

On behalf of: Claimants

Witness: [REDACTED]

No. of Witness Statement: First

Exhibit: [REDACTED]

Dated: 15 June 2022

Claim No. PT-2022-MAN-00056

**IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS IN MANCHESTER
PROPERTY PROBATE & TRUSTS LIST (ChD)
B E T W E E N:**

- (1) WALLEYS QUARRY LIMITED**
- (2) SHARE PROPERTIES LIMITED**
- (3) RED INDUSTRIES (STOKE) LIMITED**
- (4) RED INDUSTRIES LIMITED**

Applicants/Claimants

-and-

**ANGELA WINT AND OTHERS
(AS SET OUT IN THE AMENDED SCHEDULE OF DEFENDANTS)**

-and-

**(1) PERSONS UNKNOWN OBSTRUCTING OR INTEFERING WITH
ACCESS TO AND FROM WALLEY’S QUARRY ON CEMETERY ROAD,
NEWCASTLE UNDER LYME**

-and-

**(2) PERSONS UNKNOWN ENTERING OR ATTEMPTING TO ENTER
ONTO THE LAND AND BUILDINGS KNOWN AS BOROUGH HOUSE,
BOROUGH ROAD, NEWCASTLE UNDER LYME WITHOUT THE
PERMISSION OF THE SECOND OR FOURTH CLAIMANTS**

-and-

**(3) PERSONS UNKNOWN INTENDING OR THREATENING TO ENTER
OR ATTEMPTING TO ENTER ONTO THE PROPERTY KNOW AS
SNEYD HILL TREATMENT AND TRANSFER STATION, UNIT B1 – B3 SNEYD HILL,
STOKE ON TRENT**

Respondents/Defendants

WITNESS STATEMENT OF

[REDACTED]
[REDACTED]

I, [REDACTED], of CMS Cameron McKenna Nabarro Olswang LLP,
1-3 Charter Square, Sheffield, S1 4HS, **WILL SAY** as follows:

1. INTRODUCTION

1.1 I am a [REDACTED] at CMS Cameron McKenna Nabarro Olswang LLP (“CMS”) and I have conduct of these proceedings on behalf of the Applicants / Claimants (“**Claimants**”).

1.2 I make the following statement in support of the Claimants' application [on paper] seeking orders: (1) for the interim injunction order of Mr Justice Fancourt dated 24 May 2022 against Persons Unknown ("**the Interim Injunction Order**") to be made final; and (2) to dispense with service of the final injunction order of Mr Justice Fancourt dated 24 May 2022 ("**the Final Injunction Order**") on the Defendants listed at paragraph 1 of the Second Draft Order pursuant to CPR 6.28. Separate orders are sought in order to ensure consistency with the approach adopted by Mr Justice Fancourt at the hearing on 24 May 2022. However, we are, of course in the Court's hands as to its preference for the form of Order or Orders made.

1.3 As this witness statement in support of the Claimant's application is not a trial witness statement it does not comply with Practice Direction 57AC (Witness Evidence at trial).

1.4 I make this witness statement from matters within my own knowledge, save where otherwise indicated. Where I make this statement on the basis of information provided to me by others, or derived from documents, I have stated the source of that information and believe it to be true.

1.5 I refer to a paginated bundle of documents which are exhibited to this witness statement and marked "██████████". The exhibit comprises true copies of the documents referred to in this witness statement. References to page numbers in square brackets are references to pages within Exhibit ██████████ unless otherwise stated.

2. **BACKGROUND**

2.1 The Claimants are members of the Red Industries group of companies. The Defendants are protesters who object to operations at the landfill site owned and operated by the First Claimant and known as Walleys Quarry, Cemetery Road, Silverdale, Newcastle-under-Lyme, Staffordshire ("**Walleys Quarry site**").

2.2 During the course of their protests, the Defendants have:

2.2.1 obstructed the only vehicular access to the Walleys Quarry site;

2.2.2 trespassed on the Walleys Quarry site; and

2.2.3 trespassed on the premises and car park at the Claimants' head office which is owned by the Second Claimant and operated by the Fourth Claimant, at Borough House, 1-3 Berkeley Court, Borough Road, Newcastle-under-Lyme ("**Head Office site**").

2.3 Proceedings were commenced by Part 8 Claim Form issued on 20 April 2022. The Claim Form, supporting evidence and the Claimants' application for an interim injunction were served on a number of the named Defendants on 21 & 22 April 2022. The proceedings were also publicised

on social media sites, including Facebook, to which all named Defendants have access, by one of the served Defendants.

- 2.4 The Claimants interim injunction application was heard by HHJ Pearce sitting as a judge of the High Court on 28 April 2022. 13 named Defendants attend the hearing including Blake Marchant (D4), Gwenie Tait (D8), Izzak Victor Johnson (D9), Joseph Cairns (D11), Nathan Wint (D11) and Simon “Simmo” Burgess (D20) who are relevant to this application. HHJ Pearce granted an interim injunction until the return date on 24 / 25 May 2022 [1-6]. The Judge gave directions for the filing of evidence. The Defendants were to file any evidence in response to the application by 4pm Tuesday 17 May. At the hearing HHJ Pearce also granted permission to the Claimants to join two further named defendants [7-8].
- 2.5 Following the hearing the 14th Defendant, Dr Salt, instructed Leigh Day solicitors. Leigh Day wrote to CMS on 13 May 2022 proposing that the parties, including all the named Defendants, agree a final order [9-17]. Prior to the return date listed on 24/25 May 2022 the terms of a final order were agreed and signed by all named Defendants [18-23]. The execution of the consent order was facilitated by Dr Salt who met with each of the named Defendants [24-30].
- 2.6 At the hearing on 24 May 2022, Mr Justice Fancourt granted the Final Injunction Order [31-45] and the Interim Injunction Order [46-56]. It is of note at paragraph 3 of the Final Injunction Order that Mr Justice Fancourt dispensed with service of the Claim Form on several of the named Defendants whose addresses are unknown, with the exception of Mr Lewis Coxon whose address is known but was added to the proceedings pursuant to the Amended Claim Form, and Mr Johnson (D9) and Mr Burgess (D20) who had already confirmed they would accept service of the proceedings to their personal email addresses.
- 2.7 The Claimants have now personally served the Final Injunction Order and Interim Injunction Order on 13 of the 26 named Defendants. This is evidenced in the attached Witness Statement of Saab Samra of A.S.H Process Servers Ltd dated 10 June 2022 [57-85]. It has not been possible to effect personal service on Cameron Allman (D5), Izzak Victor Johnson (D9), Jack Steele (D10), Simon “Simmo” Burgess (D20), Steven Jones (D21), Thomas Currie (D23), Will Branson (D24) and Michelle Hackney (D29) as their addresses are unknown to the Claimants [86-87]. Furthermore, I understand from paragraphs 5, 9, 10, 15 & 18 of Mr Samra’s witness statement dated 10 June 2022 [57-59] that personal service could not be effected on Blake Marchant (D4), Gwenie Tait (D8), Joseph Cairns (D11 – it is noted that Mr Cairns informed the process server (paragraph 10 of Mr Samra’s witness statement dated 10 June 2022) that he was unable to come to the door and requested when leaning out of the window that the process server placed his paperwork at the door) Nathan Wint (D16) and Sara Owen (D19). In respect of Ms Tait (D8) and Mr Wint (D16) service was attempted by post with the knowledge that the Defendants were in the property (see paragraphs 9 and 15 of Mr Samra’s witness statement dated 10 June 2022). The

Claimants also attempted to effect service on Ms Owen, however, I understand from paragraph 18 of Mr Samra's witness statement dated 10 June 2022, that effective service on Ms Owen could not be guaranteed as the process server who attend the address was met by Ms Owen's grandfather who confirmed Ms Owen did not live at the address but she would receive anything left with him at that that address.

2.8 In accordance with the paragraphs proceeding the penultimate heading of the Interim Injunction Order in respect of Persons Unknown "*SERVICE OF THIS ORDER*", notice of the Interim Injunction was provided by the Claimants as follows:

2.8.1 by email to 'Stop the Stink' at thelandfillstinks@gmail.com on 1 June 2022 [88];

2.8.2 by publication of the Order on the Claimants' websites (these are the websites of Red Industries Ltd and Walleys Quarry Ltd on 26 May 2022 [89-90]. The other Claimants do not have standalone websites); and

2.8.3 by displaying copies of the Order outside the entrances to the car park and the building at Borough House on 26 May 2022 [91-93] and at the side of the Quarry Entrance on 27 May 2022 [94-95].

3. **A FINAL INJUNCTION ORDER AGAINST PERSONS UNKNOWN**

3.1 Paragraph 5 of the Interim Injunction Order [48] provides that where "*no Defendant files an Acknowledgement of Service within the period permitted by paragraph 22 of the Order of His Honour Judge Pearce dated 28 April 2022, the Claimants have permission to apply for a final order in the terms of this interim injunction with the application to be considered by the Court "on paper" without a hearing.*"

3.2 Paragraphs 20 - 22 of the Order of His Honour Judge Pearce dated 28 April 2022 directs how the Claimants must effect service on Persons Unknown as set out below:

" 20. *The Claimants are permitted to serve the Claim Form pursuant to CPR 6.14 on the Defendants described above as "Persons Unknown" (the "Unidentified Defendants") by email to 'Stop the Stink' at thelandfillstinks@gmail.com and by publication on the Claimants' web-site PROVIDED that the addresses of the named Defendants shall be redacted from the copies of the Claim Form served in such manner.*

21. *The Claim Form will be deemed served on the Unidentified Defendants one clear business day after each of the steps set out above have been completed.*

22. *The period for each of the Unidentified Defendants to serve an Acknowledgment of Service will be 14 days after the deemed date of service of the Claim Form.”*

3.3 The Claim Form was served in accordance with paragraph 20 on 16 May 2022 [96-102].

3.4 Prior to the hearing on 28 April 2022, the sealed Claim Form and other documents including the application notice were uploaded to the Claimants websites on 21 April 2022 (these are the websites of Red Industries Ltd and Walleys Quarry Ltd as explained above). Following the hearing, the Order of His Honour Judge Pearce dated 28 April 2022 was subsequently uploaded on to the Claimants website. However, prior to the hearing on 24 May 2022 CMS was unable to locate a copy of the Claim Form on the Claimants website, as it appeared that Claim Form may have been inadvertently removed when the sealed Order of His Honour Judge Pearce dated 28 April 2022 was upload. Accordingly, the Claim Form and Amended Claim Form were uploaded onto the Claimants’ website again on 19 May 2022.

3.5 For the purposes of paragraph 21 & 22 of the Order of His Honour Judge Pearce dated 28 April 2022, the date of deemed service on Persons Unknown is 20 May 2022.

3.6 Accordingly, Persons Unknown had until 3 June 2022 to acknowledge service of proceedings. To date no Acknowledgements of Service have been served on the Claimants, or CMS, and I understand from CMS’s Court clerks that no Acknowledgements of Service have been filed at Court.

3.7 In light of the above and in accordance with paragraph 5 of the Interim Injunction Order, the Claimants now seek an Order that the Interim Injunction be made final against Persons Unknown, on the terms of the First Draft Order attached to the Application Notice.

4. **SERVICE OF THE FINAL INJUNCTION ORDER BY ALTERNATIVE METHODS**

4.1 The penultimate paragraph of the Final Injunction Order [34] states “*SERVICE OF THE ORDER – This Order shall be served by the Claimants Solicitors on the Defendants named in Schedule A to this Order.*”

4.2 In order to enable the Claimants to enforce the Final Injunction Order in accordance with CPR Part 81.4(2)(c), the requirement is for the Final Injunction Order to be served personally unless the Court or the parties dispense with personal service.

4.3 As set out at paragraph 2.7 of this statement, the Claimants have personally served the Final Injunction order on 13 of the 26 named Defendants. As explained above, it has not been possible to effect service on 8 of the named Defendants as their addresses are unknown to the Claimants [86-87]. Furthermore, personal service could not be effected on Blake Marchant (D4), Gwenie

Tait (D8), Joseph Cairns (D11), Nathan Wint (D16) and Sara Owen (D19) [57-59]. Collectively known as the “**Unserved Defendants**”.

4.4 In order to attempt to facilitate personal service on the 8 named Defendants where their addresses are unknown, CMS emailed Leigh Day on 30 May 2022 asking whether Dr Salt could liaise with the 8 named Defendants in order to provide CMS with their addresses so that the Claimants could effect personal service [103-107]. Leigh Day confirmed on 1 June 2022 that the 8 named Defendants listed in CMS’s email of 30 May 2022 “*do not wish to provide their postal or email addresses.*” In the same email Dr Salt offered to circulate hard copies to the 8 Defendants whose addresses are unknown and confirmed he could provide a signed statement and/or collect the recipient’s signature as acknowledgement of receipt.

4.5 CMS responded to Leigh Day on 1 June 2022 seeking confirmation “*whether the eight Defendants named in yesterday’s email would be prepared to meet in one location, in which the process server could serve the documents?*” Leigh Day confirmed to CMS on 7 June 2022 that they are no longer instructed by Dr Salt and confirmed:

“Dr Salt has however indicated to us that your suggestion is unworkable, and that when he proposed it to the defendants in question, one refused outright.

We also note that it is not for Dr Salt to arrange service of documents on the other defendants. Dr Salt has been extremely accommodating in ensuring that the consent order was agreed and signed expeditiously. However, it is for your clients to take the necessary measures to arrange service in accordance with the CPR and the court’s orders.”

4.6 Despite the Claimants attempts to try and come to an agreement as to how the Final Injunction can be personally served on the 8 named Defendants where their addresses are unknown it is now apparent that this is unlikely to be possible without the assistance of Dr Salt, and it would be inappropriate for the Claimants, and the Court, to place a further burden on Dr Salt to facilitate service on those Defendants who are unwilling to co-operate in the service of the Final Injunction Order.

4.7 In light of the above, the Claimants seek an order in the terms of the Second Draft Order for service of the Final Injunction Order to be dispensed with pursuant to CPR 6.28(1). The reason why the Claimants seek this order is that the Unserved Defendants have already consented to the terms of the Order, as evidenced by each of the Unserved Defendants signature [37-38] facilitated by Dr Salt as explained above. As such, the Unserved Defendants have personal knowledge of the terms of the Final Injunction Order to which they have consented. Furthermore, the Unserved Defendants, with the exception of Blake Marchant (D4), Joseph Cairns (D11), and Sara Owen (D19), have attempted to avoid service of the Final Injunction Order by refusing to meet a process server at a neutral location or alternatively, providing the Claimants with their addresses.

- 4.8 The alternatives to dispensation of service of the Final Injunction Order would be for the Claimants to:
- 4.8.1 attempt to effect service via Facebook. The Claimants understand that each of the Unserved Defendants have a Facebook account, however, if those Facebook accounts are set to private and/or a message cannot be sent to the Unserved Defendants via the Facebook Messenger application, any attempts to effect service of the Final Injunction Order via Facebook could be blocked by the social media platform or simply ignored by the Unserved Defendants.
 - 4.8.2 seek Dr Salt's assistance with effecting service on the Unserved Defendants. This would not be welcomed by him for the reasons set out above.
 - 4.8.3 instruct process servers to attend Walleys Quarry Site and/or Head Office in the hope that personal service can be effected on the Unserved Defendants. However, the Claimants have already attempted this method of service in respect of the Claim Form and application for an interim injunction prior to the hearing on 28 April 2022, and when a process server attempted to effect service on Cameron Allman, who evaded service, he was pushed and then followed [108-110]. As such, this method of service is unlikely to be effective and in any event, it would be disproportionate for the Claimants to incur the significant costs of instructing process servers to attend Walleys Quarry Site and/or Head Office in circumstances where the Unserved Defendants already have personal knowledge of the terms of the Final Injunction Order.
- 4.9 In light of the above, the Claimants believe that it is appropriate for the Court to dispense with service on the Unserved Defendants on the terms of the Second Draft Order, especially in the circumstances when CPR 81.4(2)(c &d) provides for dispensation of service, but does not envisage alternative methods of service.
- 4.10 If the Court is not minded to dispense with service of the Final Injunction Order, for the reasons set out above, the Claimants seek the Courts permission pursuant to CPR 6.27 to effect service of the Final Injunction by alternative means via Facebook on the terms of the alternative wording contain in square brackets in the Second Draft Order.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed: [REDACTED]

Name: [REDACTED]

Dated: ...15 June 2022.....

On behalf of: Claimants / Applicants

Witness: [REDACTED]

No. of Witness Statement: First

Exhibit: [REDACTED]

Dated: 15 June 2022

Claim No. PT-2022-MAN-00056

**IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS IN MANCHESTER
PROPERTY PROBATE & TRUSTS LIST (ChD)**

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- (2) SHARE PROPERTIES LIMITED**
- (3) RED INDUSTRIES (STOKE) LIMITED**
- (4) RED INDUSTRIES LIMITED**

Applicants / Claimants

and

**ANGELA WINT AND OTHERS
(AS SET OUT IN THE AMENDED SCHEDULE OF
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-and-

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SNEYD HILL TREATMENT AND TRANSFER STATION,
UNIT B1 – B3 SNEYD HILL, STOKE ON TRENT**

Respondents / Intended Defendants

WITNESS STATEMENT OF

[REDACTED]

CMS Cameron McKenna Nabarro Olswang LLP
1-3 Charter Square, Sheffield, S1 4HS

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