

Take care when applying to adjourn hearings because of coronavirus!

In *Blackfriars Ltd, Re* [2020] EWHC 845 (Ch), the Court recently considered an application to adjourn the five-week trial commencing at the beginning of June 2020 due to Covid-19.

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Please note: the information contained in our legal updates are correct as of the original date of publication

In *Blackfriars Ltd, Re* [2020] EWHC 845 (Ch), the Court recently considered an application to adjourn the five-week trial commencing at the beginning of June 2020 due to Covid-19.

The applicants submitted that (1) proceeding with the trial would be contrary with the Prime Minister's instructions on 23 March 2020 to stay at home; (2) a remote trial would pose an unacceptable risk to the parties' health and safety; (3) a remote trial was too high a technological challenge; and (4) with a remote trial, there was a potential for unfairness.

John Kimbell QC (sitting as a Deputy High Court Judge) refused the application. He held that the Coronavirus Act 2020 (which expanded the availability of video and audio links) and the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (which permit a person to leave their home to attend court and/or participate in legal proceedings and allow gatherings of two or more people if it is essential for work purposes or to participate in legal proceedings) together indicate that the government expected the work of the courts to continue during the Covid-19 crisis. The Lord Chief Justice's guidance on Covid-19 and the new CPR PD 51Y also makes it clear that as many hearings as possible should be conducted remotely (by using technology) during the crisis. Further, the Senior Courts Act 1981 provides that High Court sittings could be held at any place in England and Wales. It was therefore not inconsistent with the lockdown measures to allow the trial to proceed.

In terms of safety, the trial was not due to start until early June and so a lot could change in the interim. No detailed evidence had been submitted demonstrating any difficulties that the participants might have in taking part in the trial remotely and how those could be mitigated. Furthermore, the technological challenges of a remote trial were not so great as to warrant an adjournment and the judge found that it was not essential to have everyone in the same physical space. Finally, as the matter dated back to 2011, any further delays were in neither party's interest.

The application was therefore refused and the parties were ordered to continue to prepare for the trial and to explore the technological options available to facilitate a remote trial.

This decision demonstrates that an adjournment of a hearing due to Covid-19 will not be granted automatically and certainly not without real evidence of prejudice caused by the hearing being conducted remotely. It also illustrates the relevant principles that the Court will look at when considering such an application.

Contact

Chloe Poskitt



Legal Director

chloe.poskitt@brownejacobson.com

+44 (0)115 934 2058

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