

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand
London WC2A 2LL

Friday, 15 March 2024

BEFORE:

MR JUSTICE SOOLE

BETWEEN:

SHELL UK OIL PRODUCTS LIMITED

Claimant

- and -

PERSONS UNKNOWN

Defendants

MS M STACEY KC appeared on behalf of the Claimant
MR LAURIE and MS RUMBELOW appeared in person
The other defendants did not attend and were not represented

PROCEEDINGS

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(Official Shorthand Writers to the Court)

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A (15.05 pm)

MR JUSTICE SOOLE: Yes?

MS STACEY: My Lord, I hope that you will have received some documents from us?

MR JUSTICE SOOLE: Yes. I have received them. I am bound to say because of

B everything else I have been doing in court most of today and I could not yesterday after about 4 o'clock, I have not yet finished reading the draft order. So I thought the better course would be to walk through it.

MS STACEY: I can walk you through it.

MR JUSTICE SOOLE: But I also know that Mr Laurie, who is here again today, would
C like to raise some points.

MS STACEY: Would you be prepared to hear from me, first, my Lord, or Mr Laurie?

MR JUSTICE SOOLE: I think I would like to hear what the points are and then I will
D decide in what order I hear things, yes.

MR LAURIE: Thank you. I am sorry, I meant to bring it up on Monday, but I did not
E so I am bringing it up now. I thought it was a bit odd that, when you were asked to take out the word "environmental" from the document, I still think it is a bit odd. I would like to ask to have the -- because of these were environmental protestors and it is a bit hard to see why we should not have that term in the document. It does not seem to be too much to me, but I think we would like to be named as environmental protestors within the documentation if you do not mind.

MR JUSTICE SOOLE: I am afraid I am now forgetting where that point was. I
F remember something being said about that, I have now forgotten.

MS STACEY: If I can help. It was when we were looking at the claim form, my Lord,
G and we described it as a re-amended claim form. The first amendment was to take out the word "environmental" from the description of the persons unknown, and I explained to your Lordship that this was something that Hill J considered as part of the evidence before her and she dealt with it in her judgment. She was satisfied that on the evidence, whilst persons unknown protestors were environmental in the main, there was evidence that did not necessarily -- it was not limited to environmental protestors strictly speaking and extended to other spin-off protest groups and it is on that basis that she removed the limitation.

H MR JUSTICE SOOLE: She wanted to enlarge the category that might --

MS STACEY: Indeed.

A MR LAURIE: Could we put "environmental and others" then or something like that, but we would like to keep the term environmental in there please.

MS STACEY: My Lord, this was considered expressly by Hill J. There was a KC and a junior before her at the time and it was debated before her. She was satisfied that it was appropriate to make the amendment.

B MR JUSTICE SOOLE: I think in fact the amendment has already been made, has it not actually?

MS STACEY: It has. That is not the amendment I am seeking. I am simply removing --

C MR JUSTICE SOOLE: That was already made in the last order.

MS STACEY: Indeed.

MR JUSTICE SOOLE: It just says "with protest campaigns", so it incorporates environmental and anybody who is not environmental.

D MR LAURIE: Okay. Well, there is a general move to try and take our motivations away from us and I think it is important, it is very important to me personally but I think it is important to all of us that we have that in. As I say, if you put "environmental and others" it would incorporate others and it would be the same thing, but it would enable us to be accurately identified, because that is our key motivation, that is why we do this.

E MR JUSTICE SOOLE: Yes.

F MR LAURIE: And it is kind of anonymising us to take it out. As I say, I was not here when the other debate was had, but now I think, and I cannot really see the reason why ... and I say, if it said "environment and others" it would broaden it out to include other spin-off groups. I am not quite sure what that might be. But it would do the same and it would enable us to be accurately identified within the document.

G MR JUSTICE SOOLE: Yes. That is the first point and the second point --

MR LAURIE: No, that was the point.

H MR JUSTICE SOOLE: I see. I am not going to take any further steps. That was decided by Hill J. Your point is very much noted. I think that has been dealt with by the decision of Hill J on the last occasion.

A MR LAURIE: There is now way we can just -- I mean, it does not seem to be a big thing and it seems to be within the power, you know, surely it is within the power of the court to put that in if we want to.

B MR JUSTICE SOOLE: It means me effectively putting it back in something that a judge at the same level has taken out after further argument. I understand the point you raise, but I am going to leave things as they are. But thank you for raising it.

MS RUMBELOW: Your Honour, could I ask some questions about the injunction?

MR JUSTICE SOOLE: Sorry, who are you?

C MS RUMBELOW: I am persons unknown I suppose, because this injunction applies to everybody in this whole country who has some problem with the criminal activity of Shell Limited.

MR JUSTICE SOOLE: Mr Laurie, if you would like to take a seat. Your name is?

D MS RUMBELOW: My name is Indigo Rumbelow and I am here on behalf of all persons unknown, which is you, your Honour, it is your family. It is everybody in this courtroom who has a problem with the way that Shell is acting here in this country and around the world, putting millions if not billions of lives at risk. I am asking you, your Honour, to show us that this really is a court of justice, because right now it is clear there are five people being paid above the odds to penalise people who are trying to stand up at this really crucial moment in time. You have a position where you could show that you can call this out for the criminal activity that it is.

E MR JUSTICE SOOLE: I am here deciding various directions for the future conduct of the trial. I am not deciding substantive questions today and on the hearing which began on Monday and had to be adjourned to today. I am simply making orders for the next stages of the case.

F MS RUMBELOW: You are simply making orders.

MR JUSTICE SOOLE: Which is my job.

G MS RUMBELOW: Which is your job. And it is your duty to really consider what you are doing and whether you want to be on the side of big oil or if you want to be on the side ordinary people standing up for the future of humanity.

H MR JUSTICE SOOLE: Thank you for making your points and making them, if I may say so, eloquently. I am simply here as the judge seeking to do my best to apply

A the law as I understand it at every stage. But your point, and the strength of your feeling is noted, but all I can do today is conclude the questions of directions for the future conduct of this action. Thank you very much indeed and for putting it with courtesy as well.

MS RUMBELOW: Thank you.

B MS STACEY: My Lord, may I, having heard that, just put on the record it seems that there may be a misconception. Persons unknown from our side is not everyone who has an issue with Shell, it is those persons falling within the category and carrying out the unlawful acts which are prohibited by the order. I just wanted to put that on the record.

C MR JUSTICE SOOLE: I understand, and in a sense I was conscious of that point, but I was not going to, in the circumstances of litigation against persons unknown, albeit defined by a certain category, I was not going to stop Ms Rumbelow saying something if she wished to do so.

MS STACEY: No, no.

D MR JUSTICE SOOLE: But I understand the point that you make.

MS STACEY: Yes, and my clients would wish me to make it. My Lord, unless there are any other points from the defendants, I suggest that we take the order first and I walk you through the order and we pick up points as we go along.

E MR JUSTICE SOOLE: Yes. As I indicated on the last occasion, I consider that you are entitled to add the named defendants you wish to add to the claim. I told you that I was not with you on the basis of there being an early full trial of the actions because that did not give enough time for people to prepare themselves.

F MS STACEY: Yes.

MR JUSTICE SOOLE: What the next stage was needed with the present injunction expiring on, I think, 12 May --

MS STACEY: 12 May, my Lord, yes.

G MR JUSTICE SOOLE: -- was to have a further interim hearing to consider, in the language of the law, to review the continuance of that injunction.

MS STACEY: Yes.

MR JUSTICE SOOLE: And then to give some directions at this stage towards a final trial, but any further directions to be given at the conclusion of that hearing.

H MS STACEY: Yes, my Lord, and that is what this order provides for.

MR JUSTICE SOOLE: That is what I am dealing with now, this afternoon.

MS STACEY: Yes. Do you have the draft order?

MR JUSTICE SOOLE: Yes. What I am doing is I am holding up the second draft you provided for me in the light of discussions on the last occasion and the --

MS STACEY: Which has been served on all the named defendants.

MR JUSTICE SOOLE: No, no, I do not mean the order I made adjourning the application, I mean when you came to court on Monday, you had a draft order. I raised a number of questions about the form of the order. You then, by 2 o'clock, had produced a proposed revised version, which I then raised further questions about, and then we had to adjourn. Then yesterday as requested, you supplied, before 4 o'clock, which was the time I requested, a yet further version of the draft order. I now have in front of me, because I find it the simplest way to deal with it. The draft order you supplied yesterday and the one that you supplied to me on Monday afternoon.

MS STACEY: I see, yes.

MR JUSTICE SOOLE: So that I can see what changes have been made.

MS STACEY: The changes, I see.

MR JUSTICE SOOLE: And how they have been incorporated.

MS STACEY: I did not provide your Lordship with a tracked version because it was getting rather messy and you expressed a preference for a clean copy.

MR JUSTICE SOOLE: Yes, exactly. That is what I wanted and I am grateful.

MS STACEY: Shall I take your Lordship through it from the top.

MR LAURIE: Excuse me, I do not have a copy.

MS STACEY: It was sent.

MR LAURIE: I did get it but I do not have it with me.

MS STACEY: We have a hard copy that we can hand to Mr Laurie. (**Handed**)

My Lord, if you see on the front sheet we have added the names of 15 defendants and we have taken out the word "proposed".

MR JUSTICE SOOLE: Is that what your front sheet looks like?

MS STACEY: It does, yes.

MR JUSTICE SOOLE: So top left, underneath King's Bench Division, could you put Mr Justice Soole?

MS STACEY: Yes.

MR JUSTICE SOOLE: You then have three sets of persons unknown and the third one has something called "Proposed first defendant".

A MS STACEY: That needs to come out, quite right. Sorry, I did not spot that.

MR JUSTICE SOOLE: That should say "First defendant". The word "proposed" should come out there.

B MS STACEY: It should simply be first defendant, yes. Then the second defendant through to 15th --

MR JUSTICE SOOLE: Can you remove the various little words on the bottom left.

MS STACEY: Yes, I am sure that can be done.

MR JUSTICE SOOLE: Cloud UK, sort of thing. That is not meant to be on that.

C MS STACEY: We have removed Mr Gingell.

MR JUSTICE SOOLE: You have removed Mr Gingell who gave the undertaking.

MS STACEY: Yes.

MR JUSTICE SOOLE: Could you move "Upon the claimant's application dated 12 February" as the first recital.

D MS STACEY: Yes.

MR JUSTICE SOOLE: Do we actually need to have a recital of all those orders?

MS STACEY: Not necessarily, my Lord.

MR JUSTICE SOOLE: Can you cross that out and just put "and upon hearing leading E counsel for the claimant and the proposed ..."

MS STACEY: Eighth.

MR JUSTICE SOOLE: Well, "and the proposed defendant Mr Charles Phillip Laurie in person".

F MS STACEY: Yes.

MR JUSTICE SOOLE: "It is ordered", cross out "that". Now, I would like you to walk me through the order.

MS STACEY: I will do that. So paragraph 1, my Lord, is the schedule of named G defendants. That has been amended. It is right at the back you should have an appendix. Or I think it is actually sent in a separate attachment.

MR JUSTICE SOOLE: I have Schedule 1 here.

MS STACEY: Yes, and it should have the deemed defendants on it with Mr Gingell removed.

H MR JUSTICE SOOLE: Yes.

A MS STACEY: That is paragraph 1. Paragraph 2 is the Reamended Claim Form and Particulars of Claim, which is a consequence of the joinder, so my Lord, you were sent two attachments. If we can deal with the claim form first.

MR JUSTICE SOOLE: Does Mr Laurie have a copy of that?

B MS STACEY: I do not know whether he needs hard copies. If he does, we can provide them to him. The reamendment to the claim form contains reference to, at the top you will see "Reamended pursuant to order", because you made that -- well, you have not made any order yet, but it is dated 15 March.

MR JUSTICE SOOLE: Yes.

MS STACEY: Then the amendments in green.

C MR JUSTICE SOOLE: So you will remove the square brackets?

MS STACEY: Yes.

MR JUSTICE SOOLE: And then the amendments in green, I do not have colours here, but add a number 1 before "Persons unknown", and then 2, Louis McKechnie and 13 others as set out in the attached schedule 1.

D MS STACEY: Exactly.

MR JUSTICE SOOLE: And that is the same schedule again with names.

MS STACEY: With the 15 defendants, yes.

MR JUSTICE SOOLE: I see it in a separate document there, yes.

E MS STACEY: Then the second part of paragraph 2 deals with the proposed reamended particulars of claim, which pleads the case or the cause of action in relation to the individual defendants. You have been sent a draft of that proposed re-amended particulars of claim, with the amendments again shown in green. I do not know whether yours is coloured.

F MR JUSTICE SOOLE: Not on my printout, but anyhow.

MS STACEY: I can tell you what they are. So on the front page you see the word "first" inserted before defendant, after the descript of persons unknown.

MR JUSTICE SOOLE: Yes, yes.

G MS STACEY: Then you have the new defendants inserted there. We then in the heading have reference to "Reamended Particulars of Claim by order of Soole J dated ...", and we need to insert the date.

H MR JUSTICE SOOLE: Yes.

A MS STACEY: The next amendment is paragraph 1.4, second line down, after "restrained by this court", you will see the words "the defendants", deleted "persons unknown".

MR JUSTICE SOOLE: Because defendants includes persons unknown within the identified category.

B MS STACEY: Exactly. Then after "by agreement with others" we have inserted the words "which involve the interference with rights to the site, goods and/or equipment used for the dispensing of the claimant's fuel", just to make it clear what the conspiracy is alleged to be.

Paragraph 2.1, after the words "groups of protestors", we have added the words "which include the 2nd to 6th defendants". This is the incident on 28 April.

C MR JUSTICE SOOLE: All right.

MS STACEY: And then we have added the words after "protest campaign", acting collectively in a coordinated campaign.

MR JUSTICE SOOLE: Yes.

D MS STACEY: At 2.2, after the words "actions of the", we have added "1st to 6th defendants" and deleted "protestors".

MR JUSTICE SOOLE: Yes.

E MS STACEY: Then at 2.2.3, because of the information we have from the police, we have added the word "wilful" in front of "blocking", "access of the highway". Then after the word "to", we have put in "persons engaged in lawful activities", and then the words "and causing a public nuisance".

MR JUSTICE SOOLE: Yes.

F MS STACEY: At 2.3, we have inserted reference to the 1st and the 2nd to 6th defendants, and that paragraph sets out what we say happened on that day. 2.4, my Lord, is a new paragraph that is in its entirety, so it is all green, and it sets out in relation to each of these --

G MR JUSTICE SOOLE: I am glad I asked for a document because this is much more substantial than you were suggesting on the last occasion.

MS STACEY: My Lord, yes. We have particularised, in as much detail as possible, based on the information we have been provided, the individual allegations against each of the 15 defendants. So 2.4 is the Cobham incident on 28 April.

H

MR JUSTICE SOOLE: So you have there set out what you say are the individual allegations against the 2nd to 6th defendants.

MS STACEY: Yes, what the unlawful acts are said to be, yes.

MR JUSTICE SOOLE: Yes.

MS STACEY: 2.5 deals with the incident on 24 August, which is concerned with the 7th to 10th defendants and the individual acts are set out at 2.6.

MR LAURIE: Well --

MR JUSTICE SOOLE: I think it is easier -- if it is a short point?

MR LAURIE: There is a factual inaccuracy.

MR JUSTICE SOOLE: That will be a matter for a defence to put in. But do you want to make the point now.

MR LAURIE: So the charges -- I am the 8th defendant and the charges they put in there are not the charges that I have been charged with.

MR JUSTICE SOOLE: Which paragraph are you looking at?

MS STACEY: 2.6.2, my Lord. It is "arrested".

MR JUSTICE SOOLE: That says "was arrested for", not what the charges are.

MR LAURIE: Okay.

MS STACEY: We have prefaced it with "according to information provided to us by Surrey Police". So 2.6, my Lord, sets out --

MR JUSTICE SOOLE: This is what they, the claimant, are saying. If they have something wrong you will have every opportunity in due course to --

MR LAURIE: It is not where it stands at the moment. That is what I am saying.

MR JUSTICE SOOLE: I do understand that. Yes?

MS STACEY: And 2.7 perhaps pre-empts Mr Laurie's point, because it refers to the current position. It is a new paragraph, "were arrested, were granted conditional bail pending further investigation, were released under investigation, further understand a trial date has been set". This is all based on our understanding, my Lord, setting out what we believe to be the current position in relation to those particular defendants.

MR JUSTICE SOOLE: Yes.

MS STACEY: 2.8 is the third incident at Acton which relates to the 11th to 15th defendants. So we have inserted reference to them specifically. The last five lines are new, starting "The 1st defendant and the 11th, 12th, 13th, 14th and 15th",

A down to "loss and damage" is an insertion. 2.9 is a new paragraph which again sets out the specific allegations against each of those particular defendants. We do not have the information to enable us to -- and we include in brackets "no further action was taken in circumstances where operators of the site failed to supply details of the cost of damage caused" at the end of 2.9.

B 2.10, my Lord, there are some cross-references. We have added references to the new paragraphs on the first line, 2.4, 2.6, 2.9, and refer to it being a coordinated action by a group of people which included the 2nd to 15th defendants specifically, four lines from the bottom.

C The next amendment is at 3.1, the second line down, we deleted the "persons unknown" and replaced it with defendants. Then 3.6 we have pleaded why we anticipate or why we say there remains --

MR JUSTICE SOOLE: There is no amendment between 3.1 and 3.6?

D MS STACEY: No. 3.1 and 3.6, no amendments because that deals with the position vis-à-vis the first defendant. 3.6 pleads the basis upon which we say there remains a real and imminent risk in relation to the named defendants. What that is essentially doing is pleading the undertaking, or them having been identified, the undertaking having been offered and no undertaking having been given. At 3.7 we draw the threads together.

E MR JUSTICE SOOLE: As the basis of a claim for a final precautionary injunction?

MS STACEY: Exactly. The only other amendment is at 3.9, my Lord, the insertion --

MR JUSTICE SOOLE: The document I have has not been signed or dated?

F MS STACEY: No, because we have not yet -- I can refer you to the order. We have made provision for that to happen.

MR JUSTICE SOOLE: Right, okay.

G MS STACEY: So 3.9, I just need to draw your attention to the only other amendment, which is just before the subparagraph you see the words "carrying out" before "any of the following acts", that has simply been inserted because it did not scan properly. Those words were missing.

MR JUSTICE SOOLE: Yes, it is grammatical.

H MS STACEY: Grammatically inaccurate. Then the statement in truth inserts "re" in front of "amended" in green.

A My Lord, the way we deal with this in the order is, if I can ask you to turn back to paragraph 2, paragraph 2 is the provision giving permission. Paragraph 3 sets out that the amendments shall be, and in a sense this might be superfluous given that you have already been shown the document, but we set out there what it should look like in accordance with the practice direction, and then 4, is your Lordship's point about it being verified by a statement of truth and copies being filed and served in accordance with paragraphs which then follow.

B MR JUSTICE SOOLE: What is the position about the sealing of a reamended claim form as opposed to -- one does not seal a particulars of claim.

MS STACEY: No.

C MR JUSTICE SOOLE: But what about the claim form?

MS STACEY: My Lord, we could not find anything in relation to that. If it is going to be sealed, then we will wait for it to be sealed before serving. It may be that your Lordship can --

D MR JUSTICE SOOLE: We discussed this before. What is the position?

MS STACEY: The reason we have made provision for it to be unsealed is that we need to serve it before the 22nd and we do not want to be held up by judicial administration. If it can be sealed quickly, then that is not a problem. But obviously we need to serve it as soon as we possibly can.

E MR JUSTICE SOOLE: What is the requirement? A claim form is sealed, but does an amended -- I think your amended claim form was --

MS STACEY: It was.

MR JUSTICE SOOLE: -- sealed, was it not?

MS STACEY: It was, yes.

F MR JUSTICE SOOLE: So on what basis is that? **(Pause)** Is it CPR 2.6, page 42?

MS STACEY: "... must seal the following documents ..."

G MR JUSTICE SOOLE: "The court must seal the following documents on issue - (a) the claim form; and (b) any other document which a rule or practice direction requires it to seal."

MS STACEY: I suppose the question, my Lord, is whether we need to await the sealing of it before serving.

H MR JUSTICE SOOLE: No, but does an amended claim form need to be sealed?

A MS STACEY: According to 2.6, I think that would encompass an amended claim form, my Lord, yes, because it is still a claim form. So it would need to be sealed, but it has been issued already. My Lord, I would suggest that it is not entirely clear.

MR JUSTICE SOOLE: When you say it has been issued ...

MS STACEY: The claim form itself has been issued and the claim has been issued. It is an amendment of the existing claim form which has already been sealed.

B MR JUSTICE SOOLE: That is my question. What is the requirement if it has been issued, and if you add a new defendant or an additional cause of action --

C MS STACEY: Whether it needs to be resealed. That is what I am afraid, my Lord, could not find. I could not find any provision that says if you amend a claim form it has to be reissued on each occasion that it is amended. This claim form has been sealed obviously once ... twice.

MR JUSTICE SOOLE: Twice.

MS STACEY: Yes.

D MR JUSTICE SOOLE: What happened on the occasion that it was --

MS STACEY: It was sealed by the court.

MR JUSTICE SOOLE: Did you ask for it to be sealed.

E MS STACEY: We certainly did not ask for it to be resealed. It came out from the court in that way. We found authority that apparently it does not need to be resealed prior to service.

MR JUSTICE SOOLE: What is the authority for that?

MS STACEY: *Denton v White* [2014]. My Lord, it is *Hills Contractors & Construction v Struth* [2013] EWHC 1693 (TCC).

F MR JUSTICE SOOLE: Is it referred to in the White Book?

MS STACEY: My solicitor just pulled it up.

MR JUSTICE SOOLE: I would like to see it if it is a decision that is going to be relied on.

MS STACEY: Yes, 6.23.

G MR JUSTICE SOOLE: The paragraph of the White Book?

MS STACEY: Of the CPR, 6.23, my Lord, it does not specifically refer to the point. 6.32 it was also --

H MR JUSTICE SOOLE: I cannot see where it says --

MS STACEY: No, I agree. It is 6.32, "Service of original seal claim form generally required ...", 6.32. **(Pause)**

MR JUSTICE SOOLE: These are all to do with service of documents.

MS STACEY: They are.

MR JUSTICE SOOLE: Where have you got this *Denton* from? Is that *the Denton*?

MS STACEY: Yes. *Denton* is not the accurate authority, my Lord. It is not the right authority. Can I ask you to just turn to 7.5.1 just to see if it helps. It again refers to service of a claim form. **(Pause)** Which does not specifically deal with the point about amendment.

MR JUSTICE SOOLE: If one looks at 7.5.1, talking about the original claim form, it says halfway down on page 369, "It should be noted that what must be served is a sealed claim form not an unsealed one, re-emphasised in *Ideal Shopping*."

MS STACEY: Yes.

MR JUSTICE SOOLE: Now, if you are adding a new party, it is as if you had a fresh claim form against that person, is it not? I cannot see the difference in substance between ... in the absence of an authority to show that it does not --

MS STACEY: No, I understand that, my Lord.

MR JUSTICE SOOLE: -- need to be sealed, I am afraid my approach at the moment is that the word "claim form" in 2.6 is, as I think as you, as it were, initially acknowledged, to include --

MS STACEY: Does your Lordship have any sense of how quickly that can happen?

MR JUSTICE SOOLE: No.

MS STACEY: It is much the same to us. We obviously want to do it properly, but it is just the timing --

MR JUSTICE SOOLE: Documents are sealed remarkably quickly and I have sometimes had to correct documents when I had realised I had made a mistake and they have already been sealed, even though they only went out from me minutes before and I have had to amend them under the slip rule. But again, as I have said in this and other litigation, rules have to be complied with and if it is the rule that an amended claim form has to be ... unless there is some sort of dire emergency which might allow the court -- I cannot see what it would be, but I think it is a matter of substantive procedural law -- I do not think the matter of time, there does not seem to be any urgency.

MS STACEY: No, it is simply to meet the dates. We will go to the directions. You will see which dates we have in mind.

MR JUSTICE SOOLE: Well, the dates may have to be postponed.

MS STACEY: My Lord, we are not trying --

MR JUSTICE SOOLE: For all I know there is an authority somewhere saying if it is amended, I am a bit surprised, certainly one where you are adding defendants, I suppose, if you are just adding a slightly different cause of action and you were putting a breach of contract as well as tort, for example, one might, but how one makes those distinctions I do not know. It is no more than instinct, but if you are adding a new defendant, I would expect it to be a sealed document.

MS STACEY: My Lord, as a matter of principle I have to say I am with you. I just could not find an answer just by having looked for one.

MR JUSTICE SOOLE: No. Well, yes, there has been the time so I think for that purpose then, which draft am I looking at now?

MS STACEY: So we were at paragraph 4.

MR JUSTICE SOOLE: It is the previous draft order.

MS STACEY: Paragraph 4.

MR JUSTICE SOOLE: I am going to cross out in paragraph 4 "(which need not be sealed)", for two different reasons, one because of what we have just been discussing, but also re-amended particulars of claim do not need to be sealed.

MS STACEY: No, no, quite.

MR JUSTICE SOOLE: Right.

MS STACEY: In paragraph 4, my Lord, we are inserting the word "sealed" are we?

MR JUSTICE SOOLE: No, I am just crossing out "(which need not be sealed copies)".

MS STACEY: Yes, so we will keep it --

MR JUSTICE SOOLE: And if you want to serve something ...

MS STACEY: Yes, fine, my Lord, thank you. Paragraph 5 then is the definition of application documents which we discussed last time around.

MR JUSTICE SOOLE: This is serving the application for today's matters, sorry, for Monday's and today's. Well, Monday's, yes.

MS STACEY: Yes.

MR JUSTICE SOOLE: Today is just an adjournment.

A MS STACEY: We have dealt with today in "future documents" category, we will come on to that in a moment, just so it covers everything. Paragraph 6, if there are steps already taken, so the retrospective endorsement --

MR JUSTICE SOOLE: Let me just go through 5 again. That is unchanged.

B MS STACEY: That is unchanged. Well, it is unchanged ... I think the word "which together comprise the hearing bundle" have been added, but it is substantively unchanged.

MR JUSTICE SOOLE: Yes.

C MS STACEY: So then paragraph 6 is the good service retrospective endorsement of the steps already taken, which again is unchanged. So the copies that were post ... you were taken to the evidence on Monday, my Lord.

MR JUSTICE SOOLE: Yes.

D MS STACEY: The Facebook account for the third defendant. I do not know why 6.3 has gone out of sequence but I will bring that back in, and that is the 10th defendant's social media account.

MR JUSTICE SOOLE: What has gone out of sequence?

MS STACEY: 6 on my version, 6.3 is just out of line. So I will bring that in so it is in line.

MR JUSTICE SOOLE: I see, it goes in, yes.

E MS STACEY: It needs to be indented.

MR JUSTICE SOOLE: So indent 6.3.

F MS STACEY: Yes, indent 6.3. Then paragraph 7 is dealing with future documents, my Lord. So, we had specifically listed this order, the reamended claim form, the reamended particulars of claim and the seventh witness statement of Ms Oldfield, which I think was sent to you last night. What that does is confirm service of the documents since Monday.

MR JUSTICE SOOLE: Yes. I have read that.

G MS STACEY: So "those documents and any further document in these proceedings upon the named defendants, save for 15 to whom paragraph 8 applies." I will come to him. That was, you will recall, Mr Holland, Samuel Holland.

MR JUSTICE SOOLE: Yes.

H MS STACEY: "... shall be validly effected by ..." and what this does is replicate the McGowan order, so we have the email address, the notices, plus you have copies

posted to the last known addresses supplied by the police. That is 7.3. Then you have in 7.4 and 7.5 --

A

MR JUSTICE SOOLE: 7.3 was "and as set out in Schedule 1".

MS STACEY: Yes.

MR JUSTICE SOOLE: What is that about? That is a list of names?

MS STACEY: That is the list of addresses, my Lord, Schedule 1.

B

MR JUSTICE SOOLE: But the addresses will not be in the order, will they?

MS STACEY: We wanted you to see them for the purpose ... but we are going to be serving redacted versions.

MR JUSTICE SOOLE: Does the order provide for that?

C

MS STACEY: I can insert "redacted", "any copies set out in the redacted copy of Schedule 1"?

MR JUSTICE SOOLE: What is the language you have used in previous successful applications?

D

MS STACEY: The names and addresses will be redacted on the version which is to be served -- sorry, not the names, the addresses will be redacted. But this is simply specifying the method of service as opposed to identifying what is to be served.

MR JUSTICE SOOLE: We do not have any provision for a redaction, have we?

MS STACEY: No, we have not included a provision for redaction.

E

MR JUSTICE SOOLE: But it has always been the case that they have been redacted, the addresses?

MS STACEY: Yes, for data protection reasons.

MR JUSTICE SOOLE: Yes, and generally.

F

MS STACEY: But we have not included express provision for redaction. But the only place we are going to have ... I suppose if this order is going to be served as part of the future documents, we could provide that "This order and this Schedule (the addresses on which are to be redacted)", I could include that in paragraph 7, where it says, "Service of this order ..."

G

MR JUSTICE SOOLE: What are the words?

MS STACEY: "Service of this order and the accompanying schedule ..."

MR JUSTICE SOOLE: I am on 7.3.

MS STACEY: Go back to 7, my Lord, which tells you which documents we are talking about. You will see the words "this order".

H

MR JUSTICE SOOLE: Yes.

A MS STACEY: I suggest we put in brackets after "this order", "(and the accompanying schedule)" --

MR JUSTICE SOOLE: The order includes the schedule.

MS STACEY: Okay, "This order (with the addresses redacted)"?

MR JUSTICE SOOLE: Paragraph 7 is how it shall be effected.

B MS STACEY: Yes, but that is what is needing to be served. So we are going to serve a redacted version of the order.

MR JUSTICE SOOLE: What is going to happen to the words in brackets in 7.3?

MS STACEY: That does not matter, my Lord, because the addresses will not be there.

C Where the order has a schedule showing black, those are redactions and that is consistent with the order. If anything, it explains why there are blackened out bits in the schedule.

MR JUSTICE SOOLE: Right, start again. What words do you want?

D MS STACEY: I suggest at the top of 7, "Pursuant to CPR 6.15 and 6.27, service of this order (with the addresses redacted), the reamended claim form" --

MR JUSTICE SOOLE: "(with the ...)" --

MS STACEY: "... in the schedule redacted)".

MR JUSTICE SOOLE: With the addresses in Schedule 1.

E MS STACEY: "... in Schedule 1 redacted)". Then back to 7.3, we post those.

MR JUSTICE SOOLE: Then I think you could say "and as set out in the unredacted schedule".

MS STACEY: Yes, okay. And 7.4 and 7.5 are the social media links.

F MR JUSTICE SOOLE: Yes.

G MS STACEY: So paragraph 8 is Mr Holland's position. You will recall that I took you to Ms Oldfield's fifth witness statement which dealt with his position, namely that it has come to our attention he no longer resides at the address given to us by the police. We have no social media account for him. Therefore, we suggested to your Lordship that he should be placed in the same category as persons unknown. What this paragraph does is provide in relation to him that this order may include the same wording about "redaction, the claim form, particulars of claim, and a witness statement, and any further document on the 15th defendant shall be validly effected by ..." --

H

MR JUSTICE SOOLE: Wait a minute, I am just writing "with the addresses in Schedule 1 redacted" --

A MS STACEY: "shall be validly effected by service in accordance with paragraph ..." --

MR JUSTICE SOOLE: Upon *the* 15th defendant.

MS STACEY: "Upon *the* 15th defendant in accordance with 7.1 and 7.2, unless and until we are notified of an address, whereupon service on him shall be effected in accordance with all three paragraphs.

B MR JUSTICE SOOLE: Just going back to sealing in paragraph 7, the order will be sealed, will it not?

MS STACEY: The order will be sealed, yes.

C MR JUSTICE SOOLE: And the reamended claim form will be sealed.

MS STACEY: Yes.

MR JUSTICE SOOLE: One does not need to spell out the sealing provisions in an order.

MS STACEY: No, no.

D MR JUSTICE SOOLE: You just have to comply with them.

MS STACEY: While we are at it, my Lord, sorry, I should have drawn your attention, at 7.3 there is a bit in brackets to deal with email addresses. You will recall that we had an exchange right at the end of Monday's hearing about the possibility of serving by email.

E MR JUSTICE SOOLE: Yes.

MS STACEY: And we had inserted the words you see there in brackets at the end of 7.3 to deal with that.

F MR JUSTICE SOOLE: "Or by sending copies to the email address which has previously been supplied to the claimant by any named defendant for the purpose of electronic service and at which the named defendant has notified the claimant in writing that they wish to be served." Yes, that is because, I think, Mr Laurie, as other predecessors in these actions have said, they would much rather have it by email than by personal service at their property or elsewhere.

G MS STACEY: Indeed. So I think that caters for that.

MR JUSTICE SOOLE: Yes.

H

A MS STACEY: Paragraph 8 then I have taken you to. Paragraph 9 then are the specific requirements of 6.15. 9.1 deals with the verification by a certificate of service or by a witness statement verified by a statement of truth.

MR JUSTICE SOOLE: Yes.

MS STACEY: 9.2 is the date on which it should be deemed effective.

MR JUSTICE SOOLE: Yes.

B MS STACEY: 9.3 provides that it should be done in accordance with the order be good and sufficient service. Then 10 deals with the requirements for specifying the date by which an acknowledgement of service, admission or defence should be filed. That is cross-referred to the directions below, which are paragraph 15 is the acknowledgement of service.

C MR JUSTICE SOOLE: And 16, yes.

MS STACEY: And 16 is the defence date. 11, we then come into the directions. The first direction was that we file updated evidence. Permission is at the top.

D MR JUSTICE SOOLE: Where are the dates for service of the reamended claim form and so on?

MS STACEY: That is coming.

MR JUSTICE SOOLE: That is coming, all right.

MS STACEY: I have done it in chronological order.

E MR JUSTICE SOOLE: No, I see.

MS STACEY: So 11 is we update our evidence by the 19th. I did say we would do it by today, but my comment, I think you will have seen, you will have had a version with a comment on it. My comment was --

F MR JUSTICE SOOLE: Tell me, I do not think I have seen it.

G MS STACEY: Did you not. My comment was, my Lord, that we had not accounted for the photocopying required and therefore we needed that extra time. So we are asking for the 19th. When I rather optimistically said it would be done by the end of this week, we had not accounted for the fact that we would need to physically photocopy all the documents because at the moment we need to serve by post. We do not have the email addresses for the vast majority of these named defendants. So that is why the date is not the 15th it is the 19th.

H MR JUSTICE SOOLE: Very well. So remove the square brackets, yes.

MS STACEY: We can remove the square brackets if you are content. Service copies of the amended claim form by 4 pm on 22 March.

A

MR JUSTICE SOOLE: Which is next Friday.

MS STACEY: Which is next Friday. Paragraph 13, reamended particulars of claim by 28 March and that is because I think the 29th is a bank holiday.

MR JUSTICE SOOLE: Why not the same time as the reamended claim form?

B

MS STACEY: They can be. So we could actually merge 12 and 13.

MR JUSTICE SOOLE: Can you merge 12 and 13.

MS STACEY: Yes. Then the defendants at paragraph 14, evidence by 8 April. So they would have had our evidence on 19 March and the reamended particulars of claim by 22 March.

C

MR JUSTICE SOOLE: We went through these dates, did we not?

MS STACEY: We did.

MR JUSTICE SOOLE: Because it is all tied in with getting a hearing before the present injunction expires.

D

MS STACEY: We have adopted the dates we discussed, yes; 12 April is the date that we have landed on on Monday.

MR JUSTICE SOOLE: Yes, but that was -- you said the 19th for your evidence. As there is going to be a bit of a delay in yours, two or three days should we not reflect that also in the time for a response.

E

MS STACEY: Save that you will recall that the hearing was going to be listed, look at paragraph 17, in the week commencing 15 April. So we are butting up against it.

MR JUSTICE SOOLE: I am conscious though of Easter and so on. Why do we have it as early as that? Why did we have it as early as 18 April? Obviously we have 12 May date in our minds.

F

MS STACEY: Yes.

MR JUSTICE SOOLE: Which is a Sunday actually.

MS STACEY: Sorry, what was your Lordship's question? Why do we have ...?

G

MR JUSTICE SOOLE: Why did we have it as early as the week of the 15th?

MS STACEY: Because of, you will recall, the service -- all the petrol stations, it takes two weeks to repost all the notices, nationwide, because we rely on third party contractors in order to do that for us and it takes time.

H

MR JUSTICE SOOLE: That would take you from ... depending on where it was, it could take you to the 3rd.

A

MS RUMBELOW: It is against the order to sticker the petrol stations now.

MR JUSTICE SOOLE: I am sorry?

MS RUMBELOW: I think it actually against the order to be stickering on petrol stations.

B

MS STACEY: Not for the claimant to do so.

MR JUSTICE SOOLE: If we put it to 10 April rather than the 8th, that would be by the Wednesday.

MS STACEY: Yes.

C

MR JUSTICE SOOLE: You can make the 10th.

MS STACEY: Yes, thank you. Then 16 it is the defence --

MR JUSTICE SOOLE: What about 15?

MS STACEY: Sorry, 15, then that is 12 April.

MR JUSTICE SOOLE: Acknowledgement of service.

D

MS STACEY: Acknowledgement of service, and then 16 is the defence and the only reason 16 is in there, it is going to be after the review hearing.

MR JUSTICE SOOLE: That is right until 15 May.

MS STACEY: Yes. And the reason that is there is in order to make sure this order is compliant with a 6.15.4.

E

MR JUSTICE SOOLE: Yes.

MS STACEY: So that is the purpose of this provision. 17 is listing for a hearing in the week commencing 15 April with a time estimate of one-and-a-half days. I have included in that paragraph, my Lord, the purpose of the hearing.

F

MR JUSTICE SOOLE: "In the week commencing 15 April 2024 (but not Monday, 15 April)." That is in order to give reading time.

MS STACEY: Yes. I have said "for a review of the interim injunctions (at which the court will consider whether the interim injunction is granted ... or should be continued pending trial." Just so it is clear. And for directions.

G

MR JUSTICE SOOLE: I know we discussed this last time, it went from a day to a day-and-a-half. These things --

MS STACEY: There are three claims. The possibility that -- this is a directions hearing. It is more likely --

H

MR JUSTICE SOOLE: I think that is the right course. I think that is the right course.

A MS STACEY: My Lord, can I flag one point in relation to this paragraph. We are proceeding on the basis --

MR JUSTICE SOOLE: Sorry, can you have any conversations outside. Thank you.

B MS STACEY: We obviously were seeking directions as well. We have not issued an application notice for an extension of the existing injunctions. Obviously, we are going to be listed for a review. That is the purpose of the hearing. We are proceeding on the basis that we do not need to issue a separate application for an order.

MR JUSTICE SOOLE: Do not look to me for advice.

C MS STACEY: No, no, my Lord, no, but given that this hearing has been listed, if we need to do that, my Lord, we can undertake and make provision in the directions for that, but we have not done so.

MR JUSTICE SOOLE: I thought your application --

D MS STACEY: It is for directions. The joinder directions for trial.

MR JUSTICE SOOLE: I thought you had it in the alternative.

MS STACEY: Page 4. Certainly in our evidence we flagged the possibility of a continuation being required, it is paragraph 6.7 of Ms Oldfield's statement she said that we might need a short continuation. What I suggest, my Lord --

E MR JUSTICE SOOLE: I take the view that --

MS STACEY: It is --

MR JUSTICE SOOLE: -- it is -- subject to anyone who wanted to argue otherwise -- but my view is that if the court considers it is appropriate to have a review and so orders, that is what is going to happen next.

F MS STACEY: It is part of the directions. That is the view I take, so I do not know whether we need to expressly dispense with any need to serve any further application in relation to that hearing or we can just proceed on the basis that that is what has happened. I was rather taking the latter view, but I just want to be as cautious as I --

G MR JUSTICE SOOLE: Again, I am being drawn into the advisory position.

H MS STACEY: Can I say for which purpose any further application in relation to such a review is dispensed with, or for which purpose no further application shall be required? **(Pause)**

MR JUSTICE SOOLE: I am going to leave it as it is.

MS STACEY: Fine. 18, skeleton arguments.

MR JUSTICE SOOLE: Yes.

MS STACEY: 19, the bundles being filed. We have adopted your Lordship's wording in parenthesis. Then 20, my Lord, is the provision which one saw in Hill J's order, just regularising how applications should be made. So 20 deals with named defendants, if they fail to comply with 14 or 15, those are the paragraphs dealing with evidence and acknowledgement, they need to apply.

MR JUSTICE SOOLE: Yes.

MS STACEY: And 20 is any other person. So that includes the first defendant or any interested person. It is substantively the same, except that it provides at the bottom that any such person should provide their full name and address and apply to be joined if appropriate.

MR JUSTICE SOOLE: Yes.

MS STACEY: 22 is then replicating the service, alternative service provisions against persons unknown. I will insert the wording about redactions after "this order" at paragraph 22.

MR JUSTICE SOOLE: Yes. You may have to check on the numbering, when you are referring back to any --

MS STACEY: Because I have merged some paragraphs, you are quite right.

MR JUSTICE SOOLE: You merged paragraphs 12 and 13. Sometimes it is easier not to merge them frankly.

MS STACEY: It would be easier not to merge them. In fact, would you be content if I did, I just simply have 12 and 13 separately but have the same dates.

MR JUSTICE SOOLE: Yes. I think it saves -- because it is almost guaranteed that one does not then spot some other number that needs to be varied.

MS STACEY: Exactly, and we have been very careful in going through this. So let us keep 13 and 12 separately but have the same date. Back to 22 then, that is future documents and the documents that are created since Monday. We have just simply repeated McGowan's method of service in 22.1, 2 and 3.

Paragraph 23 is the provision that such steps should be good and sufficient, and 24 is the date on which those documents are deemed served.

MR JUSTICE SOOLE: Can you, where it says paragraph 22.2, can you put "Schedule 2" not second schedule.

A MS STACEY: Yes, Schedule 2.

MR JUSTICE SOOLE: "In Schedule 2".

MS STACEY: Yes. 22.3 is the sending of the document to anyone who has asked. Then 23 and 24 should be self-explanatory.

B MR JUSTICE SOOLE: Yes.

MS STACEY: Paragraph 25, my Lord, is the general liberty to apply provision.

MR JUSTICE SOOLE: Yes.

C MS STACEY: What we have done there is said "may apply at any time to discharge it or any part" that has been added, and we have put in "including in relation to methods of alternative service".

MR JUSTICE SOOLE: Yes.

D MS STACEY: Then costs in the case. Then we have reference in 27 to sealed copies of this order being provided. We might want to take out the word "sealed" just for completeness or for consistency's sake, because we took the view that we did not need to specify, but that is what we are planning on.

MR JUSTICE SOOLE: I think that is a standard wording.

MS STACEY: Okay.

E MR JUSTICE SOOLE: Anything else you want to say at this stage?

MS STACEY: That is it, my Lord.

F MR JUSTICE SOOLE: Mr Laurie, anything you want to say at this stage? What you see is, as I have explained before, the mechanism is to join defendants, to have a review hearing in April and then -- I have not accepted the application that it should proceed to trial on a very early timetable.

MR LAURIE: Yes, but the 15th will be the date you set a trial though?

MR JUSTICE SOOLE: Sorry?

MR LAURIE: The 15th will be -- you will set a trial date on the 15th?

G MR JUSTICE SOOLE: No, I will not set a trial date. That will be later on.

MR LAURIE: Okay.

H MR JUSTICE SOOLE: The most that would happen is there would be what is called a trial window and it would say "The trial will be ..." It is possible we might in a case where ... normally we do not. Normally we say it will be held

in a certain period, and then it gets fixed later on, but it might be that it was thought appropriate to --

A

MS STACEY: Fix it for a hearing. Well in cases such as this often you have an accelerated timetable and early dates, so yes it is possible.

MR JUSTICE SOOLE: Yes. When you have a claim in conspiracy, it is not as simple as a claim in trespass to land, being on M25 gantries and so on.

B

MS STACEY: No, no.

MR JUSTICE SOOLE: It may not ...

MS STACEY: It rather depends.

MR JUSTICE SOOLE: I have in mind what you pointed out to me the Supreme Court said. That is a matter of practicality rather than law, they were making that point.

C

MS STACEY: Yes.

MR JUSTICE SOOLE: It does not mean one ... but --

MS STACEY: And it also may depend on how many defences we get and how much engagement there is and the --

D

MR JUSTICE SOOLE: Exactly. All sorts of things.

MS STACEY: Yes.

MR JUSTICE SOOLE: Very well.

(4.09 pm)

E

(Judgment given)

(4.15 pm)

MR JUSTICE SOOLE: Is it amend the particulars of claim?

MS STACEY: Re-amend.

F

MR JUSTICE SOOLE: Is it reamend?

MS STACEY: Yes, because we changed the description.

MR JUSTICE SOOLE: And just because of that.

MS STACEY: There were a few other amendments. There was some detail of the conspiracy against the first defendant.

G

MR JUSTICE SOOLE: In the amended.

MS STACEY: Just to clarify the position.

MR JUSTICE SOOLE: It is reamended.

MS STACEY: It is reamended.

H

MR JUSTICE SOOLE: Very well, thank you. I will keep these papers.

MS STACEY: Thank you very much for your patience.

MR JUSTICE SOOLE: Not at all. Thank you for your assistance and thank you

Mr Laurie for your assistance. You will now then supply me with your --

MS STACEY: With an amended version. It will not --

MR JUSTICE SOOLE: There is no chance of my doing it today. Like many other

people, I have many other things to do before the end of the day. Please to the

associate, copy to my clerk, Mr John Lloyd.

MS STACEY: I will do that.

(4.16 pm)

(Hearing concluded)

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Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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