

**Procedural vandalism and the Solicitors Act 1974: *Carpmaels & Ransford LLP and Collyer Bristow LLP v Regen Lab SA* [2021] 2 WLUK 244**

Reference: [2021] 2 WLUK 244

Date: 17 February 2021

Court: The Commercial Court (QBD)

Judge: Waksman J

### **Facts**

James McKean represented the Claimants, two firms of solicitors and intellectual property lawyers, who resisted an application to set aside a default judgment.

The Claimants were owed fees in excess of £600,000, having represented the Defendant, a Swiss biotechnology company, in the *Regen Lab SA v Estar Medical Limited* [2019] EWHC 63 (Pat) patent litigation.

The Defendant acknowledged service but failed to file a defence or contest jurisdiction. Default judgment was obtained.

The Defendant's application to set aside the judgment consisted of a jurisdictional challenge and technical objections under the Solicitors Act 1974 to the bills submitted by the Claimants. Waksman J found these arguments to have no prospects of success and refused the Defendant relief from sanctions.

### **Comment**

An application to set aside judgment in default is an application for relief from sanctions. A party who does not deserve relief will not get it – regardless of the merits of their defence.

On the facts, the Defendant was not a party deserving relief, having been described by Floyd LJ in a previous hearing ([2020] EWCA Civ 451) as a litigant with '*a history of procedural wrongdoing, one is tempted to say procedural vandalism*'.

Not only this, but the Defendant had no defence to the claim. The Claimants' bills were valid interim 'statute bills' for the purposes of the 1974 Act. Waksman J emphasised that the Defendant was an experienced litigant who was easily capable of seeking assessment of the bills, had it been minded to do so. Its present objections were '*tactical manoeuvring*' and disclosed no substantive objection to the fees charged or services provided.

The purpose of the 1974 Act is not to allow opportunistic clients to raise technical objections to avoid paying for services rendered. The Claimants had achieved success for the Defendant in the underlying litigation and deserved to be paid for their work.

James McKean