

Nigel Tozzi KC, Matthew Lavy and Iain Munro featured in The Lawyer's Top 10 Appeals

The Lawyer have published their Top 10 Appeals. [Nigel Tozzi KC](#), [Matthew Lavy](#) and [Iain Munro](#), acting for the respondent (IBM) and instructed by CMS, have been featured for ***CIS General Insurance v IBM United Kingdom***.

The claim is over a failed IT transformation project that CIS General Insurance purchased from IBM UK for around £50m with ongoing management costs of over £125m.

Following delays to the project, IBM purported to terminate on the grounds of CIS's failure to pay an invoice. CIS claimed that IBM wrongfully terminated the contract because CIS had validly disputed the invoice and issued a claim for damages of £128m in respect of wasted costs, with alternative claims for breach of contractual warranty and relating to the delays caused. This claim was originally in court between January and March 2020 with judgment handed down in February 2021.

In her decision, the judge held that IBM had repudiated the contract; she dismissed CIS's claim for expenditure wasted by reason of that repudiation which it quantified at £128m on the basis that it was excluded by a contractual exclusion of "loss of profit, revenue, [or] savings".

The appeal scheduled for February 2022 will relate to the Court's holding that a claim for wasted expenditure was excluded by a contractual term expressly excluding loss of profit but not wasted expenditure.