

**JUDGMENT : MR. JUSTICE JACKSON:** TCC. 17<sup>th</sup> March 2005.

1. This judgment is in seven parts, namely:
  - Part 1 introduction.
  - Part 2 the facts.
  - Part 3 the present proceedings.
  - Part 4, is Quarmby Electrical Limited entitled to be paid for some or all of the electrical work carried out?
  - Part 5, after taking into account variations, defects and delays, what sum is due to be paid in respect of the electrical work?
  - Part 6, the use of single joint experts in lower value construction cases.
  - Part 7, conclusion.

**2. Part 1. Introduction**

2. This case, which I am trying at the Technology and Construction Court in Leeds, concerns what sums, if any, are due to a sub-contractor for electrical works in respect of four different building projects. The four different building projects are as follows:
  - (1) The conversion of an existing property, and the construction of a new property, to form six flats, plus communal areas, at 17 Irwin Approach, Halton, Leeds. I shall refer to this building project as "Irwin Approach".
  - (2) The construction of a new single storey office building at Sovereign Court, Sheffield. I shall refer to this building project as "Sovereign Court".
  - (3) The construction of an extension to a house at 24 Falklands Rise, Leeds. I shall refer to this building project as "Falklands Rise".
  - (4) The upgrading and cellularisation of offices in an existing building in Leeds for the benefit of a company called Dransfield Novelty Co. I shall refer to this building project as "Dransfield".
3. The contractor who carried out the four building projects was the defendant in this action, namely John Trant, trading as Trant Construction. I shall refer to this organisation either as "the defendant" or "Trant". When referring to the person John Trant, I shall say "Mr. Trant".
4. The sub-contractor which carried out the electrical works was a limited company, of which Mr. Matthew Quarmby was the moving spirit. It is an issue in this case whether that company was Quarmby and Son Ltd. or Quarmby Electrical Ltd. When referring to these companies compendiously I shall use the term "Quarmby". When referring to Matthew Quarmby, the individual, I shall say "Mr. Quarmby".
5. Having briefly set the scene I can now turn to the facts of the present case.

**Part 2. The facts**

6. Mr. Quarmby and his father were for some years the directors and shareholders of Quarmby and Son Ltd. Quarmby and Son Ltd. operated as electrical installation engineers. On 11<sup>th</sup> March 2003 Quarmby and Son Ltd. submitted a quotation to Trant for electrical work at Irwin Approach. The original quotation was in the sum of £20,065, excluding VAT. After negotiation this was reduced to £15,600. Trant accepted this quotation by a purchase order dated 25<sup>th</sup> March.
7. On 17<sup>th</sup> March 2003 Quarmby and Son Ltd. submitted a quotation to Trant for electrical work at Falklands Rise. The original quotation was in the sum of £1,172, excluding VAT. After negotiation this was reduced to £1,000. Trant accepted this quotation by a purchase order dated 24<sup>th</sup> March 2003
8. By April 2003 Quarmby and Son Ltd. was in serious financial difficulties. These stemmed from the company's large overhead expenses, such as the maintenance of seven vehicles, staff wages, insurance, and so forth. The company also had a problem of bad debts amounting to some £50,000.
9. In April 2003 Quarmby and Son Ltd. ceased to trade. Mr. Quarmby and his father put in hand the necessary steps to wind up the affairs of the company. Mr. Quarmby and his father decided to move into separate electrical businesses, with much lower overheads. The father took over the franchise of a business called "Mr. Electric". Mr. Quarmby, the son, set up a company called Quarmby Electrical Ltd. Mr. Quarmby ran this new company from his home. He employed no electricians or clerical staff. The

new company was a much smaller affair than the old one. Quarmby Electrical Ltd. was incorporated on 14th April 2003. On 24th April a petition was presented for the winding up of Quarmby and Son Ltd., which led to a winding up order on the 9th June 2003.

10. Amongst the last acts of Quarmby and Son Ltd. was the submission of quotations for electrical work at Dransfield and Sovereign Court. On 14th April 2003 Quarmby and Son Ltd. submitted a quotation to Trant for electrical work at Dransfield. This quotation was put on two alternative bases: Option 1, lighting installation using existing wiring and small power installation, £7,141, excluding VAT; Option 2, lighting installation with new wiring and small power installation, £7,871, excluding VAT.
11. There is no purchase order in the bundle relating to Dransfield. Nevertheless, it is clear that in due course Trant orally instructed that work should proceed at Dransfield.
12. On 15th April 2003 Quarmby and Son Ltd. submitted a quotation to Trant for electrical work at Sovereign Court. The original quotation was in the sum of £42,566, excluding VAT. This sum was reduced by negotiation to £32,150. There is no purchase order in the bundle relating to Sovereign Court. Nevertheless, it is clear that Trant gave oral instructions for work to proceed at Sovereign Court.
13. There is a dispute between the parties as to whether or not there was a telephone conversation soon after 14th April which gave rise to a novation. It is the claimant's case that such a novation occurred, with the result that Quarmby Electrical Ltd. became substituted for Quarmby and Son Ltd. as the electrical sub-contractor on each of the four sub-contracts.
14. Work duly proceeded on the four projects. There is no doubt that all the work at Dransfield and Sovereign Court was carried out after 14th April. There is an issue between the parties as to whether some of the work on the other two properties was done before that date.
15. At the conclusion of the four projects two disputes emerged between the parties. The first dispute concerned the identity of the sub-contractor. In other words, was the claimant the sub-contractor which had done the work and was entitled to payment? Or was Quarmby and Son Ltd. (now in liquidation) the company entitled to payment? The second dispute concerned the precise amount which was due to be paid to the electrical sub-contractor on each of the four sub-contracts. In other words, what additional sums were due for variations, and what deductions should be made for defects, delays, and so forth? Because the parties were unable to reach agreement on these matters, the claimant commenced the present proceedings.

### **Part 3. The present proceedings**

16. By a claim form issued in the Huddersfield County Court on 3rd December 2003 Quarmby Electrical Ltd. claimed against Trant the unpaid balance which was due on its invoices relating to the four projects. On 30th January 2004 Trant served a defence and counterclaim. By its defence Trant denied that Quarmby Electrical Ltd. had any contractual entitlement to payment for the electrical work which had been done. By its counterclaim Trant raised a host of points concerning variations, defects, delays and so forth. In due course this action was transferred from the Huddersfield County Court to the Technology and Construction Court in Leeds. An order was made for the appointment of a single joint expert pursuant to CPR Rule 35.7, who would give his opinion on the valuation of the electrical works carried out and the deductions which should be made for defects and delays.
17. Mr. Terence Gilfillan, an engineer of high repute and long experience, was selected by the parties, and appointed as single joint expert. Mr. Gilfillan inspected all four properties and read the documents provided by the parties. He then produced a most helpful report on the issues which had been referred to him. He supplemented this report by responding to questions put to him in writing by the defendant. At the pre trial review last week, on the application of the defendant, and with the concurrence of the claimant, I made an order that Mr. Gilfillan should attend the trial for oral examination.
18. The trial of this action commenced on Monday of this week, namely the 14th March. Mr. Matthew Quarmby gave evidence on behalf of the claimant. Mr. Mahmood Jaber (a quantity surveyor who was employed by the defendant) and Mr. John Trant gave evidence for the defence. Mr. Quarmby and Mr.

Jaber differed in their recollections about a number of matters. This difference of recollection is understandable, since the relevant events occurred two years ago, and both men must have dealt with many other building projects since then.

19. Mr. Trant is in a somewhat different category. He did not deal with day to day matters such as the placing of sub-contracts, the ordering of variations or the inspection of work carried out. He employed others to do these tasks. Therefore, Mr. Trant was not familiar with the documents, and was unable to assist the court on any of the detailed issues which arise for decision. It is a mark of Mr. Trant's honesty that he candidly admitted this in cross-examination.
20. The single joint expert, Mr. Gilfillan, was called by myself as a witness of the court. He was then cross-examined by both counsel in order to elucidate certain matters. Both counsel made it clear that they accepted Mr. Gilfillan's findings in respect of variations and defects. This realistic stance adopted by both parties saved a considerable amount of court time and substantially reduced the burden of costs.
21. Having outlined the course of the proceedings, I must now address the two crucial issues in the case. These are:
  - (1) is Quarmby Electrical Ltd. entitled to be paid for some or all of the electrical work carried out?
  - (2) After taking into account any variations, defects and delays, what sum is due to be paid in respect of the electrical work?

**Part 4. Is Quarmby Electrical Ltd. entitled to be paid for some or all of the electrical work carried out?**

22. The defendant's pleaded case is that Quarmby Electrical Ltd. was not a contracting party, and therefore has no contractual right to any payment. At trial Mr. Edwards, for the defendant, has put forward an alternative and more moderate case. This is that, although the claimant has no contract with the defendant, the claimant is nevertheless entitled to payment on a quantum meruit basis for part of the work carried out. Both Mr. Wynn, for the claimant, and Mr. Edwards, for the defendant, are agreed that the overarching question which this court must determine is whether a novation of the sub-contract occurred in April 2003. This issue turns upon a conflict of oral evidence.
23. Mr. Quarmby said in evidence that he set up the new company on 14th April. At around that time, and certainly within a week of 14th April, he telephoned Mr. Jaber of Trant. He told Mr. Jaber that he was setting up a new company called Quarmby Electrical Ltd. It was agreed between the two men that Quarmby Electrical Ltd. would take over the four sub-contracts and carry out the work for which Quarmby and Son had quoted. Mr. Jaber said in evidence that he cannot recall any telephone conversation of the kind described by Mr. Quarmby. Furthermore, he doubts that any such telephone conversation took place.
24. I have carefully considered the oral evidence of the witnesses, and also the contemporaneous documents which they generated. I have come to the conclusion that both men were being entirely honest in their evidence. There was such a telephone conversation as Mr. Quarmby describes, but Mr. Jaber cannot now recall it. I reach this conclusion for six reasons.
  - (1) Mr. Quarmby was actively engaged in closing down Quarmby and Son Ltd. and setting up Quarmby Electrical Ltd. It seems to me inherently probable that he would have telephoned Mr. Jaber in order to secure the proposed electrical work for the new company. It was clear to Mr. Quarmby that the old company could not undertake the work.
  - (2) It can be seen from the trial bundle that on each of the four sub-contracts Mr. Quarmby submitted fresh quotations to Trant on the notepaper of Quarmby Electrical Ltd. Before submitting fresh quotations in the name of a different company, it is highly likely that Mr. Quarmby would have telephoned Mr. Jaber to tell him what was going on.
  - (3) From Mr. Quarmby's viewpoint, the telephone conversation with Mr. Jaber was important. Mr. Quarmby was securing work for his new company. He is likely to remember the telephone conversation.
  - (4) From Mr. Jaber's viewpoint the telephone conversation was of less significance. It is hardly surprising that Mr. Jaber does not now recall the telephone conversation. It really did not matter to

the defendant whether the electrical sub-contractor was Quarmby and Son Ltd. or Quarmby Electrical Ltd. Either way the same individual would be overseeing the work. Indeed, Mr. Trant said in cross-examination that he understood that the electrical sub-contractor was called "Quarmby". It is clear from Mr. Trant's evidence that he neither knew nor cared whether the company was Quarmby and Son Ltd. or Quarmby Electrical Ltd.

- (5) The Official Receiver's office in Leeds has been vigilant in checking up on Mr. Quarmby's activities in relation to the old company and the new company - see, for example, the Deputy Official Receiver's letter to Mr. Quarmby dated 9th October 2003. The Official Receiver's office has been alerted to the issues in the current litigation. Nevertheless, there is no suggestion that Quarmby and Son Ltd. (in liquidation) should receive any payment for electrical work carried out on the four projects the subject of this case - see the letter from the Official Receiver's office to Mr. Quarmby dated 4th March 2004.
- (6) All communications which Trant sent to the electrical sub-contractor after 14th April, 2003 were addressed to "Quarmby Electrical" or "Quarmby Electrical Ltd." Furthermore, the electrical sub-contractor was referred to in this way by Trant's employees on other documents - see, for example, Mr. Harrison's manuscript notes on the schedule of defects dated 30th July 2003.
25. What is the legal consequence of the telephone conversation between Mr. Quarmby and Mr. Jaber in mid April? The consequence is that a novation occurred whereby Quarmby Electrical Ltd. became substituted for Quarmby and Son Ltd. on all four sub-contracts. Mr. Edwards makes the point that certificates approving the electrical installations were signed by Mr. Quarmby on forms bearing the name Quarmby and Son Ltd. That company, not Quarmby Electrical Ltd., was an NICEIC approved contractor. In my view, this does not prevent a novation having occurred. Furthermore, Mr. Gilfillan makes the point that the installations had been approved by a competent electrician, namely Mr. Quarmby. There is no evidence that Trant either has obtained, or proposes to obtain, fresh certificates from some other source.
26. I must next turn to a subsidiary point. Is it the case that a certain amount of work was done by Quarmby and Son Ltd. on Irwin Approach or Falklands Rise before 14th April? If so, is Quarmby Electrical Ltd. disentitled from receiving payment in respect of that work? Mr. Quarmby's recollection is that work on Irwin Approach started in about May or June, and that work on Falklands Rise started in late May 2003 - see paragraphs 32 and 47 of his witness statement. In cross-examination Mr. Quarmby conceded that the start dates might have been a little earlier. Mr. Jaber said in evidence that work started in March 2003. Mr. Edwards points out that the purchase orders were sent out in late March for those two sub-contracts. Mr. Edwards also places reliance on a site diary which contains some evidence of electrical work having been done in March.
27. On this issue I have come to a conclusion that neither party is right. The truth lies somewhere between the contentions of the two parties. The site diary relied upon by the defendant must be approached with great caution. The entries are brief and ambiguous. The diary was disclosed at a very late stage. It has emerged in cross-examination that important words have been Tipp-Ex'd out of the diary, in circumstances which the defendant is unable to explain. I do not know which individual did the Tipp-Exing. I am certainly not making any suggestion of dishonesty. However, I have come to the conclusion that the diary should be treated with caution. It does not drive me to the conclusion that work started in March.
28. Mr. Gilfillan, the single joint expert, has analysed Quarmby's invoices with a view to establishing the likely start date at each of the sites. Mr. Gilfillan's conclusions are set on page 27 of his report as follows: "*Irwin Approach, second week of April 2003; Sovereign Court, end April 2003; Falklands Rise, April 2003; Dransfield Novelty Co., end April, early May.*"
29. I have come to the conclusion that Mr. Quarmby's approach is a helpful one. It provides a good indication of when work is likely to have begun, even though it cannot yield precise start dates. Also one must bear in mind Mr. Quarmby's evidence that a substantial amount of materials are included

within the first batch of invoices dated the 12th May, which would consequently reduce the labour element in those invoices.

30. Let me now turn to the purchase orders. It seems to me likely that work started some time after the purchase orders were placed. Mr. Jaber said in evidence that in 98 per cent of cases purchase orders were placed before sub-contract work commenced. Also it must be borne in mind that on these projects other trades had to do work before the electrical work could begin. Also Mr. Quarmby was occupied with setting up his new company in early April.
31. After weighing up all of the evidence, oral and written, factual and expert, I have come to the conclusion and find as a fact that Quarmby's electrical work was carried out at all four sites after 14th April 2003. Certainly some work was done in April, and Mr. Quarmby's witness statement is in error when he says that no work was done before May.
32. All these considerations lead me to the conclusion that Quarmby Electrical Ltd. is entitled to be paid for all of the electrical work carried out at the four sites.

**Part 5. After taking into account variations, defects and delays, what sum is due to be paid in respect of the electrical work?**

33. In relation to this issue both parties had indicated that they accept the findings of the single joint expert. Accordingly the evidence on both sides has been limited. The submissions of counsel on final account issues have been admirably concise.
34. I shall now go through the four sites, setting out my conclusions on each issue.

**Irwin Approach**

35. The defects alleged at Irwin Approach are set out in paragraph 28 of the counterclaim. This paragraph, sensibly interpreted, is broad enough to include all of the defects identified by Mr. Gilfillan, except for the omission of certificates and O. and M. manuals. This omission from the pleading may be deliberate. The provision of O. and M. manuals is not included in the specified works for Irwin Approach. The following defects included in paragraph 28 of the counterclaim have been proved:
  - (1) Omission of wiring to the aerial point of Flat 1. I assess the cost of remedying this at £80, which is in the middle of Mr. Gilfillan's range. The subsequent making good of plasterwork would cost £50. I should add that it has not been proved that Quarmby failed to install aerials. It may be that the aerials required boosting, but this was not included in the specification (page 262 of the bundle).
  - (2) Omission of wiring to one telephone point. The cost of remedying this is £40. The subsequent making good of plasterwork would cost £50.
  - (3) Poorly fitted spur in Flat 1 boiler cupboard. The cost of rectification is £40.
  - (4) Unspecified electrical defect in Flat 2, referred to in paragraph 'L' on page 14 of Mr. Gilfillan's report, £27.
36. There is no satisfactory evidence to support the defendant's assertion that the claimant left 20 per cent of the electrical works incomplete. No invoices have been produced to show that some other contractor carried out the last part of the electrical works on Irwin Approach. Furthermore, the schedule of defects dated 30th July 2003 contains only a small number of items relating to the electrical installation. There is no reason to doubt that these were attended to.
37. On the basis of Mr. Gilfillan's figures, I assess the total cost of rectifying the defects proved at Irwin Approach as £287.
38. I turn now to delay. Mr. Jaber asserts that Quarmby were extremely slow and caused substantial delays to progress on Irwin Approach. This assertion is not supported by the documents which Mr. Gilfillan has helpfully analysed at pages 15 to 17 of his report. Having weighed up the evidence of Mr. Jaber and Mr. Quarmby, against the background of the contemporaneous documents, I have come to the conclusion that there was one week of delay by Quarmby when all of their electricians were removed from site. The range of losses which might be attributable to delay are set out on pages 17 to 18 of Mr. Gilfillan's report. Doing the best that I can on the material available, I shall take a figure of £500 for one week's delay, which is £170 above Mr. Gilfillan's minimum figure.

39. I turn now to variations and extras. These are assessed by Mr. Gilfillan at £3,256.70.  
 40. Let me now calculate the total sum which is due to the claimant on Irwin Approach.

Contract sum	£15,600.00
Variations	£3,256.70
	_____
Total	£18,856.70
Less damages for defects and delay	£787.00
	_____
Final total	£18,069.70
	_____

**41. Sovereign Court**

41. No defects are pleaded in respect of Sovereign Court. There is a claim pleaded for loss and expense caused by delay and disruption on the part of the claimant. However, this claim for delay and disruption has not been established on the evidence. I also note that no evidence to substantiate this claim was produced to Mr. Gilfillan: see paragraph (vii) on page 20 of his report.
42. The variations and extras claimed by the claimant on Sovereign Court are set out in the invoice dated 12th June 2003, and they amount to £3,850. The sum claimed for the final item in that invoice (additional exit sign lights) is excessive for the reasons stated by Mr. Gilfillan. This item should be reduced by £300. Subject to that, I accept this claim for variations, which I assess at £3,550.
43. There is an issue about the value of a telephone system which was omitted at an early stage. £300 turns on this issue. This issue is resolved in favour of the defendant by treating the contract sum on Sovereign Court as £32,150 rather £32,450.
44. Let me now assess the total sum which is due to the claimant on Sovereign Court.

Contract sum	£32,150.00
Variations	£3,550.00
	_____
Total	£35,700.00
	_____

**45. Falklands Rise**

45. The defendant makes no claim for defects or unfinished work at Falklands Rise. The contract sum for Falklands Rise was £1,000. Mr. Gilfillan assesses the value of extra works as £650. Thus the total sum due to the claimant is £1,650.

**Dransfield**

46. There is no claim for delay or defects pleaded in respect of Dransfield. The principal issue here is whether the claimant should be paid for rewiring. It will be recalled that the claimant quoted on two alternative bases for Dransfield. The first price excluded, and the second price included, rewiring. It is clear that, as a matter of fact, the claimant carried out the rewiring.
47. I am satisfied that the claimant should be paid for that rewiring for three reasons:  
 (1) I accept the evidence in paragraph 44 of Mr. Quarmby's witness statement that he was instructed to do what needed to be done in order to complete the job.

(2) I accept the oral evidence of Mr. Quarmby that the new lighting installation was so extensive and so located that it was not possible to reuse the old wiring.

(3) Mr. Gilfillan concludes on page 23 of his report that the old wiring was nearing the end of its useful life. Also it would have become rigid and difficult to work on. In the circumstances it was good practice, in Mr. Gilfillan's view, to replace all the wiring. Mr. Gilfillan confirmed these views when he was questioned about this in cross-examination.

48. Mr. Jaber said in cross-examination that the employer refused to pay Trant for the rewiring carried out, because the employer regarded it as unnecessary. I am sorry to hear this. The fact remains, however, that the rewiring was done and the claimant is entitled to be paid for it. The only item of extra work at Dransfield was the installation of a smoke detector, which Mr. Gilfillan values at £125.

49. Let me now assess the total sum due to the claimant on Dransfield.

Contract sum, on the basis of Option 2	£7,871.00
Smoke detector	£125.00
	_____
Total	£7,996.00
	_____
Overall total	
Irwin Approach	£18,069.70
Sovereign Court	£35,700.00
Falklands Rise	£1,650.00
Dransfield	£7,996.00
	_____
Total	£63,415.70
	_____

50. The parties are agreed in principle about the rates of VAT which are applicable on each project. They are also agreed as to the proper incidence of CIS tax. I request counsel to calculate the tax adjustments which are required to the figures set out above. Counsel may also wish to check my arithmetic in respect of the principal sums due.

**Part 6. The use of single joint experts in lower value construction cases**

51. The Court of Appeal has given much helpful guidance about the use of single joint experts in **Daniels v. Walker** [2000] 1 W.L.R., 1382. I shall not attempt to repeat or summarise the guidance which was given by the Master of the Rolls on that occasion. I do, however, wish to say something about the use of single joint experts in lower value construction cases.

52. The present action is the second case which I have decided in the space of a few days concerning a sub-contractor's final account. In both of these cases the sums involved are relatively small (though important to the parties) and legal costs are liable to exceed the amount at stake. In the present case his Honour Judge Grenfell made the extremely sensible order that a single joint expert should be appointed to deal with what may loosely be described as the technical issues. Both parties very sensibly accepted the expert's findings in respect of defects and the valuation of variations. This has achieved a very substantial saving of court time and legal costs.

53. I fully accept that in the larger construction cases the device of a single joint expert is generally reserved for subordinate issues or relatively uncontroversial matters. However, in the smaller cases, such as this one, if expert assistance is required, it is difficult to see any alternative to the use of a single joint expert in respect of the technical issues. If adversarial experts had been instructed to

prepare reports and then give oral evidence in the present case, I do not see how there could have been a trial at all. The respective experts' fees and the trial costs would have become prohibitive. In lower value cases such as this one, I commend the use of single joint experts. The judge, of course, remains the decider of the case. He is not bound by everything which the single joint expert may say. However, the judge is able to perform his functions within more sensible costs parameters.

54. The Civil Procedure Rules enable both parties to put written questions to a single expert: see Rule 35.6. This facility was used in the present case. Part 35 of the Civil Procedure Rules and the accompanying practice direction are silent on the matter of a single joint expert being called to give oral evidence. The commentary at paragraph 35.7.1 of the current edition of the White Book states: *"If a single joint expert is called to give oral evidence at trial, it is submitted, although the rule and the practice direction do not make this clear, that both parties will have the opportunity to cross-examine him/her, but with a degree of restraint, given that the expert has been instructed by the parties."*

It must be a matter for the discretion of the judge whether oral examination of a single joint expert is appropriate. In a case where the single joint expert is dealing with major issues, such oral examination might be appropriate and proportionate. In such a case it is the practice of other TCC judges to whom I have spoken, and indeed of myself, for the judge to call the expert, and then for both sides to cross-examine. However, where the report of the single joint expert comes down strongly on the side of one party, it may be appropriate to allow only the other party to cross-examine.

55. Before leaving the topic of single joint experts I wish to make four further comments:
- (1) The choice of single joint expert is important. He should be someone in whom both parties have confidence.
  - (2) If the case is one in which it might become appropriate for the single joint expert to give oral evidence and be cross-examined, it is desirable to alert the expert to this possibility when he is invited to accept instructions.
  - (3) Experience shows that quite often the instruction of a single joint expert leads to settlement of the whole litigation.
  - (4) The procedure for dealing with single joint experts should, so far as possible, be addressed at case management hearings in advance of trial. Also provision should be made for securing payment of the fees of single joint experts before they undertake work.

#### **Part 7. Conclusion**

56. Let me now return to the present case. Subject to taxation adjustments, the principal sum which is due to the claimant for work carried out on all four projects is £63,415.70. The claimant has already received £51,475 on account. Therefore, the balance due to the claimant (subject to tax adjustments) is £11,939.95.
57. I am grateful to both counsel for their assistance with this case.
58. I will now rise for a very few minutes while counsel reach agreement on VAT, interest, and so forth. I shall then hear argument on any outstanding issues.

MR. TOBY WYNN (instructed by Bailey Smailes Heap & Marshall) for the Claimant

MR. ANTHONY EDWARDS (instructed by Keeble Hawson) for the Defendant