

WFW SECURES SECOND SUCCESS FOR BESTER IN TCC RULING

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WATSON FARLEY & WILLIAMS HAS SECURED A FURTHER VICTORY FOR CLIENT BESTER GENERACION UK ("BESTER") BEFORE THE ENGLISH TECHNOLOGY AND CONSTRUCTION COURT ("TCC").

Mrs Justice Cockerill DBE handed down judgment today in *PBS Energo AS v Bester Generacion UK Ltd*, rejecting PBS's purported termination of the parties' subcontract for the engineering, procurement, construction and commissioning of a biomass fired energy generating plant in Wrexham, Wales and finding that in fact Bester had validly terminated the contract. On that basis, Mrs Justice Cockerill DBE dismissed PBS's claims in full and held that Bester's counterclaim succeeded.

The judgment reverses an earlier adjudication award against Bester which found that PBS had validly terminated the subcontract, and a later parasitic adjudication award in which the adjudicator made an award of damages in favour of PBS. It also follows on from WFW's success in *PBS Energo AS v Bester Generacion UK Ltd*, in which the TCC refused to enforce the second adjudication award against Bester on the basis that there was a properly arguable defence that it had been obtained by fraud. This was the first occasion in which the TCC has refused to order enforcement of an adjudication decision in circumstances where the properly arguable defence of fraud could not have been argued at the time of the underlying adjudication. For more in-depth information on the High Court's ground-breaking ruling in the above case, please see [here](#).

This latest victory therefore represents a complete reversal of Bester's fortunes before the English High Court. The WFW London Dispute Resolution team that successfully advised Bester in both the enforcement and TCC proceedings was led by Partner and London Dispute Resolution Co-Head Rebecca Williams, supported by Senior Associates Andreas Efstathiou, Alexander Creswick and Mark McAllister-Jones, and counsel Steven Walker QC of Atkin Chambers and Tom Owen of Keating Chambers.

Rebecca commented: "I'm delighted that, working closely with counsel, we were able to achieve this excellent result for our client. This is a gratifying victory and is the culmination of the team's hard work and dedication. It would not have been possible without all of the talented and committed individuals who worked on the case. The results demonstrate the excellence of WFW's disputes practice, especially in the construction sector".

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London Dispute
Resolution Co-Head
Rebecca Williams

WATSON FARLEY & WILLIAMS

The significance of WFW's successes on Bester's behalf are amply demonstrated by the accolades they have received. The case led directly to Rebecca and her team being named "Construction and Engineering Litigation Team of the Year" at the Legal Week Commercial Litigation and Arbitration Awards 2019 (see here), as well as being key to her personal nomination to The Lawyer's Hot 100 2020 for dispute resolution (see here).

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