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File note

16 July 2015

Matter

Project Ash L-217220 (Deutsche Bank)

Taylor v Jain and ors B40BM021: note of oral judgment at hearing 16 July 2015

HHJ Simon Brown QC:

This is an application to strike-out or to issue summary judgment. The claim was originally issued in the County Court at Stafford, before being transferred to the County Court at Birmingham and then to the High Court sitting in Birmingham. The details of it are that Mr Taylor claims illegal and unjust cartel fraud and market manipulation, with the effect of devaluing bullion sales and causing him suffering. He alleges that the correspondence between him and DB indicates that DB faked its gold audit, from which it follows that precious metals manipulation has occurred. He alleges that FCA findings in respect of FX manipulation implicate the other defendants in the claim. Mr Taylor demands payment of damages in bullion.

In Stafford, the filing fee was £1,920. Here in the High Court, the filing fee would be £10,000.

The points of claim that followed continue for 19 closely typed pages with 6 pages of appendices. The nub of the claim appears to be the activities of DB and its dealings in respect of precious metals manipulation, and a demand for the restoration of the claimant's bullion. The claimant made a complaint in respect of precious metals trades with DB by email in April 2014. By July 2014 an internal inquiry rejected it. The internal audit is still ongoing. This internal audit which is still ongoing is the focus of the claimant's claim that it is faked.

The claim is difficult to follow but the claimant says that the investigation and audit were fake; since the investigation is assumed to have been instigated by the directors, they are part of it too, and hence Anshu Jain is the first defendant; and it is then deduced that the gold manipulation is a conspiracy of the board and not rogue traders skimming a profit.

The claim form indicated that the claimant would produce correspondence to support this. No such facts or documents have emerged. Particulars of claim must include a concise statement of the facts on which the claimant relies. This one does not and so it is in breach of CPR 16.4. It is not concise and it does not plead the relevant facts.

There is no substance in law or fact to this claim. It does not identify any duties owed by defendants to the claimant. No causes of action have been pleaded, including in tort or contract, or for breach of statutory duty. No loss or damage has been established. No detail has been provided save for the sale and purchase of the relevant precious metals. There is no properly particularised claim for loss and

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damage. The claim concentrates on punitive and aggravated damages, which are not recoverable in any event.

Therefore this claim is totally without merit.

There are further problems. This claim is vexatious. The claimant has litigated the matter before. First, it went before a German court. The facts before that court were almost identical to those here. The only difference is that Mr Fitschen was the defendant in that case. If I read the relevant short *ratio* in German case, it is this: [read a quote, which in summary was as follows: the claim is without merit; there is no claim in damages; claims against third parties can be made only on tortious basis; the claimant pleads no basis for any duty breached by Mr Fitschen; he bases his claim on manipulation allegations; apart from the general nature and lack of comprehensibility of the claimant's arguments, he fails to present even rudimentary grounds or to substantiate any loss; he claims EUR4,999.99 despite the court saying that there was no basis for calculation of the loss; claim dismissed.]

This judgment occurred on similar facts and in similar circumstances. It echoes what I have found today.

The claimant has also issued a European Small Claims Procedure matter in the London County Court. This matter proceeded and the judge dismissed it.

The present proceedings are a third attempt. Bringing these proceedings is vexatious conduct to be deprecated. Courts are not to be used as a vehicle to air angry comments against banks and other institutions. This is not the purpose of making a claim in court. A claim is there for the recovery of damages. It is also apposite to remember that the courts are precious guardians of their resources, which are more precious than ever. This is not a good use of the court's resources. This claim should have been struck out at an earlier stage.