

Claim No. KB-2022-BHM-000188
IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY

B E T W E E N:-

1. WOLVERHAMPTON CITY COUNCIL
2. DUDLEY METROPOLITAN BOROUGH
COUNCIL
3. SANDWELL METROPOLITAN BOROUGH
COUNCIL
4. WALSALL METROPOLITAN BOROUGH
COUNCIL

Claimants

-and-

- 1-4 PERSONS UNKNOWN
5. Mr ANTHONY PAUL GALE
6. Miss WIKTORIA SZCZUBLINSKA

Defendants

PARTICULARS OF CLAIM (Version
3 amended pursuant to the
Order of HHJ Kelly, dated 4
October 2023)

Wolverhampton City Council,
Legal Services,
Civic Centre,
St Peter's Square,
Wolverhampton

Ref: LIJ017753P/01201576

Solicitors for the Claimants

Amended pursuant to Order of the Court (HHJ Kelly) on 4 October 2023

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY

Claim No. KB-BHM-2022-000188

In the matter of an application for an injunction under s.222 Local
Government Act 1972 and s.130 of the Highways Act 1980

B E T W E E N:-

1. WOLVERHAMPTON CITY COUNCIL
2. DUDLEY METROPOLITAN BOROUGH COUNCIL
3. SANDWELL METROPOLITAN BOROUGH COUNCIL
4. WALSALL METROPOLITAN
BOROUGH COUNCIL

Claimants

-and-

1. PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

2 PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

3. PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)
4. PERSONS UNKNOWN BEING DRIVERS, RIDERS OR PASSENGERS IN OR
ON MOTOR VEHICLE(S) WHO PARTICIPATE BETWEEN THE HOURS OF
3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN
THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH
SUCH DEFENDANTS ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR
OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

5. Mr ANTHONY PAUL GALE

6. Miss WIKTORIA SZCZUBLINSKA

Defendants

PARTICULARS OF CLAIM (Version
3 amended pursuant to the Order
of HHJ Kelly, dated 4 October
2023)

Introduction

- 1 Part 8 of the Civil Procedure Rules 1998 applies to this claim.

- 2 In these Particulars of Claim the following definitions have been applied:
 - (1) "The Black Country" the combined local authority areas of all the Claimants. The Claimants areas are shown on the plan annexed hereto (Plan A).

 - (2) "Car Cruising" organised or impromptu events at which drivers of cars race, perform driving stunts, drive dangerously and drive in convoy. Such activities may be noisy, dangerous and illegal, obstructing highways and the premises bordering

them, damaging property and putting the safety of spectators and other persons at risk.

- (3) The "Original Injunction" Injunction granted by HHJ Owen QC on 1 December 2014 and renewed by HHJ McKenna on 9 January 2018 in *Wolverhampton & Others v Persons Unknown* [2014] (Claim No A90BM228) which was in effect from 2 February 2015
- (4) "Stunts" Driving manoeuvres often undertaken as part of car cruising including:
 - (a) "Burnouts" Causing a vehicle to destroy its tyres by applying power to the drive wheels while braking so as to remain in place while the wheels revolve at speed.
 - (b) "Donuts/Donutting" Causing a vehicle to rotate around a fixed point (normally the front axle) while not moving-off causing noise, smoke and tyre marks to be created.
 - (c) "Drifting" Turning by placing the vehicle in a skid so that most sideways motion is due to the skid not any significant steering input.
 - (d) "Undertaking" passing a vehicle on its nearside so as to overtake in circumstances not permitted by the Highway Code.

- 3 The Claimants are local authorities with the meaning of the Local Government Act 1972.

The Defendants

3A The First, Second, Third and Fourth Defendants are persons, as yet unknown, who have engaged or intend to engage in the conduct that the Injunction seeks to restrain.

3B The Fifth and Sixth Defendants ("the Named Defendants") are persons who were found to be in breach of interim injunction granted by the Honourable Mrs Justice Hill on 22 December 2022, and amended by the Honourable Mr Justice Ritchie on 19 May 2023 who thereby became parties to the claim.

4 The West Midland Police Force ('the Police') serve the areas of all the Claimants.

5 Since, at least, 2012 the Claimants have, in co-operation with the Police, have been attempting to eliminate car cruising in their areas.

6 By this claim the Claimants seek an injunction restraining car cruising across the whole of the Black Country.

Background

- 7 The Claimants obtained the Original Injunction which was in effect from 2 February 2015 until 1 February 2021.
- 8 The Claimants aver that the Original Injunction caused or contributed to a substantial reduction in car cruising in the Black Country and the committal proceedings brought for breach of the Original Injunction served as a deterrent to persons contemplating car cruising.
- 9 The Original Injunction did not eliminate car cruising but did cause a decrease in such activity. Since the order lapsed there has been a marked increase.

Relevant Enactments

- 10 Section 37(1) Senior Courts Act 1981 provides that:

“The High Court may by order (whether interlocutory or final) grant an injunction or appoint a receiver in all cases in which it appears to the court to be just and convenient to do so.”

11 For the reasons set out in the evidence filed herewith (and the evidence in support of the application for the Original Injunction) the Claimants will contend it is just and convenient for the honourable court to grant an injunction in this instance.

12 Section 111(1) Local Government Act 1972 provides that:

“Without prejudice to any powers exercisable apart from this section but subject to the provisions of this Act and any other enactment passed before or after this Act, a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.”

13 Section 222 Local Government Act 1972 extends that power and empowers local authorities to become involved in litigation if so doing facilitates the discharge of their functions and is in the interest of their inhabitants.

14 Section 222(1) Local Government Act 1972 provides that:

(1) “Where a local authority consider it expedient for the promotion or protection of the interests of the inhabitants of their area—

- (a) they may prosecute or defend or appear in any legal proceedings and, in the case of civil proceedings, may institute them in their own name, and
- (b) they may, in their own name, make representations in the interests of the inhabitants at any public inquiry held by or on behalf of any Minister or public body under any enactment.”

15 Further, section 1 of the Localism Act 2011 provides that a local authority has power to do anything that individuals may do.

16 Accordingly, the Claimants are entitled to bring this claim for the benefit of all inhabitants of the Black Country. Further it is just and convenient and in accordance with the overriding objective for all the Claimants to bring a single claim.

17 By section 130, Highways Act 1980, the Claimants are under a duty to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority. The injunctive relief sought in these proceedings is necessary to protect the rights of the public to the use and enjoyment of highways within the Claimants' districts.

18 By section 6 of the Crime and Disorder Act 1998, local authorities must formulate and implement, *inter alia*, a strategy for the reduction of crime and disorder in their areas (including anti-social and other behaviour adversely affecting the local environment), which strategy the authorities must keep under review for the purposes of monitoring its effectiveness and making any necessary or expedient changes.

19 Section 17(1) Crime and Disorder Act 1998 provides that:

“Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.”

20 The Claimants contend that taking measures to combat car cruising falls within and forms part of their statutory function (set out above) to reduce crime and disorder in their areas.

Factual Background

21 The Claimants will rely upon the witness statements filed with this Claim Form and those filed in support of the adjourned application to extend the Original Injunction.

22 In summary the Claimants aver that:

- (1) Persons participating in car cruising meet on highways and areas adjacent to highways. Such areas include industrial estates and carparks.
- (2) The locations for such meetings vary but are to be found throughout the Black Country.
- (3) Such meetings may be publicised in advance via social media or word of mouth or may be impromptu.
- (4) At such meetings some or all of conduct set out above takes place.
- (5) Such conduct affects the safety, comfort, well-being and livelihoods of inhabitants of the Black Country.
- (6) Such conduct diverts the resources of the Police, Ambulance Service and hospitals away from other legitimate matters.

23 The Original Injunction was effective in reducing and inhibiting car cruising.

24 Since 2 February 2021 car cruising has again increased with more events and larger numbers of spectators at such events. The Police are receiving an increased volume of calls relating to such activities.

25 Such increased activity has continued following the relaxation of restrictions on social gatherings imposed during the covid-19 pandemic. There appears to be a growing perception among those who engage in car cruising that the Claimants and the Police are impotent to restrict the activity.

25A The conduct described above frequently involves the commission of criminal offences which is deliberate and which cannot adequately be prevented or restrained by the use of criminal law sanctions.

25B Such offences may include but are not limited to:

- (1) Dangerous driving;
- (2) Speeding;
- (3) Racing;
- (4) Driving without insurance

25C The said conduct is also tortious and, in particular, constitutes a public nuisance.

25D Further, by engaging in the conduct described above, the Defendants infringe or threaten to infringe

- (1) other road users' and pedestrians' right to life, pursuant to Article 2, European Convention on Human Rights (the "Convention").

On 20 November 2022 a fatal road traffic collision occurred in the area of the Third Defendant when a vehicle collided with persons spectating at a cruise/street race.

and/or

- (2) the right to respect for the private and family lives, pursuant to Article 8, Convention, of residents living in the locality of the roads or spaces used for street-cruising.

25E While all persons have the right to freedom of association and peaceful assembly (Convention, Art.11), such rights are qualified and may lawfully be interfered with in the interests of public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

25F Such rights do not extend to permitting the commission of serious criminal activity that imperils the lives of others.

25G Injunctive relief sought is necessary in a democratic society and is proportionate. It represents the only way to protect the rights referred to above and is in accordance with a legitimate aim.

Justification for an Injunction

26 An Injunction in the terms sought would assist the Claimants in discharging their statutory duties set out above.

27 Such an Injunction would be of benefit to persons generally throughout the Black Country.

28 The proposed Injunction does not interfere with rights and freedoms of the Defendants since the behaviour that it seeks to prohibit is illegal and/or anti-social. The Defendants remain free to attend lawful motor-sports events and exhibitions.

Power of Arrest

29 Section 27 of the Police and Justice Act 2006 provides *inter alia*:

“(1) This section applies to proceedings in which a local authority is a party by virtue of section 222 of the Local Government Act 1972 (c 70) (power of local authority to bring,

defend or appear in proceedings for the promotion or protection of the interests of inhabitants of their area).

(2) If the court grants an injunction which prohibits conduct which is capable of causing nuisance or annoyance to a person it may, if subsection (3) applies, attach a power of arrest to any provision of the injunction.

(3) This subsection applies if the local authority applies to the court to attach the power of arrest and the court thinks that either—

(a) the conduct mentioned in subsection (2) consists of or includes the use or threatened use of violence, or

(b) there is a significant risk of harm to the person mentioned in that subsection...”

30 The Claimants aver that car cruising causes and is capable of causing nuisance or annoyance to persons in the Black Country and that the car cruising creates a significant risk of harm to such persons.

Service of this Claim Form

31 The Claimants seek orders for service of the Claim Form and supporting documentation by alternative means pursuant to CPR 6.15 & 6.27. The proposed steps to effect service are set out in a draft Order. Such steps are likely to bring this Claim and the hearing of the application for an Injunction to the attention of those persons who may wish to oppose the making of the order or intervene in the proceedings.

Service of any Injunction Granted

32 The Claimants will also seek an order dispensing with personal service of the Injunction. The proposed steps to bring the order to the attention of persons likely to be affected by any Injunction are set out in a draft order.

33 The Claimants submit that such steps are likely to ensure that awareness of the existence of the Injunction will be widespread throughout the Black Country.

And the Claimants claim:

- (1) An Injunction Order in the form annexed hereto;
- (2) A Power of Arrest ancillary to such Injunction;
- (3) Such further or other relief as the Court thinks fit.

MICHAEL SINGLETON

DATED this 07 day of October 2022

The Claimants believe that the facts stated in these Particulars of Claim 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.

I am duly authorised by all the Claimants to sign this statement.

FULL NAME: DAVID PATTISON

POSITION OR OFFICE HELD: CHIEF OPERATING OFFICER

SIGNED:



REDATED this Sixth day of June 2023

The Claimants believe that the facts stated in these Amended Particulars of Claim 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.

I am duly authorised by all the Claimants to sign this statement.

FULL NAME DAVID PATTISON

POSITION OR OFFICE HELD: CHIEF OPERATING OFFICER

SIGNED 

DATED this Sixth day of October 2023

The Claimants believe that the facts stated in these Particulars of Claim (version 3) 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.

I am duly authorised by all the Claimants to sign this statement.

FULL NAME DAVID PATTISON

POSITION OR OFFICE HELD: CHIEF OPERATING OFFICER

SIGNED

A handwritten signature in black ink that reads "David Pattison". The signature is written in a cursive style with a long horizontal flourish at the end.