



CASE REVIEW



Vanquis Bank Limited v
TMS Legal Limited [2025]

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Introduction

The judgement handed down on 27 June 2025 is a further positive for the lenders!

Potentially a precedent-setting decision with the High Court dismissing TMS (a solicitor CMC)'s application to strike out Vanquis' claim for seeking damages and injunctive relief relying on the economic tort of causing loss by unlawful means and/or for summary judgement under Part 24 of the Civil Procedure Rules with TMS stating that the tort could not be used in this way.

This ruling is so important to lender firms as:

- it is the first time a High Court has allowed a CMC to be sued for interfering with a lender's ability to carry on business where misleading representations are made of services to consumers; and
- it has paved the way for lenders to **seek damages** from the court instead of relying on the FCA or the FOS to determine outcomes.

Essential facts

This particular CMC charged its clients up to 45% of any redress obtained (reduced to 30% after July 2024 due to an SRA cap).

Around 33,000 mis-selling claims had been submitted to Vanquis (a lender that specialises in 'second chance' lending to individuals with low or adverse credit histories) as of August 2024, most of which were rejected either as being out of time or on the merits, with only a very small number being partially or fully upheld. Of the 12,250 cases which had been referred to and considered by the FOS, around 84% were either subsequently withdrawn or rejected.

As we know, complaints must be filed within six years of the event, alternatively within three years of complainants becoming aware, or when they ought reasonably to have become aware, of the issue. The FOS can reject late complaints unless certain stated exceptions apply.

Background

Vanquis had issued legal proceedings against the CMC for seeking damages and injunctive

relief. This was because the solicitor CMC, from late 2023, submitted thousands of complaints to FOS on behalf of Vanquis' customers based on allegations that Vanquis had engaged in **irresponsible lending** by offering unaffordable credit and **violating various regulatory obligations**:

*'Vanquis failed to conduct **adequate affordability** checks before issuing credit cards or increasing credit card limits...'*

As we know customer affordability assessments must be carried in a fair, reasonable and proportionate manner and it is noted from the judgement that Vanquis had actually did so:

'....affordability checks (including client-provided income data, interrogating credit agencies and soft and hard credit searches) and applying low credit limits (£250-£1,200) with modest monthly payments. Credit limit increases are based on updated data, Vanquis's position being that offers are made only if customers are deemed capable of handling increased limits....'

And Vanquis sought to stand by its position and



contended that the CMC owed a number of legal and ethical obligations to its clients and must:

- act in the best interests of its clients
- have a system of proper governance
- obtain client authority before proceeding and
- only submit claims when it has reasonable grounds to do so and sufficient information on which to base a decision to proceed.

With the specific duty of:

‘...undertaking reasonable enquiries to assess the viability of individual claims (and if such information is lacking, identifying the further information that is required and then obtaining it), confirming the client’s relationship with Vanquis, providing sufficient information for Vanquis to identify the account, warning clients about the likelihood of credit suspension and exercising reasonable care and skill when presenting claims...’.

Vanquis furthermore contended:

*‘...TMS made a number of “**merits representations**” to its clients to the effect that their claims are properly arguable and that the solicitors have sufficient information in their possession to make that judgement... that these merits representations are made **recklessly**...’.*

It was alleged that CMC had clearly failed on this part and there was a breach of duty. Its customers were required to complete a questionnaire but the questionnaire had failed to obtain key information to establish whether or not Vanquis had fallen short. The CMC has failed to ask for documentary evidence, information around affordability check or gather information on financial hardship - how can then the CMC establish whether or not Vanquis did indeed fall short to allow the CMC to assess the position on merits and then to make that representation?

The CMC was in breach of its duty due to the inadequacy of the questionnaires, the failure to undertake reasonable enquiries of its clients into the affordability checks undertaken etc and the failure to undertake reasonable investigations into the objective element of the three-year limitation extension.

The CMC had originally claimed that it provided expert advice in filing complaints but Vanquis alleged that in reality the mis-selling claims were handled by ‘unqualified staff working under minimal supervision’.

It is interesting to note, Vanquis had presented in its case that customers were also prompted by the CMC to confirm that they only recently

became aware of the issue and were asked to sign a confirmation statement with the following contents:

“I only recently understood that I had cause to complain when [TMS] represented my interest regarding irresponsible lending. I considered my financial issues to be the problem and I didn’t link it to any irresponsible lending by the lender.”

The suggestion here being that it was the CMC’s intention to attempt to fulfil the three-year rule (in bringing a complaint once becoming aware of an issue). The court noted that this question should not have been asked of the customers.

The judgement then goes on to analyse the claims made by the CMC against Vanquis and finds that out of the thousands of claims made via the FOS, only very limited cases were upheld but none of them were upheld on the basis of information provided by CMC. Hence the reason Vanquis brought the claim. The key points are highlighted below:

*‘(1) Vanquis has been inundated with claims which were submitted **recklessly and indiscriminately** and in breach of TMS’s duties to its clients: the **majority***

of these claims should never have been brought (because they were not properly arguable and/or were brought without client authority and/or were advanced on the basis of information which did not enable Vanquis to identify the customer and/or were advanced without giving a warning that credit cards would or were likely to be suspended) and the minority of claims that succeeded did so only through the work of Vanquis itself or the FOS.

- (2) In relation to the claims that were **not properly arguable**, TMS failed to advise its clients of this before submitting claims on their behalf and/or that the merits representations were untrue.*
- (3) The submission of irresponsible lending claims interferes with the relationship between Vanquis and its clients: in line with market practice and Vanquis’s regulatory obligations, it cannot continue to extend credit in these circumstances.’*

Judgement

The judgement was handed down by Mr Justice Jay who dismissed the CMC’s application stating that



the CMC had fallen well short of persuading him that the claim should be struck out or that the CMC should have summary judgement under Part 24.

It was noted that the unlawful means tort had not previously been applied in similar circumstances. However, the judge concluded that, if proven at trial, the CMC's conduct could amount to a serious abuse of process and there was no reason in principle to preclude Vanquis's claim under this tort.

The judge highlighted the fact that the CMC had 'no idea which claims will succeed and does not care'. He acknowledged the facts of the case were 'novel' but said the lender had relied on well-established principles to advance its case relying on the tort of causing loss by unlawful means and that the reason why this claim has not been brought before is that it would only stand a chance of succeeding on 'egregious facts' based on the conduct of the CMC. As such the case will now proceed to a full trial.

Final thoughts

This is no doubt good news for lender firms and a further opportunity to push back against CMCs (both FCA and SRA regulated), against spurious and meritless claims which have lacked any credible investigations on the part of CMCs.

However, note the judge has stated that,

'...I am not to be understood as expressing any view as to whether Vanquis's case is right. I simply do not know and I have only heard one side of the story.'

Vanquis' case will therefore need to be robust at the final hearing - this is now another case to watch out for...

It might be that having highlighted some bad standards in this case, the regulators may set down even further expectations of better standards of CMCs in going forwards.

HOW WE CAN HELP

If you require support with claims made by CMCs, please do get in touch. We have a team that are currently working with clients by investigating allegations and supporting in putting together appropriate responses.



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