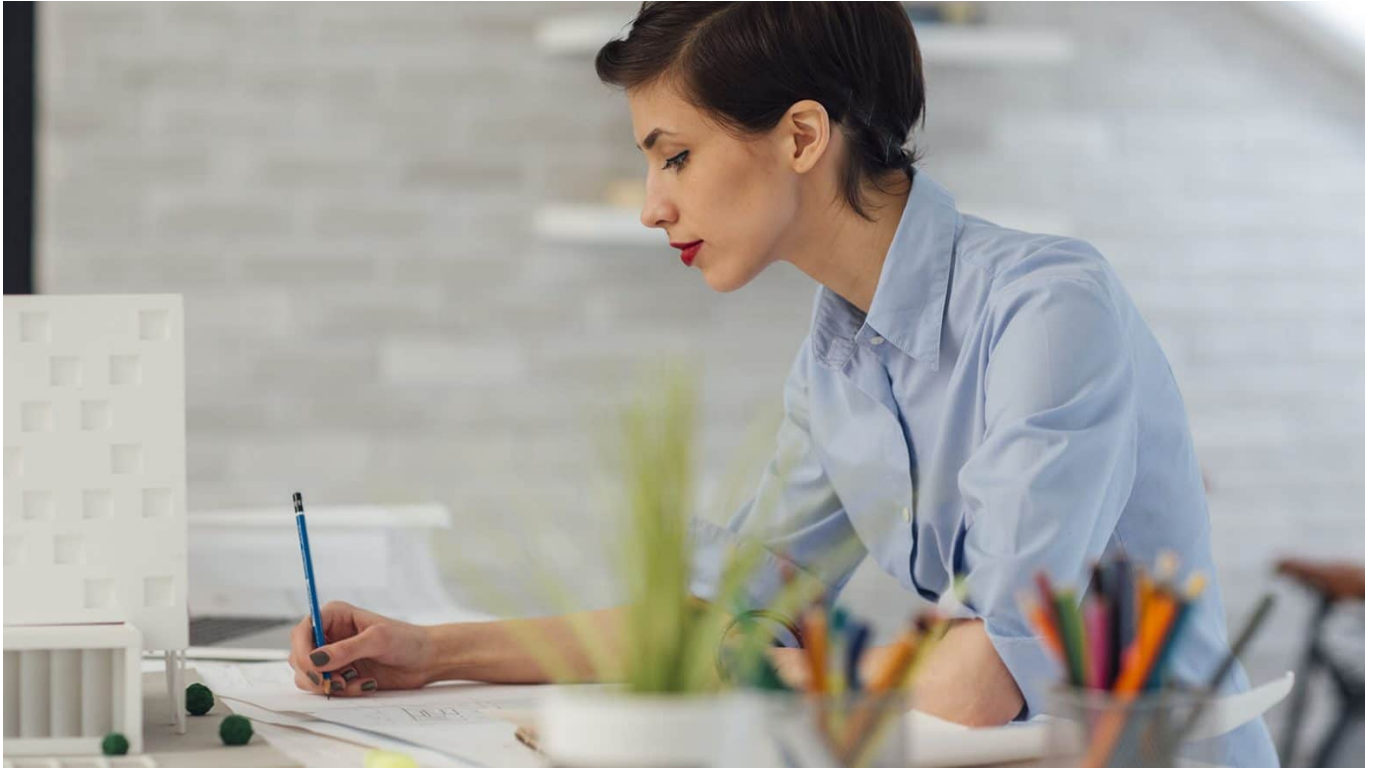


Setting aside default judgement: what's new?



A default judgement is a judgement made without trial because the defendant has either failed to file an acknowledgement of service or file a defence within the relevant time limits.

The recent case of *PXC v AB College and others* [2022] EWHC 3571 clarifies the rules that the factors used for applying for relief from sanctions are not applicable to applications to set aside default judgement under CPR13.3.

Below is a brief explanation of the criteria and how this has changed.

What are the criteria to consider when challenging an application?

When challenging an application to set aside a default judgement, the court must consider the criteria set out in CPR13.3. The criteria are as follows:

- Does the defendant have a reasonable prospect of defending the claim successfully if the application to set aside a default judgement be upheld; or
- Is there another good reason for why the defendant should be allowed to defend the claim or set aside the default judgement?

What's changed?

Previous cases have held that in addition to considering the two steps set out in CPR13.3, the court must also follow the three stage test coined in the case of *Denton v TH White* [2014] EWCA Civ 906 which is used when



applying for relief from sanctions.

These three “Denton” steps are:

1. Identifying and assessing the seriousness and significance of the non-compliance, such as failure to pay court fees;
2. Considering why the breach occurred; and
3. Evaluating all circumstances of the case so that the application is dealt with fairly and proportionate to the breach in accordance with the overriding objective.

However, following *PXC v AB College and others* [2022] EWHC 3571, the three “Denton” steps will no longer needed to be satisfied in order to set aside a default judgement. The court held that this is to avoid injustice, as defendants who have a reasonable prospect of success should be allowed to defend the claim.

How we can help

If you would like advice in responding to a legal claim or setting aside a default judgement, please do not hesitate to contact our [commercial dispute resolution team](#) who will be happy to help.



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