

# CASE NOTE:

## *COVERIS FLEXIBLE LIMITED V. BREARS* [2022] EWHC 1594 (QB)

June 2022

Stuart acted for Coveris Flexibles UK Limited in a committal application against Mr Simon Brears, where the Defendant had frustrated the service of a search order, attempted to destroy or conceal evidence, breached the terms of two prohibitory injunctions and made a series of false statements including 24 false statements in his Defence.

On 21<sup>st</sup> June 2022, Mr Justice Henshaw sentenced Mr Brears to a total of 14 months immediate imprisonment, finding that Mr Brears committed a sustained and intentional series of contempts that made a sentence of immediate custody unavoidable.

The case is important as:

1. It provides useful guidance on the approach to sentencing in committal applications where Defendants are accused of multiple counts of contempt.
2. It provides guidance on sentencing for: (1) breaches of search orders; (2) multiple breaches of prohibitory injunctions; and (3) the making of false statements in affidavits, witness statements and pleadings.
3. The judge deals with the issue that arise where a defendant in committal proceedings receives criminal legal aid but is then the subject of a civil costs order. The provisions of Section 26 of Legal Aid Sentencing and Punishment of Offenders Act 2012, that provides some protection to defendants in receipt of civil legal aid does not apply in civil committal proceedings where the defendant is in receipt of criminal legal aid. Conversely the protections that apply in criminal proceedings do not apply in civil contempt proceedings. The judge considered the relevant authorities and the Defendant's submission that the legislation had left an unintentional anomaly that denied protection to Defendants in civil committal proceedings. The Judge, however, agreed with the Claimant's submissions that there was no anomaly as civil legal aid was usually not available in most civil cases and as such the Defendant would not have had the protection of section 26 LAPS0 in any event. As such the Defendant should be the subject of a costs order in the usual way.

Stuart was instructed by Neil Warner, Kate Canning and Sara Wright at Gateley Legal in Birmingham. The case is reported as *Coveris Flexibles UK Limited v. Simon Brears* [2022] EWHC 1594 (QB).



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### Stuart Benzie

Stuart is an experienced commercial advocate who is recommended in the legal directories as a leading junior in Commercial Dispute Resolution, Civil Fraud and Sport.

*"Bright, sharp of mind and someone with a nice demeanour."*  
Chambers & Partners (2022)

*"Stuart is a proper fighter – excellent for those difficult cases. He knows freezing orders inside out."*  
Legal 500 (2022)

To view Stuart's full website profile, please click [here](#)

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