

Neutral Citation Number: [2024] EWHC 2563 (KB)
IN THE ROYAL COURTS OF JUSTICE

Case No: KB-2024-000256

Strand

London WC1A 2LL

Thursday, 12 September 2024

BEFORE:

MR JUSTICE LINDEN

BETWEEN:

TIMOTHY PATTINSON

Claimant

- and -

ROBERT WINSOR

Defendant

HARRY SAMUELS appeared on behalf of the Claimant
MR WINSOR appeared in person

JUDGMENT

Digital Transcription by Epiq Europe Ltd,
Lower Ground, 46 Chancery Lane, London WC2A 1JE
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.

MR JUSTICE LINDEN:

Introduction

1. This is the claimant's application dated 20 May 2024 to commit the defendant for contempt of court, the contempt comprising 17 alleged breaches of an interim injunction ordered by Steyn J on 16 February 2024 (“the Steyn injunction”). In broad summary, the injunction prohibited the defendant from harassing the claimant, who is a District Judge, by continuing to publish what are entirely false allegations of fraud and other conduct by him which is inconsistent with his holding judicial office. Steyn J granted the injunction after a without notice hearing on 2 February 2024, and she then continued it on 16 February 2024 after a hearing which the defendant attended by telephone (at his request). Her reasons are helpfully set out in her judgments numbered [2024] EWHC 230 (KB) (“Steyn 1”) and [2024] EWHC 606 (KB) (“Steyn 2”) respectively.
2. In a judgment which was handed down on 24 July 2024 Mr Adrian Eardley KC, sitting as a Deputy High Court Judge, has since granted the claimant's application for summary judgment on the claim, holding that the defendant persistently breached the Protection from Harassment Act 1997 by the publication of baseless allegations about the claimant to third parties. Mr Eardley made a final injunction order in substantially the same terms as the Steyn J injunction. His reasons for doing so are to be found at [2024] EWHC 1910 (KB) (“the Eardley judgment”).
3. Mr Harry Samuels has appeared on behalf of the claimant at this hearing. The defendant attended remotely at his request, which I granted. That request was based on the defendant saying that he has health conditions which prevent him from attending the hearing in person, given that he lives in Hereford and the hearing has taken place in London. The medical evidence on which he relies in support of his assertions about his health is thin and does not address the question whether he is able to attend in person or, at least, does not do so specifically. I nevertheless granted the application for pragmatic reasons so as to ensure that the defendant attended the hearing. It should not be assumed that future applications based on the same evidence will be granted.

Consideration of whether the hearing should proceed

4. The defendant does not have legal representation. Although he was not, at the beginning of the hearing at least, seeking a postponement, given the seriousness of his situation in relation to the application to commit, this caused me concern about whether the hearing should proceed. So did the fact that the defendant was not attending in person. I therefore began the hearing by ascertaining whether the defendant understood the issues at this hearing in relation to liability for contempt of court and the possibility that he could be required to serve a custodial sentence if he was found to be in contempt of court. It was clear that he understood.
5. I asked the defendant whether he had taken steps to obtain legal representation. It was clear from what he said that he understood that he was eligible for legal aid. But he told me that he had made extensive but unsuccessful efforts to obtain legal representation. He told me that he had contacted several law firms. He mentioned that there had been in the order of 17. He told me that he had also contacted various barristers. He said that the lawyers that he had asked to represent him were mainly in London. He explained that he would call their offices to ask whether they might be willing to represent him. He had then sent through the documents showing the issues and, in particular, “the background” as he described it: a background which I will describe in the course of this judgment. The lawyers would then indicate that they were not willing to represent him. He had therefore been quite unable to secure legal representation despite his eligibility for legal aid.
6. I also asked the defendant about the evidence in relation to his health. This was not because there was any evidence that his health issues would prevent him from participating in the hearing remotely, but because it might be relevant to understand the extent to which those issues impact on his ability to attend this hearing in person and whether the position was likely to change in the near future (as the defendant suggested it would) and/or because it might ultimately, depending on the outcome of my decision on liability, be relevant to consider the defendant's health issues in relation to any custodial sentence which I might pass.

7. The defendant has shown me only limited information or medical evidence. Perhaps the most informative of the documents which has been provided by him is a letter from the Rheumatology Department at the County Hospital in Hereford to his GP. That letter is dated 2 July 2024, following an outpatient face-to-face consultation on 18 June 2024. So far as relevant, this states under the heading "Diagnosis" that the defendant had been treated for a heart issue in November 2021 at Worcester, when a stent was inserted, and that he was still under cardiology awaiting an echocardiogram. The diagnosis section goes on to say that he was having investigations for possible heart failure. Under "Observations" the letter indicates that the defendant was reporting shortness of breath after walking in the order of 30 to 40 yards and back again intermittently.
8. A second relevant health issue or, at least, one relied on by the defendant to explain his professed inability to attend this hearing, is also touched upon by this letter. That is that he was reporting that his hips were very painful and that he was unsure of why this was. It appears that this was a matter that had been investigated over a significant period of time. The defendant had told the doctors at the County Hospital that he had support from home from his aunts but had difficulty and pain going down the stairs. He was not interested in physiotherapy and felt that he had lost motivation.
9. As I have noted, however, and as is apparent from that letter, further treatment and investigations were to take place. Moreover, such information as I had did not specifically address the defendant's ability to attend this hearing. He told me that his symptoms were persisting, and that he had not yet had an echocardiogram. He said that he thought that he would be able to attend in person by the end of October because, by then, his heart condition was likely to have been assessed and addressed. In answer to questions from me, he said that he would have been able to obtain a letter, at least from his GP, to explain the medical position more fully and to address the specific question of his ability to attend this hearing. But he didn't think it would have added anything to what he had to tell me and to what I have seen from the limited documentation that he has submitted to the court.

10. In the course of addressing the questions that I put to him, the defendant said that he did in fact wish to have further time to seek legal representation and to provide more detailed medical evidence. He was now arguing that the hearing should not go ahead.
11. Mr Samuels' position was that I should at least proceed to the liability stage and then consider the position in the light of my findings on that issue, although his overall position was that if I were to uphold the application on liability, I should proceed to sentence. The application, he pointed out, had been made on 20 May 2024. He submitted that it was necessary to make progress after what had been significant delay. He also submitted that the issues, at least in relation to liability, were straightforward.
12. As far as the question of legal representation is concerned, Mr Samuels submitted that the defendant had had ample opportunity to obtain legal representation. As is well known, the committal application form itself states that the respondent to the application may be entitled to obtain legal aid without any means test and that they are entitled to a reasonable opportunity to obtain legal representation. The 23 May 2024 Order made by Steyn J, giving directions for the hearing in the context of the committal proceedings, also specifically made the points that I have touched upon. She identified the date for the directions hearing. She said that the defendant must attend. She said in capital letters that he should not ignore these proceedings. She said in terms that he was advised to seek legal advice and that legal aid was available for advice and representation.
13. I am told that Steyn J had previously made the point that the defendant should seek legal representation at the hearing on 16 February 2024. Moreover, in her order of 23 August 2024, listing this hearing, she reiterated the point that the defendant should seek legal representation and his eligibility for legal aid. Mr Samuels also reminded me that the issue of representation was canvassed in the context of an application by the defendant to adjourn the directions hearing which was to take place on 28 June 2024. I refused that application and dealt with the question of legal representation, giving guidance as to steps which the defendant should take. Mr Samuels also told me that the issue of legal representation had been canvassed at the directions hearing itself, which took place before Mr Justice Julian Knowles, when the defendant said that he had secured legal representation.

14. Mr Samuels' submission in relation to this issue was therefore that there was no reason to think that the position in relation to legal representation would change, were I to postpone the hearing. The need for such representation and the ability to obtain it had been clear to the defendant throughout. His own position was that he had taken steps but that it had not been possible to obtain such representation.
15. Similarly, Mr Samuels submitted that there was no reason to think that the position in relation to health evidence would change, were I to postpone the hearing. He told me that it had been explained time and time again to the defendant in the context of the proceedings before Master Pester, to which I will refer in due course, in the proceedings for an injunction and in the context of the contempt application, that if the defendant wished to postpone hearings or otherwise seek a modification of the general approach to the proceedings, he needed to provide specific medical evidence. He had not done so. So, again, there was no reason to think that the position would change if I were to adjourn.
16. Nor, submitted Mr Samuels, was there any reason to think that the defendant would be able to attend in person in the near future if he genuinely was unable to do so now. There was no medical evidence to support his suggestion that he would be able to attend by the end of October. The defendant himself had said, in the course of his submissions, that he did not even have a date for his echocardiogram. Mr Samuels also told me, as he had foreshadowed in his skeleton argument, that the defendant's conduct, which was the subject of the injunction and is now the subject of the contempt proceedings, had escalated since the committal application had been made, and indeed had escalated further in the run up to the present hearing. He therefore submitted that it was important that the matter is not simply put off, but that progress is made.
17. Having considered the competing arguments and the concerns which I myself had identified prior to the hearing, I came to the conclusion that I should proceed to the liability stage at least and then review the position, essentially for the reasons given by Mr Samuels. There have already been delays in the proceedings. The issues on liability are, in my view, very straightforward. It is clear to me that the defendant is well able to deal with them. I also accept on the evidence that there is no reason to think that if I were to postpone the hearing at this stage, although I may come back to

that point in due course having given judgment, the position would change in relation to legal representation; and I accept that nor is there any reason to think that the position would change in relation to medical evidence. It is the case that the defendant has been told repeatedly that he needs to provide detailed medical evidence if he wishes to postpone hearings and that he has nevertheless failed to do so. I also accept Mr Samuel's submission that there is no realistic prospect that if he is unable to do so now, and I were to put off the hearing, the defendant would be able to attend in person at the end of October, as he says he would.

18. So, for all of those reasons, I concluded that I would proceed to the liability stage. I therefore explained the issues in relation to liability to the defendant again, and asked him whether he wished to give evidence, which he said he did. He therefore took the affirmation. Mr Samuels then opened the application. The defendant replied. I took him through each of the legal questions which I am required to address in relation to liability. There was then a brief reply from Mr Samuels.

Background

19. It is not necessary to trace the background to the Steyn injunction in great detail given that the issue for me is not whether her order should have been made. It is whether that order has been deliberately breached by the defendant as alleged, and if so, what consequences should follow. The detail is also to be found in the reasons given by Steyn J for her orders, and by DHCJ Eardley for his. For present purposes, I gratefully adopt the following summary from Steyn 1.

“7) The background to the present dispute consists of two courses of litigation involving the Defendant:

- i) The Will proceedings in 2023; and*
- ii) The Defendant’s litigation against a third party between 2020 and 2012, resulting in his bankruptcy and civil restraint orders being entered against him.*

8) *The Defendant's mother died on 28 December 2022 ('the Deceased'). She left a will dated 7 April 2022 ('the Will') which appointed her daughter ('Juliet'; the Claimant's wife and the Defendant's sister) and the Claimant as executors ('the Executors'). The Claimant is not a beneficiary of the Will. In summary, it provides that: Juliet should receive certain chattels, and be able to select other chattels; the Defendant should receive the remaining chattels; Juliet should receive a gift of £100,000; the Defendant should receive a life interest in the property of the Deceased; and the residuary estate to be split equally between Juliet and the Defendant.*

9) *The Defendant lodged a caveat and challenged the validity of the Will. On 5 May 2023, the Executors began proceedings in the Chancery Division of the High Court, seeking a declaration as to the Will's validity and a grant of probate in solemn form (claim PT-2023-000360). The Defendant defended the probate claim, alleging that the Will had been procured through fraudulent calumny and undue influence on the party of the Executors. He also filed an application to remove the Claimant as an executor, as well as various applications to adjourn the trial.*

10) *The Will was upheld as valid on 6 November 2023 by Master Pester in Pattinson v Winsor [2023] EWHC 3169 (Ch). In his judgement, Master Pester dismissed all allegations by the Defendant that the Will had been procured through any fraudulent calumny or undue influence, as well as the application to remove the Claimant as an executor. Master Pester ordered that the Defendant pay the Executors' costs on the indemnity basis, to reflect the Defendant's unreasonable conduct. Master Pester also made a limited civil restraint order against the Defendant in circumstances where the Defendant had made two applications in the Will proceedings which had been certified as totally without merit.*

11) *The Defendant did not attend the trial on 6 November 2023, although Master Pester had permitted him to attend remotely, to accommodate his health issues. Master Pester proceeded in his absence in circumstances where*

the Defendant had applied to vacate the trial on medical grounds, without providing independent medical evidence.

(...)

13) In the course of the Will proceedings the Defendant sought to re-litigate matters which had led to his bankruptcy in 2013. The Claimant has made clear the basis and limits of his knowledge about the matter. In short, in 2004, the Deceased funded the purchase of a flat in Pimlico for the Defendant. The Defendant lived in London for many years with his partner, Veronica Vale. Sadly, she died in 2010. She died intestate and the Defendant began proceedings under the Inheritance (Provision for Family and Dependents) Act 1975. Those proceedings began in 2010 and were dismissed with costs in 2012.

14) In 2013, the Defendant was made bankrupt for failing to pay the costs order in relation to the 1975 Act claim. The Defendant pursued appeals to the High Court and the Court of Appeal. An extended civil restraint order was imposed upon the Defendant by Peter Smith J on 23 October 2013, continued by Henderson J on 27 January 2014, and permission to appeal in respect of that continuation was refused by Arden LJ on 22 January 2015.

15) After the Defendant's bankruptcy, his mother made representations to the trustee in bankruptcy, and successfully recovered £130,000 from the Defendant's bankruptcy estate in respect of the Pimlico flat. That was a matter between the Deceased and the trustee in bankruptcy. The Claimant was not involved in the process.

16) Central to this application for an interim injunction is the barrage of correspondence that the Defendant has sent to the Claimant, his wife, and a wide array of third parties, particularly the Claimant's leadership judges and colleagues. In this correspondence, the Defendant fixates on his belief that there was fraudulent conduct in respect of the Defendant's bankruptcy. The Defendant appears to claim that the transfer of £130,000 from his estate in

bankruptcy to his mother was fraudulent, somehow involving the Claimant – despite that transaction having been a matter between the trustee in bankruptcy and the deceased, in which the Claimant had no involvement – and that any subsequent dealings with that money constituted dealings with the proceeds of crime. The Defendant also states that he views the Will as being an instrument of fraud designed by the Claimant to ‘steal’ and then ‘launder’ the £130,000.”

20. I note in relation to this account that the defendant filed an appeal against Master Pester’s Order, dismissing his application for the removal of the claimant as an executor. On 8 February 2024, Mrs Justice Bacon refused the defendant's application for permission to appeal which was made, together with another application by him which she dismissed, without seeking permission as required by Master Pester’s Limited Civil Restraint Order. Bacon J also ordered that the defendant cease sending correspondence to the court as to the substance of the case and that any application which he proposed to make be made in accordance with the Civil Procedure Rules. Although the defendant denies that he appealed the order of Bacon J, and for present purposes it does not matter whether he did or did not, on 17 July 2024, Newey LJ made an order refusing permission on the basis that the proposed appeal was totally without merit.
21. At paragraph 17 of Steyn 1, Steyn J noted that the defendant had communicated his allegations to a sizable cast of people, who included various judges and others working in the legal system as well as various politicians and the Attorney General. She listed them noting, at paragraph 18, that the defendant was deliberately seeking to address, amongst others, the claimant's line managers or leadership judges and other colleagues and associates. At paragraph 20, she found that the communications accused the claimant of fraud, theft, forgery, money laundering, and abusing his position as a judge. She said that there was no supporting evidence for these allegations and she found them to be baseless. At paragraph 29, Steyn J found that it was likely that the defendant would succeed, at trial, in showing that the barrage of emails sent by the defendant amounted to harassment of the claimant and that the defendant was, or ought to have been, aware of this. She also found that the claimant was likely to succeed in

showing that the defendant's emails were irrational, by which she may well have meant both baseless and lacking in coherence.

22. In Steyn 2, Steyn J dealt with and rejected various arguments raised by the defendant in relation to the litigation connected with his bankruptcy in 2010 to 2014 and the payment of the £130,000, drawing on, amongst other things, the judgment of Henderson J, as he then was, in *Winsor v Vale* 2014 EWHC 957 (Ch) which contains a useful summary. At paragraph 28, she noted that although the defendant had filed a plethora of documents since he had had notice of the injunction, he had not provided any evidence to rebut her provisional view, in Steyn 1, that the claimant was likely to succeed in his claim for harassment and that the defendant's allegations against the claimant were irrational:

“There is nothing in the material that I have seen that shows the claimant having any involvement at all in the process by which the defendant’s mother received funds from the defendant’s trustees in bankruptcy or in their negotiations with HMRC to persuade them that CGT was not payable or in the process of requesting dismissal of the appeal in Winsor v Vale.”

23. As I have said, the defendant attended the hearing on 16 February 2024 when the Steyn injunction was made. The order was also served on him personally on 20 February 2024 by a process server, Mr Nicholas Elt. It included a clear penal notice on the front page in the standard terms, to which Mr Elt drew the defendant's attention when he served it. The material parts of the injunction for present purposes are paragraphs 2(c) and 2(d). These provide that the defendant must not:

“c. Publish, make, repeat or distribute by any means any allegation, statement or suggestion that the Claimant has (in connection with his role as executor of the estate of Ivy Emily Winsor deceased or otherwise) committed fraud or been engaged in money laundering or has committed theft or any other criminal offence or has done anything which would be regarded as misconduct if done by a member of the judiciary;

d. In particular, sending such allegations by email to the following email addresses or by any other means to the following organisations/persons/categories of person:

i. gl-cmo.ddjdeploymnet@justice.gov.uk

ii. CMO.Enquiries@justice.gov.uk;

iii. The Chief Magistrate or any employee or officer of the Chief Magistrate's Office;

iv. District Judge Karen Doyle or any other District Judge or Deputy District Judge;

v. Claire.manning1@justice.gov.uk;

vi. correspondence@attorneygeneral.gov.uk

vii. Nick Goodwin or any other member of the HMCTS board or senior leadership team;

viii. registry@supremecourt.uk;

ix. civilappeals.cms-support@justice.gov.uk;

x. Basingstoke Court Office;

xi. Judicial Conduct Investigations Office;

xii. West Mercia Police;

xiii. Any court officer or employee of HMCTS;

xiv. jesse.norman.mp@parliament.uk.”

24. Paragraph 2(d) specifically identified the main recipients of the defendant's communications about the claimant, including the managers, leadership judges and other colleagues and associates to whom Steyn J referred in Steyn 1.
25. Although the contempt application is based on the Steyn injunction rather than the final order made by DHCJ Eardley, I note that he said that by the time of the hearing before him the volume of materials submitted by the defendant had mounted further. But the defendant still had not addressed the claimant's case on harassment, as opposed to going over the issues in relation to his bankruptcy and the associated litigation 10 or more years ago.
26. Having examined the evidence as it stood in July 2024, Mr Eardley also found in terms that the defendant's communications were targeted at the claimant and that generally they were copied to the claimant's solicitors so as to ensure that they would come to his attention. They were "*Obviously persistent, deliberate, oppressive ... baseless*" and indicative of "*a conscious decision to cause the claimant as much embarrassment, alarm and distress as possible ... even after having been told in a letter of claim why his conduct amounted to harassment.*" Mr Eardley also found that this conduct was causing the claimant considerable distress. He awarded costs on an indemnity basis in the light of the defendant's conduct of the litigation.

The contempt application

27. The evidence in support of the contempt application is contained in an affidavit of the claimant, which was sworn on 20 May 2024. This sets out the background before going on to evidence the communications on which the claimant relies for the purposes of this application. The claimant also relied, by way of background, on his witness statement dated 31 January 2024, which was made in the context of the proceedings for an injunction.
28. The claimant relies on 17 emails which were sent after the Steyn injunction and before the application to commit was made on 20 May 2024. The particulars of the emails relied on are set out as follows in Box 12 of the application notice:

“1. On 15 March 2024 at 11:36am emailed the Court of Appeal alleging that the Claimant was violating the CPR and Practice Directions by claiming £130,000 from ‘a surplus bankruptcy’.

2. On 27 March 2024 at 11:58pm emailed the Court of Appeal and Jesse Norman MP alleging that the Claimant was unjustly enriching himself from a fraudulent bankruptcy.

3. On 8 April 2024 at 10:56am emailed the Court of Appeal alleging that the Claimant was unjustly enriching himself, and had committed tax fraud, was money laundering, and had profited from the proceeds of crime.

4. On 9 April 2024 at 2:37pm emailed the Court of Appeal alleging that the Claimant was unjustly enriching himself, and was ‘aim[ing] to profit by £130,000 Proceeds of Crime’.

5. On 15 April 2024 at 10:42pm emailed the Court of Appeal, Claire Manning, DJ Doyle and Jesse Norman MP alleging that the Claimant was obtaining funds by the use of fraudulent documents, is guilty of procedural impropriety, or ignoring document tampering, and making a ‘fraudulent submission to court’.

6. On 24 April 2024 at 5:00pm emailed the Court of Appeal, Jesse Norman MP, Claire Manning and DJ Doyle alleging that the Claimant had engaged in money laundering.

7. On 26 April 2024 at 6:21pm emailed Jesse Norman MP, Claire Manning, DJ Doyle, the Court of Appeal and the Supreme Court, alleging that the Claimant is part of an ‘unlawful means conspiracy’ and had drafted the deceased’s will as ‘an instrument for the purposes of fraud’.

8. On 29 April 2024 at 12:51am emailed Jesse Norman MP, Claire Manning, DJ Doyle, the Court of Appeal and the Supreme Court alleging that the

Claimant engaged in money laundering, fraudulent calumny, procedural impropriety, misleading the court, and benefitting from the proceeds of crime.

9. On 29 April 2024 at 7:40pm emailed Claire Manning, DJ Doyle, the Court of Appeal and the Supreme Court alleging that the Claimant misled the court, dealing with the proceeds of crime, profiting from an unlawful means conspiracy, and engaging in money laundering.

10. On 1 May 2024 at 5:53pm emailed the Court of Appeal and the Supreme Court alleging the Claimant has committed tax fraud and engaged in unlawful means conspiracy.

11. On 1 May 2024 at 9:07pm emailed Claire Manning, DJ Doyle, the Court of Appeal and the Supreme Court alleging the Claimant has engaged in money laundering, fraud, unlawful means conspiracy, and document tampering.

12. On 2 May 2024 at 2:21am emailed Claire Manning, DJ Doyle, the Court of Appeal and the Supreme Court alleging the Claimant has benefitted from the proceeds of crime and 'cheat[ed] the system'.

13. On 8 May 2024 at 4:42pm emailed EHRC, the EASS and Jesse Norman MP alleging the Claimant has interfered with the administration of justice, committed fraud, fraudulently created the will of the deceased, and participated in a conspiracy.

14. On 11 May 2024 at 10:55am emailed the Court of Appeal and the Supreme Court alleging that the Claimant has participated in an unlawful means conspiracy.

15. On 12 May 2024 at 3:53pm emailed the Court of Appeal, the Supreme Court, DJ Doyle, the DDJ Deployment email address and the EHRC alleging that the Claimant 'concealed' estate funds amounting to an allegation of money laundering.

16. On 13 May 2024 at 2:30pm emailed the Court of Appeal, the Supreme Court, the EHRC, DJ Doyle, and the DDJ Deployment address, alleging the Claimant has engaged in laundering the proceeds of crime, theft and fraud.

17. On 14 May 2024 at 11:49am emailed the Court of Appeal, the Supreme Court, the EHRC, DJ Doyle, the DDJ Deployment address and Nick Goodwin, alleging the Claimant has committed fraud, money laundering, and contempt of court.”

29. It is not necessary to amplify the contents of those emails nor to repeat the details of the defendant's irrational and incoherent ramblings. Suffice to say that the emails continue the themes and repeat the baseless allegations made in the communications which led to the Steyn injunction and to the finding of harassment made by DHCJ Eardley. Moreover, they were specifically sent to the addresses listed at paragraph 2(d) of the Steyn injunction, no doubt for the same reasons as were identified by Steyn J and Mr Eardley.
30. Although they do not form the basis of the claimant's application it is also relevant to note that, since 20 May 2024, the defendant has sent multiple further communications. At the time of writing his skeleton argument, Mr Samuels calculated that the defendant had sent approximately 89 further similar emails, a large number of which also breached the Steyn injunction in the same or a similar way to the 17 which are specifically relied on by the claimant. They did so by asserting, again without any basis at all, that the claimant has been involved in dealing with the proceeds of crime and has been engaged in tax fraud and theft. As I have noted, Mr Samuels told me, in the context of the submissions about whether this hearing should proceed, that there had been a further escalation in the run up to the hearing and that the number of emails was now above 100. Moreover, the pool of recipients had widened so that members of the press were being sent the emails. There were now also threats to report the claimant's legal team, both solicitors and counsel, to the regulatory authorities.

The defendant's case

31. At a directions hearing on 28 June 2024, which the defendant attended by MS Teams, Julian Knowles J directed that the defendant should serve any evidence on which he intended to rely by no later than 4.00 pm on 12 July 2024 and that any witness statement should be verified by statement of truth in the form set out in CPR Practice Direction 22, at paragraph 2.2. The defendant did not serve evidence which complied with this direction. Although the directions made by Knowles J specifically stated that skeleton arguments should be limited to 15 pages, the defendant submitted a 75 page document together with a furthermore than 80 pages comprising what he described as “a defence” and various enclosures. He also failed to cooperate with the process of preparing the bundle, to which the claimant's side responded by including all of the materials which he has submitted in the course of these proceedings. These run to around 2000 pages.

32. In these documents, the defendant continued a pattern which is clear from his litigation activities over the years. This is to provide voluminous documentation which lacks coherence and is largely irrelevant to the issues at hand. The documents which he submitted for the purposes of the contempt application do not in fact address the case against him in the contempt application other than to indicate that it would be wrong to send him to prison and, in this connection, that he has health issues. Instead, the defendant's documents revisit all of his old themes connected with the bankruptcy litigation and the £130,000 as well as making more wide-ranging general allegations about fraud and malpractice.

The hearing today

33. I have already said something about the hearing today. But turning specifically to the adjudication of the contempt application, I took the defendant through the legal questions which I am required to determine in relation to liability more than once both before and during his submissions. In the course of what he said to the court, it was clear that he accepted that he was aware of the terms of the Steyn injunction at all material times. He accepted that he sent the 17 emails. He also accepted that it was contrary to the Steyn injunction to do so. He said, or the thrust of what he said was, that he was not in contempt of court because the Steyn injunction was invalid and unlawful.

34. The defendant told me that he had appealed against the Steyn order. But on further investigation it transpired that there was no documentation evidencing this appeal in the voluminous materials that have been put before me. Over the short adjournment, the defendant did send through an email which indicated that he was in correspondence with the Court of Appeal and could expect a response on 19 September 2024. But there is nothing at the moment to demonstrate the fact or the basis of any such appeal. Moreover, the defendant told me in the course of his submissions that the appeal notice had not been sealed. As I pointed out to him, the claimant's application falls to be determined on the footing that the Steyn injunction is a valid order until the contrary is decided by a court, which the defendant did not suggest it had been.
35. The defendant also reiterated, or sought to reiterate, in the course of his submissions, the allegations which are the subject of the Steyn injunction and the various themes which appear from the many documents that he has prepared. He justified his conduct in sending the 17 emails on the basis that what he was saying was true, that it was in the public interest for him to act as he had been acting and that he was merely passing information to the relevant authorities.
36. In relation to the legal question, whether at all material times he had knowledge of all of the facts which would make the sending of the 17 emails contrary to the Steyn injunction, he said that he did not have knowledge. I asked him what fact or facts he was unaware of. He said that he was unaware that Steyn J was unable to make orders which were contrary to law. His overall submission, notwithstanding the admissions that he made, was that he was not guilty of contempt of court.

Conclusion on liability

37. I am satisfied that the procedural requirements in relation to contempt applications which are set out in CPR Rule 81.4(2) have been complied with. As I have noted, the defendant did not deny that he was aware of the Steyn injunction and nor could he for the reasons I have given. Indeed, he has repeatedly referred to that injunction in his numerous emails and documents. Nor does the defendant deny that he sent the 17 emails and nor does he deny their content. In any event, I am sure on the evidence that he had notice of the Steyn injunction and acted contrary to its terms in the manner

alleged by the claimant. I am also sure that his actions were deliberate. I am sure that at all material times he had knowledge of all of the facts, which would make the sending of the 17 communications, contrary to the Steyn injunction.

38. In short, it is quite apparent that the defendant has paid no heed to the Steyn injunction and has deliberately continued the activities which it was intended to restrain, in my judgment, knowing full well that he was breaching an order of the court and that he risked committal for contempt of court. He contends that he was justified in doing so but that is not an answer in relation to the question of liability.
39. I therefore accept the claimant's case that the defendant is guilty of contempt of court as alleged in the committal application.

Sanction

40. I turn to the question whether I should address sentence at this stage.
41. As I indicated I would, following my judgment on liability I gave the parties an opportunity to make submissions as to whether I should proceed to sentence. In short, Mr Samuel's position was that I should. The defendant's position was that I should not.
42. Mr Samuel's submissions were similar to the submissions that he made when resisting the initial suggestion of postponing the hearing. He rightly pointed out that the issue in relation to postponement is as to the application of the overriding objective and the balance of prejudice. He emphasised that the question is not only one of the fairness to the defendant. It is also one of fairness to the claimant. He reminded me that the defendant has been found by the courts to have been harassing the claimant over a long period of time and has been ordered to desist. Notwithstanding that, he has continued and indeed he has continued on a large scale.
43. Mr Samuels predicted, he said confidently, that the defendant would continue that pattern of harassment by sending further emails, potentially containing wilder allegations and to wider groups of recipients. He pointed out that the defendant has

been told repeatedly to stop, and that he has not done so. Mr Samuels argued, quite understandably, that there was no reason to think that the finding that I have made would change the defendant's attitude and approach. The claimant should not be required to endure this conduct further. Mr Samuels reiterated his earlier submissions that the defendant has had umpteen opportunities to obtain legal representation and/or medical evidence but had failed to do so. He argued that there was no reason to think that the position would change simply in the light of my finding of contempt of court.

44. The defendant argued that I should postpone the matter. He thought that, in the light of my judgment, matters may change in relation to the willingness or otherwise of lawyers to represent him. He said that he would focus his efforts on the Hereford area and the Birmingham area. He also said that he wished to have a further opportunity to obtain medical evidence. He said that he would not send any further communications of the sort which are the subject of the Steyn injunction or the contempt application between now and the sentencing hearing. I asked him, wishing to ascertain the extent of his commitment not to send further communications, whether he appreciated that he was doing so under affirmation. He said that he was saying that under affirmation, that he would send nothing further and that his understanding was that, if he sent further communications, he could be arrested and (he said) was at risk of dying in prison.
45. With some hesitation, bearing in mind the points that Mr Samuels has made, I have come to the conclusion that I should postpone my decision on sentence. The proposal, subject to further discussion with the parties, would be to postpone the hearing until the end of October/beginning of November and to reserve the matter to myself.
46. My reasons are that, firstly, I remain concerned about the fact that the defendant does not have legal representation. I am reluctantly persuaded that he should have a final opportunity to obtain such representation. As I pointed out to Mr Samuels, the position is materially different now to the position at the beginning of this hearing in that the defendant will be armed with my judgment on the contempt application which identifies very clearly the situation which he is in, and the purpose of the forthcoming hearing. I will also indicate in due course the sort of information which may be of assistance at that hearing. That may well cause lawyers who appear, from the defendant's account, to have been asked to deal with all of the wider issues going back

into the past, to see that they are simply being asked to focus on the issue of sentence arising out of the contempt application and to appreciate that there is eligibility for legal aid in relation to the hearing. My impression was also that the defendant's efforts would be better spent focusing on local firms of solicitors or, at least firms, that are more local than the London lawyers with whom he said he had been in contact. I am not so naive as to think that it is impossible that I will find myself in the same situation at the sentencing hearing as I found myself in at the beginning of this hearing. But there does seem to me to be a chance that that position will change. Bearing in mind that the defendant is at risk of an immediate custodial sentence, it does seem to me that he should be given that final chance, albeit I emphasise that it is a final chance.

47. As far as medical evidence is concerned, I agree with Mr Samuels that there is reason to suppose that the position will not be different by the time of the sentencing hearing. But it does seem to me that if the defendant is able to obtain legal representation and/or if he is able to see sense in the light of the judgment which I have given, and what I am about to say to him, then there is a reasonable prospect that further medical evidence will be put before the court which enables the court to make an informed decision as to the length of any custodial sentence and/or the question whether it should be suspended.
48. In addition to that, the court will wish to consider other options, although at the moment the likelihood is of a custodial sentence. Those options may include fining the defendant. In order to do that, the court will need to consider his means. I point out, so that the defendant is aware, that it would be open to me to pass a custodial sentence and to fine him. So, if he wishes to argue that he does not have the means to pay a fine, he will need to produce evidence of that.
49. Turning to the question what will happen in terms of the sending of communications between now and the sentencing hearing, again there is a good deal of force in Mr Samuels' predictions. But it is now very clearly on the record that the defendant has said on affirmation that he will send nothing further between now and the sentencing hearing. It is not necessarily a question of the defendant potentially being arrested if he sends further communications. But what one can say is this: if he sends further communications which breach the Steyn injunction, between now and the

sentencing hearing, the likelihood is that my sentence will be more severe. He should be under no misapprehension about that. He has given his word that he will not send further communications. If he does so he will have breached his affirmation and he will have aggravated the conduct that I have found to be in contempt of court.

50. I should also point out that, up to now, the claimant has not issued a further contempt application in relation to the communications that have been sent since the committal application was made on 20 May 2024. It is perfectly open to him to do so between now and the sentencing hearing, and to ask for that application to be considered by me at the forthcoming hearing. It would not be surprising if he did do so if, contrary to the defendant's affirmation, further communications were sent after today's hearing, which breached the Steyn injunction.
51. So, those are three key considerations in relation to the balance of prejudice. I also take the view that it is important for the court to put itself in the best possible position to make an informed decision in relation to sentence given the gravity of the situation in which the defendant finds himself. In particular, whilst the evidence so far has concentrated on physical health, it may be that evidence is put before the court that deals with issues of mental health, which are relevant to culpability and the practicalities in relation to sentencing.
52. So, for all of those reasons, whilst I fully appreciate the claimant's concerns, I think that the balance comes down in favour of postponing the question of sentence.

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

Lower Ground, 46 Chancery Lane, London WC2A 1JE

Email: civil@epiqglobal.co.uk