

Fifth Witness Statement

Party: Claimants

Exhibit: AJ05

Date: 7th March 2024

Claim No: QB-2022-001420

**IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
BETWEEN**

SHELL U.K. OIL PRODUCTS LIMITED

- and -

**PERSONS UNKNOWN DAMAGING, AND/OR BLOCKING THE USE OF OR ACCESS TO ANY
SHELL PETROL STATION IN ENGLAND AND WALES, OR TO ANY EQUIPMENT OR
INFRASTRUCTURE UPON IT, BY EXPRESS OR IMPLIED AGREEMENT WITH OTHERS, IN
CONNECTION WITH PROTEST CAMPAIGNS WITH THE INTENTION OF
DISRUPTING THE SALE OR SUPPLY OF FUEL TO OR FROM THE SAID STATION**

Fifth Witness Statement of Alison Judith Oldfield

I, **Alison Judith Oldfield** of Eversheds Sutherland (International) LLP ("**Eversheds Sutherland**") of Water Lane, Leeds LS11 5DR **WILL SAY AS FOLLOWS:**

1. INTRODUCTION

1.1 I am a partner at Eversheds Sutherland and have conduct of this matter on behalf of each of the Claimants in the subject proceedings.

1.2 Unless I state otherwise, the facts in this statement are within my knowledge and true. Where the facts are not within my knowledge, they are true to the best of my knowledge and belief, and I identify the source of my knowledge.

1.3 References to page numbers in this statement are to page numbers in **Exhibit AJ05**.

1.4 The purpose of this witness statement is to confirm the steps taken to serve various named individuals with the papers relating to the Claimant's application to join them as named defendants in the proceedings. I will also deal with two related matters relating to that application at the end of this statement.

2. CHRONOLOGY OF STEPS TO IDENTIFY NAMED INDIVIDUALS

- 2.1 Firstly and in order to put this application in context, I attach to this witness statement at pages 1- 4 of **AJ05** a chronology of events (the "**Joinder Chronology**").
- 2.2 That Joinder Chronology sets out in a little more detail the steps (to which I referred at paragraph 3.2 of my Fourth witness statement) which have been taken on behalf of the Claimant to identify any individuals who might be joined as defendants to the proceedings in accordance with the principles set out in the case of *Canada Goose Retail Limited v Persons Unknown [2020] EWCA Civ 303*.

SERVICE OF DOCUMENTS

3. The Application to join named defendants and related papers

Service upon Named Individuals

- 3.1 There is attached to this witness statement at pages 5-7 of **AJ05** a spreadsheet setting out the names of the 15 individuals in respect of whom the Claimants made an application to be added as a defendant to the proceedings on 13th February 2024 ("**the Named Individuals**"). (Together with certain other people who have also been served and to whom I refer further below).
- 3.2 On Saturday 2nd March 2024 copies of the following documents were sent to each of those individuals by first class post and special delivery.
- 3.2.1 Sealed Application Notice dated 13 February 2024;
 - 3.2.2 Sealed Court Order dated 15 February 2024.
 - 3.2.3 Fourth Witness Statement of Alison Oldfield dated 12 February 2024;
 - 3.2.4 Exhibits to Fourth Witness Statement of Alison Oldfield dated 12 February 2024; and
 - 3.2.5 Draft Order in support of the Claimants' Application
 - 3.2.6 Notice of Hearing dated 29 February 2024.

I will refer below to these papers collectively as "**The Application Documents**"

- 3.3 I confirm that in each case the Application Documents were sent to the Named Individuals using the addresses provided to us by Surrey Police constabulary or the Metropolitan Police Service as the case may be. As I have said, paragraph 3.2 of my fourth witness statement sets out in more detail the process by which this firm obtained details of these individuals and their last known places of abode from those constabularies. (In the interests of privacy in respect of the personal data I have redacted details of the addresses from the schedule at pages 5-7 **of AJ05**)
- 3.4 I am informed by my colleague Bethany Taylor and believe that she visited Trinity Walk Wakefield post office on the morning of 2nd March 2024 and left packages addressed to

each of the Named Individuals containing the Application Documents at the Post Office counter to be sent by first class post.

- 3.5 I am also informed by Ms Taylor and believe that on 2nd March 2024 she also completed the necessary paperwork and submitted packages addressed to each of the Named Individuals containing the Application Documents to also be sent by special delivery from Trinity Walk Wakefield post office.
- 3.6 I have exhibited at **AJ05** pages 8-9 a special delivery postal tracker which contains details of which of the packages sent by special delivery were successfully delivered and signed for. I have also exhibited a list of the relevant Special Delivery numbers and copies of the signature pages at pages 10-19 of **AJ05**. It can be seen from those pages that a total of 8 of those Named Individuals were successfully served via the Application Documents which were sent by special delivery.
- 3.7 Notwithstanding the provisions of CPR 6.26 (which provides that documents served by means of first class post to the recipient's last known place of abode are deemed served on the second working day after postage) the Claimant is mindful of the need to take all reasonable steps to bring this application to the attention of the Named Individuals.
- 3.8 In the case of the 7 Named Individuals where we had not received confirmation that the special delivery packages had been signed for by 5th March 2024 therefore, further hard copies of the Application Documents were sent by hand to the last known place of abode. (At the same time as a copy of the hearing bundle which was hand delivered to all the Named Individuals- see below). The schedule at **AJ05** pages 5-7 also identifies those individuals to whom a third set of the Application Documents was sent by hand and successfully delivered.
- 3.9 It can be seen from that schedule that the only individuals whom it was not possible to verify service either by Special delivery or by hand (and leaving aside the fact that everything was also served by first class post) was Louise Harris and Samuel Holland. I should also say that the process server who delivered those papers by hand to Simon Reding at his last known place of abode was told by the occupant that he lived 2 doors away and so the papers were delivered to that alternative address.
- 3.10 As regards Samuel Holland, I explained the difficulties we have encountered in serving him at his last known place of abode in my fourth witness statement at paragraphs 3.2.19 and 5.10. I am informed by the process server who endeavoured to hand deliver copies of the Application Documents to Mr Holland at his last known place of abode that he was told by a young female at the property (which is student accommodation) that Samuel Holland had left approximately four months ago and did not leave a forwarding address. As I explained in my fourth witness statement we have been unable to establish any other contact details for Mr Holland and for that reason have asked the court to deem service by first class post at his last known place of abode as being good service in accordance with CPR Rule 6.9.

3.11 In the case of Louise Harris and of Tez Burns, I explained at paragraphs 5.4-5.14 of my Fourth Witness Statement, the difficulties we encountered in serving those individuals at their last known place of abode. I also explained that we have identified a number of social media accounts used by those individuals. I confirm that on 5th March 2024 a message was sent to Ms Burns and Harris which read as follows:

We act on behalf of Shell U.K Oil Products Limited ("our Client").

As we have not received from you an undertaking (a promise) to the Court that you will not breach the terms of the injunction, our Client concluded that it was appropriate to apply to join you as a defendant to the proceedings under the powers contained in Rule 19.4 of the Civil Procedure Rules.

We confirm that our Client has now made that application to Court, and the hearing to consider that application has been listed by the Court to take place on 11 March 2024 ("the Hearing"). The time of the Hearing has not yet been confirmed by the Court but will be available on the daily cause list which can be accessed at: <https://www.gov.uk/government/publications/royal-courts-of-justice-cause-list>

If it is your intention to be attend and/or be represented at the Hearing, we should be most grateful if you would provide confirmation of the same.

The purpose of this email is to serve you with copies of the documents relating to our client's application to join you as a defendant in the proceedings. We have listed those documents below and you will find copies of them within the following link: [Terminals | Public Notices \(noticespublic.com\)](https://www.noticespublic.com)

2024 Application Documents

Sealed Application Notice dated 13 February 2024;

Fourth Witness Statement of Alison Oldfield dated 12 February 2024;

Exhibits to Fourth Witness Statement of Alison Oldfield dated 12 February 2024; and

Draft Order in support of the Claimants' Application dated 12 February 2024.

2024 Orders

Sealed Court Order dated 15 February 2024.

Notice of Hearing dated 29 February 2024.

2024 Pleadings

Hearing Bundle for Hearing on 11 March 2024

Please note that further documentation, including the Claimant's skeleton for the Hearing and a chronology of events leading up to the Hearing, will be uploaded to [noticespublic.com](https://www.noticespublic.com) in due course (and in any event in advance of the Hearing). We will also notify you of the same once this has been done.

3.12 That message was sent to Ms Harris via her Facebook account and Ms Burns by her LinkedIn account. Copies of the relevant printouts are attached at **AJ05** pages 20-22 (the photo extracts are incomplete but I am informed by Ms Taylor (who posted the messages) and believe that the full text as set out above was included). Attempts were also made to alert Ms Harris to the Application documents via her Instagram account. Unfortunately only half

the message could be uploaded onto that account. It is unclear whether this limitation arises because of the setting on Ms Burns account (for instance to prevent spam etc) or is a wider Instagram issue. Attempts were then made to send the message in two halves but, again, the second message failed.

3.13 Accordingly the court is asked to make an order that service using Ms Harris' Facebook account and Ms Burns' LinkedIn account constitutes valid alternative service of the Application Documents.

3.14 Finally in the case of Emma Ireland, Ms Ireland responded to the letter which we sent on 16th October 2023 requesting an undertaking in these proceedings by sending us an email which is exhibited at page 72 of Exhibit **AJO4**. We therefore also sent a copy of the Application Documents via this email address to Ms Ireland.

Service on Persons Unknown

3.15 I am now asked to confirm the steps taken to serve the Application Documents upon Persons Unknown – on the basis that those methods could also have brought the Application Documents to the attention of the Named Individuals.

3.16 Paragraph 4 of the Order of Mrs Justice Hill dated 28 April 2023 in these proceedings provides for service of documents upon Defendants in these proceedings (other than any Defendant who is subsequently named in the proceedings) by the following methods:

3.16.1 By sending them to each of the email addresses listed Schedule 2 of Hill J's Order dated 28 April 2023;

3.16.2 By uploading them onto the website <http://www.noticespublic.com/> (which has been set up for the purpose of making all documents relating to these proceedings publicly available);

3.16.3 By sending them to any person who has previously requested a copy of the Claim Documents from the Claimant or its solicitors.

3.17 In accordance with the provisions of paragraph 4 of the Order dated 28th April 2024, the following steps were taken to serve the Application Documents upon Persons Unknown in these proceedings:

3.18 By uploading onto the noticespublic.com website on 4th March 2024

3.19 By sending them under cover of an email to each of the addresses listed in Schedule 2 of the Order dated 28 April 2023. I set out the detail of the timing and subject line of the email in the table below. Those emails were sent from an email address, shell.service@eversheds-sutherland.com, which Eversheds Sutherland has created in order to serve the various documents in this matter. My colleagues, Alex Wright (Principal

Associate) and Bethany Taylor (Associate), and I have access to and control of this dedicated email address.

Item No.	Document(s) Served	Subject	Email date/time (Exhibit Reference)
	Application Documents	Shell U.K Oil Products Limited v Persons Unknown (QB-2022-001240), Shell UK Limited v Persons Unknown (QB-0222-001241) Shell International Petroleum Company Limited (QB-2022-001259)- Application Notice	01.03.24 at 17:21 AJ05 pp 23-25

3.20 16 automatic responses were received in response to the above emails. Having reviewed the timings of the automated responses, I believe that:

3.20.1 7 automatic responses were received on 1 March 2024 from artsxr@gmail.com, xrsw.trainings@gmail.com, press@extinctionrebellion.uk, xrlondoncommunityevents@gmail.com, xr.connectingcommunities@gmail.com, xrsocialmediaevents@gmail.com and enquiries@extinctionrebellion.uk which appear to be automatic tailored responses to any emails received. A copy of the relevant emails are exhibited at pages 26-33 of **Exhibit AJ05**

3.20.2 7 of these automatic responses were received on 1 March 2024 from eoexrtnt@protonmail.com; xrmidlandstraining@protonmail.com; xrpoliceliasion@protonmail.com xrpeopleassembly@protonmail.com xrdemocracy@protonmail.com youthclimateswarm@protonmail.com xr-regionaldevelopment@protonmail.com noting the "mailbox quota exceeded" or "mailbox full" (exhibited at pages 34- 43 of **Exhibit AJ05**).I understand from this firm's IT team that these emails were properly sent but will not have been delivered to / received by the recipient mailbox as the mailboxes were full.

3.20.3 An automatic response from the xr-legal@riseup.net indicated "message file size too big". Accordingly follow up emails were sent to that mailbox, serving the various papers relating to the Application Documents in smaller file sizes.

3.20.4 An automatic response was received from support@xrnorth.org saying that the "recipient email address possibly incorrect"

- 3.21 Apart from the automated response referred to at paragraph 3.20 no responses from any of the other email addresses were received. I have no reason to believe that the emails sent to the other 35 email addresses to which the email of 1st March 2024 was sent were not delivered or received, and no other 'bounce back' or delivery failure notifications in this regard were received.
- 3.22 I therefore consider that the remaining 35 emails sent to the email addresses linked to Extinction Rebellion and Just Stop Oil received the email.
- 3.23 In respect of Youth Climate Swarm, youthclimateswarm@protonmail.com, was the only email address provided for within the addresses listed in the Order of 28 April 2023. I do not consider that there are further steps which could reasonably be taken in respect of effecting service of the Application Documents on this group. This firm's IT team believes that this email was properly sent but will not have been delivered to / received by the recipient mailbox as the mailboxes were full.
- 3.24 As well as constituting the steps required in relation to service of Application Documents upon the email addresses referred to at Paragraph 4 of the Order dated 28 April 2023, the process I have described also provided an additional means by which the Named Individuals could become aware of the application to joined them as named persons in these proceedings.

Service of the Hearing Bundle on the Named Individuals and Persons Unknown.

- 3.25 Finally, copies of the hearing bundle in respect of the Claimant's application to join the Named Individuals as defendants in these proceedings were sent by process server to each of those individuals on the afternoon of 5th March 2024. Details of service of those Hearing Bundles upon the various Named Individuals is recorded in the Schedule at pages 5-7 of **AJ05**
- 3.26 In addition copies of the hearing bundle were sent to each of the email addresses referred to in Schedule 2 of the 28 April 2023 Order at 10:03, 10:51 and 11:53 on 5th March
- 3.27 Again, of the 51 email addresses served, we received a total of 10 automatic responses. Automatic "standardised" responses were received from 3 email addresses in total and 7 "bounce back" emails in total indicating that the mail box was "too full" or in 1 case "unknown" were received Nevertheless, I believe that the hearing bundle was safely delivered to the other 41 email addresses to which it was sent.
- 3.28 Copies of all the emails referred in paragraphs 3.25 -3.27 are exhibited at pages 44-107 of **AJ05**

3.29 Finally, I would add for completeness copies of the Application Documents and Hearing Bundles were sent to the following other addresses:

3.29.1 Bindmans LLP solicitors. That firm had previously indicated it was instructed on behalf of Jessica Branch who applied to be heard as an interested party in the proceedings at the hearing of the Claimant's previous application to extend the injunction in April 2023 (by first class post and special delivery on 2nd March 2024);

3.29.2 Ms Jessica Branch (by hand on 2nd March 2024);

3.29.3 Michael Gibson (who had previously indicated a wish to be kept informed in respect of the proceedings) by first class post and by special delivery on 2nd March 2024 and by hand;

3.29.4 Hodge Jones Allen solicitors who had previously been instructed by Ms Branch (prior to Bindmans LLP) by first class post and special delivery on 2nd March 2024. On receipt of the Application Documents however that firm confirmed it did not wish to receive any further documents in connection with the proceedings (pages 108-112 **AJ05**);

3.29.5 Nick Hoffman, Michaela Marc and Raphael Dalzell all by email only on 2nd March 2024 - all of whom had previously indicated a wish to be kept informed in respect of the proceedings.

3.30 Bindmans LLP together with all of the individuals referred to at paragraph 3.29 above also received a copy of the hearing bundle via the process servers as I have described at paragraph 3.25 above.

3.31 Having explained the steps taken to serve the Application Documents and related papers upon the Named Individuals, I turn to two further matters which may assist the court in connection with this application.

4. STEPHEN GINGELL

4.1 It will be seen from the schedule at page 5-7 of **AJ05** that the Application Documents were served upon Stephen Gingell on 2nd March 2024. In response to service of those Application Documents Stephen Gingell signed an undertaking in the form requested by the Claimant. A copy of that signed undertaking is at **AJ05** p 113. The Claimant no longer therefore seeks to have Stephen Gingell added as a named defendant in the proceedings.

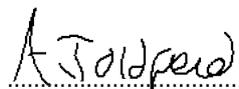
5. EVIDENCE OF ONGOING RISK

5.1 My fourth statement sets out the evidential basis for joinder of the Named Defendants.

- 5.2 The Claimants are also in the advanced stages of compiling their updated witness evidence for the purposes of hearing of the Claims for final injunctions, which addresses the ongoing level of protestor activity. The Claimants' proposed directions provide for such evidence to be filed shortly and the Claimants are in the process of finalising their evidence for the final hearing, which will shortly be filed with the Court.
- 5.3 In the meantime, however, and being mindful that the Court might consider that the extent of ongoing risk may be relevant to its assessment of the application for joinder, I exhibit at pp 114-144 of **AJ05** a chronology of protest events ("**Protest Chronology**") which provides a high level overview of protestor activity that has taken place since the renewal hearing in April 2023 and which will ultimately form part of the witness evidence.
- 5.4 I am also aware that the Court has recently granted a final injunction to 2028 in the *Valero Energy Ltd and others v Persons unknown* (QB-2022-000904) injunction proceedings, after consideration of similar evidence of ongoing risk in respect of protestor activity relating to the oil and gas sector.
- 5.5 As will be evident from the Protest Chronology and the evidence in *Valero*, protestor activity persistently focuses on the oil and gas industry and the broader use of fossil fuels. This ongoing activism and the lack of assurances from protest groups regarding the cessation of unlawful activity, clearly demonstrates that there remains a continuing risk that the prohibited acts would be carried at the Shell Sites out if the injunctions were not in place and that the harm which would ensue would cause grave and irreparable damage to the Claimants.

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.


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Alison Judith Oldfield

Dated: 7 March 2024