

IN THE HIGH COURT OF JUSTICE

Claim No: QB-2019-003362

QUEEN'S BENCH DIVISION

Media and Communications List

BEFORE THE HONOURABLE MR JUSTICE PEPPERALL

IN PRIVATE

Dated: 25 September 2019

BETWEEN:

“SOJ”

Claimant/Applicant

-and -

“JAO”

Defendant/Respondent

PENAL NOTICE

IF YOU THE RESPONDENT 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 at Paragraphs 4 and 7 of the Order and requires you to do the acts at Paragraph 8 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 Defendant on 25 September 2019 by the Judge identified above (the **Judge**) on the application (the **Application**) of the Claimant. The Judge:
 - (a) read the witness statements referred to in Schedule A at the end of this Order;
 - (b) heard from, and read the skeleton argument lodged by, Counsel for the Claimant;
 - (c) accepted the undertakings set out in Schedule B at the end of this Order;
 - (d) considered the Order made by Master Davison on 23 September 2019 to allow the Claimant to issue the proceedings in a form that anonymised the Claimant and the Defendant; and
 - (e) considered the provisions of the Human Rights Act 1998 (**HRA**), section 12.
2. This Order was made at a hearing without notice to the Defendant, the Court having considered section 12(2) HRA and being satisfied that there are compelling reasons for notice not being given, namely: that the evidence demonstrated a real risk that, if tipped off about the application the Defendant would take steps to defeat its purpose. The Defendant (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 paragraph 14 below.

ACCESS TO DOCUMENTS

3. Upon the Judge being satisfied that it is strictly necessary:
 - (a) no copies of:
 - (i) the confidential schedules to the statements of case;
 - (ii) the confidential schedules and exhibits to witness statements and the applications; and
 - (iii) the Confidential Schedules to this Orderwill 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.

INJUNCTION

4. Until the return date defined in paragraph 6 below (the **Return Date**) the Defendant must not, whether directly or indirectly, in person or through any agent:

- (a) use, publish, communicate or disclose all or any part of the information referred to in Confidential Schedule 1 to this Order (the **Information**);
 - (b) publish, communicate or disclose any information which is liable to or might identify the Claimant as a party to the proceedings and/or as the subject of the Information or which otherwise contains material which is liable to, or might lead to, the Claimant's identification in any such respect.
5. Nothing in this Order shall prevent:
- (a) the Defendant communicating with legal advisers instructed in relation to these proceedings (the **Defendant's legal advisers**) for the purpose of (i) obtaining legal advice in relation to these proceedings or (ii) for the purpose of carrying this Order into effect;
 - (b) the Defendant from making disclosures pursuant to clause 3(c) of the Settlement Agreement dated 13 August 2018 entered into between the parties and exhibited to Confidential Schedule 2 of this Order;
 - (c) the Defendant issuing any proceedings anywhere in the world provided the Defendant does not by her actions breach the terms of the orders made at paragraph 4 of this Order;
 - (d) the publication, disclosure or communication of any information which is contained in this Order (save for the Confidential Schedules) or in any public judgment of the Court in this action.

FURTHER HEARING

6. The Return Date hearing will be listed on 9 October 2019. The hearing be listed for 2 hours to take place before a Judge of the Media and Communications List, if available, at the Royal Courts of Justice, Strand, London WC2A 2LL. At the Return Date hearing the Judge will consider the continuation or discharge of this Order.

PROTECTION OF HEARING PAPERS

7. The Defendant must not publish or communicate or disclose or copy or cause to be published or communicated or disclosed or copied any witness statements and any schedules and exhibits thereto and information contained therein that are made, or may subsequently be made, in support of the Application or the Claimant's solicitors' notes of the hearing of the Application (the **Hearing Papers**), save that the Defendant shall be permitted to copy, disclose and deliver the Hearing Papers to the Defendant's legal advisers for the purpose of these proceedings.
8. The Hearing Papers must be preserved in a secure place by the Defendant and the Defendant must procure that her legal advisers do the same.
9. The Defendant shall be permitted to use the Hearing Papers for the purpose of these proceedings provided that the Defendant'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

10. The Claimant shall be required to provide the legal advisers of any third party 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 confidential schedules and exhibits to witness statements referred to in Schedule A; and/or
 - (b) a copy of the Hearing Papers.

HEARING IN PRIVATE

11. 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 be in private and there shall be no reporting of the same.

SERVICE

12. Pursuant to CPR 6.15 and 6.27, the Claimant has, if necessary, permission to serve (a) all documents in this action, including this Order, by email and (b) this Order by text message. The Defendant's email address and mobile telephone number are set out in Confidential Schedule 1.

COSTS

13. The costs of and occasioned by the Application are reserved.

VARIATION OR DISCHARGE OF THIS ORDER

14. The parties 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 Claimant'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 Claimant's solicitors in advance. The Defendant may agree with the Claimant'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

15. A Defendant who is an individual who is ordered not to do something must not do it herself or in any other way. She must not do it through others acting on her behalf or on her instructions or with her encouragement.

PERSONS OUTSIDE ENGLAND AND WALES

16. (1) Except as provided in paragraph 16(2) below, the terms of this Order do not affect or concern anyone outside the jurisdiction of this Court.
- (2) The terms of this Order will affect the following persons in a country or state outside the jurisdiction of this Court –
- (a) the Defendant or her officer or agent appointed by power of attorney;
 - (b) any person who –
 - (i) is subject to the jurisdiction of this Court;
 - (ii) has been given written notice of this Order at his residence or place of business within the jurisdiction of this Court; and
 - (iii) is able to prevent acts or omissions outside the jurisdiction of this Court which constitute or assist in a breach of the terms of this Order; and
 - (c) any other person, only to the extent that this Order is declared enforceable by or is enforced by a court in that country or state.

PARTIES OTHER THAN THE CLAIMANT AND THE DEFENDANT

17. 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 CLAIMANT'S LEGAL REPRESENTATIVES

18. The Claimant's solicitors are -
Nigel Tait and Persephone Bridgman Baker, Carter-Ruck, 6 St Andrew Street,
London, EC4A 3AE, 020 7353 5005; Email: Nigel.Tait@carter-ruck.com or
Persephone.BridgmanBaker@carter-ruck.com.

COMMUNICATIONS WITH THE COURT

19. 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 Claimant relied on the following witness statements:

1. Witness Statement including Confidential Schedule and Confidential Exhibits of the Claimant.
2. Witness Statement including Confidential Schedule and Confidential Exhibit of Sheryl E Reich.

SCHEDULE B

UNDERTAKINGS GIVEN TO THE COURT BY THE CLAIMANT

- (1) If the Court later finds that this Order has caused loss to the Defendant, and decides that the Defendant should be compensated for that loss, the Claimant 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 Defendant) to whom the Claimant has given notice of this Order, and decides that such person should be compensated for that loss, the Claimant will comply with any Order the Court may make.
- (3) The Claimant undertakes to serve on the Defendant as soon as practicable the documents placed before the Court, including the application notice, the evidence in support, a note of the hearings on 24 and 25 September 2019, the draft judgment and any orders made.
- (4) The Claimant undertakes to use his best endeavours to serve the Defendant personally.
- (5) On the Return Date the Claimant will inform the Court of the identity of all third parties that have been notified of this Order. The Claimant 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.
- (6) If this Order ceases to have effect or is varied, the Claimant 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.

