Neutral Citation Number: [2024] EWHC 3133 (Ch)

Case No: FS-2024-000003

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

IN THE MATTER OF THE SOLICITORS ACT 1974
AND IN THE MATTER OF A SOLICITOR

7 Rolls Building
Fetter Lane
London
EC4A 1NL

Date of hearing: 11 October 2024

Before:

THE HONOURABLE MR JUSTICE TROWER

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Between:

(1) SANTERS SOLICITORS LTD **(2) MARTYN HOWARD SANTER**	**Claimants**
- and -	
(1) THE LAW SOCIETY OF ENGLAND & WALES **(2) SOLICITORS REGULATION AUTHORITY LTD**	**Defendants**

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JOHN MCLINDEN, KC for the **Claimants**
DAVID HOPKINS (C) for the **Defendants**

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APPROVED JUDGMENT

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MR JUSTICE TROWER:

1. This is an application for expedition. The proceedings are brought by a part 8 claim for an order under paragraph 6(4) of schedule 1 to the Solicitors Act 1974 requiring a withdrawal of the intervention notice into the claimant's practice together with consequential relief.

2. There is a slightly unfortunate procedural history. The intervention notice is dated 26 July 2024 and Mr Santer issued his proceedings under part 8 pursuant to CPR 67.4(1)(b) on 2 August 2024. The court sealed the claim form three days later but with the date of 2 August affixed to it.

3. Mr Santer said that he did not at that stage seek an order from the court to give directions and to fix a date for his hearing in accordance with CPR 67.4(3), nor did he appreciate that the way the CE file system works is that a sealed claim form was on the system from the time of acceptance and he simply needed to download it for service.

4. One of the consequences of that is that this application for expedition is made at a later stage than would normally be the case. However, I have taken the view that in all the circumstances, as I will come on to, that is not a factor which weighs heavily in the balance when deciding what is the appropriate order to make.

5. The principles on an application for expedition are well-known. There are four factors that are set out in the decision of Lord Neuberger in *WL Gore & Associates GmbH v Geox Spa* [2008] EWCA Civ 622 at [25]. They have subsequently been further approved by the Court of Appeal on a number of occasions.

6. The first is that there has to be good reason for expedition. In the present case this is in part established by the very nature of the application. It is contemplated by the rule that I have already referred to, CPR 67.4(3), that the court fixes a date straight away. The inherent urgency in an application of this sort has been regarded as sufficient to make the matter appropriate for early hearing in many cases, and Mr McLinden has helpfully drawn my attention to a number of them in his skeleton argument. The reason is the impact of intervention on the practice of the solicitor concerned.

7. The evidence in this case, as in many such cases, is that intervention has the effect of closing the claimant's practice, a practice which was established quite a long time ago, I think back in the 1980s. If there are grounds for challenge, whether they are good grounds must be determined at the earliest possible time in order to minimise the possibility that by the time the court is able to give judgment it will be too late to save the practice.

8. The second question for the court is whether expedition will interfere with the good administration of justice. In my judgment, in a case such as this, expedition will not normally interfere with the good administration of justice, so long as proper directions for evidence can be given and so long as the court is in a position to hear the matter within the time sought without undue interference in the position of other litigants whose cases are waiting to be heard. Some of those other cases may of course be equally urgent, albeit for other reasons.

9. In assessing that question, the listing category which is appropriate to the case is one of the factors the court will look at. In this case, I am satisfied that the appropriate listing category is B, which means that it can be heard either by a High Court Judge or a section 9 judge, although it may not be heard by a Master. That seems to me to be

the appropriate level for hearing the matter. I have made enquiries of the listing officer as to the court's ability to accommodate a Category B hearing of two days, which is what will be required, without unacceptable interference with the cases which will otherwise require the court's attention. The position is that the court can accommodate a hearing in the week commencing 11 November.

10. The next consideration is whether expedition would cause prejudice to the other party. The SRA recognises that the claim should be dealt with as soon as possible and accepts that it will be in a position to prepare its case if a hearing is fixed on the date that I have indicated. However, in the course of the helpful written and oral submissions I heard from Mr Hopkins, he said that the SRA's position was that an earlier date before the end of October was probably unrealistic. Even if the court had been able to hear it in October, I would have agreed that to try and achieve a trial before the end of October would indeed have been very difficult and quite possibly unrealistic.

11. I should also say that the defendant has explained why the claimant's concern about the impact of the expiry of his suspended practising certificate on 30 October 2024, which was one of the drivers behind (in fact I think it is fair to say the principal driver behind) his desire to have an expedited trial before the end of the month, was misplaced. That explanation was given in two places in the papers before me. The first was in the correspondence which is included in the bundle and the second was in Mr Hopkins' helpful note.

12. I am satisfied, having regard to the way in which Mr Hopkins expressed the SRA's position in his note, that the concerns that had been expressed by Mr McLinden on behalf of Mr Santer as to the impact of the expiry of the practising certificate are

concerns which do not have the potential adverse impact feared by Mr Santer to the extent that he had originally considered it would. In all the circumstances of the case, the court is able to rely on what was said by Mr Hopkins in his note in satisfying itself that the prejudice that Mr Santer says he will suffer by reason of the intervention continuing beyond 30 October is not a prejudice in the way that he had originally considered it to be.

13. The fourth factor is of a little significance in this case and that is whether there are any other special considerations, including the appellant's conduct, which affect the answer one way or the other.

14. As I explained at the beginning of my reasons, the claimant was on any view slow off the mark in applying for expedition. The Chancery Guide is clear on the need to make an application at the earliest opportunity. This is partly because of the impact on the position of the other side, but also it undermines the court's confidence that the trial is indeed urgent. This last factor has perhaps slightly less significance in this case than it would in other cases, because as I said at the beginning of this short judgment, applications of this sort are inherently urgent. However, it remains relevant.

15. Even though Mr Santer did not get his procedure quite right, it was clear that he was pressing for a determination. The short factual background is that the claimant only made his expedition application on 7 October, a few days ago, having first intimated it on 3 October, which was more than two months after his original claim form was issued and less than one month before the date on which he then said that the hearing needed to take place. I do not think it is necessary in all the circumstances to go into detail as to the reasons why there were delays. They in part are explained in the

evidence, but I think only in part, because the reality is that Mr Santer did not really appreciate the urgency of the position at the time of the intervention to the same extent as he did once he had seen the SRA's evidence of 26 September and the possible impact on his practising certificate once it had expired.

16. Nonetheless, and despite those considerations, I remain satisfied that this is not a factor which should weigh heavily in the balance in the present case and certainly does not cause me to conclude that all other things being equal, it would not be appropriate to make an order for expedition. So I remain satisfied that this is a case in which there is, objectively speaking, urgency and that the claimant's slow response was, in any way in part, driven by a misapprehension as to what he needed to do and how he needed to go about it.

17. So for those reasons I have reached the clear conclusion that this is a case in which the order sought by Mr McLinden should be made and I will direct expedition, together with the consequential directions that I have already discussed with counsel. I would invite Mr McLinden and Mr Hopkins to agree a minute of order, which I am sure they will be able to do, to submit to my clerk during the course of the morning if at all possible, so that the order can be sealed today.

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