

### **Part 36: Acceptance of a Part 36 Offer after the claim has been struck out**

In the recent case of *Joyce v West Bus Coach Services Ltd* [2012] EWHC 404 (QB), the claimant failed to comply with a conditional order and his statement of case was struck out automatically under the rules (see Para 3.4.41 of Vol. 1 of the White Book in relation to this type of order). Judgment in default had not been entered. The claimant then purported to accept a Pt 36 offer made by the defendants some time previously. The defendant argued that the proceedings had come to an end and the Pt 36 offer could no longer be accepted.

It was discussed that there is some tension between r.36.9(2), which provides that a Pt 36 offer may be accepted at any time unless withdrawn, and r.36.11, which implies that such offer cannot be accepted where there is in substance no claim left to be pursued. Kenneth Parker J held that, on their proper interpretation, the relevant rules preclude the acceptance of a Pt 36 offer where, although the claim had not been dismissed by an order of the court and judgment had not been entered, the claim was in substance at an end.