

and he contends that it refers to his business only. The question is, upon whose credit was this work done? If on the credit of the wife, there is no pretence that the husband guaranteed payment, quite apart from any defence that the Statute of Fraud would afford.

I cannot help thinking that the question of credit was not present to the mind of either party at the commencement of the litigation. Mr. Beck knew the husband's financial position, and knew the scheme that had been devised of his trading as agent for the wife, and I think that in truth credit was given to this trading company and not to the husband individually. He was then known to be impecunious. The wife was supposed to be of some financial substance.

*Prima facie*, when litigation is undertaken it is undertaken upon the credit of the party in whose name and on whose behalf the litigation was instituted; that is, in this case, the wife. If it is sought to hold any one else liable, it is incumbent upon the solicitor to take adequate steps to protect himself by receiving a formal written retainer from the party to whom the solicitor intends to look for payment.

I have no doubt that in undertaking this expensive and troublesome litigation Mr. Beck expected the husband, as a man of honour and honesty, to see that his bill was paid; and although I am unable to give judgment in Mr. Beck's favour, I still hope that the husband will feel sufficient moral obligation to do his best to make some reasonable payment for the services rendered.

At the hearing I did all I could to bring about a settlement, but the parties were so far apart that I was unable to accomplish anything.

The action fails, but it is certainly not a case in which costs should be awarded.