Beware of County Court tricks without the treats! – Check where you issue your claim and correspondingly who issues your default judgment

At the time of writing, it is nearing Halloween, as such it seemed apt to write about I will euphemistically call 'tricks' of the County Court.

I am currently acting on a matter on a direct access basis concerned with negligence that was issued through the Civil National Business Centre ("**CNBC**") as a County Court Money Claim ("**CCMC**"). However, her claim involved a claim for special damages i.e. a claim for an unspecified amount of money. This point will become important for reasons developed later.

My client was acting as a litigant in person for the purposes of filing and serving documents. The first issue encountered by my client was ascertaining the latest date on which the defendant was obliged to file and serve an acknowledgment of service.

From a practical standpoint, my client struggled to confirm the position with the CNBC. My client's emails generally went unanswered for days at a time and my client spent hours waiting on the relevant telephone lines.

CPR 6.14 (Deemed service) provides that: *"A claim form served within the United Kingdom in accordance with this Part is deemed to be served on the second business day after completion of the relevant step under rule 7.5(1)".* However, deemed date of service operates slightly differently for the Money Claim Online ("**MCOL**") service compared to the process described in **CPR 6.14**. For MCOL claims, the deemed date of service is the 5th calendar day after the claim was issued pursuant to **CPR PD 7C paragraph 5.7**. The deemed date of service of proceedings impacts the date for filing an acknowledgement of service and correspondingly when a default judgment can be obtained. The deemed service date in respect of MCOL can be easy trap for the unwary, especially where Particulars of Claim are filed and served separately to the Claim Form.

The second more serious issue relates to the Court Centre that issued my client's claim and default judgment. The claim and the default judgment were issued by the MCOL service. The Defendant in the action applied to set aside the default judgment on grounds of defective service. However, the judge set default judgment aside pursuant to **CPR 13.3** on the basis that the default judgment had been issued by the incorrect County Court Centre since the claim was not for a specified sum of money given my client's special damages claim i.e. the claim was not a money online claim.

The judge referred the parties to **CPR Practice Direction 51R at paragraph 2.1(3)** which provides that a claim is only suitable for the Online Civil Money Claims Pilot (i.e. the part of the County Court that issued the Default Judgment) if, *inter alia,* '*the claim is a claim for a specified amount of money only*'. None of the parties had spotted that the Default Judgment and the claim had been issued from the incorrect County Court Centre. This was in circumstances where the Claim Form did not state which part of the County Court had issued it on its face and my client had received confirmation of receipt of her claim from the CNBC, which deals with claims for unspecified sums of money. The judge in my case acknowledged that parties may not be familiar with the **CPR PD 51R** and that it was at the front of the judge's mind because the judge had been delivering training on it to other judges recently.

It is noted that the HMCTS website at https://www.moneyclaim.gov.uk/web/mcol/welcome does not obviously state on its face that it is only for claims for a specified sum of money. Instead, it states that: *"Money Claim Online (MCOL) is HM Courts & Tribunals Service Internet based service for claimants and defendants. Money Claim Online is a convenient and secure way of making or responding to a money claim on the internet"*. The separate and distinct .gov.uk website https://www.gov.uk/make-court-claim-for-money/make-claim states that '*You can make your claim online, unless: you do not know how much money you want to claim…*'. However, an unwitting litigant in person and/or someone less familiar with the County Court system could easily fall into error and incorrectly issue their claim for an unspecified sum online. Whilst litigants might have a degree of familiarity with the main body of the Civil Procedure Rules, they are likely to have less familiarity with the Practice Directions which are less prominent, such as **CPR PD 51R.**

The salutary lesson being that where you have a County Court claim for an unspecified sum, it is important to ensure that your claim is made by post using paper claim form N1 through the CNBC. (Query the appropriateness of this approach in a digital age and where the Online Money Claims system exists.) So, double check where you claim is issued and ensure that it is the correct County Court Centre and correspondingly check that default judgments are issued by the correct County Court centre!

Whilst the reference to Halloween is lighted hearted, the underlying point about the importance of the proper function of the County Courts is not. This is a matter of access to justice in circumstances where the most common point of contact with the civil justice system for average members of the public will be the County Court system.

It is important that public information from organisations such as HMCTS about how to make a claim is clear and unambiguous. It is also important that there are effective means through which litigants can communicate with the County Court and generally

interact with the system. Litigants should not be unfairly prejudiced by administrative errors that are not entirely within their control and/or weaknesses in the County Court infrastructure in respect of contact mechanisms. Perhaps something for the Civil Court Users Association (https://ccua.org.uk/) and HMCTS to consider...

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