

Neutral Citation Number: [2022] EWHC 2627 (KB)

Case No: QB-2022-001974;
QB-2022-002410

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand
London WC2A 2LL

Friday, 29 July 2022

BEFORE:

MR JUSTICE SWEETING

BETWEEN:

AA

Claimant

- and -

JJ

Defendant

AND BETWEEN:

AA

Claimant

- and -

MM

Defendant

MR COOKE (instructed by Greenberg Traurig LLP) appeared on behalf of the Claimants
The Defendants did not attend and were not represented

JUDGMENT

Digital Transcription by Epiq Europe Ltd,
Unit 1 Blenheim Court, Beaufort Business Park, Bristol, BS32 4NE
Web: www.epiqglobal.com/en-gb/ Email: civil@epiqglobal.co.uk
(Official Shorthand Writers to the Court)

This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.

WARNING: reporting restrictions may apply to the contents transcribed in this document, particularly if the case concerned a sexual offence or involved a child. Reporting restrictions prohibit the publication of the applicable information to the public or any section of the public, in writing, in a broadcast or by means of the internet, including social media. Anyone who receives a copy of this transcript is responsible in law for making sure that applicable restrictions are not breached. A person who breaches a reporting restriction is liable to a fine and/or imprisonment. For guidance on whether reporting restrictions apply, and to what information, ask at the court office or take legal advice.

1. MR JUSTICE SWEETING: This is an application for a *Norwich Pharmacal* order against a financial institution or a financial services provider known, for the purpose of these proceedings as "MM", relating to a claim that the applicant, known as "AA", has against her former husband, known as "XY".
2. The *Norwich Pharmacal* relief is sought in support of an order enforcing against XY and to enable the claimant fully to plead a contemplated claim under section 423 of the Insolvency Act against XY. An anonymity order is sought because, if these proceedings are brought to the attention of XY that would render the *Norwich Pharmacal* relief sought and the contemplated claims against XY ineffective. I am satisfied that this is the case. I make the anonymity order in relation to the applicant and the respondent, having decided that it is necessary to do so to secure the proper administration of justice: see CPR rule 39.2(3)(a), (g) and 39.2(4).
3. The application is made further to two *Norwich Pharmacal* orders granted by Murray J in claim QB-2022-001974 against a number of banks or financial institutions in relation to information and documentation in respect of accounts in the name of or controlled by XY, who, it is said, has sought to dissipate and conceal assets in order to prevent AA from enforcing a judgment obtained against him.
4. At the time of the *Norwich Pharmacal* orders made by Murray J, it was understood, from the online checks carried out, that a relevant account was with a bank or financial institution referred to in his order as "HH"; that is to say an institution other than MM. HH in fact responded, once served, to say that it was unable to provide the disclosure required as it does not hold the information relating to the account, but it confirmed that it is MM which holds the information.
5. In the light of that disclosure and new information, AA now seeks *Norwich Pharmacal* relief in equivalent terms against MM on the same basis as the *Norwich Pharmacal* order made by Murray J against HH.
6. The orders sought are in near identical terms to the earlier *Norwich Pharmacal* orders, subject only to some amendments necessary to identify MM as the respondent and to add a further bank card which has been identified in the response from another bank.

The dates between which the order prevents disclosure of the existence of the order and requires documents and information to be provided have also necessarily been extended.

7. The requirements for obtaining a *Norwich Pharmacal* order are there are no other relevant CPR provisions, that the respondent is likely to have relevant information or documents, that there is a good arguable case that there has been wrongdoing, that the mere witness rule is not infringed, that the respondent is mixed up in the wrongdoing and that the order is necessary in the interests of justice and is not sought for an improper purpose.
8. Murray J held that the requirements for granting *Norwich Pharmacal* orders were met in relation to the earlier orders, including the body originally thought to have or to control the records in fact held by MM. I do not need to add to the reasons he gave. I consider this *Norwich Pharmacal* order application meets the requirement for *Norwich Pharmacal* relief for the reasons identified by Murray J.
9. It is accordingly just and appropriate for me to make the *Norwich Pharmacal* order sought.
10. AA also seeks to extend the date of the provision in the original orders preventing MM from informing anyone else about this order, that is to say the "gagging provision" (as it is commonly referred to) and to require that it is to disclose documents and information pursuant to the order from 1 August 2022 until 1 December 2022. This extension is to allow AA to continue with her investigations, including in other jurisdictions, to assist her in making the contemplated claims against XY. As is often the case, the initial orders have thrown up fruitful lines of enquiry which require more time to be investigated.
11. Extensions have been agreed as provided for in Murray J's orders with all of the other financial institutions bar one, that is the financial institution identified in the earlier orders as "JJ". An extension is required in relation to JJ and that is the subject of a separate application for an extension which is also before me and in relation to which I do not intend to give a separate judgment or ruling.

12. I am satisfied that an extension is required because, if these proceedings are brought to the attention of XY before the contemplated claims are made, it may render the *Norwich Pharmacal* relief obtained and the contemplated claims against him ineffective. JJ has in fact confirmed that it will comply with any order made and has not sought to oppose the application or to appear before me today. The claimant has undertaken to comply with any order the court may make to compensate JJ if the court later finds that JJ has suffered loss as a result of carrying out the order.

13. For those reasons, which I have stated shortly whilst adopting the views expressed by Murray J as to the merits of the case, I make the order sought in the terms set out in the draft orders.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

Unit 1 Blenheim Court, Beaufort Business Park, Bristol BS32 4NE

Email: civil@epiqglobal.co.uk