

**IN THE HIGH COURT OF JUSTICE**

**Claim No: KB-2022-003537**

**KING'S BENCH DIVISION**

**MEDIA AND COMMUNICATIONS LIST**

**BEFORE THE HONOURABLE MR JUSTICE BOURNE**

**IN PRIVATE**

**Dated: 21 October 2022**

**BETWEEN:-**

**Pendragon Plc**

**Intended Claimant/  
Applicant**

**- and -**

**Person(s) Unknown**

responsible for obtaining data from the Applicant's IT systems on or  
about 16-20 September 2022 and/or who has disclosed or is intending or  
threatening to disclose the information thereby obtained

**Intended Defendant(s)/  
Respondent(s)**

**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 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 Defendant on [ ] October 2022 by the Judge identified above (the **Judge**) on the application (the **Application**) of the Claimant. The Judge:
  - (a) read the witness statement referred to in Confidential Schedule 1;
  - (b) heard from Leading and Junior Counsel for the Claimant;
  - (c) accepted the undertakings set out in Schedule A at the end of this Order;
  - (d) considered the provisions of the Human Rights Act 1998 (**HRA**), section 12.
  
2. This Order was made at a hearing without notice to those affected by it, the Court having considered section 12(2) Human Rights Act 1998 and being satisfied that there are compelling reasons for notice not being given, namely: the Defendant's identity is unknown and s/he/it is blackmailing the Claimant. 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 17 below.

## **ACCESS TO DOCUMENTS**

3. Upon the Judge being satisfied that it is strictly necessary:
  - (a) (i) no copies of any confidential schedules or exhibits to any statements of case or orders or other documents; and (ii) no copies of the confidential witness statements or confidential exhibits to witness statements, will be provided to a non-party without further order of the Court.
  - (b) Any non-party other than a person 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 DOCUMENTS**

4. Upon the Court being satisfied that England and Wales is the proper place in which to bring this claim, the Claimant has, if required, permission to serve the

Claim Form and any other documents outside of the jurisdiction pursuant to CPR 6.36 and 6.37(3) and (5)(b)(ii) and PD 6B(21) and CPR 6.38.

5. Pursuant to CPR 6.6, 6.15, 6.27, 6.36 and/or 6.37(5)(b)(i) and/or (ii) and/or 6.38, the Claimant has permission to serve the Claim Form and the Particulars of Claim (in redacted form) and any other documents, including this Order and any other documents for this application on the Defendant by providing the documents via the website address identified in Confidential Schedule 2 or, in the alternative, via the messaging application known as Tox using the Respondent(s) publicly available ID identified in Confidential Schedule 2 and such service will be deemed to be effective on the date on which the communication is sent, with the time for filing an acknowledgement of service, admission or defence to be calculated by reference to the deemed date of service, save that:

unless or until the Defendant provides to the Claimant's solicitors his/her full name and an address for service, the Claimant is only required to serve on, or provide to, the Defendant, this Order excluding (i) Confidential Schedule 1, (ii) the Claim Form, (iii) the Application Notice and (iv) the Particulars of Claim in redacted form. Any documents bearing the names of individuals at DAC Beachcroft LLP or identifying Counsel may be served on the Defendant with the names redacted.

6. The Claim Form should be served as soon as reasonably practicable and in any event by 28 October 2022 at the latest, save that there shall be liberty for the Claimant to apply to the Court in the event that an extension is necessary. Any such application 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 18 November 2022 (the **Return Date**) the Defendant must not use, publish or communicate or disclose to any other person (other than (i) by way of disclosure to legal advisers instructed in relation to these proceedings (the **Defendant's 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 referred to in Confidential Schedule 2 to this Order (the **Information**).

8. The Defendant must by 4pm on 4 November 2022 (i) deliver up and/or delete and/or destroy the Information in his/her possession, custody or control and (ii) provide to the Claimant's solicitors via the email address in paragraph 22 below his/her full name and an address for service.
9. The Defendant must by 4pm on 11 November 2022 provide to the Claimant's solicitors a witness statement with a statement of truth explaining (i) that s/he has delivered up and/or deleted and/or destroyed the said Information and explaining how s/he has done so; and (ii) giving details about whether s/he has published or communicated or disclosed any of the Information to a third party and identifying any said third party and their contact details.

#### **PROTECTION OF HEARING PAPERS**

10. 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 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 or the Claimant's skeleton argument (the **Hearing Papers**), provided 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.
11. The Hearing Papers must be preserved in a secure place by the Defendant's legal advisers on the Defendant's behalf.
12. Subject to paragraph 7 above, 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**

13. The Claimant shall be required to provide to 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 and who the Claimant knows or believes are in possession of or have access to the Information, promptly upon request, and upon 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 copy of any materials read by the Judge, including material read after the hearing at the direction of the Judge or in compliance with this Order; and/or a copy of the Hearing Papers. In both cases, the Claimants can, if so advised, withhold confidential exhibits or schedules.

## **HEARING IN PRIVATE**

14. The Judge considered it strictly necessary, pursuant to CPR 39.2(3)(a), (c), (e) and/or (g), to order that the hearing of the Application 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 Defendant 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).

## **COSTS**

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

## **VARIATION OR DISCHARGE OF THIS ORDER**

17. 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**

18. A Defendant who is an individual who is ordered not to do something must not do it himself/herself or in any other way. S/he must not do it through others acting on his/her behalf or on his/her instructions or with his/her encouragement.
19. 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**

20. (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/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/her 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**

##### **21. 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**

22. The Claimant's solicitors are: DAC Beachcroft LLP, The Walbrook Building, 25 Walbrook, London EC4N 8AF. Reference: ENMS/CFC112-2112014....  
Telephone: 020 7894 6098 Email: eludlam@dacbeachcroft.com .....

#### **COMMUNICATIONS WITH THE COURT**

23. 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**

### **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) 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.

(4) 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 s/he has given notice of this Order, or whom s/he has reasonable grounds for supposing may act upon this Order, that it has ceased to have effect in this form.

(5) Subject to paragraph 5 above, the Claimant will serve on the Defendant the application notice, evidence in support and this order as soon as practicable.