



Case No: LM-2016-000046

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
LONDON CIRCUIT COMMERCIAL COURT

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

Date: 21/02/2019

Before :

MARTIN GRIFFITHS QC (SITTING AS A DEPUTY HIGH COURT JUDGE)

Between :

PLAYBOY CLUB LONDON LIMITED	<u>Claimant</u>
- and -	
BANCA NAZIONALE DEL LAVORO SPA	<u>Defendant</u>

Simon Salzedo QC and Fred Hobson (instructed by Simkins LLP) for the Claimant
Jeff Chapman QC and Andrew de Mestre (instructed by Bird & Bird LLP) for the Defendant

Hearing date: 21 February 2019

Ruling on Costs

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....
MARTIN GRIFFITHS QC (SITTING AS A DEPUTY HIGH COURT JUDGE)

Martin Griffiths QC, Deputy High Court Judge :

1. Following the judgment which I have just handed down, the parties have agreed a draft order. The only thing they have not been able to agree is the appropriate order for costs. There are three aspects for me to decide.
2. First, the appropriate order for the costs of the application for permission to amend. The Claimant's application to amend was opposed, and for the reasons I gave in my judgment, I allowed it. The Claimant asks for the costs of the application. The Defendant asks me to reserve them to the trial judge.
3. I see no reason for costs not to follow the event of the application in the usual way. I am better placed than the trial judge to decide what should be done about the costs of the application which I heard myself. Regardless of the outcome of the trial on the point raised by the amendment, I have decided in my judgment that the Claimant was right to say it was a point which should be argued at trial, and for which leave to amend should be given. The Defendant having opposed the application to amend, and lost, should pay the costs.
4. The next point is the summary assessment of costs. Clearly, after a short hearing of half a day I should summarily assess the costs, as the Claimant asks me to, and the Defendant does not suggest that I should not. I have schedules of costs and submissions have been made on both sides. It is accepted that the Claimant cannot reclaim VAT and so any award of costs cannot deduct the VAT element. The question for me is the appropriate figure for an award of costs on the standard basis. Doing the best I can on the materials I have, I will summarily assess the Claimant's costs to be paid by the Defendant at £65,000.
5. The third and final point is the costs order to be made in respect of the costs of and occasioned by the amendment itself. Usually, these are awarded against the party amending in any event. That is because there is more trouble and cost when a point has to be addressed as a new exercise following an amendment than if it had been incorporated into the original pleading. In this case, however, no Defence has been filed to any pleading, and there is therefore no additional trouble caused by the fact that parts of the pleading have been added by amendment. I have already awarded the costs of and occasioned by the contested application to amend. There is no need to make any additional order in respect of the costs of and occasioned by the need to plead to the amendments, since that exercise will be done at the same as the Defendant pleads to the rest of the Particulars of Claim and creates no additional costs. The costs will therefore be in the case, and that requires no specific order from me.