



Barkatali v Augustine [2020] EWHC 753 (Ch)

In *Barkatali v Augustine* [2020] EWHC 753 (Ch), Morgan J dismissed an application for an interim injunction allowing a former licensee to occupy a property (from which he had been unlawfully evicted) on the basis of a putative claim under the 1975 Act. Although his Lordship accepted that the applicant could qualify under s.1(1A), he considered that he failed to establish that there had been a failure to make reasonable financial provision. Crucially there was no evidence as to the applicant's needs for maintenance and submissions on his behalf suggested his own resources would satisfactorily meet his needs.

Nor was there sufficient evidence that the applicant needed to reside in this specific flat to merit a purchase order as in *Lewis v Warner*.

There was, therefore, no triable issue justifying interim relief under *American Cyanamid*. This case is interesting in that: first, Morgan J rejected a request for an adjournment for a "number of weeks" in light of the pandemic and would only indulge a seven-day adjournment; and secondly, to merit an interim injunction, Morgan J clearly would have required very cogent evidence to be convinced of the substantive merits of any claim under the 1975 Act.

Even at an interlocutory stage, it is essential to obtain very clear instructions from clients to put the clearest evidence before the Court.



Gregor Hogan has a busy commercial & chancery practice with a particular interest in commercial litigation, contentious trusts & probate, company & insolvency, & civil fraud.