

Neutral citation number: [2024] EWHC 2316 (Ch)

Case No: BL-2023-001416

**IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
BUSINESS & PROPERTY COURTS
OF ENGLAND AND WALES
BUSINESS LIST (ChD)**

Royal Courts of Justice,
Rolls Building,
Fetter Lane,
London
EC4A 1NL

Date: Wednesday 3 July 2024

Before:

**HIS HONOUR JUDGE HODGE KC
Sitting as a Judge of the High Court**

Between:

**L & S ACCOUNTING FIRM UMBRELLA LIMITED
(In Liquidation)**

Claimant

- v -

**(1) IDUSOGIE LAUREL ORONSAYE
(also known as LAUREL STEPHEN and LAUREL ORONSAYE)
(2) STEPHEN TAIWO ORONSAYE
(3) L & S FINANCIALS LIMITED
(4) L & S ACCOUNTING FIRM LIMITED
(5) MIMSHACH MANAGEMENT SERVICES LIMITED**

Defendants

**MR CHRISTOPHER BROCKMAN and MS ANNA LINTNER (instructed by Wedlake
Bell LLP) for the Claimant**

The **FIRST** and **SECOND DEFENDANTS** appeared in person

APPROVED JUDGMENT

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JUDGE HODGE KC:

1. This is my extemporary judgment on a further preliminary matter arising during the course of the hearing of this summary judgment application in case number BL-2023-001416.

2. For the background to this present extemporary judgment reference should be made to the extemporary judgment I delivered yesterday afternoon (2 July 2024). That judgment dismissed an application by the individual defendants to adjourn the hearing of this summary judgment application and to release funds subject to a proprietary freezing injunction.

3. Yesterday, the defendants were represented by leading and junior counsel, Mr Richard Clayton KC and Mr Kartik Sharma. Overnight the defendants have dispensed with the services of their solicitors and counsel. That is despite the fact that at the conclusion of his reply submissions yesterday, Mr Clayton had made it clear that he would not withdraw from the case but would continue; albeit he indicated that there might be little that he could say by way of submissions in opposition to the summary judgment application.

4. Mr Brockman, who appears for the claimant (and applicant) with Ms Anna Lintner, also (of counsel), has submitted that the defendants have chosen, overnight, to dismiss the services of their solicitors and leading and junior counsel even though they had indicated that they were willing to appear here today.

5. The defendants have responded by making it clear that they had no choice but to do that: as a result of the court's refusal to release monies frozen by the proprietary freezing injunction, there was no longer any source of funds to pay for solicitors and counsel; and the defendants were not prepared to see them provide their services for nothing. The defendants have also made the point that the claimant's solicitors have even frozen monies paid into a bank account set up after the freezing injunction was granted on 30 November 2023. They have made reference to a sum of £2,000 that they received from a family member only

yesterday which is now frozen. They say that they have provided details of that account to the claimant's solicitors, and the claimant's solicitors have responded by taking steps to freeze the account, even though they had previously asserted that they had no interest in any monies received after the date of the first freezing injunction.

6. I have not gone into the detail of that because it seems to me to be irrelevant to the subject matter of the present, informal application by the claimant. That application is for permission to proceed with this summary judgment application, pursuant to CPR 24.4(1)(a), notwithstanding that no defences have been filed. The claimant seeks such permission for the reasons set out at paragraph 9 of the first witness statement of Mr Andrew McTear, dated 5 April 2024, in support of the summary judgment application.

7. In summary, Mr Brockman submits that the reason for applying for summary judgment, rather than for judgment in default, is that the Part 7 claim, which was issued on 24 October 2023, includes claims for declaratory relief, and without abandoning such claims, it would not be possible administratively to obtain judgment in default. There would, therefore, have to be an application under Part 23 in any event. Mr Brockman says that it is a more pragmatic approach to proceed with an application for summary judgment under Part 24, rather than simply seeking permission to proceed to a default judgment for declarations.

8. He also submits that that is a matter of fairness to the defendants, because they will have an opportunity of defending the application for summary judgment by seeking to show either that there is a real prospect of defending the claim on its merits, or some other reason for it to go to trial.

9. Mr Brockman submits that, given the level of the money claim, and the defendants' indications that they oppose the relief sought, it would be more appropriate, and consistent with the overriding objective of dealing with the case justly and at proportionate cost, for the court to consider the merits of the claim, and to deliver a reasoned judgment on this summary judgment application.

10. Both individual defendants have addressed me as litigants in person. It is fair to say that (as Mr Brockman submits) most of their submissions go to the merits of the summary

judgment application itself rather than to the separate issue of whether permission to bring that application should be granted.

11. The defendants have indicated that they have struggled to represent themselves; they have had to borrow money from friends and family; they have no legal training or experience; and, because they have been advised of the dangers of incriminating themselves, they have recognised the need to obtain the services of legal representatives. They submit that this application has been supported by what they describe as “*plain and obvious lies*”. It is only fair for them to be able to present their side of the case, but they have been unable to do so with the benefit of legal representation because they have been unable to secure the release of funds subject to the proprietary freezing injunction. That was a matter that I addressed in my extemporary judgment of yesterday afternoon.

12. The defendants have sought to give instances of occasions when the claimant has sought to support its case by errors and lies. They have instanced the Santander Bank account, which they say was used by a different company, and which, they also say, Joanna Smith J refused to freeze for that reason. They have asserted that the report of an accountant was received with the assertion that he was not properly qualified when in fact that was not the case. They have pointed to the fact that, in the claimant’s, evidence no proper credit has been given for necessary business expenses in the form, for example, of utility bills. They have emphasised that they have slaved for their lives to build up a successful business which has been brought to nought by the conduct of the claimant. They have referred to their fear of doing anything that might serve to incriminate themselves.

13. I agree with Mr Brockman that most of those points go to the substantive merits of the summary judgment application. At this point, I am merely deciding whether that application should be permitted to proceed. I am satisfied, for the reasons that Mr Brockman has given, and notwithstanding all that has been so forcefully said by each of the two individual defendants, that it is in accordance with the overriding objective to allow that application to proceed. The alternative would be for the claimant simply to seek to enter judgment in default of defence. That would not allow the court to consider the substantive merits of the summary judgment application. But fairness to the defendants dictates that the court should look at the merits, and decide whether there is a real prospect of the defendants mounting a

successful defence to the claim, or decide whether there is some other reason why this case should go to trial.

14. I am satisfied that good reason has been shown for giving permission to proceed to summary judgment in this case. All I am deciding, at this point, is that the summary judgment application should be allowed to proceed. It remains for the claimant to satisfy the court that there is no real prospect of the defendants mounting any defence to that claim, or demonstrating that there is some other reason why the case should go to trial.

15. For those reasons, I give permission to the claimant to bring this summary judgment application, and to proceed with it. But I emphasise that all I am doing is giving that permission, on the grounds that it is consistent with the overriding objective, and in exercise of the court's discretionary case management powers. I have not even begun to hear the summary judgment application; and I am expressing no opinion as to its prospects of success. And so I give that permission.
