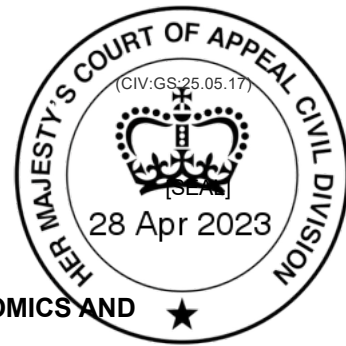




IN THE COURT OF APPEAL, CIVIL DIVISION

REF: CA-2022-002435



**DR THEODORE PIEPENBROCK –v– LONDON SCHOOL OF ECONOMICS AND
POLITICAL SCIENCE**

CA-2022-002435

ORDER made by the Rt. Hon. Lord Justice Warby

On consideration of the application for an order that the anonymity granted to the ninth defendant in the proceedings below be continued in this court

And on consideration of the papers and without an oral hearing

Decision:

1. **Until 25 April 2033 or further order in the meantime the following shall apply in respect of proceedings in this court:**
 - (1) Pursuant to CPR 39.2(4) the name and address of the ninth defendant are to be withheld from the public and are not to be disclosed and there shall be substituted for all purposes in these proceedings in place of references to the ninth defendant and whether orally or in writing, references to HPN. The name of the ninth defendant will be anonymised in accordance with this paragraph on CE File;
 - (2) the address of the ninth defendant shall be stated in all statements of case and other documents to be filed or served in the proceedings as the address of the solicitors acting for the ninth defendant;
 - (3) no document containing matter the publication of which is prohibited by paragraphs (1) or (2) above shall be supplied by the court pursuant to CPR 5.4C or otherwise unless a written application for permission to obtain such a document has first been filed and served on the parties and the court has made an order granting permission;
 - (4) pursuant to s 11 Contempt of Court Act 1981, there shall be no publication in any report of, or otherwise in connection with, these proceedings, of the identity of the ninth defendant or of any matter likely to lead to her identification in connection with these proceedings.
2. Any non-party affected by the order at 1 above may apply to discharge or vary it but any such application must be made in writing on at least 3 days' notice to all parties.
3. Except as provided in paragraph 4 below, the terms of this Order do not affect or concern anyone outside the jurisdiction of this Court.
4. The terms of this Order will affect the following persons in a country or state outside the jurisdiction of this Court –
 - (1) the claimant or his officer or agent appointed by power of attorney;
 - (2) 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
 - (3) 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.

Reasons

1. HPN has applied for an order for anonymity in this court. I grant that order and continue anonymity for HPN in the terms set out above on the basis that this derogation from open justice is required, and is the minimum necessary, to protect the rights and best interests of a party and ensure the proper administration of justice.
2. HPN has been granted anonymity in previous proceedings as well as in these proceedings. The claimant has sought and failed to discharge the latest order and has not appealed against the decision dismissing his application for that purpose. (The statement in paragraph 9 of the Appellant's Notice is not sufficient to amount to a notice of appeal against Heather Williams J's decision of 17 January 2023 to maintain anonymity, not least because it was made nearly a month before that decision).
3. The fact that there is no appeal against the decision to maintain anonymity in the High Court is not decisive or the end of the matter because this court has an independent decision to reach on the matter of anonymity in this court. Having read the judgment on this issue and the evidence relied on in support of the ninth defendant's application for anonymity, however, I am satisfied that anonymity is required for the purposes set out above. I have reached this conclusion by applying the legal principles identified in the judgment below ([2023] EWHC 52 (KB)).
4. The terms of the order I am making mainly track those of the order made by Nicklin J on 27 April 2022, with some minor variations in paragraph 1.
5. The duration of the anonymity order I am making is however limited so that the matter is reviewed and may be reconsidered in due course rather than being perpetual. This appears to me to be appropriate in the light of the considerations identified in *R (MNL) v Westminster Magistrates Court* [2023] EWHC 586 (Admin) at [78]. I have selected the period of ten years in view of the persistence of the claimant/applicant in seeking to identify HPN publicly (including in these appellate proceedings) and the history of these proceedings generally. If any person wishes to shorten or extend the period of the order or to modify it in any other way they may apply to vary the order. But this paragraph of the order does not confer a right of appeal upon the claimant/applicant.
6. I have also included a territorial limitation in the form set out in clause 20 of the Model Order attached to the Practice Guidance on Interim Non-Disclosure Orders of 2011, [2012] 1 WLR 1003, and discussed in *MNL*. This is because I apprehend that the effect of this order might extend beyond the jurisdiction of these courts.
7. My decision to refuse the claimant's application for permission to appeal against the decision of Heather Williams J dated 30 September 2022 is set out and explained in a separate order.

Notes:

- 1) Where an application (other than an application for permission to appeal) has been refused on the papers, the applicant may request that the decision be reconsidered.
- 2) An application for reconsideration must be filed within 7 days after the party is served with notice of the decision.
- 3) The reconsideration will be determined by the same or another judge on paper without an oral hearing; except that the judge determining the reconsideration on paper may direct that the reconsideration be determined at an oral hearing, and must so direct if the judge is of the opinion that the reconsideration cannot be fairly determined on paper without an oral hearing: see CPR 52.24.

Date: Lord Justice Warby
28 April 2023
BY THE COURT