

Michael J Lonsdale (Electrical) Ltd v Bresco Electrical Services Ltd

The TCC has granted declarations and an injunction preventing an adjudication brought by a company in liquidation from proceeding. Thomas Crangle appeared for the successful Claimant.

In *Michael J Lonsdale (Electrical) Limited v Bresco Electrical Services Limited (In Liquidation)* [2018] EWHC 2043 (TCC), Bresco commenced an adjudication alleging repudiation of a sub-sub-contract and seeking decisions as to its financial entitlement in circumstances where Lonsdale also had a cross claim against Bresco. Lonsdale invited Bresco to withdraw the adjudication and the adjudicator to resign relying on the decision in *Enterprise Managed Services Ltd v Tony McFadden Utilities Ltd* [2009] EWHC 3222 (TCC). When both refused, Lonsdale issued Part 8 proceedings in the TCC seeking declarations and an injunction.

Fraser J approved the decision in *Enterprise* and found that upon Bresco entering into liquidation, the effect of Rule 4.90 of the Insolvency Rules 1986 (now replaced by Rule 14.25 of the Insolvency Rules 2016) was that the claims and cross claims between the parties were no longer capable of separate enforcement. They were replaced with a claim to a net balance following the taking of an account under the Insolvency Rules and that account could not be taken in adjudication proceedings.

The decision is likely to have a major impact on companies in liquidation. The effect of the judgment is that companies in liquidation will not be allowed to use adjudication proceedings to pursue financial claims where there are claims and cross claims between the parties.

The full judgment is available [here](#).