

ROYAL COURT  
(Samedi Division)

7th November, 1994

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Before: The Deputy Bailiff, and  
Jurats Blampied and Herbert

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Between: ABN-AMRO Bank N.V. Plaintiff  
And: John Hyde Oliver Defendant

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Application by the Defendant to vary interim injunction, contained in Plaintiff's Order of Justice, to permit him to have access to information in the hands of the Viscount for the purpose of producing a list of witnesses he wishes to call at the hearing of the trial, set down for 12th, 13th, and 14th December, 1994.

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The Defendant on his own behalf.  
Advocate A.D. Robinson for the Plaintiff.

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JUDGMENT

THE DEPUTY BAILIFF: In the course of his work as a computer programmer, the Defendant came into possession, quite properly, of certain confidential information belonging to ABN-AMRO Bank NV, to which we shall refer as "the Bank", which he needed for the purpose of his work.

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After the work had been completed the Bank became aware that the Defendant retained possession of some of this confidential information, and in particular of a list of clients of the Bank. In March, 1993, the Bank commenced proceedings against the Defendant alleging that the Defendant had wrongfully retained this confidential information.

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At about the same time that those proceedings were instituted the Defendant wrote a letter to clients and/or former clients of the Bank complaining about the conduct of the Bank. He conceded that the purpose of this letter was to embarrass the Bank.

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When the Order of Justice by which the Bank instituted proceedings was signed by the Bailiff, on 3rd March, 1993, it contained an injunction which prevented the Defendant from "causing howsoever the disclosure, divulging, copying or making

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use" of any of the confidential information and further prevented him from contacting clients or former clients of the Bank by means of the confidential information in his possession.

5           Subsequently there was argument between the parties and as a result of that argument the Order of Justice and indeed the Defendant's answer were amended.

10           The result of that argument before the Court was that the Defendant returned to the Plaintiff the confidential information in his possession and gave a copy of it to the Viscount.

15           The case has been set down for hearing on 12th December, 1994.

          The Defendant has now issued a summons which seeks an amendment of the injunction issued against him by the inclusion of an additional paragraph which reads as follows:

20           *"that the Defendant shall have access to the information delivered up into the hands of the Viscount as ordered in paragraph 2, that access being for the purpose of producing a list of witnesses that the Defendant wishes to call in the litigation. The Defendant is ordered that the*  
25           *list be produced at the office of the Viscount and that no copies of the confidential information be removed in any form from the offices of the Viscount".*

30           The Defendant has made it plain to us during his submissions that he requires this information for the purpose of approaching clients or former clients of the Bank with a view to calling them as witnesses and to ascertaining from them whether, in fact, the Bank has suffered any damage as a result of the letter dispatched by the Defendant.

35           It will be plain therefore that the Defendant's wish to have access to the information in the possession of the Viscount arises only in connection with his wish to mount a defence to the Bank's claim for damages.

40           On 2nd March, 1994, the Judicial Greffier made an Order setting the case down for hearing, without distinguishing the questions of liability and damages. We propose to vary that Order so that, at the hearing on 12th December, the only issue before  
45           the Court will be that of liability: that is whether or not the Defendant breached a duty of confidentiality by wrongfully retaining confidential information and by sending the letter to clients or former clients of the Bank. The question of damages will be left over for argument, if need be, on another occasion.

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Having made that Order it will be seen that the Defendant's application to vary the injunction is premature and is accordingly refused.

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JUDGMENT ON COSTS

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Costs are in the discretion of the President of the Court. While costs ordinarily follow the event I have to take into consideration the fact that the Defendant is a litigant in person and, having heard from him that there might, perhaps, have been a misunderstanding of the position, I exercise my discretion by making no order for costs in this case.

No authorities.