

JERSEY / JUDGMENT

Allscot v Mauger [2012]

JCA 103 (22 May 2012)

[2012] JCA 103

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Court of Appeal 22 May 2012 Before : The Hon. Michael Beloff, Q. C., President; Dame Heather Steel, D. B. E, and; Sir Hugh Bennett. Between Allscot Limited Appellant And A C Mauger and Sons Limited Respondent Appeal against the costs decision of the Bailiff dated 24 th February, 2012. Leave to appeal was granted by the Bailiff on 24 th February, 2012, 2012. Mr T Picot, Director, representing the Appellant. Advocate J. R. Giovannoni for the Respondent.

JUDGMENT

bennett ja: 1. This is an appeal by Allscot Ltd ("the appellant") from the decision of the Bailiff of 24 February 2012 dismissing the appellant's appeal against the decision of the Assistant Judicial Greffier who declined to proceed to the taxation of the appellant's costs for the reasons he gave in his letter of 23 September 2011. On 3 March 2011 the Bailiff had allowed the appellant's appeal from the Master of the Royal Court, granted the appellant summary judgment against A C Mauger and Sons Ltd ("the respondent") in the sum of £13,347.72 with interest thereon, and ordered the respondent to pay the appellant's costs of and incidental to the proceedings before the Master and the Bailiff on the standard basis, to be taxed if not agreed, together with interest thereon. In June 2011 the appellant lodged a bill of costs in the sum of £13,963.40. On 5 August 2011 Voisin, representing the respondent, wrote to the Assistant Judicial Greffier objecting to the bill of costs on two grounds. The second ground was that the bill was excessive and should thus be reduced. Reasons were given. It is however the first ground which was the basis of the appeal to the Bailiff as it is to us. 2. The issue in this appeal is the meaning of the words "litigant in person" in Rule 12/6 of the Royal Court Rules 2004 (unamended) which provide:- "Litigants in person (1) Subject to this Rule, on a taxation of the costs of a litigant in person, there shall be allowed such costs as would have been allowed if the work and disbursements to which the costs relate had been done or made by an advocate on the litigant's behalf. (2) The amount of costs allowed where a litigant in person does any item of work for his or her case or part thereof shall be - (a) if the work is undertaken in the litigant's normal working hours and thereby causes the litigant pecuniary loss, either - (i) the actual pecuniary loss, or (ii) up to two-thirds of the sum which in the opinion of the Greffier would have been allowed in respect of that item if the litigant had been represented by an advocate, whichever is the lower; or (b) if the work is undertaken outside of the litigant's normal working hours, at such rate per hour as determined by the Greffier in respect of the time reasonably spent by the litigant on the work. (3) Where an assessment is made under paragraph

(2)(a), the amount of work done in the litigant's working hours shall be calculated by the number of working hours the litigant was away from his or her work in respect of the time reasonably spent by the litigant to do the work, as deposed in an affidavit made by the litigant himself or herself and, for this purpose, the number of working hours in any one week for which the litigant can claim shall not exceed 40. (4) Disbursements shall be allowed to the extent that they are actually and reasonably incurred and are reasonable in amount. (5) A litigant who is allowed costs in respect of attending Court to conduct his or her own case shall not be entitled to a witness allowance in addition." 3. On 23 September 2011 the Assistant Judicial Greffier held, in accepting the respondent's contentions, that the provisions of Rule 12/6 of the Royal Court Rules 2004 (unamended) which applied to litigants in person did not apply in this case and that no question of "pecuniary loss" as set out therein arose. He followed the dicta of the Court of Appeal, consisting of Sumption, Nutting and Jones JJA, in *Leeds United Association Football Club Limited and Others v Phone-In Trading Post Limited* (trading as Admatch)

[2009] JLR 186 should be applied, in particular paras 26 to 30 of the Court's judgment delivered by Sumption JA, as he then was. 4. On 5 January 2012 the Bailiff heard the appeal. Mr Picot argued the case on behalf of the appellant. Advocate Hoy appeared for the respondent. As is apparent from para 2 of the judgment of the Bailiff, Mr Picot informed him during his submissions that his firm, Solution Seekers, had been employed by the appellant to represent it in the proceedings against the respondent and for that purpose Mr Picot had been appointed a director of the appellant and remunerated at a rate of £130 per hour spent by him on the litigation. 5. In his reserved judgment delivered on 24 February 2012 the Bailiff dismissed the appellant's appeal, holding that, although the dicta in *Admatch* at paras 26 to 30 of its judgment was obiter and thus not strictly binding on him, nevertheless he was persuaded that the observations of the Court of Appeal were correct and that he should follow them. At para 11 of his judgment he said:- "...having had the benefit of the Court of Appeal's reasoning, I accept that the wording of Rule 12/6 is quite inconsistent with a litigant in person being a corporation. The Rule is clearly drafted on the basis that a litigant in person is a natural person. As the Court of Appeal point out at paragraph 28, a corporation has no "normal working hours" and cannot be understood to be "away from his or her work". I accept that in the *Leeds* case at first instance, I allowed my concern about the lacuna which would result to lead me to an incorrect interpretation of the Rule." At para 13 of his judgment he observed that not treating a company as a litigant in person led to a lacuna in the law but he was reluctantly persuaded that it was a matter which could not be remedied by judicial decision but only by a change in the Rules. 6. At para 15 of his judgment he concluded that, even if he was wrong on that issue, nevertheless fees paid to a director, such as Mr Picot, for representing a company did not amount to "actual pecuniary loss" within Rule 12/6(2)(a). He found the reasoning in para 29 of the judgment of the Court of Appeal in *Admatch* compelling. 7. The Bailiff, accordingly, dismissed the appeal but gave the appellant leave to appeal. 8. The Royal Court Rules 2004 have now indeed been changed by reason of the Royal Court (Amendment No. 13) Rules 2012 made on 15 February 2012, which came into force on 1

March 2012. The principal changes are made to Rule 4/2 by the insertion of a new Rule 4/2A, which provides, inter alia, that a body corporate may appear and be represented by a director of the body corporate duly authorised by it, and by amendments to Rule 12. I set out verbatim paras 2 and 3 of Amendment No. 13:- "2 Part 4 amended After Rule 4/2 of the principal Rules, there shall be inserted the following Rule - "4/2A Representation of bodies corporate (1) Subject to this Rule, a body corporate may appear and be represented in proceedings by a director of the body corporate duly authorized by the body corporate in that behalf. (2) Where a director is so authorized in relation to any proceedings, the body corporate shall - (a) in the case of an action - (i) within 7 days of the action being placed on the pending list, or (ii) when otherwise required by the Court to do so; (b) in the case of a representation - (i) within 7 days of the representation first being called before the Inferior Number, or (ii) when otherwise required by the Court to do so, lodge with the Court and send to each of the other parties to the proceedings - (i) a declaration of the name of the director and, if different from the address for service of the body corporate, the director's address, and (ii) a copy of the resolution or other instrument of the body corporate by which the director is so authorized. (3) In the case of a failure to comply with paragraph (2), or a requirement of the Court thereunder, the Court may, on the application of any other party to the proceedings - (a) in the case of proceedings brought by the body corporate, order that the proceedings be struck out or be stayed until paragraph (2), or the requirement of the Court, as the case may be, is complied with; or (b) in the case of proceedings brought against the body corporate, give judgment by default, or, in either case, the Court may give such directions or make such order as it thinks fit, including an order as to costs. (4) A body corporate may with the leave of the Court amend a declaration lodged in accordance with paragraph

- (2) or a requirement of the Court thereunder and, if a different director is authorized, lodge a revised resolution or other instrument. (5) A director of a body corporate other than the director referred to in - (a) the declaration lodged in accordance with paragraph (2) or a requirement of the Court thereunder; or (b) in the declaration as amended with leave under paragraph (4), may not appear on behalf of or otherwise represent the body corporate in the proceedings without the leave of the Court. (6) This Rule does not apply to an association incorporated under Article 4 of the Loi (1862) sur les teneures en fidéicommiss et l'incorporation d'associations[3]". Part 12 amended (1) In Rule 12/1 of the principal Rules, after the definition of "indemnity basis" there shall be inserted the following definition - " 'litigant in person' includes a body corporate not represented by an advocate;". (2) In Rule 12/6(2) of the principal Rules, for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs - "(a) if the work thereby causes the litigant pecuniary loss, either - (i) the amount that the litigant can prove he or she has lost for time reasonably spent on doing the work, or (ii) up to two-thirds of the sum which in the opinion of the Greffier would have been allowed in respect of that item if the litigant had been represented by an advocate, whichever is the lower; or (b) if the work does not cause the litigant pecuniary loss, at such rate per hour as determined by the Greffier in respect of the time reasonably

spent by the litigant (or, in the case of a body corporate, a director of the litigant) on the work within a range or band specified in practice directions issued in accordance with Rule 12/14.". (2) For paragraph (3) of Rule 12/6 of the principal Rules there shall be substituted the following paragraph - "(3) A body corporate that has lodged a declaration in accordance with Rule 4/2A(2) or a requirement of the Court under that Rule may not claim as a pecuniary loss under paragraph (2) any payment to the authorized director for appearing and representing the body corporate pursuant to the declaration.". (3) Part 12 of the principal Rules as amended by this Rule applies to the assessment of costs incurred after this Rule comes into force irrespective of when the relevant proceedings were instituted." 9. It is to be noted that para 3 (3) of Amendment 13 specifically provides that Part 12 of the Rules as now amended "applies to the assessment of costs incurred after this Rule comes into force irrespective of when the relevant proceedings were instituted" . 10. Mr Picot's submissions are set out in his Amended Notices of Appeal dated 23 April and 4 May 2012 and developed orally before us. He contended that the Bailiff was wrong to come to his conclusions and that in reality as well as in law the appellant was a litigant in person and comes within the unamended Rule 12. The Court of Appeal was wrong in *Admatch* in reaching its conclusions between paras 26 and 30 of its judgment. He drew our attention to Amendment 13 and submitted in writing that it is now open to this court to allow the appeal on the basis that the Rules have now been changed and that that change applies to this case retrospectively, although he did not pursue that submission orally. 11. In my judgment Mr Picot is not correct in his submission about the effect of Amendment 13. The Amendment's wording is clear. It applies only to those costs which are incurred after 1 March even if the relevant proceedings were instituted prior to 1 March. In the instant case all the costs that the appellant seeks to recover were incurred prior to 1 March 2012. The costs, for which the appellant sought taxation before the Assistant Judicial Greffier in 2011, were all incurred in relation to the appellant's application for summary judgment, which was concluded in its favour on 3 March 2011 before the Bailiff. 12. The appellant's case before us on the main issue is neatly summarised by Mr Picot on page 1 of the appellant's skeleton argument of 4 May 2012, i.e. "The Appellant's case is simply that it has suffered a wrong through the finding of the Assistant Judicial Greffier in September 2011 which the Bailiff has unfortunately found himself unable to put right having regard to and feeling constrained by the finding of the Court of Appeal in *Leeds Football Club v Admatch* and that Justice demands that the wrong that continues has to be objectively addressed." 13. In support of that argument he prayed in aid two earlier decisions of the Jersey Courts. The earlier was that of *Le Cras LB* on 4 December 1995 in the Royal Court in a case *T. A. Picot (CI)Ltd and Vekaplast Windows (CI) Ltd v Michel, Crill and Hamon*

[1995] JLR N 3B which was noted but not reported. It suggests that the Lieutenant Bailiff simply accepted that the two limited companies were litigants in person and thus able to recover their costs under Rule 12/6 in its then form. The issue which we have to decide was not raised and therefore it is a decision of limited value other than as a description of the then practice of the local courts. 14. The second decision is the judgment of Birt DB, as he then was, in *Admatch* on 21 August 2008, reported in

- [2008] JLR 287 . Admatch, a limited company, represented by Mr Weston as director, appealed a decision of the Master limiting the security to be given by one of the plaintiffs to £5000. The Deputy Bailiff said in para 1 of his judgment that the case raised a novel point whether a company acting through its director can be considered a litigant in person. The Deputy Bailiff allowed Admatch's appeal and increased the security for costs to £88,500. So far as is material for our purpose, he held that, since Admatch was represented by a person other than an advocate, it would be entitled to have its costs taxed under Rule 12/6 of the Royal Court Rules 2004 , as a litigant in person. 15. For the reasons set out in his judgment between paras 11 and 21 the Deputy Bailiff rejected the plaintiffs' arguments in that case that Admatch, a limited company (and the defendant in those proceedings) which appeared by one of its directors, was not a litigant in person, who relied on a decision of the English Court of Appeal in *Jonathan Alexander Ltd v Proctor*
- [1996] 2 All ER 334 and distinguished it on two grounds. The first was that in Jersey it was not uncommon for companies to appear by one of its directors and it was taken as read by the courts in Jersey that a company has a right to appear by a director in the Jersey courts if it chooses not to instruct an advocate and did not, as in England, require the leave of the court. The second was that the English Court of Appeal had relied on a number of previous cases which indicated that prior to the 1975 Act it was generally accepted that the expression "litigant in person" was applicable only to an individual. There were no such cases in Jersey law and thus that point had no weight. The Deputy Bailiff was of the opinion that in Jersey law the more natural interpretation of the expression "litigant in person" when used in the Royal Court Rules is that it includes any litigant who is not represented by an advocate and who is therefore acting for himself or itself. He said that the "unsuitable" language of Rule 12/6 should not outweigh the proper construction of the expression "litigant in person" and said that it would be a serious lacuna in Jersey law if a company appearing by a director could not recover its costs. He therefore concluded in para 21 that "...for the reasons I have already given, I find that, under the law of Jersey, a company acting by its director is to be treated as a "litigant in person" for the purposes of costs and I am comforted that such a finding also accords with the justice of the situation." 16. Accordingly, Mr Picot submits that those two authorities represent the true state of Jersey law and the Amendment 13 does no more than confirm what has always been the position in Jersey law. The Bailiff was wrong, Mr Picot submits, to have been persuaded by the Court of Appeal's dicta in *Admatch* that *Admatch* was not a litigant in person. The *Picot* case in 1995 decided by *Le Cras LB* was not cited in argument in, or referred to in the judgment of, the Court of Appeal in *Admatch* . Furthermore, the dicta of the Court of Appeal in *Admatch* was obiter and thus not binding on us. 17. I accordingly turn to the judgment of the Court of Appeal. After the decision of the Deputy Bailiff the plaintiffs did not pursue an appeal, although leave had been granted. After the trial of the action had been adjourned the plaintiffs sought to reinstate their appeal. The Royal Court then made a second costs order increasing the amount of security to £263,500, which they paid into court. The plaintiffs appealed against that order and the earlier one. 18. The Court of

Appeal allowed both appeals and ordered that all of the security be returned to the plaintiffs on the ground that the Deputy Bailiff was wrong to have ordered any security at all. It held that applications for security for costs should be assessed on an individual basis and that Admatch had not established that there was a real need for security. It further held that the indiscriminate practice of requiring security for costs from plaintiffs outside Jersey was discrimination within Art. 14 of the ECHR and that it was not able to accept that a blanket presumption that protecting a Jersey defendant in being able to enforce his costs if successful was a legitimate objective. It thus allowed the appeal on those grounds. 19. However, the Court made observations between paras 26 and 30 under the heading "The amount of the security" which are material to the issue before us and which are accepted to be obiter dicta. 20. It said at paras 28, 29 and 30 of its judgment:- "28. It has for some years been the practice in Jersey to allow companies to appear as of right by their directors or other officers. In this respect, the position here differs from that which applies, at any rate in theory, in England. However, it must, in our view, be highly doubtful whether a company can ever be a "litigant in person." In its natural meaning, the expression refers to a litigant appearing without a representative, something which a company is incapable of doing. This was certainly the view taken in England before the rules were changed to broaden the definition (see *Jonathan Alexander Ltd. v. Proctor (1)*). Neither the ordinary meaning of "litigant in person" nor the interpretation put on it in England can be decisive in the rather special procedural context of Jersey litigation. What does seem to us to be decisive is that r.12/6 has been drafted on the assumption that the "litigant in person" is a natural person and not a corporation. In particular, the mandatory r.12/6(2) is not easy to apply to a corporation, which has no "normal working hours" and cannot easily be understood to be "away from his or her work."

29. The Deputy Bailiff sought to get round this difficulty by treating Mr. and Mrs. Weston as if they were the litigants in person and proceeding on the basis of their normal working hours. In our view, this was a fundamental error. Even if one identifies Mr. Weston with Admatch for the purpose of classifying the latter as a "litigant in person," it cannot be right simply to ignore the corporate personality of the companies involved. If there was a litigant in person in this case, it was Admatch, not Mr. Weston as its director and shareholder, or his wife as his assistant. It is therefore Admatch's "actual pecuniary loss" which is relevant, not that of Mr. or Mrs. Weston. On the face of it, Admatch, as a dormant company with no business, has suffered no loss. In his affidavits, Mr. Weston gave evidence that his principal Jersey company, St. Helier, had suffered loss as a result of the diversion of his energies and those of his wife to this litigation. But no attempt was made to prove this, other than by bald assertion, and in any event St. Helier's loss is irrelevant because neither St. Helier, nor Mr. Weston as its shareholder, is the litigant in this action. The only actual pecuniary loss which might be attributed to Admatch in this case was its alleged liability to pay St. Helier's invoices for the services of Mr. and Mrs. Weston. We leave aside the fact that this was not an arm's length transaction, but a deal made by Mr. Weston in one capacity with himself in another. We also leave aside the fact that the basis of the deal appears to be that the invoices

will not actually be paid as and when rendered but simply left outstanding so as to create a book entry to justify an award of costs against the second plaintiff. The real problem is that the cost to a company of paying for services rendered to it is not an "actual pecuniary loss." It is simply the price of value received. Rule 12/6 is not concerned with the cost to a litigant of paying an agent to represent it but only with the loss suffered by a litigant itself in litigating without one. Nor, of course, is the rule designed to enable the directors of companies classified as litigants in person to make a living from the litigation.

30. The Deputy Bailiff observed (2008 JLR 287 , at para. 52) that r.12/6 is "not very happily phrased for some individuals, let alone for companies." We agree. It appears to us that, if a litigant is at one and the same time to enjoy the advantage of being unrepresented and the advantage of being able to charge the other side with the cost of paying a representative, the Rules will need to be reframed in a way which allows for that." 21. Mr Picot further orally amplified his written submissions before us. He said that he had been representing companies in Jersey as a director since 1987. It had been the practice in Jersey for many years for a director of a company to represent that company in litigation and no leave was required from the court to do so. He submitted that his experience is endorsed by the Bailiff's own experience as set out in para 18 of his judgment in *Admatch* . Accordingly once a company was represented by one of its directors it became a litigant in person. Further, a company represented by a director comes within Rule 12/6, on its proper construction, since a company does have "normal working hours" and can be "away from his or her work". As for the Court of Appeal's obiter dicta in *Admatch* is concerned, Mr Picot's basic submissions was that the Court was wrong and that the reasoning of the Deputy Bailiff (as he then was) in *Admatch* was and is the true law of Jersey. He submitted that it was manifestly unfair that a company, such as the appellant, could not recover its costs against the respondent simply because it chose to be represented by a director who charged the company for the cost of his representation. 22. I find, as did the Bailiff, the reasoning of the Court of Appeal completely convincing. The Bailiff succinctly summarised the position in para 11 where he said, inter alia:- "The Rule is clearly drafted on the basis that a litigant in person is a natural person" . That, in my judgment, is the beginning, middle, and end of this point. 23. Finally, I agree with the Bailiff's unanswerable reasoning at para 15 of his judgment that the appellant suffered no "pecuniary loss" when it paid its director to represent it. 24. I accordingly would dismiss this appeal. I should add that I have seen in draft the judgment of the President and I agree with it. the president 25. I agree with Sir Hugh Bennett. 26. I would, for my part, summarise the position in this way. A company being legal not a natural person can only act through duly authorised persons pursuant to so called rules of attribution, see *Meridian Global Funds Management Asia Limited v Securities Commission*

- [1995] 3 All ER 918 per Lord Hoffman at pages 992 H29 - 3H. Like a natural person it can instruct a duly qualified lawyer to represent it as of right in litigation, in England at common law Courts could also grant permission to a director to represent it, see *Arbuthnot Leasing International Ltd v Havelet Leasing Ltd and Others*

- [1991] 3 All ER 591 per Scott J at pages 595C - 598A. In Jersey, as a matter of custom whose source and origins were not identified but whose existence was not in doubt, particular permission for such representation was not required, but that of itself is immaterial, the issue is not whether and when a director can represent a company in litigation but whether the company, if successfully represented by a director, can be awarded costs. 27. I doubt, as did the Court of Appeal, that a company could ever be described as a "litigant in person". A litigant in person is someone who appears without representation at all, not simply someone who appears without a lawyer. The words "in person" must be given weight, see *Jonathan Alexander Ltd v Proctor*
- [1996] 2 All ER 334 per Lord Justice Buxton at page 343 and *Re Minataur Data Systems Limited v Brunt*
- (1999) 2 Butterworths Company Law Cases 766 per Lord Justice Aldous. 28. However the precise issue before us is whether the company is a litigant in person for the purpose of the unamended rule. And for reasons given by Bennett JA it clearly is not. Mr Picot could not sensibly suggest that the appellant itself, Allscot Limited, had "normal working hours" and was compelled to equate the working hours of a director with that of the company itself. But a director is not the company even if acting on its behalf. The unamended rule was designed to compensate successful litigants in person for the financial loss incurred in taking time off work to present his or her case in court. A company does not take time off work. Given then first that the language of unamended Rule 12/6 is compulsive against Mr Picot's argument and second the Rule on its face being intra vires the generous rule making power in Article 13 of the Royal Court (Jersey) Law 1948, the only escape route for the appellant would be if the adverse words could themselves be read down or be qualified by the reading in of other words and the only mechanism by which that could be achieved would be by sections 4(1) and (2)(a) of the Human Rights (Jersey) Law 2000, in force since 2006, which provide:- " 4 Legislation
- (1) So far as it is possible to do so, principal legislation and subordinate legislation must be read and given effect in a way which is compatible with Convention rights.
 - (2) This Article -
 - (a) applies to principal and subordinate legislation whenever enacted;" 29. The Convention scheduled to that Act and applicable in Jersey includes Article 6, the right to a fair trial, which provides, (so far as material):- "
 1. In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing..." And Article 14 (prohibition of discrimination) which provides:- " The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status ." (our emphasis) 30. I have considered whether the difference in treatment complained of between a company qua litigant and litigant in person could be said to be

discrimination on the grounds of status without objective and rational justification within Article 14, and also to infringe the company's right to a fair trial under Article 6, which a company certainly enjoys. It was after all the perceived unfairness of that difference in treatment in terms of a company's ability to recover costs when successfully represented by a director in litigation which led to the rapid amendment of Rule 12/6 and equivalent reforms in England and Wales at an earlier date. 31. I also note the beneficial purposes which underlie a costs regime providing for the recovery of costs by a successful party as set out succinctly in the Judicial Greffe's Explanatory Note for Lawyers and Litigants - Costs and Taxation Procedures and Practices :- "An award of costs by the Court to a party to litigation may satisfy one or more objectives. A litigant pursuing non payment of an invoice for services provided by him or a defendant who has successfully rebutted an allegation that he has committed a civil wrong, should be entitled to recover his costs from the other side for pursuing or defending the action. Also, cost orders can deter litigants from behaving improperly or unreasonably. Importantly, the cost award seeks to compensate the litigant for the expenses (costs) properly incurred by him in the proceedings." 32. However there is no case law of the Strasbourg or other Court drawn to our attention by Mr Picot or of which I am aware that would allow us to categorise that perceived unfairness as a breach of either of the Convention Articles to which I have referred. It is not, I repeat, in issue that if a company chooses to instruct an advocate it could, if successful in the litigation, recover costs, and while I recognise the force of Mr Picot's point that lawyers charge more than he does and hence companies, especially small ones, may not be prepared to pay for professional advice, that is nonetheless the company's choice. 33. Finally even if there were, contrary to my conclusion, such a violation of the Convention in the circumstances under consideration, I find the degree of verbal surgery that would be required to render Rule 12/6 compatible would be beyond the reach of Sections 4(1) and (2) of the Human Rights (Jersey) Law 2000, see in particular *Ghaidan v Godin-Mendoza*

[2004] 3 All ER 411 between paragraphs 101 - 115. In the pithy phrase referred to in Lord Rodger's judgment in that case "judicial vandalism" is proscribed. Interpretation and legislation are different creatures and judges themselves are not legislators. Those with power to legislate in this area have duly done so. 34. It may be too late for the appellant Allscot's purposes but Mr Picot, who conducted his argument with commendable courtesy, can console himself that for more than two decades he has, on behalf of various companies which he has represented as director, recovered costs to his own as well as to their benefit which it can now be seen he should not, in law, have recovered and that his loss in this case has itself guaranteed the amendment which he can rely on in the future, albeit at severely reduced rates. Steel ja 35. I agree with the judgments of both my colleagues in this Court. *Authorities Leeds United Association Football Club Limited and Others v Phone-In Trading Post Limited (trading as Admatch)*

[2009] JLR 186 . Royal Court Rules 2004. Royal Court (Amendment No. 13) Rules 2012. T. A. Picot (CI)Ltd and Vekaplast Windows (CI) Ltd v Michel, Crill and Hamon

- [1995] JLR N 3B. Leeds United Association Football Club Limited and Others v Phone-In Trading Post Limited (trading as Admatch)
- [2008] JLR 287 . European Convention on Human Rights. Jonathan Alexander Ltd v Proctor
- [1996] 2 All ER 334. Litigant in Person (Costs and Expenses) Act 1975. Meridian Global Funds Management Asia Limited v Securities Commission
- [1995] 3 All ER 918 . Arbuthnot Leasing International Ltd v Havelet Leasing Ltd and Others [1991] 3 All ER 591. Re Minataur Data Systems Limited v Brunt (1999) 2 Butterworths Company Law Cases 766. Royal Court (Jersey) Law 1948. Human Rights (Jersey) Law 2000. Judicial Greffe's Explanatory Note for Lawyers and Litigants - Costs and Taxation Procedures and Practices. Ghaidan v Godin-Mendoza
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Prepared on 29 October 2026 · Esheria