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FOIL UPDATE 7th October 2022



CAM Legal Services Ltd v Belsner – Claimants’ Solicitors will be holding a collective breath

Put simply, the issue here was whether a solicitor, seeking to rely on CPR 46.9(2), is required to show that the client, under a conditional fee agreement (CFA), gave informed consent to having deducted from their damages a sum in respect of their solicitor’s costs which was greater than that recoverable from the other party in the proceedings.

The appellant solicitors had represented the respondent/claimant in proceedings relating to the claim for personal injury arising out of a road traffic incident. The agreement between the parties was a CFA. The claim was successful and the solicitors paid the claimant the amount of damages minus their additional fees of £321.50.

The claimant then issued a Part 8 claim seeking assessment of the solicitors’ fees. A District Judge’s final assessment of the solicitors’ costs pursuant to S70 Solicitors Act 1974 was overturned on the claimant’s appeal. The solicitors appealed that decision.

Indications from the Court of Appeal suggest that the judges will be critical of the information sent to the client, which included the Law Society’s model conditional fee agreement, which runs to 22-pages. How, without further explanation, could a lay person be expected to understand that information?

Towards the end of the hearing, the court indicated that, if appropriate, it will assess whether any costs incurred were reasonable, rather than remit that decision to the county court.

Judgment has been reserved.

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