

IN THE HIGH COURT OF JUSTICE

KINGS BENCH DIVISION

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

- (1) WM MORRISON SUPERMARKETS LIMITED  
(2) SAFEWAY STORES LIMITED  
(3) WM MORRISON PRODUCE LIMITED

Claimants

- and -

**PERSONS UNKNOWN -**

[more fully described in the Claim Form]

Defendants

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**CLAIMANTS' UPDATED SKELETON ARGUMENT**

**Hearing: at midday on 29 January 2025 (3.5 hours)**

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*References in this Skeleton Argument:*

- e.g. “[HB/50]” are references to page numbers in the Hearing Bundle.
- e.g. “[SB/20]” are references to tabs in the Supplemental Bundle.
- e.g. “[AB/1/2]” are references to the tabs/ page numbers of the Authorities Bundle.

**Suggested Pre-Reading: (Time Estimate: 3 hours) -**

- The Claimants’ skeleton argument for the hearing on 20 January 2025
- Order of Collins Rice J dated 16 January 2025 (“**the Collins Rice J Order**”)
- Order of Fordham J dated 20 January 2025 (“**the Fordham J First Order**”)
- The judgment of Fordham J dated 20 January 2025
- Order of Fordham J dated 21 January 2025 (“**the Fordham J Second Order**”) and the amended Fordham J Replacement Order amended on 24 January 2025
- The draft order for continuation
- Second Witness Statement of Scott Roberts (“**Roberts 2**”)
- Fourth Witness Statement of Andrew Todd (“**Todd 4**”)

**A. INTRODUCTION**

1. The procedural chronology of this application, to date, is as follows:

- 1<sup>st</sup> hearing of the application before Collins Rice J on 16 January 2025: Collins R J Order (interim injunction granted until 20 January 2025).
  - 2<sup>nd</sup> hearing of the application before Fordham J on 20 January 2025: Fordham J First Order (interim injunction continued for 1 day pending the Fordham J Second Order)
  - 21 January 2025: Fordham J Second Order (interim injunction continued until further return date until 28 January 2025).
  - 24 January 2025: return date re-listed to 29 January 2025 and Fordham J Order amended of the court’s own motion to reflect that (which produced the error identified below).
  - 29 January 2025: 3<sup>rd</sup> hearing of the application and second return date hearing.
2. This skeleton argument is filed to provide the Court with an update since the last hearing before Fordham J on 20 January 2025. The Court is invited to read the skeleton argument which was filed on behalf of the Claimant for that hearing and which sets out the relevant background, authorities and analysis, and the Claimants’ position on the substantive and procedural requirements which have to be satisfied in order for the grant of precautionary injunctions against Persons Unknown.
  3. As summarised above, on 20 January 2025, Fordham J granted a short continuation of the injunctions granted by the Collins Rice J Order until 28 January 2025 (which order was subsequently varied of the court’s own motion in view of the re-listing of the hearing on 29 January 2025). Fordham J also adjourned the matter to a further return date in circumstances where an email had been sent to the Court by an unidentified individual using a ‘Farmers to Action’ (“FTA”) email address, at 9am on 20 January 2025, in which the FTA had asked for “*some time*” to consider the documentation to “*determine if we need to seek counsel*” and, Fordham J stated “*despite all endeavours this afternoon it has proved impossible to elicit from the author of this morning’s FTA email what was meant by more “time” and what FTA’s position is in relation to that open suggestion on behalf of Morrisons*” [6] at [SB/6].
  4. The Fordham J Second Order made provision for the Defendants or any interested person to file evidence and written submissions by 4pm on 24 January 2025. On 27 January

2025 at 9:39am an email was sent to the Claimants' representatives and the Court from the FTA email address in which the writer (still unidentified) wrote:

*"Thank you for the time to read the documentation. We have had time to consider our position and at present we no longer wish to proceed."* [Todd 4 [SB/11]]

5. An update on the risk and harm presented by the direct action since the last hearing is set out in Todd 4 and Roberts 2.
6. At this adjourned return date hearing, the Claimants will seek continuation of the injunctions previously granted by Collins Rice J and Fordham J:
  - a. on the same terms (for such period as the Court considers fit) and with liberty to the Defendants to apply to set aside or vary, as set out in the proposed draft order filed with this skeleton argument;
  - b. on the basis that there continues to be a sufficient threat which justifies the injunction and for reasons which were advanced at the hearings before Collins Rice J, Fordham J, set out in the skeleton argument filed on 20 January 2025 and this skeleton argument.

**B. HOUSEKEEPING**

7. By the Fordham J Second Order, the Claimants were given permission to re-amend the claim form to clarify the description of the Defendants. A re-amended claim form has been sealed and served by the Claimants' solicitors.
8. However, on 24 January 2025, the Court amended the Fordham J Second Order of its own motion to substitute 29 January 2025 for 28 January 2025 as the return date in paragraph 8. In doing so, part of the scope of the permission to amend in paragraph 4 of the order was deleted (it appears that an earlier draft of the minute was used when making that variation because paragraph (1) of Schedule 3 remains highlighted in yellow. The Claimants suggest that this omission can be cured by the Court simply varying paragraph 4 of the amended Fordham J Second Order and the draft order has been prepared on that basis.
9. All documents relating to the proceedings have been updated to the Morrisons' website address, including the amended Fordham J Second Order. They have also been sent to the FTA email address.

### C. THE THREATS

10. Further to the threats set out in Todd 1, Todd 2 and Todd 3, the following is material:

#### *Support for protests at RDCs*

11. Since the Collins Rice J Order, there has been no unlawful activity at any of the RDCs [Roberts 2 at [SB/13]].

12. On 19 January 2025, a user of X posted a video showing a protest at a Tesco RDC. The protest appears to have occurred by a “go-slow” drive by tractors, affiliated with the aims of the Protest Groups [SB/11, Todd 4].

13. Since the Fordham J Replacement Order, users of Farming Forum, Instagram and Tiktok have come out in support of direct action at RDCs:

*-“Brilliant blocking food distribution centres as it has obviously made a difference with court injunction. Strategies need to be employed blocking distribution centres covertly or strategically such that Morrisons etc al can’t prosecute farmers.” [SB/11, Todd 4]*

*- “Covertly and strategically blocking distribution centres in a way such farmers can’t be prosecuted is the way to go if this evil tyranny of inheritance tax and the evil tyranny of immoral and illegal forcing farmers into a parasitic farm assurance scheme which equates to ever declining farm income and ever increasing farm workload for the vast majority continues.” [SB/11, Todd 4]*

*- In response to a post on X by the First Claimant, “Fuck your injunction I will at 1 of your depots. #boycottmorrison” [SB/11, Todd 4]*

*-“Ignore the injunction. It’s nonsense. The police can stop the right to protest unless it is stopping someone’s right to do business. If a detour is possible then no-one will stop it.” [SB/11, Todd 4]*

*- “Chain there gates shut n roller doors or weld them Shut” [SB/11, Todd 4]*

*- “If we all go to Morrisons they can’t lock all of us up then they won’t have any food anyways so sounds like a them problem” [SB/11, Todd 4]*

*-“Move to a location 100 feet away and they have to apply for a new injunction” [SB/11, Todd 4]*

*- “We will never stop. @FarmersToAction” [SB/11, Todd 4]*

14. Most strikingly, one user of Farming Forum posted the following comment on 26 January 2025 [SB/11, Todd 4]:

*“Thanks to Farmers to Action at Bridgwater we have discovered a powerful tool to force change on inheritance tax and immoral and illegal coercion into farm assurance auditing which is a detriment to UK farming. **We must not forget about this powerful tool at our disposal** . I heard Morrisons lost a lot of money and so took out a court injunction, **clearly blockading food distribution centres is a potent tool**. We have to keep public onside but I don’t think many blockades are required to force change . **Future blockades must be done covertly and strategically in order to avoid court injunction prosecution**. Firstly before more blockades it would be great to invite a supermarket to back British farmers against the inheritance tax and by rejecting UK farm assured food and demanding UK non-farm assured food. There is every possibility the public will be drawn to support this supermarket and farmers could wave banners and vocally support this supermarket to further enhance more public to shop at that supermarket, I’ll certainly go to that supermarket for groceries. (emphasis added)”*

### **Impact of direct action**

15. Todd 1 at [81] – [83] [HB/117-118] and Roberts at Sections 4 and 7 [HB/59-61, 64-67] identified the harm caused by blockades at the Claimants’ RDCs. Roberts 2 at Sections 2 and 3 expands on this further:
- a. From the Sites, the First Claimant fulfils many thousand deliveries per week, further to online orders. Some of those customers will include vulnerable members of society, who are unable to leave their houses. This is particularly the case due to the “doorstop” delivery service that Mr Roberts explains at Roberts 2 [SB/14]. That service is a telephone service specifically aimed at elderly and vulnerable persons unable to make it to a store. Per week, the First Claimant makes thousands of deliveries pursuant to that service.
  - b. As well as delivering produce to individuals, Mr Robert’s evidence (at Roberts 2 [SB/14]) identifies that charities, care homes, schools, infant schools and nurseries are all supplied with products, including fresh produce, from the Sites.

- c. The First Claimant is in the process of acquiring the NHS and a care home operator as wholesale customers, in addition to the 267 other organisations (including 72 foodbanks) that are existing wholesale customers. Those customers are all supplied with products which come from the Sites.

## **D. SUBMISSIONS**

### Full and Frank Disclosure

16. Todd 4 draws the following points to the Courts' attention:

- a. The FTA's email at Todd 4, described above at paragraph 4, arrived one week after its original communication and the request from Fordham J for the FTA to clarify its position. The email itself offered no explanation or apology for any delay. The email was sent after the deadline Fordham J ordered for the filing of any evidence by the Defendants (4pm on Friday 24 January 2025). As regards the email itself:
  - i. What is meant by "we no longer wish to proceed" is arguably somewhat opaque but it is submitted that it can only sensibly be interpreted as meaning that the organisation is not intending to secure the assistance of counsel to attend the hearing or attend the hearing itself, as it previously indicated it might.
  - ii. The organisational structure, status and membership of the FTA is unknown, it is not a party and it also cannot safely be assumed that the FTA speaks for all potential Defendants. The evidence described in paragraphs 13 and 14 above suggests that the risk has not been removed. In fact, the comment in paragraph 14 is consistent with Throup's evidence from the WhatsApp material. Together, it is clear that the organisation of the more disruptive end of the protest activity occurs covertly.
- b. On 22 January 2025, the FTA posted various photographs to their Facebook page thanking a number of supermarket operators for their support, akin to the one for the First Claimant at [Todd 2 at [64] [SB/8]]. The same points made above apply equally.
- c. On 27 January 2025, FTA protesters carried out a protest outside locations at the UK which were peaceful, including by one of the First Claimant's supermarkets. This is the sort of activity which Fordham J was concerned to make clear was not

captured by the injunctions and which is not part of the Claimants' evidence regarding risk. However, the recent evidence shows that the advocates for disruptive action are aware of the distinction between the peaceful protests at supermarkets, which the orders do not capture, and those at RDCs.

### Harm

17. Mr Roberts' second witness expands on the harm that would be caused by the tortious activity. Although purely financial harm would be sufficient to satisfy the requirement identified in *Wolverhampton*, the harm posed by blockades at the Sites would go beyond purely financial harm to the Claimants: it includes food security issues on a wide scale, affecting vulnerable members of society. In short, it is a matter of public importance.

### Real and imminent risk

18. The absence of protest at RDCs, including the Sites, since the Collins Rice J Order is evidence of the efficacy of the injunctions as an effective deterrent, rather than evidence of an absence of continuing risk.
19. Notwithstanding that, there is evidence that there continue to be protesters who are committed to the cause and committed to the means of protest by blockading. The Claimants cannot say where and when such protest might occur given they will occur "*covertly*" and "*strategically in order to avoid court injunction*".
20. That statement may mean that the protesters will target those sites which are not subject to the injunctions, in which case the need for injunctions to act as a deterrent to protect the Claimants' Sites can be said to be all the greater.
21. Alternatively, it may mean that the protesters are live to the limits of the injunction ("*move to a location 100 feet away*" or "*if a detour is possible then no-one will stop it*") or that certain protesters consider the risk of enforcement minimal ("*If we all go to Morrisons they can't lock all of us up...*"). The fact that there may be protesters who are prepared thwart the efficacy of the injunctions or risk the consequences of breach does not eliminate the risk facing the Claimants – in fact, the converse is true i.e., the Claimants may need greater assistance from the Court at a future stage if the limitations are exploited or in order to secure enforcement of the orders. The recent statements therefore militate in favour, rather than against, relief being granted at this stage.

### Identification of Defendants

22. The only additional person that the Claimants have identified is Mr Chris Fellows, the owner of the Farming Forum. His concern has been to make clear that he (and the company of which he is a director) has no commercial relationship with the FTA or any involvement with the organisation of protest at the Willow Green RDC [Todd 4 at [SB/14]]. He is not an appropriate Defendant to this claim.

### Temporal limits of proposed continuation

23. The Claimants primary position is to seek for the injunctions to continue until a review to take place in 12 months. The rationale behind that suggested time period is twofold:
- a. The evidence shows that the protest movement is tied to the IHT changes. As the comment from 26 January 2025 at Todd 4 [SB/11] indicates, blockades at RDCs are “*a powerful tool to force change on inheritance tax...* (emphasis added)” There is a credible evidential basis to conclude that the threat of blockading RDCs is allied to the desire to unpick IHT changes i.e., that it will continue up until those changes are due to come into effect on 6 April 2026. The Claimants’ proposal for a review in 12 months’ time will ensure that the matter is reconsidered by the Court before the implementation of those reforms and can therefore be said to be no longer than is reasonably necessary in the circumstances. It will also allow the Claimant to progress the litigation and ensure that the court has the evidence it requires in advance of the review hearing and the option of making a final order if continued restraint is necessary after the expiry of the interim period (subject to review, as per *Wolverhampton*).
  - b. The alternative and therefore secondary position of the Claimants would be to bring the injunctions back in, say, 3 or 6 months. The pattern of protest activity is unpredictable and there is no evidential basis to justify any such shorter period. Providing a much shorter time period could mean that the Court will be in no better position than it is in now to predict what is necessary to protect the Claimants’ interests and will involve unnecessary additional expenditure and Court time. The Court has already dedicated a considerable amount of its resources to the present application: it has been considered thoroughly on two occasions by two separate judges, with a further 3.5 hours of Court’s time allocated for the adjourned return date, before a third judge. It is submitted that it would be an unnecessary and



disproportionate use of further precious Court time to provide for a shorter temporal limit and require the matter to be reviewed at that stage, in circumstances where the protest activity is unpredictable and connected with the April 2026 IHT reforms, there is no opposition to the continuation of the orders sought and where persons who would fall within the description the Defendants and interested parties could make an application at any time (at a point where they can marshal their evidence and arguments, so they can be heard fully) if they wanted to challenge the orders or seek to vary them. However, if the Court was minded to make an order for a review in 3 months the Claimants would accept such shorter position.

#### **E. CONCLUSION**

24. For the reasons set out above, the Claimants invite the Court to continue the injunctions as sought by them in the draft Order.

**MYRIAM STACEY K.C.**

**EVIE BARDEN**

**LANDMARK CHAMBERS**

**28 January 2025**