

Made on behalf of the Claimant
Witness: Akhil Markanday
Number of Statement: Second
Exhibit: AM2
Dated: 16 September 2024

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Claim No: KB-2024-002210

BETWEEN:

HEATHROW AIRPORT LIMITED

Claimant

- and -

PERSONS UNKNOWN WHO (IN CONNECTION WITH JUST STOP OIL OR OTHER ENVIRONMENTAL CAMPAIGN) ENTER, OCCUPY OR REMAIN (WITHOUT THE CLAIMANT'S CONSENT) UPON 'LONDON HEATHROW AIRPORT' AS IS SHOWN EDGED PURPLE ON THE ATTACHED PLAN A TO THE PARTICULARS OF CLAIM

Defendants

SECOND WITNESS STATEMENT OF AKHIL MARKANDAY

I, **AKHIL MARKANDAY**, of Governor's House, 5 Laurence Pountney Hill, London EC4R 0BR, **will say as follows:**

1. I am a partner in the firm of Bryan Cave Leighton Paisner ("**BCLP**"). BCLP act for the Claimant ("**Heathrow**") in this matter, under my supervision. I am duly authorised to make this witness statement on behalf of the Claimant. This is my second witness statement in these proceedings.

2. I make this witness statement in support of an application by Heathrow to join 26 named defendants as defendants to these proceedings, and for associated case management directions.
3. Except where I state to the contrary (in which case I give the source of information upon which I rely) I am able to state the matters in this witness statement from my own knowledge.
4. Where facts and matters referred to in this statement are not within my own knowledge they are based on instructions, documents and information supplied to me in my capacity as solicitor for Heathrow and are true to the best of my knowledge and belief.
5. I refer to a paginated bundle of documents, attached as Exhibit “AM2”. Where it is necessary to refer to a document, I shall refer to the document by its page number within Exhibit “AM2”.

Background

6. By a without notice injunction dated 9 July 2024 (“the **Injunction**”), the Court prohibited “Persons Unknown” (as defined as the Defendants to the Claim) from trespassing on Heathrow Airport (“the **Airport**”) in connection with the “Just Stop Oil” (“**JSO**”) campaign (or other environmental campaign). That application was sought by Heathrow in connection with a high-profile campaign of ‘direct action’ disruption threatened (and in some instances, carried out) by JSO. Most other major UK airports have now obtained similar injunctions. I refer to my first witness statement for the background to those matters, and do not repeat it here.
7. At the time the Injunction was sought, Heathrow did not know the names of any individuals who presented a distinct threat of committing acts of direct action at the Airport. That is why the claim was brought only against “Persons Unknown”.
8. Whilst a matter for legal submissions, I understand (and, without waiving privilege, Heathrow also understands) that a party in the position of Heathrow is under an obligation to apply promptly to join as named defendants any individual

who they identify as presenting such threat, or therefore being an appropriate named defendant.

9. As I detail below, there have regrettably been several actual or attempted instances of ‘direct action’ by individuals at the Airport since the Injunction was granted. All such persons have been arrested and identified (with the exception of Monday Rosenfeld who was involved in the incident on 27 July 2024 but was not arrested).
10. In view of their actions, Heathrow believes that each of those individuals should appropriately be a named defendant to these proceedings (the “**Named Defendants**”) and, moreover, that it is now obliged to apply for their joinder as such.
11. I should also emphasise at the outset that Heathrow is minded to bring committal applications for contempt of court against at least some of the Named Defendants. A final decision as to precisely which of the Named Defendants will be subject to such applications has not been reached. Again without waiving privilege, it is necessary for Heathrow, with the assistance of its legal team, to review the evidence against each of the Named Defendants before reaching that final decision.
12. Heathrow, however, is mindful of (what it understands to be) the need to apply to join named defendants promptly and therefore does so at this stage, with a view to bringing contempt applications subsequently.
13. Heathrow also seeks, by the present application, case management directions intended to facilitate the efficient conduct of these proceedings and the intended contempt applications hereafter. In particular, it seeks directions (as set out in detail in the accompanying draft Order) to address:
 - 13.1. Joinder of the Named Defendants, and accompanying amendment of the Claim Form.

- 13.2. Making absolutely plain that the Injunction continues to apply to the Named Defendants. To that end, Heathrow offers the same cross-undertaking in damages as applied to the Injunction to the Named Defendants.
- 13.3. The provision of Supplemental Points of Claim in respect of those Named Defendants (in preference to amending the Particulars of Claim, which were prepared at a time when there were no named defendants, and which have previously been served in accordance with the detailed service provision in the Injunction).
- 13.4. Service of this application, and future documents in these proceedings (including the contempt application) on those Named Defendants. As discussed below, this is somewhat complicated by the fact that many of the Named Defendants are presently on remand in prison, having been arrested and charged with a variety of crimes by reason of the same activities which found this application.
- 13.5. How and by when the Named Defendants should respond to these proceedings.
- 13.6. The time-table for the future contempt applications.
- 13.7. Provision for a further directions hearing thereafter, at which point further directions are likely to be appropriate for the ongoing case management of the substantive proceedings against each of the Named Defendants, as well as the anticipated contempt applications.
14. As regards the last of those points, Heathrow is cognisant of the fact that the Named Defendants are facing criminal charges for the same actions which found the anticipated contempt proceedings. Whilst again a matter for legal submissions, it is not considered that the existence of parallel criminal proceedings prevents the pursuit of contempt proceedings. However, it is recognised that the outcome of the criminal proceedings may impact any appropriate sanction for contempt of court (or *vice versa*), and that the imprisonment of Named Defendants will no doubt impact their ability to take part in these proceedings or any contempt application. The suggestion of a further

directions hearing is made, in part, to allow those considerations to be addressed at a suitable juncture and appropriate directions to be given for further case management with them in mind.

The Named Defendants

- 15. With the exception of the 27th proposed named defendant Monday Rosenfeld (whose position is addressed at paragraphs 24-27 below), each of the Named Defendants has been arrested by the Police in respect of their actions at or in the vicinity of the Airport on 24 July, 27 July, 30 July or 1 August. It is convenient to group my evidence in respect of the Named Defendants by reference to the events on each of those dates.
- 16. I wish to make clear that the following evidence is intended only by way of high level overview of the individuals’ alleged involvement in those alleged incidents, solely for the purposes of explaining why Heathrow now seeks their joinder as named defendants. Heathrow would seek to adduce further evidence of their involvement at trial, or in connection with any contempt application (as the case may be).

24 July 2024

- 17. The Named Defendants involved in the incident on 24 July 2024 are set out in the following table. Each individual was arrested in connection with that incident, their names and the following addresses are those that they provided to the Police upon their arrest:

Def #	Name	Address
2	Rory Wilson	
3	Adam Beard	
4	Sean O’Callaghan	
5	Sally Davidson	
6	Hannah Schafer	

7	Luke Elson	
8	Luke Watson	

18. Each of the above Named Defendants was arrested at the Airport at about 0900 on 24 July 2024, at one of two locations at the perimeter fence to the Airport (along the Northern Perimeter Road) [AM2/4-18], within the ‘purple outlined’ area covered by the Injunction (as shown in Plan A to the Injunction).
19. Heathrow has been informed by the Police that each person was arrested in possession of items which indicate an intention to breach the perimeter fence to the Airport and commit acts of disruption.
20. They have each been charged with conspiracy to interfere with key national infrastructure under s.7 of the Public Order Act 2003. Press reports indicate that each was remanded in custody, having appeared before Westminster Magistrates’ Court later that day [AM2/19-20].
21. It is, further, clear that each of these individuals was undertaking intentional ‘direct action’ in the name of JSO. A JSO press release on its website from 24 July 2024 refers to those arrested as “*Just Stop Oil supporters*”. The press release continues to refer to (and impliedly therefore draws a connection with) other environmental activists’ activities at other European Airports [AM2/21-22] :

“This comes after German supporters of Last Generation blocked air traffic at Cologne Bonn Airport, causing international delays. Meanwhile, supporters of Folk Mot Fossilmakta (People against Fossil Power) cut through a chain-link fence and sat next to a runway stopping flights departing from Oslo Gardermoen airport.

Also this morning, supporters of Extinction Rebellion in Finland have blocked security gates at Helsinki Vantaa Airport. Meanwhile in Spain, five supporters of Futuro Vegetal accessed the taxiway at Barcelona airport, however were intercepted before taking action. In Switzerland, eleven supporters of Drop Fossil Subsidies blocked main roads around both Zurich and Geneva airports.”
22. Heathrow is aware, from publications from the official Instagram account of JSO [AM2/23-24], that at a case management hearing in Isleworth Crown Court on 22 August 2024 that Hannah Schaffer, Sally Davidson and Sean O’Callaghan were granted bail and that Adam Beard, Rosa Hicks, Luke Elson, Luke Watson and Rory Wilson have been remanded in custody. From the information released

by JSO it appears that a plea hearing has been listed for 27 September 2024 and a trial date has been set for 20 January 2025, and is expected to last for 6 weeks.

23. For completeness, I record also that Heathrow is aware (from press reports, and information supplied by the Police) that three additional individuals (Rosa Hicks, Julia Mercer and Willaim Goldring) were arrested by the Police in connection with the same incident. They were, however, not within the ‘purple outlined’ area covered by the Injunction (as shown in Plan A to the Injunction). In the circumstances, Heathrow is not presently proposing that Ms Hicks, Ms Mercer or Mr Goldring be joined as Named Defendants.

27 July 2024

24. I am informed by the Airport Operations Manager for the Airport on duty that day that at about 1043 on 27 July 2024 he received a report of a female demonstrator holding an “Oil Kills” sign within the Terminal 5 departures area [AM2/25-28]. It is again clear therefore that this action was in connection with an environmental campaign.
25. Police in attendance verified her identity as the proposed 9th Defendant, Monday Rosenfeld, and she gave an address of [REDACTED]. Those details have been provided to Heathrow by the Police.
26. Ms Rosenfeld was accompanied by two other individuals, who were recording her actions. Heathrow does not know their identities.
27. Ms Rosenfeld ceased her protest, and left the Airport (under Police supervision), when requested to do so by the said Airport Operations Manager and the Police officers in attendance.

30 July 2024

28. At about 0830 on 30 July 2024, I have been informed by the Airport Operations Manager on duty at the time that the following two proposed Named Defendants entered the Terminal 5 departures hall at the Airport and each began spraying orange paint from fire-extinguishers over the ceiling, walls, floor and (significantly) the electronic departure board screens.

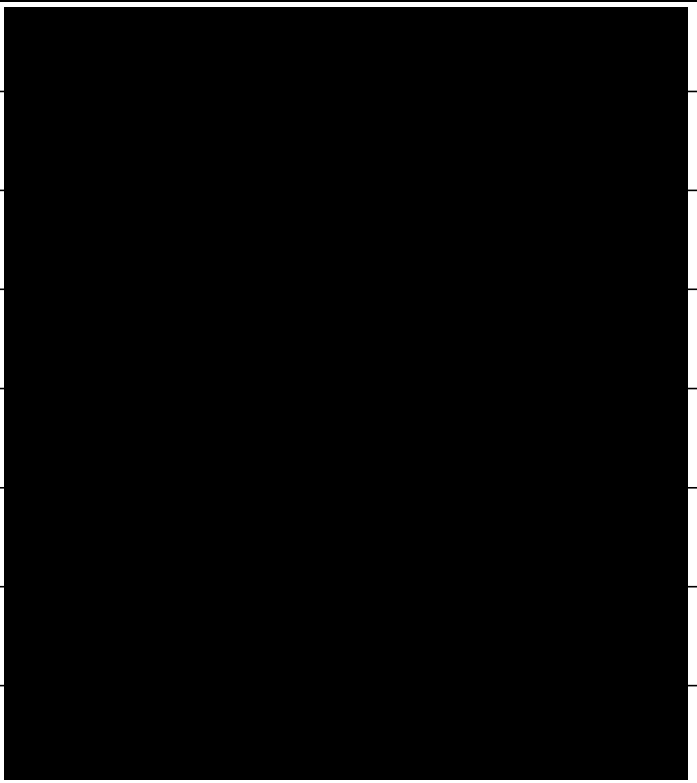
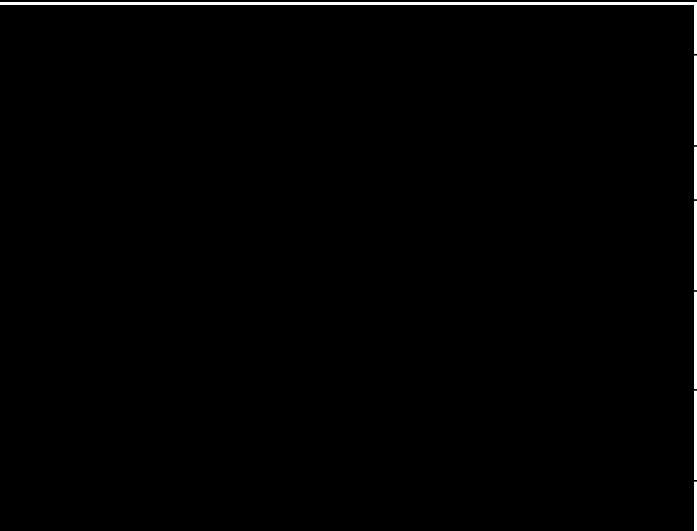
Def #	Name	Address
9	Phoebe Plummer	
10	Jane Touil	

29. I exhibit at [AM2/29-40] photographs showing the incident. It can be seen that Ms Plummer and Ms Touil were wearing JSO t-shirts, and the fire extinguishers had “Just Stop Oil” written on them. JSO has posted on its website a press release about this action [AM2/41-43]. It is therefore plain that their actions were in connection with that campaign.
30. Ms Plummer and Ms Touil were arrested for their actions, and the names and addresses recorded above were again those provided to the Police. They have been charged (as I understand it, with causing criminal damage), and have both been remanded into custody following an appearance at Westminster Magistrates Court. Heathrow is now aware that Ms Touil has been released on bail after appearing in Isleworth Crown Court on 14 August 2024 [AM2/44].
31. A Daily Mail article reporting the incident and those charges records that Ms Plummer has also been found guilty of causing criminal damage for the high-profile incident of throwing soup over a Van Gough painting in the National Gallery in October 2022 [AM2/45-53].

1 August 2024

32. The Named Defendants involved in the incident on 1 August 2024 were those individuals set out in the following table. Each was arrested in connection with that incident, and their names and the following addresses are those that they provided to the Police upon their arrest:

Def #	Name	Address
<i>Groups 1 & 2</i>		
11	Barbara Lund	

12	Rhiannon Wood	
13	Diane Bligh	
14	Ruth Cook	
15	Malcolm Allister	
16	Susanne Brown	
17	Christina Jenkins	
18	Jack Williams	
19	Paul Raithby	
<i>Group 3</i>		
20	Melanie Griffith	
21	Virginia Barrett	
22	Pauline Hazel Smith	
23	Rosemary Robinson	
24	Irfan Mamun	
25	Callum Cronin	
26	Joe Magowan	

33. I am informed by the Airport Operations Manager on duty at the time that he was informed by the Police on the day that:

33.8. Three individuals had been arrested in the Airport at around 0700, in the vicinity of the Terminal 5 London Underground station, on suspicion of conspiracy to interfere with the use or operation of key national infrastructure under s.7 of the Public Order Act 2003. They were found to be in possession of orange t-shirts and banners.

- 33.9. A short time later (by approx. 0740) that a further six individuals had been detailed on the central platform at the Terminal 5 London Underground Station. The said manager understood that they too were in possession of orange t-shirts and banners.
34. Those nine individuals have since been identified (again by reference to information supplied to Heathrow by the Police) as the proposed 12th to 20th Defendants (i.e. “Groups 1 & 2” in the above table). I infer, given the association between the colour orange and the events explained in the next paragraph, that the orange t-shirts and banners were in connection with the JSO campaign.
35. I have also been informed by the Airport Operations Manager on duty at the time that he received reports from colleagues informing him that at around 0850 on the same morning a further group of six individuals were blocking the entrance to the security area in Terminal 5 departures. I exhibit photographs showing that activity at [AM2/54-56]. It can be seen from those photographs, that this direct action was overtly part of the JSO campaign. Again, JSO has posted a press-release about this action on its website [AM2/57-59].
36. Each of those individuals was arrested by the Police (with the area being cleared by about 0913), and their names and addresses as provided to Heathrow are set out in the above table.

Service & Current Whereabouts of the Defendants

37. As set out above, addresses have been provided to Heathrow by the Police for each of the Defendants. Those are believed to be the usual or last known addresses of each of the Named Defendants for the purposes of service.
38. However, with the exception of Monday Rosenfeld (D9) (who was not arrested) and the following who have reportedly been released on bail; Sean O’Callaghan (D4), Sally Davidson (D5), Hannah Schafer (D6), Jane Touil (D11), Heathrow understands that all of the Named Defendants (i.e. the other 21 persons) are presently being held in prison on remand. It is recognised, therefore, that service at their usual and last known addresses is unlikely to be effective.

39. My firm is seeking to identify which prisons each of those Named Defendants is currently being held in (via the Government's 'find a prisoner' service) so that service can be effected on those Named Defendants via that channel. My colleague Robert Hodgson made a request for these details to the Find a Prisoner service on 21 August 2024. Heathrow intends, by the date of the hearing of this application, to file updated evidence on the results of those enquiries and therefore the extent to which it has been able to serve these proceedings. To the extent necessary and appropriate, Heathrow may seek orders for alternative service under CPR r.6.15 and 6.27 to validate the steps that it has by then been able to take as effective service.
40. In addition, and in the hope that it may help to draw the present application to the attention of the Named Defendants, Heathrow intends to send the application (and supporting materials) to JSO's publicised email addresses and post copies (with the Defendants' addresses redacted) on the website set up to advertise the Injunction. These steps are in accordance with the provisions for service of the original Injunction.

CONCLUSION

41. For the reasons I outline above, Heathrow considers both that: (i) it is obliged (on the current state of the law) to seek the joinder of these Named Defendants; and (ii) that, in view of the clear evidence that there is (at the very least) a serious question that each of the Named Defendants has already committed acts in breach of the Injunction, it is appropriate that each of them be joined.
42. In circumstances where the procedure on injunctions of this sort is still being developed by the Courts, Heathrow further respectfully suggests that it is appropriate that it seeks the direction from the Court (to the extent the Court considers appropriate) as to the joinder of some or all of these Defendants (or any other potential defendants).
43. Further, in view of the: (i) complexities with service caused by many of the Named Defendants being held on remand in prison; and (ii) the potential for contempt applications in respect of the conduct outlined above, Heathrow seeks

directions to regularise service and future case management (including of any such contempt applications).

Statement of Truth

I believe that the facts stated in this Witness Statement and Exhibit are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

DocuSigned by:
Akhil Markanday
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Akhil Markanday

16 September 2024