

Amended This 6th December 2022 Pursuant To Slip Rule CPR 40.12

**IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST**

Claim No. KB-2022-004585

Before: Mr Justice Johnson

SITTING IN PRIVATE FOR PART OF HEARING

Dated: 5 December 2022

BETWEEN :

"SLC"

Intended Claimant/Applicant

– and –

PERSON(S) UNKNOWN

(who on a date between 3 and 6 November 2022 accessed the Claimant's servers without authorisation and copied data therefrom and/or subsequently has threatened to disclose the information they thereby obtained)

Intended Defendant/Respondent

ORDER

PENAL NOTICE

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

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND 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 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 12 and 16 of the Order and obliges you to do the acts set out in Paragraphs 13, 14, 15 and 17 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(s) on 5 December 2022 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 Confidential Schedule 1;
 - (b) heard from 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) HRA and being satisfied that there are compelling reasons for notice not being given, namely: the Defendant’s identity is unknown and the Defendant 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 26 below.
3. If more than one person meets the description of the Defendant/Respondent (“*who on a date between 3 and 6 November 2022 accessed the Claimant’s servers without authorisation and copied data therefrom and/or subsequently has threatened to disclose the information they thereby obtained*”) then each and every such person is bound by and must comply with every provision of this order, and each reference in this order to “Defendant” or to “Respondent” is to be read as a reference to each such person.
4. There shall be a further hearing in respect of this order (the “**Return Date**”) in the week commencing 11 January 2023, with a time estimate of ½ day plus 2 hours pre-reading.

ANONYMITY

5. Pursuant to section 6 HRA, and/or CPR 39.2 the Judge, being satisfied that it is strictly necessary, ordered that:
 - (a) the Claimant be permitted to issue these proceedings naming the Claimant as “SLC” and giving an address c/o the Claimant’s solicitors;
 - (b) the Claimant be permitted to issue these proceedings naming the Defendant as “Person or Persons Unknown” with the description set out at paragraph 3 above;
 - (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 “SLC”.

ACCESS TO DOCUMENTS

6. 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 exhibits thereto, application notice, the Claimant’s solicitors’ notes of the hearing of the Application, the Claimant’s skeleton argument, or any note of the judgment given in private on 5 December 2022 (together, the “**Hearing Papers**”),
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, 14 days’ notice of which must be given to the other parties.

SERVICE OF DOCUMENTS

7. 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 6.37(5)(b)(ii) and PD 6B(21) and CPR 6.38.
8. 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, and PD 6B 3.1(21), the Claimant has permission to serve the Claim Form and the Particulars of Claim and any other documents, including this Order and any other documents for

this application on the Defendant(s), on the Defendant by alternative method by sending the documents to the email address set out in Confidential Schedule 3 save that: unless or until the Defendant provides to the Claimant's solicitors the Defendant's full name and an address for service within the United Kingdom in accordance CPR 6.23(2) and (3), the Claimant is only required to serve on, or provide to, the Defendant, (i) this Order excluding the Confidential Schedule 1, (ii) the Claim Form in anonymised form and (iii) the application notice in anonymised form.

9. Subject to paragraph 7 above:

- (a) The Claim Form and this Order should be served as soon as reasonably practicable and in any event by 4.30pm on 7 December 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.
- (b) 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.

10. The Claim Form, this Order and all subsequent documents shall be deemed served on the date of transmission in accordance with paragraph 8 above provided it is sent by 4:30pm (GMT) on that day, if not the relevant document(s) will be deemed served on the next working day, with the time for filing an acknowledgment of service, admission or defence to be calculated by reference to the deemed date of service.

11. In accordance with CPR 6.22(1) and CPR 81.4(2)(d) personal service of this Order is dispensed with.

INJUNCTION

12. Until trial of this claim or further Order of the Court the Defendant must not:

- (a) 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**”); or

(b) publish any information which is liable to or might identify the Claimant as a party to the proceedings and/or as related to the Information or which otherwise contains material which is liable to, or might lead to, the Claimant’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 or in the public judgment of the Court in this action given on 5 December 2022.

13. The Defendant must by 4pm on 7 December 2022 deliver up to the Claimant’s solicitors and/or delete and/or destroy all copies of the Information and any data derived from it in the Defendant’s possession, custody or control; and

14. The Defendant must by 4pm on 8 December 2022 provide to the Claimant’s solicitors via the email address in paragraph 31 below the Defendant’s full name and address in England or Wales for service.

15. The Defendant must by 4pm 8 December 2022 provide to the Claimant’s solicitors a witness statement with a statement of truth:

- (i) confirming that the Defendant has delivered up and/or deleted and/or destroyed the said Information and explaining how the Defendant has done so; and
- (ii) identifying with specificity whether and if so where, when and to what extent the Defendant (or anyone else to the Defendant’s knowledge) has published or communicated or disclosed any of the Information to a third party, specifically identifying any said third party, their contact details, and what Information was provided to them.

PROTECTION OF HEARING PAPERS

16. The Defendant must not publish or communicate or disclose or copy or cause to be published or communicated or disclosed or copied any of (a) the Hearing Papers or (b) the statements of case in this matter or (c) the Confidential Schedules to this Order,

provided that the Defendant shall be permitted to copy, disclose and deliver those documents to the Defendant's legal advisers for the purpose of these proceedings.

17. The Hearing Papers, the statements of case in this matter, and the Confidential Schedules to this Order must be preserved in a secure place by the Defendant's legal advisers on the Defendant's behalf.
18. The Defendant shall be permitted to use the Hearing Papers, the statements of case in this matter, and the Confidential Schedules to this Order 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.
19. Until the Defendant has complied with paragraph 14 of the Order, the Claimant is permitted to file all documents in connection with the proceedings including unredacted versions of those set out at paragraph 8 by email and not by way of the CE-File, and all documents on the Courts file (whether held electronically or in hard copy) shall be marked "*Confidential: Not to be opened without the permission of a Master or High Court Judge*".
20. The Court file shall be clearly marked with the words "*An anonymity order was made in this case on 5 December 2022 and any application by a non-party to inspect or obtain a copy document from this file must be dealt with in accordance with the terms of that Order.*"

PROVISION OF DOCUMENTS AND INFORMATION TO THIRD PARTIES

21. The Claimant shall be required to provide to the legal advisers of any third party served with a copy of this Order promptly upon request, but only 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: (i) 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 (ii) a copy of the Hearing Papers. In both cases, the Claimants may refuse to provide the documents listed in Confidential

Schedule 1 and 3. In both cases, documents bearing the name of the Claimant or its officers or employees and/or including any material which may assist a third party to locate or procure the Information may be provided with the relevant names and relevant material redacted.

HEARING IN PRIVATE

22. The Judge considered it strictly necessary, pursuant to CPR 39.2(3)(a), (c) and/or (g), to order that part of the hearing of the Application be in private and there shall be no reporting of the private part of the hearing.

23. In accordance with CPR39.2(5) the Court shall omit the confidential schedules hereto from the Order that the Court publishes on the website of the Judiciary of England and Wales.

PUBLIC DOMAIN

24. For the avoidance of doubt, nothing in this Order shall prevent the Defendant(s) 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

25. The costs of and occasioned by the Application are reserved to the Return Date.

VARIATION AND DISCHARGE OF THIS ORDER

26. 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(s) 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

27. 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.

28. 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

29. (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 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

30. 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

31. The Claimant's solicitors are: Mishcon de Reya LLP, Africa House, 70 Kingsway, London WC2B 6AH. Reference: 69969.1 Telephone: 020 3321 7000 Email: project.octopus@mishcon.com

COMMUNICATIONS WITH THE COURT

32. 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(s), and decides that the Defendant(s) 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(s)) 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) By 4.30pm on 8 December 2022 the Claimant will issue the application notice claiming the appropriate relief.
- (4) Not later than 3 working days before the Return Date, the Claimant shall file a witness statement addressing whether it has made any relevant disclosure to its clients and (subject to any privilege which the Claimant may claim) the status of interactions regarding the same with the Information Commissioner's Office.
- (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 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.
- (7) Subject to terms of the order made by the court, the Claimant will serve on the Defendant(s) the application notice, evidence in support and this order as soon as practicable.

