

Made on behalf of the Claimants
Witness: Philip Keith Spencer
Number of Statement: First
Exhibit: PKS1
Dated: 3 October 2022

IN THE HIGH COURT OF JUSTICE

Claim No. QB-2022-001952

KING'S BENCH DIVISION

BETWEEN:

**(1) ALMACANTAR CENTRE POINT NOMINEE NO.1 LIMITED
(2) ALMACANTAR CENTRE POINT NOMINEE NO.2 LIMITED**

Claimants

– and –

**(1) ALEXANDER FARRELL
(2) [REDACTED] [DISCONTINUED]
(3) OWEN REECE (AKA "TRIKKSTAR")
(4) HARRY DAVIES
(5) PERSONS UNKNOWN ENTERING OR REMAINING ON THE EXTERNAL
ROOFS OR STRUCTURES (EXCLUDING BALCONIES) OF CENTRE POINT (AS
DESCRIBED IN PARAGRAPHS 2-4 OF THE PARTICULARS OF CLAIM)
WITHOUT THE CLAIMANTS' PERMISSION
(6) PERSONS UNKNOWN ENTERING OR REMAINING AT CENTRE POINT (AS
DESCRIBED IN PARAGRAPHS 2-4 OF THE PARTICULARS OF CLAIM) WITH THE
INTENTION OF GAINING ACCESS TO THE ROOFS OR EXTERNAL STRUCTURES
(EXCLUDING BALCONIES) AT CENTRE POINT WITHOUT THE CLAIMANTS'
PERMISSION**

Defendants

FIRST WITNESS STATEMENT OF

PHILIP KEITH SPENCER

I, PHILIP KEITH SPENCER of Bryan Cave Leighton Paisner LLP, Governor's House, 5 Laurence Pountney Hill, London EC4R 0BR, **will say as follows:**

1 I am a solicitor of the Senior Courts and an assistant solicitor practising at Bryan Cave Leighton Paisner LLP ("**BCLP**"). I am instructed on behalf of the Claimants and have conduct of this matter subject to the supervision of Akhil Markanday, a partner in BCLP. I am duly authorised to make this witness statement on behalf of the

Claimants.

- 2 I make this witness statement in support of an application by the Claimants for injunctive relief.
- 3 Except where I state to the contrary (in which case I give the source of information upon which I rely) I am able to state the matters in this witness statement from my own knowledge.
- 4 Where facts and matters referred to in this statement are not within my own knowledge they are based on instructions, documents and information supplied to me in my capacity as solicitor for the Claimants and are true to the best of my knowledge and belief.
- 5 I refer to a paginated bundle of documents, attached as Exhibit "PKS1"; where it is necessary to refer to a document, I shall refer to the document by its date and page number within Exhibit "PKS1".
- 6 I have prepared this witness statement myself.
- 7 The material background to the present claim is set out in detail in the Particulars of Claim.

BACKGROUND

- 8 There is a hearing listed for 5 October 2022 in this case (the "**First Hearing**"). Although the First Hearing is technically without notice to the Defendants because formal notice in the usual way will not have been given, the draft Order sought by the Claimants pre-supposes that the named Defendants will have at least had informal notice of the claim/hearing/application (by social media in this case as described in paragraph 24 below).
- 9 BCLP therefore took that view that (in line with the email referred to in paragraph 11 below) we should at least attempt to informally provide the relevant papers to the named Defendants where possible.
- 10 We have experienced some challenges with obtaining sealed copies of all documents save for the Application Notice. I therefore give this witness statement so that the Court can be made aware of the steps BCLP has taken to date, both in terms of trying to obtain sealed documents and also in terms of attempting to provide the

documents we have (i.e. unsealed copies in the main) to the named Defendants in advance of the First Hearing.

HISTORY OF TRYING TO OBTAIN SEALED DOCUMENTS

- 11 On 4 August 2022, The Queen's Bench Listing Office (as it then was) gave notice by email to the clerk of the Claimants' Counsel that the First Hearing had been listed for 1 hour before a High Court Judge [3]. The email requested that all parties should be informed of the hearing.
- 12 By this point, the Claimants had not received sealed documents from the Court, the documents having been filed via CE-File on 21 June 2022 [4].
- 13 The Claimants wanted to attempt to give the Defendants notice of the First Hearing along with supplying them sealed documents. On that basis, a trainee solicitor at BCLP instructed by me, Joseph Tyler, filed [5] a letter dated 17 August 2022 via CE-File requesting the sealed documents [6]. On 17 August 2022, Joseph Tyler also sent an email, attaching the same letter, to QBEnquiries@Justice.gov.uk [7-12]. The emails referred to in paragraphs 14 to 21 below form part of a chain and appear at that same exhibit reference.
- 14 On 7 September 2022, Joseph Tyler received an email reply from Lola Ajayi, of the QB Issues & Enquiries and Enforcement Office, in which the sender copied in QBJudgesListingOffice@Justice.gov.uk without giving any further comment.
- 15 On 13 September 2022, following a telephone call by a trainee solicitor at BCLP instructed by me, Charles Mann, to the Queen's Bench enquiries helpline, in which Charles Mann was directed to Jonathan Eves at Jonathan.Eves@justice.gov.uk, Charles Mann sent an email to that email address, attaching the letter of 17 August 2022, and reiterating that the Claimants were awaiting sealed documents and asking for assistance as the date of the First Hearing was drawing near.
- 16 On 13 September 2022, Jonathan Eves of the King's Bench Master's Listing Section replied by email to Charles Mann stating that he could not assist since he deals with Masters Listings, not Judges Listings, and he directed us to KBJudgesListingOffice@Justice.gov.uk and also provided a telephone number.
- 17 On 15 September 2022, following a telephone call to the number provided by Jonathan Eves, in which Charles Mann was directed to the same email address provided by Jonathan Eves, Charles Mann sent an email to that email address, again attaching the letter of 17 August 2022 and reiterating that the Claimants were still

awaiting sealed documents and that the First Hearing was drawing near, and asking for assistance.

- 18 On 15 September 2022, Charles Mann received an email reply from Rupkiran Bhamra of the King's Bench Judges Listing Office, stating that the sealed Application Notice could be accessed via CE-File.
- 19 On 15 September 2022, I replied to Rupkiran Bhamra via email stating that we could not see any other sealed documents, such as the Claim Form, and asking if these should be accessible via CE-File.
- 20 On 15 September 2022, Rupkiran Bhamra replied via email to me that for a Claim Form we would need to contact the KB Issues and Enquiries team on kqenquiries@justice.gov.uk.
- 21 On 15 September 2022, on the assumption that the correct email address would be kbenquiries@justice.gov.uk as opposed to kqenquiries@justice.gov.uk, Charles Mann sent an email to that email address reiterating the absence of sealed documents such as the claim form and asking for assistance, again drawing attention to the impending hearing date.
- 22 As at the date of this statement, we have received no response to that last email and have still not been able to access a sealed Claim Form.

PROVISION OF DOCUMENTS TO THE NAMED DEFENDANTS

- 23 On the basis that the First Hearing was now closer than when we originally sought sealed documents, we took that view that we should provide the named Defendants with, at least, notice of the First Hearing and copies of the sealed Application Notice along with unsealed copies of other documents.
- 24 Accordingly, on 22 September 2022 [13]:

(i) We created a fileshare link (<https://filetransfer.blplaw.com/message/d6Vjno2yOXRITNa9a1SU4X>) from BCLP.DocProcess@bclplaw.com which provided a downloadable ZIP file of the following documents:

(A) Sealed Application Notice dated 1 June 2022;

(B) Particulars of Claim dated 1 June 2022;

- (C) First witness statement of James Daniel Waite dated 1 June 2022;
 - (D) Exhibit JDW1 dated 1 June 2022;
 - (E) Draft Order;
 - (F) Claim Form dated 1 June 2022; and
 - (G) Email from the Court dated 4 August 2022 giving notice of the First Hearing;
- (ii) We created an Instagram account named BCLPDocProcess (<https://www.instagram.com/bclpdocprocess/>) through which the named Defendants were each sent the following message:
- "A client of this Firm is seeking an injunction against you and others. Case QB-2022-001952 will have a hearing in London on 5 October 2022. We draw your attention to the papers available at: <https://filetransfer.blplaw.com/message/d6Vjno2yOXRITNa9a1SU4X>"
- (the "**Message**");
- (iii) Consistent with the Order sought by the Claimants, the Message was sent to the following addresses:
- (A) @Alexanderfarrell1999 (for the First Defendant);
 - (B) [REDACTED]
 - (C) @trikkstar69 and @mrowenreece (for the Third Defendant); and
 - (D) @harrydaviesldn and @harrydavies.bts (for the Fourth Defendant); and
- (iv) Owing to the fact Facebook does not permit a company account to initiate a private message to users (only respond if users message first), we took the view that we would not use Facebook public messages at this stage and would rely on Instagram as above instead.

25

By way of further update, as of the date of this statement:

(i) on 23 September 2022, the Third Defendant replied to the Message, BCLP responded with further clarification [14] and the Third Defendant replied again [15];

(ii) [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

26

Given that use of Instagram appears to have brought the documents and the First Hearing to the attention of the named Defendants, we believe this supports the Claimants' request that permission be granted for alternative service.

27

In addition to using Instagram and publishing any required papers at a designated URL (as set out in the requested Order), the Claimants have also (in the Second Witness Statement of James Daniel Waite) outlined where physical papers may be posted around Centre Point to bring any injunction to the attention of both current

and potential future Defendants. We believe these steps combined this will ensure sufficient notice of any injunction is given to the Defendants and newcomers alike.

CONCLUSION

- 28 Although the Claimants could not obtain a full suite of sealed documents to provide to the named Defendants, I believe the Claimants have, in the circumstances, tried to bring the First Hearing to the attention of those Defendants in a manner consistent with the Order sought.

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.

A handwritten signature in blue ink, consisting of a stylized 'P' followed by a series of loops and a long horizontal stroke.

Philip Keith Spencer

3 October 2022

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**QB-2022-
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Defendants

**FIRST WITNESS STATEMENT OF
PHILIP KEITH SPENCER**

**Bryan Cave Leighton Paisner LLP
Governor's House
5 Laurence Pountney Hill
London
EC4R 0BR**

**DX: 92 London/Chancery Lane
Ref: AMRK/PSPE/2034073.000039**

Solicitors for the Claimants

BRYAN
CAVE
LEIGHTON
PAISNER **BLP**

Bryan Cave Leighton Paisner LLP
Governor's House 5 Laurence Pountney Hill London EC4R 0BR
Tel: +44 20 3400 1000 Fax: +44 20 3400 1111