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King's Bench Walk

Detailed Assessment Proceedings

Jason Rowley

20 June 2011

- How to prepare and conduct a detailed assessment
- Solicitor or Costs Draftsman?
- How to maximise costs recovery
- How might Jackson affect this?

“If you fail to prepare, you prepare to fail”

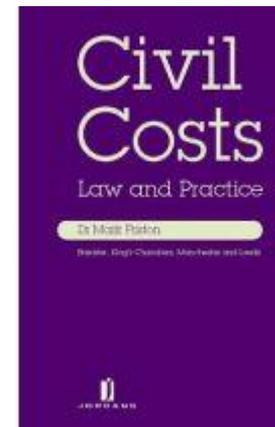
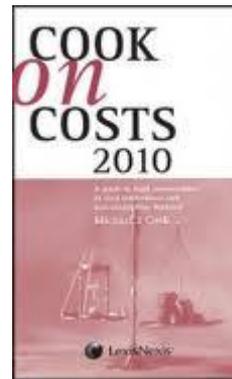
Whose costs are they?

- **the client**
- **the solicitor**
- **counsel?**



Helpful Materials

- The Costs PD
- SCCO Guide
- Books
 - Cook
 - Hurst
 - Friston



SCCO v County Court

- **Costs PD 31.1A(1)**
- **SCCO Judges sit as DDJs**
- **Appeals from SCCO**
 - **High Court Judge**
 - **County Court Judge**
- **Master / Sir / Madam etc**

*Barnet, Bow,
Brentford, Bromley,
Central London,
Clerkenwell and
Shoreditch, Croydon,
Edmonton, Ilford,
Kingston, Lambeth,
Mayors and City of
London, Romford,
Uxbridge,
Wandsworth, West
London, Willesden,
Woolwich.*

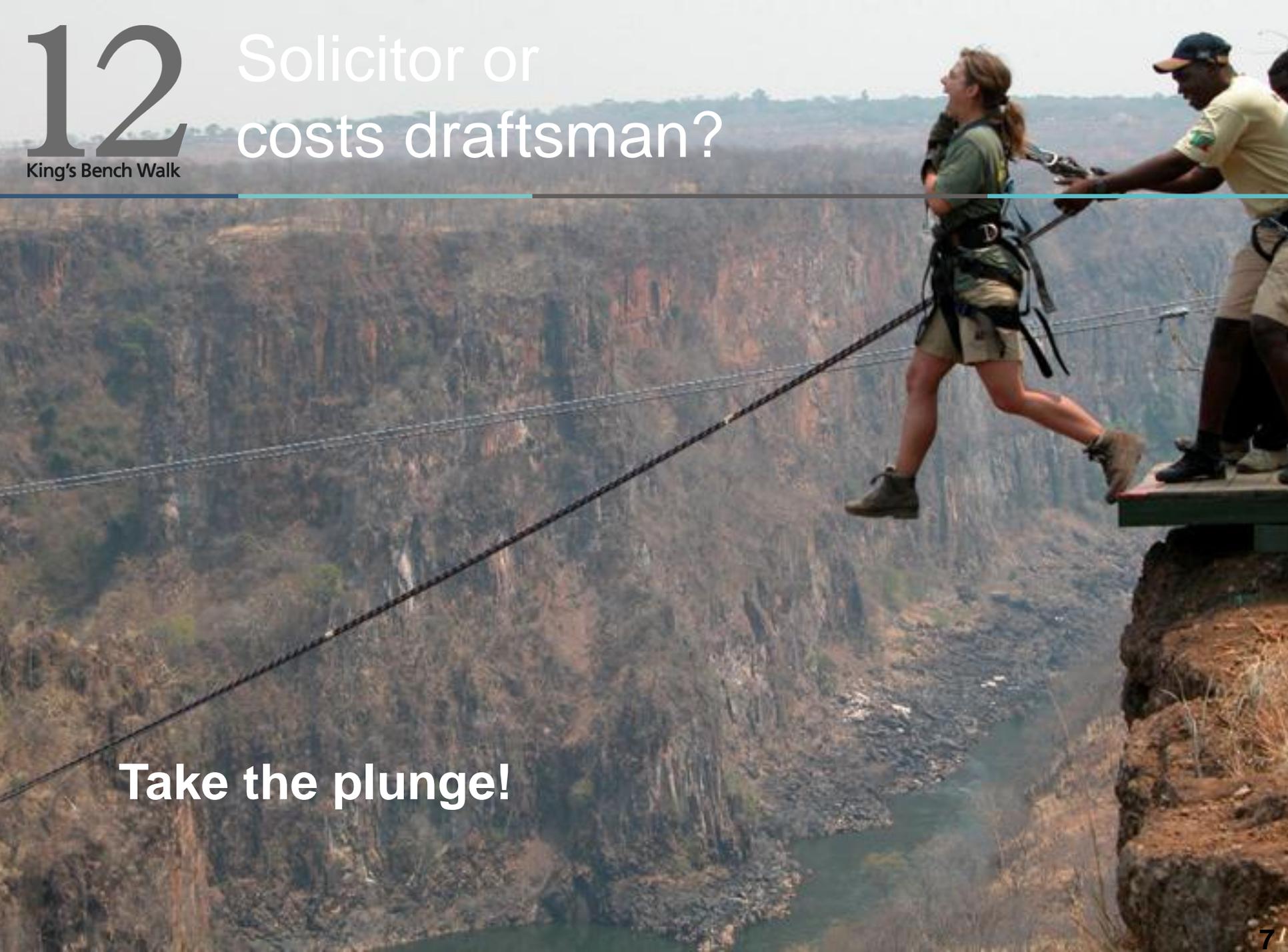
Procedure

- Notice of Commencement & Bill of Costs (*Claim/PoC*)
- Points of Dispute (*Defence*)
- Replies
-
- Request for Detailed Assessment Hearing
- Parts 18 / 36 / 47?

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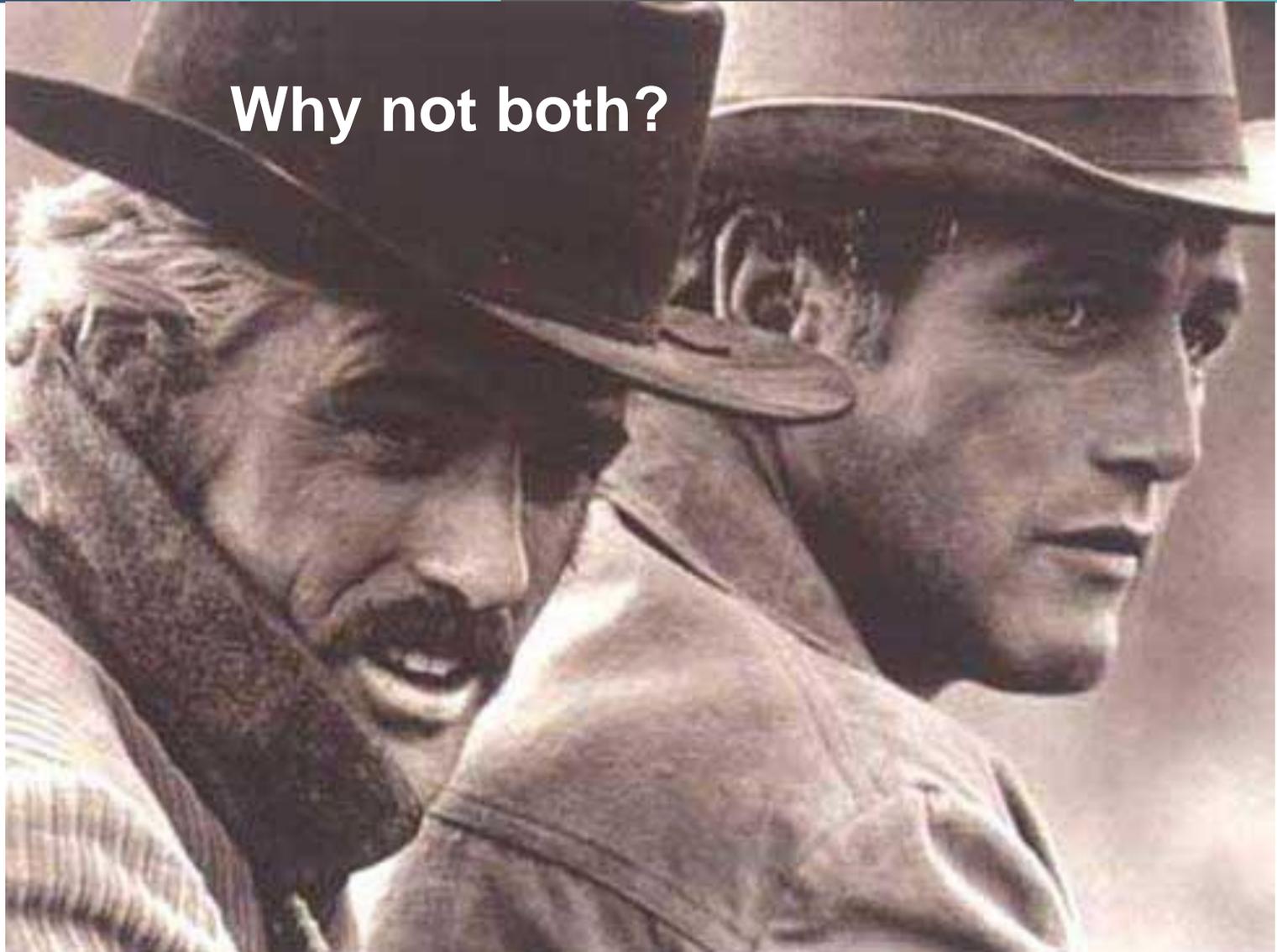
Solicitor or costs draftsman?



Take the plunge!

Solicitor or costs draftsman?

Why not both?



Solicitor or costs draftsman?

But if you do both attend

**Fail to prepare
and prepare to
appear pro bono...**

**You can burn the
candle at both
ends?**

How to maximise costs recovery?

Before the hearing

- All, but only
- Core bundle?
- Preparation before lodging!
- Applications?



At the hearing

- **What are the issues?**
- **How much are they worth?**
- **The power of concessions**
- **Forcing your opponent's offers**



(Forcing your opponent's offers)

Costs PD 35.3

Points of dispute must –

- (1) identify each item in the bill of costs which is disputed,**
- (2) in each case, state concisely the nature and grounds of dispute,**
- (3) where practicable suggest a figure to be allowed for each item in respect of which a reduction is sought, and**
- (4) be signed by the party serving them or his solicitor.**

At the hearing

- Proportionality
- Estimates
- Hourly Rates

Costs PD 11.2

In any proceedings there will be costs which will inevitably be incurred and which are necessary for the successful conduct of the case. Solicitors are not required to conduct litigation at rates which are uneconomic. Thus in a modest claim the proportion of costs is likely to be higher than in a large claim, and may even equal or possibly exceed the amount in dispute.

How to maximise costs recovery?

At the hearing

- **Proportionality**
- **Estimates**
- **Hourly Rates**

*Tribe v Southdown
Gliding Club*

Costs PD 6.5A

(1) If there is a difference of 20% or more between the base costs claimed by a receiving party on detailed assessment and the costs shown in an estimate of costs filed by that party, the receiving party must provide a statement of the reasons for the difference with his bill of costs.

(2) If a paying party –

**(a) claims that he reasonably relied on an estimate of costs filed by a receiving party; or
(b) wishes to rely upon the costs shown in the estimate in order to dispute the reasonableness or proportionality of the costs claimed,**

the paying party must serve a statement setting out his case in this regard in his points of dispute.

How to maximise costs recovery?

At the hearing

- Proportionality
- Estimates
- Hourly Rates

Wraith v Sheffield
Forgemasters

“the focus is primarily upon the reasonable interests of the plaintiff in the litigation so that, in relation to broad categories of costs, such as...a solicitor located in a particular area, one looks to see whether, having regard to the extent and importance of the litigation to a reasonably minded plaintiff, a reasonable choice or decision has been made.”

How to maximise costs recovery?

At the hearing

- Proportionality
- Estimates
- Hourly Rates

Sullivan v CIS

“Litigants are entitled to engage any lawyer they choose, and **from a subjective point of view the choice may be entirely reasonable, but the question is to be judged objectively.** The fact that a case has no obvious connection with London is a relevant factor, the more so if the case does not require expertise only to be found there.”

How to maximise costs recovery?

“I consider that the Judge's reasons substantially understate, by clear inference, the availability of fully competent legal practitioners in the Manchester area. There is no doubt whatever that there are in the Manchester area plenty of legal practitioners fully able and qualified to conduct litigation of this kind with full competence. There are in Manchester, and many other centres outside London, many such practitioners who conduct cases of this kind and cases of substantially greater weight and complexity every day of their working lives.”

Sullivan v CIS (May LJ)

At the hearing

- Quantum Points
- Costs PD 4.16

4.16 The following provisions relate to work done by solicitors:

- (1)** Routine letters out, e-mails out and telephone calls...
- (2)** The court may, in its discretion, allow an actual time charge for preparation of electronic communications other than e-mails sent by solicitors, which properly amount to attendances provided that the time taken has been recorded.
- (3)** Local travelling expenses...
- (4)** The cost of postage, couriers etc...
- (5)** The cost of making copies of documents...
- (6)** Agency charges as between principal solicitors and their agents...

How might Jackson affect DA proceedings?

Before the hearing

- New Bill Format?
- Costs Budgeting
- Form HA



At the hearing

- Lownds revisited
- Booth v Britannia Hotels?



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