

**IN THE HIGH COURT OF JUSTICE**

**BUSINESS AND PROPERTY COURTS IN MANCHESTER**  
**BUSINESS LIST (ChD)**

Manchester Civil Justice Centre  
1 Bridge Street  
Manchester M60 9DJ

Thursday, 16 May 2024

BEFORE:

**HIS HONOUR JUDGE BIRD**

BETWEEN:

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**SWIFTHOLD FOUNDATION**

Claimant

- and -

**FAST INTERNATIONAL TRADING GROUP AND ANOTHER**

Defendant

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**MR M SMYTH** (instructed by Boies Schiller Flexner (UK) LLP) appeared on behalf of the  
Claimant

The Defendant did not appear and was not represented

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**JUDGMENT**  
(Approved)

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1. JUDGE BIRD: On 10 May 2018, Eyre J entered judgment in this claim in favour of the claimant against two defendants. This application concerns the second defendant, Sheikh Fahad Ahmed Bin Mohamed Al-Thani. An order was issued requiring the second defendant to attend at court to provide information to the judgment creditor so that they could enforce their judgment against him.
2. At a hearing on 5 April 2024, I made a finding that the second defendant had failed to comply with the terms of that order in circumstances where I was satisfied that he was in contempt of court. In accordance with CPR 71, I therefore made a suspended committal order. The order was suspended on terms that the second defendant appear today in order to provide information. The second defendant has failed to appear today, and I am invited in accordance with CPR 71 and its Practice Direction to certify that non-attendance. I ought only to take that course if I am satisfied that the second defendant has, in the language of paragraph 8.1 of the Practice Direction, been duly served with the order.
3. The defendant is not resident within the jurisdiction. My order sets out certain provisions as to service and dispenses with personal service that would otherwise be required in accordance with CPR 71.3.
4. The methods of service which I set out fall under four heads and are set out at paragraph 4 of my order. Firstly, service was to be effected in accordance with the terms set out at paragraph 3 of an order that I made in 2017. That order broadly required or permitted service on the second defendant by service at two addresses of the first defendant, its PO box and its trading address. The second method of service permitted by the April order was by sending copies of all relevant documents to a lawyer based out of the jurisdiction previously instructed in these proceedings by the second defendant. Such service was to be by recorded courier at the practice address of the lawyer and also by email to him at a given address. The order provided that if service was to be effected in accordance with those provisions that such service would be deemed to have occurred in accordance with my 2017 order and would have been deemed to have occurred seven days after the relevant act was completed.

5. During the course of his helpful submissions, Mr Smyth, who appears on behalf of the judgment creditor, has taken me to evidence of service. He has explained to me by reference to affidavit evidence that the relevant documents were appropriately posted to the PO box address of the first defendant, that by reason of the size of the parcel and the weight restrictions it had to be split into four. He has shown me evidence from which I conclude that each of those parcels was delivered to a collection point, and one of those parcels was collected.
6. He has drawn my attention to evidence as to service at the first defendant's trading address and has drawn to my attention that attempted delivery on 27 April, 28 April and 9 May were all refused. That I take from the delivery receipt noting that on each of those dates there was "attempted delivery". The packages sent to the trading addresses are, as I understand it, now back with Mr Smyth's firm.
7. The recorded delivery by courier that was required on the lawyer was also executed. The parcels arrived at, as I understand it, the relevant office, but the evidence shows that they were refused on the basis that whatever they contained had not been ordered.
8. The fourth method of service was by email. The evidence is that the email that was sent had attached to it a copy of my April order and contained a document share link, which if activated would have allowed the recipient access to all of the documents. The email was received, and there is a delivery receipt. The email was also read, because there is a specific response to its content provided by or on behalf of the lawyer to whom it was addressed. That response makes it clear that the email has been received but that the lawyer is no longer instructed and therefore in effect will not do anything with the documents. That was followed by correspondence which urged the lawyer to pass the documents on.
9. It is clear from the evidence that the judgment creditor has done all that it can to ensure that my order was complied with. I am satisfied on the evidence – and if I need to be satisfied to the criminal standard, then I am – that there has been service of the order and the relevant documents. I am satisfied that the four parcels arrived at the PO box of the first defendant. That is sufficient service. I am satisfied also that the documents arrived at the trading address of the first defendant but were refused. That is also

sufficient service. I am satisfied that the documents were sent by email and moreover that the email was received and dealt with. That is sufficient service. And, I am satisfied that the recorded courier delivery of the documents to the lawyer's office was achieved, although the documents were refused.

10. Were I in those circumstances to find that there had not been good service, the order that I made would be rendered wholly ineffective, and I would be allowing the second defendant to avoid the consequences of service. It seems to me that would be wholly inappropriate. I am therefore satisfied that in accordance with CPR 71 and in particular paragraph 8 of the Practice Direction that I should certify the debtor's failure to attend at this hearing. For the avoidance of doubt, I am satisfied and it appears to me that the judgment debtor has been duly served.
11. The effect of that certification, which will be recorded in an order, is that a warrant may now be issued to bring the judgment debtor before a judge so that a decision can be made about the next steps. Those next steps may include a discharge of the order in certain circumstances, or they may result in an enforcement of the order. One hopes that they would result in the provision of information which lies at the heart of this process.
12. Insofar as my permission is required to issue the warrant, I grant it, but my certificate confirmation of non-attendance and service is in my judgment sufficient. The warrant should not be incorporated into an order but a separate warrant issued by the court.
13. During the course of his submissions, Mr Smyth very properly has drawn to my attention – because it is a point that may have been drawn to my attention by the second defendant were he here – that the judgment upon which this process is founded is now and very recently more than six years old. He has drawn to my attention that the Limitation Act prevents broadly enforcement of a judgment by action more than six years after a judgment has been issued.
14. I am satisfied that it is nonetheless appropriate for me to make the order that I have set out. I come to that conclusion for a number of reasons. Firstly, this action is not enforcement by fresh action. It is not a second action on the judgment. Secondly, what

this order does is enforce and support orders that were made in April. The orders that it seeks to support and enforce are therefore very recent. Thirdly, even if these proceedings to enforce the gathering of information are proceedings caught by the Limitation Act, they were commenced in any meaningful sense within six years of the 2018 judgment. The key to limitation is when a claim is started not when it finishes.

15. For all of those reasons, I make the order to which I made reference and confirm that the warrant may be issued.

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**This transcript has been approved by the Judge**