

Dispute Resolution
Case Law Update
Rosling King LLP



At a Case Management Conference (“CMC”) the Chancery Division of the High Court held that a claim valued at £13million would be subject to the costs management regime and refused to order a split trial.

Background

A CMC was held in July 2016 for a claim arising out of a dispute between the two founders of Signia Wealth Ltd, John Caudwell (who still owned the Claimant company) and Nathalie Dauriac-Stoebe (the Second Defendant). The claim centres on the circumstances under which Ms Dauriac-Stoebe left the Claimant company in early 2015. A variety of accusations and counter accusations were made. These included allegations that Ms Dauriac-Stoebe breached the Claimant company’s expenses rules prior to her leaving and that Mr Caudwell unlawfully transferred shares, in the Claimant, owned by Ms Dauriac-Stoebe at an unfairly low value.

Case Summary

The Master considered two issues at the CMC:-

1. Whether the claim should be taken out of the costs management regime (“the Regime”) under which the Court manages the steps taken in litigation and the costs to be incurred.

The general provision, in accordance with CPR 3.12(1), is that the Regime will not apply to claims allocated to the multi-track if the amount of money specified on the Claim Form is over £10million. Whilst the case was allocated to the multi-track, no amount of money was specified on the Claim Form. In light of this, the Master stated the claim would be within the Regime, unless he could be satisfied that it could be dealt with justly and at proportionate cost outside of it. In deciding whether to exclude the claim from the Regime, the Master considered and ruled on a number of factors, primarily:-

- a. Nature of the claim; the Master stated that given the fractious nature of the litigation, it was certainly appropriate that the Court had some degree of control over it; and
- b. The size of the claim and the respective costs Budgets; the Master looked at the costs already incurred, the possible future costs, and whether a Cost Management Order (“CMO”) was necessary to control the future costs. Given that future expenditure on both sides was high (approximately £2.4million), the Master concluded that a CMO would be appropriate.

In conclusion, the Master commented that the overriding riding objective under the CPR would be better served with a CMO and that placing the claim under the Regime would have real benefits for all parties.

2. Whether it would be beneficial to split the trial into two hearings? The first dealing with who is at fault and the second deciding on how much one party is owed.

In accordance with CPR 1.4(2)(i), where possible, a claim should be dealt with at one hearing

and any decision to split the trial must serve the overriding objective. In considering whether the trial should be split the Master looked at some of the principles applied in the case of *Electrical Waste Recycling Group Ltd v Phillips Electronics [2012] EWHC 38 (CH)* including:-

- a. Whether there would be an unnecessary strain on witnesses if there was a split trial; the Master commented that a split trial would require the witnesses to attend both hearings, which was particularly relevant given the depth of ill feeling in the claim;
- b. Whether a single trial would be a burden on the Judge; this point was dismissed by the Master who stated the claim was not excessively complex; and
- c. Whether a split trial was prejudicial to any of the parties; this was highlighted as a key point against a split trial by the Master. He commented that a key part of the claim and the Second Defendant's case was the value of the shares, which she alleged had been transferred for less than their true value. If the trial was split, this issue would have to be addressed at both hearings. This would lead to repetition and also unfairly deny the Second Defendant the prospect of full cross examination on the issue.

The Master concluded a clean split of the trial was not possible and that one hearing was appropriate as it better served the parties and the overriding objective.

Commentary

This case is a key reminder of how the Court's discretion on Cost Management works and the factors that will be considered. Primarily the Court will look at how to best serve the overriding objective in dealing with the claim justly and proportionally.

In addition, the case is useful guidance on how the Court decides on whether to allow a split trial. The Court will consider the issues relevant to each dispute and decisions are likely to turn on the specific facts of any action. As with the Costs Management decision, the Court's primary role is to ensure that any decision allows the claim to be dealt in a cost efficient and just manner.

For further information, please contact [Georgina Squire](#) or the Partner with whom you usually deal.