

**Benjamin Austin  
Second Witness  
Statement  
Party: Claimant  
Exhibit: BA2  
Date: 10 May 2022**

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

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

**B E T W E E N:**

**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 BENJAMIN AUSTIN**

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I, Benjamin Austin of Shell Centre, London, SE1 7NA SAY AS FOLLOWS:

**1. INTRODUCTION**

- 1.1 I am the Health, Safety and Security Manager for the Claimant.
- 1.2 Unless stated otherwise, the facts set out in this statement are within my own knowledge and true. Where facts are not within my own 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 within this statement are to pages within the exhibit annexed as BA2 [Exhibit/ tab number/ page number].
- 1.4 I previously gave a witness statement dated 3 May 2022 in connection with this matter (my “**First Witness Statement**”) [BA2/0/1]. Terms defined in my First Witness Statement are adopted herein.

**2. PURPOSE OF THE STATEMENT**

- 2.1 I make this statement in support of the Claimant’s application for the continuation of injunctive relief granted under an Order dated 5 May 2022 made by Mrs Justice McGowan

(the “**Application**”) in respect of the Shell Petrol Stations. The purpose of my statement is to comment on the following issues in support of the Claimant’s Application:

- 2.1.1 Protestor action since 3 May 2022;
- 2.1.2 Risk of further action by the protestors;
- 2.1.3 Ongoing health and safety concerns and anticipated damage to Shell’s property and business arising from the protestor’s actions; and
- 2.1.4 The practical steps taken to date by the Claimant to serve the Court’s order of 5 May 2022 (the “**Order**”).

## **2. PROTESTOR ACTION SINCE 3 MAY 2022**

2.1 Since I provided my First Witness Statement, there have been at least four further incidents (some of which have arisen at or in the vicinity of Shell owned sites) which I am aware of and were caused by protestors which I understand are affiliated with environmental groups such as Extinction Rebellion (“**XR**”) and Just Stop Oil (“**JSO**”), as well as actions taken by unattributed protestors.

2.2 I have referred to the various groups of protestors, their objectives and previous acts of civil resistance in my First Witness Statement at paragraphs 1.6 and 5 [BA2/0/2]. However, and having reviewed again the webpages of groups such as JSO and XR myself, I also note that:

2.2.1 JSO has stated that: “*Just Stop Oil is a coalition of groups working together to ensure the Government commits to halting new fossil fuel licensing and production*” [BA2/1/11]; and

2.2.2 XR has stated that: “*Extinction Rebellion is an international movement that uses non-violent civil disobedience in an attempt to halt mass extinction and minimise the risk of social collapse [...] At the core of Extinction Rebellion’s philosophy is nonviolent civil disobedience. We promote civil disobedience and rebellion because we think it is necessary [...] We aren’t focussed on traditional systems like petitions or writing to our MPs and more likely to take risks (e.g. arrest / jail time) (sic). We don’t want or need everyone to get arrested – for some this is not a good idea – but we do want everyone involved to support civil disobedience as a tool. We are promoting mass “above the ground” civil disobedience – in full public view. This means economic disruption to shake the current political system and civil disruption to raise awareness [...]*” [BA2/2/12-13].

2.3 The clearly stated aim of XR is to encourage “*civil disobedience*”. However, and as set out in further detail below, I understand that all of the groups involved in the further protests have the same goal underpinning their activities, namely, to disrupt the business activities of the Claimant, other energy companies and/or companies investing in the energy market, with the aim of gathering support and effecting a change in the Government’s fossil fuel policy. I believe that such incidents are continuing to cause significant and widespread disruption, as well as pose serious health and safety risks to both the protestors and the general public.

### Barclays (Manchester) and Standard Chartered (London)

2.4 On 4 May 2022, I understand from XR’s own publication [BA2/3/17] that two protests occurred whereby both Barclays and Standard Chartered were targeted by XR (and its ‘sister

movement' known as Money Rebellion) at their annual general meetings held in Manchester and London respectively.

2.5 Money Rebellion appears to be yet another splinter group of XR set up with the primary aim appearing to be "...to expose and disrupt the economic rules and institutions driving us toward societal collapse...". The clear stated aim of this group, as with XR generally, is to take steps to disrupt the fossil fuel industry but this time by targeting those who fund and invest in companies within the industry, including the Claimant.

2.6 The protests by XR included roughly 60 protestors: (i) who interrupted speeches at both companies' AGMs; (ii) at the Standard Chartered AGM in London, protestors wore masks of Standard Chartered's Chairman, José Viñals, and the bank's CEO, Bill Winters, and set off smoke flares outside the building; (iii) at the Barclays AGM in Manchester, protestors set off personal alarms and had to be dragged away by security. Photographs showing the disruption are attached [BA2/4/23], [BA2/5/24], [BA2/6/25] and [BA2/7/26], together with two videos which show the disruption.<sup>1</sup> In one of these videos, a female protestor can be heard saying:

*"And Brian, you've come straight from BP, straight into this place and you're bloody chair of another energy company. How dare the lot of you. You're all grinning at us. You're all complicit in climate genocide every single one of you. Every single one of you. I don't know how you sleep at night [...]".*

2.7 More generally, I note that XR has stated that it targeted these banks because "*Barclays is the UK's largest investor in fossil fuels, having put over \$19.6 Billion into the industry in 2021 alone, while Standard Chartered financed over \$6 Billion in the same year, ranking them the third biggest UK bank investing in fossil fuels behind Barclays and HSBC [...] Barclays and Standard Chartered AGMs are the latest to see disruption from protestors demanding an end to fossil fuel investments*" [BA2/3/18].

*Nustar Clydebank Oil Depot (Glasgow) (the "Nustar Terminal")*

2.8 I refer to several news articles which were published on 3 May 2022, whereby more than 50 protestors from JSO attended the Nustar Terminal and took to: (i) climbing on top of tankers; (ii) locking themselves to the entrance of the terminal; (iii) entering the terminal, to scale a storage silo and climb into pipework at height which distributes fuel around the site.

2.9 I understand that the action undertaken halted operations at the Nustar Terminal [BA2/8/28] and [BA2/10/35]. In particular, I note that one of the photographs from the news reports, shows at least 10 people in the roof structure of the terminal [BA2/11/36].

2.10 In relation to this incident, I also refer to several, related publications on JSO's website, as follows:

2.10.1 A statement [BA2/12/37] where JSO says that "*Supporters of Just Stop Oil have disrupted oil supplies from a key Scottish oil terminal in support of their demand that the UK government end new oil and gas projects in the UK*".

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<sup>1</sup> To view this video and others, I used the following link and scrolled to the bottom of the page, to the dropbox folder which has been linked: [BREAKING: 'End Fossil Fuels Now!' Extinction Rebellion disrupt Barclays and Standard Chartered AGMs - Extinction Rebellion UK](#) (in particular, I note the videos entitled: (i) 'Standard Chartered London inside 1.m4v'; and (ii) Barclays Manchester Inside 2.mp4').

2.10.2 Two clips of video footage which I understand to have been taken on 3 May 2022 at the Nustar Terminal. The footage:

- (a) Shows a woman speaking to the camera: *“Hi my name’s Orla. I’m twenty. I’m here up on an oil terminal in Glasgow. Um we’re up on pipes that are really high up in the air, err it’s really scary. I’m looking down and its quite scary. It’s not somewhere I thought I would be, but I’m here because this oil goes into tankers and those tankers distribute that oil around the country and that oil before then is drilled out of the ground [...] Just Stop Oil, it’s really that simple, we’re not asking for much, we’re asking for no new oil[...] and yet we have to climb onto a fucking terminal and be up in the air for twenty eight hours at least if not more [...]”* (“JSO\_Nustar\_Orla1\_04052022.mp4”: [Press Media - PUBLIC - Google Drive](#)); and
- (b) Shows a second woman speaking to a camera: *“I’m Hannah. I’m 20 years old and I am currently, as of fifteen minutes ago, in contempt of court. Umm locked down in the rafters of the Nustar terminal in Glasgow instead of attending a court hearing [inaudible] could send me to prison for two years for protesting on a grass verge. I am doing this because I committed to putting my body on the line to stop oil, umm and when the government is trying to supress our protests and trying to stop truth being heard, and protect the fossil fuel companies that are actively killing us, I [inaudible] any court that allows that to happen [...]”* (“JSO\_Nustar\_Hannah\_04052022.mp4”: [Press Media - PUBLIC - Google Drive](#))

2.11 Incidentally, I note that in relation to the second individual (i.e., twenty-year-old Hannah), the statement which she made at the Nustar Terminal (i.e. as per paragraph 2.10.2(b) above), indicates that she was also one of the protestors present at the Kingsbury Terminal in April 2022 (which I address in further detail below). In this regard, I refer to the following article published on Just Stop Oil’s website entitled *“Just Stop Oil supporters breach injunction at Kingsbury for the third day in a row”* dated 28 April 2022, which appears to confirm Hannah’s presence at Kingsbury:

*“Hannah Torrance Bright, 20, a student from Glasgow, who is taking action for the second time this week at Kingsbury said:*

*“The government continues to side with the fossil fuel companies, signing our death warrants in the name of profit. I am desperate now and demanding they give young people a chance of a future.” [BA2/19/58]”.*

2.12 I also exhibit still photographs from the protest illustrating the action taken:

- 2.12.1 Two females, sitting on a raised platform at the terminal, with a police officer who is wearing what looks like a fall prevention harness and hard hat [BA2/13/41];
- 2.12.2 Five individuals are sitting in the foreground wearing bright orange vests in the rafters of a building amongst piping. In the background there are at least a further four individuals wearing hard hats and what looks like fall prevention gear [BA2/14/42].

- 2.13 I consider that the action undertaken at the Nustar Terminal follows a similar pattern of action to that which the protestors have been undertaking in England and Wales including at terminals owned by group companies of the Claimant and as I describe further below. I am also aware that: (i) protestor groups were threatening action at petrol stations and at Glasgow's May Day Festival (I believe this is also known as International Workers Day); (ii) members of JSO took part in a march/protest against the continued use of fossil fuels on 8 May 2022 in Glasgow city centre [BA2/15/43] and (iii) On 7 May 2022, XR protestors protested in Cambridge [BA2/16/47].
- 2.14 Finally, I understand that the action relating to Barclays (Manchester), Standard Chartered (London) and the Nustar Terminal (Glasgow), did not in this instance directly target the Claimant's offices or terminals or one of the Shell Petrol Stations. However, the behaviour of the protestors demonstrates that:
- 2.14.1 The protestors have no intention of ceasing their action;
- 2.14.2 All geographical areas in the UK are potential targets (as shown by the scope of the latest protests); and
- 2.14.3 There is a continuing and concerning lack of regard by the protestors for their own health and safety, as well as the health and safety of the employees at sites which are targeted by them, such as the Nustar Terminal, and emergency workers such as the Police who attended the site in response. The video footage and pictures from the Nustar Terminal, and which I have referenced above, record that the protestors have climbed infrastructure and are sitting/ standing at height. It is not clear from the videos or pictures, but it does not look like any fall prevention measures or similar appropriate personal protective equipment was in use by the JSO protestors.

*Drone Activity over the Kingsbury Terminal*

- 2.15 The Kingsbury Terminal is an inland oil storage depot located in Warwickshire, England, and is owned jointly by the Claimant and Essar Midland Ltd and forms part of a wider group of similar sites owned by other operators (the "Kingsbury Site"). The Kingsbury Site is subject to an injunction obtained by North Warwickshire Borough Council who, I understand, have taken action to enforce that injunction, including using their power of arrest and pursuing committal hearings against various protestors.
- 2.16 Of particular note, I understand from the enclosed news reports, that protestors actually dug a tunnel under 'a key tanker route' to stop oil tankers leaving the depot and distributing fuel. The entrance to the tunnel itself was concealed by a caravan marked with the words 'Just Stop Oil' [BA2/17/53] and [BA2/18/55].
- 2.17 By reason of the above, the Kingsbury Terminal is on high alert for any further protestor action. Between 1:40am and 2:50am on Monday 9 May 2022, the Claimant received reports (via the Terminal Manager at Kingsbury, Darren Dawson) of two drones flying over the Kingsbury Terminal and following the external fence line in tandem. The Claimant reported this incident to the Police for further investigation.
- 2.18 Whilst the Claimant does not have confirmation that any protesting groups are involved, naturally the Claimant is concerned that protestors are using the drones to scope out areas to infiltrate the Kingsbury Terminal or wider Kingsbury Site and take action similar in nature to

that which occurred at the Nustar Terminal and previous incursions that occurred in April 2022 (as detailed further below).

- 2.19 The Claimant is also concerned about the health and safety risk of a drone being operated over the Kingsbury Terminal, not least because of the explosion risk arising, should operational control over the drone be lost and a collision with infrastructure on the Kingsbury Terminal, or anywhere within the Kingsbury Site occur.
- 2.20 In view of the events which I have described above, I am of the view that the further action by groups such as JSO and XR demonstrates a significant, and continued interest in environmental groups protesting and therefore significant potential for renewed activity and further disruption – both in relation to the Claimant’s business and assets (including the Shell Petrol Stations), and other energy companies/ companies investing in energy assets.

### 3. RISK OF FURTHER ACTION

- 3.1 I am of the view that the injunction granted in respect of the Shell Petrol Stations (and other Shell owned sites such as Shell Tower and Shell Haven), has served as an effective deterrent to protestors – not least because since the injunction was granted in respect of the Shell Petrol Stations, these have not been subject to further protestor activity.
- 3.2 However, since 3 May 2022, I have seen further statements published by certain protesting groups which indicate that the action taken to date will not cease. By way of example, on 4th May 2022, JSO published that: *“The supporters of Just Stop Oil will continue the disruption until the government makes a statement that it will end new oil and gas projects in the UK”*. This statement can be found here on JSO’s website: [Breaking: .Just Stop Oil supporters fail to attend court to breach Kingsbury Injunction. – Just Stop Oil](#)
- 3.3 Additionally, whilst the injunctions appear overall to be an effective deterrent, there appears to be a minority within the protestor groups that have no regard for the orders which have been made by the High Court and will persist in their unlawful activities regardless.

#### Kingsbury Site

- 3.4 As I have stated above, the Kingsbury Terminal is owned jointly by the Claimant and Essar Midland Ltd and forms part of the wider Kingsbury Site which is subject to an interim injunction which was granted by the High Court (further to an application by North Warwickshire Borough Council) on 14 April 2022, preventing, amongst other things, certain individuals and ‘persons unknown’, from:

*“organising or participating in [...] any protest against the production or use of fossil fuels at the Kingsbury Oil Terminal [...] taking place within the areas of the boundaries of which are edged in red on the Map attached to the Order at Schedule 1, or within 5 metres of those boundaries [...]” [BA2/20/61] (the “Warwickshire Injunction”).<sup>2</sup>*

- 3.5 Despite this, on 5 May 2022, 11 individuals who I understand are linked to JSO were due to attend Court having been charged with breaking the Warwickshire Injunction. I refer to, a statement published by JSO (accessible here: [Breaking: .Just Stop Oil supporters fail to attend court to breach Kingsbury Injunction. – Just Stop Oil](#)), which states:

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<sup>2</sup> Also reference is made to the Warwickshire Council website for further details [Latest news | North Warwickshire \(northwarks.gov.uk\)](#)

*“A group of 11 Just Stop Oil supporters (sic) face arrest today for standing peacefully outside the Kingsbury Oil Terminal holding placards in breach of an injunction granted to North Warwickshire Borough Council on 14th April. Of the 11, eight had been summoned for a full committal hearing at Birmingham County Court for previously breaking the injunction, and 3 have a bail hearing at the court. All chose instead, to not attend court and to travel to Kingsbury breaking the private injunction again. [...] Arrest warrants (sic) have been issued for all 11 and the court case has been adjourned (sic) until Tuesday 10th May”.*

3.6 I refer also to a second statement in the same article which reads: *“The court system, rather than upholding justice, is choosing to side with the state, thus making it complicit with the suicidal acts of the government. For this reason, these Just Stop Oil Supporters are refusing to comply with the courts”.*

3.7 I also refer to paragraph 2.10.2(b) of this witness statement, setting out the events at the Nustar Terminal, where a JSO member ‘Hannah’ stated *“as of fifteen minutes ago, [she is] in contempt of court”* (“JSO\_Nustar\_Hannah\_04052022.mp4”: [Press Media - PUBLIC - Google Drive](#)). Other members of JSO have also confirmed that they are in contempt of court by repeatedly breaching the terms of the Court’s Warwickshire Injunction. I refer to additional videos posted on JSO’s website which can be accessed here: [Press Media - PUBLIC - Google Drive](#).<sup>3</sup>

3.8 Notwithstanding this and because of the health and safety and other concerns I outline further below, in order to assist the Claimant in protecting its business interests in relation to the Shell Petrol Stations I consider that the Claimant has no option but to seek to make this application for continuation of the injunctive relief. The actions taken by the protestors to date and as described above are clearly driven by an intention to continue to take any steps necessary to sabotage the economic interests of companies such as the Claimant and whilst the Claimant does not wish to prevent peaceful protests at any of its sites, including the Shell Petrol Stations, the activities undertaken by some of the protestors are far from peaceful causing, as they have, significant damage to the Claimant’s assets and associated business interests.

#### **4. ONGOING CONCERNS**

4.1 I am concerned by the lack of regard for health and safety which these protestors continue to demonstrate. This disregard coupled with the threat of continued action to sabotage the business interests of the Claimant and other energy companies, from groups like JSO and XR in relation to the Claimant and other energy companies, gives rise to largely the same health and safety and other concerns as previously expressed in my First Witness Statement.

4.2 I referred in my First Witness Statement to the DSEAR legislation in place in England and Wales, which regulates the risks in connection with fire, explosion and similar events arising from dangerous substances in the workplace and imposes various requirements to identify and take steps to mitigate those risks. I note, that at oil terminals there is usually extremely strict zoning in place, because of vapour which is likely to be in the air. The concentration of this vapour will vary, but the consequences (if there is a source of ignition present) are severe. Similar vapours can also be present within the Shell Petrol Stations.

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<sup>3</sup> Particular reference is made to the video entitled “JSO\_Kingsbury\_Sarah\_Webb4\_04052022”.

4.3 The Claimant remains concerned to protect the health and safety of its employees, the public and the protesters; it is also concerned by threats to the security of energy supply as well as the protection of its legitimate business interests and assets. There are hazardous substances involved with almost, if not all of the activities described in my First Witness Statement and this statement. Given the further, recent activities carried out by protestor groups since 3 May 2022, there is nothing to indicate that the action will cease, and these protestors are continuing to put themselves at risk as well as Shell's employees, contractors, the police, and members of the public.

4.4 The clear and stated goal of the protestors continues to be to put themselves and others at risk in order to achieve disruption and sabotage of the legitimate business interests of the Claimant.

## 5. PRACTICAL STEPS TAKEN BY THE CLAIMANT TO SERVE THE ORDER ON THE DEFENDANT

5.1 I understand, having spoken to my colleague, Sue Annis, who is the UK National Sales Manager for the Claimant, that the following steps have been taken by the Claimant to effect service in accordance with the terms of the Order:

5.1.1 On 6 May 2022 at 9:45am, the Claimant sent an email to the Shell Petrol Stations with the heading "*Shell Branded Service Station Injunction – Immediate Action needed*". The acts prohibited by the Order were set out in this email, together with the immediate action required by the Shell Petrol Stations.

5.1.2 This email also included clear and specific instructions, explaining where the warning notices required in relation to paragraph 9 of the Order (the "**Warning Notices**") should be put up in the Shell Petrol Stations. I refer to [BA2/21/68]; and

5.1.3 To date, of the 1056 Shell Petrol Stations which are covered by the Order, 614 (i.e. 58.53%) currently have the Warning Notice displayed.<sup>4</sup>

5.2 As evidence of the steps which the Claimant has taken to comply with the Order, I enclose [BA2/22/71]. This is a spreadsheet which records the steps that the Claimant has taken to effect service of the Warning Notices. The spreadsheet lists:

5.2.1 The relevant Shell Petrol Station in England and Wales where a copy of the Warning Notices have been posted in accordance with the terms of the Order;

5.2.2 The time at which the Warning Notices were posted;

5.2.3 The person who confirmed that had been effected; and

5.2.4 Confirms whether photographic evidence of service has been supplied from the relevant Shell Petrol Station as to the location of the Warning Notices.

5.3 I understand from Ms Annis that there have been some logistical challenges in relation to the above – not least because of the need to keep track of and record responses from all of the Shell Petrol Stations. However, the Claimant's main concern and priority is that the Warning Notices are properly brought to people's (be it protestors, contractors, the general public etc)

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<sup>4</sup> I note that of the 1056 Shell Petrol Stations, I understand that 1049 stations are currently open and operational, with the balance being closed for works.

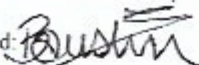


attention in a consistent manner across all the Shell Petrol Stations. In this regard, and in particular:

- 5.3.1 The layout of each Shell Petrol Station varies, and therefore so does the most suitable location for the Warning Notices; and
- 5.3.2 As currently posted, the A4 Warning Notices will likely require regularly replacing, given that they are paper notices not designed to withstand long periods exposed to the elements on a fuel station forecourt.
- 5.4 From seeing the terms of the Order, I understand that permission was sought from the Court to originally serve the Warning Notice in an A4 format, posted in various locations around the subject Shell Petrol Station forecourt – at the time, this ensured that the Claimant could immediately print and display the notices at each site without delay.
- 5.5 However, having given some further thought to this issue and in the event that the term of the Order is extended, I understand that the Claimant is going to seek permission from the Court to vary the terms of the Order to require that the Warning Notice is presented in a different (i.e. larger) format, in a more durable form, with specific narrowed areas for display at each Shell Petrol Station and confirms the same details about the existence of the Order as contained within the Warning Notices in a sensible, practicable and user-friendly manner to ensure that any protestors are notified.

#### 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: 

Name: BENJAMIN AUSTIN

Position: HEALTH SAFETY AND SECURITY MANAGER

Dated: 10/05/2022