Neutral Citation Number: [2024] EWHC 2428(Ch) **Claim No. BL-2024-001250**

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

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

Hearing Date: 19/9/2024

Before: **Charles Morrison**
(sitting as a Deputy Judge of the High Court)

B E T W E E N:

PUMP COURT CHAMBERS LTD

Claimant/Applicant

-and-

GILLIAN BROWN (also known as GILLIAN GOODFIELD)

Defendant/Respondent

- -

Saaman Pourghadiri (instructed by **Cooke, Young and Keidan LLP**) for the **Claimants**
The Respondent in person

Hearing date: 19 September 2024

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Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

This judgment was handed down by the judge remotely by circulation to the parties' representatives by email. The date and time for hand-down is deemed to be 10.30 am on 25 September 2024.

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The Background

1. Earlier this month Edwin Johnson J, heard an application by a company (**PCC**) for proprietary and freezing injunctions in respect of money it said had been wrongfully taken from it by its former credit control manager (**Mrs Goodfield**). PCC is a company through which a barristers' chambers (the **Chambers**) conducts its business. PCC is one of three companies that manages the affairs of the Chambers. Its role is to receive monies owed by solicitors (and other clients) to barristers. Those monies are then paid by PCC to the barrister to whom they are owed.

2. Until June of this year, Mrs Goodfield had responsibility for the bank account into which fees due to barristers were paid, and for ensuring that those funds were then paid on to the relevant barrister. Following her departure, PCC began to discover that during the past five years, Mrs Goodfield had stolen in the order of £2.75m from the bank account. Having been served with the Orders granted by Edwin Johnson J, Mrs Goodfield produced an affidavit in which she candidly admitted to her wrongdoing; she had indeed taken the money and now bitterly regretted it.

3. At the original without notice hearing, Edwin Johnson J had been invited to and did, sit in private; the learned judge also agreed to make the anonymity order that PCC asked for. On the matter coming before me last week for the inter partes hearing, I made it clear at the outset that I was uncomfortable with the notion that the court should again sit in private and that given Mrs Goodfield had now accepted the thrust of the allegations against her, there could be no justification for a continuation of the anonymity order.

4. In his most helpful skeleton argument which I received prior to the hearing, Mr Pourghadiri who appeared for PCC, submitted that I ought to carry on sitting in private and also continue the anonymity order. The matter was not however fully developed even by the standards of a skeleton and none of the accompanying authorities touched on the matter. At the sitting of the court, I offered Mr Pourghadiri the option of coming back before me the following Tuesday with the existing order being stood over in the meantime. After taking instructions, I was informed by counsel that PCC had decided to press its case before me; it felt that securing the disclosure orders asked for forthwith outweighed the benefit of having more time to prepare argument on the privacy points.

5. Having heard argument on the privacy issues, I indicated to Mr Pourghadiri that I was against him on both points. The court thereupon sat in public and I proceeded to hear submissions on the injunctions. In the event, I was content to continue the proprietary and freezing orders made by Edwin Johnson J, and in light of the full and frank admissions set out in the evidence delivered by Mrs Goodfield, and the additional facts and matters disclosed in the evidence put before me from the Senior Clerk of the Chambers, Mr Atkins, I was also willing to make the further disclosure orders sought. There was in my judgment quite clearly a serious issue to be tried. The balance of convenience favoured the making of the order and it was just and convenient to do so. Insofar as the basis for the freezing order requires the application of a different analysis, I was satisfied that PCC had a good arguable case on the merits. Given her now admitted past behaviour, but importantly on Mrs Goodfield's evidence, a less than

comprehensive explanation as to what was taken, what use it was put to and where it is now, I was satisfied that there remained a real risk of dissipation.

6. It was plainly, in my judgment, just and convenient to make the freezing order in addition to the proprietary injunction. I accept that to the extent the proprietary claim and any tracing based upon it fails, it is right and proper to seek to secure the position with an *in personam* order.

7. I should say that Mrs Goodfield, who was throughout the hearing showing no little signs of distress, made no attempt to resist the orders asked for. Her demeanour was consistent with the approach taken in her written evidence which was that she could not quite come to terms with the scale of her wrongdoing which she could now so very clearly see. At any rate, I took time to explain the proceedings to Mrs Goodfield so as to ensure that as best she could, she was able to follow the developing case. That however was a poor substitute for being properly advised by lawyers. I urged Mrs Goodfield at the outset and at the end of the hearing to seek advice; I reminded her of the availability of legal aid; I suggested that a trip to the Royal Courts of Justice Information desk might point her in the direction of free representation units. Despite her claims that she had tried hard to engage assistance but to no avail, I made it clear that she ought to keep trying.

8. Returning to the privacy issues, having conveyed the decision of the court to Mr Pourghadiri, I indicated that I would, given the serious nature of the points raised, give full reasons by way of a judgment to follow. It is to those reasons that I will now turn.

The arguments advanced by Counsel

9. Rule 39.2 of the Civil Procedure Rules confirms the well-known general rule that a hearing must be held in public. A hearing must however be held in private if the court concludes that it is necessary to sit in private in order to secure the proper administration of justice and that one of the grounds set out in CPR 39.2(3) is established. I was invited to reach the view that grounds (a) "*publicity would defeat the object of the hearing*", (c) "*it involves confidential information (including information relating to personal financial matters) and publicity would damage that confidentiality*" and (g) *the court for any other reason considers this to be necessary to secure the proper administration of justice*", could be made out for the reasons relied upon by PCC.

10. The first ground developed by Mr Pourghadiri was that being called upon to respond to the inevitable consequences of publicity would affect the ability of PCC to conduct these proceedings. He invited me to consider how barristers organise themselves; resources are thin, he submitted, and costs are defrayed "from the pockets of self-employed individuals". A small team within the Chambers were being themselves compelled to devote their own time to dealing with the alleged fraud; to have to simultaneously also attend issues that would flow from publicity would be "all the worse". For this reason alone, I was invited to preserve the private nature of the proceedings not for the four months originally asked for but, having been pressed by me to reconsider the ambition, for four to six weeks.

11. Whilst all current members of the Chambers had now been informed of the wrongdoing and the expected loss, past members had not. It was not yet known if past members would also be affected; far better, it was submitted, if the full picture could be understood as a result of

effective disclosure and upon receipt of an expected report of the losses; at that stage the correct position could be communicated to those past members of the Chambers.

12. Allowing the matter to become public now, it was submitted, put at risk the integrity of the Chambers as a going concern. The result could be something analogous to "a run on the bank". High earning barristers might decide to leave before their expenses were increased, something that they might consider a real possibility given the nature and extent of Mrs Goodfield's wrongdoing: but this was not the only issue. Former members might make claims for sums unpaid to them, despite not having any continuing obligation to meet the expenses of the Chambers. A spiral of decline could thus be the result of members of the Chambers arriving at the view that they should not be last to leave.

13. I was also invited to take into account a likely practical problem that would afflict PCC. Debtors, the preponderance of whom being firms of solicitors, might use the circumstances surrounding the wrongdoing as a reason to delay making payment upon sums properly due and owing to PCC. Such an outcome would merely serve to exacerbate the already painful liquidity problem caused by the actions of Mrs Goodfield. The problem was serious enough to allow Mr Pourghadiri to refer to it as posing an existential threat.

14. Turning away from the position of the Chambers, in the context of the application and the orders sought, it was submitted, although not in the skeleton argument of 17 September, that a public hearing would result in a material tipping-off risk. Third parties who might have received proceeds of the wrongdoing would be alerted to the existence of the order in circumstances that would permit them to take steps to dissipate or conceal the relevant assets. On the PCC case, some £2.75m had been taken; Mrs Goodfield appeared to be saying that all of the money taken by her had been spent on her lifestyle. PCC found it hard to accept that what would amount to approximately £700,000 a year had been, as they put it, "frittered away". It was submitted that some funds must still be preserved and a proper opportunity to trace should be afforded.

15. For all of these reasons it was submitted that a private hearing was necessary to:

    a. secure the proper administration of justice,
    b. avoid defeating the purpose of the hearing, and
    c. protect the interests of "Pump Court".

The Law

16. The open justice principle to which this court will have regard, was explained over a century ago by the House of Lords in *Scott v Scott* [1913] AC 417. In that case, Lord Shaw of Dunfermline observed "Publicity is the very soul of justice." The position was more recently reviewed by the Supreme Court in *Cape Intermediate Holdings Ltd (Appellant/Cross-Respondent) v Dring* [2019] UKSC 38, in a case concerning access to documents which featured in the proceedings. In opening her judgment, citing a principle of broad application, Lady Hale P, observed:

> "With only a few exceptions, our courts sit in public, not only that justice be done but that justice may be seen to be done."

17. In *Scott*, Lord Atkinson's view [**463**] was that:

> "The hearing of a case in public may be, and often is, no doubt, painful, humiliating, or deterrent both to parties and witnesses, and in many cases, especially those of a criminal nature, the details may be so indecent as to tend to injure public morals, but all this is tolerated and endured, because it is felt that in public trial is to found, on the whole, the best security for the pure, impartial, and efficient administration of justice, the best means for winning for it public confidence and respect."

18. The position of Viscount Haldane LC, [**435-437**] was that the court would only sit in private if there was "some other and overriding principle", and where "justice could not be done at all if it had to be done in public". In addressing the exceptions to the general principle, the Lord Chancellor said this:

> "The other case referred to, that of litigation as to a secret process, where the effect of publicity would be to destroy the subject-matter, illustrates a class which stands on a different footing. There it may well be that justice could not be done at all if it had to be done in public. As the paramount object must always be to do justice, the general rule as to publicity, after all only the means to an end, must accordingly yield. But the burden lies on those seeking to displace its application in the particular case to make out that the ordinary rule must as of necessity be superseded by this paramount consideration. The question is by no means one which, consistently with the spirit of our jurisprudence, can be dealt with by the judge as resting in his mere discretion as to what is expedient. The latter must treat it as one of principle, and as turning, not on convenience, but on necessity."

19. With all of this mind I must apply the rule as laid down in CPR 39.2(3). As is made clear in the notes to the rule set out in the 2024 edition of *The White Book*:

> "However, that rule is not absolute. CPR 39.2(3) is facilitative and permits certain limited exceptions, always assumed to that being subject to the interests of justice."

Discussion

20. It is said that PCC and the Chambers to which it is related will have to spend time dealing with the consequences of publicity if I do not sit in private. The resources of PCC are slim. This indeed may be an inconvenience, perhaps even a severe distraction. But is that a good reason to depart from the principle of open justice? I have to say I don't think that it is. Is it the position that the more impecunious the applicant, the more likely the court will be to close the doors of the court? That is not an argument that holds any attraction for me.

21. It does not seem to me that the outcome feared by PCC is such as would stand in the way of the proper administration of justice or defeat the object of the hearing.

22. It is also necessary to consider what is the object of the hearing. To my mind the object was not, as was submitted by Mr Pourghadiri, to protect the integrity of the Chambers, but rather to decide if PCC was entitled to the injunctions it asked for, along with the disclosure orders. Would in these circumstances a public hearing prevent the object of the hearing being achieved? The orders have been made. Mrs Goodfield's assets, or perhaps more properly the assets belonging to PCC, have been frozen in her hands. She must now explain what has

become of the money she took; if the funds are now represented by chattels, she must explain what they are and who has them. None of this is prejudiced by the court doing its business, as it usually does, in public.

23. Whilst it might be convenient to be able to approach former members of Chambers in four weeks' time with a full and detailed explanation of precisely what might have been lost to them as compared to having to deal in generalities at this juncture, does such a benefit weigh more heavily in the scales than the deeply entrenched principle to which I have made reference? Once again, I cannot see that it does; the point does not persuade me on the two tests which I am invited to apply. Moreover I can see that former members of the Chambers, and indeed solicitors' firms having dealings with PCC, might want to know of the problem at the earliest opportunity. In my judgment it is not for the court to regulate such affairs without a proper case for doing so being put before it. I don't see that it was in the context of the question of whether or not the court would sit in private.

24. I also had to weigh in the scales the likely impact on PCC of the disclosure of the wrongdoing. That argument, to my mind, lost its force upon the disclosure that all members of the Chambers are now aware of the extent of the wrongdoing of Mrs Goodfield. Matters will now take their course, although I did not in any case find it easy to come to the position that sophisticated members of a respected chambers would feel it necessary to seek to practise elsewhere when it was patent that their management colleagues were doing their utmost to recover the proceeds of an alleged fraud.

25. I confess to a degree of difficulty with the "tipping-off" point raised at the hearing by Mr Pourghadiri. Although no authorities on the point were put before me, such an argument, it seems to me, can provide a justification for the court to sit in private and for the making of an anonymity order. It is at once obvious why the object of the hearing might be prejudiced by the subject matter of a tracing claim being ventilated in public and as a consequence, immediately communicated to a wrongdoer.

26. On balance, I do not in the circumstances of this case, see that the risk to the freezing and disclosure exercise makes it necessary for the matter to be heard in private so as to secure the proper administration of justice, or to avoid defeating the purpose of the hearing. There has been privacy hitherto; the injunctions were granted on 21 August; those acting in concert with Mrs Goodfield, if there are any, the privacy attaching to the order of Edwin Johnson J notwithstanding, would have had ample opportunity in the past four weeks to take steps aimed at concealment or dissipation.

27. The question of whether to make an anonymity order is dealt with under CPR 39.2(4). The rule provides:

> "The court must order that the identity of any person shall not be disclosed if, and only if, it considers non-disclosure necessary to secure the proper administration of justice and in order to protect the interests of any person."

28. For the reasons that I have given, *mutatis mutandis*, I am not persuaded that non-disclosure of the party names is necessary so as to secure the proper administration of justice, nor is it necessary in order to protect the interests of PCC. Whilst it was appropriate to make such an

order at the *ex parte* stage, in light of the admissions of Mrs Goodfield, such an order is not now necessary on her account.

Disposal

29. For the reasons that I have given, I refuse to order that this matter be heard in private. I also decline to make any anonymity order under CPR 39.2(4).