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A REMINDER OF THE NEED TO ENSURE CORRECT SERVICE OF DOCUMENTS

The courts tend to follow a strict line to ensure that correct procedures are complied with in respect of service of documents. Two recent cases emphasise that approach.

In *Melanie Stanley v London Borough of Tower Hamlets EWHC 1622 (QB)*, decided on 20 June 2020, Mr. Justice Knowles determined that where service by email had not been agreed and attempted service was made by delivery to an empty office after the March lockdown, a judgment in default should be set aside. Mr Justice Knowles accepted that there was sufficient reason to set aside the judgment and that the defendant had good prospects of defending the claim and so CPR 13.3(1) was applied.

More recently, on 3 September 2020 judgment was given in *Re Truewood Limited [2020] EWHC 2360 (Ch)*. The defendants ran a DIY shop and a claim for misfeasance under section 212 of the Insolvency Act 1986 was brought by the liquidator of Truewood Limited, alleging that improper payments had been made from the company. On 13 August 2014 a debaring order was made against the defendants.

Mr and Mrs Parekh applied to set aside the order on the basis that they were not served with the application and that they did not become aware of the situation until 9 November 2016. The address relied on for service by the liquidator was in South Croydon.

However Mr and Mrs Parekh stated that their usual address was in SW16.

This address had been known to the liquidator but on making a further land registry search it was discovered that the SW16 property had been transferred into their children's names on 26 September 2012, although they continued to live there. The South Croydon address remained in the name of the Parekhs who had let out the property since 2002.

The court decided that there was no good reason for retrospective authorisation of service and the "critical factor" that the application had come to the notice of Mr and Mrs Parekh had not been established. The debaring order should be set aside on the grounds of improper service and an arguable defence that the improper payments had been repaid by monies paid into Truewood Limited's bank account.

Editor's note

Practitioners would be well advised to take all reasonable steps to ensure that correct service has been effected.

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