

Emma Margaretha Florence Pinkerton  
Second Witness Statement  
Party: Claimant  
Exhibit: EP2  
Date: 10 May 2022

**IN THE HIGH COURT OF JUSTICE**

**Claim No: QB-2022-001420**

**QUEEN'S BENCH DIVISION**

**BETWEEN**

**SHELL U.K. OIL PRODUCTS LIMITED**

**Claimant**

**- and -**

**PERSONS UNKNOWN DAMAGING,  
AND/OR BLOCKING THE USE OF OR  
ACCESS TO ANY SHELL PETROL  
STATION IN ENGLAND AND WALES, OR  
TO ANY EQUIPMENT OR  
INFRASTRUCTURE UPON IT, BY  
EXPRESS OR IMPLIED AGREEMENT  
WITH OTHERS, IN CONNECTION WITH  
ENVIRONMENTAL PROTEST  
CAMPAIGNS WITH THE INTENTION OF  
DISRUPTING THE SALE OR SUPPLY OF  
FUEL TO OR FROM THE SAID STATION**

**Defendant**

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**SECOND WITNESS STATEMENT OF  
EMMA PINKERTON**

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I, **Emma Margaretha Florence Pinkerton** of CMS Cameron McKenna Nabarro Olswang LLP (“CMS”) of College Square 2 Anchor Road, Bristol BS1 5UE **WILL SAY AS FOLLOWS:**

**1. INTRODUCTION**

1.1 I am a partner at CMS and have conduct of this matter on behalf of the Claimant.

- 1.2 Unless I state otherwise, the facts in this statement are within my knowledge and true. Where the facts are not within my knowledge, they are true to the best of my knowledge and belief, and I identify the source of my knowledge.
- 1.3 References to page numbers in this statement are to page numbers in Exhibit EP2 [Exhibit/Tab/Page Number].
- 1.4 Following the hearing of the Claimant’s application on 5 May 2022 in respect of Shell Petrol Stations in England and Wales (as defined in the Court Documents), the Claimant was granted an injunction by way of an order of the Honourable Mrs Justice McGowan dated 5 May 2022 (the “Order”) [EP2/6/24].
- 1.5 As detailed below both CMS and the Claimant then proceeded to serve the documents on behalf of the Claimant in accordance with the terms of the Order. The service requirements in the Order are set out in paragraph 2 below.

## 2. SERVICE OF DOCUMENTS

- 2.1 Paragraph 9 of the Order required that the Order and the Claim Documents be served by a number of alternative methods. For completeness, the Claim Documents are as follows:
- 2.1.1 Application Notice dated 3 May 2022 and draft order;
  - 2.1.2 Claim Form dated 4 May 2022;
  - 2.1.3 Particulars of Claim dated 3 May 2022;
  - 2.1.4 Witness Statement of Ben Austin dated 3 May 2022;
  - 2.1.5 Witness Statement of Emma Pinkerton dated 3 May 2022;
  - 2.1.6 Skeleton argument on behalf of the Claimant.
- 2.2 Paragraph 9 of the Order states that service will be effected in the following ways:
- 2.2.1 The Claimant shall use all reasonable endeavours to arrange to fix at each entrance of each Shell Petrol Station, on every upright steel structure forming part of the canopy infrastructure under which the fuel pumps are located within each Shell Petrol Station forecourt, and at the entry door to every retail establishment within any Shell Petrol Station, warning notices, no smaller than A4 in size (the “**Paragraph 9.1 Requirements**”). The said warning notices shall: (i) warn of the existence and general nature of this Order, and of the consequences of breaching it; (ii) identify a point of contact and contact details from which copies of the Order and Claim Documents may be requested; and (iii) identify a website address (the “**Claim Documents URL**”) at which copies of the Order and the Claim Documents may be viewed and downloaded (the “**Warning Notices**”).
  - 2.2.2 The Claimant will ensure that notification of the existence of the Order and the Claim Documents is made available on its website address at [www.shell.co.uk](http://www.shell.co.uk), along with a link to the Claim Documents URL.
  - 2.2.3 The Claimant shall upload to the Claim Documents URL copies of the Order and the Claim Documents and a note of the hearing at which his Order was granted.
  - 2.2.4 The Claimant shall send by email a copy of the Order and a link to the Claim Documents URL to each of the email addresses listed in the Third Schedule to this Order.

### **3. SERVICE BY EMAIL ON 5 MAY 2022**

- 3.1 CMS created an email address, [shell.service@cms-cmno.com](mailto:shell.service@cms-cmno.com) from which to serve the various documents in this matter. I have access and control of this dedicated email address.
- 3.2 I sent the email to the email addresses listed in the third schedule of the Order and as set out at Appendix 1 to the Certificate of Service filed with this statement at 5:04pm on 5 May 2022. The email is included at [EP2/4/20].
- 3.3 The email attached a copy of the sealed Order and included a link to the CMS website, the Claim Documents URL, described at paragraph 4.1 of my witness statement below, containing copies of the documents described at paragraph 4.2 below.
- 3.4 I received confirmation of receipt entitled “[EXTERNAL] Thank you for contacting the Extinction Rebellion UK press team” from the email address “Extinction Rebellion UK press team <press@extinctionrebellion.uk>.” at 17:05 on 5 May 2022, included at [EP2/5/22].
- 3.5 I did not receive any other confirmation emails from any of the other addresses to which the email was sent, however I have no reason to believe that the emails were not delivered or received, and received no ‘bounce back’ or delivery failure notification in this regard.

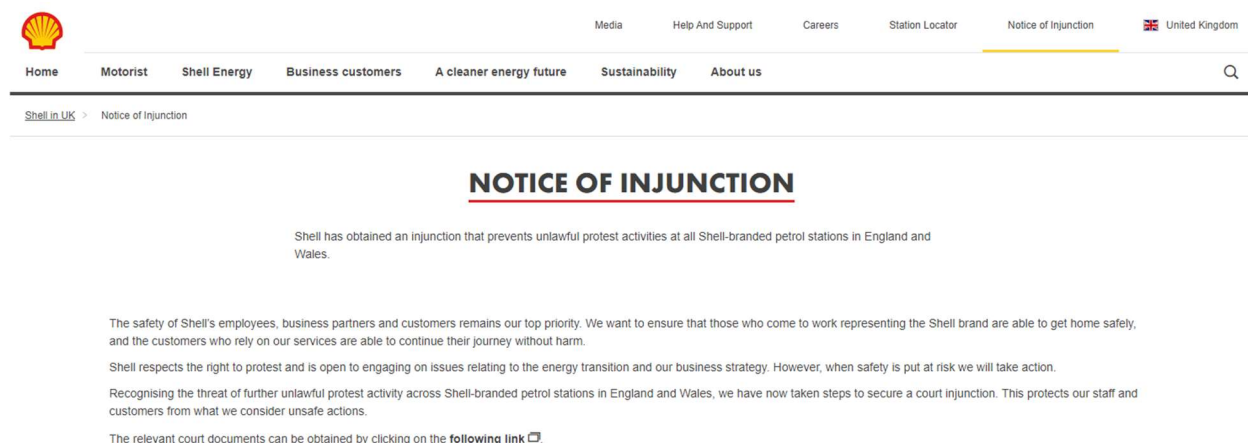
### **4. SERVICE BY WEBSITE ON 6 MAY 2022**

- 4.1 CMS has created a website, referred to above as the Claim Documents URL. Access to this website is via the following address: <https://shellservices.cmno.tech/>.
- 4.2 The following documents were uploaded to the website on 6 May 2022 and were in place and available to view and download by 12 noon on that day at the latest:
- 4.2.1 Sealed Claim Form dated 4 May 2022;
  - 4.2.2 Particulars of Claim;
  - 4.2.3 Sealed Application Notice dated 3 May 2022;
  - 4.2.4 Witness Statement of Ben Austin dated 3 May 2022;
  - 4.2.5 Exhibit bundle BA1;
  - 4.2.6 Witness Statement of Emma Pinkerton dated 3 May 2022;
  - 4.2.7 Exhibit bundle EP1;
  - 4.2.8 Skeleton Argument;
  - 4.2.9 Sealed Order dated 5 May 2022.
- 4.3 These files are located by clicking on a central tab in the centre-right hand side of the Claim Documents URL titled “*Shell v Persons Unknown (Shell Petrol Stations) Claim Number QBD-2022-001420*”.

### **5. SERVICE BY SHELL WEBSITE ON 9 MAY 2022**

- 5.1 The Claimant took steps on 9 May 2022 to place a notice on the website [www.shell.co.uk](http://www.shell.co.uk). I received confirmation from the Claimant’s in-house legal team that the information had been placed on [www.shell.co.uk](http://www.shell.co.uk) at 1:59pm on 9 May 2022, and shortly thereafter confirmed that the link worked.

5.2 The link is accessible through a tab on the top of the ‘landing page’ of [www.shell.co.uk](http://www.shell.co.uk) entitled “*Notice of Injunction*”. Clicking this link leads to a webpage as per the snip of that site set out below.



5.3 I can confirm that clicking on the wording “**following link**” takes you to the Claim Documents URL.

## 6. SERVICE BY AFFIXING OF WARNING NOTICE ON 10 MAY 2022

6.1 I have read the second witness statement of Ben Austin dated 10 May 2022, where he details the efforts that have been made to effect service in accordance with the Paragraph 9.1 Requirements relating to the Warning Notices.

6.2 I understand that there are 1056 Shell Petrol Stations in England and Wales, of which 7 are currently closed for works, leaving 1,049 currently open and operational. The Claimant sent an email at 9:45am on 6 May 2022 to the retailers and dealers owning, managing or operating all of the 1,049 Shell Petrol Stations in England and Wales. This email was entitled “*Shell Branded Service Station Injunction – Immediate Action needed*” and detailed the acts prohibited by the injunction and the immediate action needed, including affixing a Warning Notice (provided as a link to the email) in the specified locations pursuant to the Paragraph 9.1 Requirements. The email is included at [EP2/1/2] and the Warning Notice at [EP2/2/5].

6.3 As can be seen from the email, the Claimant gave clear instructions as to where the Warning Notices should be placed, setting out the Paragraph 9.1 Requirements.

6.4 The Claimant has kept detailed records of its efforts to ensure that Warning Notices are placed correctly in accordance with the Paragraph 9.1 Requirements in every Shell Petrol Station. A copy of the excel spreadsheet recording these efforts is exhibited at [EP2/3/6] and is explained further by Mr Austin in his second witness statement.

6.5 I understand from conversations with Mr Austin that it is logistically extremely challenging to coordinate the response of the 1,049 Shell Petrol Stations currently operating throughout England and Wales. There have, for example, been many enquiries of clarification about the precise location of the Warning Notices to be placed in individual service stations. In some instances it has been an ‘iterative’ process with photographs being sent from ‘on site’ at the Shell Petrol Stations showing notices, corrective comments being sent by email from representatives of the Claimant and further photographs being sent by return.

- 6.6 I am told by Mr Austin that as of 2pm on the date of my witness statement, the Warning Notices have been placed in 614 Shell Petrol Stations. This represents 58.53% of the Shell Petrol Stations, in compliance with the terms of the Order (which required Warning Notices to be placed at 50% of the Shell Petrol Station).
- 6.7 A list of the Shell Petrol Stations at which the notices have been affixed to date is exhibited at [EP2/3/6]. It is likely that, by the time of the return date of the Order, notices will have been affixed at an increased number of Shell Petrol Stations.
- 6.8 Every effort has been made to ensure that, in accordance with the Paragraph 9.1 Requirements, these Warning Notices are affixed at each entrance of the Shell Petrol Stations, on every upright steel structure forming part of the canopy infrastructure under which fuel pumps are located on each Shell Petrol Station forecourt and at the entry door to every retail establishment within those Shell Petrol Stations. The Claimant has made efforts to obtain photographic records of the placement of the Warning Notices in order to be sure of compliance with the terms of the Order. However, in some instances this has not proved possible for health and safety reasons (because, for example, of fast-moving traffic adjacent to the entrance point) or where for example there is no pedestrian 'entry point'. In these instances, difficulties with affixing the Warning Notice have been recorded in the excel spreadsheet exhibited at [EP2/3/6] and the remedial solution noted therein.
- 6.9 It was for reasons such as these, as well as the differing levels of control the Claimant has over the various Shell Petrol Stations as a result of the agreements in place regarding their operation and management, that the Court was asked to agree to the service provisions within Paragraph 9 of the Order, i.e. that service would be completed when Warning Notices were in place at 50% of the Shell Petrol Stations.
- 6.10 Having undertaken this process and seen the Warning Notices in place, the Claimant will seek a variation of the Order with regard to the exact placement of the Warning Notices at the return date hearing on 13 May 2022, which will be set out more fully in the draft order accompanying the application notice in that regard. The purpose of this request is to ensure that the Warning Notices will be prominently displayed and easy to read as well as being in a format that is less likely to be tampered with and will survive the elements for a longer period in the hope that the duration of the current injunction will be extended for a significantly longer period.
- 6.11 Notwithstanding the difficulties the Warning Notices appear to be effective. On 9 May 2022 I received a call from a member of the public seeking a copy of the Court Documents which will be sent to them by post to the address provided.

## **7. DATE OF SERVICE**

- 7.1 Paragraph 10 of the Order states that the Claim Documents and the Order shall be deemed to be served on the latest date on which compliance with the Paragraph 9.1 Requirements has occurred at not less than half of the Shell Petrol Stations, and Paragraphs 9.2 to 9.4 of the Order have also occurred.
- 7.2 In this regard, having reviewed the excel spreadsheet prepared by the Claimant and discussed the same with them, I can confirm that I am content that the Warning Notices, as described at Paragraph 9.2 of the Order, were placed at not less than half of the Shell Petrol Stations by 2pm on 10 May 2022. Accordingly, as the Order and Claim Documents were made available on [www.shell.co.uk](http://www.shell.co.uk) on 9 May 2002 and the Claim Documents URL on 6 May 2022, and that service

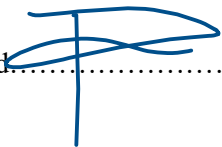
was also effected by email on 5 May 2022 the latest date on which compliance with the provisions of Paragraph 9.1 to 9.4 of the Order occurred was 10 May 2022.

7.3 Therefore, the Court Documents have been served in accordance with the terms of the Order today, 10 May 2022.

**STATEMENT OF TRUTH**

I believe that the facts stated in this witness statement 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.

Signed.....

Dated.....10 May 2022.....