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David Rose discusses: Stay of Proceedings on Medical Grounds

Parties who seek to obtain a stay of proceedings on the grounds that the stress of litigation is injurious to their mental health need to produce strong and compelling medical evidence before the Court is likely to accede to their request.

In Financial Conduct Authority v Avacade & Others [2019] 6 WLRUK 200 it was held that something more than the stress inherent in the litigation itself would be required to justify the Court exercising its discretion and ordering a stay. By analogy with cases relating to late applications for adjournment (Forresters Ketley v Brent [2012] EWCA Civ 324 and Levy v Ellis-Carr [2012] EWHC 63 (Ch)) it was held that in the case of a stress-related illness a stay would be unlikely to benefit the applicants as it would be likely to recur once the stay expired, thus risking multiple applications to extend the stay.

HHJ Pelling QC held that the medical evidence was not adequate to justify granting a stay. In particular, the medical expert did not explain how treatment would improve the Applicants' condition and render them better able to continue their defence of the claim. Nor was there any proper analysis by the medical expert of the suggestion that one of the Applicants was a suicide risk.

Furthermore, the Judge held that the medical evidence was not in itself a determining factor, but was merely one of a number of factors which had to be balanced in the Court's exercise of its discretion whether to delay the proceedings.

Applications for stays (and adjournments) on medical grounds often need to be made as a matter of some urgency. This case highlights the need

nevertheless to obtain strong and rigorously analytical medical evidence notwithstanding the relatively short notice available. It is clear that, notwithstanding the obvious human rights issues engaged in such situations, the Courts are likely to be reluctant to disrupt the progress of litigation save in the most compelling circumstances.

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