

Case No: HQ09X00126

**Neutral Citation Number: [2010] EWHC 1590 (QB)**  
**IN THE HIGH COURT OF JUSTICE**  
**QUEENS BENCH DIVISION**

Royal Courts of Justice  
Strand  
London WC2A 2LL

Thursday, 20 May 2010

BEFORE:

**MR JUSTICE IRWIN**

BETWEEN:

**ANDREW JOHN WALKER**

Claimant/Respondent

- and -

**STANDARD LIFE ASSURANCE LIMITED**

Defendant/Appellant

MR WALKER appeared in person on behalf of the Claimant

REPRESENTATION NOT PROVIDED

**Approved Judgment**

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(Official Shorthand Writers to the Court)

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1. MR JUSTICE IRWIN: In this case Mr Andrew Walker, who is the applicant, renews, orally, his application for permission to appeal the decision striking out his claim against Standard Life Assurance.
2. The background, I will summarise very briefly. Standard Life was “demutualised”. The suggestion of Mr Walker is that both before and after Standard Life floated and demutualised, it acted unlawfully in relation to stakeholder pensions and specifically in relation to the payment of commissions in stakeholder pensions.
3. The claim was issued in the Ilford County Court on 2 September 2008 and a defence was filed on 17 October 2008. On 6 January 2009 the district judge in the Ilford County Court transferred the case to the High Court. On 26 January 2009, Master Eyre allocated the claim to the multi track, essentially on the basis of the complexity of the allegations and facts. He fixed a directions hearing on 18 February.
4. As at 18 February 2009, the claimant was awaiting a hearing in another set of proceedings in the Central London County Court, in which he was suing the Co-operative Insurance Society. In those proceedings he had raised similar issues: although there are some differences of fact and degree, but similar issues to those raised in the current proceedings.
5. The applicant had, at first, agreed to a stay of the present proceedings, pending the outcome of his appeal against the substantive judgment in the CIS case and an ancillary dispute in these proceedings on disclosure, however the CIS case was lost. At the hearing on 18 February 2009 the defendant proposed that the directions be adjourned until after the decision was known on the CIS appeal. The claimant suggested that that would be something that would allow him to know much better what the risks were on the current litigation. However, Master Eyre, on 18 February 2009, did not fully accede to that and what he drew out of the applicant in the course of the hearing on 18 February 2009 was recorded as following in the preamble to his order:

“... and the Claimant conceding that the action is worth no more than £100 but that he wishes to pursue the action as a matter of principle AND it appearing to the court, that the cost of litigating this action was likely to be large and possibly enormous AND THAT it is accordingly utterly disproportionate and contrary to the principles of civil justice for the action to continue as at present constituted.”
6. And so having reached that conclusion, Master Eyre, stayed the claimant’s claim pending further order and directed that the claimant apply for the stay to be set aside, not later than 30 April 2009.
7. In fact, Mr Walker has, frankly, in the past, estimated the value of his claim as: “A few pounds.”
8. The action against the Co-operative Insurance Society was struck out. It went as far as the Court of Appeal but Toulson LJ and Sir Richard Buxton both dismissed the CIS action.

9. There is, as far as I can determine, and as far as anyone else has determined, no relevant distinction to be made between the CIS case and the principles which underpinned it and the basis of the current claim.
10. Before me, today, Mr Walker has emphasised that a point he brings forward in this action, and he did not bring forward in the CIS claim was, it is arguable, he says in this case, that the actions of Standard Life breached a European directive, relevant to these commissions, EU directive 2002/83/EC and he says, “Well, in effect, that point was not argued in the CIS case but I would wish to argue it here”.
11. It seems to me that that cannot affect the proportionality point, which was the key point when Master Eyre dismissed the case.
12. The case was reviewed on application for permission to appeal, as is the normal form, on paper. On 21 April 2010, Thirlwall J, gave the following reasons for refusing permission to appeal:

“At a hearing before Master Eyre on 18 February 2009, the Claimant accepted that his claim was worth no more than £100 and that he was pursuing it as a matter of principle. The master set out his reasoning for granting a stay on the face of that order. On the evidence he was entitled to find that nothing had changed by the hearing on 2 March 2010. The orders were justified and the reason for them was plain.”
13. Mr Walker says to me today that he had not understood that proportionality, that is to say the relationship between a tiny claim and the enormous costs that follow from litigation, was at the heart of the dispersal of the claim. I cannot think that that is correct. It was so clear on the face of what Master Eyre had to say and, indeed, on the face of what Thirlwall J has had to say.
14. Mr Walker also broaches the fact that in the past, he has taken a case on the failure of implementation of the working time directive and he says that in the course of that case, he was told by the Court of Appeal that because that claim was based on the breach of the European directive as to working time, then although a limited amount of damages were at stake, it was appropriate for the litigation to continue, although the court went on to warn Mr Walker about the potential consequences for hidden costs. That claim, too, was lost. I record that because Mr Walker has asked me to do so although I have not seen any detail of that previous claim. However, it seems to me it does not touch the fundamental problem here, even if this was a breach of an EU directive, it does not render this action proportionate.
15. If there was a large sum of money at stake, then litigation involving a lot of cost may be proportionate. That significant sum of money might derive from the loss of one heavy investor or one person with a great deal of loss at stake derived from the level of commission, or it might arise from a large group of people with relatively modest losses at stake. That is immaterial. It is not the case that this is one law for the rich and another for the poor. It is a simpler question: does the litigation carry a proportionate benefit, either financial in a case such as this, or in other cases as to the exercise of rights?

16. In my judgment it is absolutely clear that this case cannot be regarded as proportionate and that was the burden of Master Eyre's decision and indeed that of Thirlwall J.
17. So, for those reasons this case has no realistic prospect of success and is disproportionate and will remain dismissed.