

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

TENTH 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 exhibit to this witness statement a bundle of documents marked 'NM10'. Where I refer to this exhibit I do so in the format [NM10/page number].
4. I make this witness statement in support of the Claimants' Application, to vary the directions set out in the Order of the Honourable Mr Justice Fancourt dated 21 December 2023 [NM10/1] (the '**Directions Order**' hereafter).

The Order sought

5. The Claimants seek to vary the paragraph 1 of the Directions Order to extend the date on which the Claimants must file and serve the further evidence upon which they will seek to rely at the trial of the Claim. The Claimants seek a five-week extension. That variation necessitates consequential variations to paragraphs 2 and 3 of the Directions Order, which should be moved on by five weeks also.
6. A draft Order is attached to the Application. The current deadline for the filing and serving of evidence by the Claimants is 15 April 2024. If the Application is granted, the new date for the Claimants' evidence would be 20 May 2024, the date for the Defendants' evidence would be 17 June 2024, and evidence in reply (if so advised) would be due by 1 July 2024.
7. The trial of the Claim is listed for two days in a three-day window commencing on 22nd July (which the Court has informed the Claimants will be the allocated ½ day judicial pre-reading).

8. The Claimants have made the application in relation to PD57AC as contemplated by paragraph 4 of the Directions Order, and did so on 14 March 2024 [NM10/2]. At the date of this witness statement, that Application is yet to be determined. The Claimants respectfully enquire as to whether that Application might be considered alongside this Application, if it remains outstanding at the time that this Application is considered.

The reasons for seeking the Order

9. There are two principal reasons why the Claimants seek the above Order.

Counsel ill-health

10. Unfortunately, lead counsel for the Claimants, Caroline Bolton is currently working restricted hours (and on a remote basis only) on the grounds of ill-health and at the direction of her medical practitioners. I am informed by counsel and counsel's clerk that this restricted working will continue until 27 March 2024, after which Ms Bolton is then to take a one month leave of absence from work on the certification of her medical practitioners. This restricted working and leave of absence was unforeseen.
11. Ms Bolton's absence has unfortunately disrupted the Claimants' preparation of evidence, as the Claimants have not been able to obtain her input, and will not be able to do so throughout the month of April (when the deadline for evidence currently falls). Ms Bolton's input is important to the Claimants, as she has been instructed on these proceedings as lead counsel from the commencement of the Claim.
12. The evidence to be filed on 15 April is critical to the Claim, as it is the evidence against each named Defendant which the Claimants will submit justifies the grant of a final injunction order. That evidence must be clear, comprehensive and accurate both for the success of the Claim, and so that each Defendant can understand the case that they must meet. Further, the Claimants possess extensive video footage and documentary evidence, all of which are being reviewed and assessed, to ensure that a proportionate and representative sample is placed before the Court. In those circumstances, it is desirable that the Claimants have their full legal team available.

Defendant undertakings

13. Until recently, no Defendant had engaged with the proceedings. However, there has now been engagement from five Defendants on the matter of settlement of the proceedings by way of offering an undertaking.
14. I am of course limited in what I can say, as all negotiations are on a without prejudice basis. However, one of the Defendants that has engaged with my firm has indicated that others may also be inclined to engage and discuss the terms of an undertaking.
15. If that engagement proves successful, there will be no need for trial evidence in relation to the Defendants that offer undertakings, and significant cost can be saved. Given the fast-approaching deadline of 15 April, it is not clear to me that the process of negotiating and securing undertakings could be completed within that time frame (assuming that a significant number of Defendants may wish to engage).
16. As such, the Claimants also seek the extension, in part, to facilitate and allow for settlement (if so advised).

Reasons why the extension should be granted

17. The Claimants respectfully submit that the extension should be granted, and that it would be in accordance with the overriding objective for the Court to do so. Specifically:
 - i. The extension sought does not jeopardise the trial date;
 - ii. The extension sought does not prejudice any Defendant. The Defendants are still given the same time period in which to prepare their evidence in defence of the Claim, and will enjoy 3 weeks between the filing and serving of any evidence in reply (if so advised) prior to the trial of the Claim. Further, it is respectfully submitted that this reason should be viewed in the context of no Defendant having ever acknowledged service, defended the Claim or participated in the proceedings in any way (until the recent engagement by three Defendants on the question of settlement by way of an undertaking);

- iii. The extension will enable the Claimants to assemble and present their evidence in a clear, comprehensive and accessible manner. That will be of benefit to the Defendants who wish to defend that Claim, as it is imperative that they are able to understand the Claim and evidence against them and engage with the same (especially where the Defendants act as litigants in person which, at present, they all do);
- iv. To not grant the extension would cause a disproportionate detriment to the Claimants, who would not be able to present their case in a full and proper manner. Again, the Claimants respectfully ask the court to keep in mind that no Defendant has ever acknowledged service or defended the Claim, and that the Claimants have suffered significant harm by reason of the conduct of the Defendants on 4 and 8 September 2022 by reason of various breaches of the interim injunction order;
- v. The extension gives further opportunity for the Parties to explore the possibility of settlement by way of undertakings, which now appears to be within the contemplation of the Defendants. If the proceedings could be settled against some or all of the named Defendants, that would save significant cost (and also Court time at the final hearing), and is in accordance with the overriding objective of dealing with cases justly and at proportionate cost. As the Court will appreciate, preparing evidence against 34 named Defendants and Persons Unknown will be a costly task, and the assessment of that evidence will occupy Court time at trial.

Conclusion

18. For the foregoing reasons, the Claimants respectfully ask for an extension of five weeks for the filing and serving of their evidence, with the subsequent deadline for defence and reply evidence being moved along commensurately.

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 28th day of March 2024