



Press Summary

23 October 2024

Oakwood Solicitors Ltd (Respondent) v Menzies (Appellant)

[2024] UKSC 34

On appeal from [2023] EWCA Civ 844

Justices: Lord Briggs, Lord Sales, Lord Hamblen, Lord Leggatt, Lord Richards

Background to the Appeal

This appeal concerns the circumstances in which a solicitor’s client may apply to the court for assessment of their solicitor’s bill of costs. The court has the power to assess the costs which solicitors bill their clients to ensure that the costs are reasonably incurred and reasonable in amount. That power is now found in section 70 of the Solicitors Act 1974 (the “1974 Act”). Under the statutory scheme, stricter time limits apply where there has been “payment” of the bill and, in particular, under section 70(4) there is no right to apply for an assessment 12 months after payment. The issue on this appeal is what “payment” means for these purposes [1]-[3].

The appellant, Mr Menzies (“the Client”), was involved in a road traffic accident in which he suffered serious injuries. He instructed the respondent, Oakwood Solicitors Ltd (“the Solicitors”), to pursue a claim for damages for personal injury. They entered into a conditional fee agreement (“CFA”) whereby it was agreed that the Solicitors would take the balance of its basic charges; its success fee; insurance premium; disbursements; and VAT, from the compensation money received subject to a cap of 25%. The Client would receive the remainder of the compensation money. The Client then accepted an offer of £275,000 to settle his personal injury claim [8]-[9].

Following settlement, on 11 July 2019 the Solicitors issued a “Final Statute Bill” to the Client, which stated that its “total fees” were £73,711.20. That bill stated: “*unless otherwise stated in the covering letter, the total charge has been deducted from your damages, as agreed*” [13-16].

On 1 April 2021, the Client applied to the Sheffield District Registry for an assessment of the Final Statute Bill [17]. The Costs Judge decided that “payment” had occurred when the Solicitors initially deducted its fee from the compensation money and, because that was over 12 months previously, the Client was now barred from seeking an assessment under section 70(4) of the 1974 Act [19]-[20]. The Client appealed to the High Court which allowed his

appeal on the basis that there had been no “settlement of account” which would have allowed the deduction by the Solicitors to be treated as “payment” within the meaning of the 1974 Act. [21]. The Solicitors appealed to the Court of Appeal, which allowed the appeal and decided that the fact that the Client had agreed to the CFA meant that no formal agreement to the amount ultimately deducted by the Solicitors or settlement of account was necessary [22].

The Client now appeals to the Supreme Court.

Judgment

The Supreme Court unanimously allows the appeal. Lord Hamblen gives the judgment of the of the Court. [87].

Reasons for the Judgment

The word “payment” is not a term of art but the most obvious example of payment of a solicitor’s bill is the situation where a bill is rendered and then paid by the client transferring money to the solicitor. By making the transfer the client is accepting and agreeing to the amount charged in the bill which has been rendered. Payment may also be made by means of an authorised deduction from monies held. Such a payment would only correspond with the most obvious example of payment if there was similarly agreement as to the amount to be paid in respect of the bill. That would provide a consistent meaning to what is required for payment.

On the Solicitors’ case payment for the purposes of section 70 may be made on and simultaneously with delivery of the bill of costs. Payment can thus occur before the client has an opportunity to see, consider or take advice in relation to the bill of costs. There are a number of contextual considerations which make this unlikely to have been intended.

First, section 70 is concerned with the proper amount to be charged by way of costs, having regard to whether they have been reasonably incurred and are reasonable in amount. That being so, it would be surprising if payment was to occur without there being any opportunity for the client to consider the detail of the bill of costs and to decide whether and to what extent it should be paid.

Secondly, delivery to the client of a bill complying with the statutory requirements is integral to the statutory scheme. This emphasis on delivery highlights that the detail of the bill delivered, and the opportunity for the client to consider that detail, is of central importance.

Thirdly, section 70 envisages payment after delivery of the bill of costs and therefore not by virtue of the delivery of the bill.

Turning to the purpose of the statutory scheme, it is apparent that the requirements that bills of costs be delivered, that the bills comply with statutory conditions, and the right to have those bills assessed are concerned with the protection of the interests of the client. Client protection is diminished if payment occurs before there is any opportunity to consider the bill of costs and whether and, if so, to what extent, it should be paid.

As to the specific purpose of section 70(4), the obvious reason for the stricter regime that applies where the bill has been paid is that payment by a client of a particular bill is taken to represent acceptance and agreement by the client to the sums claimed in that particular bill. On the Solicitors’ case, however, payment may occur without there being any opportunity to consider the bill of costs, let alone to accept and agree to it.

Considerations of ordinary meaning, context, and purpose therefore favour the Client’s case rather than that of the Solicitors.

The court then considered the relevant authorities which date from the Solicitors Act 1843 which first introduced the statutory scheme.

The court concluded that the authorities show a long established understanding as to what payment by deduction or retention requires in this context both generally and with specific reference to section 70 and its statutory predecessors. The need for a settlement of account has been consistently stated in cases from *In re Bignold* in 1845 to *Harrison v Tew* in 1987. This requires an agreement to the sum taken or to be taken by way of payment of the bill of costs. Such an agreement may in an appropriate case be inferred from the parties' conduct and in particular from the client's acceptance of the balance claimed in the delivered bill. The authorities therefore provide strong support for the Client's case of the need for an agreement as to the amount to be paid in respect of the bill of costs and that mere delivery of the bill does not suffice.

The court also considered the practical implications of acceptance of the Client's case and rejected the Solicitors' case that it would have serious practical repercussions for solicitors' practice management in modern conditions.

The appeal is accordingly allowed.

References in square brackets are to paragraphs in the judgment.

NOTE:

This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Decided cases - The Supreme Court](#)