



SHERIFF APPEAL COURT

**[2026] SAC (Civ) 47
LIV-SG153-25**

Sheriff Principal N A Ross

OPINION OF THE COURT

delivered by SHERIFF PRINCIPAL N A ROSS

in the appeal in the cause

MJM 4x4 BREAKER LIMITED

Claimant and Respondent

against

LEONARDO BELLINATI

Appellant

14 July 2026

[1] The respondent raised this simple procedure claim seeking payment for a motor vehicle engine it supplied to the appellant. The respondent's position was that the appellant confirmed the engine was fitted and in full working order, but that the wiring loom had required to be replaced. The respondent claimed that they had not supplied a wiring loom and that as the engine was working, payment was due. The appellant raised proceedings in England which appear not to have been resolved. The appellant claimed repayment from eBay through which the transaction was completed. eBay notified the respondent that they had refunded the purchase sum of £2,044. The respondent, having neither engine nor payment, raised this claim.

[2] Following intimation the appellant disputed the claim and a hearing was fixed for 17 October 2025. The respondent lodged evidence on 1 October. The appellant lodged an additional orders application on 2 October. It sought discharge of the hearing on 17 October 2025 on the basis of the appellant's medical condition. It also sought orders excluding some of the respondent's evidence. In relation to medical matters, the appellant claimed to suffer a permanent neurological condition, namely sciatica. He sought a sist for "at least 6 months" on the basis that he was unable to walk unaided or remain standing or seated for extended periods. His medication affected his clarity of expression and concentration. He "could not realistically respond to the claim or defend myself fairly". His application nonetheless contained reference to Article 6 ECHR, the Human Rights Act 1998, the Equality Act 2010, the Protection from Harassment Act 1997, the Simple Procedure Rules, allegations of breach by the respondent of UK GDPR and the Data Protection Act 2018 and of abuse of process and breach of good faith, and a request that the court warn the respondent about conduct. It would fairly be regarded as a thorough and robustly-stated defence.

[3] The sheriff arranged a hearing by remote means on 16 October. Following that hearing (in which the appellant participated) the sheriff was not persuaded to sist the cause. He ordered the appellant to lodge documentary proof of the engine defects and proof of a claim that the engine had been scrapped. He discharged the hearing set for 17 October. He fixed a fresh hearing for 27 November 2025.

[4] On 6 November, the appellant submitted an application to recall the sheriff's order. The application ran to five pages. It sought "nullification of all procedural acts and decisions" from that hearing. The sheriff had been biased. The court had not arranged for a Portuguese interpreter. He did not know some of what had been discussed. He was unable to remain seated or stand for 15 minutes but had required to undergo a lengthy hearing.

He required factual analysis of the decision. He requested removal of the sheriff from the cause, and a sist for 6 months. He threatened to report the matter to “European human rights oversight bodies”. On 17 November the court assigned a remote hearing on 27 November on that application.

[5] On 25 November 2025, two days prior to the scheduled hearing, the respondent provided a “Formal Communication of Non-Attendance”. It intimated that he would not attend the hearing. He purported to include a medical certificate stating that he was not fit for work. It asserted that he “will not comply with any determination of the Court that is incompatible with my state of health, and I do so based on the law” and he “will not hesitate to take this conduct to all higher instances and competent bodies, including the European Court of Human Rights...”.

[6] The appellant attached a pro forma Statement of Fitness for Work founding on “Sciatic nerve injury”. It had a cross in the box “you are not fit for work” and indicated “3 months” from 12 September. It gave no further justification for a sist.

[7] The sheriff was faced with a fait accompli. The appellant was not asking but demanding that the hearing be cancelled. The sheriff fixed a further hearing by remote means for 18 December 2025.

[8] On 16 December 2025 the appellant submitted a second “Formal Communication of Non-Attendance” for the 18 December hearing. He submitted a similar form, in similar terms, dated 9 December 2025. He intimated that lack of fitness for work equated to a lack of fitness to attend court. He claimed a fair defence was impossible, while making no attempt to suggest how the case be resolved, or what evidence he was unable to lead. His only demand was immediate sist of the proceedings.

[9] On 18 December the remote hearing proceeded. The appellant, as promised, did not attend. The respondent, once more, did attend. The sheriff found that the fitness note did not explain why the appellant was unable to attend a remote court hearing. He granted decree by default, absence not having been excused or justified.

[10] On 23 December 2025 the appellant submitted an application for recall of decree. He described the decree as an affront to justice, based on a false premise, wrongfully refusing an interpreter, wrongfully refusing to convene eBay as a party, and failure to make reasonable adjustments. He sought recusal and sist.

[11] The sheriff, on 24 December 2025, fixed a further hearing for 9 April 2026, more than 3 months away. He ordered personal attendance. He set out the requirements as follows:

“At this discussion, the sheriff will expect parties to be prepared to discuss whether the decision should be recalled and what should happen next in the case if the decision is recalled. Both parties should be aware that the sheriff may decide the application even where they are not fully prepared to discuss it or in the absence of a party. The case may be decided or dismissed in the absence of a party if that party fails to attend. “

[12] On 25 March 2026 the appellant again applied for an adjournment on medical grounds. He provided a GP letter in support which advised that there had been a marked worsening of mobility. He was almost entirely in bed. He moved around the house by bottom shuffling as he had very little movement of his legs. He had episodes of confusion and short-term memory loss. Sometimes he had difficulties of speech and comprehension. That letter represented the first coherent, explained or independent assessment of the appellant’s medical condition.

[13] The sheriff explained that there was still no indication of why he could not appear by remote means. The history of the case had been repeated procrastination. The appellant

had been warned of the consequences of a continuing failure to appear. He refused the application to recall.

The appellant's submissions

[14] The appellant submitted that the refusal to recall resulted from a sequence of errors of law, procedural omissions, disregard of evidence, lack of effective adjustment, failures, formalism and oppression. The appellant had given advance notice of his refusal and his demands. Refusal demonstrated arbitrariness, lack of reasoning and deprivation of his opportunity to participate. He enlarged on these propositions over 12 further pages.

To refuse to recall was disproportionate formalism. Hearings had proceeded despite his saying clearly that he would not be attending. The appellant enlarged on his medical difficulties. The court had failed to ask questions about his inability to attend. It was now necessary, in order to preserve objective confidence in impartiality, that two of the sheriffs involved be removed from the case.

[15] The court had further erred in failing to convene eBay to the claim. For a number of reasons, eBay was an essential participant. In relation to the merits, the respondent had failed to comply with the appellant's requests for information about the engine. It was false to say the appellant still had the engine. He had discarded the engine, after the respondent had failed to collect it. The allegation of procrastination was cruel and offensive. He was not seeking special treatment.

The respondent's submissions

[16] The respondent's submissions were short and direct. There had been a pattern of procrastination. The respondent had retained both the engine and the refunded money.

The respondent should have allocated a representative to attend hearings, if he were genuinely unable to do so. The respondent had attended three wasted court hearings.

Decision

[17] The nature of simple procedure is a “court process designed to provide a speedy, inexpensive and informal way to resolve disputes” (Simple Procedure Rules 2016, rule 1.1).

This claim, by contrast, has been slow, wasteful and obstructed, entirely caused by the appellant.

[18] The claim was lodged and intimated by 15 April 2025. Hearings were fixed for 17 October 2025, 27 November 2025, 18 December 2025 and 9 April 2026. The appellant did not attend a single hearing, but was able to attend and participate in a motion hearing on 16 October 2025. A year passed with no progress. The respondent still has neither engine nor payment.

[19] The appellant made many diffuse complaints about the process but the main feature was his medical condition. He lodged some medical vouching, but it was sparse and late. His early applications were not properly vouched. There were two fitness for work forms which gave little information and failed to vouch that he could not attend a court hearing, a quite different process from a day’s work. An outpatient clinic letter from a neurologist dated 3 March 2025 was eventually provided in November 2025. It did not state that he was unfit, but only that his pain relief was being increased which: “Hopefully this will facilitate ongoing participation with physiotherapy”. It did not vouch inability to access the courts.

[20] The appellant’s conduct of the action has appeared at times to be obstructive to the point of defiance. He submitted two “Formal Communication of Non-Attendance”, thereby depriving the court of any discretion and the respondent of any remedy. He obtained

several continuations by simply refusing to participate. He made no attempt or request for participation by other means, such as the assistance of a lay representative or the use of written submissions. The court made reasonable adjustments for illness by conducting every initial hearing by remote means. He could attend without leaving his house. Despite claiming to be hindered by lack of clear thinking, and a language barrier, the documentation produced was lengthy, sophisticated and loquacious. His medical condition was, despite his claims, far from vouched. It was a matter of assertion only. No court can accept the unilateral, subjective claim of one party in order to favour the rights and demands of one party over the rights of another party.

[21] Only by the last hearing, and again at a late stage, was detailed independent medical information provided. The information was ultimately significant and served to illustrate that at least by March 2026 the appellant had a significant medical problem.

[22] Against that background, the sheriff required to make a discretionary decision, as to whether to recall the decree. He was obliged to have at the forefront of his mind the requirements, set out above, of simple procedure. He assessed the long history of apparent procrastination, unevidenced claims of inability to engage, fully-explained submissions which claimed an inability to understand or fully participate, and the series of late and absolute refusals to engage with court proceedings. These were directly in opposition to, and tended to thwart, the principles of simple procedure.

[23] In these circumstances, the sheriff's discretion to refuse recall of decree cannot be said to have been exercised unreasonably. The appellant had not made, and still has not made, any effort to promote progress, or any suggestion how the claim might be resolved. He had given, and still does not give, any reason to identify that the delays in this case will ever be resolved. The delays are entirely caused by his circumstances and are no fault of the

respondent. He did not explain, and has still not explained, why he cannot join by video link from his own house; arrange for occasional comfort breaks; make submissions in writing; obtain the assistance of a family member (possibly the person who he says assisted his written submissions); present written witness evidence, or use any other means of participation. His refusal to appear was absolute, unilateral and self-serving. His use of the phrase “I will not comply with any determination of the Court that is incompatible with my state of health” showed an inflexible attitude and disdain for his responsibilities as a litigant. The respondent’s interests, meanwhile, remained entirely unaddressed. For completeness, the court could not convene eBay as a party. It is for the parties not the court to convene further parties.

[24] For these reasons, the sheriff did not err in deciding on 9 April 2026 to refuse to recall the decree in absence dated 18 December 2023 for payment of the sum of £2,044 for the retained engine, plus assessed expenses.

Decision

[25] The appeal is refused. I will find the appellant liable to the respondent in the expenses of the appeal, as taxed.