

IN THE WEST LONDON COUNTY COURT

WL203537

43 North End Road
London W14 8SZ

Friday, 28th May 2004

Before:

DISTRICT JUDGE MADGE

(In Chambers)

BETWEEN:

STEEL SERVICES

Claimant

- and -

DIT-RAWE & Ors.

Defendants

*Transcribed by **BEVERLEY F. NUNNERY & CO**
Official Shorthand Writers and Tape Transcribers
Quality House, Quality Court, Chancery Lane, London WC2A 1HP
Tel: 020 7831 5627 Fax: 020 7831 7737*

MS. SALIN (Solicitor, Messrs. Cawdery Kaye Fireman & Taylor) appeared on behalf of the Claimant.

THE DEFENDANTS did not attend and were not represented.

PROCEEDINGS

And we ARE at the mercy of these
judges (+ Judge Wright + Judge Ashworth)
don't read/don't want to read documents
in files, preferring to 'map-up' what solicitors
tell them

1 DISTRICT JUDGE MADGE: This is a directions hearing listed because there was
2 apparently non-compliance with a number of the directions. So far as I can see
3 disclosure has taken place.

4
5 MS. SALIN: Disclosure has taken place. Sir, I do not know if you **have had the**
6 **opportunity to read a short skeleton argument** that I have prepared?

7
8 DISTRICT JUDGE MADGE: **No, I have not, because it was handed in late.** What has
9 happened with witness statements? !!

10
11 MS. SALIN: Witness statements have not been exchanged yet.

12
13 DISTRICT JUDGE MADGE: When are they going to be exchanged?

14
15 MS. SALIN: As far as the fourth defendant is concerned, we have agreed a timetable of
16 directions. They have said that they can provide copies of the documents that we
17 have requested from their list.

18
19 DISTRICT JUDGE MADGE: **So I need to deal with inspection first, do I?**

20
21 MS. SALIN: Yes.

22
23 DISTRICT JUDGE MADGE: You say "the defendant", which of the defendants?

24
25 MS. SALIN: It is only the fourth defendant. As far as the second defendant is
26 concerned, there is a completely separate issue.

27
28 DISTRICT JUDGE MADGE: 4 p.m. on 11th June. The fourth defendant do send to
29 the claimants' solicitors copies of the items requested at 3 and 4 in its list of
30 documents by 4 o'clock on 11th June.

31
32 MS. SALIN: Thank you, sir, and we agreed the exchange of witness statements by
33 9th July.

34
35 DISTRICT JUDGE MADGE: Given what has happened, I am considering making an
36 order that if that is not complied with the other party be at liberty to serve
37 unilaterally and the defaulting party be debarred from calling evidence. Is there
38 any reason why I should not do that?

39
40 MS. SALIN: No, that is fine, sir.

1 DISTRICT JUDGE MADGE: Correct me if I am wrong, but I think the directions
2 allowed for experts?

3
4 MS. SALIN: In relation to the second defendant only.

And Judge Madge does not ask for any explanation whatsoever such as querying why Steel Services had made me an offer for £6,350 when it had originally claimed £14,400

5
6 DISTRICT JUDGE MADGE: Has that been complied with or not?

7
8 MS. SALIN: That has not, no. As far, as the second defendant is concerned, we have
9 received payment from her and the matter, in principle, is settled, but we have been
10 unable to agree the terms of a consent order. Different versions have been flying
11 back and forward since November 2003, but the second defendant is not prepared
12 to sign the consent order that we have submitted to her. Historically it has been a
13 case of the consent order that she submitted has included works that may possibly
14 take place in the future to the property and not just the amount that is claimed
15 within this claim. The problem is that we simply have not been able to get a signed
16 consent order in terms of the second defendant. The money has been received and
17 accepted.

18 Since Sep And Dec 2003 !!

19 DISTRICT JUDGE MADGE: So all that is outstanding is what the claimants'
20 obligations to her are - is that right or is that over-simplifying it?

21
22 MS. SALIN: Sir, if I can show you - there are a few letters attached to the skeleton
23 argument that I have handed to you. There are various different draft consent
24 orders attached to that, starting with the earliest draft prepared by the defendant's
25 then solicitors.

26
27 DISTRICT JUDGE MADGE: The money has been paid and it is said there is no order
28 for costs - is that right?

29
30 MS. SALIN: Yes, that was what was agreed in November. The defendant subsequently
31 disinstructed her solicitors and served a replacement notice of acceptance whereby
32 she refused to pay the interest that had been agreed with her solicitors. Just for the
33 sake of settling the matter we agreed to that, submitted another draft consent order,
34 but since then the two draft orders that she has submitted to us have included
35 monies that may be outside the scope of these proceedings.

36
37 DISTRICT JUDGE MADGE: Is it sensible for me simply to stay the claim against her?

38
39 MS. SALIN: Yes, if I can show the last order that she sent us yesterday that she would
40 be prepared to accept, I think that is fine. I am just concerned because she is not

1 here today and that is unusual for her. I am conscious that I do not particularly
2 want to vary from that too much, given that she may make an application to vary
3 the order herself.

4
5 DISTRICT JUDGE MADGE: Is there anything wrong with this draft consent order of
6 24th May?

7
8 MS. SALIN: This one that we received yesterday, no, I do not see anything wrong with
9 that because that is limited to this claim, but historically one ----

10
11 DISTRICT JUDGE MADGE: You should sign it and get it back to her before she
12 changes her mind.

Keen to help the 'fraternity'

13
14 MS. SALIN: I am happy with that order, sir, if it can be made in those terms. I do not
15 think she will have any objection to it either.

16
17 DISTRICT JUDGE MADGE: I do not think, without her being here, I can force it on
18 her, but what I can do is simply say the claim against the fourth defendant be
19 stayed. In fact, let me say, "Terms having been agreed", because you tell me they
20 are agreed.

Of course! Why not! Any other
'freebie' you can throw in for good
measure Judge Madge??

21
22 MS. SALIN: Yes.

23
24 DISTRICT JUDGE MADGE: Yes, "Terms having been agreed the claimant against the
25 fourth defendant be stayed".

26
27 MS. SALIN: Thank you, sir. Sorry, that is the second defendant.

28
29 DISTRICT JUDGE MADGE: Yes, I am sorry, the second defendant. Then if I say "As
30 between the claimant and the fourth defendant costs in the case"?

31
32 MS. SALIN: Yes, sir, thank you.

33
34 DISTRICT JUDGE MADGE: What should happen about listing?

35
36 MS. SALIN: Neither party as far as I can see has any dates to avoid, and once witness
37 statements have been exchanged there are no further directions.

38
39 DISTRICT JUDGE MADGE: What is the time estimate?
40

1 MS. SALIN: As between us and the fourth defendant it is one day, I think.
2
3 DISTRICT JUDGE MADGE: Remind me about allocation, is this fast-track or multi-
4 track?
5
6 MS. SALIN: It is multi-track - but let me just check. Yes, it is multi-track.
7
8 DISTRICT JUDGE MADGE: So if I simply say the claimants' claim against the fourth
9 defendant be listed for hearing before the circuit judge - when are we talking about
10 realistically, during August?
11
12 MS. SALIN: Sir. Sir, I am so sorry, I have just checked and I have got my numbering
13 wrong, we are actually talking about the fifth defendant rather than the fourth
14 defendant.
15
16 DISTRICT JUDGE MADGE: Throughout?
17
18 MS. SALIN: Yes, so the directions and the trial are in relation to the fifth defendant.
19
20 DISTRICT JUDGE MADGE: "The claimants' claim against the fifth defendant be
21 listed for hearing before the circuit judge between 1st and 31st August with a time
22 estimate of one day", there being no dates to avoid.
23
24 What is the position about expert evidence with the fifth defendant?
25
26 MS. SALIN: The issues that remain in relation to the fifth defendant will not require
27 expert evidence.
28
29 DISTRICT JUDGE MADGE: Right. Is there anything else that I can usefully do
30 before I print out the order? *
31
32 MS. SALIN: I do not think so, sir, I think that is everything.
33
34 DISTRICT JUDGE MADGE: The court will obviously send a copy to the fifth
35 defendant in due course, but it would be helpful if you could send a photocopy
36 straight away. Thank you very much.
37
38

* from the point of view of justice:
Yeah! Read the evidence!
4 And challenge what you
are being told. That would
be a good start!!