



Neutral Citation Number: [2025] EWHC 2955 (Ch)

Case No: PT-2024-000125

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
PROPERTY, TRUSTS AND PROBATE LIST (ChD)

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 11/11/2025

Before :

Caroline Shea K.C.
(sitting as a Deputy Judge of the High Court)

Between :

(1) MARK WILLIAM LEE
(2) KENILWORTH CLAIM LIMITED (IN
LIQUIDATION)

Claimants

- and -

BDB PITMANS LLP
(now known as Broadfield Law UK LLP)

Defendant

- and -

ADCAMP LLP
(formerly known as Pitmans LLP)

Respondent

Thomas Grant K.C. and Ryan James Turner (instructed by **Milners**) for the **Claimants**
Jamie Carpenter K.C. (instructed by **Kennedys Law LLP**) for the **Defendant** and the
Respondent

Approved Judgment

This judgment was handed down remotely at 11.30am on 11 November 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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Consequential Judgment

Deputy High Court Judge Caroline Shea KC:

1. Judgment on the two applications before me was handed down on 5 November 2025. Those applications comprised: (1) Broadfield's application for summary judgment on the Claimants' claim; (2) the Claimants' application to (i) amend its Particulars of Claim and (ii) substitute Pitmans for Broadfield if the latter succeeded in its application for summary judgment, and in other circumstances which I address in the main judgment. This is a short consequential judgment following the receipt of written submissions from the Claimants and Broadfield on three issues concerning: (1) the form of declaration to be made on the substitution application; (2) permission to appeal the outcome of the substitution application; and (3) costs. In this consequential judgment I adopt the definitions used in the main judgment.

Form of Declaration

2. The Claimants have sought a declaration that an order for substitution should be made, and judgment entered against Pitmans, if the Court determines at trial that Pitmans is negligent and/or in breach of contract, but that Broadfield is not the liable party. The Claimants say they are concerned to ensure that Pitmans cannot then re-argue the application to substitute it for Broadfield.
3. Broadfield argues that the parties did not address the issue of declaratory relief to include an order that judgment be entered against Pitmans in such circumstances. Further, the declaration sought by the Claimants, it is said, does not go far enough since it is to take effect (if at all) only after trial of all the issues. At the hearing before me it was contemplated that there should be a preliminary trial of the novation/estoppel/acknowledgement issues, and the Claimants would surely wish the declaration as to substitution to take effect at that point, if they were to lose on those issues.
4. I cannot see any basis on which Pitmans, being a Respondent to this application, would be able to re-argue the substitution application. I note that the draft order sought by the Claimants in the substitution application makes no reference to an order or a declaration that judgment be entered against Pitmans. Further I agree that the declaration concerning the potential substitution must be available to be implemented should the issues concerning Broadfield's assumption of liability be decided at a preliminary stage against the Claimants' case. I consider the wording proposed by the Defendant to cover the case whether it is determined by way of preliminary issue or after a full trial. I shall make an order accordingly.

Permission to appeal

5. Broadfield and Pitmans seek permission to appeal the order for substitution, and whilst the Claimants do not formally consent, on the basis that the grant of permission is a matter for the Court, they raise no argument against the grant of permission to appeal. In circumstances where the same issue is listed to be considered by the Court of Appeal, I grant permission to appeal.

6. The parties are in dispute however as to how the appeal should be case managed. Broadfield and Pitmans invite me to postpone the deadline for them to file an Appellants' notice so that the appeal in these proceedings will not come on until after the determination of the appeal in *Office Properties*. I decline to do so, for the two reasons advanced by the Claimants. First, it should be left to the Court of Appeal to decide how to case manage appeals involving (some of) the same parties and the same point of law. To accede to the request would be tantamount to usurping the Court of Appeal's case management role, something I am not prepared, and have no reason, to attempt.
7. Second, to do so would have the effect of shutting the Claimants out of participating in the hearing of the appeal listed to be heard in January 2026, whilst Broadfield and Pitmans, being parties in *Office Properties*, would be represented and able to make submissions. This is manifestly unfair. Whilst not prejudging the questions whether the appeals will be listed to be heard together, or whether the Claimants will be granted permission to intervene or participate in that appeal, I grant permission to appeal the order for substitution and will not postpone the deadline for Broadfield and Pitmans to file an Appellants' notice.

Costs

8. Lastly, there is a series of disputes about costs. First is the issue of the order to be made on the Claimants' application to amend their Particulars of Claim, to which Broadfield consented. The Claimants say that the order should be costs in the case. Broadfield contends for the usual order, that the Claimants pay the costs of and arising from the amendments. The amendments resulted in additional work in drafting additional responses in the Defence. It also points to the fact that "there will be other costs incurred as a result of the amendments and the application being made", although it does not say anything about the nature or quantum of such other costs.
9. On the first point, the additional drafting would have been required if the material comprising the amendments had been drafted within the original Particulars of Claim. There is virtually no wastage or duplication as a result of the new particulars being introduced. On the second point, there may be some elements of additional costs incurred but I am given no information about what those are and so am not in a position to judge the significance of that fact. Moreover, I note that the amendments are required as a result of Broadfield having not stated its position on liability earlier in the process. However innocent that omission may prove to be, it was certainly not the fault of the Claimants who would have pleaded the substance of the proposed amendments (or something like it) had they known that liability was being disputed.
10. In those circumstances in my judgment the usual order that the amending party pay the cost of and occasioned by the amendments is not appropriate and the costs of the amendment application should be costs in the case.
11. The second issue concerns the assessment of the costs of the two applications. The parties agree that Broadfield should pay the Claimants' costs of those applications. The Claimants seek a summary assessment of those costs, said to amount to just over £170,000. It is said that the level of costs is relatively slight and readily amenable to summary assessment, and that the quantum, being less than 1% of the amount claimed

in these proceedings, ought to be viewed as proportionate on that basis alone. The fees were incurred at reasonable market rates.

12. Broadfields contends that the costs should be subject to detailed assessment if not agreed. It criticises the Claimants' Costs Schedule on a number of bases and suggests that an oral hearing (which neither party has requested) would be required for the assessment to take place.
13. I have decided that I ought not to perform a summary assessment of these costs. Summary assessment is not the norm for hearings lasting longer than a day (this hearing lasted one and a half days and has led to a judgment of some thirty pages). The sum at stake is considerably larger than is typically the object of summary assessment. And the costs of a further hearing to determine the parties' rival contentions would in my judgment be disproportionate, not least in view of the power of the Court to order a payment on account. Accordingly, I will order that the costs of the substitution application and the summary judgment application be subject to detailed assessment if not agreed.
14. The Claimants seek a payment on account of costs, and the last issue concerns the percentage of costs incurred to be paid on account. The Claimants argue for 70%, Broadfield for 60% on the basis that a number of areas of the uncured costs are high and can be expected to be reduced on assessment. To prevent recovery for costs unreasonably incurred is of course the purpose of detailed assessment. Whilst Broadfield makes some detailed criticisms of areas of the Claimants' costs schedule, the matters raised do not suggest that an unusually swingeing reduction is likely to be made. Given that the principal purpose of a payment on account is to ensure that the winning party is not kept out of its money for an inordinately long time, I consider that a 30% reduction is sufficient to protect Broadfield from the risk of overcompensating the Claimant. Accordingly, Broadfield should pay 70%, rounded up to £120,000, on account of the Claimants' costs of the substitution and summary judgment applications.