

Claim No. BL-2022-001396

**IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
BUSINESS LIST (ChD)**

In the matter of an Injunction sought pursuant to CPR 25

B E T W E E N :

(1) ARLA FOODS LIMITED

(2) ARLA FOODS HATFIELD LIMITED

Claimants

-and-

(1) PERSONS UNKNOWN WHO ARE, WITHOUT THE CONSENT OF THE CLAIMANTS, ENTERING OR REMAINING ON LAND AND IN BUILDINGS ON ANY OF THE SITES LISTED IN SCHEDULE 2 OF THE CLAIM FORM (“the Sites”), THOSE BEING:

a. “THE AYLESBURY SITE” MEANING ARLA FOODS LIMITED’S SITE AT AYLESBURY DAIRY, SAMIAN WAY, ASTON CLINTON, AYLESBURY HP22 5EZ, AS MARKED IN RED ON THE PLANS AT ANNEXE 1 TO THE CLAIM FORM;

b. “THE OAKTHORPE SITE” MEANING ARLA FOODS LIMITED’S SITE AT OAKTHORPE DAIRY, CHEQUERS WAY, PALMERS GREEN, LONDON N13 6BU, AS MARKED IN RED ON THE PLANS AT ANNEXE 2 TO THE CLAIM FORM;

c. “THE HATFIELD SITE” MEANING ARLA FOODS HATFIELD LIMITED’S SITE AT HATFIELD DISTRIBUTION WAREHOUSE, 4000 MOSQUITO WAY, HATFIELD BUSINESS PARK, HATFIELD, HERTFORDSHIRE AL10 9US, AS MARKED IN RED ON THE PLANS AT ANNEXE 3 TO THE CLAIM FORM; AND

d. “THE STOURTON SITE” MEANING ARLA FOODS LIMITED’S DAIRY AT PONTEFRACT ROAD, LEEDS LS10 1AX AND NATIONAL DISTRIBUTION CENTRE AT LEODIS WAY, LEEDS LS10 1NN AS MARKED IN RED ON THE PLANS AT ANNEXE 4 TO THE CLAIM FORM

(2) PERSONS UNKNOWN WHO FOR THE PURPOSE OF PROTESTING ARE OBSTRUCTING ANY VEHICLE ACCESSING FROM THE HIGHWAY THE SITES LISTED IN SCHEDULE 2 OF THE CLAIM FORM

(3) PERSONS UNKNOWN WHO FOR THE PURPOSE OF PROTESTING ARE OBSTRUCTING ANY VEHICLE ACCESSING THE HIGHWAY FROM ANY OF THE SITES LISTED IN SCHEDULE 2 OF THE CLAIM FORM

(4) PERSONS UNKNOWN WHO ARE FOR THE PURPOSE OF PROTESTING CAUSING THE BLOCKING, SLOWING DOWN, OBSTRUCTING, OR OTHERWISE INTERFERING WITH THE FREE FLOW OF TRAFFIC ON TO, OFF, OR ALONG THE ROADS LISTED AT ANNEXE 1A, 2A, 3A, AND 4A TO THE CLAIM FORM

(5) PERSONS UNKNOWN WHO ARE FOR THE PURPOSE OF PROTESTING, AND WITHOUT THE PERMISSION OF THE REGISTERED KEEPER OF THE VEHICLE, ENTERING, CLIMBING ON, CLIMBING INTO, CLIMBING UNDER, OR IN ANY WAY AFFIXING THEMSELVES ON TO ANY VEHICLE WHICH IS ACCESSING OR EXITING THE SITES LISTED IN SCHEDULE 2 OF THE CLAIM FORM

(6) PERSONS UNKNOWN WHO ARE FOR THE PURPOSE OF PROTESTING, AND WITHOUT THE PERMISSION OF THE REGISTERED KEEPER OF THE VEHICLE, ENTERING, CLIMBING ON, CLIMBING INTO, CLIMBING UNDER, OR IN ANY WAY AFFIXING THEMSELVES ON TO, ANY VEHICLE WHICH IS TRAVELLING TO OR FROM ANY OF THE SITES LISTED IN SCHEDULE 2 OF THE CLAIM FORM)

(7) 34 OTHER NAMED DEFENDANTS LISTED AT SCHEDULE 1 OF THE INJUNCTION ORDER

Defendants

SIXTH WITNESS STATEMENT OF NICHOLAS MCQUEEN

I, **Nicholas McQueen**, of Walker Morris LLP, 33 Wellington Street, Leeds LS1 4DL, WILL SAY AS FOLLOWS –

1. I am a Partner of Walker Morris LLP. I represent the Claimants in these proceedings, those Claimants being Arla Foods Limited (company no. 02143253) and Arla Foods Hatfield Limited (company no. 06816100). I am authorised to make this statement on behalf of the Claimants. The First Claimant is a farmer-owned dairy co-operative. The Second Claimant is a wholly owned subsidiary of the First Claimant and holds the operating lease to one of

the sites from which the First Claimant operates its business (that being the site known as the Hatfield Site).

2. The facts and matters set out by me in this witness statement are either known by me directly and are true, or are known by me indirectly and are believed to the best of my knowledge to be true. In relation to matters falling into the latter category, I have set out the source of my knowledge and belief. This statement was prepared through email correspondence with Counsel for the Claimants.
3. I make this witness statement in support of the Claimants' Application seeking an adjournment to the final hearing of the Claim for final injunctive relief against the six defined categories of Persons Unknown, 33 named Defendants and the single Defendant identified by photograph. In short, and as I shall explain in full below, the Claimants seek an adjournment on the basis that the Supreme Court is due to hear the appeal from the Court of Appeal's decision in *London Borough of Barking and Dagenham & Ors v Persons Unknown & Ors* [2022] EWCA Civ 13; [2022] 2 WLR 946 (which appeal is now known as *Wolverhampton City Council & Ors v London Gypsies and Travellers & Ors* (UKSC 2022/0046) on an expedited basis on 8 and 9 February 2023. The determination of the appeal may dispose of part of these proceedings.
4. I exhibit to this witness statement a bundle of documents marked 'NM6'. Where I refer to this exhibit I do so in the format **[NM6/page number]**.

These Proceedings

5. By way of brief background to these proceedings:
 - i. The Claimants, on 31 August 2022, sought and obtained urgent and without notice interim injunctive relief to restrain apprehended unlawful acts of protest. I exhibit a copy of the Order made by Bacon J at **[NM6/Page 1-22]**;
 - ii. At a return date on 4 October 2022, Fancourt J continued that interim relief, and permitted the Claimants to add 30 named Defendants to the Claim, against whom

the Injunction Order was also granted. I exhibit a copy of the 4 October 2022 Order at [NM6/Page 23-46];

- iii. Following an Application made by the Claimants, which was dealt with by Fancourt J without a hearing, by way of an Order dated 25 October 2022 four further Defendants were added to the Claim, and the Injunction Order granted against them also (with one of those Defendants being identified only by photograph and not by name). I exhibit a copy of the 25 October 2022 Order at [NM6/Page 47-69].
6. Each of the 8 October 2022 and 25 October 2022 Orders provided that the Claimants should seek a return date listing, and permitted the Claimants to apply for that listing to be treated as the final disposal of the Claim, which the Claimants duly did. The final hearing is now listed for 8 February 2023, with a time estimate of one day.

Wolverhampton City Council & Ors (Respondents) v London Gypsies and Travellers & Ors (Appellants) (UKSC 2022/0046)

7. I understand from counsel that the Supreme Court has expedited the appeal from the Court of Appeal's decision in *London Borough of Barking and Dagenham & Ors v Persons Unknown & Ors* [2022] EWCA Civ 13; [2022] 2 WLR 946 (*'Barking and Dagenham'*). That appeal has been listed for hearing on 8 and 9 February 2023, and is now known as *Wolverhampton City Council & Ors v London Gypsies and Travellers & Ors* (UKSC 2022/0046) (*'Wolverhampton'*).
8. The point on appeal is whether the Court is able to grant final injunctive relief that binds 'newcomers' (i.e. those persons who were not yet parties to the claim when that final order is made). At first instance in *Barking and Dagenham*, Nicklin J held that such relief could not be granted. On appeal, the Court of Appeal, in a judgment delivered by the Master of the Rolls, found that such relief could be granted.
9. In these proceedings, the Claimants are seeking final relief against six defined categories of Persons Unknown. If the Supreme Court were to determine the *Wolverhampton* appeal in favour of the Appellants, it is likely, depending on the specific findings of the Supreme

Court, that the appeal will dispose of the Claimants' Claim for final injunctive relief against the categories of Persons Unknown in these proceedings.

10. Therefore, the Claimants seek an adjournment to the final hearing of the Claim pending the outcome of the *Wolverhampton* appeal. It is regrettable to the Claimants that such an Application must be made, but the Claimants acknowledge, and it is respectfully submitted, that an adjournment is the only fair and proper course that can be pursued in the circumstances.
11. The Claimants are also mindful of the Persons Unknown Defendants in these proceedings, and that the named Defendants are currently unrepresented, and make this Application accordingly.
12. Without an adjournment, there is a risk that the Claimants will secure the final injunctive relief sought against Persons Unknown, with the Supreme Court determining shortly thereafter that such relief may not in fact be granted. Such an outcome would of course be a great injustice to the Defendants, and would likely lead to further applications being made in these proceedings that would consume further time and resources of both the Court and the Parties. It is therefore submitted that adjourning the final hearing and awaiting the outcome of the *Wolverhampton* appeal is the only way to further the overriding objective in all the circumstances.
13. Further, the Claimants are represented in this Claim by the same Counsel for eight of the Respondents in the *Wolverhampton* appeal. As the *Wolverhampton* appeal and the final hearing of this Claim are now listed for the same day, the Claimants are now experiencing an issue with Counsel availability. I am told by Counsel that their availability on 8 February 2023 was raised with the Supreme Court, and that they were advised that the Supreme Court should take precedence in the event of a diary clash.
14. I am also told by Counsel for the Claimants that two of the Respondents that they represent in the *Wolverhampton* appeal also had final hearings of claims for injunctive relief against Persons Unknown listed, and which have now been stayed and/or adjourned pending the outcome of the *Wolverhampton* appeal. Accordingly, it seems only right and proper that

the Claimants' proceedings should also be adjourned pending the outcome of the *Wolverhampton* appeal.

15. I exhibit to this witness statement at [NM6/Page 70-72] and [NM6/Page 73-74] copies of the Orders made in the *Rochdale MBC* and *Nuneaton and Bedworth Borough Council* proceedings respectively (those being the two final hearings to which I have referred in the paragraph above).

Proposed Order

16. The Claimants have attached to this Application a draft Order. I hope that the Order is self-explanatory, and in short:

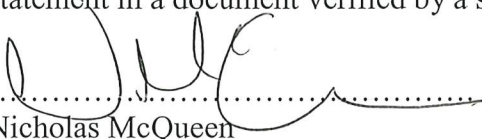
- i. The Claimants propose to write to the court within 28 days of the judgment in the *Wolverhampton* appeal to propose directions to bring this Claim to final hearing;
- ii. The alternative service provision sought to assist with the service of the adjournment Order mirrors that made by Bacon J and Fancourt J in earlier Orders, with minor amendments in the wording to reflect the Order that is being served.

Conclusion

17. It is regrettable that the final hearing of the Claimants' Claim should be adjourned. However, it is respectfully submitted that an adjournment is the only fair and proper way to proceed in circumstances where the imminent and expedited *Wolverhampton* appeal may dispose of part of these proceedings.

Statement of truth

I believe that the facts set out 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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Nicholas McQueen

Dated this 12 day of January 2023