

# FK v ISG: Court of Appeal grants FK Construction permission to appeal in both decisions

The Court of Appeal has given FK Construction permission to appeal both decisions of Adrian Williamson KC sitting as a Judge of the High Court in the widely reported decisions between FK Construction v ISG Retail (at neutral citation numbers [\[2023\] EWHC 1718 \(TCC\)](#) and [\[2023\] EWHC 2012 \(TCC\)](#)).

The appeals relate primarily to (i) default payee notices under section 110B(4) of the Housing Grants, Construction and Regeneration Act 1996 (as amended) and (ii) the repayment of sums paid pursuant to an adjudicator's decision which is later found by the Court to have been wrong (considering the Supreme Court's decision in *Aspect v Higgins* [2015] UKSC 38). The outcomes of these appeals are likely to have wider implications within the construction industry.

Permission to appeal was granted on paper by Coulson LJ. The appeals will be listed for a 1 ½ day hearing.