

IN THE HIGH COURT OF JUSTICE

BUSINESS & PROPERTY COURT – COMPANY & INSOLVENCY LIST

Case No: CR-2016-006029

Court 13

7 Rolls Buildings
Fetter Lane
London
EC4A 1NL

Thursday, 16th January 2025

Before:
HIS HONOUR JUDGE HODGE KC
(Sitting as High Court Judge)

CATERHAM CAPITAL LIMITED

-v-

CARSTEN BIRKEBAEK
REBECCA LODGE

MR D WILLIAMS appeared on behalf of the APPLICANT
THE RESPONDENTS appeared IN PERSON

WHOLE HEARING

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A **Court sits.**

JUDGE HODGE: Thank you, please sit down. Through the usher, I have received a request from Mr Daniel Cloake, whom I think I have encountered before. He says that he is a non-party. He would like “access to the parties’ witness statements and skeleton arguments, could I invite the Court to make directions, so I could make such an application. Knights have received a two-page application with references to authorities”. Mr Cloake, is there anything you want to say?

B MR CLOAKE: My Lord, yes. We have... I believe you have approved such a request before, although not as wide as I had [inaudible].

C JUDGE HODGE: Well, as far as I am concerned, this is a public hearing and the witness statements have been or are shortly to be verified, so I have no objection. Do any of the parties have any objection?

MR BIRKEBAEK: Could you repeat who this gentleman is and what he represents?

JUDGE HODGE: Well, as I understand it, you are just a member of the public, are you not?

D MR CLOAKE: Yes, My Lord. I believe you called me an unaccredited media representative in a previous judgment.

JUDGE HODGE: Right. You are an unaccredited media representative.

MR BIRKEBAEK: I definitely have objection to the media getting access to my statements. Not because I have anything to hide, but my reputation was tarnished through social media in the very early part of these proceedings back in... A long time ago, and I do not want to put myself in that position again because that was nasty, and it was harmed me personally to my business.

E MS LODGE: To what... If I may, to what end would the media be interested in our witness statements? I just... It is just completely something out of the blue that I have no idea about, but I appreciate that that is not probably a legal objection, but I am just slightly surprised.

F JUDGE HODGE: Yes. Did you want to expand upon your reasons for seeking access to them, Mr Cloake?

G MR CLOAKE: My Lord, yes. First, I wish to have an understanding of the application before the Court and the reasons adduced by the parties; and secondly, I may wish to report on the matter myself and in order to produce a fair and accurate report, I respectfully submit that I do need access to the underlying written documents, as it’s simply impossible to understand the details of the case just by hearing brief cross-examination points from the witness box and it would hopefully assist.

MS LODGE: Report on it?

H JUDGE HODGE: Yes. Is there anything further you want to say?

MS LODGE: Yes. To report on it where and to what end, if I may ask?

A MR CLOAKE: Yes. Well, His Lordship has said, this is a public hearing, so in the absence of any reporting restrictions, then provided it is a fair and accurate report in order to fulfil the defence of the Defamation Act, I would be able to report on it in however means I wish, without any reporting restrictions.

B MS LODGE: Right. And who would decide that it was fair and accurate? Would there be anybody actually [inaudible] that it was fair and accurate?

MR CLOAKE: Well, it is always the publisher's responsibility to ensure that their reports are fair and accurate.

MS LODGE: Right.

C MR CLOAKE: If you were to object with what I said, then your remedy would be to –

MS LODGE: To come to court again and spend more money. Brilliant.

MR BIRKEBAEK: Your Honour, I also object to this on the basis of data protection.

MS LODGE: But it's a public hearing.

D MR BIRKEBAEK: I do not want things to be in the public eye and having to go to court to defend myself for the next 10 years. So, I respectfully ask you to not give the gentleman the access that he's asking for, please.

JUDGE HODGE: Yes. Mr Williams, do you have any observations?

E MR WILLIAMS: My Lord, the applicants neither object nor acquiesce to it. I confess that this is down to my inexperience. I have never encountered this situation before. I am content to leave it in the Court's hands, My Lord.

JUDGE HODGE: Yes.

Judgment transcribed separately.

F JUDGE HODGE: Mr Cloake, is that sufficient guidance for you?

MR CLOAKE: Yes, My Lord. Thank you.

JUDGE HODGE: Yes.

End of hearing of Mr Cloake's application.

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