



Neutral Citation Number: [2025] EWHC 1348 (KB)

Case No: QB-2021-000926

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 24 June 2025

Before:

ANDREW KINNIER K.C.
Sitting as a Deputy Judge of the High Court

Between:

CENTURY PROPERTY (LEEDS) LIMITED

Applicant

- and –

(1) EVILLE & JONES (GROUP) LIMITED
(2) EVILLE & JONES (GB) LIMITED

Claimants

- and-

(1) Dr JASON ALDISS
(2) VETLINE LIMITED

Defendants

- and –

EMBARK PENSION TRUSTEES LIMITED

Third Party

Thomas Horton (instructed by **Humphries Kerstetter LLP**) for the **Applicant**
The First Defendant appeared in person
The Claimants, the Second Defendant and the Third Party did not attend and were not represented

Hearing date: 29 April 2025

Judgment handed down: 4 June 2025

Century Property's submissions on consequential matters: 29 May 2025

First Defendant's submissions on consequential matters: 27 May 2025 and 9 June 2025

Draft judgment on consequential matters circulated to the parties: 19 June 2025

APPROVED JUDGMENT

This judgment has handed down remotely on 24 June 2025 at 10.30 am by circulation to the parties or their representatives by e-mail and released to the National Archives.

ANDREW KINNIER K.C. sitting as a Deputy Judge of the High Court

Introduction

1. This judgment is concerned with consequential matters (including costs) following my judgment of 4 June 2025 (“**the judgment**”), to allow the application of Century Property (Leeds) Ltd (“**Century Property**”) for mandatory injunctions against Dr Jason Aldiss, the First Defendant, and Embark Pensions Trustees Ltd (“**Embark**”), the Third Party, to enforce a judgment debt against the First Defendant’s self-invested personal pension of which Embark is the trustee (“**the application**”).
2. I shall use the abbreviations used in the judgment. References to “the order” are to the order attached to this judgment.
3. When the draft judgment was circulated, the parties were asked to lodge written submissions on any consequential applications (including costs) flowing from the judgment by 30 May 2025. The parties duly complied. Absent a response from Dr Aldiss to Century Property’s statement of costs (dated 29 May 2025), I asked for his submissions on that statement by 4 June 2025. Unfortunately, Dr Aldiss suffered an injury and asked for more time to lodge his response. I am grateful to Dr Aldiss for providing his response to Century Property’s statement of costs on 9 June 2025, particularly given the nature of his injury and the pain and discomfort he must have suffered.
4. Three principal points arise from the parties’ written submissions: first, Dr Aldiss’ request for a stay of enforcement; secondly, other matters concerning the substance of the order and, thirdly, costs. I shall deal with each in turn.

Stay of enforcement

5. Dr Aldiss asks for a stay of enforcement of the order for “at least 28 days from the date of final order to allow the appeal process to be heard and determined, or until further order”. I am told that Dr Aldiss has made an application to the High Court for permission to appeal the Tomlin Order and so the stay is both necessary and just to avoid “irreversible harm through forced pension drawdown while the legitimacy of the underlying settlement remains the subject of judicial consideration”.
6. Century Property made no submissions in response.
7. Absent any submissions on the relevant principles from the parties, I remind myself that whether the court should exercise its discretion to grant a stay will depend upon all the circumstances of the case but the essential question is “whether there is a risk of injustice to one or both parties if it grants or refuses a stay”: *Hammond Suddard Solicitors v. Agrichem International Holdings Ltd* [2001] EWCA Civ 2065, per Clarke LJ at para. 22.

8. I have also had careful regard to the guidance provided by the Court of Appeal in *Leicester Circuits Ltd v. Coates Brothers PLC* [2002] EWCA Civ 472 which can be summarised thus:
- (a) the general rule is that a stay of judgment will not be granted;
 - (b) the court has an unfettered discretion;
 - (c) no authority can lay down rules for its exercise;
 - (d) the proper approach is to make the order which best accords with the interests of justice;
 - (e) the court has to balance the alternatives to decide which is less likely to cause injustice; and
 - (f) where the justice of letting the general rule take effect is in doubt, the answer may well depend on the perceived strength of the appeal. The Court of Appeal also added that it is relevant that the appellant may be unable to recover from the respondent the sum awarded in the event of the judgment being set aside.
9. On the one hand, if the stay is granted, the benefit of the relief which was granted to Century Property would be delayed pending determination of the appeal and possibly until after Dr Aldiss' 55th birthday and the deadline set in the Tomlin Order by which Dr Aldiss was required to have paid the sums due. That is a significant injustice to Century Property. On the other hand, if the stay is refused, there is some risk of injustice to Dr Aldiss taking the steps required by the order when his appeal against the Tomlin Order (which is the foundation of the enforcement proceedings) is pending. However, that risk is tempered by the fact that Dr Aldiss' prospects of appealing are questionable. As Mr Horton, counsel for Century Property, said in his written and oral submissions at the second hearing, the correct route to challenge the Tomlin Order is by a claim which articulates why, as a matter of contract, the agreement recorded in that order is invalid. For whatever reason, Dr Aldiss has not taken that course or, at least, not yet. Even if an appeal were to be successful, there is nothing before me to suggest that Dr Aldiss would be unable to recover any sum from Century Property if the Tomlin Order and the subsequent orders in the enforcement proceedings were to be set aside. For that reason, I am not persuaded that refusing a stay would cause the "irreversible harm" contended for by Dr Aldiss.
10. Having regard to the principles summarised in paras. 7 and 8 above and the particular facts of this case, the greater injustice would be suffered by Century Property if a stay were to be granted because the benefits of the relief that has been granted would be delayed pending an appeal against the Tomlin Order which, as matters stand, would seem to have limited prospects of success. Also, even if an appeal were to be successful, there is no evidence to suggest that Dr Aldiss would be unable to recover any sums paid under the order to Century Property. In the circumstances, the interests of justice best accord with refusing a stay.

Other matters

Permission to apply

11. Dr Aldiss asked for a provision to allow him permission to apply to vary or discharge the order. Paragraph 11 of the order allows both Dr Aldiss and Embark to apply to the court should the need arise.

Clarification of tax treatment and net drawdown

12. Dr Aldiss also asks that the court states that any authorised drawdown from the pension fund shall be limited to the net amount necessary to satisfy the judgment debt after deduction of any income tax or statutory charges. He also asks that the Claimant's solicitors shall notify him of the forms and amounts being submitted to Embark and to provide a reasonable period to respond before any execution of delegated powers. The aim of these provisions, in Dr Aldiss' submissions, is to ensure procedural fairness and to avoid any disputes about tax liability or what is described as an "overdraw".
13. Century Property made no submissions in response.
14. Paragraph 5 of the order gives Dr Aldiss the opportunity to consider the draft documentation that Century Property proposes to send to Embark and paragraph 6 requires Century Property to consider any comments that he may have. Those provisions provide Dr Aldiss with a reasonable opportunity to review the relevant documents and to raise any questions or comments with Century Property. If, having considered and commented upon the relevant documents, Dr Aldiss fails to execute them, then paragraph 8 is triggered. If the process were to reach that stage, Dr Aldiss would have already seen the relevant documents to be sent to Embark and he would have had a proper opportunity to consider them. There is, therefore, no good reason to impose a further obligation on Century Property to re-send documents which Dr Aldiss would already have seen or provide any further time for Dr Aldiss to respond to documents upon which he would have previously commented.

Costs

The principle of costs

15. Dr Aldiss asks that no costs order is made against him for four principal reasons: first, he is a litigant in person who has found the litigation to be uniquely stressful as it touches upon both his reputation and his sole retirement asset; secondly, the enforcement application was premature because his 55th birthday is not until August 2025; thirdly, he has now taken legal advice as a result of which he has made an application for permission to appeal the Tomlin Order and the later orders made in the enforcement proceedings; finally, his concerns about the validity of the Tomlin Order are genuine and they were not raised as a means of delaying the enforcement proceedings.

16. By contrast, Century Property submits that its application has been successful and there is no reason why Dr Aldiss should not pay its costs.
17. The general rule is that the unsuccessful party should pay the successful party's costs: CPR 44.2(2)(a). Accordingly, the starting point is that Dr Aldiss should pay Century Property's costs and so the question is whether he has given sufficiently good reasons to displace the general rule. In my judgment, he has not.
- (a) I have had careful regard to his status as a litigant in person and the effect of the litigation upon him, but to the limited extent to which they are relevant neither outweighs the fact that Dr Aldiss vigorously fought, but lost, the application.
 - (b) I considered and dismissed Dr Aldiss' point on prematurity in paragraph 53(e) of the judgment.
 - (c) Dr Aldiss may have made an application for permission to appeal the Tomlin Order, but that fact of itself is not a justification for not making a costs order against him as the unsuccessful party to the application.
 - (d) Although I do not doubt the sincerity of Dr Aldiss' belief in his arguments about the validity of the Tomlin Order, he did nothing to substantiate them even when given a further opportunity to submit evidence in response to the application.
18. In short, there is no good reason why Dr Aldiss should not pay Century Property's costs.

The basis of assessment

19. Century Property asks that its costs of the application should be assessed on the indemnity basis because of Dr Aldiss' consistently unreasonable conduct throughout the enforcement proceedings. Particular reliance is placed on Dr Aldiss' non-compliance with the Tomlin Order; his request for an adjournment of the first hearing to gather evidence which he then did not serve; his unreasonable opposition to the application and his attempt to delay matters by raising unmeritorious and unsubstantiated challenges to the validity of the Tomlin Order; and, most recently, his failed attempt to adjourn the second hearing and to stay the enforcement proceedings. For these reasons, Dr Aldiss' conduct has taken this case "out of the norm" to the extent that indemnity costs are justified.
20. Dr Aldiss contends that costs should be assessed on the standard basis for the same reasons he relied upon in resisting an adverse costs order.
21. In considering this point, I have reminded myself of the following general principles:
- (a) The discretion to award indemnity costs is ultimately to be exercised so as to deal with cases justly.
 - (b) Making a costs order on the indemnity basis is appropriate in circumstances where the parties' conduct or other particular circumstances (or both) were such as to take the situation "out of the norm" in a way which justifies an order for indemnity costs:

- Excelsior Commercial and Industrial Holdings Ltd v. Salisbury Hannah Aspden & Johnson* [2002] EWCA Civ 879.
- (c) The test is not conduct which attracts moral condemnation but unreasonableness: *Three Rivers DC v. Bank of England* [2006] EWHC 816 (Comm). To the extent that they are relevant, I have considered the factors identified by Tomlinson J (as he then was) in para. 25(4)-(8) of that judgment.
- (d) Indemnity costs should not be ordered simply because the paying party has been found to be wrong or his evidence has been rejected in preference to that of the receiving party. I have also reminded myself that a determination should not be based on hindsight, that is to say, assessing the conduct with the knowledge of the outcome of the case and with knowledge about how a particular question was resolved: *Williams v. Jervis* [2009] EWHC 1837 (QB).
22. As Century Property rightly recognises, its application was far from straight-forward and it concerned an area of law which has been considered in only three reported cases at first instance. It was directed against Dr Aldiss' sole retirement asset and he was entitled to make his case as to why Century Property should not be granted relief. In these circumstances, a hearing would always have been required and the court would always have needed detailed submissions on the law to decide the application. I should also note that at the second hearing Dr Aldiss' submissions were clear and admirably economical: his challenge to the Tomlin Order did not consume a disproportionate amount of time nor did his other arguments.
23. In considering the reasonableness of Dr Aldiss' conduct, I have attached some weight to the fact that he is a litigant in person to whom the court may extend a limited latitude in terms of understanding the procedural rules but not to the detriment of the overriding objective.
24. On the other hand, Dr Aldiss is a professional and articulate man. There is nothing before me which suggests that he did not understand the need to present evidence to support his response to the application, the need to comply with orders or the consequences should orders not be satisfied in the absence of good reason. I granted Dr Aldiss' late request to adjourn the first hearing to allow him to collect evidence to answer Century Property's application. In the event, no evidence was served; no good reason was given for its absence and no application was made to vary the timetable in the order of 12 February 2025 to allow him further time to collate his evidence.
25. Dr Aldiss resisted the application on the basis that the Tomlin Order was invalid but he did nothing effective to substantiate that contention. No steps were taken to challenge the Tomlin Order until April 2025 when Dr Aldiss applied to the Court of Appeal for permission to appeal, an application which was made only days before the second hearing. In my judgment, it is tolerably clear that Dr Aldiss' applications at the first and second hearings were designed to delay determination of Century Property's application and, ultimately, enforcement of the judgment debt.

26. Bearing in mind the imperative to deal with cases justly and balancing the various factors outlined above, the appropriate order in this case is that costs will be assessed on the standard basis with the exception of the costs of the first hearing which are to be assessed on the indemnity basis. That order strikes a balance between recognising the unusual nature of the application and that a hearing would always have been required on the one hand and the fact that the costs of the first hearing were wasted because of Dr Aldiss' ultimately pointless application to adjourn on the other hand.

The amount of costs to be paid

27. Century Property has submitted two statements of costs that are relevant. The first (dated 28 April 2025) covers its costs of the first and second hearings which amount to £55,363.02 (including VAT). The second (dated 29 May 2025) deals with the costs of preparing submissions on consequential matters, reviewing the draft judgment and finalising the draft order: these costs are £2,204.41 (including VAT). In total, Century Property seeks costs of £57,567.43.
28. Dr Aldiss made a number of submissions in response to the statements of costs. He said that the application itself was premature and an abuse of process and so no costs should be allowed at all. The former point was decided against Dr Aldiss in the judgment (see para. 53(e)) and the latter point was not raised by him at all. In any event, for the reasons set out in the judgment, Century Property's application succeeded. Dr Aldiss also said that because the judgment debt is subject to appeal, costs should not be summarily determined. I disagree: Century Property has been successful and, for the reasons set out above, it is entitled to its costs and there is no good reason not to assess them summarily. On the contrary, summary assessment is a cost-effective way to decide costs without the time and expense of detailed assessment. Although the application itself had its complexities, the assessment of costs is a relatively straight-forward exercise and the parties' positions have been set out clearly.
29. Dr Aldiss makes a number of criticisms of Century Property's costs but his general point is that they are disproportionate and so only nominal costs should be allowed. It is said that some items are duplicated and the hourly rates are inflated. In particular:
- (a) The hourly rate of Mr Toby Starr (£685) significantly exceeds the guideline rates as does the rate of the Grade C associate solicitor (£420);
 - (b) There is no explanation of the complexity of the case or why it justifies an enhanced hourly rate;
 - (c) The amounts claimed for work on documents (£14,375), email correspondence and counsel fees (£15,405) are excessive and no breakdown of those costs has been given (whether in the form of itemised time records, contemporaneous logs or otherwise);
 - (d) Duplication of work on drafting and bundles is not explained nor is the significant amount of time spent on routine tasks;
 - (e) Generally, the statements have been "padded out".

30. In terms of the approach to summary assessment, I have considered the Guide to the Summary Assessment of Costs and the principles summarised at paras. 87-93 of the Court of Appeal's judgment in *West v. Stockport NHS Foundation Trust* [2019] EWCA Civ 1220. In short, having considered the reasonableness of the claimed costs, the court should consider the proportionality of the total figure considered to be reasonable having regard to the factors in CPR 44.3(5) and, if relevant, the wider circumstances under CPR 44.4.
31. As to reasonableness and having regard to the nature and complexity of the application and that the costs of the first hearing should be assessed on the indemnity basis:

In relation to the first statement of costs:

- (a) I am satisfied that the solicitors' hourly rates are reasonable;
- (b) Counsel's fees are reasonable;
- (c) The claimed costs for correspondence with the opponent is, in my judgment, higher than would be expected bearing in mind its brief and succinct nature. The correspondence with others is reasonable given the nature and subject-matter of the communications Embark which required detailed consideration of the substance of the pension documents. Looking at the sums claimed for correspondence with Dr Aldiss and others in the round, I allow £6,000;
- (d) Work on the chronology/dramatis personae is a little higher than would be expected because the substance of that document could be readily gathered from Mr Starr's third statement. One hour on updating the chronology when very little had happened after the first hearing was unreasonable. Overall, spending 5.3 hours on preparing the response to Dr Aldiss' request for further information was a little more than might be thought to be reasonable. Taking an overall view of the work done on documents, £13,000 is a reasonable sum;
- (e) Save for the points in (c) and (d) above, there are no obvious areas of duplication, excessive claims or, to use Dr Aldiss' phrase, "padding"; and
- (f) The other sums claimed are reasonable and so the total sum considered to be reasonable is £52,228.02 (including VAT).

In relation to the second statement of costs:

- (a) I am satisfied that the rates applied, the sums claimed and the total of £2,204.91 (including VAT) are reasonable.
32. The total sum of £54,432.93 (including VAT) is, in my judgment, proportionate bearing in mind the factors set out in CPR 44.3(5) and 44.4. In short, the application was unusual and that was reflected in the claimed costs; the sums at stake (approximately £450,000) were relatively substantial; the adjournment of the first hearing caused more work to be undertaken than would otherwise have been necessary and Dr Aldiss' request for further information to a great extent addressed matters which had previously been communicated to him about the assignment and so the time and money spent preparing a response was prompted by his conduct.

33. Therefore, I order Dr Aldiss to pay the costs of the application which are summarily assessed in the sum of £54,432.93 (including VAT). I decline to stay this order for costs for the reasons set out in paras. 5-10 above.

Claim No: QB-2021-000926

IN THE HIGH COURT OF JUSTICE

KING'S BENCH DIVISION

Before Andrew Kinnier KC (Sitting as a Deputy Judge of the High Court)

B E T W E E N:

CENTURY PROPERTY (LEEDS) LIMITED

Applicant

-and-

(1) EVILLE & JONES (GROUP) LIMITED

(2) EVILLE & JONES (GB) LIMITED

Claimants

-and-

(1) DR JASON ALDISS

(2) VETLINE LIMITED

Defendants

-and-

EMBARK PENSIONS TRUSTEES LIMITED

Third Party

O R D E R

IMPORTANT – NOTICE TO THE FIRST DEFENDANT AND THIRD PARTY:

(1) This order obliges you to do the acts set out in this Order. You should read it all carefully. You are advised to consult a solicitor as soon as possible. You have a right to ask the court to vary or discharge this order.

(2) If you disobey this order, you may be found guilty of contempt of court and any of your directors may be sent to prison or fined and you may be fined, or your assets may be seized.

UPON the Applicant's application dated 16 October 2024 ("**the Application**")

AND UPON reading the witness statement listed in Schedule 1 of this order

AND UPON the court noting that the judgment debt of £402,500 payable by the First Defendant pursuant to the order of Master Eastman dated 31 October 2023 ("**the Judgment Debt**") was assigned to the Applicant on 1 December 2023

AND UPON the court also noting that the Applicant obtained a charging order over the First Defendant's Option Self-Invested Pension provided and administered by EBS Pensions Limited and with Embark Pensions Trustees Limited as trustee under account number A1007571 ("**the SIPP**") in the sum of £402,500 plus interest and costs pursuant to the order of Master Eastman dated 11 June 2024 ("**the Charging Order**"), totalling £450,939 as of 29 April 2025 with interest accruing at a daily rate of £88.22 until payment

AND UPON the court also noting that the value of the SIPP as of 16 April 2025 was £618,249.94 and that First Defendant has the right to a lump-sum exercisable under the SIPP upon attaining the age of 55 on 17 August 2025

AND UPON the court also noting that the Third Party requires certain documentation and information for the First Defendant to exercise his right to a lump-sum option under the SIPP

AND UPON the First Defendant making an application dated 23 April 2025 for an adjournment of this hearing and a stay of enforcement proceedings

AND UPON the court hearing from Thomas Horton, counsel for the Applicant, the First Defendant appearing in person and no other party attending

IT IS ORDERED that:

1. The First Defendant's application for an adjournment and a stay is dismissed.
2. The Claimants be substituted with Century Property (Leeds) Limited pursuant to CPR, r. 19.2(4). The need to file an amended claim form and particulars of claim pursuant to CPR, r. 19.4(4)(b) is dispensed with.
3. All references hereafter to the "Claimant" are to Century Property (Leeds) Limited.
4. The First Defendant shall provide to the Claimant all such information as may be reasonably required by the Third Party for the First Defendant to exercise his right to a lump sum under the SIPP, within 14 days of request by the Claimant.
5. The Claimant shall then draft the relevant documentation for the First Defendant to exercise his right to a lump sum under the SIPP – being either a Pension Commencement Lump Sum or an Uncrystallised Funds Pension Lump Sum as appropriate to withdraw a lump sum in the amount specified in paragraph 9 below – submitting it to the First Defendant for any comments he may have, which shall be provided within 14 days.

6. The Claimant shall consider any such comments made by the First Defendant and settle the documentation required pursuant to paragraph 5 above.
7. The First Defendant shall then execute the documentation prepared pursuant to paragraphs 4-6 above and return it to the Claimant forthwith and in any event within 7 days for onward transmission to the Third Party.
8. Should the First Defendant fail to execute the documentation above and/or to transmit the executed documentation to the Claimant pursuant to paragraph 7 above, the solicitors for the Claimant shall be authorised to execute the documentation on the First Defendant's behalf pursuant to s. 39 of the Senior Courts Act 1981, including without limitation authority to complete all parts of the documentation including instructions for disinvestment to fund the payment ordered herein.
9. Upon completion of the exercise of the right to a lump sum from the SIPP by the First Defendant and/or in accordance with this order, the Third Party shall, after deduction of any required taxes and/or fees, pay to the Claimant:
 - 9.1. £453,762.04, plus interest accruing at a daily rate of £88.22 from 1 June 2025 until payment, plus those costs stated in paragraph 10 below; or
 - 9.2. Should that full figure in paragraph 9.1 be unavailable from the SIPP, all remaining sums in the SIPP.
10. The First Defendant shall pay the Claimant's costs of this application, summarily assessed at £54,432.93.

11. The First Defendant and the Third Party may apply to the court at any time to vary or discharge this order but if they wish to do so they must first inform the Claimant's solicitors in writing at least 48 hours beforehand.
12. The Claimant's solicitors are Humphries Kerstetter LLP, St Bartholomew House, 92 Fleet Street, London, EC4Y 1DH.
13. This order shall be served by the Claimant on the First Defendant and the Third Party.

Service of this order

The court has provided a sealed copy of this order to the serving party:

Humphries Kerstetter LLP, St Bartholomew House, 92 Fleet Street, London, EC4Y 1DH

Dated 22 June 2025

SCHEDULE 1

Witness Statements

The Judge read the following witness statements before making this order:

1. Third Witness Statement of Toby Starr dated 16 October 2024.