

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

CLAIM NO. QB-2022-001083

Before the Honourable Mr Justice Chamberlain (sitting in private)

12 April 2022

B E T W E E N:

XXX

- v -

**PERSONS UNKNOWN RESPONSIBLE FOR ENGAGING IN A CYBER-ATTACK
ON THE APPLICANT ON OR ABOUT 26 MARCH 2022 AND/OR WHO HAVE
THREATENED TO DISCLOSE THE INFORMATION THEREBY OBTAINED**



Defendant/Respondent

ORDER

PENAL NOTICE

IF YOU THE DEFENDANT/RESPONDENT DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, 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 ALSO 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 Practice Guidance (Interim Non-disclosure Orders) [2012] 1 WLR 1003 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 5 and 15 of the order and obliges you to do the acts set out in paragraphs 6, 13, 14, and 16 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.

UPON the order of the Honourable Mrs Justice Stacey dated 30 March 2022 (the “**Stacey J Order**”) granting an interim without notice injunction to the Claimant (the “**Interim Injunction**”);

AND UPON the Stacey J Order providing for a further hearing in respect of the order on 12 April 2022 (the “**return date**”)

AND UPON the Claimant’s application made by an Application Notice dated 6 April 2022

AND UPON hearing Counsel for the Claimant and upon the Defendant not attending

IT IS ORDERED:

This order

1. This is an injunction, with other orders as set out below, made against the Defendant on 12 April 2022 by Mr Justice Chamberlain (the “Judge”) on the application of the Claimant in these proceedings identified in Confidential Schedule 3 to this order. The Judge:
 - a) Read the witness statements listed in Confidential Schedule 1 at the end of this order;
 - b) Accepted the undertakings set out in Schedule A to this order;
 - c) Considered the provisions of the Human Rights Act 1998 (“**HRA**”), section 12.
2. If there is more than one Defendant-
 - a) unless otherwise stated, references in this order to the Defendant mean both or all of them; and
 - b) this order is effective against any Defendant on whom it is served or who is given notice of it.

Hearing in private and the publication of this order

3. –

- a) The Judge considered that it was strictly necessary, pursuant to CPR 39.2(3)(a)(b)(c)(g), to order that the hearing of the Application be in private and there shall be no reporting of the same.
- b) This order may be published on the judiciary website, but the Confidential Schedules to it must not be published.

Continuation and modification of the Interim Injunction

- 4. The Interim Injunction set out in paragraph 5 of the Stacey J Order shall be continued and modified as set out in the following paragraphs.
- 5. Until after the trial of this action or further order of the Court, the Defendant must not:
 - a) In any way use, copy, publish, distribute, transmit, communicate or disclose to any person (other than (i) by way of disclosure to legal advisers instructed in relation to these proceedings (“**the Defendants’ legal advisers**”) for the purpose of obtaining legal advice in relation to these proceedings or (ii) for the purpose of carrying this order into effect) all or any part of the information described in Confidential Schedule 2 to this order (the “**Information**”);
 - b) In any way use, copy, publish, distribute, transmit, communicate or disclose to any person (except the Defendants’ legal advisers for the purpose of obtaining legal advice and representation in relation to these proceedings) any statements of case, applications, confidential schedules to any statements of case or any order, confidential witness statements or confidential schedules or exhibits to them filed in these proceedings;
 - c) Publish any information which is liable to or might identify the Claimant as the person from whose computer systems the Defendant obtained the Information.
- 6. By 4pm on 24 April 2022, the Defendant must provide to the Claimant’s solicitors a witness statement with a statement of truth setting out:
 - a) His identity; and

- b) An address where documents may be served on him. This provision has no impact on paragraphs 10-11 of the Stacey J Order (permitting the Claimant to serve any documents in these proceedings on the Defendant by email and, so far as necessary, out of the jurisdiction) which remain in effect.

Continuation of anonymity and confidentiality provisions of the Stacey J Order

- 7. The Judge being satisfied that it is strictly necessary, the anonymity and confidentiality provisions contained in paragraphs 6-8 of the Stacey J Order shall be continued and modified as set out in the following paragraphs.
- 8. The name of the Claimant in these proceedings shall continue to be anonymised in the following manner:
 - a) 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 “XXX”; and
 - b) No person may publish information likely to identify the Claimant as being the Claimant in these proceedings.
- 9. Further, upon the Judge being satisfied that it is strictly necessary:
 - a) No copies of the statements of case or applications;
 - b) No copies of any confidential schedules or annexes to any statements of case or any order;
 - c) No copies of the confidential witness statements or confidential schedules, exhibits or annexes to them; and
 - d) No copies of skeleton arguments or any other filings;may be provided to any person without further order of the Court.

10. Any non-party 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.
11. In respect of documents in support of the without notice application before Stacey J:
 - a) The Claimant has retrospective permission to serve on the Defendant redacted versions of: (i) Counsel's skeleton argument for the without notice application, and (ii) the witness statement referred to in Confidential Schedule A to the Stacey J Order (the "**Redacted Documents**").
 - b) The Defendant's legal representatives may inspect unredacted versions thereof but if they wish to do so then there shall be a confidentiality club in respect of the same on the following terms (the "**Confidentiality Club Terms**"):
 - i) The Defendant or his legal representatives shall nominate in writing to the Claimant's solicitors a named solicitor and a named Counsel acting for the Defendant who shall be members of the confidentiality club (the "**Confidentiality Club Members**") and who shall sign a written undertaking to the Court to keep confidential and not (except as agreed in writing by the Claimant's solicitors or permitted by a further order of the Court) share with anyone except the Confidentiality Club Members unredacted versions of the Redacted Documents.
 - ii) The Defendant's legal representatives shall give notice to the Claimant's solicitors of any intention to refer to the unredacted versions of the Redacted Documents in any statement of case, document or hearing so that appropriate directions can be agreed or sought from the Court.
 - iii) There shall be liberty to apply to vary the Confidentiality Club Terms.

12. Save for any (1) application notices and (2) court orders, no further documents need be served on the Defendant by the Claimant in these proceedings without a further order of the Court until the Defendant has complied with paragraph 6 of this order.

Information to be disclosed

13. The Defendant shall within 24 hours of service of this order disclose to the Claimant (at the e-mail address via which the Defendant was served with the Stacey J Order) the following:
- a) the identity of any third party to whom the Defendant has disclosed all or any part of the Information;
 - b) the date upon which such disclosure took place, the nature of the information disclosed, and the means by which it was disclosed; and
 - c) any place or method (including but not limited to any website, server, onion service, peer-to-peer platform, or any other place or method) in or by which the Defendant has enabled members of the public to access any of the Information, and the identity of any person responsible for the operation of any such service.
14. The Defendant shall confirm the information supplied in paragraph 13 above in a witness statement containing a statement of truth within seven days of complying with paragraph 13 and serve the same on the Claimant's solicitors.

Protection of Hearing Papers

15. The Defendant, and any person served with any documents in these proceedings, 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 exhibits thereto and information contained therein that are made, or may subsequently be made, in support of the application made to Stacey J or of this application, any skeleton arguments, or the Claimant's solicitors' notes of the hearing of the application made to Stacey J (the "**Hearing Papers**"), provided that the Defendant, and any third party,

shall be permitted to copy, disclose and deliver the Hearing Papers to the Defendant's and third party's/parties' legal advisers for the purpose of these proceedings.

16. The Hearing Papers must be preserved in a secure place by the Defendant and third party's/parties' legal advisers on the Defendant's and third party's/parties' behalf.
17. The Defendants, and any person served with any of the Hearing Papers, shall be permitted to use the Hearing Papers for the purpose of these proceedings provided that the Defendants', and any third party's/parties' 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

18. The Claimant shall be required to provide the legal advisers of any third party served with a copy of this order, provided that such third party already has possession of or access to the Information, 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.

Public domain

19. For the avoidance of doubt, nothing in this order shall prevent any third party 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 as a result of publication in the national media (other than as a result of breach of this order or a breach of confidence or privacy).

Continuation of these proceedings

20. By 4pm on 10 May 2022, the Claimant must take such steps as it is advised to conclude the action, including but not limited to issuing an application for default and/or summary judgment.

Service

21. This order shall be served by the Claimant on the Defendant.
22. For the avoidance of doubt, paragraphs 10-13 of the Stacey J Order (concerning service) remain in effect. Accordingly:
- a) The Claimant continues have permission to serve any documents in these proceedings on the Defendant by email and, so far as necessary, out of the jurisdiction;
 - b) The Claim Form is deemed served on the same day as it was emailed to the Defendants (if emailed before 4.30pm on a business day or (in any other case), the next business day after it was emailed; and
 - c) The time for responding to the claim ordered by Stacey J, namely 14 days from service of the Claim Form, remains unchanged.

Costs

23. Costs of this hearing and the hearing before Stacey J are reserved.

Variation or discharge of this order

24. 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

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

Persons Outside England and Wales

27. –

(1) Except as provided in paragraph (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 his 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

Effect of this Order

28. 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.

Communications with the Court

All communications to the Court about this order should be sent to:

Room E07, Royal Courts of Justice, Strand, London, WC2A 2LL, quoting the case number.
The telephone number is 020 7936 8957.

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

Name and address of the Claimant's legal representatives

The Claimant's legal representatives are –

Weightmans LLP of 100 Old Hall Street Liverpool L3 9QJ
Christopher.graham@weightmans.com or Anthony.rance@weightmans.com

SCHEDULE A – 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. 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.