IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Neutral Citation Number: [2024] EWHC 3203 (KB)

KB-2024-002470
ROYAL COURTS OF JUSTICE

3 DECEMBER 2024

Before

HH JUDGE SHANKS
(sitting as a Deputy High Court Judge)

BETWEEN:

CHANEL LIMITED

Claimant

-v-

MISS CHARLOTTE SKEENS

Defendant

NIRAN DE SILVA KC (Instructed by **Mishcon de Reya LLP**) appeared on behalf of the Claimant

The Defendant appeared in person

JUDGMENT

Digital Transcription by Epiq Europe Ltd,
Lower Ground 46 Chancery Lane WC2A 1JE
Tel No: 020 7404 1400
Web: www.epiqglobal.com/en-gb/ Email: civil@epiqglobal.co.uk
(Official Shorthand Writers to the Court)

1. **JUDGE SHANKS:** This is the trial of a claim by Chanel Limited for an injunction to prevent breach by the defendant, Ms Skeens, of an agreement dated 29 March 2022. Ms Skeens was employed by Chanel from 2 January 2019 to 11 April 2022 in Chanel's Global Reward Team as a relatively junior employee.

2. On 29 March 2022, the parties entered into a settlement agreement under which she left Chanel's employment and which included at clause 5 an obligation not to disclose information about the agreement or confidential information (as defined) about Chanel and at clause 6, not to make "derogatory, damaging or critical statements" about Chanel. Having learned that Ms Skeens intended to publish certain information, on 8 August 2024, at a hearing attended remotely by Ms Skeens, Chanel obtained an interim injunction enforcing those clauses until the next hearing on 22 August 2024.

3. On that date, Ms Skeens did not attend the hearing. Although she had indicated that she had childcare issues Mould J refused her application for an adjournment and proceeded with the hearing. He granted injunctions until trial, ordered an expedited trial and he gave directions requiring: service of a defence by 26 September 2024; for endeavours to be made by the parties to reach agreement on a protocol dealing with how to approach confidential information during the trial by 17 October 2024; standard disclosure by 24 October 2024; bundles for trial by 14 November 2024; and exchange of witness statements by 21 November 2024. The trial was given a four-day estimate to be listed on the first available date on or after 2 December 2024.

4. In due course, this trial was fixed to begin on that date. I am told that despite Chanel's solicitor's efforts, Ms Skeens did not supply her own dates of availability but in any event, she has known of the trial date since, at the very latest, Mishcon de Reya emailed her on 28 August 2024.

5. A defence was served by Ms Skeens on 27 September 2024, a day late. It raises a number of issues, including alleging that the settlement agreement was procured by undue influence and that the clauses are not enforceable for various reasons including her rights under Article 8 of the European Convention of Human Rights.

6. On 9 September 2024, TV Edwards, a firm of solicitors, came on the record for Ms Skeens (that is before the defence was served) and they remained on the record until 23 October 2024. On 13 November 2024 Olufemi Awodele, a barrister at Great James St Chambers, came on the record formally when Ms Skeens sent a notice of change of representation to Mishcon de Reya and the court (the document is in my bundle at C129.

7. Nothing was done about the protocol for trial, although Mishcon de Reya approached Ms Skeens. I am told that standard disclosure did not take place on 24 October 2024, though it has happened subsequently. During the run-up to the trial, it is apparent from the correspondence that Mr Awodele has really paid no substantial part in trial preparation, at least vis-a-vis the claimants, and that he has only engaged with Mishcon de Reya or Mr de Silva in relation to settlement negotiations.

8. Meanwhile, the defendant herself has apparently been preparing documents for trial. She drafted and served her witness statement; she engaged with Mishcon de Reya in relation to bundles and disclosure; and it is clear that over the weekend she has been giving a lot of attention to the case herself, including drafting an application to adjourn and to rely on psychiatric evidence.

9. On the first day of trial yesterday, Monday 2 December 2024, Mr de Silva KC and Mishcon de Reya appeared in court for Chanel Limited ready to start the trial, subject to some limited housekeeping, in particular an application relating to the confidentiality of the trial and for disclosure against the defendant. The defendant appeared in person. She applied for an adjournment of the trial for at least 14 days, as she put it, to allow her to secure new legal representation and to prepare adequately for trial. She referred me to a document which she had prepared herself dated Sunday 1 December 2024, which was attached to a formal application notice. The application was really based on three main points: first, lack of time for preparation generally; second, her lack of legal representation; and, third, her desire to instruct a psychiatrist to report on her state of mind at the time she had signed the settlement agreement. She put the legal representation issue in paragraph 2 of the application document in this way:

Furthermore, my legal representative has informed me that they were unable to review all the material in the available time. They will no longer represent me. I am in the process of securing new legal representation, which further complicates my ability to adequately prepare for the trial.

10. Having heard the parties yesterday morning, I adjourned the matter to 14.00 for the defendant to make further enquiries about securing legal representation and to enable contact to be made through Mr de Silva with Mr Awodele who Ms Skeens was effectively saying had abandoned the case. On resuming at 14.00, Mr de Silva told me that he had spoken to Mr Awodele who said that he was in Lagos, Nigeria and that he had denied ever undertaking to appear for Ms Skeens at the trial. Ms Skeens asked for time to put evidence to the contrary before the court. She also informed me that she would have to leave soon in any event because of childcare issues, she having a 15-month-old son. In the face of that, I adjourned to this morning. I made it clear that Ms Skeens should take the opportunity to put any relevant material about Mr Awodele's commitment before the court and to give any further information she could about the possibility of other representation. I also directed that Mr Awodele attend court this morning by CVP and that was in due course organised.

11. Early this morning, I was provided with some rather limited email exchanges between Ms Skeens and Mr Awodele between the dates of 4 October 2024 and 27 November 2024. They clearly did not cover all their exchanges of which many would no doubt have been privileged. Having hesitated over the ones she had provided, she made clear that she waived privilege in relation to those documents alone and they were looked at by Mr de Silva.

12. At 10.30 I heard from Mr Awodele from Lagos when he appeared robed by CVP. He told me that his instructions from the defendant did not include conducting the trial. He said that any retainer had ended on Sunday night and he said that he thought he had emailed the claimant's lawyers to that effect. He said there was a client care letter from his chambers that did not include appearing at trial and he thought Ms Skeens would confirm that. He said he was partially paid for work he had done. He said he had indeed drafted the document showing change of representation and had told Ms Skeens to send it in to the court. He said that, on Sunday night, whatever negotiations he had

been involved in had finished and that he thought he sent an email on a Sunday evening to Mishcon de Reya to say that he would not be in court to represent the defendant on the Monday. He said that Ms Skeens and his chambers knew that his role was limited to negotiation but that no one else, in particular the court and the respondents, knew that to be the case. He accepted, at least implicitly, that the dates of the trial were in his chambers' diary, but he said it is customary for clerks to put the dates of cases in which a barrister is involved in the diary. He then said that he would not have shown up here anyway because he had not been paid to do so. He confirmed that he had gone to Nigeria a week and a half ago and said that he would be back before Christmas and that he had gone to attend no less than two funerals.

13. In response Ms Skeens reiterated that her understanding was that he was to be her barrister to trial. She said she had first got involved with him in early October, while TV Edwards were in fact still on the record. This was on a direct access basis. He had approved her defence, albeit after service: that is reflected in the documents that she supplied this morning. There had been discussion with him about applications, about tactics of trial, about a skeleton argument (that is also confirmed by an exchange, although it goes back long before trial to 4 October 2024). She said that she paid stage payments and that there were letters of engagement at each stage. She said he came on the record formally on 13 November 2024, because he told her that he would need to be on the record in order to represent her at trial.

14. She said she had lost confidence in him as last week had passed. In particular, he had advised her to seek an adjournment, which she did, on the basis of wording he provided that he "had informed [her] that he had other commitments that he was working on and it was not feasible for [her] to go through the contents of the bundles with the appropriate level of scrutiny in the time frame". That was on 26 November 2024 as shown in the application at page A110 in the bundle. She said that she received an email on Friday from the chambers saying she had to pay more money to secure his services for trial on the Monday. She had decided not to pay any further money because of the way things had been going with Mr Owadele's lack of engagement, although at that stage she had not known that he was in fact in Lagos, as we now all know. She said that she was not told in advance that she would have to pay money up

front on the Friday as a condition of being represented on the Monday. She summed the position up in these words:

> **On the Friday, I was told that if there was no money by 4:00 pm, he could not represent me. Meanwhile, I was not happy with him. He'd already asked for an adjournment and was not getting back to me. He said he could not be prepared. When we set off on the journey, the dates were in his diary. He was talking about trial and the course of our exchanges. I did not know he was in Lagos. He was preoccupied and unable to review the bundle. He said of course we could get an adjournment based on the existence of the bundle.**

15. She told me she had funding from a friend who was willing to pay for alternative representation. She said that he was in a close relationship with her and has deep pockets. She had initially wanted to do things independently which is why she got involved with the direct access representation, but she now sees that that is not going to be possible. There was some evidence of her contacting solicitors over the weekend and on Monday.

16. She would not disclose any client care letter, notwithstanding that Mr Awodele was quite insistent that it would show that he was never intended to represent her at trial, and she would not disclose the Friday email, which she said indicated he would not be there unless there was a payment of money. She told me the reason for this was that she had been advised in very strong terms not to waive privilege in these documents.

17. Mr de Silva accepts that Mr Awodele, in his dealings with him, never indicated that he was not going to be representing the defendant at trial, although Mr de Silva said, and I accept, that reading between the lines he suspected as much. But he relied on Mr Awodele's clear assertion made over the CVP to me that he had never agreed to represent the defendant at trial. He pointed to problems and inconsistencies with the defendant's account to the contrary. In particular he relied on her direct statement to me yesterday that she had paid for representation at the trial in full in advance which was inconsistent with what she told me today. Although that undoubtedly goes to her general reliability, I do not think that she was deliberately lying to me yesterday. She gave the full account today, she said that she understood that she had paid to be represented at the trial, and I accept that she may not have fully grasped the import of

my question. However, there are many things she says, I am afraid, that cannot be entirely relied on, and that is one example.

18. Looking at that whole picture, I am afraid both her account and that of Mr Awodele are pretty unsatisfactory and I certainly do not feel able, today, to choose between them. I am therefore left in the position that Ms Skeens may have been left without representation in circumstances which were not her fault, in that it may have been her understanding that she would be represented all the way to trial, and that it became clear to her over the course of last week that that was not, in fact, the position. And, as it has turned out, it could never have been the position, because it does not seem that Mr Awodele had any intention of being here, and in fact he was in Nigeria and has been there for a week and a half.

19. Turning to the other points which are relied on in the written application, I consider first general time for preparation. The timetable, which was laid down by Mould J was reasonable and in fact, because Ms Skeens did a lot of work herself last week in particular, it has been broadly complied with. The amount of material overall in the case is not enormous; it is comparable with what is frequently encountered in employment tribunal claims where employees very often have to represent themselves. There are some outstanding disclosure issues and possible issues about the bundles, but they could easily have been accommodated over a four or five day trial.

20. So far as the psychiatric evidence was concerned, this was raised for the first time on 1 December 2024. Ms Skeens was indicating that she wished to instruct a psychiatrist who could testify that she was not of "sound mind" when signing the settlement agreement. She suggested that the lateness was because she had only just seen a certain email she wrote (at page B75.2), which on its face certainly seems unhelpful in relation to any case of undue influence. She says that she was on sick leave at the time of the settlement, and that one of the reasons was anxiety and that the claimant should not have entered into a settlement agreement at all in those circumstances. That may be a point which can be run in due course, but the concept that she may not have been of sound mind and that she should now be allowed an adjournment in order to obtain psychiatric evidence to run such a case seems to me hopeless.

21. She also said she wished to call her ex-boyfriend, with whom she had recently made contact with, to confirm her state of mind and various exchanges she had had with the claimants at the relevant time around the time of the settlement agreement. If and when a witness statement is provided from the boyfriend, it may be that evidence from him can be received, notwithstanding the failure to comply with directions about service witness statements, but it certainly would not have formed any ground for adjourning the trial.

22. I therefore reject any suggestion that the case was not trial-ready or that there was inadequate trial preparation time or that there should be an adjournment to enable Ms Skeens to obtain psychiatric evidence.

23. However, as I have said, I do not feel able at this stage to make any finding as to whether Ms Skeens knew that she was not going to be represented by Mr Awodele at trial. I am therefore left in the position of having a defendant facing a serious trial, potentially affecting her freedom of expression, without representation in circumstances which may not be her fault, and where she faces a large corporation assisted by eminent solicitors and leading counsel. That will inevitably put her at a severe disadvantage.

24. So far as the court is concerned, while I would not be over-concerned about Ms Skeens representing herself in giving evidence and cross-examining in relation to the factual issues, I would much prefer to have the assistance of counsel in relation to issues of enforceability and those arising under the European Convention of Human Rights, and I do not consider that she will be properly qualified to assist the court in relation to such issues, which may well be the points on which the case ultimately turns.

25. On the other side of the equation, there is clearly a strong public interest in upholding the date which the court has provided, not throwing away court time this week, not eating into court time later next year, and in having a speedy conclusion to the issues which have arisen between the parties. Further, any delay will plainly cause some prejudice to Chanel. However, so far as a speedy conclusion is concerned, I understand that a new five-day listing could be obtained after 27 January 2025, so

about two months hence, including the Christmas break, which is not an enormous delay.

26. So far as prejudice to Chanel is concerned, they will undoubtedly be protected in the meantime, to the extent that the order of Mould J is continued, and I doubt it will be varied in any substantial way. There will be some financial costs and Mr de Silva properly mentioned that before I started delivering this judgment. Those costs may be well be recoverable from Ms Skeens and/or possibly Mr Awodele, and it is fair to say, I think, that Chanel have reasonably deep pockets. The fact that a witness has flown over from the US is obviously part of the financial cost, but in the context of this business, is a relatively minor issue.

27. The claimants say that there is a danger that we will just be in the same position again at any resumed hearing next year. Ms Skeens, as I have mentioned, has told the court in very clear terms that she now has access to a wealthy backer who is prepared to support her in paying for proper legal representation at a trial. I am fully aware of Chanel's scepticism about statements that the defendant has made, and I share it to some extent, but she now clearly knows the score. She will not be able to suggest again that she has been misled about what is required, and she will be held to her word and will certainly not be able to rely on a lack of representation again.

28. Balancing all those factors and taking account of the overriding objective, I have come to the view narrowly and with a heavy heart that I should adjourn this trial until the first convenient date after 27 January 2025 (when I say "convenient", I mean convenient in particular to Mr de Silva).

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

Lower Ground, 18-22 Furnival Street, London EC4A 1JS
Tel No: 020 7404 1400
Email: civil@epiqglobal.co.uk