

JERSEY / JUDGMENT

Bates v Weston [2023]

JRC 032 (17 January 2023)

[2023] JRC 032

Source: bailii.org · Research copy typeset by Esheria. Not court-issued or certified.

judgment

the COMMISSIONER: 1. On 10 March 2017, on the ex parte application of the Judgment Creditor ("Mr Bates"), the Assistant Judicial Greffier ordered that a judgment of the English High Court dated 11 November 2015 ("the English Judgment"), ordering Mr Weston to pay Mr Bates the sum of £40,000, be registered as a judgment of this Court pursuant to Article 4 of the Judgments (Reciprocal Enforcement) (Jersey) Law 1960 ("the 1960 Law"). 2. Mr Weston has applied pursuant to Article 6 of the 1960 Law to set aside the registration of the English Judgment and that is the application which is before the Court. 3. A draft of what are now paragraphs 5 - 119 (as well as paragraphs 133 to 137) of this judgment was circulated to the parties on 31 March 2022 for comment in the usual way, with a view to the final judgment being handed down after receipt of any comments. In his response dated 20 April 2022, Mr Weston provided evidence that the position in relation to the Monaco costs (as defined in paragraph 12 below) was not as had been presented to the Court. In those circumstances the Court ordered that further evidence and submissions be submitted, following which it would decide whether any change to the draft judgment was necessary. 4. Having received that further material from the parties, we think that the clearest way to proceed is to leave paragraphs 5 - 119 essentially unchanged (save to reflect the parties' suggestions re typographical errors etc and a few other minor amendments) but to add a postscript dealing with the point which has arisen concerning the Monaco costs. That postscript is to be found at paragraphs 120 - 131. It follows that those earlier parts of the judgment which mention the Monaco costs (namely paragraphs 12, 90-94 and 112-114) should be read subject to what we say in the postscript. Factual background 5. Before turning to the grounds relied upon by Mr Weston, it is necessary to set out briefly the history of the relevant proceedings. 6. Leeds United Football Club Limited ("Leeds"), together with an associated company called Leeds United Association Football Club Limited (which had when in administration assigned all its rights against Admatch to Leeds) was engaged in long running and hotly contested litigation in this jurisdiction against The Phone-In Trading Post Limited (T/A Admatch) ("the Admatch proceedings"). These began as long ago as December 2005 and involved innumerable interlocutory skirmishes. 7. Admatch was a company owned by Mr Weston who represented it as director throughout those proceedings. The dispute related to the sum of £190,400 which Leeds said was due to it on the basis that Admatch had received that sum on

behalf of the associated Leeds company. Admatch acknowledged having received the sum but asserted that it was entitled to set it off against a much greater sum owed to an associate company of Admatch. 8. The Admatch proceedings eventually came to an end in May 2011 when judgment for the sum of £190,400 was given in favour of Leeds against Admatch because of a failure on Admatch's part to comply with certain unless orders. Subsequently, Admatch was dissolved on 1 October 2012. 9. In the meantime, in December 2010, Leeds had commenced separate proceedings in this jurisdiction against Mr Weston and a colleague, Mr Levi, seeking payment of the £190,400 from them personally ("the Jersey Levi and Weston proceedings"). On 28 September 2011, this Court stayed those proceedings on the ground that England was the more appropriate forum. A subsequent appeal to the Court of Appeal by Leeds against that decision was dismissed and Leeds was ordered to pay the costs of the forum hearing both at first instance and on appeal. 10. Leeds duly brought similar proceedings in the English High Court against Mr Weston and Mr Levi ("the English Levi and Weston proceedings") but these came to an end on 27 March 2014, when Leeds failed to comply with an unless order requiring Leeds to provide security for costs. The High Court ordered Leeds to pay the costs of Mr Weston and Mr Levi in connection with the English Levi and Weston proceedings. 11. In November 2010, Mr Weston had also brought proceedings for defamation against Mr Bates and Leeds in the English High Court in relation to certain statements made about Mr Weston by Mr Bates in the Club's newsletter and match day programmes published between August and October 2009 ("the English defamation proceedings"). 12. During the course of those proceedings, Mr Bates objected to the method of service of the proceedings upon him in Monaco. That objection was heard and rejected by Master McCloud on 17 November 2011. That rejection was then appealed to the High Court and heard by Tugendhat J on 7 March 2012, but again Mr Bates was unsuccessful in his objection and his appeal was dismissed. According to Mr Weston, his costs in relation to the resolution of the above issue before Master McCloud and Tugendhat J ("the Monaco costs") are likely to be in the region of £70,000 (subject to taxation). 13. On 21 July 2014, Leeds was ordered by this Court to pay the remainder of the costs of Mr Weston and Mr Levi in connection with the Jersey Levi and Weston proceedings (i.e. so far as not already dealt with in relation to the forum application and the forum appeal). 14. On 14 March 2013 ("the contempt proceedings"), the Court found Mr Weston in contempt by failing to comply with certain orders made in the course of the Admatch proceedings but dismissed other allegations of contempt brought by Leeds. On 4 July 2013, the Court ordered Mr Weston to pay Leeds the costs of the contempt proceedings on an indemnity basis from their commencement until 1 July 2012, but ordered Leeds to pay Mr Weston his costs thereafter on the standard basis. In other words, there were costs orders going in both directions as between Leeds and Mr Weston in relation to the contempt proceedings. 15. Following the obtaining of judgment in the Admatch proceedings in May 2011, Leeds convened Mr Weston to the Admatch proceedings and sought an order that he personally should pay the costs incurred by Leeds in the Admatch proceedings on the grounds that Admatch was a company without assets and the litigation had in reality been carried on for the benefit of Mr Weston or other companies which he owned. 16. On 5 September 2014, the Court ordered that Mr Weston should pay two-thirds of the costs for which Admatch was liable in the Admatch proceedings, subject to certain exceptions which are not relevant for present purposes. 17. Having recalled the history of

the various proceedings as summarised above, at paragraph 65 of the judgment of 5 September 2014, the Commissioner (then the Bailiff) said this: "65. The upshot is that, as a result of my decision in the present proceedings, there are costs orders going in opposite directions. Leeds has to pay the costs of Mr Weston in connection with the Jersey Levi and Weston proceedings (including the forum application and its appeal) and of the English proceedings. In the contempt proceedings referred to at paragraph 17 above ("the Jersey contempt proceedings") Mr Weston was ordered to pay some of the costs to Leeds and Leeds was in turn ordered to pay certain other costs in those proceedings to Mr Weston. Conversely, Mr Weston now has to pay two thirds of the total Admatch costs in relation to the original proceedings before this Court. My provisional view is that it would be wrong for either Leeds or Mr Weston to have to pay a gross sum to the other before the counter-balancing costs have been established. In other words, I consider that one party should pay to the other the net sum owing by way of difference between the awards going in each direction. I emphasise that this is a provisional view and I am willing to hear the parties upon formal delivery of this judgment as to whether it is practical or desirable to make an order in this respect and certainly one must make sure that there is no incentive on the party which believes that it will be the net paying party to delay in taxing any costs." 18. The Act of Court dated 5 September 2014 in the Admatch proceedings stated as follows at paragraph 5, in respect of the Court's observations at paragraph 65 quoted above: "Now this day, upon hearing the advocates for the parties, the Court, for the reasons set out in a judgment delivered by the Bailiff:-

- 1) - 4) 5) ordered that:- (a) no costs order made in these proceedings shall be enforced without leave of this Court, such leave being unlikely to be granted unless the parties have established the net sum owed as a result of netting off the costs payable as between the Plaintiffs and the Party Convened of the following proceedings:- (i) the present proceedings (Leeds v Admatch) in the Royal Court; (ii) the Jersey contempt proceedings; (iii) the Jersey Levi and Weston proceedings (Royal Court and Court of Appeal); (iv) the English Levi and Weston proceedings; (v) the English defamation proceedings between Mr Weston and Leeds, which are still ongoing. Save that if the Court is satisfied that either party has failed to act with due expedition in seeking to arrive at the net sum owed, the Court will have regard to such conduct and may as a result grant such leave if satisfied that it is appropriate to do so; and (b) there shall be liberty to apply in this respect." [Emphasis added] We shall refer to this order as the 'Set-off Order'. 19. As stated above, costs orders have been made in opposite directions. Thus: (i) Mr Weston has to pay Leeds: (a) two-thirds of the Admatch costs (subject to minor exceptions); and (b) the costs of the contempt proceedings up to 30 June 2012. (ii) Leeds has to pay Mr Weston his costs of: (a) the Jersey Levi and Weston proceedings (including the forum application and its appeal); (b) the English Levi and Weston proceedings; and (c) the contempt proceedings after 1 July 2012. 20. At the time the Set-off Order was made on 5 September 2014, the Court was not aware of any costs orders in relation to the English defamation proceedings. However, subsequently on 11 November 2015, sitting in the High Court in London, Sir Michael Tugendhat struck out the English defamation proceedings and ordered Mr Weston to pay the costs of Mr Bates and Leeds in respect of the English defamation proceedings. Sir Michael Tugendhat also issued the

English Judgment ordering Mr Weston to make a payment on account of Mr Bates' costs in those proceedings in the sum of £40,000 by 9 December 2015. Mr Weston was subsequently refused leave to appeal both on the papers and following a short oral hearing on 8 November 2016 before a single judge of the English Court of Appeal. 21. Mr Weston did not pay this sum and accordingly, on 10 March 2017, Mr Bates obtained the registration of the English Judgment as a judgment of this Court as described at paragraph 1 above. The 1960 Law 22. It is not disputed that the High Court of England and Wales is a superior court for the purposes of the 1960 Law and that England and Wales is a jurisdiction which the States of Jersey has recognised under Article 3 as extending reciprocal treatment to judgments of the Royal Court, such that judgments of the English High Court can be registered under the Law. Once registered then, unless registration is set aside, a foreign judgment is for all purposes of enforcement to be treated in the same way as a judgment given by the Royal Court. 23. In order to be capable of registration, a judgment of a foreign superior court must, under Article 3(2), be final and conclusive as between the parties and order a payment of a sum of money, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty. Those conditions are clearly satisfied in respect of the English

Judgment.

24. Article 6 of the 1960 Law sets out when registered judgments may be set aside and reads as follows: "6. Cases in which registered judgments must, or may, be set aside (1) On an application in that behalf duly made by any party against whom a registered judgment may be enforced, the registration of the judgment - (a) shall be set aside if the Royal Court is satisfied - (i) that the judgment is not a judgment to which this Part of this Law applies or was registered in contravention of the foregoing provisions of this Law, (ii) that the courts of the country of the original court had no jurisdiction in the circumstances of the case, (iii) that the judgment debtor, being the defendant in the proceedings in the original court, did not (notwithstanding that process may have been duly served on the judgment debtor in accordance with the law of the country of the original court) receive notice of those proceedings in sufficient time to enable the judgment debtor to defend the proceedings and did not appear, (iv) that the judgment was obtained by fraud, (v) that the enforcement of the judgment would be contrary to public policy in Jersey, or (vi) that the rights under the judgment are not vested in the person by whom the application for registration was made; (b) may be set aside if the Royal Court is satisfied that the matter in dispute in the proceedings in the original court had previously to the date of the judgment in the original court been the subject of a final and conclusive judgment by a court having jurisdiction in the matter." The grounds of the application 25. Mr Weston brings his application on the following grounds ("the Grounds"): (i) Registration and enforcement is against the public interest. (ii) The English Judgment was obtained by deception (which we shall interpret as an allegation that it was obtained by fraud so as to bring it within Article 6(1)(a)(iv)). (iii) The rights under the English Judgment are not vested in Mr Bates, being the person who applied

for its registration. (iv) The registration is contrary to natural justice. (v) The wording of the Act granting registration is not in accordance with the Judgment (Reciprocal Enforcement) (Rules) 1961. (vi) The 1960 Law is archaic and not fit for purpose. (vii) Registration is not in accordance with the Human Rights (Jersey) Law 2000. (viii) If the registration is not set aside, there should be a stay of enforcement until all relevant legal costs have been assessed, taxed and netted off against the respective parties. (ix) Further appeal(s) are possible in respect of the English Judgment. This ground was included in Mr Weston's Statement of Grounds dated 30 November 2020, but was not pursued in his skeleton argument. We shall, however, consider it. Nature of this hearing 26. The intention behind the 1960 Law is that registration of a foreign judgment should be a simple procedure enabling foreign judgments to which the 1960 Law applies to be enforced in Jersey with the minimum of difficulty. It follows that applications to set aside registration on one or more of the grounds set out in Article 6 should normally be dealt with promptly. 27. As can be seen, that has not occurred in this case and a very considerable period has elapsed since the registration. The delay was occasioned initially by interlocutory applications by Mr Weston for security for costs and discovery and appeals in respect of those decisions, but more recently, hearing dates have had to be vacated because of health issues on the part of Mr and Mrs Weston and their failures to comply with procedural directions so as to be ready for a hearing date. Although he was legally represented in the Jersey Levi and Weston proceedings, Mr Weston has declined to instruct an advocate to represent him in these proceedings despite advice on the Commissioner's part that it would be in his best interests. 28. The full history of the delay in these proceedings is set out in a judgment dated 27 July 2021 ("the July judgment") (Bates v Weston

[2021] JRC 341). For the reasons summarised in that judgment, the Commissioner concluded at a hearing on 8 February 2021, that there was little prospect of matters ever being brought to a conclusion if the Court simply ordered another hearing date. He ruled therefore that the matter should be dealt with on the papers and gave directions setting a timetable as to the filing of submissions and documentation to achieve that objective. 29. The July judgment was concerned with an application by Mr Weston for an extension of time to comply with that timetable. The Court made certain further directions and ordered that should Mr Weston fail to comply with the amended timetable for filing submissions, he would be barred from thereafter filing any documents which should have been filed in accordance with the timetable. In fact, further extensions were subsequently given but Mrs Weston filed a detailed skeleton argument (57 pages in its amended form) on behalf of Mr Weston on 30 November 2021. Mr Bates, through his advocates, filed a skeleton (14 pages) on 10 January 2022, and Mrs Weston filed a reply skeleton (13 pages) on 21 February 2022 together with an amended version of the original skeleton helpfully marked up to show the changes. Mr Weston had previously filed, in accordance with the direction of the Court, a 26 page Statement of Grounds on 30 November 2020. The Commissioner then met with the Jurats on 24 February 2022 to discuss the case. This judgment reflects the conclusions which the Court has reached following that discussion and following

consideration of all the affidavits, submissions and other documents placed before the Court. Discussion 30. Mr Weston's key submission, which underlies many of the Grounds, relates to the Set-Off Order. It is appropriate therefore to analyse first exactly what that Order says and, equally importantly, what it does not say. 31. It is important first to recall that the Set-Off Order was made in the course of the Admatch proceedings. The Court could only make orders in relation to those proceedings. It had no jurisdiction or authority to make an order in relation to other proceedings, whether in Jersey or in England. 32. The parties to the Admatch proceedings (for costs purposes) were Leeds and Mr Weston. For this reason, the netting off envisaged in paragraph 5(a) of the Set-Off Order refers only to the netting off of costs orders 'as between [Leeds] and [Mr Weston]' made in the five listed proceedings. Mr Bates was not a party to Admatch proceedings and, not surprisingly, there is no mention of any netting off in respect of any costs orders in favour of or against him. It follows that paragraph 5(a) of the Set-Off Order is not binding upon Mr Bates in his personal capacity. The English Judgment is in favour of Mr Bates and it is Mr Bates who is seeking to register that judgment in this jurisdiction. On the face of it, therefore, the Set-Off Order does not prevent Mr Bates from enforcing a costs judgment in his favour in the English defamation proceedings. 33. Having ordered Mr Weston to pay two-thirds (subject to exceptions) of Leeds' costs in relation to the Admatch proceedings, the Court imposed a limitation on the ability of the parties to those proceedings (i.e. Leeds, Admatch and Mr Weston) to enforce any costs orders made in those proceedings by ordering that no such order could be enforced without the leave of the Court. The Court then gave guidance in the Set-Off Order as to the circumstances which the Court would take into account in deciding whether to grant any such leave, namely whether there had been appropriate netting off of costs made in the other proceedings specified in paragraph 5(a) of the Act and whether there had been delay in taxation. 34. The key point is that paragraph 5(a) of the Set-Off Order only has any effect if either Leeds or Mr Weston (we ignore Admatch for these purposes as it has been dissolved and has no assets) seeks to enforce a costs order made in relation to the Admatch proceedings. Thus, paragraph 5(a) reads: "No costs order made in these proceedings shall be enforced without leave in this Court...." [Emphasis added] 35. Neither Leeds nor Mr Weston has, so far as we are aware, yet sought taxation of their costs incurred in the Admatch proceedings and certainly neither of them has sought leave to enforce any costs order in their respective favour in the Admatch proceedings. 36. Furthermore, there is nothing in paragraph 5(a) which would prevent Leeds or Mr Weston from seeking to tax and enforce any costs order made in proceedings other than the Admatch proceedings. As explained above, that is not surprising, as the Court only had jurisdiction to make orders in relation to the Admatch proceedings. It follows that, even if the English Judgment was in favour of Leeds rather than Mr Bates, enforcement of that judgment would not be contrary to the terms of the Set-Off Order. There would be no breach of the terms of the Set-Off Order, because Leeds would not be seeking to enforce a costs order made in the Admatch proceedings; and it is only enforcement of such an order which is made subject to the requirement for leave, with the expectation that leave would not be granted unless there had been a netting off of costs in relation to the various other

proceedings. It follows that registration of the English Judgment would, on the face of it, not be contrary to paragraph 5(a) of the Set-Off Order even if that judgment was in favour of Leeds. 37. However, Mr Weston submits that, despite the prima facie position described above, registration should be set aside on the Grounds which he lists. Accordingly, we turn to consider each of the Grounds. We should add that Mr Weston's skeleton argument sometimes raises the same point in relation to different Grounds. Where this is the case, we shall consider the point under what we consider the most appropriate Ground but not repeat the point in relation to other Grounds, although we have considered all the points which Mr Weston makes in relation to any individual Ground. Ground 1 - Contrary to public policy 38. Mr Weston submits that registration and enforcement of the English Judgment would be contrary to public policy in Jersey and the registration must therefore be set aside under Article 6(1)(v) of the 1960 Law quoted at paragraph 24 above. Mr Weston entitled this Ground as being against the 'public interest'. That is not a ground specifically referred to in Article 6(1) of the 1960 Law. However, bearing in mind that he is a litigant in person and the nature of his submissions, we treat this Ground as being an argument that registration and enforcement would be contrary to public policy. 39. Mr Weston's principal submission is that it would be contrary to the public interest (or public policy) that a subsequently dated judgment of the English High Court should be permitted to take precedence over a previously dated order of this Court. In other words, it would be contrary to public policy for the English Judgment to take precedence over the Set-Off Order. 40. We agree that, if the English Judgment was in conflict with the Set-Off Order, it might well give rise to an argument that registration would be contrary to public policy. However, for the reasons given at paragraphs 30 - 37 above, we do not consider that the English Judgment is in conflict with, or contrary to, the Set-Off Order. It follows that we reject this submission. 41. Mr Weston also submits that registration would be contrary to public policy because Sir Michael Tugendhat ("the Judge") was not made aware of the Set-Off Order or of its precedence in time. 42. We accept Mr Weston's submission that Mr Bates' English legal team were aware of the Set-Off Order, because they referred to it at paragraph 97 of Mr Bates' skeleton argument in respect of the appeal to the Judge against the refusal of Master McCloud to strike out the defamation proceedings. That skeleton argument also makes clear that the judgment of the Bailiff dated 5 September 2014 (which contains the explanation for the Set-Off Order as quoted at paragraph 17 above) was also in the papers before the Judge. Indeed, it is clear that the Judge was aware of that judgment and of the Set-Off Order because at para 24 of the judgment which he gave when striking out the defamation proceedings, he said this: "24. On 30 July 2015, that is after the Master's judgment in this libel action had been delivered, the Court of Appeal in Jersey delivered their judgment on an appeal by Mr Weston against an order and judgment of the Royal Court both dated 5 September 2014. That judgment dealt with issues as to costs arising out of the litigation between LUAFC and Admatch. Mr Weston was ordered to pay two-thirds of the costs....." 43. However, there is no transcript or evidence as to what was said before the Judge at the hearing on 11 November 2015 when he handed down his judgment striking out the defamation proceedings and then made the costs orders in question. We are

willing to proceed on the assumption in Mr Weston's favour that the Judge was not specifically reminded by Mr Bates' counsel of the existence and terms of the Set-Off Order before making the interim costs order for £40,000 which is the subject of the English Judgment. 44. We do not think that this assists Mr Weston for the following reasons: (i) He was represented by leading counsel at the hearing on 11 November 2015. It was up to Mr Weston's counsel to take the point on Mr Weston's behalf that the existence of the Set-Off Order was relevant to the interim costs order the Judge was being asked to make. Mr Weston has explained that the leading counsel who had represented him throughout the English defamation proceedings was unavailable on 11 November and a substitute counsel, who was not familiar with the history of the matter, appeared at short notice. However, the instructing solicitors, who had represented Mr Weston throughout, should have been in a position to give instructions to counsel at the hearing. (ii) Mr Weston, represented by counsel, sought leave to appeal to the English Court of Appeal against the decision of the Judge both in writing and at an oral hearing before a single judge of the Court of Appeal. There is no evidence before us as to what was said in support of the application for leave to appeal, but it was certainly open to Mr Weston's counsel to alert the judge of the Court of Appeal to the existence of the Set-Off Order in support of any challenge to the orders which the Judge had made. It follows that leave to appeal the decision of the Judge has been refused after an opportunity for Mr Weston to raise the points upon which he now relies. (iii) For the reasons outlined earlier, we do not consider that the English Judgment is in conflict with the Set-Off Order. It follows that, whilst a counsel of perfection might have been for Mr Bates' counsel to remind the judge of the existence of the Set-Off Order when applying for the interim costs order (before asserting that it was not relevant), there was no obligation upon him to do so because the making of an order for payment of interim costs in the English defamation proceedings was not contrary to, or in conflict with, the Set-Off Order. 45. Mr Weston also submits that, on the assumption that it is Leeds that has paid Mr Bates' costs in the English defamation proceedings - as to which, see below - and will therefore ultimately receive the interim payment of £40,000 if registration is not set aside, registration could result in Mr Weston having to pay the sum twice if and when Leeds seeks to enforce any Admatch costs in accordance with the Set-Off Order. 46. We do not follow this submission. As stated earlier, all that the Set-Off Order allows is that Leeds may, if given leave, enforce the costs due to it in respect of the Admatch proceedings. It cannot, in the Admatch proceedings, claim for the costs of the English defamation proceedings. If, as Mr Weston submits, it might be relevant in relation to the netting off process that Leeds had received the £40,000 in respect of the interims costs order, it would be open to Mr Weston to argue that this should be taken into account in the netting off process. We do not see that he would have to pay the sum a second time. 47. For these reasons, we do not consider that enforcement of the English Judgment would be contrary to public policy in Jersey and therefore do not find that registration should be set aside on that Ground. Ground 2 - Judgment obtained by fraud 48. Mr Weston formulated this Ground as being that the English Judgment was obtained by deception. The specified ground in Article 6 of the 1960 Law which provides

for registration to be set aside is that the judgment was obtained by fraud. We propose therefore to treat this as being a contention that the English Judgment was obtained by fraud. That seems to us to be perfectly permissible on the basis that a judgment obtained by deception will no doubt have been obtained by fraud. 49. Mr Weston relies on a number of matters in relation to this Ground. First, he repeats his submission that, as the Judge was not reminded of the existence of the Set-Off Order by counsel for Mr Bates at the time he made the order for interim costs of £40,000, the English Judgment was obtained by fraud because Mr Bates, through his counsel, deceived the Judge by keeping silent about the existence of the Set-Off Order. 50. For the reasons set out at paragraphs 41-44 above, we do not accept that submission. The English Judgment for interim costs does not conflict with the Set-Off Order and therefore there was no fraud in not disclosing the existence of the Set-Off Order to the Judge (if that is what occurred). Even if he had been reminded of the terms and existence of the Set-Off Order, there was nothing to prevent the Judge from making the order which he did for payment of interim costs of £40,000 in favour of Mr Bates. 51. Secondly, Mr Weston submits that the fact that, when seeking registration of the English Judgment, Mr Pepper of Carter-Ruck, who swore the affidavit in support, did not draw the attention of the Assistant Judicial Greffier to the existence of the Set-Off Order meant that the English Judgment was obtained by fraud. The Greffier, Advocate Matthews, certainly felt that the Set-Off Order should have been drawn to the attention of the Assistant Judicial Greffier and wrote to Voisins to that effect (see below). 52. However, for the reasons we have given, we do not accept that a failure to refer to the Set-Off Order amounted to fraud. In any event, the ground in Article 6(1)(a)(iv) of the 1960 Law refers to the 'judgment' being obtained by fraud. The judgment referred to is the foreign judgment which is sought to be registered; in other words the English Judgment in this case. It is the English Judgment which must have been obtained by fraud, rather than the attempt to register that judgment in the Island. Having said that, the Court is master of its process and has an inherent jurisdiction to prevent abuse of its process. If it was satisfied that a registration had been obtained by fraud, we have no doubt that the Court could fashion a remedy to ensure that such fraud was not rewarded. However, for the reasons we have stated, that does not arise on the facts of this case. 53. Thirdly, Mr Weston referred to some thirteen occasions on which, he alleged, Leeds and/or Mr Bates and/or their lawyers had made false statements with a view to misleading the Court. However, apart from the failure to alert the Judge to the existence of the Set-Off Order (dealt with above), all the alleged false statements were made in the course of the Admatch proceedings or other proceedings in Jersey or England. They were not made in connection with the appeal in the English defamation proceedings which gave rise to the English Judgment. Accordingly, even if the thirteen false statements were made - as to which we make no finding as we are not in a position to do so - it would not assist Mr Weston as none of the allegedly false statements led to the obtaining of the English Judgment. It cannot be said therefore that the English Judgment was obtained as a result of fraud consisting of these false statements. 54. Fourthly, Mr Weston alleges that, until a point some time in 2015, Carter-Ruck, English solicitors, acted for both Leeds and Mr Bates in the English

defamation proceedings and Leeds were paying for Mr Bates' fees up to that point. The failure of Mr Bates' lawyers to inform the Judge of this fact at the hearing on 11 November 2015 means that the English Judgment was obtained by deceit or fraud. 55. We deal with this topic in more detail under Ground 3 but, for the reasons which we shall explain, we do not find that a failure to disclose this aspect means that the English order was obtained by fraud because the fact, if it be so, that Leeds was paying for Mr Bates' fees in the English defamation proceedings does not mean that Mr Bates was not entitled to an order for costs. Thus, any failure to disclose this fact did not result in the Judge being misled or making an order that he would not otherwise have made. 56. Finally, Mr Weston alleges that the costs for which Mr Bates was personally liable as at the date of the English Judgment could not possibly have been as much as £40,000 and the failure of Mr Bates' representatives to inform the Judge of this meant that the English Judgment was obtained by fraud. We refer to this submission when considering Ground 3. For the reasons set out at paras 81-83 below, we do not accept it. 57. In summary, we reject Ground 2 for setting aside the registration of the English Judgment. Ground 3 - The rights under the English Judgment are not vested in Mr Bates 58. Article 6(1)(a)(vi) of the 1960 Law provides that registration of a foreign judgment shall be set aside if the Court is satisfied ' that the rights under the judgment are not vested in the person by whom the application for registration was made' . 59. Mr Weston submits that the rights under the English Judgment are in truth vested in Leeds, not Mr Bates. We would summarise the basis on which he makes that submission as follows. 60. Leeds (or its predecessor companies) have undergone several changes of beneficial ownership in the relevant period. For our purposes, we proceed on the basis put forward by Mr Weston that until 20 December 2012, apart from a short period in administration, Leeds (or its predecessors) were ultimately beneficially owned either by a consortium led by Mr Bates or by a company beneficially owned by Mr Bates. On 21 December 2012, Leeds was sold to a company called GFHC of Bahrain and on 8 April 2014 GFHC sold Leeds to Eleonora Sports Limited (owned by Mr Cellino). This ownership continued until January 2017 and further changes have taken place since then. 61. According to Mr Weston, Mr Cellino has informed him that, as part of the agreement at the time of the sale by Mr Bates (or his company) to GHFC, it was agreed that Leeds would continue to fund the then existing litigation (which included the English defamation proceedings) and would allow Mr Bates to have control of that litigation. When Eleanora Sports Limited acquired Leeds in April 2014, it was a term of the purchase agreement at clause 2.6 that the purchaser should procure that Leeds be responsible for all payments due under the agreement whereby GHFC purchased Leeds and should indemnify GHFC in respect of any claims under its purchase agreement; in other words, according to Mr Cellino, Leeds had to carry on funding the relevant litigation. 62. According to Mr Weston, Leeds stopped funding the English defamation proceedings some time in 2015 and it was only thereafter that Carter-Ruck started to look to Mr Bates for payment of fees in respect of their representation of Mr Bates in the defamation proceedings. 63. In short, Mr Weston submits that, in reality, it was Leeds which was incurring the costs both for itself and Mr Bates in connection with the English defamation proceedings and therefore the right to

recover costs from Mr Weston was vested in Leeds, not Mr Bates. 64. We are prepared for present purposes to assume that, until at any rate some time in 2015, Leeds had agreed to be responsible for payment of any costs of Mr Bates in connection with the English defamation proceedings and to indemnify him against those costs. However, we do not think that this enables Mr Weston to establish Ground 3. 65. In his judgment dated 10 January 2018 in these proceedings, *Bates v Weston*

[2018] JRC 006, the Commissioner was considering an appeal from a decision of the Master to order certain discovery. During the course of his judgment, the Commissioner said this at paragraphs 32 - 33: "32. In my judgment, the Master correctly analysed the position in relation to an indemnity as to costs at paras 37 and 38 of his judgment of 15th June. If a person agrees to pay another party's legal costs or to indemnify that party for the legal costs which he incurs with his solicitor that does not alter the legal relationship between the client and the solicitor. The solicitor can look to the client for payment and the client then looks to the indemnifier. The contract is between the client and the solicitor and the legal obligation to pay the solicitor's costs rests with the client. If costs are subsequently recovered from an opposite party and have in fact been paid by the indemnifying party, the client would have to account for any monies received to the indemnifier. But that would be a matter between the client and the indemnifier. 33. Transposing that to the present position, even if Leeds has agreed to pay for or indemnify Mr Bates in respect of the legal costs which he incurred with Carter-Ruck concerning the libel proceedings that does not affect Mr Bates' liability to Carter-Ruck. He is therefore entitled to recover any costs awarded against an opposite party even if, upon receipt, he may have to pass these across to Leeds if in fact Leeds has paid Carter-Ruck." 66. The Commissioner went on at paragraph 35 of the judgment to say that it would in theory be possible for the letter of engagement between Mr Bates and Carter-Ruck to provide that Carter-Ruck would not look to Mr Bates for their fees but only to Leeds, so that Mr Bates would have no legal obligation to pay Carter-Ruck's fees. He therefore ordered that Mr Bates make disclosure of any letter of engagement or other document regarding terms agreed between Carter-Ruck and Mr Bates in relation to the English defamation proceedings. 67. Pursuant to that order, Mr Bates disclosed a letter from Mr Pepper to Mr Bates dated 4 November 2009, in which Mr Pepper acknowledges Mr Bates' initial instructions to act in connection with the letter of claim received from Mr Weston's solicitors setting out the basis of Mr Weston's claim for defamation. Mr Pepper's letter refers to the attached 'Information for Clients' document which set out Carter-Ruck's terms of business. Under a section headed 'Personal Liability for Payment of Invoices and Monies on Account' the 'Information for Clients' stated: "We shall, if you request, address our invoices and/or requests for payment on account to a third party, for example your employer, insurer, union or professional association, for payment on your behalf. Nevertheless, you will remain personally liable for all our fees and disbursements. We shall therefore look to you for payment of all and any sums due, together with any interest accrued thereon (calculated from the date the bill was delivered to the third party) if, for any reason, these are not paid in full by the third

party." 68. Under the section headed ' Orders for Costs' , the following passage appears: "It should always be borne in mind that the unsuccessful party may not be capable of paying what they have been ordered to pay. You will be personally responsible for payment of the firm's costs in full regardless of any order for costs which may be made against another party. Any monies that may be recovered from your opponent, whether as damages or costs, will be applied, in the first instance to meet any part of the firm's costs that remain unpaid at the time of delivery." 69. The ' Information for Clients ' clearly formed part of the terms of engagement between Carter-Ruck and Mr Bates. In our judgment it is quite clear that, as one would expect, Mr Bates is personally liable to pay Carter-Ruck's costs and the fact that they may in practice be paid by a third party (such as Leeds by virtue of an agreement between Mr Bates and Leeds) does not alter this. The position is akin to where a client is insured and the insurer is paying the client's legal fees. The client remains the client and he is liable to pay the fees to the lawyer if the insurer does not do so for any reason, and an order for costs against the opposite party is enforced in the name of and behalf of the client, not the insurer. The contract is between the lawyer and the client. Regardless of the fact that he is insured, the client, in law, is liable to pay the lawyer's fees and, as the litigant, is entitled to enforce any order for costs made in his favour against the opposing party in the litigation. Thus, even if Leeds was paying Mr Bates' fees with Carter-Ruck until sometime in 2015, he was legally liable for those fees in accordance with the terms of engagement described above and entitled to obtain judgment for those fees against the opposing party, Mr Weston. 70. Pursuant to orders for discovery, Mr Bates produced two invoices and certain correspondence which, submits Advocate Hoy, shows that Mr Bates was personally paying fees. Mr Weston, on the other hand, raises certain queries in this connection and we need therefore to summarise the material before us briefly. 71. On 10 April 2015, Mr Pepper of Carter-Ruck wrote to Mr Bates tendering certain advice, which is redacted. In the course of this letter, he gave an estimate as to the costs of appealing against the decision of the Master refusing to strike out the English defamation proceedings and ended by saying: "I confirm that I will keep you informed of developments. In the meantime I enclose this firm's invoice in the sum of £19,365.30 in relation to its charges for recent work, which includes some of the estimated costs of seeking leave to appeal. The fees incurred are in line with our estimates...." The attached fee note was dated 31 March 2015 and was in the sum of £19,365.30. 72. On 17 November 2015, shortly after the handing down of the Judge's judgment allowing the appeal against the Master's decision and striking out the English defamation proceedings, Mr Pepper wrote again to Mr Bates as follows: "I enclose my firm's invoice Q00436X in the total sum of £53,896.20, which is in the sum of the budget agreed by you in relation to counsel's fees and this firm's costs. This is up to and including the hearing of the appeal, which as you know was successful." The attached invoice is dated 31 October 2015 and is in the sum referred to by Mr Pepper. It includes substantial sums by way of disbursements payable to counsel. 73. It would appear that Mr Bates queried this latter invoice, because Mr Pepper wrote again on 26 January 2016 explaining that the invoice was in accordance with estimates which had been given to Mr Bates. The letter also mentioned in passing that the

invoice of 31 March 2015 (referred to above) had only been partly paid and that £9,825.30 was still outstanding. 74. Further reminders were sent to Mr Bates on 26 February 2016 and again on 10 March 2016. 75. On 18 March 2016, Mr Bates emailed Mr Pepper and the relevant part states: "We have discussed the invoices regarding Weston and as I recall, you acknowledged the mistakes regarding [junior counsel]. I think I have mentioned before about his appearance and performance which were appalling and a complete waste of money. To add insult to injury the accounts department charged £17,000 and he was only a junior which I specifically said I did not want to use." We have omitted the name of junior counsel to avoid embarrassment. 76. Mr Pepper replied by email the same day stating: "Thank you for your email below, which has come as quite a shock to me as only the other day you intimated that payment had only been delayed by you being away. All the relevant work and invoices post-date LUFC terminating its instruction of this firm and relate to work following instructions from you and a large percentage of them were expressly approved by you in relation to the successful strike out of Weston's libel action. Indeed I sent you estimates of most of the fees, which you approved. Further, this includes [junior counsel's] fees.... Also I haven't and don't accept that [junior counsel] has made mistakes in relation to the Weston matter. We have got our tactics absolutely correct and the action is now struck out (subject to a leave to appeal application which Weston should lose). In the circumstances I ask you to transfer the sums requested, or at the very least a sizeable proportion of them." 77. On 15 April 2016, Mr Pepper wrote to Mr Bates again stating that he understood that Mr Bates was continuing to query the fee payable to junior counsel and going on to explain why the invoices were justified before again requesting payment or at the very least a sizeable proportion of them. 78. Finally, on 17 June 2016, Mr Pepper wrote to Mr Bates as follows: "It was good to see you Monday. Thank you again for your hospitality and lunch. Thank you also for settling my firm's invoices. I attach receipted invoices for P00798X, Q00436X...for your records." 79. Receipted copies of the two invoices were attached although, for some reason, they had both been re-dated with a tax point and date of 17 June 2016, i.e. the date of the letter. 80. Mr Weston raises a number of points in relation to these invoices: (i) He points out that, in his letter of explanation dated 26 January 2016, Mr Pepper refers to the sum of £1,250 being related to counsel's fees for the 'costs appeal'. Mr Weston argues that this may refer to the Monaco costs or to an appeal by Leeds against an order of Master McCloud awarding costs against Leeds on 9 March 2015, in which case such costs were not payable by Mr Weston. (ii) He complains that the invoices have no proper analysis to them as to what work they covered and therefore it is impossible to check whether they covered matters which Mr Bates was entitled to claim from Mr Weston. He refers specifically to a 'breakdown of costs' document which was disclosed by Mr Bates which covers work dated between December 2015 and April 2016, which was after the Judge's order that Mr Weston pay £40,000. The narrative for this breakdown of costs all seems to relate to time spent in dealing with Mr Bates' queries about the two invoices and it is not clear how they can be related to the two invoices which were rendered prior to that date. (iii) Mr Weston refers to the assertion by Mr Pepper in his email of 18 March 2016 that 'all the relevant work and invoices post-date LUFC

terminating its instruction of this firm.... ' and states that this cannot be correct because the invoice dated 31 March 2015 for £19,365.30 has a stated billing period on it of 1 December 2014 to 30 March 2015. This would relate to a period when, according to Mr Weston, Leeds was still being represented by Carter-Ruck and was picking up all the fees. 81. No doubt these are all matters which Mr Weston could take up in due course if and when there is a taxation of the total costs claimed by Mr Bates from Mr Weston in connection with the English defamation proceedings. However, an application to set aside a registered judgment is not the occasion for re-arguing the merits of the judgment. The material produced by Mr Bates suggests that, at any rate in the period leading up to the hearing of the appeal before the Judge, Mr Bates was responsible for and paying the fees of Carter-Ruck and there is nothing from Mr Weston to contradict this. Furthermore, on their face, these two fee notes exceed the sum of £40,000 and therefore answer Mr Weston's argument (see paragraph 56 above) that the amount for which Mr Bates was personally liable could not have exceeded £40,000. 82. In any event, for reasons we have stated earlier, even if prior to that date, Leeds was paying for Mr Bates' fees, the terms of the letter of engagement make it quite clear that Mr Bates was the client and that Mr Bates was ultimately liable to pay the fees of Carter-Ruck in acting for him in the event that Leeds failed to do so. He is therefore entitled to an order for costs against Mr Weston even in respect of fees prior to sometime in 2015. 83. Mr Weston submits that, if Mr Bates' entitlement to costs had been fully explored by the High Court, and if Mr Bates' counsel had been fully transparent with that court, it may have decided that Mr Bates was prevented from recovering costs from Mr Weston due to the indemnity principle, which states that a party may not recover from an opponent more than that party is liable to pay his or her lawyers. However, for the reasons we have just stated, we are satisfied that Mr Bates was liable to pay the fees to Carter-Ruck even if, prior to some time in 2015, Leeds was in practice settling those fees. Accordingly, there is nothing before us to justify finding a breach of the indemnity principle such that Mr Bates is not entitled to enforce the English Judgment. 84. For all these reasons, we hold that Ground 3 must fail. Ground 4 - Registration contrary to natural justice 85. Ground 4 argues that registration of the English Judgment should be set aside on the basis that such registration and consequent enforcement is contrary to natural justice. This is not a ground which appears in Article 6 of the 1960 Law enabling the Court to set aside registration, but we shall nevertheless address Mr Weston's arguments briefly. 86. First, his overriding submission is that it is contrary to natural justice for him to be ordered to pay £40,000 now, when there has been a multiplicity of litigation with a company of which Mr Bates has been the controlling and directing mind and when the fair outcome, as envisaged in the Set-Off Order, would be for there to be a netting off of the various costs and liabilities before payment is required. 87. The Court has some sympathy for Mr Weston in this respect, but it has been open to him for many years to get on with taxation of the various costs orders so that a net position can be established. Apart from one example referred to below, he has failed to do this. In any event, as discussed above, the netting off specified in the Set-Off Order is as between Leeds and Mr Weston, not Mr Bates and Mr Weston. In the circumstances, we would not

consider it contrary to natural justice for there to be registration and enforcement of a judgment given by the English High Court for an interim payment of costs to Mr Bates when Mr Bates was not a party to the Admatch proceedings, in which the Set-Off Order was made. 88. Secondly, Mr Weston repeats his point about the risk of having to pay twice but, as stated above, we do not accept this argument. 89. Thirdly, Mr Weston repeats the point about the Judge not having been informed about the Set-Off Order or about the fact that Leeds had been paying Mr Bates' legal fees. However, we have already dealt with this argument under Grounds 2 and 3. 90. Fourthly, Mr Weston refers to the Monaco costs. At several hearings during the protracted history of this case, the Commissioner gained the impression from Mr Weston that there was a costs order in his favour against Mr Bates in respect of the Monaco costs and that it was simply a question of taxing that order in order to quantify the amount due by Mr Bates. On several occasions, the Commissioner urged Mr Weston to get on with this, as it might possibly assist Mr Weston in arguing for a stay on enforcement of the English Judgment even if registration was not set aside. 91. It appears that there may not in fact be a costs order in favour of Mr Weston in relation to the Monaco costs even - somewhat surprisingly - in relation to the hearing before Master McCloud on 17 November 2011 and the appeal to Tugendhat J on 7 March 2012 where Mr Weston was successful on both occasions. At paragraph 61 of his skeleton argument, Mr Weston states that the Judge was asked by his (Mr Weston's) counsel to award the Monaco costs during the course of the hearing on 11 November 2015, but the Judge referred the matter back to the Master. If that is right, it follows that Mr Weston needs first to obtain a costs order in respect of the Monaco costs and then needs to get any such costs order taxed. 92. In his skeleton argument, Mr Weston explained the difficulties which he has had in this regard. Until July 2015, he was represented by Ford and Warren, but they merged with Weightmans LLP at that time. That firm no longer has easy access to the records of the litigation and the partner who was in charge of Mr Weston's case has retired. There is apparently only one lawyer left at the firm with any knowledge of the case. Mr Weston states that he is having difficulty in persuading Weightmans to take the matter any further. 93. Mr Weston estimates the Monaco costs as being in the region of £70,000 and argues that it would be contrary to natural justice for Mr Bates to be able to enforce the interim order of £40,000 when he, Mr Weston, is likely to be owed a greater sum by Mr Bates in respect of the Monaco costs, which could be set off against the sum of £40,000. 94. The difficulty with that argument is that the hearings in relation to the Monaco service issue were, according to Mr Weston, as long ago as November 2011 before the Master and March 2012 on appeal before the Judge. Mr Weston has therefore had nearly ten years to obtain an order for the Monaco costs and/or get those costs taxed. In those circumstances we do not find that it would be contrary to natural justice for Mr Bates to be able to enforce at this stage a payment for interim costs pursuant to a judgment given as long ago as November 2015. 95. Fifthly, Mr Weston points out that he has recently obtained a taxation of the costs awarded against Leeds in the Weston and Levi Jersey proceedings (other than the forum hearing and the forum appeal) in the sum of £58,149.31. Leeds has also obtained taxation of two interim orders made in the course of the Admatch proceedings in

the sum of £6,328.86. Thus, there is a net difference in Mr Weston's favour of some £51,820.45 vis-a-vis Leeds. 96. Mr Weston argues that, just as he was made a convened party and ordered to pay two-thirds of the costs of the Admatch proceedings personally on the ground that he was the controlling mind of Admatch and that Admatch conducted the litigation in Mr Weston's interest, the same is true in relation to Leeds. Mr Bates was the driving force behind the conduct of the litigation by Leeds and he should accordingly be treated as a convened party and liable for costs payable by Leeds in the same way as Mr Weston was treated in relation to Admatch. 97. The difficulty with this submission is that Mr Weston was duly convened to the Admatch proceedings and there was then an inter partes hearing as to whether he should be ordered personally to pay costs awarded against Admatch. That is a necessary part of the process before an individual can be made responsible for costs of litigation to which he is not personally a party. No such application was ever made by Mr Weston in respect of Mr Bates. There is therefore no order against Mr Bates personally in respect of any of the Leeds litigation in Jersey and it is simply not open to this Court to treat Mr Bates as if such an order had been made. 98. Finally, Mr Weston argued that there was a typographical error in the reference to the English defamation proceedings in paragraph 5(a)(v) of the Set-Off Order, because there was no mention of the fact that Mr Bates was also a party to those proceedings. We do not accept that there was a typographical error, as the Set-Off Order was only concerned with the position between Mr Weston and Leeds. Furthermore, it would not affect the position even if the name of Mr Bates had been included in the description of the English defamation proceedings. It would not have altered the legal position described above, namely that the Set-Off Order was only concerned with enforcement of costs in the Admatch proceedings and only bound the parties to those proceedings, namely Mr Weston and Leeds. 99. For these reasons, we cannot accede to any of Mr Weston's submissions made under this Ground. Ground 5 - Order for registration not in accordance with the Rules 100. Article 2 of the 1960 Law defines the term 'judgment creditor' and 'judgment debtor' and Article 4(1) provides that it is a judgment creditor who may apply for registration of a foreign judgment. 101. Rule 7 of the Judgment (Reciprocal Enforcement) Rules 1961 ("the Rules") provides that an order giving leave to register a foreign judgment should be drawn up by, or on behalf of, the judgment creditor and two copies thereof should be annexed to the application to register and it further provides that such order should be in the form set out in the schedule to the Rules, with such variations as circumstances may require. 102. The form in the schedule does not, in its suggested text, use the expression 'judgment creditor' or 'judgment debtor' but instead refers to those persons by their name, e.g. A. B. and C. D. In the Act dated 10 March 2017 ordering registration of the English Judgment, the penultimate paragraph dealing with costs says that they should be paid by 'the Defendant' and the final paragraph states 'and the above named Plaintiffs are hereby authorised to cause the movables of the above named Defendant to be distrained on and sold'. 103. Mr Weston submits that use of the expressions 'Plaintiffs' and 'Defendant' is incorrect and not in accordance with the 1960 Law; the references should have been to the judgment creditor and the judgment debtor respectively. He draws support from an email from the

Judicial Greffier, Advocate Matthews to Advocate Hoy dated 3 May 2017 in which the Greffier said: "As it is the final paragraph of the Act of 10 March 2017 authorises the 'Plaintiffs' to cause the movables of the 'Defendant' to be distrained and sold. Whilst the final paragraph ought to have referred to Mr Bates as judgment creditor (in place of Plaintiffs) and Mr Weston as judgment debtor (in place of Defendant) the intent is clear - there is no restriction on the enforcement of the judgment...." 104. The main point of the Greffier's email was in relation to possible enforcement and whether Mr Bates ought to have disclosed the existence of the Set-Off Order, but the Greffier was also justified in stating that the expressions 'Plaintiffs' and 'Defendant' in the Act were incorrect. 105. Mr Weston argues that, in view of the errors in this Act, it should be set aside. We cannot accept that argument. We agree that the references to 'Plaintiffs' and 'Defendant' should have been references to 'Mr Bates' and 'Mr Weston' or to 'the judgment creditor' and 'the judgment debtor' but, as the Greffier said, it is perfectly obvious what is intended and no prejudice has been suffered by any party. A minor drafting error of this nature cannot possibly be a sufficient ground on which to set aside an order which is otherwise appropriate. Grounds 6 and 7 - The 1960 Law not fit for purpose and contrary to the Human Rights (Jersey) Law 2000 106. We take these two Grounds together as Mr Weston essentially makes the same point under both Grounds. He argues that Article 6 of the ECHR confers the right to a fair trial and that the system envisaged under the 1960 Law, whereby registration is obtained ex parte in the absence of the judgment debtor, is not in accordance with Article 6 and is contrary to natural justice. He submits that the 1960 Law should have been amended many years ago to provide for the attendance of the judgment debtor at the hearing of the application to register. 107. In our judgment, there is nothing in this point. The 1960 Law provides that the judgment debtor must be notified of the ex parte registration and given a specified period thereafter in which to apply to set registration aside. No enforcement of the judgment is possible in the meantime and enforcement is also deferred until conclusion of the proceedings once a judgment debtor has made an application to set aside the registration. 108. It follows that whether registration remains and whether the foreign judgment can be enforced will only be decided after an inter partes hearing at which the judgment debtor has full opportunity to make any points which he wishes against registration. In our judgment, that it is an entirely fair procedure and complies with the requirements of Article 6 ECHR. We therefore reject both of these Grounds. Ground 8 - Stay on enforcement 109. Mr Weston submits that, even if the Court is not willing to set aside registration of the English Judgment, it should not permit that judgment to be enforced until: (i) costs have been taxed and netted off in accordance with the Set-Off Order; or (ii) Mr Weston has obtained an order for and taxation of the Monaco costs in the English defamation proceedings. 110. Taking first the submission in relation to the Set-Off Order, we decline to order a stay of execution on this ground. As stated above, the Set-Off Order does not purport to bind Mr Bates who was not a party to the Admatch proceedings in which the Set-Off Order was made. There is, therefore, no proper ground on which to prevent Mr Bates from enforcing the judgment which the English High Court has granted him simply because this Court has

ordered that Leeds should not be permitted to enforce any costs order against Mr Weston in relation to the Admatch proceedings until there has been a netting off of the position as between Leeds and Mr Weston. 111. Quite apart from this overriding and determinative point, Mr Weston has had ample opportunity to tax any of the costs orders in his favour against Leeds but has not done so for reasons which he explains in his submissions, namely that this could provoke Leeds into taxing its costs. Nevertheless, if he had taxed all his costs and Leeds had failed to take any steps to tax its costs, the proviso to the Set-Off Order might well have come into play and this Court might have granted him leave to enforce any costs orders in his favour against Leeds. Be that as it may, this point does not assist because Mr Bates is not bound by the Set-Off Order. 112. As to the point concerning the Monaco costs, if Mr Bates owed a quantified sum to Mr Weston in respect of the Monaco costs, it would be only fair to set off that sum against the interim payment of £40,000 ordered by the English Judgment. However, that is not the case. As outlined earlier, it appears that there is no costs order against Mr Bates in favour of Mr Weston in respect of the Monaco costs and there is certainly no taxation of any such order. Mr Weston has had some ten years to obtain such a costs order and to have any such costs order taxed, so that a definite sum is payable by Mr Bates. 113. The Judge was clearly aware that Mr Bates might become liable to pay some costs to Mr Weston because he remitted back to a Master the question of the costs of a hearing before Master Leslie on 22 December 2010, but this did not dissuade him from making an order for an interim costs payment by Mr Weston of £40,000. In those circumstances, a further six years having elapsed since then without any action on the part of Mr Weston, we do not see the possibility of a future order against Mr Bates in respect of the Monaco costs as being sufficient to prevent enforcement of the English

Judgment.

114. Furthermore, if we were to grant a stay, it is very hard to know when such a stay would be lifted. Mr Weston has explained the difficulty he has faced in progressing this aspect and he would have first to bring the matter back before the Master to obtain the necessary costs order and would then have to proceed to taxation of any such order before a quantified sum was ascertained. Given his history of inaction in this respect, it seems highly unlikely that any such quantified sum could be ascertained in the near future. We have considered whether to grant a short stay of, say, three months but we consider there is no realistic possibility of the matter being resolved within that period and Mr Weston has had more than sufficient time already. 115. For the above reasons, we decline to order a stay of the English Judgment. We consider that Mr Bates is entitled to have that judgment, which was ordered some six years ago, enforced. Ground 9 - Further appeal(s) possible 116. As mentioned at paragraph 25 above, this Ground appeared in Mr Weston's Statement of Grounds dated 30 November 2020 but did not re-appear in his skeleton argument. Nevertheless, we think it right to address the point briefly. 117. In the Statement of Grounds, Mr Weston argued that, because of ongoing ill health, he had not yet been able to apply for

leave to appeal to the Court of Appeal against the Commissioner's judgment of 10 January 2018, which restricted the breadth of disclosure required of Mr Bates as compared with the decision of the Master. In particular, the Commissioner refused to order disclosure of the share purchase agreement whereby Mr Bates (or his company) had sold Leeds to GFHC which, said Mr Weston, might have clarified the position as to whether Leeds was responsible for Mr Bates' fees in connection with the English defamation proceedings. 118. Mr Weston has informed the Commissioner on a number of occasions at interim hearings that he plans to appeal against that decision of the Commissioner, but no such application for leave to appeal has been made. Mr Weston has had over four years in which to do so and any application is now well out of time and highly unlikely to succeed. In the circumstances, we are not willing to set aside registration or to stay enforcement on the off chance that Mr Weston might seek leave to appeal or that any such application might be successful. 119. Secondly, Mr Weston stated in the Statement of Grounds that he was taking advice on whether he had grounds to apply to the European Court of Human Rights in respect of the decision of the Judge to strike out the English defamation proceedings and the decision of the English Court of Appeal to refuse leave to appeal against that decision. But again, Mr Weston has had plenty of time since then and we have not been informed of any application to the European Court of Human Rights. In any event, we do not consider any such application or the possibility of it as being a reason to set aside registration or to stay enforcement of the English

Judgment.

Postscript re the Monaco costs 120. As mentioned at paragraph 3 above, a draft judgment was sent to the parties on 31 March 2022 seeking the usual comments concerning typographical errors, wrong references etc. Having requested and been granted an extension of time for this exercise, Mr Weston replied by email on 20 April. In that email Mr Weston exhibited a copy of a costs order made by Tugendhat J on 7 March 2012 ("the 2012 Order"), of which the Court had not previously been aware and to which it had not been referred by any of the parties in their submissions (although it transpired that a copy of the 2012 Order was exhibited to Mr Weston's sixth affidavit dated 11 March 2020 sworn in support of an application to adjourn the trial date then fixed for 12/13 March 2020. 121. The 2012 Order is the order made by Tugendhat J dismissing Mr Bates' appeal against the decision of Master McCloud on 17 November 2011 rejecting Mr Bates' objection to the method of service of the defamation proceedings on him in Monaco (see paragraph 12 above). It is potentially significant to these proceedings. That is because, hitherto, the submissions before the Court had suggested either that Tugendhat J had not made any order for costs when dismissing Mr Bates' appeal or, if he had, that there had been no taxation of any such costs; see paragraphs 90-94 and 112-113 above. 122. The 2012 Order shows this understanding to be incorrect because Tugendhat J ordered (i) Mr Bates to pay the costs of his appeal to Tugendhat J, which were summarily assessed at £20,000 and (ii) Mr Bates to pay half the costs of the hearing before Master McCloud, such costs to be subject to detailed assessment (taxation in our language) if not agreed and that, in the meantime, Mr Bates should pay £10,000 as

an interim payment. Both of these payments were to be made within fourteen days. In summary therefore, Mr Bates was ordered to pay Mr Weston £30,000 in respect of the Monaco costs within fourteen days. 123. As the Court said at paragraph 112 above, if Mr Bates owed a quantified sum to Mr Weston in respect of the Monaco costs, it would be only fair to set off that sum against the interim payment of £40,000 ordered by the English Judgment. 124. Accordingly, following receipt of Mr Weston's email of 20 April, the Commissioner ordered that the parties file further evidence and submissions in relation to the Monaco costs. In due course, Mr Bates filed an affidavit on 14 June, Mr Weston (after the grant of various extensions of time) filed a seventh affidavit and skeleton argument on 4 October, Mr Bates filed a skeleton argument on 17 October, and Mr Weston filed a reply skeleton argument on 10 November. The Court has since considered this additional material on the papers to see if any amendment to its draft judgment is required. 125. In his affidavit, Mr Bates stated that he no longer had personal recollection of any payment of the Monaco costs but he had obtained various emails from Carter Ruck. These were as follows: (i) On 30 March 2012, Mr McWilliams of Ford & Warren (Mr Weston's solicitors in the defamation proceedings) sent an email to members of Carter Ruck (Mr Bates' solicitors in that litigation), including in particular Mr Yell, pointing out that, pursuant to the order of Tugendhat J dated 7 March 2012, Mr Bates had to pay £30,000 by 11 April 2012 (running the fourteen day period from the date of sealing of the order rather than the making of it on 7 March). The email gave full details of Ford & Warren's client account for these purposes. (ii) On 10 April 2012 at 11.05, Mr Gofur of the accounts department at Carter Ruck emailed various principals of the firm, including Mr Yell, to inform them that £30,000 had been received into the firm's client account from Leeds marked as 'other side's costs'. (iii) On 11 April 2012 at 11.31, Mr Yell sent an email to Mr McWilliams saying 'I can confirm that £30,000 has this morning been transferred to your client account (using the payment details provided in your email below). I would be grateful if you would confirm receipt'. (iv) Later the same day at 19.23, Mr McWilliams emailed Mr Yell to say 'Thank you for your email below and receipt of the sum of £30,000 is acknowledged'. 126. Mr Bates said at paragraph 12(iii) of his affidavit that he understood that Carter Ruck had sought further proof from the bank of the money being received into their account and paid to Ford & Warren but the bank was apparently not able to supply this information as it related to payments made more than seven years ago. 127. On the face of it, even in the absence of bank statements, the above emails would seem to constitute compelling evidence that the sum of £30,000 was paid to Ford & Warren in settlement of the amount due by Mr Bates under the 2012 Order. Thus, Mr McWilliams was pressing for it to be paid on or before 11 April and, after a contemporaneous exchange of emails, he wrote to acknowledge receipt of that sum on that date. 128. However, Mr Weston submits that the Court should not find that this sum has been paid. We would summarise his reasons as follows: (i) He states that he has never personally received the sum of £30,000. We are willing to accept that this is so. However, it is not entirely surprising. Ford & Warren were acting for Mr Weston in the defamation proceedings under a conditional fee agreement ("CFA"). Although the actual CFA has not been made available to us, Mr Bates' affidavit exhibits the standard model from the Law Society for a CFA for use in personal injuries and clinical negligence which, under the heading of 'Expenses and Disbursements' provides 'If on the way to winning or losing you are awarded any costs by agreement or court order, then we are entitled to

payment of those costs, together with a success fee on those charges if you win overall'. Whilst this was a defamation action, it nevertheless seems probable that Ford & Warren were entitled to keep the sum of £30,000 received from Carter Ruck. The fact that Mr Weston has not personally been paid the £30,000 from Ford & Warren does not lead us to find that £30,000 was not paid to Ford & Warren in settlement of the 2012 Order. (ii) Mr Weston submits that Mr Bates' affidavit proves that it was Leeds paying Mr Bates' fees with Carter Ruck rather than Mr Bates himself. We accept that the evidence certainly shows that Leeds paid the sum of £30,000 on behalf of Mr Bates. However, as explained at paragraphs 64-65 above, this does not assist Mr Weston. In relation to the Monaco costs, the evidence is that the sum of £30,000 has been paid pursuant to the 2012 Order albeit that it has been paid by Leeds on Mr Bates' behalf. The fact that it has been paid by Leeds makes no difference. The 2012 Order has been complied with and the sum of £30,000 has been paid toward Mr Weston's costs. There is therefore nothing left for Mr Bates to pay and there is nothing to set off against the £40,000 owed by Mr Weston under the English

Judgment.

(iii) Mr Weston further relies on the principle that those who seek equity from the court must come with clean hands. He asserts that Mr Bates does not come with clean hands for a number of reasons which he develops in his seventh affidavit and skeleton argument. However, even if it is the case that Mr Bates does not have clean hands, this principle does not assist Mr Weston because Mr Bates is not asking the Court to apply any equitable remedy; he is simply applying for the Court to register and enforce a judgment of an English High Court. This does not raise any issue of equity or of equitable remedy and the principle is therefore of no application. (iv) Mr Weston asserts that, for a number of reasons which he develops in some detail, the Court should not accept any evidence from Mr Bates unless it is independently supported. He contends that, in the absence of bank statements, Mr Bates' assertion that the £30,000 has been paid cannot be relied upon. However, the Court is not being asked to accept Mr Bates' assertion that the sum has been paid. The evidence indicating that this is so consists of contemporaneous emails between the solicitors for Mr Weston and those for Mr Bates, coupled with an internal email of Carter Ruck showing that the sum of £30,000 had come from Leeds before being passed on to Ford & Warren. It is that contemporaneous evidence which satisfies us that the sum of £30,000 has been paid, not assertions on the part of Mr Bates. (v) Mr Weston points out that he has on a number of occasions during the course of these proceedings asked Mr Bates to produce any evidence that he has to show that any sums in respect of the Monaco costs had been paid and refers to a document annexed to his seventh affidavit and skeleton argument listing occasions he has asked Mr Bates to provide evidence of any costs he has paid. He states that Mr Bates has resolutely failed and/or refused to do so, yet within a few working hours of the email from the Court on 22 April 2022 pointing out the significance of the 2012 Order, Mr Bates was able to procure from Carter Ruck the emails referred to above. Whilst this is a point which the Commissioner may take into account when considering any issue of costs, it does not in our judgment affect the Court's finding, namely that the sum of £30,000 has been paid, so there is no outstanding liquidated sum due from Mr Bates to Mr Weston. 129. In summary, although it was paid by Leeds rather than Mr

Bates personally, the contemporaneous emails satisfy us that the sum of £30,000 which Mr Bates was ordered to pay to Mr Weston under the 2012 Order in respect of the Monaco costs was paid to Ford & Warren as solicitors for Mr Weston and is therefore no longer due. There is therefore no quantified sum which is owed by Mr Bates to Mr Weston. 130. It remains the case that Mr Weston is entitled to tax the costs of the hearing before Master McCloud as ordered by Tugendhat J in the 2012 Order and to claim from Mr Bates any difference between one half of such taxed costs and the sum of £10,000 paid on account. However, in this respect the position is no different from that described at paragraphs 94 and 112 above. Mr Weston has had some ten years to tax the costs of the hearing before Master McCloud (as well as the hearing before Master Leslie referred to at paragraph 113 above) and the fact that he might do so in the future does not justify setting aside the registration of the English Judgment (which is a sum which is due and payable) or any stay on its enforcement. 131. Accordingly, for the reasons which we have given, we find that the emergence of the existence of the 2012 Order, with its provision that Mr Bates should pay £30,000 to Mr Weston, does not affect the conclusion which we had reached previously in the draft judgment when not aware of the terms of the 2012 Order. 132. We should add that at paragraph 5.8 of his seventh affidavit and skeleton argument dated 4 October 2022, Mr Weston requested the Court to order a hearing for the purposes of the parties being cross-examined on their affidavits. The Court rejected this application for the following reasons: (i) These are proceedings to set aside registration of a foreign judgment. That is meant to be a simple process which should not normally involve oral evidence and cross-examination of witnesses. (ii) These proceedings have already taken far too long. This application comes at a very late stage after a draft judgment has been sent out and at a time when the Court is considering a limited point in respect of the Monaco Costs. There would have to be very good reason for permitting cross-examination at such a late stage. (iii) In the Court's judgment, there is no good reason to do so in this case. It does not consider that cross-examination would materially assist, given the existence of the contemporaneous emails which speak for themselves. (iv) Mr Weston has set out at paragraph 14 of his seventh affidavit and skeleton argument fourteen questions which he wishes to ask of Mr Bates because, he says they remain unanswered. In the Court's judgment, none of these questions would assist on the issue of whether registration of the English Judgment should be set aside and/or whether there should be a stay on enforcement. The questions are more directed towards the issue of costs in relation to these proceedings, which will fall for decision following the issue of this judgment. Accordingly, the Court has determined these proceedings on the material before it.

Conclusion

133. We mention two further matters. 134. First, the Commissioner has allowed Mrs Weston to represent Mr Weston both orally at various hearings and in written

submissions.

The Commissioner considered the matters set out at paragraphs 132 - 145 of *Trigwell v Clapp*

[2017] (2) JLR 131 as to the rare circumstances in which it is appropriate for the Court to permit someone who is not an advocate to represent a litigant, but was satisfied that it was appropriate in the present case. The Commissioner was satisfied that Mr Weston's health issues were such that, whilst he undoubtedly retained full capacity, he was not in a position to conduct litigation before the Court in the way he would wish. Mrs Weston was very familiar with the issues and was well placed to put forward arguments on his behalf. She has done this with great competence. 135. Secondly, during the course of the lengthy written submissions on behalf of Mr Weston for this case (including the additional submissions in relation to the Monaco Costs issue), a number of detailed points were raised. We wish to make clear that we have read all of the written submissions but, in this judgment, we have confined ourselves to dealing specifically with those which seemed the most relevant. However, we have considered the others before coming to our conclusion. 136. For the reasons which we have set out, we dismiss the application to set aside the registration of the English Judgment and, subject to the next paragraph, decline to order any stay on enforcement. 137. Being a final judgment, Mr Weston has a right of appeal to the Court of Appeal against this judgment. Accordingly, if, at the handing down of this judgment, Mr Weston states that he intends to appeal to the Court of Appeal against our decision, we would be willing to consider granting a short stay on enforcement for a fixed period, which would be intended to give time for Mr Weston to lodge any notice on appeal and to go before a single judge of the Court of Appeal in order to seek an extension of the stay pending the outcome of any such appeal. Authorities Judgments (Reciprocal Enforcement) (Jersey) Law 1960. Judgment (Reciprocal Enforcement) (Rules) 1961. Human Rights (Jersey) Law 2000. Bates v Weston

[2021] JRC 341. Bates v Weston

[2018] JRC 006 . Trigwell v Clapp

[2017] (2) JLR 131. Page Last Updated: 01 Mar 2023 Back to top About JLIB Accessibility Contacts Disclaimer Feedback Privacy policy Site map © Jersey Legal Information Board 2001- This website is not compatible with your web browser. You should install a newer browser . If you live in Jersey and need help upgrading call the States of Jersey web team on 440099. BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bailii.org/je/cases/UR/2023/>

CASE PAGE <https://chat.esheria.ai/case-law/jersey/bates-v-weston-2023-jrc-032-17-january-2023>

Prepared on 23 October 2026 · Esheria