

Party: Claimant  
Witness: S Wortley  
Statement: Second  
Exhibits: "SSW1" - "SSW3"  
Date: 23.02.22

**Claim Number: QB 2020 002072**

**IN THE HIGH COURT OF JUSTICE**

**QUEEN'S BENCH DIVISION**

**B E T W E E N**

- (1) MULTIPLEX CONSTRUCTION EUROPE LIMITED
- (2) LUDGATE HOUSE LIMITED  
(INCORPORATED IN JERSEY)
- (3) SAMPSON HOUSE LIMITED  
(INCORPORATED IN JERSEY)

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT  
THE CLAIMANTS' CONSTRUCTION SITE AT BANKSIDE YARDS WITHOUT  
THE CLAIMANT'S PERMISSION

Defendants

---

**WITNESS STATEMENT OF**

**STUART SHERBROOKE WORTLEY**

---

I, STUART SHERBROOKE WORTLEY of 50/60 Station Road, Cambridge CB1 2JH WILL SAY  
as follows:-

1. I am a solicitor of the Senior Courts of England and Wales and have conduct of these proceedings on behalf of the Claimants.
2. The Second and Third Claimants are the registered owners of a construction site in London known as Bankside Yards.

3. On 30 July 2020, The Honourable Mr Justice Soole granted an interim injunction to restrain the Defendants from entering or remaining upon Bankside Yards until 29 January 2021 or further order.
4. The injunction was granted on the basis of the evidence set out in a witness statement of Martin Philip Wilshire (the First Claimant's Director of Health and Safety) dated 27 July 2020.
5. Prior to the Court of Appeal decision in *Canada Goose UK Retail Ltd and another v Persons Unknown [2020] EWCA Civ 303* (delivered on 5 March 2020), my firm's practice following the grant of this interim injunction would have been to apply for a final injunction to restrain trespass on Bankside Yards for the duration of the construction project.
6. In the Canada Goose decision, the Court of Appeal found that the Court had no jurisdiction to grant a final injunction against a defendant described as "Persons Unknown". In those circumstances, it was necessary for Claimants to pursue sequential applications to extend the interim injunction.
7. The interim injunction relating to Bankside Yards was extended:-
  - 7.1 on 26 January 2021, Mr Justice Bourne extended the injunction to 9 March 2021 or further order (this Order also extended the scope of the injunction to the subsequent phases of work and resulted in an enlarged site plan);
  - 7.2 on 4 March 2021, Mr Justice Stewart extended the injunction to 19 May 2021 or further order. The recitals to this Order referred to the fact that injunctions against Persons Unknown had been the subject of argument in the case now known as *London Borough of Barking & Dagenham v Persons Unknown and others ("Barking & Dagenham")* which had been heard by Mr Justice Nicklin but in which judgement was reserved; and
  - 7.3 on 6 May 2021, Mrs Justice Eady extended the injunction to 26 July 2021 or further order. The recitals to this Order again referred to Nicklin J's reserved judgment in *Barking & Dagenham*.
8. On 13 May 2021, Nicklin J handed down judgment in *Barking & Dagenham LBC v Persons Unknown [2021] EWHC 1201*. In this decision, Nicklin J considered further the effect of *Canada Goose* and held that the jurisdiction even to grant interim injunctions against Persons Unknown was extremely limited and, in effect, was a

measure which could only be used for a short period whilst active attempts were made to identify named defendants.

9. When permission was granted to appeal against Nicklin J's decision, the Claimants made a further application to extend the injunction.
10. On 20 July 2021, Mr Justice William Davis further extended the injunction until 14 January 2022 or further order. The recitals to this Order referred to the pending *Barking & Dagenham* appeal.
11. On 26 October 2021, Master Dagnall granted permission to join the Third Claimant (which owned four of the registered titles which comprise the Bankside Yards construction site and which should therefore have been joined as a Claimant before the Order made in January 2021).
12. On 13 January 2022, the Court of Appeal handed down judgment in *Barking & Dagenham v Persons Unknown* [2022] EWCA Civ 13. This decision helpfully clarifies various aspects of the law and procedure concerning injunctions against Persons Unknown and, in particular, overturns the decision in *Canada Goose* in relation to final injunctions against Persons Unknown.
13. In the light of that decision, the Claimants now seek an injunction until 31 December 2023.
14. On 2 February 2022, Mr Justice Eyre considered a similar application for an injunction relating to a construction site at 40 Leadenhall Street in the City of London. A copy of the transcript of his judgment is now produced and shown to me marked "**SSW1**".

### **Current Position**

15. The Second and Third Claimants remain the registered owners of each of the 6 registered titles referred to in paragraph 2 of the Amended Particulars of Claim.
16. Photographs of the Bankside Yards construction site taken at the end of January 2022 are attached to this statement marked "**SSW2**".
17. I am informed by Martin Wilshire, the First Claimant's Health and Safety Director (who provided the witness statement dated 27 July 2020 in support of the interim injunction application) that:-

- 17.1 the construction work at Bankside Yards remains on target to be completed in December 2023 (paragraph 11 of his statement);
  - 17.2 all of the security measures which were in place in January 2020 remain in place (paragraph 35);
  - 17.3 the Claimants remain concerned about the imminent risk of trespass by urban explorers because urban exploring remains prevalent at construction sites in London. Attached to this statement marked "**SSW3**" is a schedule of recent urban exploring videos – many involving climbing tower cranes; and
  - 17.4 in June 2022 the 3<sup>rd</sup> tower crane will be erected. This will be 162 metres high to the cab with the jib an additional 50 metres above that. This will be amongst the tallest cranes in London but particularly attractive to urban explorers given the location of Bankside Yards in a central location on the south bank of the River Thames opposite the City of London.
18. I am informed by Richard Clydesdale, the perimeter manager for Bankside Yards that whilst the interim injunction was in place (between 30 July 2020 and 14 January 2022), over the Christmas holiday 2021, urban explorers were spotted in the Blackfriars area but they did not attempt to gain access to Bankside Yards.
19. I am further informed by Mr Wilshire and Mr Clydesdale that:-
- 19.1 they believe that but for the interim injunction, there would have been many more incidents of trespass at Bankside Yards;
  - 19.2 the basis of this belief is:-
    - 19.2.1 the prevalence of urban exploring on London construction sites which are not protected by injunctions;
    - 19.2.2 the fact that experienced urban explorers understand the difference between those construction sites which are / are not protected by injunctions (referenced in paragraph 43 of Mr Wilshire's witness statement dated 27 July 2020).
20. I am further informed by Mr Wilshire that:-

- 20.1 the reasons the Claimants now seek a final injunction are the same as the reasons for seeking the interim injunction in July 2020 (recorded in paragraphs 39 to 47 of his witness statement) – in summary:-
- 20.1.1 the Claimants take their responsibilities seriously and want to avoid another tragic accident;
  - 20.1.2 Bankside Yards is an obvious target for urban explorers;
  - 20.1.3 there is a serious risk of trespass;
  - 20.1.4 urban exploring is inherently dangerous – not only for the protagonists but also for others;
  - 20.1.5 construction sites have hidden dangers;
- 20.2 the justification for a final injunction remains as recorded in paragraphs 48 to 51 of his witness statement – namely that:-
- 20.2.1 the final injunction would not deprive anyone of any rights or expose anyone to any loss – it merely seeks to stop individuals from undertaking activities that would be unlawful in any event;
  - 20.2.2 unlawful trespass at Bankside Yards would entail significant risk of personal injury or death so that damages would not be an adequate remedy for the Claimants.

## **Plan**

21. The injunction which Mr Justice Soole granted on 30 July 2020 applied to the Bankside Yards West. This was the area on which the phase 1 works were being undertaken on that part of the construction site which lies immediately to the west of the railway tracks which lead to / from Blackfriars Station on the north bank of the River Thames.
22. As noted in paragraph 7 of this witness statement, each of the Orders which extended the duration of the original injunction (namely those dated 26 January, 4 March, 6 May and 20 July 2021) also included the remainder of the construction site to the east. This additional land includes the Claimants' development within the airspace below the railway tracks.

23. On reviewing the plan attached to the extended injunctions, I note that the plan should have identified (but did not identify) that part of the Bankside Yards construction site which lie below the railway tracks.
24. The draft Order attached to the Claimants' current application is expressly limited to the airspace below the railway tracks and incorporates a revised plan which seeks to clarify this point.

I believe that the facts stated in this Witness Statement and Exhibits 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.

I am duly authorised to make this statement on behalf of the Claimants.

---

Stuart Sherbrooke Wortley

23 February 2022