

Losing counsel series: Gaskin v Chorus Law and Murphy

10 JUNE 2019

Paul Hewitt

PARTNER | UK

CATEGORY:

EVENTS



Event

Event Headline

10 June 2019 | 12:45 onwards | Withers London office | 20 Old Bailey
Event Office

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Sam Chandler and Mark Baxter, both of 5 Stone Buildings, represented the First and Second Defendants respectively in this determination of responsibility for several years' worth of legal costs (around £180,000 unassessed in an estate worth some £360,000).

At its heart, it is a sibling dispute between the brother (Claimant) versus sister (Second Defendant) with a probate company (First Defendant) caught in the middle (and a third sibling in Barbados taking no part in proceedings). The proceedings started as a claim for substitution of both Defendants as administrators (notwithstanding only the First Defendant had taken out a grant): they were already complicated by an additional claim for occupation rent against the Second Defendant (defended on the basis of both non-occupation and the property being unlettable), and were significantly complicated yet further by discovery of a Will, in the course of the proceedings, that removed the Claimant's locus.

Mrs Gaskin died in 2012 – the hearing, which was limited to liability for costs, but nonetheless spanned over two days, took place in January 2019. The First Defendant had been removed by consent in 2017 and outstanding substantive claims eventually disposed by consent in 2018. So the 14 page judgment distils over six years of disputes – which continued against a changing (and fairly striking) factual matrix – into various phases, allocating costs in different proportions for differing phases.

Mr Chandler and Mr Baxter will discuss the principles underlying the attribution of costs in complex factual situations such as this, and lessons to be learnt.

Authors

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