

Ms N Klosterkotter-Dit Rawe

Our ref: CSU/23013

Your ref:

***please quote our reference
on all future correspondence***

10 January 2008

Dear Ms Klosterkotter-Dit-Rawe,

West London County Court

Thank you for your letter 10 December 2007 addressed to Jack Straw and your further letter of 27 December addressed to Alex Lark.

I should begin by explaining that the Minister has many calls upon his time and is, unfortunately, unable to respond personally to all correspondence he receives from individual members of the public. Your letter to him has, therefore, been passed to this Unit since it deals with such correspondence on his behalf. I have been asked to consider your complaint. In doing so I have read all the previous correspondence and the report from the court and have made further extensive queries of the court myself.

You have raised a number of matters of concern which I deal with in the paragraphs below.

The first matter concerns the lack of response to your letters of 2, 14 and 24 October. The court records show that all three letters were received. Although there is no indication that the court responded, and I am sorry that that should have been the case, they had in fact acted to correct the error relating to your acknowledgment of service which I understand was the subject matter of those letters. Your acknowledgment was filed on 4 April. In it you indicated that you intended to contest the court's jurisdiction to deal with the case. However, the notice of the acknowledgment sent to the claimant's solicitors indicated, wrongly, that you intended to defend the claim. I understand that an amended notice was sent. You have referred to the notice as an order. It is in fact as I have described, a notice, and it is not necessary for the court to send a copy of it to you since you are already aware of the content of your acknowledgment. It may be for this reason that the court may not have responded to your letters, although I believe it would have been helpful if they had sent a letter confirming what they had done. That the claimant had been made aware of your correct intention was indicated by their letter to the court of early May in which

they stated that they had not had sight of either an application contesting the court's jurisdiction, or your evidence to support that contention.

In respect of the hearing of 8 May, you have asked why you were only allowed a very short extension of the time for filing your skeleton argument when the hearing was subsequently adjourned to August. The answer is, that at the time your request was received the judge had not received the application for the adjournment from the claimant's solicitors and therefore, assumed the hearing was imminent. Their request would not have been necessary had you filed an application regarding the court's jurisdiction as you were meant to do under the procedural rules.

The procedure to be followed where an acknowledgement of service indicates an intention to contest the court's jurisdiction is set out on the form. It makes it quite clear that you must file an application in support of your contention within 14 days of filing the acknowledgment. You did not do so, but when the claimant requested the court to enter judgment for your default, the judge ordered that the matter be set down for the hearing on 8 May. This hearing was adjourned at the claimant's request for the reasons stated above, that is, that they could not proceed to a hearing without your evidence.

You have questioned why you have heard nothing further from the court since 29 September when the court requested payment of the counterclaim fee. The short answer is that neither you, nor the claimant, have taken any further action since that time. You have suggested that the court has failed in not carrying out its case management duties. I should explain that judicial case management is only invoked when the court is satisfied that it has before it a claim and a valid defence. It is unclear because of the striking out of your counterclaim whether that is the situation with this case, for example, you have made no formal application to reinstate your counterclaim. I have, therefore asked that staff refer the matter to the judge for directions on how the case should now proceed.

You have asked if the process of requesting the counterclaim fee and striking out for failure to pay is regulated. The short answer is that it is. The procedure to be followed is set out in Part 3 of the Civil Procedure Rules at Rule 3.7A (1-8).

You have also questioned why you were asked to pay a fee of £1,700 when the claimant was able to issue the claim against you at a cost of £250. The difference lies in the amounts being claimed which dictate what amount of fee has to be paid. The claim was issued for a sum slightly in excess of £8,000 and therefore, attracted a fee of £250. You had not put any limit on your counterclaim. In circumstances where the claim or counterclaim is unspecified, the court must charge the maximum fee of £1,700. Fees are charged pursuant to a Fees Order that has to be approved by Treasury and Parliament as representing the appropriate cost of handling the claim or counterclaim.

I note that my colleague, Suki Bhangra has already explained to you the reasons for the delay in sending the tape to the transcription firm of your choice and the reason for the delay in setting a hearing. You appear not to have accepted her explanations although I can confirm that the reasons given are correct. It was an unfortunate coincidence that transcripts were requested of two hearings which happened to have

been recorded on the same tape, nothing more. The procedure once a first transcript is produced by the transcription firm, is for them to send it to the judge who presided at the hearing for his approval. Only when that approval is given can the transcription be forwarded to you. It is a matter for the judge to decide what priority to give to approving the transcript since this has to be fitted in with his other duties which may well have prior claim to his time.

With regard to the hearing, it is indeed true that this fell during a peak holiday period. Many judges take their holidays during this period as well as court staff. Nevertheless the court continues to hold sittings although their number may be reduced because of judicial absences. In having to wait longer than usual during this period, your position was no different to that of parties in other cases who required hearing dates for their cases during that same period.

With regard to the case at West London County Court, I hope I have now dealt with all the points raised. So far as your allegations of collusion are concerned, I have found no evidence whatsoever to support your contention and none which suggests you have been denied a fair hearing since the matter has not yet come to a final hearing. I cannot therefore confirm your complaint in this respect.

With regard to your "demand" for the case to be transferred, I should explain that if you wish the case to be transferred you will have to make a formal application to the court giving your reasons for requesting it and supporting evidence. It will then be for a judge to decide if your application should be granted. Your application will attract a fee. I should make it very clear that Ministers have no powers to intervene in matters that are before the courts. Judges are independent of Government and must be free to make their decisions without any external influences.

Finally you have referred to a further case in which you suggest that a statement of truth was signed, incorrectly, by managing agents. Whether this represents a serious procedural breach, or invalidates the evidence concerned in the document, is again a matter for a judge to decide should you choose to raise the issue. It is unclear whether you took that step or simply raise it now as a further element of your complaint. I understand, however, that that particular case was transferred to Wandsworth County Court some time ago. Only if the case is still live, which I understand it may not be, can you raise the issue with a judge.

Yours sincerely,



Paulette James OBE
Customer Service Unit