

EMPLOYMENT INJUNCTION*

An interesting case arose in the case of Barbara Whooley and the Merck Millipore Limited and Merck KGaA being a judgment of Ms Justice Pilkington delivered on the 30th November 2018.

The facts of the case are interesting but two particular issues arise:

1. The issue of a deemed resignation was raised, it appears, by the Defendants. In the case, however, the Defendants withdrew that argument. It was pointed out by the Court that had that position remained, there was an argument of deemed resignation, that could have given rise to separate issues.
2. The second issue is that the Defendants in this case also agreed that they would consider any issue of damage to the Plaintiff's reputation. It was pointed out that this concession was made belatedly. However, it was pointed out that this was one which the Court would have to have regard to.

The Court held that those matters determined the balance of convenience against the grant of an interlocutory relief to the Plaintiff.

This is a case where the Defendant sought to simply terminate the employment on the basis of the terms of the contract.

It does raise in such cases of Senior Executives the issue that employers can avoid injunctions if they agree that they will look at issues such as the loss of reputation. They of course are separate proceedings that would have to go through the normal Court process. It would be extremely difficult of course for an employer subsequently to go back from such assertions. What is interesting in this case is the issue of reputational damage, if it is admitted by the employer as one that the employer is prepared to address, it can assist the employer in avoiding an Injunction. It may however subsequently be difficult for an employer to raise any defence that there was no reputational damage and may limit an employer in such cases to the amount or quantum of compensation.

****Before acting or refraining from acting on anything in this guide, legal advice should be sought from a solicitor.***

*****In contentious cases, a solicitor may not charge fees as a proportion or percentage of any award or settlement.***