

Baker v Quantum Clothing Group Ltd

Court of Appeal (Civil Division)

28 June 2007

Case Analysis

Where Reported

[2007] EWCA Civ 750; [Official Transcript](#)

Case Digest

Subject: Civil procedure

Keywords: Addition of parties; Costs; Respondents

Summary: Two defendants in seven joined cases could be added as respondents to an appeal by the claimant in another of the joined cases where they would be affected by the appeal.

Abstract: The applicants (M and P) applied to be joined as respondents to an appeal. M and P had been two of four defendants in seven test cases brought by employees who had suffered hearing loss. The High Court rejected all of the claims. In M and P's cases, the judge had found that, because of their actual knowledge of the risk to employees, they had a duty to provide apparatus to protect against industrial noise above 85 decibels before that was required by the [Noise at Work Regulations 1989](#). However, the employees had not shown that their hearing loss had been caused by factory noise. In the case of the appellant (B) and the respondent employer (Q), the judge found that B's hearing loss had been caused by her employment, but that Q had not breached its duty of care. The judge awarded costs to the defendants, but limited them to 90 per cent in the cases of M and P to reflect their actual knowledge. When B was given permission to appeal against the liability judgment, the other claimants were contingently given permission to appeal against the costs order if B's appeal were successful. M and P submitted that they could be respondents within the meaning of the [CPR r.52.1\(3\)\(e\)\(i\)](#). B contended that permission for joinder should be given on the condition that M and P would bear their own costs in the appeal whatever the result.

Application granted. (1) Under r.52.1(3)(e)(i), M and P would be joined as respondents, as of right, having been parties to the proceedings below who, it could be seen from B's skeleton argument, would be affected by her appeal; and under [r.52.1\(3\)\(e\)\(ii\)](#), they would be permitted to argue points which might go beyond the present scope of the appeal. M and P wished to argue that their actual knowledge was at a later date than the judge had determined. Since B's appeal would involve a broad attack on the judgment, it would be very difficult to anticipate whether her argument would stop short of a full examination of the background to the judge's findings about M and P's actual knowledge. (2) Only the Court of Appeal would really be able to judge the extent, if at all, to which the introduction of M and P and their additional arguments extended B's appeal. Therefore, the question of costs would have to lie over until then.

Judge: Rix, L.J.; Smith, L.J.

Counsel: For the appellant: J Hendy QC, T Huckle, Robert O'Leary. For the first respondent: R Owen QC. For the second applicant: R Owen QC, Mr Stewart. For the first applicant: Mr Purchas QC, C Foster.

Solicitor: For the appellant: Wake Smith. For the first respondent: Weightmans. For the second applicant: Praxis Partners. For the first applicant: Reed Smith Richards Butler.

Related Cases

Baker v Quantum Clothing Group Ltd

[\[2008\] EWCA Civ 823; Official Transcript](#); CA (Civ Div)

Baker v Quantum Clothing Group

[\[2009\] EWCA Civ 499; \[2009\] P.I.Q.R. P19; \(2009\) 153\(21\) S.J.L.B. 29; Times, June 17, 2009; Official Transcript](#); CA (Civ Div)

Baker v Quantum Clothing Group

[\[2009\] EWCA Civ 566; \[2009\] C.P. Rep. 38; Official Transcript](#); CA (Civ Div)

Legislation Cited

[Civil Procedure Rules 1998 \(SI 1998 3132\) r.52.1\(3\)\(e\)](#)

[Civil Procedure Rules 1998 \(SI 1998 3132\) r.52\(e\)\(i\)](#)

[Civil Procedure Rules 1998 \(SI 1998 3132\) r.52.1\(3\)\(e\)\(i\)](#)

[Civil Procedure Rules 1998 \(SI 1998 3132\) r.52.1\(3\)\(e\)\(ii\)](#)

[Factories Act 1961 \(c.34\)](#)

[Factories Act 1961 \(c.34\) s.29](#)

[Noise at Work Regulations 1989 \(SI 1989 1790\)](#)

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