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Gough Square Chambers' consumer credit column: July 2026

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Lee Finch, Sabrina Goodchild, Ann-Marie O'Neil and George Spence-Jones are all specialist consumer credit counsel at Gough Square Chambers. On a regular basis, they share their views with Practical Law Financial Services subscribers on topical developments or key issues relating to consumer credit.

In the July 2026 column, George Spence-Jones considers the direction of multi-claimant omnibus claims in the context of motor finance commission, common issues and unfair relationships following the Court of Appeal decision in *Angel and others v Black Horse and others [2026] EWCA Civ 831.*

Motor finance omnibus claims after *Angel v Black Horse*: convenience, common issues and unfair relationships

The Court of Appeal's decision in *Black Horse Ltd v Angel and others [2026] EWCA Civ 831 (30 June 2026)* provides important practical lessons on the future of multi-claimant "omnibus" claims in the motor finance commission litigation. Although the appeal was dismissed, the judgment is far from a straightforward endorsement of the claimants' procedural route. Instead, it confirms the breadth of the CPR 7.3 "convenient disposal" test while emphasising the limits of common issues in claims based on section 140A of the Consumer Credit Act 1974 (CCA), where unfairness remains a fact-specific inquiry.

This column considers the procedural history of the *Angel* litigation, the significance of the alleged common issues concerning CONC, unfairness and section 56 of the CCA, and the Court of Appeal's apparent reluctance to treat the decision as a model for future omnibus motor finance claims.

Background

Omnibus claims

This appeal concerned the protracted procedural wrangling of eight multi-claimant claims that were brought in November 2022 as "omnibus" claims. Eight separate claim forms against eight separated defendants were issued, and each claim form was supported by a range of 29 to 1,651 claimants for a total of 5,800 over the eight claims.

As set out in a previous column on the appeal of this case (see Article, Gough Square Chambers' consumer credit column: March 2025), omnibus claims are, in principle, one possible option for case managing bulk claims brought under the CPR.

These multi-claimant omnibus claims were brought under CPR 7.3, as the claimants' case was that they met the test that they could be "conveniently disposed of in the same proceedings".

Motor finance commission claims

At the heart of all these omnibus claims was the allegation by the claimant cohorts that their motor finance company defendant failed to sufficiently, or at all, disclose the relevant commission arrangements that were in place with the car dealers when the claimants took out car finance.

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Under those arrangements, the finance companies might pay the dealerships a commission in respect of any credit agreement arranged by the dealership that the customer later chooses to enter.

The claimant cohorts initially included all types of commission arrangements. However, by the time of the appeal hearing, the only commission arrangements complained of were discretionary commission arrangements (DCAs). This is where a lender set an initial interest rate for the credit agreement, but the dealer had a discretion to vary that interest rate to accommodate the particular claimant, particular vehicle and particular deal being negotiated. The dealer's commission then varied accordingly.

The omnibus claims were all brought under section 140A-C of the CCA seeking repayment of monies the claimants had paid under their credit agreements. This was on the basis that the relationship between each claimant and defendant arising out of the particular credit agreement was unfair.

Decision at first instance

The claimants advanced that the CPR 7.3 test of "convenience" was principally met given that there were two common issues for all in the cohort. These concerned:

- The CONC point and whether the relevant regulatory regime required disclosure of the nature of the DCA.
- The unfairness in principle point and whether a breach of CONC arising from the non-disclosure of the DCA may, in principle, give rise to a finding of unfairness under section 140A of the CCA.

The defendants disputed that the CPR 7.3 test was met and identified a list of 18 variable factors, termed the "Finch factors", that would be relevant in each assessment of unfairness under section 140A of the CCA.

HHJ Worster agreed with the defendants and disaggregated the claims, leaving them to be pursued individually on the small claims track in the same way as the thousands of other motor finance claims that are progressing through the County Courts.

In reaching his decision, HHJ Worster:

- Found that a determination of unfairness in one case would not give rise to a binding precedent that the relationships between other claimants and the same defendant was unfair. This was accepted by the claimants. The question of unfairness would turn on a wide range of factors, including the Finch factors.
- Questioned the utility of a generic determination of issues that would not be binding in unfair relationship claims.
- Relied on the High Court decision in *Abbott v Ministry of Defence [2022] EWHC 1807 (KB)* (Abbott) and found there were no "common issues of sufficient significance that their determination would constitute real progress towards the final determination of each claim in a set of claims".

High Court decision

The claimants appealed, and the matter came before Ritchie J. However, by the date of the appeal, the test in Abbott had been deemed too restrictive by the Court of Appeal decision in *Morris and others v Williams & Co Solicitors [2024] EWCA Civ 376* (Morris). Therefore, Ritchie J concluded that HHJ Worster was in error in following *Abbott*.

So, Ritchie J exercised the discretion afresh. At that hearing, the claimants added a third issue to their list of proposed common issues. This concerned section 56 of the CCA and whether the car dealers were the agents of (or brokers for) the defendants for the purposes of section 56 of the CCA.

Ritchie J found that:

- The CONC point was a broad common issue but would have within it many common sub-issues.
- The section 56 point was a broad common issue.
- The unfairness in principle point was unachievable and so not a common issue.

With these in mind, and the range of other factors available when considering "convenience", he found that the CPR 7.3 test was met.

Court of Appeal decision

The defendants appealed Ritchie J's decision. Permission was refused on all but ground 4, that is, whether Ritchie J was outside the generous ambit within which reasonable disagreement is possible for a case management decision.

The Court of Appeal dismissed the appeal based on the following:

- Following *Morris*, the test of convenience was "very broad" [6].
- A common issue of law or fact did not mean that a decision on that issue must bind everyone in a multi-claimant claim [92].

- If too narrow an approach were taken to "common issues of law and fact", it would allow defendants to make claims that are fact-sensitive to always defeat a multiple claimant claim form on the basis that each claim calls for a separate factual assessment [93].
- Although the lead cases would not bind everyone, they were still useful for settlement [108].
- Qualifying Andrew Baker J's view in *Abbott*, "the test of whether 'all claims...can be conveniently disposed of in the same proceedings'" must involve consideration of any case management tools available to the court that may help towards the convenient disposal of multi-claimant claims; 'disposal' must encompass the journey as well as the destination" [47].
- Ritchie J may have made some errors, but that was not sufficient for the high threshold of appeal.

The uncontroversial facts were:

- The CCA was relevant to every claim.
- CONC was relevant to every claim (at least after 2014).
- The fact of a DCA was relevant to every claim.
- The allegation of a failure to disclose that DCA in whole or in part to the claimant was relevant to every claim.

Then, the section 56 point and CONC point were the broad common issues for determination across the cohort.

Contrary to the defendants' case, the CONC point had not been authoritatively determined by Kerr J in *R (Clydesdale Financial Service Ltd) v Financial Ombudsman Service Limited [2014] EWHC 3237 (Admin)*. That decision was a judicial review appeal, so the result was predicated on Kerr J's conclusion "that it was open to the ombudsman to find" rather than any sort of definitive statement of the law [98]. Further, even though the defendants conceded the section 56 point for this hearing, they had not yet conceded it before Ritchie J. So, Ritchie J was not in error.

Comment

Too many breadcrumbs were left to avoid concluding that the Court of Appeal did not like the decision of Ritchie J and preferred HHJ Worster's approach to case management and, but for the fortuitous timing of the decision in *Morris* allowing Ritchie J to make the case management decision afresh and so raising the appeal threshold, would have allowed the appeal. Those breadcrumbs include:

- There was an unnecessary reminder of the comparative positions of the two lower court judges. HHJ Worster was the circuit judge "who has extensive experience of these sorts of claims" in the County Courts [5].
- HHJ Worster questioned the utility of the common issues. Similarly, the Court of Appeal were "sceptical about the utility of the common issues identified by the High Court judge" [106].
- There were forceful reminders of the legal limits on the appellate court's options: "there are real restrictions on this court's room for manoeuvre" [10].
- There was a hint that an appeal on ground 1 (that Ritchie J mischaracterised the nature of HHJ Worster's approach to CPR 7.3) could have succeeded before them:

> "What I think the High Court judge in the present case may have overlooked is what the Master of the Rolls said about the result in *Abbott*. His views at [56], [57] and [62] were clear: *Abbott* was only wrong because it sought, at least potentially, to exclude other factors that may be relevant to the test of convenience. In my view, that meant that it was not enough for the High Court judge in the present case simply to say that the circuit judge had followed *Abbott* and was therefore wrong in principle; instead, he needed to see if the circuit judge had wrongly excluded any factors that were relevant to the test of convenience. At a cursory glance, it is difficult to see what he may have excluded. But that is now water under the bridge, because that argument formed ground 1 of the application for permission to appeal in this case, and the defendants did not get permission to pursue it" [43].

- Finally, the Court of Appeal identified that the outcome to uphold Ritchie J's decision was not really one to be followed: "the procedural history, and the restrictions that I have identified, make this case an unreliable vehicle for any statement of principle or guidance concerning multi-claimant claims" [11].

  In fact, they identified this twice: "This appeal cannot easily be extrapolated into setting out any new or wider principles to be followed in other cases where the CPR.7.3 point has arisen. It is very much a decision on its own facts, primarily because it is subject to these important limitations" [86].

This is perhaps unsurprising when considering the common issues and the Court of Appeal's view on their limited impact on the underlying claims of unfair relationships to be resolved via the omnibus procedure:

- **Section 56 point.** This was a common issue. However, it does not materially affect the assessment of unfairness. Indeed, it had been conceded by the defendants for the appeal [97]. So, a determination on this issue does not take the omnibus cohort very far.
- **CONC point.** This was a common issue. However, "the determination of the CONC issue is not determinative of whether or not the relationship was unfair" [101]. So, again, although a cohort-wide determination could be made, there are limits on any subsequent impact on the assessment of unfairness.
- **Unfairness in principle point.** There can be no binding findings or decisions for the omnibus cohorts on the principle of unfairness. All three courts agreed on this. HHJ Worster's view was that "since the unfair nature of the relationship would differ in every case, it was impossible to identify a common issue that could deal with unfairness in principle" [87]. Then, Ritchie J agreed and thought that this point was "unachievable, and not a valid decision for a judge to make" [29].

The Court of Appeal agreed with the above and rejected the claimants' arguments that there would or could be prima facie unfairness from, for example, a large undisclosed commission. The idea that there would be a "very clear case" of unfairness or a "tipping point case" to give rise to any presumption was rejected [87].

Further, the Court of Appeal noted that "It is simply not appropriate for the court to give undue weight to any one particular factor over another: it is for the court to evaluate all relevant factors in order to come to a conclusion as to the nature of the relationship". The claimants' argument pursuing this ran "contrary to the Supreme Court (and other authorities) which have repeatedly set their face against any sort of presumption or modification to the principle that unfairness is an entirely fact-specific inquiry" [91].

The Court of Appeal also deprecated the idea that the FCA redress scheme could serve as a basis for a common issue, given that it used a presumption of unfairness [105].

Conclusion

In summary, the following practical points arise from the decision:

- For the purposes of CPR 7.3, "convenient disposal" can include the journey of case management and not just the destination of any final resolution.
- It is possible to have an omnibus claim for section 140A CCA unfair relationship allegations. However, any new omnibus claims in this context will likely need to refine their position. The *Angel v Black Horse* formula is unlikely to serve as the template.
- The main reason is that the CONC point common issue was "too slender" to meet the convenience test on its own and so needed more. The unfairness in principle point was wrong and so cannot be relied on again. The only other common issue from *Angel* was the section 56 point. But that was conceded and so if it were conceded again, it would leave the CONC point being run on its own. Therefore, a new common issue to support the CONC point will likely need to be found.
- In any event, the Court of Appeal's instinct appeared to better align with HHJ Worster's approach: no omnibus but individual test claims, fully pleaded and tried, covering a spectrum of factual matrices. There was doubtful utility in the omnibus claims proceeding on the CONC point alone.

Gough Square Chambers' consumer credit columns

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