

Party: Claimants
Witness: S S Wortley
Statement: First
Exhibits: "SSW1" - "SSW6"
Date: 13.12.2022

Claim Number: KB-2022-004824

IN THE HIGH COURT OF JUSTICE

KING'S BENCH DIVISION

B E T W E E N

(1) QUINTAIN (WEMBLEY RETAIL PARK) LIMITED
(2) WEMBLEY NE02 INVESTMENTS LIMITED
(3) WEMBLEY NE03 INVESTMENTS LIMITED
(4) JOHN SISK & SON (HOLDINGS) LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING OR REMAINING AT
THE PROPERTY DESCRIBED IN THE DETAILS OF
CLAIM WITHOUT THE CLAIMANTS' PERMISSION

Defendants

WITNESS STATEMENT OF

STUART SHERBROOKE WORTLEY

I, STUART SHERBROOKE WORTLEY of One Wood Street, London, EC2V 7WS WILL SAY as follows:-

1. I am a partner of Eversheds Sutherland LLP, solicitors for the Claimants.
2. I make this witness statement in support of the Claimants' application for an injunction to prevent urban explorers from trespassing on the Construction Site (as defined in the Details of Claim).

3. Where the facts referred to in this witness statement are within my own knowledge they are true; where the facts are not within my own knowledge, I believe them to be true and I have provided the source of my information.
4. I have read a copy of the witness statement of Ahmed Barkatali for the Claimants.

Urban Exploring and Fatal Accidents in the UK and abroad

5. I have considerable experience, in my professional practice, of proceedings relating to the phenomenon of 'urban exploring'.
6. "Urban exploring" (commonly abbreviated, amongst those who undertake it, to "urbex", "UE", "bexing" and "urbexing") involves the exploration of buildings and man-made structures to which the public do not have access. The activity is therefore associated with trespassing on sites and parts of buildings to which public access is prohibited. One common example is construction sites.
7. One particular variant or aspect of urban exploration is known as 'roof-topping'. This is an activity in which individuals will gain access to the roof of a building (without the building owner's consent) in order to take photographs and / or videos. Typically urban explorers target the tall "trophy" buildings in any given city – particularly those which offer photogenic views. This issue is not limited to tall buildings which are occupied. It also affects structures under construction and, in particular, urban explorers are attracted to tower cranes which are used to construct them, and which are often significantly taller than the building(s) under construction and any surrounding buildings.
8. A similar, but much less frequently encountered form of trespass on tall buildings and construction sites is what is known as "base jumping". This activity involves jumping from fixed tall structures and using a parachute to descend to ground level.
9. Whilst 'roof topping' is not a new phenomenon, there has been a distinct change of focus in urban exploring in recent years, which has particularly led to an increase in activity upon construction sites, (which is a particular reason for the Claimants' concern in this case). This has resulted from the use, by urban explorers, of social media platforms (including YouTube, Instagram, Facebook and TikTok) to upload videos and still images. This has led to an increased apparent focus upon unsafe activity. The desire of those who engage in urban exploring to increase their social media profile and obtain more views (which can also generate revenue) leads them to seek out dangerous situations whilst trespassing, which may generate footage

which attracts more 'views' (and which can lead to payments from social media companies). For the same reason, the taking of footage of famous buildings or from spectacular locations is also an increased focus of activity. A memorable example is the footage, which I discuss further below, of a firework display over Wembley Stadium which was taken from the top of a tower crane by an urban explorer, and uploaded in 2018.

10. The influence of social media upon urban exploring has led to particular problems and risks:-

10.1 first, it has promoted the activity more widely and encourages others to participate in "copy-cat" acts, with some sites being repeatedly trespassed by a series of different individuals (as the videos commonly show others how the sites can be accessed);

10.2 secondly, the desire for exciting and novel footage encourages urban explorers to engage in increasingly dangerous activities, such as performing acrobatic stunts on ledges at extreme height or climbing along the jibs of cranes in the manner of monkey bars. I have seen several video recordings of this sort of activity on the social media platforms referred to above.

11. As will be obvious to the court, urban exploring carries with it serious risks for those involved and for others. The activity is generally carried out by juveniles and young adults. Those engaging in this activity (particularly those who are active on construction sites) often appear to underestimate or discount the risks involved. For example it is common in such videos for the protagonists to explain that they are 'experienced' and that the activity should not be attempted by inexperienced people, with the false implication that some level of safety or care is being employed by them. In practice, such statements simply show a lack of insight on the part of those who are exposing themselves to these risks.

12. The true level of risk arising from this activity is perhaps most starkly apparent from the number of deaths around the world which have (or appear to have) occurred as a result of urban exploring. I have advised clients in this field since 2017. Since that time I have become aware of the following fatal accidents which appear to be connected with urban exploring:-

12.1 June 2013 - Pavel Kashin (aged 24) died when he fell from a building in St Petersburg;

- 12.2 April 2014 - Xenia Ignatyeva (aged 17) died when she fell from a railway bridge in St Petersburg;
- 12.3 February 2015 - Carl Salomon (aged 19) died when he fell from a crane in Sydney;
- 12.4 October 2015 - André Retrovsky (aged 17) died when he fell from a building in Vologda in Russia;
- 12.5 December 2015 - Connor Cummings (aged 24) died when he fell from the roof of the Four Seasons hotel in New York;
- 12.6 March 2016 - Tolya (aged 13) died when he fell from the roof of a building in Saratov;
- 12.7 October 2016 - Christopher Serrano (aged 25) died when he was hit by a train in New York;
- 12.8 November 2016 - Yuri Yeliseyev (aged 20) died when he fell from a building in Moscow;
- 12.9 November 2016 - Wu Yongning (aged 26) died when he fell from a building in Changsha in China;
- 12.10 January 2017 - Nye Frankie Newman (aged 17) died when he was hit by a train in Paris. Nye Newman was a founding member with Rikke Brewer (the First Defendant) of the Brewman Group – an urban explorer collective of climbers;
- 12.11 January 2017 - Maxime Sirugue (aged 18) died when he fell from a bridge in Lyon in France;
- 12.12 March 2017 - Thomas Rhodes (aged 19) died when he fell from a building in Sheffield;
- 12.13 June 2017 - a young man who has not yet been named died when he fell from a bridge in Kiev;
- 12.14 August 2017, Leon Hoyle (aged 12) died when he fell through the roof of a disused industrial building in Lancashire;
- 12.15 October 2017 - Eric Janssen (aged 44) died when he fell from the London House Hotel in Chicago;
- 12.16 July 2018 - Jackson Coe (aged 25) died when he fell from a building in New York;

- 12.17 September 2019 - Johnny Turner (aged 28) died when he fell from scaffolding at a site in Waterloo, London; and
- 12.18 June 2020 - Ethan Bonnar (aged 22) died when he fell through the roof of a disused dairy building in Devon.
13. As well as these sad fatalities which appear clearly to be related to urban exploring, in January 2018, the body of Sam Clarke (aged 21) was found on the construction site at 1-5 Bank Street at Canary Wharf after he gained unlawful access to that site. In that case, the precise circumstances of his death are unclear.
14. I attach marked "**SSW1**" Evening Standard articles concerning the tragic deaths of Sam Clarke in 2018 and Johnny Turner in 2019.

Construction Sites

15. Almost all urban exploring is dangerous, but trespassing on construction sites has particular hazards which construction workers are aware of and which they are trained to deal with (but which urban explorers and other trespassers who have undertaken no site-familiarity training will necessarily be unaware of). All lawful visitors to a construction site are also obliged to wear Personal Protective Equipment – something urban explorers never do.
16. The risks associated with such hazards are increased if urban explorers are discovered on site. Once they have been seen, the first reaction of urban explorers is often to run away in an attempt to avoid being caught by security guards or the Police.
17. As with all construction sites, various security measures are in place at the Construction Site (and more will be in place construction progresses) to protect workers on site, such as scaffold guardrails to protect people from falling down voids – which can be several stories deep. Urban explorers think nothing of vaulting over fences and scaffold guardrails and such activity can often be seen on urban exploring videos. Indeed, being chased whilst attempting to escape security guards is often presented as entertainment in urban exploring videos. One comes across many videos with titles such as 'nearly caught at...' or 'rooftop chase at...'. Of course, numerous other risks arise from normal construction hazards (including risks of tripping and falling) which are again heightened in relation to people who are unfamiliar with the site and who are exploring it at night (which is when most activity occurs) and who are not wearing any form of personal protective equipment.

Injunctions on Other Construction Sites

18. Since 2018 I have been involved in obtaining injunctions in relation to many sites in London, and particularly construction sites, to restrain persons unknown from trespassing upon them, including:
 - 18.1.1 various construction sites on the Canary Wharf Estate;
 - 18.1.2 100 Bishopsgate in the City of London;
 - 18.1.3 Principal Place Residential on Bishopsgate in the City of London;
 - 18.1.4 1 Leadenhall Street in the City of London;
 - 18.1.5 40 Leadenhall Street in the City of London;
 - 18.1.6 22 Bishopsgate and 100 Bishopsgate;
 - 18.1.7 Bankside Yards on the south bank of the River Thames in London;
 - 18.1.8 a major development at Southbank Place;
 - 18.1.9 The Shard Place (both during its construction and afterwards);
 - 18.1.10 a major development at 250 City Road involving a tall residential block;
 - 18.1.11 a tall residential block at South Quay Plaza in Docklands;
19. In all of these cases, the Court was persuaded that there was a real risk / strong probability of trespass from urban exploring in circumstances where there was a risk of serious harm eventuating. In most (but not all) of them, by the time the injunction was obtained incidents of actual or attempted trespass by urban explorers had already occurred.
20. Urban exploring is now so prevalent that in a number of cases the Court has been persuaded that the inherent attractions of a particular site, and the associated risks, have been sufficient to present a real risk / strong probability that the site would be subject to trespass if not protected by an injunction. That was, for example, the conclusion of:-
 - 20.1 Mr Justice Soole in proceedings relating to the Bankside Yards development (a construction site on the south bank with commanding views over the River Thames to St Paul's Cathedral and other landmarks);

- 20.2 Mrs Justice Stacey in relation to 40 Leadenhall St (a tall building under construction, with even taller cranes, in the City of London); and
- 20.3 Mr Justice Fraser in relation to 1 Leadenhall St (a similarly tall building with similarly tall cranes).
21. The highest level of urban explorer activity has been in Central London. However, the activity has not exclusively been so. I have been instructed to obtain injunctions in relation to construction sites and landmark buildings in other cities around the country and in relation to particular locations outside Central London but easily accessible from urban centres. For example, I was also instructed to obtain an injunction in relation to a development of tall residential buildings known as Victoria Square in Woking. In that case there was a specific threat to the site from a specific urban explorer, who was also in the habit of operating the cranes whilst he trespasses on construction site.

The Particular and Continuing Attraction of Tower Cranes

22. To verify my belief that tower cranes on construction sites continue to prove a strong attraction to urban explorers, I have identified some examples over the last year or so:-

9 November 2021

Majestik.sb

"Cold Sunrise"

<https://www.instagram.com/p/CV-1GZ-l2Qv/>

This video was also featured in the Daily Mail on 6 January 2022

<https://www.dailymail.co.uk/news/article-10374365/amp/Adrenaline-junkies-climb-558ft-crane-east-London.html>

11 January 2022

Alexander Farrell

"Long way down"

<https://www.instagram.com/p/CYmZhYQMMCM/>

24 March 2022

Mxxrgn

"Climbing crane for sunset (escape)"

<https://www.youtube.com/watch?v=IVdGlnOYfw4>

The description of this video reads "New video where i climb a crane near a police station and they end up coming out and trying to catch me! Of course, i got away!"

18 April 2022
Daringducky69
"I climbed the tallest crane in the UK-SOLO- 08 Bishopsgate"
<https://www.youtube.com/watch?v=9tEm95H0yEw>

25 April 2022
ClimbAddict
"London Crane Climb/Roof Missions"
<https://www.youtube.com/watch?v=-7TtZyQ7PfU>

11 August 2022
Chichiatube
"I climbed a crane in London"
<https://www.youtube.com/watch?v=EyVa8NyWBiM>

15 August 2022
Daringducky69
"Crane climb with some unexpected visitors *Police helicopter & dogs*"
<https://www.youtube.com/watch?v=8XmR6b5yM8U>

18 August 2022
George King Thompson
"Crane climb in London"
<https://www.youtube.com/shorts/zuTJwavSQcI>

12 September 2022
George King Thompson
"LONDON EXTREME CRANE CLIMB"
<https://www.youtube.com/shorts/3OSQbeNAzL8>

14 November 2022
BefaceComputing
"2 Crane climbs in London"
<https://www.youtube.com/watch?v=RLjbAPQbcmY>

23. Many of these videos and photographs show individuals climbing tower cranes and hanging off them.
24. I have already mentioned above the injunction relating to the Victoria Square development in Woking, which involved the specific risk of operating cranes. I note that in October 2022 Ben Gittings (an urban explorer who is known on-line as "Beno"), and who was the named subject of that injunction, uploaded to YouTube a video called 'Free Crane driving lesson'. In this video, Ben Gittings is seen climbing a tower crane on an unidentified construction site and operating its controls. The URL for the video is:-

<https://www.youtube.com/watch?v=pq666JxRHak>

25. Mr Gittings has uploaded various other videos in the past showing him operating cranes on construction sites.
26. There is now produced and shown to me marked "**SSW2**" a schedule of other urban exploring videos and still images all uploaded during 2021 / 2022. The focus of this material is on construction sites in London and much of it involves tower cranes. This material demonstrates that urban exploring continues to be a serious problem for construction sites (and tall buildings) in London. Every one of these videos / photographs evidences an incident of dangerous trespass.

Existing injunction at Wembley Park

27. In December 2018, my firm acted for Wembley Park Limited (and other parties) in obtaining an injunction to restrain urban explorers from trespassing on 15 construction sites close to the Construction Site (Claim Number QB-2018-00342). The witness statement in support of those proceedings was provided by Matt Voyce, Quintain's Construction Director.
28. The trigger for seeking that injunction was the climbing of tower cranes by Mr George King-Thompson. Ultimately he gave an undertaking to the court (with which he complied). However, the Court was satisfied that there remained an imminent, real risk of further trespass by others at the site. The attractions, to urban explorers of a site with tall cranes immediately next to Wembley Stadium are obvious.
29. It is apparent from the extracts from the videos referred to by Mr Voyce in his evidence that Mr King-Thompson was particularly attracted to the site by its proximity to the iconic Wembley Stadium. I would also draw the Court's attention to paragraph 36 of his statement in which Mr Voyce recites a message sent by Mr King to the Chief Executive of Quintain. In that he apologised for his "arrogance in approach to climbing the cranes". He continues:

"I am an established climber, and aim to inspire people who have mental health issues by demonstrating passion that could help give clarity to their life. ... Personally climbing really saved my life, so I'm trying to spread a positive message".

30. Mr King-Thompson apologised and ultimately gave an undertaking to the court not to breach this injunction (although the following year he climbed The Shard in breach of an injunction which my team obtained to stop climbing on that building). I draw this passage to the Court's attention because it illustrates the degree to

which those engaged in this activity devalue the risks of their activity in comparison to what they perceive to be the benefits of it.

Scope of present proceedings

31. The building work on each of the 15 construction sites already protected is substantially complete. Given the need to justify any further injunction by reference to the present circumstances and given the age of that injunction, the Claimants consider that it is appropriate to commence this fresh action to restrain trespass on the Construction Site rather than to amend the existing proceedings.
32. As Mr Barkatali explains in his witness statement:-
 - 32.1 in due course, the Claimants' intend to construct buildings known as NE04, NE05 and NE06;
 - 32.2 currently, the land on which building NE06 and part of building NE05 will be constructed is not within the Claimants' possession as it is occupied by a pop-up cinema; and
 - 32.3 if the Order is granted, the Claimants will apply to extend the scope of the injunction once possession of the pop-up cinema land has been recovered.
33. The Claimants obviously cannot know when the next attempt will be made by an urban explorer to climb one of the tower cranes at the Construction Site. Urban explorers do not advertise which buildings or construction sites they intend to target in advance. Whilst I know of around 5 instances (in 2018 / 2019) when urban explorers did disclose their intention to climb a particular crane / building in advance, that practice appeared to stop completely once urban explorers discovered that their videos and photographs on social media were being monitored by certain security teams and my firm.
34. In fact there now appears to be some element of competition between urban explorers to obtain footage of new and spectacular sites. It may also be for this reason that, in my experience urban explorers, do not now advertise their intended targets in advance and site owners very rarely have specific intelligence in advance of a threat to trespass on a particular construction site.

Effectiveness of Injunctions

35. The injunctions which have been obtained to date have reduced urbex activity at the relevant construction sites for tall buildings. That is not only my view but one shared by those responsible for security at those sites.
36. I am aware of only a handful of incidents in which urban explorers have deliberately breached an injunction to restrain trespass on a site:-
- 36.1 in September 2018, 5 individuals (including Messrs Farrell and Quaraishi) trespassed on Newfoundland Tower in breach of the Canary Wharf injunction. In my view, this was an early attempt by urban explorers to test the effectiveness of injunctions to restrain trespass. My firm acted in committal proceedings brought against these 5 individuals and a copy of the decision of His Honour Judge Freedman in November 2018 is attached to this statement at "**SSW3**". In paragraph 10, HHJ Freedman said that he would impose a custodial sentence if any of the individuals breached an injunction again;
- 36.2 in July 2019, George King-Thompson climbed The Shard in breach of an injunction which protects that building (the tallest in Western Europe). This was an exceptional case in which Mr King-Thompson made clear that he consciously and willingly risked imprisonment in the interests of raising his profile. Again my firm commenced committal proceedings and a copy of the decision of Mr Justice Murray is attached to this statement at "**SSW4**". Although Mr King-Thompson expressed regret at having breached the injunction, at the time of the committal hearing he was seeking to generate publicity for the stunt (see paras 41 (iii) and 49 of the judgment at pp 104 / 5 of the hearing bundle).
37. In my respectful opinion, the deterrent effect of an injunction to restrain trespass has been greatly assisted by the clarity of the decisions of His Honour Judge Freedman in the Canary Wharf committal hearing in November 2018 and The Honourable Mr Justice Murray in The Shard committal hearing in October 2019.
38. These committals have sent a strong message to the urban exploring community and it is apparent that the vast majority of urban explorers avoid sites which are protected by an injunction. I attach marked "**SSW5**" an article published by Construction News in 2019 which illustrates this point. The author quotes a protagonist saying:-

"As soon as there's an injunction, then it's not worth literally breaking the law just to go on a construction site"

39. The Court may be aware that in September 2022, Adam Lockwood climbed The Shard in breach of an injunction. As well as being a very particular case, by reason of that building being the ultimate challenge for urban explorers in Europe, in fact I believe that the willingness of Mr Lockwood to risk imprisonment for breach of the injunction was calculated on his part.
40. In August 2022, Mr Lockwood pleaded guilty to a burglary charge after being caught stealing camera equipment in Manchester. Before climbing the Shard he posted material suggesting that he knew that he would be imprisoned. Although the implication of the media content was he would be imprisoned for his forthcoming climb of The Shard, and was thus an act of bravado about his willingness to proceed despite that risk, in fact I believe that it is a reasonable inference that he thought that he would be imprisoned for his burglary in any event, and so a concurrent period of imprisonment for contempt of court would not be a significant further penalty for him.
41. At the time of making this statement Mr Lockwood remains on remand in Forest Bank Prison in Manchester.
42. I therefore remain of the view that injunctions represent a very strong deterrent and a genuine and effective protection against this unlawful activity.

Proceedings against Persons Unknown

43. Although we are aware of the identify of many people who engage in urban exploring, the Claimants cannot know all of them. More pertinently, since it is now unheard-of for urban explorers to give advanced warning of their attempted trespass on particular sites, the Claimants cannot know in advance which particular urban explorer might choose to target the Construction Site and it is clearly inappropriate for the Claimants to name any person simply because they are known to have engaged in urban exploring at some location in the past.
44. In fact this activity is not confined to British nationals but is engaged in by people from around the world. In proceedings in which an injunction was obtained to protect the O2 Arena (*AnSCO Arena Ltd v Law* [2019] EWHC 835) the Court heard evidence that trespassers had travelled from the Netherlands specifically to climb that building. Many UK-based urban explorers post footage of them climbing tall or significant buildings abroad.

Permission to issue without a named defendant and to dispense with service

45. There are no named defendants to these proceedings. Although the rules are somewhat unclear as to whether permission is therefore necessary, pursuant to CPR 8.2A, I respectfully ask that the Court grant the necessary permission if that is required.
46. Since no person will become a defendant to the proceedings unless they knowingly breach the injunction it is not proposed to physically serve the proceedings on anyone. If a party knowingly breaches the Order, they would automatically become a party to the proceedings.
47. However, it is appropriate that the Claimant take steps which reasonably be expected to bring the existence of the injunction to the attention of someone wishing to trespass on the Construction Site. The draft Order therefore makes provision for substituted service of the proceedings by means of the posting of warning notices which describe the basic operation of the injunction, and identify ways in which copies of the injunction can be obtained (including immediately online from a mobile phone by using the url on the notice).
48. This method of service has been commonly used on construction sites. Proving that the Order has come to the attention of those who have been committed for the breach of such injunctions (including in the Canary Wharf and The Shard actions referred to above) has not been a difficulty, which I believe demonstrates that the proposed methods of service are effective.
49. The procedure which we propose to adopt in this case (and which has been adopted before), is:-
 - 49.1 to upload a complete copy of the injunction (and the proceedings) to a specified website;
 - 49.2 to post copies of a warning notice around the perimeter of the Site at frequent intervals informing people of: the existence and nature of the injunction; the proceedings; the potential consequences of breaching it; an address at which copies of the proceedings can be sought; and the website at which the injunction can be viewed;
 - 49.3 to maintain a copy of the proceedings at the Site office; and
 - 49.4 to provide copies to anyone who contacts me requesting them.

50. I attach to this statement a suggested form of notice marked "**SSW6**".

I believe that the facts stated in this Witness Statement and Exhibits 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 to make this statement on behalf of the Claimants.



Stuart Sherbrooke Wortley

13 December 2022