



Legal update — April 2019

Commercial litigation

World Proteins KFT v Persons Unknown [2019] 4 WLUK 35

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Salient Issue(s) – Unknown persons; Email fraud; and Freezing injunctions

Summary

In the World Protein Case, following on from the case of CMOC v Persons Unknown decided in 2017, the High Court has taken the opportunity to reaffirm that interim freezing injunctions are able to be granted against persons unknown.

World Proteins KFT (WP) received legitimate invoices from a longstanding supplier, totalling €2m. Correspondence was exchanged between those parties in respect of the outstanding payments however subsequent emails received by WP were from unknown fraudulent individuals. The invoices were mistakenly paid by WP to these unknown persons before the crime was identified. €1.5m was quickly recalled soon after discovery, however, €500,000 remained in the possession of the fraudulent parties. An interim freezing injunction against persons unknown was obtained to restrain the funds. Once the associated UK bank account had been identified, only €350,000 remained in the UK whilst €150,000 had been transferred to three bank accounts in Dubai.

The court granted such interim freezing injunction on 2 April 2019 due to the existence of a good arguable case. The court concluded this by the:

1. obvious existence of fraud;
2. availability of multiple causes of action for the Claimant; and
3. real risk of dissipation of the assets if the injunction was not granted (which was increased by the lack of response by the Defendants to the proceedings).

The fraudulent parties were eventually identified and added to the proceedings.

Commentary

The significance of this case is that there is now a real precedent emerging which will assist the recovery of money or assets for victims of cyber crime and fraud. The court has helpfully recognised that innovation and flexibility is needed to ultimately resolve these types of claims (and assist in the recovery of misappropriated funds). Now that there have been two High Court cases dealing with this precise issue, we expect that it will begin to become the standard practice.

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