

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS IN LEEDS
PROPERTY TRUSTS AND PROBATE LIST (CHD)

BEFORE HHJ SIOBHAN KELLY
ON 15 FEBRUARY 2024

BETWEEN:-

(1)MOTOR FUEL LIMITED

(2)PEREGRINE RETAIL LIMITED

Claimants

-and-

(1) PERSONS UNKNOWN WHO FOR RESIDENTIAL PURPOSES (TEMPORARY OR OTHERWISE) ENTER OCCUPY OR SET UP ENCAMPMENT ON THE SITE OF THIRSK SERVICES, YORK ROAD, THIRSK, YO7 3AA, AS SHOWN FOR IDENTIFICATION EDGED RED ON THE ATTACHED PLAN, WITHOUT THE CONSENT OF THE CLAIMANTS

(2) PERSONS UNKNOWN WHO ENTER THE SITE OF THIRSK SERVICES, YORK ROAD, THIRSK, YO7 3AA, AS SHOWN FOR IDENTIFICATION EDGED RED ON THE ATTACHED PLAN, WITH THE INTENTION OF SYPHONING FUEL FROM THE CLAIMANTS' FILLING PUMPS AND/OR A VEHICLE OR RECEPTACLE THAT DOES NOT BELONG TO THAT INDIVIDUAL AND WITHOUT THE CONSENT OF THE OWNER OF THAT VEHICLE OR RECEPTACLE

Defendants

NOTE OF HEARING OF APPLICATION FOR ALTERNATIVE SERVICE ON 15 FEBRUARY 2024 AT 11:00AM

NOTE OF HEARING prepared by the Claimant's solicitors of the Claimant's application for alternative service (the "**Alternative Service Application**") on 15 February 2024 commencing at 11.02 am before HHJ Siobhan Kelly sitting in the High Court of Justice, Business and Property Courts in Leeds

In attendance:

- Yaaser Vanderman ("**YV**"), Landmark Chambers – Counsel for the Claimants
- Richard Linton, In-house Legal Counsel for the Claimants
- Alicia Foo, Partner, Pinsent Masons LLP - Solicitors for the Claimant
- Connor Merrifield, Associate, Pinsent Masons LLP - Solicitors for the Claimant
- Thomas Ross, Trainee, Pinsent Masons LLP - Solicitors for the Claimant

1. YV sought permission to amend paragraph 3 of the Alternative Service Application to remove the words "interim" as highlighted by the striking out of the word interim below: -

"Orders under CPR 6.15 and 6.27 that the Claimants' (i) application for an interim injunction, and (ii) claim for an ~~interim~~ injunction can be served by alternative methods of service, as more particularly described in the draft orders annexed hereto."

2. Judge Kelly agreed to this and requested that: (a) the Alternative Service Application to be served be amended so that the word "interim" is struck through in red ink in the usual way; and, (b) any draft order issued following this hearing to reflect this amendment.
3. YV referred Judge Kelly to the hearing bundle and asked if the Judge had reviewed his skeleton argument. Judge Kelly confirmed she had seen and read both. YV then took the Judge through the points in his skeleton argument and sought an order for alternative methods of service as set out in the draft order annexed to the Alternative Service Application.
4. In giving her judgment, HHJ Kelly confirmed:
 - a. she had had the opportunity to read the Particulars of Claim, the draft Orders, the witness statements of Mr Caddick, Mr Linton and Mr Ablott;
 - b. she had reminded herself of Civil Procedure Rules 6.15 and 6.27 which, in this short judgment, she did not propose to set out;
 - c. the Alternative Service Application is supported by evidence and can be made without notice;
 - d. there is good reason for service of the further documents by an alternative method and place;
 - e. having read the witness statements, not only has there been persistent actions over the last 12 months or so, it is not possible to identify the persons involved;
 - f. in order for service to be effected, it is necessary and proportionate for service to be effected in the terms of the draft order;
 - g. she has considered the locations suggested in the draft order and is satisfied there is an appropriate range of locations and the suggestion of uploading to the websites and to the various addresses in the Schedule 2 to the order; the addresses are reasonable and emails to traveller communities in the York area and gypsy organisations; and
 - h. the positions around the Thirsk Services site are evident and the Judge is satisfied that the alternative methods of service are proper and effective.
5. YV mentioned that there were two further issues.
6. The first issue was in relation to the service of documents upon North Yorkshire Council and that the Claimant intended to add an e-mail address for North Yorkshire Council to the draft order for service. Judge Kelly confirmed that if it was possible to get an e-mail address, then it would be a matter of amending the wording of the order very slightly to reflect this.
7. In terms of the second issue, YV pointed out that paragraph 6 of the Notice of Hearing (which may have been automatically generated) for the injunction hearing states that the bundle must to be delivered not less than 5 working days before the hearing and

that in paragraph 7 it states that the bundle and order had to be provided not less than 3 working days before the hearing. He asked for amendment to these 2 directions so that they were set aside and that the deadline for the hearing bundle to be filed and served was to be by 4pm on Monday 19 February 2024.

8. Judge Kelly acceded to this request and asked for a draft order reflecting the above to be provided to her as soon as possible whereby she would approve this, send through to the Orders team to seal, following which sealed copies would be sent to the Claimants solicitors.