAMY

B E T W E E N:

GRAHAM HARVEY

Claimant

- and -

SCOTT REES & CO

Defendant

\_\_\_\_\_  
MR R DUNNE appeared on behalf of the Claimant.

MR C RALPH appeared on behalf of the Defendant.

\_\_\_\_\_  
**J U D G M E N T**

DISTRICT JUDGE BELLAMY:

- 1 Today's hearing arises out of applications made in the case of *Harvey* and other related cases, where initially proceedings were issued and a claim form was issued seeking an assessment under S.70 of the Solicitors Act for assessment of bills delivered, all by Scott Rees & Co, to various clients for whom they had acted in claims for damages for personal injury.
- 2 The initial reason for this hearing was because Scott Rees, quite properly, took the point initially that the bills where assessment was being sought were more than 12 months old. In other words, they had been delivered more than 12 months before the proceedings were issued. I ordered evidence to be exchanged and to hear the preliminary point today.
- 3 Prior to today's hearing, Mr Bland of Scott Rees, again quite properly, notified the court that, having reviewed each of the files, there was no evidence that any of the bills had been sent and therefore delivered to the individual claimants in these cases. He therefore conceded that any Part 8 claim was in time, there being a letter from Scott Rees dated 25 October 2017 stating, again from Mr Bland, "Please find attached hereto the CFA and statute bills as requested".
- 4 Scott Rees also accepted that there would be some responsibility for costs, both of the previous hearing and also of the application that they were about to make to vary the directions.
- 5 In the application dated 4 May, which may or may not have been sealed and served by the court - it was received here on 11 May and the fee paid and I took the view to hear it today - there should be an order, I think in each of the cases, that the defendant serve a bill of costs capable of assessment in accordance with para.4 of the claim form and they then set out directions for points of dispute, points of reply and then an assessment which pretty much follows standard directions for assessment of a solicitor's bill for contentious business.
- 6 The argument that emerged today - and I apologise for my slowness in picking up on the argument - is whether or not this was really strictly necessary and whether or not, as the claimant's position developed, the bills have already been delivered. They are statute bills. They are so described as statute bills by Mr Bland. They have been accepted as statute bills. The court should simply make directions for the assessment of that series of "Chamberlain" bills to be assessed, even though it might be said that, on the face of the bill, the narrative was either incomplete or misleading and there might be some issue as to how the various figures were capable of being explained. On detailed assessment, on directions, the claimant submitted that sufficient information would be available so that whatever gaps there were in the narrative could be completed and whatever explanation for the figure in the costs column or the VAT column could be explained.
- 7 For the defendants, a strict approach was argued and particularly either that these were not capable of being statute bills because they had not been delivered or they were not statute bills because there had been no demand for payment as such.
- 8 In relation to the argument on delivery, I pray in aid the judgment of Mr Justice Soole in *Parvez*, who makes it very clear that it can be service of a bill upon an agent. It is up to the

recipient of the bill, the client, to elect to treat that as good service. The fact that the Act refers to different forms of delivery, it seems to me, does not rule out service by a solicitor acting for the recipient of a bill who says he is duly authorised. That is the position in this case. I have no difficulty with saying that this bill has been delivered and delivery has been accepted by each of the claimants. It went to their authorised agent or solicitor.

- 9 In relation to the demand point, then again, look at the bill on the face of it. Firstly, we are told it was never sent to the client, but appears to have been created as an internal document so as to justify the transfer of costs, no doubt on receipt from the insurance company, into the office account so Scott Rees could treat it as profit costs.
  - 10 In my view, it would be wrong, if that is the accounting method that Scott Rees and Co adopted, to allow them to rely on a technical failure to serve a bill and therefore make a demand in clear terms such that they can then reproduce their bills. It seems to me again more than open to the claimant and is a pragmatic view taken by the claimant simply to say, "These are the bills you created. These are the bills that you say in your letter to my solicitor were statute bills". They contain basic information, even though each bill is clearly wrong because it talks about a success fee and gives no breakdown. Pragmatically, when the detailed assessment process is underway, there will be an itemised breakdown of precisely what the profit costs are, what was the amount recovered from the insurers or the solicitors and what was the amount of success fee taken by the solicitors.
  - 11 What is astonishing is that nowhere in this bundle have I seen a letter from Scott Rees to any of the claimants saying, "Dear Mr Bloggs, Mr Hussain or Mr Harvey, here is your cheque. From your damages, I have deducted X which represents the success fee and here are copies of the bills and the paperwork that support it". I do not propose to go down that alleyway but it seems to me that it would be wrong, in my view, for Scott Rees to rely upon whatever deficiencies there are in their own accounting system in order to prolong the process and produce yet further bills. The bills we have, in my judgment, are capable of assessment. They will, as part and parcel of the process, be capable of identifying that which is claimed and the claimants have taken the view that they will have enough information to challenge those areas that they want to challenge.
  - 12 For those reasons, I propose simply to make directions for there to be an assessment of the various bills submitted to each of the claimants in these linked cases.
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Official Court Reporters and Audio Transcribers  
5 New Street Square, London EC4A 3BF  
Tel: 020 7831 5627 Fax: 020 7831 7737  
civil@opus2.digital*

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This transcript has been approved by the Judge