

ROYAL COURT

22nd August, 1988

Before: The Deputy Bailiff and
Jurats Vint and Le Ruez

Between	Greenwell Montagu Stockbrokers	First Plaintiff
And	Samuel Montagu & Co Limited	Second Plaintiff
And	Keith Frederick Sanderson	First Defendant
And	Mayfair Holdings Limited	Second Defendant
And	The Royal Bank of Scotland plc	First Party Cited
And	Cater Allen Bank (Jersey) Limited	Second Party Cited

Interlocutory application by the defendants
requesting a variation of certain interim Mareva
injunctions to allow for the payment of living
expenses, repayment of loans and the payment
of legal expenses incurred and to be incurred.

Advocate J.G. White for the plaintiffs
Advocate R. Renouf for the defendants

(Parties cited not concerned with the present application)

JUDGMENT

DEPUTY BAILIFF: We have given careful consideration to the application for a variation of injunctions to allow for payment of living expenses, repayment of loans and the payment of legal expenses incurred and to be incurred. We have been unable to find that any summons was issued in this case; we think that it was a verbal application which followed the usual Friday afternoon sitting.

The action first came before the Court on the 24th June, 1988, when it was adjourned for one week with the injunctions to remain in force. On the 1st July, it was again adjourned for one week with the injunctions to remain in force. On the 7th July, the matter came before this Court solely on an application to vary the injunctions to limit the amount to £186,208.93, the amount held.

I have perused my notes very carefully, and there was absolutely no mention of any kind of other application. At the end of that sitting, minor variations of injunctions two and four were ordered and the further hearing was adjourned to a date to be fixed.

The Court sat again on the 8th August, when it first heard and decided an application to amend the Order of Justice. Objections were then taken to late affidavits and an adjournment was granted, firstly to 2.30 p.m., and later to 10.00 a.m., the next day. On the 9th August, the Court sat all day. In the early part of his address, Mr Renouf reiterated that the defendants sought a variation, and here I quote: "Just to limit the injunctions to funds still in the accounts that belonged to the plaintiffs". It was only in the last hour of that day that Mr Renouf sought to introduce a fresh, additional or alternative application seeking release of various monies derived from transactions entered into before the 9th May, (the date of the cheque) and variations to allow for living expenses, repayment of loans and payment of legal fees.

On the afternoon of Wednesday, the 10th August, in an attempt to answer criticism from the Court, Mr Renouf submitted a schedule of living expenses calculated on a monthly basis and a schedule of legal fees incurred and to be incurred. Mr White was then heard on the substantive matters and continued his address this morning.

The Court has no hesitation in saying that the late introduction of an alternative or additional application, with no summons or other formal process, is entirely unsatisfactory. The Court is not satisfied that it can deal adequately with this further or alternative application without more information. Thus the Court will require a summons setting out the terms of the application, supported by a further and fuller affidavit. For example, the Court will require to know where or how the proceeds of the other 216 weeks of time share (worth, on the figure put before us, £432,000) have been disposed of. The Court will require details of the income and expenditure of the defendants from the time of the incorporation of the second defendant and details of all assets wherever situate. The Court will be prepared to sit, as at present constituted, at the shortest practicable delay for this purpose, acknowledging of course that Mr White for the plaintiffs must have reasonable but limited time to consider the documentation provided. In the meantime, the Court will proceed to hear only the application that it considers to be before it, that is to say, the application to restrict the injunctions to £186,208.93.

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