

Claim no. D30MA930

**IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS IN MANCHESTER
PROPERTY TRUSTS AND PROBATE LIST (ChD)**

BETWEEN:

- (1) CITY FOOTBALL GROUP LIMITED
- (2) MANCHESTER CITY FOOTBALL CLUB LIMITED
- (3) NEW YORK CITY FOOTBALL CLUB LLC
- (4) CITY FOOTBALL AUSTRALIA PTY LIMITED
- (5) TERENTI S.A.D.
- (6) GIRONA FUTBOL CLUB S.A.D.
- (7) CITY FOOTBALL JAPAN K.K
- 8) CITY FOOTBALL MIDDLE EAST FZ LLC
- 9) CITY FOOTBALL SINGAPORE PTE LIMITED
- 10) MELBOURNE CITY FOOTBALL CLUB PTY LTD



Claimants/Applicants

-and-

- 1) HARRY DAVIES
- 2) HANZA AHMED
- 3) ALISTAIR LAW
- 4) ALEXANDER FARRELL
- 5) KLAUS GUIP (a child)
- 6) RIKKE BREWER
- 7) ADAM MARR
- 8) PERSONS UNKNOWN WHO ENTERED THE ETIHAD CAMPUS WITH THE THIRD,
FOURTH, FIFTH AND SIXTH DEFENDANTS ON 29 JULY 2017
- 9) PERSONS UNKNOWN ENTERING THE APPLICANTS' PROPERTIES LISTED IN
SCHEDULE 3 TO THE ORDER OF 17 OCTOBER 2017 WITHOUT THEIR EXPRESS OR
IMPLIED CONSENT

Defendants/Respondents

FOURTH WITNESS STATEMENT OF JULIAN DIAZ-RAINEY

I, **JULIAN DIAZ-RAINEY** of Pinsent Masons LLP, 3 Hardman Street, Spinningfields, Manchester M3 3AU, **WILL SAY** as follows:

1. I am a solicitor of the Senior Court in England and Wales and a Partner (or, more precisely, a Member) in the firm of Pinsent Masons LLP ("PM"), solicitors for City Football Group Limited ("CFG"). I am duly authorised to make this statement on behalf of all the Claimants.
2. Save where stated to the contrary, the facts and matters contained in this witness statement are within my own knowledge (gained whilst acting as a solicitor for the Claimants) and are true. Where facts and matters are outside my knowledge, the source is stated and I believe those facts to be true.
3. During the course of this statement I will refer to certain documents, copies of which are exhibited in a paginated bundle marked 'JDR4' which accompanies this statement.
4. I make this statement in support of the Claimants' application pursuant to CPR 12.3 and 12.10 for judgment in default of acknowledgement of service. The Claimants are not seeking judgment against the Fifth Defendant/Respondent because the claim against him was dismissed by consent on 12 October 2017. Accordingly, in this statement where I refer to 'the Respondents' I am referring to the First, Second, Third, Fourth, Sixth, Seventh, Eighth and Ninth Defendants. I will also refer to the First, Second, Third, Fourth, Sixth and Seventh Defendants as 'the Identified Respondents'.

Procedural History and Previous Witness Statements

5. The factual background to the proceedings is set out in my First Witness Statement dated 19 September 2017 and the First Witness Statement of Graham Smith (a senior supervisor for CFG) dated 19 September 2017. Here I summarise the procedural history leading to this application
6. On 19 September 2017 the First and Second Claimants issued the Claim Form and an application for an interim injunction against the Defendants (i.e. including Klaus Guip). The application issued on 19 September 2017 was supported by the two Witness Statements mentioned in the last paragraph.
7. The application notice and Claim Form were served on the Identified Respondents on 19 September 2017. Certificates of service were filed and the steps taken set out in a Supplemental Note prepared by Counsel dated 22 September 2017.
8. The application was heard on Friday 22 September 2017 by His Honour Judge Pelling QC. He made an order which, among other things, added the Third to Tenth Claimants as parties to the application and the claim (being the entities with a relevant

interest in the various City Football Group properties around the world which were to be protected by the injunctions sought); and granted the Claimants an interim injunction against the Respondents. The interim order was sealed on 25 September 2017 and served in accordance with the service provisions in the order.

9. I provided a second witness statement dated 25 September 2017 setting out matters referred to during the hearing on 22 September 2017, as required by the interim order.
10. The Particulars of Claim (dated 4 October 2017) were served on the Identified Respondents on 5 October 2017.
11. Also on 5 October 2017 the Claimants issued an application for, in effect, continuation of the interim injunction until trial or further order. The application was supported by my Third Witness Statement of the same date. The application notice and evidence in support was served on the Identified Respondents on 6 October 2017.
12. The application was heard by His Honour Judge Pelling QC on 12 October 2017. The Sixth Defendant attended the hearing. The Judge granted the Claimants an injunction against the Defendants until the conclusion of the trial of the Claimants' action. He also ordered the Identified Respondents to pay the Claimants' costs of the two applications, summarily assessed in the sum of £45,875.50. The order was sealed on 17 October 2017 ('the Order').

Service of the Order (and other documents)

13. The Order was served on the Defendants in accordance with paragraph 4 of the Order. Certificates of service were filed with, and received by, the Court on 19 October 2017.
14. In relation to the Eighth Defendant specifically, transparent envelopes containing the Application Notice of 6 October 2017, the evidence in support and the Order were affixed on and around the Etihad Campus. Those envelopes continue to remain in place. Further, notification of the Order, including a link to a page containing the relevant documents, was displayed on CFG's website. Indeed, the notification – and the click-through to all of the relevant material – remains in place on CFG's landing webpage (see page 1 of JDR4).
15. As I have already mentioned, the claim against Klaus Guip was dismissed by consent. The Order confirming as much was to be served on him by service on his mother, Ms Isabella Ceausu. I can confirm that the Order was duly served on her and so deemed served on him.

Response to the Order and the Proceedings

16. We have received no response to the Order or to the Particulars of Claim from the Identified Respondents, or indeed from anyone falling within the two categories of persons unknown.
17. The Third Defendant, however, on 18 October 2017 posted an 'update' on the case following the sealing of the Order (see page 2 of JDR4). On his online Patreon page, the Third Defendant stated *"[Manchester City FC] have been fighting us in court for the past 2 months since we climbed their stadium & they're currently asking to settle for £65,000 which covers their legal costs for this whole thing! Of course, we're all broke teenagers & don't have £65,000 between us haha. It's been a complete disaster but hopefully we'll be able to sort it out!"*
18. Further, on 3 March 2018, the Third Defendant uploaded a video to YouTube titled 'I'm Getting Sued for £150,000' in which he provides details of the various claims that have been brought against him and others (including several of the other Identified Respondents) (see page 3 of JDR4) (the "Video"). During the Video, the Third Defendant states *"we've been to eleven court cases in the past seven months. I am financially ruined for life... in the past week I've been to court three times."*
19. In respect of the Claimants' case, during the Video the Third Defendant maintains that *"It all started seven or eight months ago when we snuck into the Manchester City stadium and got on the roof... and obviously they're worth billions of pounds... we've got all of their letters with all of their net worth and valuables and assets and stuff on a piece of paper, and how much tax they pay. I'm not allowed to mention it legally but, they're worth a lot of money. They were the first to take us to Court and they won."* The Third Defendant adds, *"We can't deny we weren't there; we've made a video on it. We are effectively guilty I guess. We can't deny we wasn't there, we can't deny we didn't do."*
20. While it is the case that none of the Respondents, to the best of Claimants' knowledge, have sought to trespass on any of the properties subject to the Order, several of them have continued to enter private property on a regular basis. In relation to the Third Defendant, as stated at paragraph 10 above, this is clear from the Video as he provides detail on some of the other cases against him, including Chelsea Football Club's claim for trespassing on its Stamford Bridge stadium, and Endemol's claim against him for breaking into the 'Celebrity Big Brother' house in January 2018 (see page 4 of JDR4). In relation to the claims against him, the Third Defendant says, *"[Man City] was the first one, we've had a load more. In the past week alone, I've been to Court three times. One was £36,000, one was £10,000 and one was £27,000."*

These monetary amounts are the Third Defendant's liability for costs in relation to those three court cases respectively.

21. At the end of the Video, the Third Defendant proceeds to throw documents relating to the Claimants' case against him and the other Defendants off the top of a high building. The Third Defendant states "*There's only one way to deal with this*" before flinging the documents into the air (see page 5 of JDR4).

Activities Following the Order

22. Upon further review of the Third Defendant's YouTube webpage, it is clear that he, or another, has uploaded videos of the Third Defendant entering the following football stadiums (we assume without permission):
- 22.1 Southampton Football Club's St Mary's Stadium on or around 24 October 2017. From the footage it appears that the Third Defendant was accompanied by the Fourth Defendant (see page 6 of JDR4);
- 22.2 West Ham United Football Club's Olympic Stadium on or around 5 November 2017. From the footage it appears that the Third Defendant was accompanied by the Fourth Defendant; and
- 22.3 As stated at paragraph 12 above, Chelsea Football Club's Stamford Bridge stadium on or around 20 October 2017. Mr. Justice Nugee's order of 7 December 2017 – obtained following several incidents of trespass – suggests that the Third Defendant was accompanied by the First, Fourth and Fifth Defendants (see pages 7 to 17 of JDR4).
23. In addition to the activities of the Defendants mentioned at paragraph 22.1 to 22.3 above, the Identified Respondents are subject to His Honour Justice Bird's order of 22 November 2017 (see pages 18 to 20 of JDR4). The order relates to the Old Trafford stadium, the home ground of Manchester United Football Club. According to the order, the Identified Respondents are forbidden from entering Old Trafford and/or the football club's training facility, the Aon Complex.
24. It is clear from paragraphs 20 to 22 above that the Defendants have not ceased from trespassing on private property. Indeed, both Manchester United Football Club and Chelsea Football Club have, following the Order, sought to protect their respective properties by way of injunction against some, if not all, of the Identified Respondents. Further, a look at the Third Defendant's YouTube webpage suggests that he, along with others, has targeted various other properties, including zoos, ice rinks, bowling alleys and theme parks (see pages 21 to 22 of JDR4).

This Application

25. As the Respondents have not responded to the claim, the Claimants now wish to obtain judgment in default.

The Identified Respondents

26. The Particulars of Claim having been served on the Identified Respondents on 5 October 2017, the time for them to file an Acknowledgement or Service or a Defence expired on 19 October 2017 (CPR 10.3, 15.4). None of them has done so (this position was confirmed by the Court by way telephone conversation on 20 March 2018).
27. The conditions for judgment in default in CPR 12.3(1) are therefore satisfied and the Claimants are entitled to ask the Court to grant the relief sought in the Claim Form and Particulars of Claim. A draft order has been lodged with the application notice and an electronic copy will be provided prior to the hearing of this application.
28. The Claimants intend to serve the application notice and draft order on the Identified Respondents at the addresses previously used for service.
29. In accordance with CPR 12.4(2), the dates of birth of the Identified Respondents are as follows:
- 29.1 Harry Davies – 20.08.97
- 29.2 Hanza Ahmed – 4.10.95
- 29.3 Alistair Law – 11.02.97
- 29.4 Alexander Farrell – 1.02.99
- 29.5 Rikke Brewer – 1.02.99
- 29.6 Adam Marr – 12.04.93

Eighth Defendant/Respondent – first category of persons unknown

30. The Eighth Defendant/Respondent is a category of persons unknown, namely the two individuals who entered the Etihad Campus on 29 July 2017 with the Third, Fourth, Fifth and Sixth Defendants.
31. Throughout the proceedings the Claimants have not known the identities of the two individuals or a place to serve them. The order made on 22 September 2017 required the Identified Respondents to the best of their ability within 7 days of service of the order to send PM in writing the names, address and any other contact details (including social media details) of any other individuals with whom they had climbed

buildings or entered land without the owner's consent, which would have included the Eighth Defendant/Respondent. The Identified Respondents have ignored that order and the Claimants still have no way of effecting service on the two unidentified individuals.

32. So that the injunctions would be effective, the Claimants asked the Court to include provision in the orders dated 22 September 2017 and 12 October 2017 for service on the Eighth Defendant/Respondent. In both those orders, the Court ordered that service on one or other of the Identified Respondents would be deemed effective service on the Eighth Defendant/Respondent. The Claimants have carried out the service requirements of those orders. I believe it is very likely that the documents, or at least the fact that the Claimants are seeking relief against those two individuals, has come to their attention via one or more of the other Identified Respondents.

33. The Claimants would now for the same reasons ask the Court to make an order that service of the Particulars of Claim on the identified Respondents on 5 October 2017 be deemed good service on the Eighth Defendant/Respondent also, with retrospective effect. The Claimants also seek a similar order in respect of the application notice for default judgment, deeming service on the Identified Respondents to be good service on the Eighth Defendant/Respondent.

34. If the Court makes such an order, then the conditions for default judgment against the Eighth Defendant/Respondent are satisfied; and the Claimants seek an order in the terms of the draft order lodged with the application notice.

Ninth Defendant/Respondent – second category of persons unknown

35. The Claimants also seek final relief against the Ninth Defendant/Respondent, a broader category of persons unknown defined in order to protect the Claimants from any individuals who might enter or remain on the Claimants' premises without their consent.

36. Essentially because the category is broader the injunctions granted by HHJ Pelling QC are narrower: whereas the orders obtained included worldwide injunctions against the Identified Respondents and the Eighth Defendant/Respondent, the relief granted against the Ninth Defendant/Respondent was limited to the Claimants' properties located in England and Wales.

37. I have already described the steps which the Claimants have taken to publicise these proceedings and the interim orders, as required by the Court. The documents which have been made available on the MCFC and CFG websites and in the envelopes affixed to posts around the Etihad Campus include:

- 37.1 The Claim Form;
- 37.2 Application Notice dated 19 September 2017 and evidence in support;
- 37.3 Sealed order dated 22 September 2017;
- 37.4 Application Notice dated 6 October 2017 and evidence in support; and.
- 37.5 Sealed order dated 12 October 2017

38. I believe that anyone looking at those documents would be able to see clearly the factual background to the Claimants' claims, and would know what relief the Claimants are seeking.

39. What has not yet been specifically served or publicised are the Particulars of Claim and the application for default judgment.

40. I would ask the Court to dispense with service of the Particulars of Claim on the Ninth Defendant/Respondent in this case. As I have said, I believe anyone seeing the documents which have already been served and publicised would know what the claim is, and do not believe that the Particulars of Claim add anything new. I have considered whether to attempt to serve or publicise the Particulars of Claim and this application by adding them to the documents available via the websites and affixed to the posts. I do not however believe that this would be effective to bring to anyone's attention that there were additional documents to those already there. Further, since the final relief the Claimants are seeking is essentially the same as the interim relief and no one has come forward to challenge the interim orders, I do not consider there is any real prospect that anyone would be prejudiced by final relief being granted without service of the Particulars of Claim.

41. The Claimants accordingly seek default judgment also against the Ninth Defendant/Respondent in accordance with the terms of the draft order.

42. In the alternative, I invite the Court simply to make the interim order against the Ninth Defendant final.

Costs

43. Finally, the Claimants seek an order that the Identified Respondents pay their costs of the proceedings and this application, to be summarily assessed at the hearing.

Statement of Truth

44. I believe that the facts stated in this witness statement are true.

Signed



JULIAN DIAZ-RAINEY

Dated: 23 March 2018