

IN THE HIGH COURT OF JUSTICE

Pre-Action
Claim No. QB-2021-001096

QUEEN'S BENCH DIVISION

MEDIA AND COMMUNICATIONS LIST

Before the Honourable Mr Justice Murray (in private)

Dated: 31 March 2021

BETWEEN:

"C.N.C."

Applicant
(Intended Claimant)

– and –

"D.G.S."

Respondent
(Intended Defendant)

ORDER

PENAL NOTICE

IF YOU THE RESPONDENT (INTENDED DEFENDANT) DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED OR FINED OR HAVE YOUR ASSETS SEIZED.

ANY PERSON WHO KNOWS OF THIS ORDER AND DISOBEYS THIS ORDER OR DOES ANYTHING WHICH HELPS OR PERMITS ANY PERSON TO WHOM THIS ORDER APPLIES TO BREACH THE TERMS OF THIS ORDER MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED.

NOTICE TO ANYONE WHO KNOWS OF THIS ORDER

You should read the terms of the Order and the Practice Guidance on Interim Non-Disclosure Orders very carefully. You are advised to consult a solicitor as soon as possible. This Order prohibits you from doing the acts set out in Paragraphs 7 and 10 of the Order and obliges you to do the acts set out in Paragraphs 8, 9, and 11 of the Order. You have the right to ask the Court to vary or discharge the Order. If you disobey this Order you may be found guilty of contempt of court and you may be sent to prison or fined or your assets may be seized.

THIS ORDER

1. This is an Injunction, with other orders as set out below, made against the Respondent (the Intended Defendant) (also referred to herein as the **Defendant**) by the Judge identified above (the **Judge**) at a hearing (the **Without Notice Hearing**) at 10:30am on 31/3/2021 of the application (the **Application**) made by application notice dated 25/3/2021 (the **Application Notice**) by the Applicant (the Intended Claimant) (also referred to herein as the **Claimant**) without notice to the Respondent. At the Without Notice Hearing, the Judge:
 - (a) read the witness statement(s) referred to in Confidential Schedule 1 to this Order;
 - (b) accepted the undertakings set out in Schedule B at the end of this Order;
 - (c) considered the provisions of the Human Rights Act 1998 (**HRA**), section 12; and then:
 - (d) made this Order.

2. This Order was made at a hearing without-notice to those affected by it (i.e., at the Without Notice Hearing), the Court having considered section 12(2) HRA and being satisfied that there are compelling reasons for notice not being given, namely:

that there is a significant risk that if the Respondent were to be notified in advance, the Respondent would take steps to defeat the Order's purpose.

The Respondent (and anyone served with or notified of this Order) has a right to apply to the Court to vary or discharge the Order (or so much of it as affects them): see clause 18 below.

3. There will be a further hearing in respect of this Order, to be listed by the Court Office for hearing as soon as reasonably practicable on or after 21/4/2021 (the **Return Date**).

ANONYMITY

4. Pursuant to section 6 HRA, and/or CPR 39.2 the Judge, being satisfied that it is strictly necessary, ordered that:
 - (a) the Applicant be permitted to issue these proceedings naming the Claimant as “C.N.C.” and giving an address c/o the Claimant’s solicitors;
 - (b) the Applicant be permitted to issue these proceedings naming the Defendant as “D.G.S.” and, once it is known to the Applicant, notifying the Defendant’s home address by filing the same in a sealed letter which must remain sealed and held with the Court office subject only to the further order of a Judge or the Senior Master of the Queen’s Bench Division;
 - (c) there be substituted for all purposes in these proceedings in place of references to the Claimant by name, and whether orally or in writing, references to the letters “C.N.C.”; and
 - (d) if necessary, there be substituted for all purposes in these proceedings in place of references to the Defendant by name and whether orally or in writing, references to the letters “D.G.S.”.

ACCESS TO DOCUMENTS

5. Upon the Judge being satisfied that it is strictly necessary:
 - (a) (i) no copies of the statements of case; and
 - (ii) no copies of the witness statements and the applications,

will be provided to a non-party, without further order of the Court.

- (b) Any non-party other than a person notified or served with this Order seeking access to, or copies of the abovementioned documents, must make an application to the Court, proper notice of which must be given to the other parties.

**SERVICE OF CLAIM FORM WHERE RESPONDENT NOT KNOWN
OR WHEREABOUTS NOT KNOWN**

- 6. (a) The Claim Form should be served as soon as reasonably practicable and in any event by 7/4/2021 at the latest, save that there shall be liberty for the Applicant to apply to the Court in the event that an extension is necessary; and
- (b) Any such application referred to in 6(a) must be supported by a witness statement. Such application may be made by letter, the Court having dispensed with the need for an application notice.

INJUNCTION

- 7. Until the trial of this claim or further Order of the Court, the Respondent must not:
 - (a) copy, modify, tamper with or destroy, or use, supply, publish, communicate, or disclose to any other person (other than (i) by way of disclosure to the Respondent's legal advisers/representatives (if any) instructed in relation to these proceedings, for the purpose of obtaining legal advice and/or legal representation in relation to these proceedings, or (ii) for the purpose of carrying this Order into effect) all or any part of the **Information** referred to in Confidential Schedule 2 to this Order; and
 - (b) publish any information which is liable to or might identify the Applicant as a party to the proceedings and/or as the subject of the Information or which otherwise contains material (including but not limited to the profession or age

or gender or nationality of the Applicant) which is liable to, or might lead to, the Applicant's identification in any such respect, provided that nothing in this Order shall prevent the publication, disclosure or communication of any information which is contained in this Order (other than in the Confidential Schedules).

INFORMATION TO BE DISCLOSED

8. The Respondent shall within 48 hours of the Return Date disclose to the Applicant's solicitors the following:
 - (a) the existence and location of all and any copies of the Information (including without limitation, for the avoidance of doubt, any copies of any part or parts of the Information) (collectively, the **Copies**, and each individually a **Copy**), as are within the Respondent's power possession custody or control;
 - (b) the identity of each and every third party to whom the Respondent has at any time disclosed and/or supplied all or any part of the Information or any Copy or Copies; and in each such case:
 - (c) the date upon which such disclosure or supply took place and the nature of the Information, Copy or Copies disclosed or supplied.

9. The Respondent shall confirm the information supplied in paragraph 8 above in a witness statement containing a statement of truth within 7 days of complying with paragraph 8 and serve the same on the Applicant's solicitors.

PROTECTION OF THE HEARING PAPERS

10. The Respondent, and any third party given notice of the Application, must not publish or communicate or disclose a copy or cause to be published or communicated or disclosed or copied any of the following documents (the **Hearing Papers**):
- (a) any witness statements and any exhibits thereto and information contained therein that are made, or may subsequently be made, in support of the Application;
 - (b) the Draft Order and Draft Particulars of Claim attached to the Application Notice;
 - (c) the Confidential Schedules attached to this Order (and those attached to the Draft Order attached to the Application Notice);
 - (d) the Explanatory Note served with this Order;
 - (e) the Applicant's solicitors' notes of the Without Notice Hearing of the Application;

provided that the Respondent, and any such third party, shall be permitted to copy, disclose and deliver the Hearing Papers to the Respondent's and any such third party's legal advisers for the purpose of these proceedings.

11. The Hearing Papers must be preserved in a secure place by the Respondent's and any such third party's legal advisers on the Respondent's and such third party's behalf.
12. The Respondent, and any third party given advance notice of the Application, shall be permitted to use the Hearing Papers for the purpose of these proceedings provided that the Respondent's and such third party's legal advisers shall first inform anyone, to whom the said documents are disclosed, of the terms of this Order and, so far as is practicable, obtain their written confirmation that they understand and accept that they are bound by the same.

PROVISION OF DOCUMENTS AND INFORMATION TO THIRD PARTIES

13. The Applicant shall be required to provide the legal advisers of any third party (and where unrepresented, the third party) served with advance notice of the Application, or a copy of this Order promptly upon request, and receipt of their written irrevocable undertaking to the Court to use those documents and the information contained in those documents only for the purpose of these proceedings:
 - (a) a copy of any material read by the Judge, including material read after the hearing at the direction of the Judge or in compliance with this Order, save for the witness statements referred to in Confidential Schedule 1 at the end of this Order; and/or
 - (b) a copy of the Hearing Papers.

HEARING IN PRIVATE

14. The Judge considered that it was strictly necessary, pursuant to CPR 39.2(3)(a), (c) and (g), to order that the hearing of the Application (including, for the avoidance of doubt, both at the Without Notice Hearing and at the hearing on the Return Date) be in private and there shall be no reporting of the same.

PUBLIC DOMAIN

15. For the avoidance of doubt, nothing in this Order shall prevent the Respondent from publishing, communicating or disclosing such of the Information, or any part thereof, as was already in, or that thereafter comes into, the public domain in England and Wales (other than as a result of breach of this Order or a breach of confidence or privacy).

FURTHER ORDER

16. The Applicant is hereby given permission by the Court, pursuant to CPR 31.22 and CPR 32.12, to use the **Documents** (as defined in Confidential Schedule 2 to this Order), and any of them, and any information disclosed therein, for any of the following purposes, that is to say, the purposes of:

- (a) the Application;
- (b) issuing and/or conducting against the Respondent any of the claims referred to in the Draft Claim Form and/or Draft Particulars of Claim attached to the Application Notice.

COSTS

17. The costs of and occasioned by the Application are reserved to the judge hearing the Application on the Return Date.

VARIATION OR DISCHARGE OF THIS ORDER

18. The Respondent, or anyone affected by any of the restrictions in this Order, may apply to the Court at any time to vary or discharge this Order (or so much of it as affects that person), but they must first give written notice to the Applicant's solicitors. If any evidence is to be relied upon in support of the application, the substance of it must be communicated in writing to the Applicant's solicitors in advance. The Respondent may agree with the Applicant's solicitors and any other person who is, or may be bound by this Order, that this Order should be varied or discharged, but any agreement must be in writing.

INTERPRETATION OF THIS ORDER

19. A Respondent who is an individual who is ordered not to do something must not do it himself or in any other way. He must not do it through others acting on his behalf or on his instructions or with his encouragement.
20. A Respondent which is not an individual which is ordered not to do something must not do it itself or by its directors, officers, partners, employees or agents or in any other way.
21. Where there are two or more Respondents then (unless the contrary appears):
 - (a) any reference to a “Respondent” or to the “Respondents” means all or any of them;
 - (b) any order requiring a “Respondent” or the “Respondents” to do or not to do anything requires each Respondent to do or not to do it.

PARTIES OTHER THAN THE APPLICANT AND RESPONDENT

22. Effect of this Order

It is a contempt of court for any person notified of this Order knowingly to assist in or permit a breach of this Order. Any person doing so may be imprisoned, fined or have their assets seized.

NAME AND ADDRESS OF THE APPLICANT'S LEGAL REPRESENTATIVES

23. The Applicant's solicitors are -

Samuels Solicitors LLP

18 Alexandra Road, Barnstaple, North Devon, EX32 8BA

Em: jmt@samuels-solicitors.co.uk

Tel: 01271 343457 (office hours)

Tel: 01271 633975 (out of office hours)

Ref: DPS:2K:BAR072/001:A

COMMUNICATIONS WITH THE COURT

24. All communications to the Court about this Order should be sent to:

Room WG08, Royal Courts of Justice, Strand, London, WC2A 2LL,
quoting the case number.

The telephone number is 020 7947 6010.

The offices are open between 10 a.m. and 4.30 p.m. Monday to Friday.

SCHEDULE A

The Applicant relied on the following witness statements:

- (1) see: Confidential Schedule 1.

SCHEDULE B

UNDERTAKINGS GIVEN TO THE COURT BY THE APPLICANT

- (1) If the Court later finds that this Order has caused loss to the Respondent, and decides that the Respondent should be compensated for that loss, the Applicant will comply with any order the Court may make.
- (2) If the Court later finds that this Order has caused loss to any person or company (other than the Respondent) to whom the Applicant has given notice of this Order, and decides that such person should be compensated for that loss, the Applicant will comply with any Order the Court may make.
- (3) By 4.30pm on 7/4/2021 the Applicant will issue a Claim Form in the form disclosed to the Judge in draft form at the Without Notice Hearing and will cause a witness statement to be made and filed confirming the substance of what was said to the Court by the Applicant's Counsel at the Without Notice Hearing and exhibiting a copy of the Hearing Papers.
- (4) On the Return Date the Applicant will inform the Court of the identity of all third parties that have been notified of this Order. The Applicant will use all reasonable endeavours to keep such third parties informed of the progress of the action (insofar as it may affect them), including, but not limited to, advance notice of any applications, the outcome of which may affect the status of the Order.

- (5) If this Order ceases to have effect or is varied, the Applicant will immediately take all reasonable steps to inform in writing anyone to whom he has given notice of this Order, or whom he has reasonable grounds for supposing may act upon this Order, that it has ceased to have effect in this form.

SCHEDULE C

Prior to the Without Notice Hearing the Applicant, at the following times and on the following dates, and by the following means, gave advance notice of the Application to:

- (1) none.

SCHEDULE D

For the purposes of paragraph 20 of the Guidance Note and section 12(2) of the HRA, the Applicant hereby confirms that it intends to notify (and for the avoidance of doubt it is hereby confirmed that the Court permits the Applicant to notify), after the Without Notice Hearing, the following non-parties of the Order:

- (1) (for the avoidance of doubt) the Respondent's legal representatives (if any).

SCHEDULE E

For the purposes of paragraph 38 of the Guidance Note, the Applicant hereby confirms that the following non-parties have been served with this Order:

- (1) none.