

ROYAL COURT
(Samedi Division)

29.

14th February, 1991

Before: P.R. Le Cras, Esq., Commissioner, and
Jurats Vint and Herbert

Between:	_____	Plaintiff
	L	
And:	B	Defendant

Application to raise ouster and
non-molestation injunctions

Advocate J.C. Gollop for the plaintiff.
Advocate A.P. Begg for the defendant applicant.

COMMISSIONER LE CRAS: It is quite clear that this injunction was improperly obtained. L did not call upon her advocate until the 8th January, 1991, and could not recall the date that the Police arrived (28th December, 1990, or the 3rd January, 1991). The Order of Justice was not issued and the affidavit sworn until the 11th February, 1991, after L had been with B and when he had dropped her at her advocate's office and had picked her up afterwards. We note that proceedings are in train for B's eviction and these are returnable on the 22nd February, 1991. This action will then take its normal course. Subject to the undertakings given by B we propose to raise the interim injunctions rather than to exercise our discretion to maintain them.

These undertakings are:

- "1. that he will not seek to force sexual attentions upon
L pending these proceedings and will be prepared to
sleep in a different room and not with her at L's
option; and
2. that he will not be abusive nor use violence towards
L nor molest, harm, annoy or threaten her".

On any breach of these undertakings L can, of course,
return to this Court and counsel will explain the penalties to which
B may be subject for any breach.

Finally, as this is clearly at best an unstable relationship and
at worst one which is liable to be terminated - if it has not done so
already - we order that the Children's Officer prepare a report for the
Royal Court on the 22nd February, 1991, when the Order of Justice is
returnable. We leave it to the Children's Officer to decide whether to
forward the report to the Attorney General. Our concern, we should say
is for the safety of the child.

We further order that a transcript of the evidence to be made
available to the Children's Officer if he so requires.

Costs in the cause.

Leave is given for the plaintiff to amend her Order of Justice for
a permanent injunction and for B's departure and for the
defendant to file an amended answer if necessary.

Authorities cited:

- Trasco International AG -v- RM Marketing Limited (1985-86) JLR Notes
and Unreported Jersey Judgments 29th October, 1986.
- Walters -v- Bingham (1985-86) JLR 439.
- Bates -v- Lord Hailsham (1972) 1 WLR 1373.
- De Carteret -v- Applegate and Sheridan (1985-86) JLR 236.
- R. Greenslade: "Matrimonial Advocacy and Litigation" (1988) pp 190-196.
- D. Bean: "Injunctions" (4th Ed'n) 1987) pp 115-123.
- Ansah -v- Ansah (1977) Fam. 138.
- Practice Note (1978) 1 WLR 925.
- Granite Products Ltd -v- Renault (1961) JJ 163.