

Unknown travellers (1)

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- Description of unknown defendants
- Duration of injunctions against unknown defendants
- Interim and final orders

How should unknown travellers be described?

Vastint Leeds BV v Persons Unknown [2018] EWHC 2456

- Former Tetley brewery in Leeds
- Risks pleaded: (1) caravans; (2) illegal raves; (3) fly-tipping
- Three ways of identifying a D other than by name:
 - Specific D but name unknown → use alias/photo/other descriptor
 - Specific group/class of D → define by ref. to association w/ group/class
 - **D cannot be ID-ed at time of claim → Define by ref. to future act**
- Guidance in Hampshire Waste [2003] EWHC 1738

How should unknown travellers be described?

Vastint (continued)

- Appropriate to grant final quia timet injunction re 2/3 risks
- Order sought:

“Those defendants who are not already in occupation of [the Site] must not enter or remain on the Site without the written consent of [Vastint]”

- HC held → not *“workable, satisfactory, or appropriate”*
- **Practice point:** order must *“be tailored to the threat that is feared and should not be wider than is strictly necessary to deal with this threat”*

How should unknown travellers be described?

Cameron v Liverpool Victoria Insurance Co Ltd [2019] UKSC 6

- The case of the unidentified Nissan Micra driver
- Lord Sumption's two categories:
 1. Anonymous Ds who are ID-able but names are unknown (e.g. squatters)
 2. Anonymous Ds who cannot be ID-ed (e.g. most hit-and-run drivers)
- 2nd category → service impossible → cannot be sued (unless service properly dispensed with)
- What does this mean for quia timet injunctions?

How should unknown travellers be described?

Boyd v Ineos Upstream Ltd [2019] EWCA Civ 515

- Ds included 5 groups of “Persons unknown”
- 4 potentially unlawful activities: (1) trespass; (2) private nuisance; (3) public nuisance; and (4) conspiracy to injure by unlawful means
- Lord Sumption’s 2 categories in Cameron not exclusive → was not considering persons not ID-able when claim form is issued
- **BUT:** “court should be inherently cautious”
- Longmore LJ’s “tentative” requirements; 2nd = *“it is impossible to name the persons who are likely to commit the tort unless restrained”*

How should unknown travellers be described?

Kingston-Upon-Thames v Persons Unknown [2019] EWHC 1903

- Return hearing of an interim injunction relating to 153 sites
- **Practice point:** C “sensibly” divided Ds into 2 categories:
 1. Persons Unknown Occupying Land
 2. Persons Unknown Depositing Waste and Fly-Tipping on Land
- Cf: Bromley [2020] EWCA Civ 12 at [50]
- Court applied Ineos principles → injunction continued

How should unknown travellers be described?

Canada Goose v Persons Unknown [2020] EWHC 2459

- Can have interim injunction against “Newcomers”
- PUs must be defined in claim by ref. to alleged unlawful conduct
- “...protesters against the manufacture and sale of clothing made of or containing animal products and against the sale of such clothing at Canada Goose, 244 Regent Street, London W1B 3BR” = **too wide**
- Final order only binding on:
 - parties at the date of the final order; and
 - who are w/in Lord Sumption’s 1st category; and
 - have been served prior to that date

Time limit for injunctions against unknown travellers

- QT injunctions must have “clear geographical and temporal limits”
- Particularly important for interim injunctions
- Ineos: no temporal limit = unsatisfactory → remitted to 1st instance judge
- Canada Goose
 - continue in force unless varied or discharged by further order of the court
= defective
 - unless CG made an app. for a CMC or for SJ by specified date, claim dismissed and injunct. discharged w/o further order **= time limited**
- Practice point: consider time clauses carefully in drafting application

Time limit for injunctions against unknown travellers

- What about final orders?
- Wolverhampton [2018] EWHC 3777: 3 years w/ review after 1 year = **ok**
- Kingston: 3 years “regularly endorsed in this court as a proportionate period”
- Bromley = don’t push your luck:
 - *“I consider that it is-without more-potentially fatal to any application for a local authority to seek a combination of a boroughwide injunction and a duration of a period as long as five years.”*
- Judge not required to consider shorter period where not suggested by C

Are final orders much less useful than interim ones?

- Canada Goose at [92]: final order = more limited in scope than interim
- Well drafted and served interim order should → ID-able wrongdoers
- Word of warning at [93]:

*“...Canada Goose's problem is that it seeks to invoke the civil jurisdiction of the courts as a means of permanently controlling ongoing public demonstrations by a continually fluctuating body of protesters. It wishes to use remedies in private litigation in effect to prevent what it sees as public disorder. Private law remedies are not well suited to such a task. ...**The civil justice process is a far blunter instrument intended to resolve disputes between parties to litigation, who have had a fair opportunity to participate in it.**”*

Q&A

We will now answer as many questions as possible.

Please feel free to continue sending any questions you may have via the chat section which can be found along the top or bottom of your screen.

Thank you for listening

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