
Court of Appeal reins in clients' right to have costs assessed

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The recent explosion in applications to have lawyers' costs assessed from their own clients has been tackled head on by the Court of Appeal. It has been confirmed in *Ainsworth v Stewarts Law LLP [2020] EWCA Civ 178* that a client's right to have costs assessed under section 70 of the Solicitor's Act 1970 is not an absolute one and is subject to the rules and procedures which relate to the exercise of that right. This is an important practical decision which will assist in cutting through the backlog of Solicitor and own client costs disputes. If it had been held to be an absolute right without governance, the ensuing paralysis with hearings of indeterminate length would have been reminiscent of the earlier so-called 'CFA costs wars' following the introduction of the CPR.

There is little doubt that the *Ainsworth* decision will attract headlines as it upholds a case management decision from the Senior Costs Judge to strike out points of dispute that were determined to be lacking in sufficient detail. Careful consideration should be employed when considering any application to other cases and not only due to the fact that this was not a between the parties assessment. The document time objection in *Ainsworth* was not specifically particularised, contained no specific entry examples and did not as is usual advance any alternative allowances. To make matters worse, despite formally objecting to the sparse format and having ample opportunity to serve better and more specific objections, the client failed to do so. The Senior Costs Judge was therefore quite right to strike out the challenge and it should come as no surprise that this was upheld by the Court of Appeal. It perhaps serves as a reminder to practitioners to avoid the use of the 'scatter-gun' approach when drafting points of dispute.

Ainsworth should be welcomed as a victory for common sense and confirms that the courts will deal with costs disputes in a manner which is fair, just and proportionate.

Our costs team deal with a number of costs claims on a regular basis. For more information or advice, please contact one of our experts.

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