



## DERIVATIVE RESIDENCE RIGHTS AND THE

## EU SETTLEMENT SCHEME:

**R(Akinsanya and Aning-Adjei) v Secretary of State for the Home department [2024] EWHC 469 (Admin).**

On 30 July 2024, the Court of Appeal refused the claimants permission to appeal against the judgment of Mr Justice Eyre R(Akinsanya and Aning-Adjei) v SSHD [2024] EWHC 469 (Admin). The Court's decision closes a significant chapter in the long-running litigation on the route to settlement for Zambrano carers under the EU Settlement Scheme. This article is aimed at helping those affected and their advisers to understand the latest judgment and consider what if anything they can do next to hasten their path to settlement.

### SUMMARY

A 'Zambrano carer' is the third country (i.e. non-EEA) national primary carer of a British citizen child or dependent who had a right to reside before Brexit pursuant to the Court's judgment in C-34/09 Ruiz Zambrano. Many Zambrano carers will also have been eligible for leave to remain under the parent route in Appendix FM.

Unless there is a change in policy, the latest judgment means Zambrano carers who had limited leave to remain under Appendix FM at the end of the transition period will continue to be excluded from entitlement to pre-settled status or settled status under the Zambrano route in the EU Settlement Scheme.

[Link to article](#)

## NAT MATHEWS HONORARY SCHEMES LAUNCHED

**Nat Mathews was a much-loved lawyer who worked at Hackney Community Law Centre (HCLC) for nearly thirty years, and who died two years ago in April 2022.**



Left: Ian Rathbone, chair of Hackney Community Law Centre presents Marcin Brajta with the award. Right: Nat Mathews

As part of the Memorial to Nat Mathews, we launched the commemorative Nat Mathews Award for excellence or innovation in housing work. In November 2024, Marcin Brajta, housing solicitor at North West London Law Centres was presented as the first award recipient. Marcin was recognised for his perseverance and willingness to take on the most challenging cases asserting the rights of homeless people. In particular, he successfully represented Ms Zaman in *Zaman v London Borough of Waltham Forest* in 2022 where the court held that local authorities should seek to search for temporary accommodation as close as possible to the borough before forcing families to relocate to the Midlands or beyond away from family and friends and children's schools.

## SUPPORT OUR WORK

**DONATE**

### 2024 HIGHLIGHTS

**1,088**

CALLS TO OUR  
GENERAL ADVICE LINE

WE PREVENT OVER

**200**

PEOPLE EACH YEAR  
FROM EVICTION

**2,890**

PEOPLE ACCESSED OUR  
SERVICE IN 2024

**£1 MILLION**

OF FINANCIAL GAINS FOR  
CLIENTS ACROSS ALL KEY  
AREAS OF OUR WORK

## TEST CASE IN THE COURT OF APPEAL

**HOUSING:** In November 2024 we were in the Court of Appeal in the case of *McClenaghan v Switaj*.

Judgment has been handed down in the Court of Appeal case of *Martyna Switaj v Adrian McClenaghan (2024) EWCA Civ 1457* in which we acted for the appellant Ms Switaj.



L - R: Counsel Miranda Grell and Martin Westgate KC, HCLC's Isabel Taylor, Paralegal and Kevin Long, Solicitor.

The case had been propelled to the Court of Appeal under the rarely used 'leapfrog' procedure, on the basis that it raised a point of general principle in the development of the substantive law. It concerned the operation of the Tenant Fees Act 2019 which prohibits landlords and letting agents from charging tenants additional fees unless otherwise exempted. If a prohibited fee is paid but not returned then the landlord cannot rely on the section 21 Housing Act 1988 possession procedure.

The case addressed whether a fee paid originally under a tenancy prior to the TFA 2019 (in this case a tenancy check-out fee) could continue to bind subsequent replacement tenancies and whether it then became a prohibited fee post-TFA 2019. The case relied by analogy on the situation that arises with deposits where there is a notional repayment of a deposit with each new tenancy (*Superstrike Ltd v Rodrigues*). The Court though found against this and upheld the District Judge's possession order which had distinguished the case from the "Superstrike" principle and found that the TFA 2019 did not apply in these circumstances. We are grateful nonetheless to have been involved in an important decision which has helped clarify the law on the operation of TFA 2019 on which until now there had been no leading authority.

## WHAT IS AN eVisa?

**From 31 December 2024, Home Office has announced all BRP cards will expire and will be replaced with an electronic visa (eVisa)**

This is an online record of your immigration status. It also details the conditions your stay in the country. The advantage of this is that it offers greater security, eliminates the risk of losing the card and means shorter waiting times for applicants. It also allows an easier way to sharing information with third parties such as with employers or landlords. Having an e-Visa does not mean you lose your status. It just records the information in a different form.

**Please call our Legal Advice line on: 020 8985 5236**

Monday to Wednesday

from **10:00am to 12:00pm** and  
press the following option:

- Housing - Option 1
- Immigration & Asylum - Option 2
- Welfare benefits - Option 3

### RECENT TRENDS:

**HOMELESSNESS ACCOUNTS FOR A SPIKE IN DEMAND IN THE LAST THREE MONTHS**

**OUR BENEFITS TEAM SECURED OVER**

**£200,000**

**IN BACKDATED BENEFITS**

Hackney Community Law Centre (HCLC) operates an active volunteering programme and recruits volunteers who are able to come into the office for one or two days a week on a regular basis for a minimum of 3 months.

**No Walk-Ins.  
Appointments Only**

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