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21 March 2011

A sends:

Hempel Hyper Injunction

With echoes of the Trafigura scandal, a super-injunction in place since 2005/2006 is protecting a global corporation from adverse publicity.

http://www.hempel.com

The world famous industrial paints manufacturer Hempel has gagged the media and one particular "whistle blower" who is forbidden even from speaking to his Member of Parliament on the matter.

 $\underline{http://www.telegraph.co.uk/news/uknews/law-and-order/8394566/Hyper-injunction-stops-you-talking-to-MP.html}\\$

http://www.dailymail.co.uk/news/article-1368395/Now-hyper-injunction-gagging-order-stops-constituent-speaking-MP.html

It concerns a paint coating on "potable water tanks", used for dispensing drinking water on board ships. Under certain specific circumstances, notably if the curing process was not performed under strict temperature controlled conditions, the solvent based coating could release its toxic components into the drinking water under conditions (typically: age degradation) where the coating breaks down.

The manufacturers Hempel (headquartered in Denmark) were involved in litigation against the whistle blower in 2006 but the case has been mysteriously erased from case law records.

But the reference number is still quoted on the website of the whistle blower's lawyer Mark Davis.

"Hempel A/S v B Bradford [2006] EWHC 2528"

http://www.davislaw.co.uk/mark.htm

[scroll down "Experience and Expertise" box]

A special report "Warpaint" by the UK Ministry of Defence makes clear reference to the Hempel case (without actually naming them) in recommendations and guidelines for servicing drinking water tanks on Royal Navy vessels.

http://www.mod.uk/NR/rdonlyres/22CEA1F6-7772-43B7-A60C-40F7B9C3BCBE/0/Warpaint_31_Sept2010.pdf

Extract (page 8 of the PDF):-

"Paragraph 2.4.6

Having been used successfully for many years, problems arose due to the relatively high solvent content of a previously approved paint manufacturer's potable water tank paint system. This particular paint system had been approved to all the required National Standards, also assessed by INM for application in Naval Service.

In all reported cases the problems had not been due to the material itself, but through failure to ensure that either the surfaces had been adequately prepared or that the curing temperature and/or ventilation requirements had not been achieved.

These problems had resulted in solvent retention and thus contamination of the potable water in affected vessels. At a meeting of the 'Potable Water Management Forum' (PWMF) in July 1999, it was agreed that any deviation from application of the manufacturer's data sheets can greatly increase the risk of contamination to water. Therefore it was decided by the 'PWMF', that future approvals would be restricted to high solids/low solvent paint systems only for RN potable water tanks."

(end extract)

Hempel have since introduced a 100% solvent-free solution for potable water tanks, but are clearly using the super injunction to fight off any legal action pertaining to alleged illnesses due to ingestion of solvent and any other toxins on affected ships.

Davis & Co International Lawyers



Hempel A/S v B Bradford [2006] EVVHC 2528

Haugland Tankers AS v RMK Marine (2005) EVVHC 321 (

BMBF (No. 12) Ltd v Harland & Wolff Shipbuilding and Heavy Industries Ltd LTL 17/11/2000

Pegler Limited -v- Wang (UK) Limited (2000) IT+CLR 617

The Trustee of the Property of Jan Yngve Pehrsson (A Bankrupt) v Madeleine Von Greverz LTL18/6/99

Red Sea Tankers Ltd and Others -v- Papachristidis and Others [1997] 2 Lloyds Rep 547

Brostoff & Others v Clark Kenneth Leventhal (a firm) LTL

Egon Oldendorff -v- Libera Corporation [1995] 2 Lloyds Rep 64 (first instance); [1996] 1 Lloyds Rep 380 (Court of Appeal)

Macmillan Inc -v- Bishopsgate Investment Trust Company Plc and Others [1995] 3 All ER 747 (first instance); [1996] 1 All ER 585 (Court of Appeal); TLR 7/12/98: (1999) CLC 417 (Court of

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EDITORIAL

Is Drinking Water Safe on Cruise Ships?

NOTE: The attached letter provides some explanation and background to the issue. Click here (MSWord document)

I am one of those folks who tend to buy bottled water, whether on a cruise ship or on land. My choice is based on taste; and with the increased recycling of wastewater, on concern about the constituents in the water I consume. Yet, in all honesty, I am not unlike others who generally take for granted that the water from the tap, served in a restaurant, or used in food preparation or dishwashing is entirely safe. Until now, I had no reason to believe that a cruise ship would be any less trustworthy than any other source. But my confidence has been replaced by concern.

The basis for this concern is a case about which I am unable to find complete information (it has apparently been sealed by the British courts), about which those involved are not permitted to comment for fear of fine or incarceration, and about which the lack of transparency suggests there is a real basis for fear. Information that was available in October 2005 at www.logacomplaint.com provided a body of information about toxicity in potable water aboard certain cruise ships. But that material disappeared, as has all information about the case that followed (the case -- Hempel A/S v B Bradford [2006] EWHC 2528 -- is cited at the website of the attorney for industry, but otherwise no information may be

found anywhere).

Gleaning from memory of what was on the website, and from recent appeals filed with the High Court of Justice in the UK and European Court of Human Rights, we can extrapolate that a paint coating, apparently used in potable water tanks on a series of cruise ships (of at least two major companies serving North America and Europe), was found to be defective. It could purportedly break down and potentially release toxins into the water system of these vessels. The problem was apparently discovered and repairs reportedly undertaken while the ships involved were at sea with passengers. So while one problem was being "solved" (so we are to assume, after an unknown number of years of being a problem), the repair may have itself produced another set of problems. There is no certainty that fine dust produced from sanding down potable water tanks did not make its way into other areas of the ship, including air ventilation and food preparation areas.

As a reader, one may feel frustrated that there is a lack of complete information. That is precisely how this writer feels. There is a clear basis for knowing that there was (and maybe is) a problem and an impression that industry and government authorities know of the problem and the threat to public health, but that industrial interest in profit and secrecy has taken a higher value than the public need to know. I believe it would be better to know the risks that are out there (including which specific cruise lines and ships) than to have hidden from consumers accurate knowledge and information about the risks to their health associated with taking a cruise.

Given how well knowledge is sealed about this case, the only

recourse we have as passengers is to demand water quality testing on all cruise ships by an independent authority not related to or hired by the cruise ship or cruise line. It is clear that the cruise lines are not going to give us reliable information – if they were, then the case I can't talk about in detail would be laid out here in great depth. This isn't a matter of opinion or conjecture — there are apparently affidavits admitting to the problem of toxicity, but these are also sealed. If we can't have transparency, then we can't really depend on the word and assurances from those whose financial health depends on uncritical and blindly-trusting consumers.

If you take a cruise, in the short term you may want to avoid the water as best you can. In the longer term you may want to press for better monitoring and regulation of the water being used for everything from drinking water to food preparation to dishwashing and laundry to showers and the swimming pool. It is your life and your health (and that of your children and loved ones) that you will be protecting.

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Dear M.P

Contact is being made with every Member of Parliament in the house and every member of the House of Lords, every member has the same copy as you are reading. Will you have courage to act with good integrity.

I am writing for advice regarding a British citizen who contacted my advocacy service for urgent legal advice and assistance.

This man has been left completely isolated in a situation in which it would appear his former employers are preventing him simply from 'whistle blowing' about a huge public and personnel health issue

My client is bound by British High Court injunctions not to contact any member of parliament for advice or to discuss his plight in the media as a result of his Former Employer's actions against him.

- O He is also further injuncted not to contact any "legal or natural persons, or solicitors unless instructing the solicitors to act on his behalf", seeking advice only is in breach of the court injunction unless he instructs the lawyer to represent him, and as he is impecunious and cannot obtain Legal Aid this is impossible.
- o He is injuncted perpetually not to contact the media or press,
- o He was also injuncted not to make application under the Freedom of Information Act to seek information, even for evidence in his defence or ask for assistance in his application from the Guardian.

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- He was ordered to supply the names and addresses of lawyers he contacted
- He was injuncted not to communicate with any legal or natural persons.
- o He was ordered to place in possession of a lawyer he has since dismissed, all information relating to this case.

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- o He was found in contempt jailed for two months (suspended for one year) in part for contacting lawyers to aid in his defence.
- He has been denied certain humanitarian rights entitled to under The European Court of Human Rights.
- o He can not reveal why the nature of the courts demands, even to you as an Member of Parliament for fear of threat, intimidation, incarceration and further mental stress.
- He can not complain about his solicitors actions to the law commission or indeed that of the applicants solicitor, as it may well breach the courts injunctions, by having to supply information banned by the High Court in his complaint.
- He has been forced to make private application to The European Court of Human Rights to request action be taken against The United Kingdom even though members of parliament can not be made aware of any issues, or to possibly assist him.
- He cannot even contact his sovereign queen Her Majesty Queen Elizabeth II to explain his plight without fear.
- o He has been forced to the brink of bankruptcy with costs awarded against him of 200,000 pounds. He is in the process of such action for bankruptcy..

I ask you to bring this to the house's attention as I feel there is little more I can do and this situation is unjust. If it were possible to give any further information he would, but he is in perpetual fear, as the injunctions imposed on him are made perpetual by the High Court.

The applicants lawyer Mark Davis openly advertises Hempel v B. Bradford on his company website www.davislaw.co.uk as a reported case, material my client understands deemed to be banned by the court.

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He does not have the same luxury of being able to tell people of his plight.

Websites such as www.cruisejunkie.com in one of its Editorial columns," Events at Sea – How safe is your drinking water" are attempting to explain previously published material my client is injuncted against publishing. The proprietor of this website is well respected and is speaking to and has spoken to American senators on issues raised.

The complete social destruction of a United Kingdom subject is happening not to a terrorist suspect, rapist, murderer, paedophile government activist or a person with any criminal convictions, but to a previously hard working family man aged 54 with three children and four grand children.

Made possible by the United Kingdom High Court, he has had no proper defence council throughout since September 2005, as he is impecunious.

This is happening to a citizen of The United Kingdom. Why is it allowed to happen?

Is it possible for members of parliament to bring this to the attention of government and to the worldwide media? My client cannot, without fear of imprisonment. Are members of parliament afraid also to speak out.

He approached me because there was nowhere else to turn to and whilst I have done my best to assist him, I also ended up being threatened by the other side that have global interests and money. We have neither. Please help.

Yours	sincere	ly
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