WALK THE LINE: WHAT IS CONDUCTING LITIGATION AND WHAT DOES MAZUR & STUART V CHARLES RUSSELL SPEECHLYS LLP MEAN FOR LITIGATION TEAMS?

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Claire Revell and Dilara Devin

Summary

The High Court in *Mazur & Stuart v Charles Russell Speechlys LLP (Mazur) (2025 EWHC 2341 (KB)* *Mazur & Anor v Charles Russell Speechlys LLP [2025] EWHC 2341 (KB) (16 September 2025)* *)* has provided further guidance on the principle that only an authorised (or exempt) person may "conduct litigation" under the Legal Services Act 2007 (s.12(1)(b) and Sch.2, para.4), the conduct of litigation being one of six reserved legal activities set out in that legislation. It was ruled that employment by an authorised firm or supervision by a qualified solicitor does not entitle non-authorised staff to do so. They may assist but the authorised litigator must retain genuine control and approve key steps.

This ruling overturns assumptions based on past SRA and CILEX guidance which suggested a wider role for supervised but non-authorised staff. Larger firms are already limiting what paralegals, CILEX members and other non-authorised staff can handle. Without further SRA guidance, we are likely to see disputes arise as opponents probe potential departures from the legislation and costs issues in light of the judgment.

The Judgment

In *Mazur*, the High Court considered whether an unauthorised employee at a debt recovery firm, acting under supervision, could lawfully "conduct litigation" for the purposes of the Legal Services Act 2007. The employee had taken a range of steps in proceedings, including drafting pleadings and filing documents without holding a practising certificate.

The High Court confirmed that "conducting litigation" is a reserved legal activity. However, crucially, the court held that mere employment by an authorised firm or supervision by a qualified solicitor is not enough to permit an unauthorised employee to conduct litigation – the individual must themselves be authorised or fall within a statutory exemption. At the same time, the court accepted that non-authorised staff can still play an important role in assisting with litigation, provided they remain within safe limits. For instance, non-authorised staff can undertake clerical tasks and drafting work but an authorised litigator must retain genuine control, exercise professional judgement and formally sign off on the key steps.

The court stressed *"focusing on substance not form"* in determining whether one is responsible for litigation or assisting. Justice Sheldon emphasised that *"General supervision by an authorised person does not mean that an unqualified individual is, or is not, conducting litigation"*. Therefore, simply labelling a case as "partner-led" or "supervised" is insufficient if unauthorised staff are in fact making decisions and filing documents. What counts is who genuinely exercises judgement, approves strategy and

takes responsibility. If that rests with a qualified solicitor, others can be deemed as assisting; if not, the staff member can be considered as conducting litigation. In practice, this fact-sensitive, substance-over-form approach is both disruptive and difficult for law firms to navigate.

Why this has caused confusion

For years, many debt recovery and volume practices operated on the assumption that supervised non-authorised staff could take formal steps in litigation. The judgment says that the Legal Services Act 2007 never permitted that. The Law Society's submissions (which the court endorsed) drew a sharp line – support is fine but conducting is not. The real – and currently unanswered – question is what *exactly* constitutes conducting.

Key Takeaways for Law Firms

In light of *Mazur*, firms should consider (noting that this issue does not arise pre-action):

- Fixing responsibility to an authorised solicitor: that is, ensuring that an appropriately authorised fee-earner is genuinely directing the litigation, approving documents and taking strategic decisions.
- Documenting the sign-off process. For example, keeping clear records of what the supervising solicitor has reviewed, amended and approved, particularly for pleadings, applications, and statements of truth.
- Clarifying roles for non-authorised staff. This could include drawing a clear line between permissible "assistance" (drafting for review, bundles, administrative tasks) and prohibited "conducting" (issuing proceedings, signing pleadings, making applications).
- Updating risk and compliance guidance. Training and internal notes should reflect the fact that previous messages from the SRA and CILEX about "supervised" litigation may no longer be reliable.

There are many firms which are struggling with the ramifications of this decision; non-authorised staff in many firms across a number of practice areas are being held back from vast swathes of work pending finding a workaround. Any such workaround will take time and will likely come at an expense to the firm. Equally, there are many extremely concerned members of the profession (e.g. CILEX members and paralegals, many of whom have undertaken professional qualifications) who are worried about where this decision leaves them. Certainly, there has been a huge amount of discussion about this decision already amongst regulators, representative bodies, the legal press and many others without matters being moved much further forward. However, the most sensible advice appears to be not to panic, not to rush into any snap decisions about suitable workarounds and to give grace to all concerned whilst a new normal is found.

Conclusion

The decision in *Mazur* exposes flaws in earlier regulatory communications and puts firms on notice: substance trumps form. A partner's name on the file is not enough without real oversight. Absent further detailed SRA guidance (which will be welcomed by many in the profession), disputes over defects, sanctions, and costs are likely to generate "satellite litigation" as parties test the boundaries of the judgment, particularly in the costs arena.

This not only creates uncertainty but may also increase expenses for clients, as law firms reallocate work to authorised fee-earners and opponents seek to exploit technical arguments. The implications may extend beyond litigation, with will drafting, conveyancing and other high-volume practices also facing renewed scrutiny over the risk that non-authorised staff are straying into reserved activities.

If you are unsure as to how this ruling will affect you and your business, or you would like to discuss any of the points raised in this article, please contact one of the authors or your usual Beale & Co contact.

Claire Revell - claire.revell@beale-law.com - +44 (0) 117 428 9296
Dilara Devin - dilara.devin@beale-law.com - +44 (0) 117 428 9300