

## Staveley v Restis [2024] EWHC 670 (Ch)

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On 25 March 2024, Deputy ICC Judge Schaffer dismissed an application by Amanda Staveley, a director and part owner of Newcastle United FC, to set aside a statutory demand in the sum of £3.4 million which had been served in May last year by Victor Restis, president of the Greek shipping firm Enterprises Shipping & Trading SA.

The demand related to the principal amount outstanding on a £10 million loan originally made by Mr Restis in 2008. A series of agreements between (among others) Mr Restis, Ms Staveley and Ms Staveley's vehicle PCP Capital Partners LLP ("**PCP**") had subsequently varied the terms on which the loan would be repaid, the most recent of which were a deed of amendment dated 7 January 2021 and a promissory note dated 1 April 2021.

When Ms Staveley and PCP failed to pay the outstanding amounts due under those documents, Mr Restis served both of them with statutory demands and subsequently presented a winding-up petition against PCP. Ms Staveley applied to set aside her statutory demand on the grounds that her dispute with Mr Restis should go to arbitration, and that in any event she had substantial grounds on which to dispute the demand. The winding-up petition in respect of PCP was adjourned pending the determination of Ms Staveley's application.

Ms Staveley sought to argue that the statutory demand must be referred to arbitration in accordance with the terms of a 2016 deed entered into by the parties. Further or alternatively, she contended that she was not personally liable to Mr Restis for the amount claimed, and that the subsequent agreements between the parties should be set aside on the grounds of duress and/or undue influence and/or fraudulent misrepresentation.

However, in a carefully reasoned judgment the judge comprehensively rejected all of Ms Staveley's arguments, finding that the arbitration agreement had been "*expunged*" by a deed signed in 2019 and that the assertions of duress and undue influence had "*a complete lack of credibility*". As to misrepresentation, the judge concluded that "*it beggars belief*" that Ms Staveley did not understand the documents she signed.

In dismissing the application, the judge awarded Mr Restis his costs and extended the time for presentation of a bankruptcy petition against Ms Staveley to 22 April, thereby giving her 21 days to pay off the debt or make an acceptable offer of settlement. The winding-up petition was ordered to be heard on the first available date after 29 April.

The judgment serves as a useful reminder of the test a debtor will need to satisfy in order to succeed in an application to set aside a statutory demand. On a number of occasions in his analysis the judge cited the comments of Arden LJ (as she then was) in [Collier v P & MJ Wright \(Holdings\) Limited \[2007\] EWCA Civ 1329](#), to the effect that the court may reject the applicant's witness evidence where it is inherently implausible or not supported by contemporaneous documentation. It was also held in [Collier](#) that mere assertions by an applicant will not generally be sufficient to establish a dispute on substantial grounds where the subject matter of the evidence is disputed and material to the issues.

Raquel Agnello KC appeared for Mr Restis at the hearing of the application, instructed by Sue Brumby of Francis Wilks & Jones. Dan Butler also appeared for Mr Restis in the bankruptcy proceedings and on the associated winding-up petition presented against PCP.