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# Injunctions

David Bean  
10th edition

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# Injunctions

*Tenth Edition*

**David Bean**

M.A. (Cantab); Bencher, Middle Temple

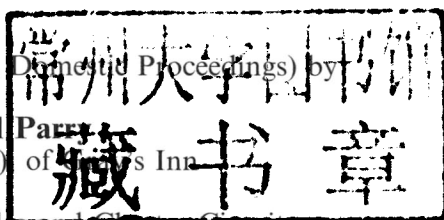
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## **Injunctions**

## Foreword

The first, slim edition of this work appeared nearly 30 years ago when I was still in junior practice at the Bar, not long after the House of Lords' decision in *American Cyanamid v Ethicon* and those of the Court of Appeal in the *Mareva* and *Anton Piller* cases. It quickly found a place on my bookshelf, and indeed its niche in the market, as a handy guide to injunction law and procedure for any advocate faced with making or resisting an application for interim relief.

In the course of subsequent editions it has grown in scope and authority. David Bean has become a judge of the Queen's Bench Division; and Isabel Parry, the Designated Family Judge at Swansea, has taken over the editorship of the chapter on matrimonial and domestic proceedings.

There have been many developments in the case law since the last edition and they are fully reflected in this one, on subjects varying from anti-social behaviour to anti-suit injunctions. In the field of family law, for which I have had particular responsibility in recent years, the principles for the grant of injunctions against harassment and molestation have not greatly changed, but breaches are now enforceable by criminal prosecution under s.1 of the Domestic Violence, Crime and Victims Act 2004 rather than by committal applications in the civil courts. Contrary no doubt to the intention of the legislature, far from affording increased protection to victims of domestic violence, it has led to reluctance in many such victims to prosecute for fear of criminalising the offending partner and to a reduction in the number of cases brought thanks to the requisite standard of proof and CPS guidelines on the prospects of success in "word against word" situations.

This aside, however, the remedy of the injunction remains the most potent weapon in the litigant's armoury and its every feature is illuminatingly described in this admirable work. I welcome the publication of the tenth edition of *Injunctions* and once again I recommend it as an invaluable component of the library of all civil or family practitioners.

Sir Mark Potter  
President of the Family Division  
Head of Family Justice  
August 2009

## Preface

There has been a steady flow of injunction case law in the last three years. The most controversial decision has been *Birmingham City Council v Shafi*, which greatly restricted anti-social behaviour injunctions and as I write may shortly be reversed by statute. Celebrities have made their contribution to the law, in cases such as *Lord Browne of Madingley v Associated Newspapers* and *Chambers v British Olympic Association*.

Issues of terminology continue to give me mild amusement. Despite Lord Woolf's best efforts many judges still refer to *Mareva* injunctions and *Anton Piller* orders, and indeed to orders made *ex parte*. The establishment of the new Supreme Court has led to what used to be called the Supreme Court Act 1981 being given the clunking title "Senior Courts Act", as though the courts were either a school or a care home. Modernisation, however, has not got as far as the replacement of the old Rules of the Supreme Court and County Court Rules dealing with enforcement of injunctions; and RSC Order 45 rule 7 still refers to notice given by telegram, which must be a puzzle to younger readers.

The first edition of this work, which appeared in the *Oyez Practice Notes* series in 1979, contained 124 pages of text. The book has expanded in the last 30 years. But although the line is not always easy to draw, I have avoided extensive discussion of substantive law, which would make the book intolerably long and diffuse. The law discussed is that of England and Wales: the Scots law of interdict is significantly different in terminology, procedure and substance.

I am grateful to Sir Mark Potter for his generous Foreword; to David Brown, the invaluable aide to all judges who sit in the Queen's Bench Interim Applications Court, for his assistance to me both as judge and as author on practical aspects of that Court's procedure; to my wife Ruth Thompson for her proof-reading and my clerk David James for his computer skills; and in particular to Judge Isabel Parry, Designated Family Judge at Swansea, who has again devoted her extensive experience of family law to updating Chapter 10. Any errors or omissions elsewhere in the book are my sole responsibility. Readers who spot errors are encouraged to overcome their diffidence and write to me at the Royal Courts of Justice. (I said that last time. No one did.) The law is stated as at October 19, 2009.

David Bean

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