

Freezing Injunctions: Cold Facts Hot Topics

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Key Requirements

- Jurisdiction “just and convenient” s37 SCA 1981
- “Nuclear weapon” expect reluctance in granting
- Purpose is to prevent unjustified disposal of assets to defeat a judgment / evading justice so merely preserving pending judgment (not security)



Enforcement Principle

- Not necessary to show link to existence of a cause of action: ***Broad Idea*** [2021] UKPC 24 and endorsed in ***Wolverhampton City Council*** [2023] UKSC 47 [17] and [43] and
- **G (Court of Protection: Injunction)** [2022] EWCA Civ 1312, [2023] Fam 107, at [54] – [61].
- Focus of assessment relates to obtaining j't / order for payment of a sum of money enforceable through court process i.e. successful outcome to a claim: ***Broad Idea*** [2021] UKPC 24
- Take into account any suggested defence to claim
- **In support of foreign proceedings** under S25 CJA: **Mex Group International Ltd v Ford** [2024] EWCA Civ 959, [2025] 1 W.L.R. 975 at [91]-[99].



Test

- Merits criterion
- Serious issue to be tried (good arguable case in old money)
- merits threshold relatively low i.e. not hopeless/real prospect of success: ***Dos Santos v Unitel*** [2024] EWCA Civ 1109 [106]



Order in Respect of Assets in which R has no beneficial interest?

- **Civielo v Brodahl** [2024] EWHC 707 (Comm) [29] – [30] extended order?
 - Pragmatic reasons;
 - Control might provide basis for asserting ownership; and
 - Dealing with owned assets that might affect non-owned assets – corporate assets.
- Control by director/member - the requirement for control in personal capacity.
- **Bourlakova v the Estate of Bourlakov** [2025] EWHC 1792 (Ch), at [140] – [144] & [195] – proprietary claim in respect of shares in Co justified preservation order in respect of shares and against Co in respect of its assets.



Disputes over Assets: CIVELO (1)

- Where dispute as to legal effect of a freezing injunction, the Court may make a final declaration.
- Where not appropriate to determine an issue as to the scope of the order, the Court may accede to a variation application to clarify its scope and effect but will only have prospective effect.
- Where the issue of whether an asset is subject to a freezing injunction turns on a dispute of fact, the approach will turn on whether the asset is referred to specifically or merely potentially caught by the general words of the order.



Disputes over Assets:

CIVELO (2)

- Where the asset is potentially caught by the general words – but not specifically identified in order – the Court is wary of holding trial on a balance of probabilities. If applicant requires clarity, apply to vary the order to refer to the specific asset. On such application, applicant will need a good reason to suppose the asset is the respondent's or subject to its control. Alternatively, applicant can bring committal proceedings if respondent has dealt with the asset.
- However, where the asset is referred to specifically in the order as one of the respondent's assets, and there is a dispute as to whether the asset is owned by the respondent or a third party, either may apply for the asset to be removed from the scope of the order and apply for the Court to determine that issue on a balance of probabilities following disclosure and live evidence.



Draconian effects: Disclosure

- Disclosure even if discharge application and extension will rarely be granted
- **Beijing Songxianghu Architectural Decoration Engineering Co. Ltd v Kitty Kam [2025] EWHC 3068 (Comm), at [23] – [26]**
- CPR r 25.1.1(g)



Without notice

- CPR 25.8: “applicant reasonably believes ... good reason” for not giving required notice
- Is secrecy essential?
- *Hunt v UBHI* [2023] EWCA Civ 417 at [40] to [41]
- Chancery Guide at 15.32, 15.33 and 15.53
- Short notice? *CEF Holdings Ltd v Munday* [2012] EWHC 1524



Without prejudice

- *Linsen International Ltd v Humpuss Sea Transport Pte Ltd* [2010] EWHC 303
- *Gulf Interstate Oil Co v ANT Trade and Transport Ltd* [1999] CLC 554



Fortification

- *Alta Trading UK Ltd v Bosworth* [2021] EWHC 1126 (Comm)
- *Energy Venture Partners Ltd v Malabu Oil and Gas Ltd* [2015] 1 WLR 2309
- *VTB Bank PJSC v Kuanyshev* [2026] EWHC 591 (Comm)



Discharge

- *Tugushev v Orlov* [2019] EWHC 2023 (Comm)
- *Derma Med Ltd v Ally* [2024] EWCA Civ 175
- *Mex Group Worldwide Ltd v Ford* [2024] EWCA Civ 959
- *Astor Asset Management 3 Limited v Pliego* [2025] EWCA Civ 1060
- *MHP Food UK Ltd v Sanson Foods Ltd* [2026] EWHC 619





Thank you

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