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Costs Update: Important Court of Appeal judgement

The Court of Appeal has today released judgement in the long-awaited case of *Garbutt v Edwards* [2005] EWCA Civ 1206.

The case concerned the question of whether a solicitor's failure to provide their client with a costs estimate, contrary to the Solicitors Practice Rules, rendered the retainer with their client invalid and unenforceable. If the answer was yes, then no costs would be payable by the paying party where no estimate had been provided.

Lady Justice Arden, giving the judgement of the Court, held that the requirement to provide an estimate was not mandatory and a failure to comply did not render the retainer invalid. However, a court could consider a failure to provide an estimate when assessing reasonable costs and, in particular, where it was satisfied that the costs being claimed would have been significantly lower if an estimate had been given.

This case has potentially far reaching consequences over and above the area of costs estimates. When the current CFA Regulations are replaced by new provisions in the Solicitors Practice Rules on the 1st November, the question will be to what extent can a paying party raise a breach of the rules to challenge the validity of the CFA. The answer from this case seems to be that such challenges will be difficult to sustain.

LCN Costs Seminars

This decision and its ramifications in relation to CFAs will form a central part of LCN's upcoming free costs seminars and in-house training.

If you would be interested in further details, please reply to this e-mail or contact Paul Jones (details below)

To discuss the contents of this update in more detail, or to find out more about LCN, please contact:

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