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# ADJUDICATION IN ENGLAND AND WALES

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# Background



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Widespread Use of Adjudication

Enforcement by Summary Proceedings in TCC

Large body of decided cases and principles

# Recent Cases

## **Lobo v Corich [2017] EWHC 1438 (TCC)**

**Stuart-Smith J**

- D played no part in adjudication and preliminary stages of enforcement proceedings then sought to challenge the adjudication on grounds of not having been aware of them. After a hearing at which D gave evidence the adjudication award was enforced. Shows the significant danger of ignoring an adjudication notice/process.



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## RCS Contractors Ltd v Conway[2017] EWHC 715 (TCC) Coulson J

- Trial of issue whether adjudicator had jurisdiction because there were 3 contracts rather than one. Claim for under £60,000. Court found one contract see observations at paragraph 2 re repeal of s.107 and problems of grappling with oral contracts in adjudications.



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## Merit Holdings v Lonsdale [2017] EWHC 2450 (TCC) Jefford J

- Part 8 claim as to interpretation of contract. Adjudication decisions in the background but Court made observations as to use of Part 8 generally and in adjudication context -see paragraph 20, and 22. Court refused declarations sought or alternative declarations



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# Victory House General Partner Ltd v RGB P&C Ltd [2018] EWHC 102 ( TCC )

Joanna Smith QC

- Part 8 /enforcement proceedings follows on from Merit-see paragraph 6. Judge refused to hear part 8 issues and proceeded with enforcement rejecting an argument that adjudicator had gone on a “frolic of his own “ Useful discussion of earlier authorities including recent AECOM case [2017] EWHC 723 (TCC).



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# Equitix ESI CHP (Wrexham) Ltd v Bester Generacion UK Ltd [2018] EWHC 177 ( TCC ) Coulson J

- Enforcement of award of almost £10million. Judge rejected arguments that the contract included work excluded from the Act see paragraph 32, that D had reserved its position as to jurisdiction in this adjudication- see paragraph 55. However the Judge did then grant a “ general stay” of £4.5 million of the award see paragraphs 68-78.



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