



## Adjudications everywhere all at once: court declines to restrain multiple adjudications and reiterates its reluctance to interfere

Since the passing of the Housing Grants, Construction and Regeneration Act 1996 (“the **Construction Act**”), a party to a construction contract has had the statutory right to refer a dispute to adjudication “at any time”.

The Courts have the power to grant an injunction halting an adjudication that is “unreasonable and oppressive”. This begs the question, what exactly constitutes an “unreasonable and oppressive” adjudication?

This was the issue before the Technology and Construction Court (“**TCC**”) in *Beck Interiors Ltd v Eros Ltd* [2024] EWHC 2084. Eros, as employer had issued four notices of adjudication in 13 days, in addition to proceedings that were already in progress. This was too much for the contractor, Beck, who contended that it could not fairly represent itself in all of the adjudications at once.

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### Key takeaways:

- **The statutory right to refer a dispute to adjudication “at any time” means exactly that, and launching multiple adjudications in quick succession is within that right.**
  - **Parties must be prepared for multiple adjudications and should not rely on the Court’s intervention to police them; persuading the Court that is “unreasonable and oppressive” to pursue an adjudication will be a high bar indeed.**
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### Background

In August 2020, Eros Limited (“**Eros**”) engaged Beck Interiors Limited (“**Beck**”) as its design and build contractor for fit-out works at a development now known as The Residence, Mandarin Oriental in Hanover Square for the sum of approximately £40.2m (“the **Contract**”).

The parties fell into dispute and there followed a series of adjudications and court proceedings, summarised as follows:

**Adjudication 1:** involved an extension of time claim referred by Beck on March 8, 2024. The adjudication was ongoing at the time of the TCC hearing but was later decided in Beck’s favour.

**Adjudication 2:** On March 18, 2024, Beck launched a second adjudication concerning liability for a smoke extract ventilation system. The Adjudicator again ruled in Beck’s favour, stating that Beck was not responsible for the system. Eros initiated Part 8 proceedings regarding the scope of work.

**Adjudication 3:** On May 17, 2024, Eros launched an adjudication seeking additional costs incurred due to the hotel opening later than forecasted by Beck.

**Adjudication 4:** On May 21, 2024, Eros began another adjudication to determine the true value of an interim certificate.

**Adjudication 5:** On May 28, 2024, Eros launched an adjudication claiming £8.6 million for liquidated damages.

**Adjudication 6:** On 30 May 2024, Eros commenced another adjudication - its fourth notice in the space of just 13 days - seeking approximately £15.5 million for financing charges and lost investment return due to delays in selling apartments said to have been caused by Beck’s breaches of contract.

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Eros then threatened to launch another adjudication seeking a further £36.9m, which it claimed was for loss of a chance to develop another hotel.

## Application for injunction

While the right to refer a construction dispute to adjudication at any time is laid down in the Construction Act, the TCC has jurisdiction to grant an injunction halting those proceedings where an adjudication is deemed to be “unreasonable and oppressive.”

Beck contended that launching four adjudications in quick succession, and the strain this put on its legal team, met the threshold of “unreasonable and oppressive.” It therefore applied for an injunction restraining Eros from issuing any further adjudication notices without the Court’s permission, and requiring Eros to withdraw the four adjudication notices it had already issued.

Eros argued that it had the statutory right to adjudicate “at any time” thus had been entitled to commence its four ongoing adjudications.

## Held

The judge, Mrs Justice Jefford, refused to grant an injunction for the following reasons:

- A party should not be prevented from pursuing its statutory right to refer a dispute to adjudication except in the most exceptional circumstances.
- This case was far from exceptional as the Judge had seen nothing which could be regarded as “unconscionable, unreasonable or oppressive in Eros’ approach in the individual adjudications”.
- The Court accepted that there is an inevitable burden in dealing with multiple adjudications all at once, and also accepted that the right to refer a dispute to adjudication “at any time” confers a commercial advantage on the referring party.

However, Parliament was aware of this when legislating.

- The question of whether Eros had behaved unreasonably within each of the adjudications fell on the Adjudicator, not the Court.
- Declining to grant the injunction did not leave Beck without a remedy. Beck could seek to resist enforcement of an Adjudicator’s decision by raising breach of natural justice arguments and showing that an insufficient time to respond to would lead to a material difference in the adjudication outcome.

## Analysis

The Courts have once again shown their extreme reluctance to interfere with the adjudication process and have made clear that they will do so only in extremely rare cases, where the Adjudicator clearly lacked jurisdiction, or where it is “unreasonable and oppressive” to pursue the adjudication. The test for the latter is a very high bar. Tellingly, there has not yet been a decided case which met this threshold.

*As at the date of this article, Beck Interiors Ltd has become insolvent following a winding-up petition in June 2024.*

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