

Before District Judge Trent. City of London Court, 30th June 2003.

Harris Calman Construction Ltd submitted a construction dispute themselves and Stanners Design Ltd to adjudication before Mr Donal Pugh.

The adjudicator apportioned his fees 60/40 between the parties. Harris Calman paid up his 60%. Stanners initially refused to pay his share (£1,840.05) based on a jurisdictional challenge. Mr Pugh commenced a Part 24 action, Stanners paid up. The matter nonetheless went to court to for a costs judgment (fees, interest and fixed costs), pitched at £2,600.

District Judge Trent held that if the matter had gone to court the claim would have succeeded. The court was not convinced that the jurisdictional challenge had any merit. Rather the issues was more about delay (attrition).

The costs exceeded the claim. They were at first blush disproportionate, particularly for the small claims track and normally under CPR 45.4 costs would be pinned to fix costs.

Nonetheless, exercising his discretion under CPR 44.3 the judge awarded costs on an indemnity basis.