

Peter Waddell Holdco Ltd v Bluebell Cars Holdco Ltd [2024] EWHC 1627 (Ch)

Edward Davies KC acted for the Defendant companies in successfully defeating an application for the reinstatement of a director following his removal on grounds of misconduct.

Edward Davies KC, assisted by Ben Griffiths, acted for a group of companies that operate one of the largest car dealerships in Britain, trading as 'Big Motoring World'. The group, and its private equity backer, Freshstream, were sued by the founder of the business, and still its majority shareholder, Peter Waddell.

The proceedings arose as a result of Freshstream's service of certain notices under the governing shareholders' agreement. Specifically, Freshstream served a 'Step-In Notice' and a 'Material Default Event (MDE) Notice'. The right to serve the Step-In Notice was triggered due to the group's failure to meet financial targets. Upon the service of the Step-In Notice, Freshstream acquired enhanced powers to manage the affairs of the group and the veto rights conferred upon Mr Waddell under the shareholders' agreement were reduced. The MDE Notice was served in the light of the conclusion of an independent investigator that Mr Waddell had been guilty of breaching laws relating to discrimination, harassment, bribery, or corruption, likely to have a material adverse effect on the reputation of the group. The effect of the MDE Notice was that Mr Waddell was removed from office as a director of the group companies.

Mr Waddell brought an application against the group companies and against the Freshstream shareholding entity, Bluebell Cars Holding Ltd ("Holdco"). The application sought interim relief in the form of injunctions to restrain Freshstream from acting pursuant to the Step-In Notice and the MDE Notice, to restore Mr Waddell's full rights of veto and to reinstate him as a director.

In opposing the application, the group companies together with Holdco argued that there was no serious issue to be tried as to the validity of the Step-In Notice and the MDE Notice and that considerations of the adequacy of damages and the balance of convenience militated strongly against the grant of the relief sought by Mr Waddell. In particular, it was said on behalf of the group companies that it would not be tolerable for Mr Waddell to be reinstated as a director given the seriousness of the allegations that had led to the service of the MDE Notice, including racist, sexist, misogynistic, bullying and abusive conduct against group employees and others. It was pointed out that this highly improper behaviour on the part of Mr Waddell had continued even after his removal as a director, including abusive and intimidating messages to group employees and/or customers whom he perceived as hostile to him, including death threats.

The application came before Murray Rosen KC, sitting as a Deputy Judge of the High Court. At the start of the second day of the hearing, the application seeking Mr Waddell's reinstatement as a director was abandoned. As to the balance of the application, that was dismissed in a judgment handed down on 25 June 2024. Although he was not prepared to conclude that there was no serious issue to be tried, the Judge held that the Defendants' arguments against the application on the basis adequacy of damages and balance of convenience were overwhelming. In particular, the Judge held that restoring Mr Waddell to any involvement in or influence on management presented a "glaring" risk of irreversible harm to the group companies, because, in the Judge's words: "to impose any greater control in Mr Waddell's favour would for now risk his trumpeting it to wreak attrition and revenge on those within or related to the Group, to its and their serious detriment, in ways which are seriously hazardous, uncontrollable, unpredictable, and unlikely to be quantifiable."

Edward Davies KC and Ben Griffiths were instructed by Guy Harper of Stephenson Harwood LLP.