



# APPLICATION TO SET ASIDE DEFAULT JUDGMENT

Client: Hayes Carpenters Ltd  
Firm: Willow & Grant LLP

 Presented By:





# INTRODUCTION

## APPLICATION TO SET ASIDE DEFAULT JUDGMENT

- Representing: Hayes Carpenters Ltd (Defendant)
- Claimant: Dawson & Co. Estate Agents
- Default Judgment entered: 23 January 2025
- Application to Set Aside issued: 12 February 2025
- Legal Basis: CPR 13.2, 13.3 & CPR 3.9 (Denton Test)

# LEGAL FRAMEWORK

## CIVIL PROCEDURE RULES

### OVERVIEW

The legal basis for this application is found in the Civil Procedure Rules. I will be addressing both discretionary and mandatory grounds for setting aside the judgment, along with the requirement to apply for relief from sanctions.

01

CPR 13.2 – Mandatory: Court must set aside judgment

02

CPR 13.3 – Discretionary: Court may set aside or vary

03

CPR 3.9 – Relief from sanctions is also required

04

Denton v TH White [2014]: 3-stage test  
FXF v English Karate Federation Ltd [2023]:  
CPR 3.9 applies to CPR 13.3





# CASE SUMMARY

## BACKGROUND OF THE DISPUTE

- Contract for 7 custom desks (£14,000)
- Claimant: Dawson & Co., an estate agency
- Defendant: Hayes Carpenters Ltd
- Issue: Disputed agreement on design specifications
- Claim served: 18 Dec 2024
- Default judgment: 23 Jan 2025
- Application to set aside: 12 Feb 2025

This case concerns a contractual dispute involving a bespoke order of office furniture.

The Defendant denies liability and asserts that the desks were produced in accordance with the agreed specification.









## CPR 13.2 – MANDATORY GROUNDS



- No admission with time-to-pay request
  - No summary judgment application made
  - No satisfaction of the claim prior to judgment
  - No procedural error in entering default judgment
- ✓ Proceed to CPR 13.3

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- Dispute over contract design: oak/felt vs. maple/leather
  - Email (EH1) confirms Claimant agreed to final design
  - Defendant acted on that agreement in good faith
  - Witness evidence from Emma Hayes is credible
- ✓ Real prospect of defending the claim



## CPR 13.3(1)(A) – REAL PROSPECT OF SUCCESS

Under CPR 13.3(1)(a), the court may set aside a judgment if the Defendant has a real prospect of successfully defending the claim. I submit that this threshold is met.



# CPR 13.3(1)(B) – OTHER GOOD

## REASON

Even if the court is not persuaded by the defence's merits alone, CPR 13.3(1)(b) provides that judgment can be set aside where there is another good reason to do so.

- Defendant's MD was ill from 6 Nov – 22 Jan
- Claim documents went unopened during that time
- Application made only 20 days after judgment
- No wilful disregard or tactical delay
- ✓ Court has discretion to set aside judgment







# CASE LAW SUPPORTING SET ASIDE

The principles I rely upon are further supported by case law, which confirms that courts have the discretion to set aside default judgments in appropriate circumstances.

- Stanley v Tower Hamlets [2020]: Delay excused due to fairness
  - Page v Champion Financial [2014]: Realistic defence sufficient
  - Gentry v Miller [2016]: Promptness persuasive, not determinative
- ✓ Legal support exists for granting this application



# CPR 3.9 – RELIEF FROM SANCTIONS

Due to recent case law, the entry of default judgment is now regarded as a sanction. Therefore, I must seek relief under CPR 3.9 and apply the Denton test.

- Default judgment = sanction under *FXF v English Karate*
  - CPR 3.9 test is mandatory when applying under CPR 13.3
  - Denton test: seriousness, explanation, overall fairness
- ✓ Court must consider all three stages



# DENTON TEST – STAGE 1

Due to recent case law, the entry of default judgment is now regarded as a sanction. Therefore, I must seek relief under CPR 3.9 and apply the Denton test.

- Default judgment = sanction under FXF v English Karate
  - CPR 3.9 test is mandatory when applying under CPR 13.3
  - Denton test: seriousness, explanation, overall fairness
- ✓ Court must consider all three stages





# DENTON TEST – STAGE 2

The second stage asks whether there was a good explanation for the default. I submit that illness and oversight provide a credible and truthful explanation

- MD Emma Hayes was on medical leave
- Documents remained unopened due to absence
- Prompt steps taken once aware of judgment

✓ Default not intentional or strategic



# DENTON TEST – STAGE 3

Finally, the court must evaluate all the circumstances, including fairness and the overriding objective. In this case, allowing a defence to proceed serves justice.

- Application filed promptly (12 Feb 2025)
- Real factual dispute in claim
- Claimant refused to consent despite explanation
- Allowing a defence supports justice and fairness
- ✓ Relief from sanctions should be granted







# FINAL SUBMISSION

In light of the above, the Defendant respectfully asks the court to exercise its discretion to allow the case to be defended on its merits.

- Set aside default judgment dated 23 Jan 2025
  - Grant relief from sanctions under CPR 3.9
  - Allow Defence to be filed and served
- ✓ Overriding objective: just and proportionate resolution



# THANK YOU

That concludes my application. I am now happy to address any questions Your Honour may have.

I welcome any questions from the Court.

*July-2025*