



JUDICIARY OF
ENGLAND AND WALES

25 September 2019

SUMMARY

(1) Canada Goose UK Retail Limited

(2) James Hayton

-v-

(1) Persons unknown who are protestors 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

(2) People for the Ethical Treatment of Animals (PETA) Foundation

[\[2019\] EWHC 2459 \(QB\)](#)

Mr Justice Nicklin

[references in square brackets are to paragraphs in the judgment of the Court]

1. Canada Goose is an international retail clothing company. The First Claimant is its UK trading arm. On 9 November 2017, it opened a store in London at 244 Regent Street ("the Store"). The Second Claimant is the manager of the Store. Within the range of items sold by Canada Goose are products – particularly coats – manufactured using animal products including fur and/or down. This has made it a target of protests by those who are opposed to the sale of fur and animal products. From its opening, the Store became a focus of protests outside (and occasionally, inside) the premises. On 29 November 2017, the Court granted an injunction against “persons unknown” who were defined as people protesting against the manufacture and sale of clothing made of or containing animal products at the Store. Limited modifications were made to the terms of the injunction following a hearing on 15 December 2017. At that hearing, the Second Defendant was added as a party – at its request. Since it was granted, the interim injunction has been served on over 300 people who have taken part in the protest. None has been made a party to the proceedings or has sought to be joined to the proceedings: [2]-[4]
2. On 29 January 2019, the Claimants applied for summary judgment against the Defendants and sought to make the interim injunction it had obtained against the Defendants a final order [127]-[129].
3. In a judgment handed down on Friday 20 September 2019, the Court has refused the Claimants’ application for summary judgment and has also ordered that the interim injunction be discharged. The discharge of the injunction has been stayed pending an appeal by the Claimants’ to the Court of Appeal – see further paragraph 8 below.
4. The Court found that the "right to protest" is one of the deeply embedded rights of the common law. Under the European Convention of Human Rights, the right to protest is

protected by the rights of freedom of expression and freedom of assembly. These are rights possessed by each citizen, whether exercised alone or with others. Labels are often applied, such as ‘fracking protestors’, but care must be taken not to assume that all in the identified group share the same objectives or use the same methods of protesting [90].

5. The judgment considers the impact on the grant of civil injunctions against protestors of the decisions of the Supreme Court in ***Cameron -v- Liverpool Victoria Insurance Co Ltd* [2019] 1 WLR 1471**, and the Court of Appeal in ***Boyd -v- Ineos Upstream Limited* [2019] 4 WLR 100**.
6. The Court has found that the Claimants have not validly served the Claim Form on any Defendant [138]. Further, if the Court had granted summary judgment against the whole class of "persons unknown" it would impose restrictions, indiscriminately, those who had committed (or threatened to commit) a civil wrong and those who had not with no way of distinguishing between them [146]. Further, the terms of the injunction sought against the Defendants by limiting the number of demonstrators that could “*the restrictions placed on demonstrations in the injunction are neither necessary nor proportionate*” [149]. There was no evidence that the Second Defendant, PETA, had committed any civil wrong [164]. The Court held that the case “*perhaps demonstrate[s] the difficulties and limits of trying to fashion civil injunctions into quasi-public order restrictions*” [100].
7. Rejecting the application for summary judgment, Mr Justice Nicklin held:

[162] I reject [Canada Goose’s] suggestion that by refusing summary judgment the Court would be failing in its duty. On the contrary, I am quite satisfied that summary judgment must be refused. The Claimants are not left without remedy. The Court is simply insisting that the Claimants should bring forward claims against identifiable individuals that are, so far as practicable, capable of being resolved in accordance with the Court’s established procedures for deciding civil claims. The evidence in this case demonstrates that this is neither unachievable nor unreasonable. 37 people have been identified by name, more still can be identified by description from the video or other evidence. Ultimately, when this is done, the Court could adjudicate whether these people have committed any civil wrong (or might do if not restrained) and, if so, what remedy should be granted against them. The Court’s resources and its orders are thereby targeted only at those against whom there is evidence of actual or threatened wrongdoing. Perhaps most importantly, it avoids the imposition, by injunction, of restrictions on the Convention rights of people, against whom there is no evidence of actual or likely wrongdoing; restrictions that are therefore neither necessary nor proportionate.

[163] [Canada Goose] submitted that a final injunction substantially in the terms of the interim injunction would meet the requirements suggested by the Court of Appeal in ***Ineos* [34]**. I disagree. For the reasons I have addressed above, it is not impossible to name the persons against whom relief is sought and, more importantly, the terms of the injunction would impose restrictions on otherwise lawful conduct. Further, the interim injunction (and in particular the size and location of the Exclusion Zones) practically limits the number of people who can demonstrate outside the Store to 12. This figure is arbitrary; not justified by any evidence; disproportionate (in the sense there is no evidence that permitting a larger group would not achieve the same object); assumes that all demonstrators share the same objectives and so could be ‘represented’ by 12 people; and wrong in principle (see [98] above). Who is to decide who should be one of the permitted 12 demonstrators? Is it ‘first-come-first-served’? What if other protestors do not agree with the message being advanced by the 12 ‘authorised’ protestors?

8. The Judge has granted the Claimants permission to appeal against the decision. They have until 18 October 2019 to lodge their appeal with the Court of Appeal. Pending any appeal, the Judge has granted a stay of the order discharging the interim injunction granted on 29 November 2017 (and modified on 15 December 2017). The effect of this is that, pending determination of any appeal, the injunction that previously restricted protests outside the Canada Goose Store will continue in force.

NOTE: This summary is provided to help in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: www.bailii.org.uk