

JERSEY / JUDGMENT

Weston -v- Leeds United

[2015] JCA 159A (30 July 2015)

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Court of Appeal (Unknown) 30 July 2015 Before : J. W. McNeill, Q. C., President C. Montgomery, Q. C., and D. Perry, Q. C. Between The Phone-in Trading Post Limited (t/a Admatch) Defendant And Robert Lawrence Weston Appellant/Party Convened And Leeds United Association Football Club Limited (in liquidation) First Respondent/First Plaintiff And Leeds United Football Club Limited Second Respondent/Second Plaintiff The Appellant appeared in person. Advocate S. M. J. Chiddicks for the Respondent. judgment OF THE COURT the president: 1. This is an appeal by Mr Weston, the Party Convened, against an Order of the Royal Court (Samedi Division) dated 5 September 2014 issued for reasons given in a judgment of the learned Bailiff (Sir Michael Birt, Kt., sitting alone), the judgment also being dated 5 September 2014 (Leeds United-v-Weston

[2014] JRC 166). That judgment dealt with issues as to costs arising out of a litigation between Leeds United Football Club Limited ("Leeds") and The Phone-in Trading-post Limited (t/a AdMatch) ("AdMatch"). 2. By that decision the Court, among other matters:- (1) ordered that the Defendant, AdMatch, should pay the unawarded costs in the proceedings on the standard basis ("unawarded" to have the meaning as set out and defined in the judgment of the same date); (2) (a) ordered that the Party Convened should pay two-thirds of the total AdMatch costs on the standard basis, subject only to the proviso that those must be costs incurred in the Royal Court, to be taxed if not agreed; (b) ordered that the Party Convened should pay two-thirds of the costs of the hearing of 24 April 2014, on the standard basis, to be taxed if not agreed; and (3) granted the application of the Party Convened for leave to appeal. 3. The order and judgment dealt with a specific matter of costs which had arisen in a long running litigation. Proceedings had been commenced in December 2005, but in January 2011 the Royal Court had made two "unless" orders against AdMatch. Leave to appeal against those orders was refused by the Court of Appeal on 22 March 2011. AdMatch did not comply with either of the "unless" orders and on 19 May 2011 the Royal Court granted judgment in favour of Leeds against AdMatch. The matter of costs was left over and, for various reasons, was not dealt with until 2014. There have been subsequent proceedings, the costs in which have all been dealt with. 4. By 2014 AdMatch had no assets and was no longer in existence, having been struck off. It was not represented before the Royal Court in 2014. There was no dispute but that an order for costs should be made against AdMatch and the contest before the learned Bailiff was as to whether any costs

should be made against Mr Weston personally, as a non-party and, if so, upon what scale. The learned Bailiff considered the authorities on the principles to be applied in non-party costs orders. 5. By reference to the decisions of this court in *Planning and Environment Minister v Yates*

[2008] JLR 486 , at paragraph 74, and in *Leeds U A F C Ltd v AdMatch*

[2011] JCA 110 , at paragraph 4, the learned Bailiff identified that where, as here, an individual director promoted or funded litigation by an insolvent company, a relevant consideration in the pursuit of reason and justice was whether the director could realistically be regarded as acting in the interest of shareholders and creditors rather than in his own. 6. By reference to the decisions in *Myatt v National Coal Board (No 2)*

[2007] 4 All E R 1094 at paragraphs [13]-[15], *Systemcare (UK) Limited v Services Design Technology*

[2011] EWCA (Civ) 546 at paragraph [44] and *Gatcom Capital v Sanders*

[2011] EWHC (Ch) 3716 it was noted that whilst the lack of a warning to a non-party as to a potential liability for costs was not decisive, the failure had relevance to an application if it was possible that the non-party might have behaved differently. We agree that this was an appropriate approach and consideration. 7. Having reviewed these authorities, the learned Bailiff reached the view that the issue should be considered under three headings:- (i) Apart from (ii) is this a case in which it is in principle right to make an order for costs against Mr Weston? (ii) If so, should the court only make such an order in respect of costs after 9 July 2010, or some other date or should it otherwise take into account the failure by Leeds to give a warning before then?; and (iii) Regardless of (ii) should the Court make some reduction in the costs which would otherwise be ordered to reflect unnecessary costs incurred by the plaintiffs and/or orders for costs made in favour of AdMatch which were incapable of enforcement by reason of the decision of the Court of Appeal in relation to costs incurred by an unrepresented corporate entity? 8. Again we agree that this was the appropriate approach. The learned Bailiff took each query in turn. 9. As regards the first, Counsel for Mr Weston below accepted that a personal costs order had already been made against Mr Weston on two occasions in connexion with this litigation but submitted that those findings had been made in the context of two specific applications. In his submission these findings said nothing about the defence or the proceedings as a whole and it had been reasonable for Mr Weston, acting in the interest of AdMatch, to procure that AdMatch defend what it considered was an invalid claim because of the right of set-off. 10. By reference to further authority the learned Bailiff then reminded himself that an order for costs against a non-party is generally to be regarded as an exceptional order, particularly so in the context of making an order against a director of a company. He referred to *Taylor v Pace Developments*

[1991] BCC 406, 409 (Lloyd LJ, as he then was), *Metalloy Supplies Limited v MA (UK) Limited*

[1997] 1 WLR 1613 , 1620 (as he then was) and Systemcare (UK) Limited v Services Design Technology , cited above, which confirm that whilst orders against directors will be rare, it may be that the director is considered to be the party truly interested in the outcome of the suit. 11. The learned Bailiff found that Mr Weston had promoted the defence of the proceedings for his own benefit rather than in the interests of AdMatch. This was because, if AdMatch were successful in its defence, there could be no grounds for anyone coming after Mr Weston or his companies, whereas it made no difference to AdMatch as such whether it succeeded because it had no assets to be taken and no ongoing business to defend: see paragraphs 38 to 40 below. 12. The learned Bailiff accordingly found that it was in principle just and reasonable to order Mr Weston to pay Leeds' costs in connexion with the proceedings (save to the extent that orders had already been made). 13. Leave to appeal having been granted by the Royal Court, it is for the Appellant to show that: (i) the judge below misdirected himself with regard to the principles in accordance with which his discretion should be exercised; or (ii) the judge took into account matters which he ought not to have taken into account, or failed to take into account matters that he should; or (iii) the decision was plainly wrong, in the sense that no reasonable judge properly directed could reasonably have reached the same decision; or (iv) there has been a change of circumstance since the lower court's decision which would have justified a different decision. 14. These requirements were established in the decisions in United Capital Corp Limited v Bender

[2006] JLR 269 , Flynn v Reid

[2012] (2) JLR 226 and I v J

[2014] JCA 235 . In the last mentioned case it had been suggested to this court that there should also be a fifth ground for reversing the exercise of a judge's discretion, namely, if the order made results in injustice on some other ground. This court accepted the point in principle but urged considerable caution in its application in practice. 15. By his appeal, the Appellant asks this court:- (a) to set aside the Royal Court's order of 5 September 2014; (b) in the alternative, to amend the said order of the Royal Court; (c) to order that the Second Respondent pay the Appellant's costs of and incidental to the second plaintiff's application before the Royal Court on 24 April 2014; and (d) to order that the Second Respondent pay the Appellant's costs of and incidental to the present appeal; or (e) to make such other order as the court may deem appropriate and just in the circumstances. 16. The grounds of appeal are set out in a Notice of Appeal dated 3 October 2014, duly adopted by the Appellant in his contentions to this court. In the round, the Appellant contends that the order below is excessive, unfair and wholly disproportionate in failing to calculate a proportion that would fairly take account of all the relevant factors that ought to be considered. A Supplementary Notice dated 16 July 2015 added nothing material to what had already been presented in the Note and the Appellant's written contentions. 17. The Appellant set out his grounds as three principal grounds of appeal with a number of subsidiary grounds. It seems to us that they can most succinctly be expressed as follows:-

(a) The learned Bailiff made an unsupportable finding in fact to the effect that the Appellant would probably have continued with AdMatch's defence even if he had been aware, from the start, that he could be held personally liable for Leeds's costs: ground 1(a); (b) Because the Appellant was given no clear warning of potential exposure to non-party costs, any award of costs should have been calculated only from one of three possible dates, namely: (i) 17 December 2009 (the date on which the plaintiffs settled the terms of their claim by filing a particulars of claim document); (ii) 9 July 2010 (the date when the second plaintiff's notice of appeal of that date became the first document in the litigation to request a non-party costs order); or (iii) 9 July 2011 (the date when a non-party costs order was first made against the Appellant personally). This is as set out in ground of appeal 1(d), but an additional date was added in the Appellant's written contentions. (c) The Royal Court should have applied a very substantially greater discount to any costs payable: ground of appeal 1(c) and ground 2. (d) The learned Bailiff erred in paragraph 49 where he assumed that many of the costs would have been incurred in any event: ground 1(d). (e) In view of the highly unusual nature of the litigation the learned Bailiff should have given a steer to the taxing master: ground 1(e). (f) The learned Bailiff failed to have adequate regard to certain of the authorities before him. See ground of appeal 3. 18.

Before turning to the grounds of appeal we deal with an objection raised by the Respondent. It is asserted that some of the material provided by the Appellant in support of the appeal contains fresh evidence and that an application for its admission should be made. The Appellant out of an abundance of caution made an application for the admission of the material at the start of the hearing. The Appellant nevertheless argued that none of the material was fresh evidence since the Bailiff was, in his submission, immersed in the case and thus aware of all of the relevant facts that were covered in the material even if those facts were not specifically proved in the bundles before the Bailiff on the application for costs. Advocate Chiddicks on behalf of the Respondent contended that the material should not be admitted. However Advocate Chiddicks was not able to identify any fresh evidence in the Appellant's material in the sense that the material contained new facts that were not known to the Bailiff when he made his order for costs. It seems to us that the material is not fresh evidence; although it may contain new analysis of established facts and may reflect fresh emphasis on certain of those facts. In these circumstances we did not consider it was necessary for leave to be given to admit fresh evidence, however in the event that we are wrong in this analysis we consider that it would be in the interests of justice for us to do so. We would also observe that the Bailiff was indeed very familiar with the case and the history of the proceedings. Contrary to the submissions made on the application for the admission of fresh evidence, the Appellant later tried to argue that the Bailiff was not sufficiently aware of the case and its detailed

procedural history.

We have no hesitation in dismissing this later submission. It is clear that the Bailiff had an unrivalled judicial appreciation of the history of the case and he required no further evidence or material to enable him to determine the application for non-party costs. 19. We now deal with each of the grounds of appeal in turn.

- (a) An unsupportable finding of fact 20. As this ground of appeal recognises, the view expressed below, at paragraph 47, that Mr Weston would probably have continued to promote AdMatch's defence even if he had been warned unambiguously that he could be held personally liable for Leeds's costs, was a finding in fact by the Royal Court. 21. It is very well known that appellate courts interfere with findings in fact by the lower court only in the most exceptional of circumstances, namely where, upon a detailed record of the proceedings below it is clear that there was no basis upon which the court below could have reached the finding in question. 22. The finding here in question is not the simple type of finding in fact such as whether object X existed or whether object X was located at place Y at a particular date and time. It is a complex finding arising out of general impression of the whole facts and circumstances before the court. The Appellant has not put forward a basis such as the existence of a primary fact which shows that the court could not have reached its view, rather he states what his own position would have been and contends that he should have been allowed to be cross-examined on his view. 23. We cannot intervene upon that basis. The issue was one of fact and degree for the court below, which had as we have said considerable knowledge of the litigation before it. The Royal Court was well entitled to reach the view which it did. We note that in paragraph 39 the court had observed that Mr Weston had accepted that the £190,400, otherwise owed to Leeds was disbursed from AdMatch for the benefit of him and one or more of his companies. It was they who had the interest to avoid a decree against AdMatch which might then be traced. 24. In any event the contention fails to do justice to the learned Bailiff's whole reasoning on this point: he continued by indicating that, as there was a possibility that Mr Weston would have ceased, the failure to give a warning deprived him of that opportunity and some adjustment to the sum ordered should be made in respect of the loss of that chance. We should add that, speaking in reply before us, Mr Weston was at pains to emphasise that, had there been the possibility of a full trial of all the issues he would have taken steps to ensure that AdMatch was funded for that stage of litigation. Given such an assertion, albeit made in the context of a full trial, this is a case where the court would have been entitled to reach the view that a warning prior to January 2011 would have made no difference.
- (b) Failure to accede to a date-based approach 25. Upon the bases, first, that a warning is not a pre-condition to an award and, second, that its absence is merely a factor to be taken into account, it is a matter for the discretion of the court, after appraisal of all relevant factors, whether, and if so how, to reflect the absence of warning. In some instances it is conceivable that the absence will make no difference to the determination because of the perception of the court as to the conduct of the non-party. In other instances, as here, the court may

determine that some allowance ought to be given because the non-party might have been prejudiced. 26. When, as here, an allowance is to be made, it is clear that it will again be a matter for the discretion of the court how the factor should be reflected in the determination. It seems only logical that there may be occasions when determining matters by reference to a date will do justice between the parties; but not necessarily always. In the present case, the possibility was given due deliberation by the learned Bailiff who set out his reasons for rejection in paragraph 48. 27. The two dates canvassed before the Bailiff were July 2010 and June 2011. In addition to repeating before us the arguments in favour of each of those dates, and also suggesting a third date in January 2011, the Appellant submits that Leeds cannot claim to have "won" on the merits of the case when they changed the whole premise of their claim in December 2009. He therefore offers a fourth possible date of 17 December 2009, being the date when Leeds settled on the amended claim from which they did not resile. 28. We are not persuaded that it can be said that for the Bailiff to decide, even in general, not to approach the issue by reference to dates was manifestly wrong. The point made by the court below was that the dates proffered were comparatively late in the running of the case. It seems to us that, if the purpose of the non-party costs order is to provide reparation to the successful party in respect of the costs of the litigation, then such a consideration is perfectly apt. Whilst the Appellant now offers the earlier date, we note that the learned Bailiff, in approaching matters through the discounting method, specifically took into account the fact that Leeds litigated for a number of years on a basis from which they subsequently resiled. 29. The possibility of using that issue was therefore in the mind of the court below but the court nonetheless determined against using a date-based approach. It is also the case that the newly offered date of December 2009 again falls within the criterion of late in the running of the case. Having rejected determining liability by reference to dates, but being of the view that possible prejudice ought to be reflected in the award, the obvious alternative, as the learned Bailiff adopted, is to use a fairly traditional approach of restricting the award by a percentage. 30. In his submissions to us Mr Weston sought to suggest that the learned Bailiff could not have retained a sufficiently detailed memory of all the twists and turns in this case to permit him reasonably to adopt his broad brush approach. We disagree. In complex or lengthy litigation it is inevitable that even a sole judge in charge of the litigation throughout its lifetime will not have complete recall of how every issue developed. The issue as to where costs should lie in respect of an entire litigation is indeed an assessment which should be carried out broadly. In the absence of a clearly made out ground under those set out in paragraph 13 above, we cannot sustain this ground of appeal.

- (c) Whether a substantially greater discount was required 31. The Royal Court determined upon a discount of one third. The bases for the reduction, as set out in paragraph 51 of the Judgment, were the failure to warn, the fact that Leeds had litigated for some years on a basis from which they subsequently resiled and that some modest costs orders in favour of AdMatch cannot be enforced. The complaint by the Appellant is that there were numerous other factors either which should have been taken into account or which should have been

given greater weight. 32. Only in the most exceptional circumstances can it be envisaged that an appeal would succeed on a ground that the court below had applied an inappropriate amount of weight to a point before it. The circumstances would have to be such that either the court below, whilst purporting to apply weight to a point, in fact did not do so, or that the weight applied was manifestly inappropriate by a margin beyond any margin of discretion. That is not the case here in respect of any of the matters put before us by the Appellant. 33. It is not suggested that the matters taken into account by the Bailiff were irrelevant. It is clear that they are all relevant considerations and, with his knowledge of the case, clearly perceived by the learned Bailiff as the matters which should be taken into account. 34. In presenting this part of his appeal, the Mr Weston drew our attention to an authority which had not been placed before the Bailiff, namely, *AP (UK) & West Midland Fire & Civil Defence Authority v Patel & Ors*

[2013] EWHC 385 (QB) . However, the decision in that case emphasises the required magnitude of the alleged failure on the part of the lower court to take into account relevant considerations. In a complex case, such as the case before us, it is clear that much latitude must to be allowed to the lower court to determine which factors are of such significance that they ought to be reflected in the final determination as to the level of reduction. 35. The decision in *AP (UK) & West Midland Fire & Civil Defence Authority v Patel & Ors* laid stress upon the very limited scope for appeal against a costs order: see paragraphs 13 to 28. As is clear from that determination, there had been a very substantial omission by the Master, namely, an omission to have any regard to the failure to observe pre-action protocols. None of the factors placed before us by the Appellant as failures on the part of the Royal Court to take into account material factors reaches this order of magnitude. 36. The additional factors put before us by the Appellant, and not remarked upon by the Bailiff were the following:- a. The Royal Court ought not to have proceeded with its exercise without having an indication of the level of fees likely to be claimed by Leeds. b. Leeds' lack of proportionality in expending more than £1.13m, in Jersey alone, on a claim for £190k. c. The Appellant having sought to minimise costs by representing AdMatch personally. d. The wasted time for the Appellant due to Leeds' inconsistent and costly approach to the litigation. e. The reasonableness of AdMatch's reliance on the claim to a right of set-off. f. There having been no dishonesty on the part of the Appellant. g. Leeds' unfair advantage in being able to litigate with no fear of having to pay AdMatch's costs if it lost. h. Leeds' lack of proportionality in litigating simultaneously in London and Jersey. i. Wasted costs incurred by AdMatch. j. The vexatious approach of Leeds' chairman to the litigation. k. Leeds' refusal to add the Appellant as a party. l. The potential financial effect on the Appellant of the order. 37. As to the first and second of those points, the actual levels will be determined at taxation. The decision below was being reached on a point of principle. As to the others, in our view these were not relevant factors in the exercise being carried out.

- (d) Whether many of the costs would have been incurred in any event 38. Under this head the Appellant submits that the learned Bailiff was in error when he indicated, at paragraph 49, that many of the costs would have been incurred in any event. The context for this remark is that the learned Bailiff had just expressed the opinion that, in view of Leeds' change of position, it would be unfair to make the Appellant pay for all of the costs during the period when some of them were incurred unnecessarily on the part of Leeds. 39. The Appellant put before us some thirteen instances where it might be argued that costs were incurred unnecessarily. However the point here can be dealt with shortly. First, the learned Bailiff was not, at this stage, engaging in a mathematical exercise. Rather he was making a perfectly common sense observation from his view of the litigation. Leeds had, in somewhat unusual circumstances, succeeded in the litigation. It would therefore go almost without saying that some costs would have been incurred in any event. Second, this issue is almost the paradigm indicator as to why appellate courts rarely interfere with costs determinations. The Bailiff, as with any first instance judge who had been in charge of a litigation for a significant amount of time, was in the ideal position to reach an overview of the broad proportionality as between costs ordinarily incurred and costs which were likely to have been unnecessarily incurred as matters turned out. An appellate court cannot engage in that sort of exercise.
- (e) Whether a steer should have been given for the taxation 40. The Appellant submitted, separately, that in view of the highly unusual nature of the litigation and considerable intricacies, the learned Bailiff ought to have given a steer to the taxing master as regards Leeds' excessive costs and how to deal with matters such as those put forward to us under section (d) above. 41. This is not a matter with which we can interfere. It seems to us to be a matter of proper case management which is an almost exclusive preserve of the lower court.
- (f) Insufficient regard to the relevant authorities 42. The Appellant referred us to certain passages from relevant authorities including *Taylor v Pace Developments*

[1991] BCC 406, 409 and *Metalloy Supplies Limited v MA (UK) Limited*

[1997] 1 WLR 1613, 1620 in an attempt to show that insufficient regard had been given to relevant authorities. But all that these authorities show, as do the authorities relied upon by the learned Bailiff, is that non-party costs orders are very rarely made. Here the learned Bailiff has clearly set out his reasons for making the order and they are in accordance with the principles set out in the authorities. 43. In addition the Appellant referred us to two recent authorities, in each of which the court in question has stressed the importance in the present day and age of proportionality as between costs claimed and the matters in issue. The authorities are *Gotch* and *another v Enelco*

[2015] EWHC 1802 (TCC) and *Coventry and Others v Lawrence and another*

[2015] UKSC 50. In the former *Edwards-Stuart, J* emphasised that the proper conduct of litigation meant bringing the right issues to trial in the most economic fashion and taking steps to ensure that costs were kept at a level which is proportionate to what is at stake: see

paragraphs 47-49. 44. *Coventry and others* was a decision of the Supreme Court as to whether the system for recovery of costs in civil litigation in England and Wales under the Access to Justice Act 1999 was compatible with the European Convention on Human Rights in respect of the success fee and insurance elements of conditional fee arrangements. In determining the issues before them the Justices of the Supreme Court also referred to the need for proportionality: see for example paragraph 33 in the first leading

judgment.

However the decision dealt with issues which might be characterised as to whether certain heads of claim on costs were acceptable in principle according to the concept of proportionality under the Human Rights Convention. It is also to be noted that when the court was referring to an appraisal of proportionality or of disproportion it was doing so as at the time of taxation, or assessment as it is now called: see paragraph 34 read together with paragraphs 7, 21 and 22. 45. It follows that these recent decisions do not particularly assist us in our task in the present appeal. Proportionality/Compatibility with the European Convention on Human Rights 46. The Appellant's primary contention was that the award of costs in his case would lead to an award that was disproportionate in relation to the amount claimed. However the Appellant also contended that the principle of proportionality ought to be added explicitly to the rules in Jersey as it has been in England and Wales. The Appellant contends that the absence of an explicit reference to proportionality raises an issue as to the compatibility with the European Convention on Human Rights ("the Convention") of the system for recovery of costs in civil litigation in Jersey. 47. The primary rule dealing with the recovery of costs on a standard basis (rule 12/4 of the Rules of the Royal Court 2004) provides that there shall be allowed a reasonable amount in respect of all costs reasonably incurred; and that any doubts which the Greffier might have as to whether the costs were reasonably incurred, or were reasonable in amount, shall be resolved in favour of the paying party. 48. As the Royal Court held in *Luce v Manning*

[2004] JLR 64 at paragraph 17, the taxing officer is obliged to reflect the dicta in *Re Esteem*

[2000] JLR Notes 41a on the need to progress to trial in accordance with an agreed or ordered timetable, at a reasonable level of cost, and within a reasonably short time in carrying out taxation. In *Sinel v Goldstein*

[2003] JLR Note 20 the Court also emphasised the overriding objective of bringing proceedings to trial at a level of cost which is reasonable and commensurate with the sum in dispute. Thus in *Luce v Manning* the Royal Court concluded that, in taxing costs under rule 12/4, taxing officers must consider whether costs are reasonable in the context of a particular case having regard to the amount and issues at stake. What is reasonable in a high value case may well be thoroughly unreasonable in a case concerning a modest amount of money. In the case of standard costs, any doubts as to whether or not costs were reasonably incurred or are in a reasonable amount are to be resolved in favour of the paying party. It follows that unless the Master is satisfied in a small-money case that the steps taken by the receiving party's lawyer were absolutely essential, in the sense which

we outline in the following paragraph, it is probable that the costs should be disallowed:
see *Home Office v Lownds*

[2002] 1 WLR 2450 paragraph 31), *Motto & Ors v Trafigura*

[2011] EWCA Civ 1150 (paragraphs 47 - 52). 49. Thus although the term 'proportionate' does not appear in Rule 12/4 it appears to us that the taxing officer is entitled to regard costs that are disproportionate

- in the sense of being unnecessary if the litigation had been conducted in a manner proportionate in the context of a particular case having regard to the amount and issues at stake - as unreasonable. 50. In our view this scheme for the management of costs that is reflected in Rule 12 of the Royal Court Rules represents a rational and coherent scheme for dealing with costs that does not violate any Convention principle and does not disproportionately interfere with access to justice. It is subject to safeguards. The authorities in Jersey are entitled to a considerable area of discretionary judgment in choosing a scheme and implementing a scheme covering the award of costs that it considers would strike the right balance between the interests of claimants and defendants. It is no answer to say that other measures could have been taken which would have operated less harshly on Mr Weston. 51. We also note that in *Coventry* and others the respondents there accepted that they could not challenge their basic liability under the order of the court hearing the substantive issues but reserved their position as to challenging on grounds of proportionality at assessment: see paragraph 7. Given the existence of a right to challenge at assessment or taxation in this jurisdiction we see no ground upon which to find an infringement of Convention Rights under Article 6 or under Article 1 of the First Protocol. 52. As for the claim of proportionality in the sense of a disproportion between the costs incurred and the value of the claim. Mr Weston referred us to the total figure of £1.13 m costs estimated by Respondent as having been expended on their legal costs in Jersey. However Mr Weston has helpfully provided the Court with an estimate of the amount of taxed costs that might be awarded against him following taxation and the application of the 1/3rd discount stipulated by the Bailiff. Mr Weston estimates that sum as £259,000. We cannot speculate as to the likely level of taxed costs in this, or any other, matter. We have noted in paragraph 23 that Mr Weston admits that within a year of AdMatch receiving the sum of £190,400 AdMatch had paid that sum, in effect, to him personally. The conduct of the litigation has effectively shielded Mr Weston from a tracing claim in respect of that sum. It might not be thought surprising in such circumstances that a counter-party did in fact engage in the taking of all necessary steps to try to secure payment. Disposal 53. For all these reasons the appeal is dismissed. *Authorities Leeds United-v-Weston*

[2014] JRC 166 . *Planning and Environment Minister v Yates*

[2008] JLR 486 . *Leeds U A F C Ltd v AdMatch*

[2011] JCA 110 . *Myatt v National Coal Board (No 2)*

- [2007] 4 All E R 1094 . Systemcare (UK) Limited v Services Design Technology
- [2011] EWCA (Civ) 546 . Gatcom Capital v Sanders [2011] EWHC (Ch) 3716. Taylor v Pace Developments [1991] BCC 406, 409. Metalloy Supplies Limited v MA (UK) Limited
- [1997] 1 WLR 1613 , 1620. United Capital Corp Limited v Bender
- [2006] JLR 269 . Flynn v Reid
- [2012] (2) JLR 226. I v J (Family)
- [2014] JCA 235 . AP (UK) & West Midland Fire & Civil Defence Authority v Patel & Ors
- [2013] EWHC 385 . Gotch and another v Enelco
- [2015] EWHC 1802 . Coventry and Others v Lawrence and another
- [2015] UKSC 50 . Access to Justice Act 1999. European Convention on Human Rights. Royal Court Rules 2004. Luce v Manning
- [2004] JLR 64 . Re Esteem
- [2000] JLR Notes 41a. Sinel v Goldstein
- [2003] JLR Note 20 . Home Office v Lownds
- [2002] 1 WLR 2450 . Motto & Ors v Trafigura
- [2011] EWCA Civ 1150 . Page Last Updated: 27 Sep 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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