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Yorkshire's Legal People

COMPLETE PROPERTY SOLUTIONS

Can I Recover My Professional Fees?

Re: Fenchurch Advisory Partners LLP v AA Limited [2023] EWHC 108 (Comm)

The standard position adopted by the Courts in considering if a contract has been executed and can be enforced is there must be evidence of an intention to create legal relations between the parties: therefore, context is key.

In this matter the High Court considered the circumstances in which a professional can recover their fees even if the client has not signed their engagement contract. AA Limited approached Fenchurch to act on their behalf in the sale of its insurance business. The terms of the engagement contract were extensively negotiated via e-mail and Fenchurch had undertaken significant works however no engagement contract was signed.

The Court found that, despite the said negotiations and work undertaken, there was no binding contract that could be enforced between the parties. In the e-mail correspondence the CFO of AA requested confirmation of the final fee details so that an engagement contract could be signed, and Fenchurch confirmed their agreement. This was crucial in the Court finding that the parties had envisaged a signed agreement would be agreed moving forward.

In the alternative to an express agreement, the Court considered if a contract could be implied by the actions of the parties. Due to the aforementioned e-mail correspondence, it was held that a contract could also not be implied. The importance of Fenchurch for you and your clients is that work should not be undertaken on behalf of a prospective client without an express signed engagement contract, otherwise you run the risk of not being able to recover the costs. Whilst in this matter Fenchurch did recover an extent of the costs by way of an unjust enrichment claim, it is never guaranteed.

The Fenchurch claim is an important reminder that any work undertaken in advance of an agreed engagement contract is risky and you may not recover the costs incurred. If the work is required to commence early by way of necessity, a short form contract should be agreed to avoid any future issues arising.

If you have concerns regarding a contract entered into or wider issues surrounding a contract dispute, please do not hesitate to contact Andrew Dickinson AndrewDickinson@chadlaw.co.uk or 0113 225 8811.

For more information about how we can help you please contact:



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