

JUDGMENT : Mr District Judge Donnelly : Sitting in Chambers at Wigan County Court : 27 September 2001

1. This is a claim by Paul Jensen Limited against Staveley Industries Plc. The claim arises from the referral by Staveley Industries Plc of a dispute between them and Salford City Council for Paul Jensen of the Claimant Company to act as adjudicator.
2. I have examined the correspondence passing between the parties, in particular, the letter of the Defendant dated 13th November 2000 which constitutes the referral by the Defendant to the Claimant. My attention is drawn to the fact that even in that letter the question of jurisdiction had been raised. Then there is the facts from the Defendant to the Claimant dated 13th November 2000 which states I am content for this matter to be dealt with prior to adjudication. The letter also cites the **Atlas** ceiling case for consideration.
3. The Claimant duly considered the matter as requested and on his interpretation he took the view that he did not have jurisdiction. The Defendant states and refers to the letter to Hammond Suddards giving advice to the Defendant's Solicitor. In the view of Messrs Hammond Suddard the adjudicator misinterpreted the **Atlas** ceiling case. However, I am satisfied that it is not for this Court to determine whether the Claimant interpreted the **Atlas** ceiling case wrongly or not. He decided he ought not to deal with the matter. He had been asked to deal with the question as a preliminary issue and did so. Whether he was right or wrong is irrelevant.
4. Paragraph 11, of the Regulations (Scheme for Construction Contracts (England & Wales) Regulations 1998) deals with the question of aborting the appointment of the adjudicator and entitlement to fees. I note sub paragraph (2) but no one has suggested default or misconduct on the part of the Claimant and the mere fact of the alleged wrongful determination could not be construed as default or misconduct. In the circumstances the Scheme indicates that the Claimant is entitled to his fees. I have seen the invoice and I am satisfied that it is reasonable