

**Claim Number:**

**IN THE HIGH COURT OF JUSTICE**

**QUEEN'S BENCH DIVISION**

**B E T W E E N**

- (1) 1 LEADENHALL GP LIMITED
- (2) 1 LEADENHALL NOMINEE LIMITED
- (3) MULTIPLEX CONSTRUCTION EUROPE LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT  
THE CONSTRUCTION SITE AT 1 LEADENHALL STREET  
LONDON EC3V 1PP WITHOUT THE CLAIMANTS' PERMISSION

Defendants

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**"SSW1"**

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This is the exhibit marked "**SSW1**" referred to in the witness statement of Stuart  
Wortley dated 8 February 2022



BREAKING ⌚ 1h

⌚ 57m

⌚ 4h

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# Johnny Turner death: Man who fell to his death from scaffolding in Waterloo was free runner

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'Inspiring': a friend described Johnny Turner as 'the beating heart of the free-running community in London'

By [Julia Atherley](#) [John Dunne](#) @jhdunne | 16 September 2019

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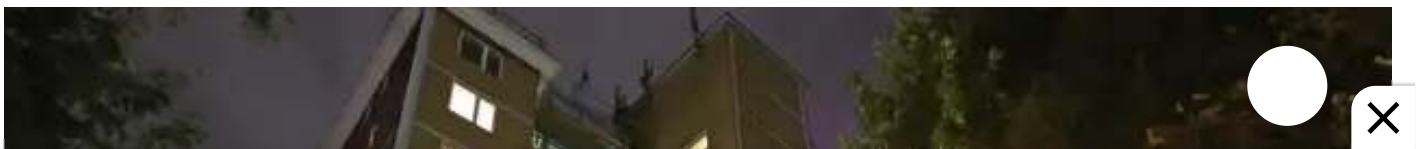


**A** man who fell to his death from scaffolding in south London was a free-running enthusiast who had travelled across Europe practising parkour.

Johnny Turner, 28, died after plunging from the eighth storey of a block of flats in Waterloo on Thursday night.

Tributes were today paid to Mr Turner, an accomplished parkour runner from Wandsworth who had scaled a host of high-rise buildings in London.

Friends described him as a pioneer of London's urban exploring community, with pictures online showing him scaling buildings such as the Barbican and Battersea Power Station.





The man fell to his death from Windmill House in Waterloo / NIGEL HOWARD ©

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James Wood, a fellow parkour enthusiast, said: “Johnny was the most thoughtful, inspiring, gentle, enthusiastic, positive person I have ever met. He was the beating heart of the free-running and urban exploration community in London.

“There was never anything negative he had to say about anyone or anything, he relished living in the moment and insisted he had his friends by his side.”

Mr Turner’s uncle, Ralph Phillips, said: “He was a great boy, really nice to be around. His mum and dad knew what he did and obviously worried about it as any parent would.

“His parents have been to see us after what happened. For a parent to have a child like this before them is something hard to comprehend. They are devastated. He was a talented



Mr Phillips said Mr Turner's parents, who were away in Germany when the accident happened, want a thorough investigation to take place.

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More than 40 fellow free runners met at Windmill House, where Mr Turner died, yesterday to pay their respects.

A GoFundMe page set up in his memory has raised more than £3,500. The page said he had the "kindest and pure soul".

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⌚ 4h

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NEWS › LONDON

# Sam Clarke: Man who fell 50ft to his death at Canary Wharf building site went missing after night out



Tragic death: Sam Clarke / Facebook

By Justin Davenport | 03 January 2018

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**A** man who plunged to his death at a city skyscraper construction site disappeared after returning from a night out with friends, it emerged today.

Sam Clarke vanished on a New Year's Eve night out while returning from an event at the O2 concert arena.

His friends launched a desperate search for him and put out appeals on social media.

But today his friend Jack Armstrong confirmed that Mr Clarke had died after falling into a 50ft trench on a construction site at Canary Wharf.

His body was found yesterday morning when workers returned to work.

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The body of Sam Clarke was found in a Canary Wharf building site on Tuesday morning / Getty Images

Mr Armstrong posted on Facebook saying: "I would like to thank everyone for the messages of support and shares.

"Unfortunately it's bad news, as Sam passed away (he was the body found at Canary Wharf this morning). We all his friends and all family are absolutely distraught, R.I.P Sam, God bless"

Sam, who is believed to be from St Albans in Hertfordshire, had been with a group of friends at the Indigo at the O2 music venue in Greenwich before becoming separated.

They had been had attending the Kisstory hits event, which featured DJs including DJ



Friends paid tribute on Facebook. Nessa Rawlinson wrote: “Sleep peacefully Sam. Your friends wont forget you x”

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Aimi Davey wrote: “So sad, he went to school with my son they were the same age. So young! My heart goes out to his family and friends. RIP SAM x”

A Met Police spokesman confirmed that the body of a man was found at 8.46am yesterday.

The man was pronounced dead at the scene and his death was not being treated as suspicious.

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**IN THE HIGH COURT OF JUSTICE**

**QUEEN'S BENCH DIVISION**

**B E T W E E N**

- (1) 1 LEADENHALL GP LIMITED
- (2) 1 LEADENHALL NOMINEE LIMITED
- (3) MULTIPLEX CONSTRUCTION EUROPE LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT  
THE CONSTRUCTION SITE AT 1 LEADENHALL STREET  
LONDON EC3V 1PP WITHOUT THE CLAIMANTS' PERMISSION

Defendants

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**"SSW2"**

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This is the exhibit marked "**SSW2**" referred to in the witness statement of Stuart  
Wortley dated 8 February 2022

**Case No: QB-2020-002633**

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**

Strand,  
Holborn,  
London WC2A 2LL

**Date of hearing: Thursday, 30<sup>th</sup> July 2020**

Page Count: 23  
Word Count: 8120  
Number of Folios: 113

**Before:**

**MR JUSTICE SOOLE**

**(1) MULTIPLEX CONSTRUCTION EUROPE LIMITED**  
**(2) LUDGATE HOUSE LIMITED**  
**(INCORPORATED IN JERSEY)**

**Claimant**

**- and -**

**PERSONS UNKNOWN ENTERING IN OR REMAINING AT**  
**THE CLAIMANTS' CONSTRUCTION SITE AT BANKSIDE**  
**YARDS WITHOUT THE CLAIMANTS' PERMISSION**

**Defendant**

**MISS BROOKE LYNE for the Claimants**

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**PROCEEDINGS**  
**(Remote hearing)**  
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CLERK OF THE COURT: Good morning, sir. It is John Lloyd, your clerk. Can you hear me alright?

MR JUSTICE SOOLE: Yes, thank you.

CLERK OF THE COURT: Good. On the conference this morning addressing you is Miss Brooke Lyne, and she has her instructing solicitor Stewart Wortney. She would like to start if you are happy, sir, with QB-2020-002633, Multiplex Construction Europe Limited v Persons Unknown. Would you be able to---

MR JUSTICE SOOLE: Yes, thank you. Do you want to start recording?

CLERK OF THE COURT: Yes. I can confirm now that the case is being recorded and there is no need for microphone or any other issues, other than the fact that no private recording should be made of this hearing. Go ahead please, sir.

MR JUSTICE SOOLE: Yes, Miss Lyne. I think you are taking this one first because work is starting on 3<sup>rd</sup> August.

MISS LYNE: Yes. To be honest, my Lord, it is my own preference. I prepared for this one first, so it makes sense in my mind to deal with them sequentially. Yes, I would like to address you on that one first, if I may.

MR JUSTICE SOOLE: Yes.

MISS LYNE: Could I just check that you have everything. I think there should be a bundle that runs to 129 pages.

MR JUSTICE SOOLE: I have not printed all those off. I have printed quite a lot off for the other case, but I have the documents. If I need to go into the electronic bundle we will need to go in and out again I think probably. But I have seen---

MISS LYNE: I am grateful.

MR JUSTICE SOOLE: I have read the things that matter, as I believe, and skimmed where skimming is sufficient.

MISS LYNE: I am grateful. And I am hopeful that you have a copy of my skeleton argument?

MR JUSTICE SOOLE: I have indeed.

MISS LYNE: I am grateful.

MR JUSTICE SOOLE: And I have a draft order.



A MISS LYNE: I am grateful. Perhaps it is useful for me to just give you an idea of how I  
propose to deal with this. I am conscious that the two applications that I have before you  
this morning are in some ways similar. Of course, the factual matrix is different, but  
certainly the broad context of the type of trespass complained of is similar, and also the  
B law is of course the same. So you will accept my apologies if I am repeating myself and  
ask me to move on if you want me to do so.

C I propose to go through the background to this application first, and then deal with  
the law and then make my submissions thereafter. I should say, and I have flagged this  
in my skeleton argument already, that what we are seeking today, of course, is the  
interim order, and what has been done in the past often when you are dealing with an  
application for an injunction against persons unknown is that this first hearing has  
almost been dealt with as a disposal of the matter in its entirety, because there is no-one  
D that is proposed to be served, or personally served. What we are proposing, and partly as  
a result of recent authority, is for this to just deal with the interim application so that  
there is then a space in time essentially for anyone that wants to object to our claim to do  
so, and then for there to be a fully substantive hearing to argue about whether or not the  
E court can and indeed should grant a final order in the terms that we seek. My clients do  
seek a final order eventually, but for the time being and for today's purposes seek only  
those interim orders. I am sure the court will be aware of the *Canada Goose* case, which  
is pretty recent.

F MR JUSTICE SOOLE: Yes. Unless there is some very exceptional circumstance you cannot  
get a final injunction without being able to name people who have in fact acted  
wrongfully.

G MISS LYNE: Quite. And certainly my client's position at that hearing will be that this is the  
type of case where that exception will apply. But I think that is a substantial argument  
that is going to require a significant amount of time, and the court is going to want to  
hear quite significant argument on that point.

MR JUSTICE SOOLE: Yes.

H MISS LYNE: And it is not the argument that I am going to be making today essentially.

MR JUSTICE SOOLE: No. But the consequence of that it seemed to me anyhow was that  
any interim injunction is going to be relatively short, because what the court cannot do

A as I understand *Canada Goose* above all is to make an order which is tantamount to a final injunction. By that I mean of a considerable length.

MISS LYNE: Quite.

B MR JUSTICE SOOLE: In both the applications this morning you have understandably referred to previous orders made. And in the other case carrying on until 2023 as against the named defendants. They were all made before the law was clarified.

C MISS LYNE: Yes, and that is part of why we are doing it as we are procedurally. I cannot and should not ask for final injunctions today. Clearly the court needs to look at that properly, and if a further hearing in respect of these matters is listed after the recess and for a more appropriate timeframe – it is not going to take an hour to deal with those matters – then that seems to me to be the type of approach that *Canada Goose* was envisaging, i.e. a short interim order until that more substantive hearing, and then the court will have to look at whether or not it can grant the final order that my clients will be seeking.

D MR JUSTICE SOOLE: So how long are you seeking an order for today?

E MISS LYNE: At the moment the order that we are seeking says until further or final order, and it would be proposed for another hearing to be listed after the recess at some point. I do not have specific dates in mind today, but proposed to be in a couple of months' time after the recess, so that there is an opportunity for more time and for a substantive hearing at that point.

F MR JUSTICE SOOLE: I am not quite clear. You mean more time to consider the application for an interim injunction.

MISS LYNE: No.

G MR JUSTICE SOOLE: Or to consider an application for a final injunction, i.e. summary judgment.

MISS LYNE: Yes, the latter. Quite.

H MR JUSTICE SOOLE: Yes. But this order has to have some duration, does it not, until a certain date?

MISS LYNE: I am not terribly convinced it needs to, and the reason I say that is that although of course the law says these orders need to be quite specific in terms of their temporal limits, I say that saying the order should be until further order or final order

A when there is going to be another hearing at some point in the near future is perfectly  
sensible. The reason I say that is that I have had various experiences in the past where a  
specific date is put in place – whether it be in 2 months’ time or 6 months’ time – and  
then, for whatever reason, that hearing gets vacated, and then further applications have  
B to be made for it to be place for a few days longer, or however long it might need to be.  
So actually it ends up being relatively counterintuitive. So it seems to me that it is more  
appropriate to say further or final order and then re-list the hearing than to have---

C MR JUSTICE SOOLE: I think I will need persuasion on that. There needs to be some date  
which is coming up in the future and not just left. I do not doubt when you say you  
want to apply in due course for a final injunction, but there is a danger otherwise that the  
thing is just left in the air as a continuing order. That then becomes tantamount to a final  
injunction.

D MISS LYNE: Quite. Perhaps I can take further instructions precisely on that point, if I may,  
and perhaps we can come back to it if I manage to persuade you---

MR JUSTICE SOOLE: One thing would be to give an undertaking. I think in some cases  
people give undertakings that they will apply for final injunction by such and such a  
date.

E MISS LYNE: That is certainly something I can take instructions on.

F MR JUSTICE SOOLE: At the moment I can tell you that, leaving all the other factors aside,  
I am not disposed just to make an order which continues until further order, because  
otherwise that imposes no obligation on you as claimants to bring the matter to a final  
resolution.

MISS LYNE: I am grateful for that indication. Perhaps I could take some further  
instructions and---

G MR JUSTICE SOOLE: If you want to argue against that, of course do so, but that is my  
present feeling.

MISS LYNE: I am grateful.

MR JUSTICE SOOLE: All because of *Canada Goose*, yes.

H MISS LYNE: Quite. Perhaps in the meantime I will take a few instructions on precisely that  
point, and then when I get to the end hopefully if I have persuaded you to grant the  
orders---

JUDGE GERALD: Yes.

A MISS LYNE: ---then we can talk through the matter of how the draft order should be dealt with.

MR JUSTICE SOOLE: Yes.

B MISS LYNE: Going to the more broad background, we of course are applying for an interim injunction in respect of land known as (or we have referred to as) Bankside Yards. Essentially that is a construction site on Blackfriars Road. The second claimant is the owner of the relevant land. There are Land Registry titles in the bundle at page 31. Both the freehold and leasehold relevant titles are owned by the second claimant. The C first claimant is tasked with managing the construction project, and pursuant to an agreement between the first and second claimants from Monday, as my Lord has already referred to, the first claimant will take possession of that land to commence construction works.

D MR JUSTICE SOOLE: Yes.

E MISS LYNE: And thereafter will be responsible for the site until the project is complete. The site is enclosed. It is enclosed by hoarding and fencing. I understand from the witness statement that there will be a minimum of 3 tower cranes once construction begins on the site. The first claimant has various construction sites across London. You will have seen from the evidence that they have already obtained similar injunctions in respect of those sites as a result of those sites being targeted by what we are referring to as urban explorers---

F MR JUSTICE SOOLE: But those injunctions I think are all pre-*Canada Goose*, are they not?

MISS LYNE: They are. That is correct, yes, they are pre-*Canada Goose* injunctions, that is quite right.

G That brings me on to the type of trespass that the claimants are concerned about in this matter, and that is what we have described as urban exploring, and Mr Wilshire has provided a detailed explanation of what that is and why it is has become this sort of prevalent problem in recent years. Essentially urban explorers trespass on buildings and other urban structures to perform stunts, take videos and then post that content on line, H and it has become a really significant problem in particular at sort of landmark structures in the last few years.

A I guess the sort of secondary consequence that the claimants are concerned about is  
that it is not just the individual who commits the trespass that causes a problem; it is the  
ripple effect of having done that that encourages others to perform the same type of  
behaviour and replicate it. So even if a video or a particular trespass took place  
B sometime ago, the fact that the video may remain online indefinitely means that it has a  
lasting effect and can continue to be viewed and continue to have that replicatory effect  
a long time after the actual trespass took place.

MR JUSTICE SOOLE: But you are not seeking an injunction against videos.

C MISS LYNE: No, we are not, but it comes to the sort of broader concerns about why this  
behaviour is a problem and why even one incident can end up causing a much larger  
problem. In recent years construction sites have become a focus and a particularly  
popular target for people wanting to engage in these activities.

D I should add at this point, and I am under a high disclosure obligation, that there  
have not yet and we do not have evidence of attempts to trespass at Bankside Yards yet.  
I think I need to be pretty candid about that. But what we say is that there have been  
numerous instances of similar incursions into not only the first claimant's construction  
sites but also other sites across London, and that as a result there is that significant threat  
E of it occurring at Bankside Yards, and we want to protect that side before construction  
works begin.

MR JUSTICE SOOLE: It is in the nature of a *quia timet* injunction that the event has not  
occurred.

F MISS LYNE: That is right and that is the submission I want to make, but I think I need to be  
pretty straightforward that a lot of the time with these types of injunctions there is  
evidence of attempts in the past or on the specific site that you were looking at, and in  
this case I cannot make that submission to you.

G MR JUSTICE SOOLE: Yes.

MISS LYNE: And in this case we say it does not really matter because there is so much  
evidence of similar behaviour that it is only a matter of time really before this site may  
become the target of urban explorers.

H You will have seen in the evidence that the danger of this type of behaviour is self-  
evident. Firstly, climbing on buildings is by its very nature dangerous, but in particular

A

swinging off cranes and in a construction site environment any risk is particularly bad, and the risks to not only the person who is behaving in that way, but also anyone on the construction site is very grave.

B

MR JUSTICE SOOLE: There is a risk, of course, to security staff, emergency services, members of the public, and in respect of the trespassers themselves of course an occupier has a duty, albeit a limited duty, to trespassers as well.

C

MISS LYNE: Yes, absolutely. Quite rightly the consequences for persons other than the individual who does it are very broad, and you will have seen – you have had a look at some of the committal judgments that have been provided in support – that the court has acknowledges all of those concerns in the past and---

D

MR JUSTICE SOOLE: Yes.

MISS LYNE: ---the implications are really significant.

MR JUSTICE SOOLE: I need no persuasion of the highly dangerous nature of these activities, the effects on the individuals and other innocents on the sites, the responsibility which any proper freeholder and construction company towards the health and safety of the site.

E

MISS LYNE: I am grateful. In which case I propose to move on to the law and the legal basis for the claim, if I may.

MR JUSTICE SOOLE: Yes.

F

MISS LYNE: You will have seen in my skeleton argument that I have set out what the relevant tests are for this type of injunction, and of course we are the landowner, or certainly the second claimant is for the time the person entitled to immediate possession, and so *prima facie* if there is a trespass of course we are entitled to an injunction. But because, of course, this is an anticipatory injunction you need to be satisfied that, firstly, there is a real risk or strong possibility that an infringement of the property rights will take place---

G

MR JUSTICE SOOLE: Did you say strong *possibility* or *probability*?

MISS LYNE: Probability, strong probability.

H

MR JUSTICE SOOLE: Yes. It is not quite clear which is the test, but they both seem to appear in the cases.

A MISS LYNE: Yes, absolutely. I do not think there is one specific test. The word *imminence* occurs quite frequently, though that word has been clarified to mean not premature. But I think in this case whatever word you choose it is going to be met.

B The second test is where there is a breach of those rights, or would be a breach of those rights, the harm that might occur would be grave and irreparable such that damages or an immediate injunction thereafter would not be an adequate remedy.

MR JUSTICE SOOLE: Is that very different from the *American Cyanamid* test of the question of whether or not damages would be an adequate remedy?

C MISS LYNE: I am not sure it is. I think it is a formulation of that done in quite a specific context.

MR JUSTICE SOOLE: Yes.

MISS LYNE: But I think the broad principles are exactly the same, and the court is familiar with that approach from any type of injunction.

D MR JUSTICE SOOLE: Yes. You say that damages are not an adequate remedy; in any event it is unlikely that such people would be good for the money for a claim for damages even if it were an adequate remedy; cross-undertaking is barely needed in the circumstances, but if it is you are good for the money yourselves; and the balance of convenience is in favour of an order.

E MISS LYNE: Yes.

MR JUSTICE SOOLE: Yes.

F MISS LYNE: That is precisely what I intend to argue. I have also set out in my skeleton argument the *Boyd* principles which apply specifically in “persons unknown” cases.

MR JUSTICE SOOLE: I was not quite sure why you cited those rather than *Canada Goose*, because *Canada Goose* has expanded those, has it not?

G MISS LYNE: It has, but I think specifically in the context of final injunctions, and I think the *Boyd* principles---

MR JUSTICE SOOLE: No, no, I meant paragraph 82 of *Canada Goose*:

H “Building on *Cameron* and the *Ineos* requirements, it is now possible to set out the following procedural guidelines applicable to proceedings for interim relief against ‘persons unknown’ in protester cases like the present one.”

MISS LYNE: Yes. I think I accept your point that perhaps that was a more accurate brief statement of precisely where we are now. I think I was going for *Ineos* because it was a

A case decided on the question of interim injunctions, but I think the principles are broadly the same, but there are 7 in *Canada Goose* rather than 6 and---

MR JUSTICE SOOLE: Yes, but it is expressly concerning interim relief against persons unknown, and it expands on those points in *Ineos*.

B MISS LYNE: Yes. I think because I was looking at the context of precisely what that case was dealing with, I thought *Ineos* was probably the more appropriate one to cite. But perhaps we can go through those ones instead of the ones I have given you.

MR JUSTICE SOOLE: I think so because it is building on *Ineos*. This is a full court, the Master of the Rolls and so on, setting out the 7 matters.

C MISS LYNE: Yes.

MR JUSTICE SOOLE: Tell me if I am wrong, but it seems to me that that ought to be the central source of law in these cases. I mean, I do not myself – tell me otherwise – personally see any difference between a protestor case and a trespasser case really, except that in protestor cases Article 10 comes into play.

D MISS LYNE: Quite. Yes, there is a difference to the extent that there is usually no or very little prospect of a defence being raised when you are dealing with trespasses---

MR JUSTICE SOOLE: Yes.

E MISS LYNE: ---but as you pointed out, when you are dealing with a protestor case there is a much bigger balance that the court needs to strike with competing rights.

MR JUSTICE SOOLE: Yes.

F MISS LYNE: So certainly *Ineos* is closer in terms of... No, it is not. *Ineos* was dealing with fracking, so that is also a protest case. I apologise.

MR JUSTICE SOOLE: Yes.

G MISS LYNE: I apologise. It wasn't. But certainly I think the context is slightly different, albeit the principles are broadly the same. But it is how the court approaches them, and when there is a defence being raised, particularly a human rights defence, the court takes a slightly different approach to that when there is no prospect of a defence.

H So looking at those principles in *Canada Goose* at paragraph 82, persons unknown need to be identified by definition. You will have seen in my skeleton argument that there has been lots of debate about how to precisely define them and, in particular, you should not define them by reference to an unlawful act, and all of that sort of thing. In



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this case you will see that we are, of course, defining them by reference to the act of entering or remaining on the construction site without the claimant's permission.

MR JUSTICE SOOLE: Yes.

MISS LYNE: We think that satisfies those requirements.

MR JUSTICE SOOLE: Because we are not using the word "trespass". That is the important thing, is it not?

MISS LYNE: Yes, absolutely. And that deals with paragraphs 1 and 2. Interim relief may be granted if there is a sufficiently real and imminent risk of a tort being committed. We have just talked about that and why I say all of the things that have gone on at the first claimant's other sites and other construction sites in London in recent years demonstrate why there is an imminent and sufficiently real risk---

MR JUSTICE SOOLE: Yes.

MISS LYNE: ---of the tort being committed. The next one is about whether or not persons can be identified and about service, and you will have seen in the skeleton argument I have set out precisely what we are proposing in terms of service and to ensure that essentially anybody that is about to commit or potentially commit a breach of the injunction can be properly advised that what they are doing will amount to a breach of the injunction. So what we are proposing is having warning notices – a copy of that notice is in the bundle – everywhere that is sensible around the premises. As I have said before, because they are going to be hoarded premises it should come to the attention of anybody intending to trespass.

MR JUSTICE SOOLE: And that links into the position that you come subject to the order. At the moment you are in breach.

MISS LYNE: Yes.

MR JUSTICE SOOLE: And you are only in breach if you knowingly do something.

MISS LYNE: Yes.

MR JUSTICE SOOLE: You will have knowledge via the notices.

MISS LYNE: Yes, absolutely.

MR JUSTICE SOOLE: Can you just tell me, and I had difficulty finding it, could you just read to me the essential terms of the notice. It will not have the full order, but just what it says.

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MISS LYNE: Yes, absolutely. The notice begins with a bold heading saying “**Important Notice. High Court of Justice claim no**” and then it says “On [a specific date] an order was made in the High Court of Justice prohibiting anyone from climbing upon any building, structure or equipment at these premises without the claimants’ permission. Anyone in breach of this injunction will be in contempt of court and may be imprisoned, fined, or have their assets seized. A copy of the court order, claim form, particulars of claim, application notice, particulars of claim and witness statement are available at”, and then it has the website address.

MR JUSTICE SOOLE: Wait a moment. The order which you are seeking is not against climbing. It is against entering or remaining without permission.

MISS LYNE: That is correct. I think that will have to be amended slightly.

MR JUSTICE SOOLE: Completely, will it not, because it has to summarise what the injunction has said, and it doesn’t.

MISS LYNE: You are quite right.

MR JUSTICE SOOLE: The one in the other case you have a notice in those terms. Sorry, your order specifically refers to climbing. But unless I am looking at the wrong order the draft order that I have been looking at says: “The defendants must not until trial or further order without the consent of the claimants enter or remain upon any part of the construction site at Blackfriars Road...as shown edged red on the plan as demarcated from time by time by hoarding or security fencing.”

MISS LYNE: Yes, my Lord, I think you are absolutely right. It is going to need to be amended to remove “climbing”.

MR JUSTICE SOOLE: Otherwise it is misleading. I know that is the object of it, of course, but it is not accurately stating, in fact it is inaccurately stating what is in the proposed order – unless you are seeking something different in the order.

MISS LYNE: I am not. I apologise. You are absolutely right. It should say “enter or remain” rather than “climb”. I think perhaps it was amended after the last order which was slightly different, and it needs to be reflective of that.

MR JUSTICE SOOLE: Yes.

A

MISS LYNE: Then it says at the bottom, “Copies may be obtained from the site office”, and then it has contact details of my instructing solicitor so that he can be contacted in the event that anyone wants to raise a problem with it.

MR JUSTICE SOOLE: Yes.

B

MISS LYNE: Item 5 in *Canada Goose* is that the prohibited act must correspond with the threat or tort. I do not think we are in too much difficulty there because we are dealing with a trespass matter. It is self-evident that entering somewhere that you are not entitled to go is a trespass. And the terms of the injunction must be sufficiently clear and precise to enable people potentially affected to know what they must not do. We are in kind of quite helpful territory here, because it is going to be so obvious that there is going to be fences and hoarding to prevent what you should not be doing.

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MR JUSTICE SOOLE: Yes.

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MISS LYNE: But again the terms of the injunction, I say, are very clear about precisely what one cannot do.

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Then lastly geographical and temporal limits. Again, we have the maps that demonstrate clearly what land is covered by the injunction, and the help of the fencing and the hoarding will mean that it is not going to be difficult to know. And then temporal limits is something that we have touched on briefly. I will have to have a look at my instructions, but it is something that we are going to need to talk about in terms of the length of the order.

F

MR JUSTICE SOOLE: Yes.

MISS LYNE: I think my instructions on that point, noting your indication earlier, is that we would seek an order for 6 months, a 6 months’ longstop in the hope that we could potentially get hearing before then to deal with the substantive question of the final order.

G

MR JUSTICE SOOLE: To take it to the beginning of February.

MISS LYNE: Yes.

MR JUSTICE SOOLE: Yes.

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MISS LYNE: My Lord, we have had a look and I have touched on some of the things that I ask---

A MR JUSTICE SOOLE: Although we are not dealing today with final injunction, paragraph 89 is pretty clear, is it not?

B “[It] cannot be granted in a protester case against persons unknown who are not parties at the date of the final order, that is to say newcomers who have not by that time committed the prohibited acts and so do not fall within the description of the ‘persons unknown’ and who have not been served with the claim form. ...very limited circumstances, such as in *Venables*...in which a final injunction may be granted against the whole world. Protester actions, like the present proceedings, do not fall within that exceptional category. The usual principle, which applies in the present case, is that a final injunction operates only between the parties to the proceedings...”

C At the moment I cannot see why a protester case would be any different from the present sort of case.

D MISS LYNE: I think the argument that we will argue for our final injunction is that the court leaves open the possibility of there being some exceptional circumstances where final orders can be granted against the whole world. In a case such as this, where we are dealing with the possibility of fatalities, that is precisely the type of scenario – if there is a scenario where you might be entitled to a final order against the whole world, this is precisely it.

E MR JUSTICE SOOLE: Yes. Again I need no persuasion on the desirability of remedies against this sort of conduct. Again, and this is in my mind also for the purpose of an interim order, that paragraph 93 of *Goose* which talks about seeking

F “to invoke the civil jurisdiction of the courts as a meaning of permanently controlling ongoing public demonstrations by a continually fluctuating body of protesters... Private law remedies are not well suited to such a task.”

One can see that. There may be a lacuna in the criminal law. As you point out in your witness statement, it is not a criminal offence or---

G MISS LYNE: It can be, but it is very difficult---

H MR JUSTICE SOOLE: Some circumstances, yes. There can be conspiracy to commit a trespass. I think all I am saying for today’s purposes is that these are all very cautionary words, are they not?

MISS LYNE: They are, absolutely.

A MR JUSTICE SOOLE: Not a position, I imagine, that was in that sense welcome to those who had these problems, but you can see, of course, the legal principle which underpins it.

B MISS LYNE: Yes, absolutely, and there is going to need to be quite significant argument about precisely those points, because with *Canada Goose* it is pretty obvious what it is saying. What I would say is that there is a distinction that is going to need to be drawn here about whether or not *Canada Goose* can be kept within the realms of a protest-type scenario, because I think the consequences of that scenario are very different to what we are dealing with here. But that again is going to be an argument for another day, and I think quite rightly bearing those principles in the back of our minds for the purposes of this hearing is entirely necessary and appropriate.

C MR JUSTICE SOOLE: Yes.

D MISS LYNE: At this point I propose to move on to my submissions which I have kind of piecemeal addressed you on as I go, but just so I do not miss anything. I have made the point before now that there is imminent risk and a real risk of further problems, and in particular on this site. You will see there have been previous injunctions obtained by the first claimant following targets of other construction sites by urban explorers. You will see again in 2019 another injunction was obtained after the Dovehouse Street construction site was targeted by urban explorers, and there have been numerous other incidents on other sites: two last October, two last December, and then an incident in February of this year involving two men, and then as recently as 27<sup>th</sup> June of this year four unidentified men trespassed on the Demack Tower construction site. So this is an ongoing problem with recent examples of why we are concerned, or why my client is concerned. I will not go into too much detail, but there are lots of other instances involving other contractors in the last 18 months, and they are set out in the witness statement at paragraph 33.

E MR JUSTICE SOOLE: Yes. Mr Wilshire says also that unsurprisingly tower cranes are a magnet.

F MISS LYNE: Yes, absolutely. And in particular taking photos off of the arms of tower cranes had been a particularly popular exploit for explorers, and also one of the most dangerous. That is self-evident.

MR JUSTICE SOOLE: Yes.

A MISS LYNE: You will have seen from the evidence that there was in January 2018 the body of a 21-year old young man found at the Canary Wharf construction site after trespassing. So there is a very recent example of precisely the thing that my clients want to avoid.

B MR JUSTICE SOOLE: Just one point on the evidence, in paragraph 41.2 of the witness statement Mr Wilshire says “The Bankside Yards construction site is in a prominent location and will become an obvious target”, but he adds, “The tower cranes are already a target.” Do I understand from that that there have already been incursions?

C MISS LYNE: I am certainly not aware of any. I do not think that is expressed as clearly as it should be. I think more likely what it means is tower cranes are a target more generally.

MR JUSTICE SOOLE: Generally. I see.

D MISS LYNE: I do not have any evidence to point you to of specific attempts on tower cranes, no.

MR JUSTICE SOOLE: Okay, thank you.

MISS LYNE: My Lord, the next thing is damage being an inadequate remedy. We have touched on this already.

E MR JUSTICE SOOLE: Yes.

MISS LYNE: And then the principles we have just been through in terms of *Canada Goose*. Again we have been through them in detail. I do not know to what extent you want me to---

F MR JUSTICE SOOLE: I don't, no.

MISS LYNE: I am grateful.

MR JUSTICE SOOLE: What I would like to do, subject to anything you want to say before, is go through the proposed order.

G MISS LYNE: Yes, my Lord. I need to address you on service.

MR JUSTICE SOOLE: Oh yes.

H MISS LYNE: As you know, the court has the power to dispense with service of the claim form and indeed dispense with personal service of an injunction. I will be inviting you to do both of those things.

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MR JUSTICE SOOLE: Are you actually asking for an order dispensing with service, as opposed to having... Dispensing with personal service, do you mean?

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MISS LYNE: Yes, absolutely. In respect of the personal service of the order I think I need, for the avoidance of doubt, dispensing with personal service and then provision for the substituted service that we have already talked about.

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MR JUSTICE SOOLE: Right.

MISS LYNE: There was some discussion in the *Vastint* case about even if you have an order for substituted service, if there is no express dispensation with personal service you might have difficulty enforcing. So I think just for the avoidance of doubt I would ask you to do that.

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MR JUSTICE SOOLE: You do not have that in the present order, I do not think.

E

MISS LYNE: No. It was one of those things that I wanted to deal with, if I may. As we have discussed already, the notices around the premises will be the primary way for people to know precisely that there is an order and what the order restricts. There will be copies of all the relevant documentation on a website that can be referred to if you look at those notices. And there will be copies of all of the relevant documents at the site office at the site. We say that those methods of providing copies to anyone that wants to view them are sufficient both in terms of service of the claim itself, but also in terms of service of the order as well. In this case it is the most practicable way to deal with service. Obviously each court deals with it differently, but it is the approach that has been taken in the past and it is very similar to the approach that one would take if you were seeking under the CPR possession proceedings against trespassers and very similar notices going up in the relevant places etc.

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MR JUSTICE SOOLE: On the service point, are you asking for an order pursuant to CPR 8.2(a)?

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MISS LYNE: Yes. Paragraph 8 of the draft order---

MR JUSTICE SOOLE: Is it required, or not?

H

MISS LYNE: To be honest, my Lord, I have to confess that it is not entirely clear. If one looks at the CPR it is not entirely clear in which circumstances you need that permission. I have racked my brains and looked at the cases, but I cannot see precisely where that is dealt with. I think in that event we would seek your permission as per paragraph 8 of the

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order. Unfortunately I do not think it is something the CPR has ever thought to update or clarify. I think we ought to do that for the sake of ensuring that we have covered everything.

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MR JUSTICE SOOLE: Then (inaudible) that specifically to 6.15, yes. No, you do have the order for dispensing with...

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MISS LYNE: Yes. It does not deal with the order. It deals with the claim form, not the order. You will see at paragraphs 9 and 10 it is dealing specifically with the claim form. I think what we need to do at paragraph 5 is just add in for the avoidance of doubt that personal service is dispensed with.

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MR JUSTICE SOOLE: I do not think for the avoidance of doubt. You either make an order or not, I think. I think the words "for the avoidance of doubt" tend to add doubt normally.

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MISS LYNE: Okay. In which case I would like the order to just say "personal service is dispensed with".

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MR JUSTICE SOOLE: Yes. Service of this order may be effected... And when you do that, that means literally personal service, physically handing it to somebody.

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MISS LYNE: Specifically for injunctions---

MR JUSTICE SOOLE: It must be, because in this case you only become liable to the order when you breach it, so you will not have been served personally. There is no way you can be personally served. It has to be dispensed with, does it not, for it to work?

H

MISS LYNE: I think so, yes.

MR JUSTICE SOOLE: Alright.

MISS LYNE: I am conscious also looking at the draft order that paragraphs 3 and 4 appear to have been duplicated accidentally. I apologise for that. I am quite happy to send you over a slightly amended order if that would help.

MR JUSTICE SOOLE: Whatever happens I will have to see an amended order and also a copy of the notice that you referred to.

MISS LYNE: Yes.

MR JUSTICE SOOLE: You cannot draft (inaudible) and anyhow I need to see it and formally approve it.

MISS LYNE: Of course.



**A** MR JUSTICE SOOLE: Is it the moment then to go to your order, the first page.  
MISS LYNE: Yes.  
MR JUSTICE SOOLE: So you will insert the claim number, yes?  
MISS LYNE: Yes.

**B** MR JUSTICE SOOLE: My name.  
MISS LYNE: Yes.  
MR JUSTICE SOOLE: The date.  
MISS LYNE: Yes.

**C** MR JUSTICE SOOLE: The title of the defendants I think I am happy with, because it is sufficiently defined as a class of persons.  
MISS LYNE: I am grateful.  
MR JUSTICE SOOLE: You will remove the word “draft” where it says “order for an injunction”.

**D** MISS LYNE: Yes.  
MR JUSTICE SOOLE: The penal notice is in the standard form, I take it.  
MISS LYNE: Yes.

**E** MR JUSTICE SOOLE: The recitals – you do not need the second recital, do you?  
MISS LYNE: No.  
MR JUSTICE SOOLE: It does not make any sense, does it?  
MISS LYNE: No, I do not think so when it is a claim against persons unknown.

**F** MR JUSTICE SOOLE: I suppose there could have been notice by some means, could there not? I think you might say “Upon the claimant’s application notice dated 27<sup>th</sup> July 2020 and the hearing without notice.”  
MISS LYNE: Yes.

**G** MR JUSTICE SOOLE: “The claimants giving the undertakings to the court set out in Schedule 2.” Let us go to those undertakings. It is one undertaking, is it not?  
MISS LYNE: Yes.

**H** MR JUSTICE SOOLE: In the singular. Schedule 2... (Pause) “It is ordered that. The defendants must not...” Here we have the date. Let me get my diary. Six months take us until?  
MISS LYNE: 30<sup>th</sup> January, I think.

A MR JUSTICE SOOLE: That is a Saturday.

MISS LYNE: In which case it is going to be---

B MR JUSTICE SOOLE: 29<sup>th</sup> January. Six months. What is to stop you applying at a considerably earlier stage than that for – this is an entirely open question. I do not know the answer at the moment – final judgment this autumn and having a hearing---

C MISS LYNE: I do not think there is anything necessarily stopping us. It is just whether or not the timeframe is realistic. Giving us 6 months gives the sort of necessary protections that I was referring to earlier in case for any reason we cannot get a hearing date or for any reason something is pushed back. It seems to me that 6 months is a reasonable period. It is reflective of being an interim order rather than a final order, and it would be hoped that we could get a hearing to consider the final order before then.

D MR JUSTICE SOOLE: Yes. Very well. It is a little bit longer than I was originally thinking. I was thinking more to a date in December, but on the other hand with the intervention of Christmas and New Year, let alone all the other things going on in our world at the moment. As I say, I am very conscious that there must not be an order which is something which could offend the principle in *Canada Goose*. Alright. So “must not until 29<sup>th</sup> January 2021 or further order”.

E MISS LYNE: Yes.

MR JUSTICE SOOLE: I just want to be clear. “As shown edged red on the plan at schedule 3 to this order as demarcated.” Do you mean “*and* as demarcated”?

F MISS LYNE: Yes, I think so.

MR JUSTICE SOOLE: There will be no inconsistency between... Oh I see.

MISS LYNE: I think the point being is on the ground. The hoarding will mark where you cannot go, and that is shown as indicated on the plan.

G MR JUSTICE SOOLE: Leave it as it is. “from time to time”. I think that is sufficiently clear, is it not? The hoarding or fencing has to reflect the plan, does it not?

MISS LYNE: Yes.

H MR JUSTICE SOOLE: Alright. And we still express it in terms of the “defendants”, do we, even when it is persons unknown?

MISS LYNE: Yes.

A MR JUSTICE SOOLE: Yes. Then they have interpretation of the order. You strike out the repeat. Paragraph 5: personal service is dispensed with. And then carry on as before in 5.

MISS LYNE: Yes.

B MR JUSTICE SOOLE: “The claimant shall post” – is that meant to be “notice” or “notices”?

MISS LYNE: I do not think it needs to be plural, because it says “all main entrances”, but---

MR JUSTICE SOOLE: Right. “As soon as reasonably practical” is rather vague.

MISS LYNE: We can put a specific time limit in, I think.

MR JUSTICE SOOLE: Sorry?

C MISS LYNE: I can take instructions about how quickly we can do that.

MR JUSTICE SOOLE: To me that is too vague. I would like “by 4 p.m on” such and such a date.

MISS LYNE: Let me just take some instructions on precisely when we can do that by.

D (Pause while same done) I am being told next Wednesday.

MR JUSTICE SOOLE: 5<sup>th</sup> August.

MISS LYNE: Yes.

E MR JUSTICE SOOLE: Yes, by 4 p.m on 5<sup>th</sup> August 2020. “At all main entrances and at least... (Pause) There is something wrong with the grammar in (b), is there not? Should it be “at at least”?”

MISS LYNE: Yes, I think so.

F MR JUSTICE SOOLE: Perhaps slightly easier language would be “at a minimum”.

MISS LYNE: Yes. I should say paragraph 5 will obviously become paragraph 4.

MR JUSTICE SOOLE: Renumbering, yes. “The said notice shall include a statement...”

G (Pause) I see. Should what is now 6(b) be “Shall post *a* notice”? Leave it as it is. “The said notice shall include a statement of the copies of this order, the claim form...”

(Pause) And the witness statement will include the exhibits.

MISS LYNE: Yes.

MR JUSTICE SOOLE: In 7(b) where it says “his”, that should be “is”.

H MISS LYNE: Yes.

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MR JUSTICE SOOLE: That is a typo. We have the contact details at the top. “Issue and service of claim” – should that be “claim form”? No, claim. I see. (Pause) Do you want any changes to what are 8 to 10?

MISS LYNE: No, I don’t think so. I will need to alter what are paragraphs 6 and 7.

MR JUSTICE SOOLE: Change, yes. Now, communications with the court. I am sure in other orders that I have been looking at while I have been in court 37 in this crisis there has been an email address.

MISS LYNE: Right. Yes.

MR JUSTICE SOOLE: I do not have one to hand.

MISS LYNE: I am sure I can find it.

MR JUSTICE SOOLE: You can check with the court. I think communications (inaudible) at the moment certainly including an email address because of staff not being there and so on. “The judge read the following witness statement”. And the plan will be attached.

MISS LYNE: Yes.

MR JUSTICE SOOLE: I have sufficiently read the exhibit, rather quickly, but the body of it. Yes. Is there anything else that needs to be said?

MISS LYNE: I do not think so, my Lord.

**(Judgment was delivered – see separate transcript)**

MR JUSTICE SOOLE: That can be revised and sent to me as soon as possible after you have had your next hearing.

MISS LYNE: Yes.

MR JUSTICE SOOLE: Tomorrow is my final day of sitting and then I will be literally away, so it will have to be finalised.

MISS LYNE: It will be ready today.

MR JUSTICE SOOLE: Thank you very much indeed.

MISS LYNE: Thank you.

MR JUSTICE SOOLE: Do it in Word preferably. (a) it is easier to print off, and if I want to make a change I can by way of suggestion. Send me the (inaudible) that you propose.

MISS LYNE: Yes.

MR JUSTICE SOOLE: Right. Thank you. That deals with the Multiplex case.

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**Marten Walsh Cherer hereby certifies that the above is an accurate and complete record of the proceedings or part thereof.**

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**Citation Number: [2020] EWHC 2403 (QB)**

Case No: QB-2020-002633

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**

Strand, Holborn,  
London, WC2A 2LL

Date of hearing: Thursday, 30<sup>th</sup> July 2020

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**Before:**

**MR JUSTICE SOOLE**

**Between:**

**(1) MULTIPLEX CONSTRUCTION EUROPE LIMITED** **Claimant**  
**(2) LUDGATE HOUSE LIMITED**  
**(INCORPORATED IN JERSEY)**

**- and -**

**PERSONS UNKNOWN ENTERING IN OR REMAINING AT** **Defendant**  
**THE CLAIMANTS' CONSTRUCTION SITE AT BANKSIDE**  
**YARDS WITHOUT THE CLAIMANTS' PERMISSION**

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**Ms Brooke Lyne (instructed by Eversheds Sutherland (International) LLP) for the**  
**Claimants**

-----  
**APPROVED JUDGMENT**

**(Remote hearing)**  
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## MR JUSTICE SOOLE:

1. This is a without notice application dated 27<sup>th</sup> July and issued on 28<sup>th</sup> July 2020 by the First Claimant construction company and the Second Claimant landowner for *quia timet* injunctive relief against persons unknown in respect of a construction site known as Bankside Yards at Blackfriars Road, London SE1 9UY. Its purpose is to restrain people from trespassing onto these properties in order to carry out what is known as urban exploration. This is an activity which involves the exploration of buildings and man-made structures within the urban environment; and associated with trespassing on parts of buildings to which public access is prohibited.
2. According to the evidence before me, the activity is commonly abbreviated to “urbex”, “urbexing” and the like. One particular variant of this activity is known as “roof-topping”, i.e. gaining access to the roof of a building without the consent of the owner in order to take photographs and videos, and typically to display these as marks of success on the internet. Gaining access to the roof is usually achieved not from the outside but using the internal parts of buildings to which the public do not have access, e.g. loading bays, service corridors, stairwells, goods and fire lifts.
3. The risk from participation in these activities is demonstrated by a number of deaths around the world. 17 such deaths between June 2018 and September 2019, 3 of them in England, are referred to in the witness evidence of the First Claimant’s Health and Safety Director Mr Wilshire. He emphasises that these activities are not limited to occupied tall buildings. It also affects buildings under construction and the cranes which are used for that purpose. The Bankside Yards site will include a minimum of 3 tower cranes. During 2018/2019 there has been a significant increase in urbex activity on construction sites, magnified by the use of social media platforms to display these events. Whilst all urban exploring is dangerous, he states that trespassing on construction sites has particular hazards. Thus, e.g., all visitors are obliged to wear full personal protective equipment, but urban explorers never do so. There is a range of site security to meet the dangers which urban explorers pose to themselves and others, e.g., scaffold guardrails to protect people from falling down voids, but urban explorers think nothing of vaulting over these. In addition there are the normal construction hazards, e.g. from tripping and falling.
4. On Monday 3<sup>rd</sup> August 2020 the First Claimant will take possession of Bankside Yards. The Second Claimant is the registered freehold and leasehold owner of the land on which it is to be built. Mr Wilshire cites the relevant terms of the construction agreement and states that the projected date for practical completion of the first phase of the project is May 2022. The second phase should be completed by December 2023. He states that, excluding Bankside Yards, the First Claimant is currently undertaking 8 major construction projects in Central London. All of these are currently protected by injunctions in terms similar to those proposed in this present application.
5. In July 2018 the First Claimant obtained an injunction to restrain trespass at three construction sites in the City, two in Bishopsgate. In March 2019 it obtained an injunction to restrain trespass at 7 construction sites in the City after these had been repeatedly targeted by urban explorers. In December 2019 it obtained an injunction to restrain trespass at a site in London SW3 which had been similarly targeted. Copies of the injunctions are attached to his witness statement. He states, from information supplied by the Claimants’ solicitor Mr Wortley, that several other major construction

sites have been targeted by urban explorers within the last 18 months and that Mr Wortley's firm has obtained injunctions to restrain trespass at a range of sites including Canary Wharf and Wembley Park.

6. Mr Wilshire sets out the various security measures which his team will be implementing at Bankside Yards. These include timber site hoardings a minimum 2 metres high, lighting, 24-hour security personnel, intruder alarms, anti-climb measures on hoardings and tower cranes, and closed circuit television. Whilst satisfied that these are all the sensible precautions that can be taken, Mr Wilshire believes that there remains the imminent threat of trespass from urban explorers. He points to instance of trespass and attempted trespass at other Multiplex sites between October 2019 and June 2020. These included a number of breaches of the injunctions to which I have referred. Nonetheless, he states that the injunctions have proved themselves to a significant deterrent for this activity, particularly when they have led to successful applications to commit for contempt of court. He refers to successful applications obtained by Mr Wortley and his team, e.g. in respect of Canary Wharf and The Shard.
7. He identifies the following particular concerns in respect of the Bankside Yards sites. It is in a prominent location. It has tower cranes, which are generally a target, and it will overall become an obvious target for urban explorers. These activities are generally carried out by juveniles and young adults and are inherently dangerous. Those involved show little insight into the risks they are running. There are particular hidden dangers on construction sites of which they will not be aware. Their activities pose risk of death or serious injury, not only to themselves but also to those protecting the site and trying to remove the risk. He states that the First Claimant's senior managers have concluded that applying for an injunction is in the best interests of maintaining the safety and security of urban explorers themselves, its own employees, members of the general public and the emergency services.
8. On behalf of the Claimants Ms Brooke Lyne submits that the application satisfies the requirements for *quia timet* relief as against persons unknown, and the wider requirements under *American Cyanamid* for the grant of injunctive relief. The essential requirements for *quia timet* relief are, first, that there is a real risk or strong probability of an infringement of the Claimants' rights, i.e. by trespass to their property; secondly, that if there were a breach of those rights the harm that might occur would be grave and irreparable, such that damages or an immediate injunction at that point would not be an adequate remedy. In support, she cites, in particular, *Vastint Leeds BV v Persons Unknown* [2018] EWHC 245 at para 31, and *Ineos Upstream v Persons Unknown* [2017] EWHC 2945 at paras 88-89.
9. As to injunctions against persons unknown, she submits that the relevant procedural guidelines recently restated in *Canada Goose UK Retail Limited v Persons Unknown* [2020] 1 WLR 2802, [2020] EWCA (Civ) 303 are each satisfied. Thus persons unknown may include so-called "newcomers", i.e. those who trespass in the future; those persons are properly defined both in the application and the proposed order; there is a sufficiently real and imminent risk of a tort being committed to justify relief; the prohibited acts correspond to the threatened tort; the terms of the injunction are sufficiently clear and precise as to enable those potentially affected to know what they must not do; and the proposed injunction has clear geographical and temporal limits.



10. As to temporal limit, in the light of discussion with the Court today (although not stated in the application which was for an indeterminate order), Ms Lyne on behalf of her clients proposes a duration of the order of 6 months. Applying *Canada Goose* she acknowledges that - at the very least - major questions arise as to whether a final injunction can be granted against persons unknown who are not parties at the date of the final order, i.e. 'newcomers' who have not by that time committed the prohibited acts and so do not fall within the description of the persons unknown in the claim and order – see paragraph 89 of the judgment. She submits that in due course the Claimants will contend that this is the type of case, given the dangers and risks, which falls in the category identified by the Court of Appeal of exceptional cases in limited circumstances where a final injunction may be granted. However, that is for another day. She submits that *Canada Goose* is no obstacle to an interim order; but accepts, pending full argument, that it must not be of a length which would be tantamount to a final injunction.
11. As to the *American Cyanamid* principles there is, she submits, a serious issue to be tried; damages will not be an adequate remedy; in any event, it is inherently unlikely that the young urban explorers would be able to pay compensation; there is no conceivable damage to the defendants from the injunction; in any event, the claimants can give a good cross-undertaking in damages; and the balance of convenience points firmly towards the grant of interim relief.

### Conclusion

12. Recent authority has emphasised the caution to be exercised when granting injunctions against unknown persons – see *Canada Goose*, also *Ineos Upstream Limited v Persons Unknown* [2019] EWCA (Civ) 515. Furthermore, the decision in *Canada Goose* emphasises two linked points of particular relevance to this application. First, that a final injunction cannot be granted against 'newcomers' who have not by that time committed the prohibited acts, subject to a category of exceptional circumstances. Subject to that exception, it follows that the Court should not grant an interim injunction against persons unknown which is of such a length as to amount to a final injunction. Secondly, that private law remedies are not well suited to the task of restraining the conduct of a fluctuating body of people. Although *Canada Goose* concerned protestors, those cautionary words are also applicable to the present circumstance. They are of particular importance when considering interim orders of considerable length which Courts have previously ordered before the law was clarified.
13. However I am satisfied that the Claimants have made out their case for an interim injunction for a period of 6 months expiring 29<sup>th</sup> January 2021. The evidence overall sufficiently demonstrates a real risk or strong probability of recurrence of such activities in the absence of a continuing order. On the evidence before me, the general enthusiasm for, and for publicising, this activity appears to continue unabated; but the existing restraints in respect of other properties have had their beneficial effect. The grave dangers of this activity are self-evident and threaten not just the participants but also security staff, emergency services and members of the general public. They also involve potential financial damage to the Claimants with their duties of health and safety. Damages are plainly not an adequate remedy, nor is it likely that any participant would be able to meet any award. The cross-undertaking in damages is scarcely of any moment, but can be fully satisfied. The balance of convenience in my judgment is plainly in favour of an interim injunction.

14. I also consider that each of the guiding principles summarised in *Canada Goose* is satisfied but, as I have said, with the proviso that the term should not be of such a length to amount to a final injunction. In my judgment a term of 6 months does not offend that requirement.
15. Accordingly I will grant an injunction, subject to the various revisions discussed in the course of the hearing with Counsel, limited to the period ending Friday 29<sup>th</sup> January 2021. I also agree that the various proposed orders relating to service, including notices on the site, are necessary and appropriate.

---

**This judgment has been approved by the Soole J.**

**Claim Number:**

**IN THE HIGH COURT OF JUSTICE**

**QUEEN'S BENCH DIVISION**

**B E T W E E N**

- (1) 1 LEADENHALL GP LIMITED
- (2) 1 LEADENHALL NOMINEE LIMITED
- (3) MULTIPLEX CONSTRUCTION EUROPE LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT  
THE CONSTRUCTION SITE AT 1 LEADENHALL STREET  
LONDON EC3V 1PP WITHOUT THE CLAIMANTS' PERMISSION

Defendants



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**"SSW3"**

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This is the exhibit marked "**SSW3**" referred to in the witness statement of Stuart  
Wortley dated 8 February 2022

# LONDON

<u>Video/Photo</u>	<u>Account</u>	<u>Date Uploaded</u>	<u>URL Link/Image</u>
<p>"CLIMBING A CRANE IN LONDON!!!**CAUGHT BY ANGRY SECURITY**"</p>	<p>VOL.6</p>	<p>05.05.21</p>	<p><a href="#">CLIMBING A CRANE IN LONDON!!! **CAUGHT BY ANGRY SECURITY** - YouTube</a></p> 
<p>"Sitting atop the Stratosphere   Previously convicted free-climber scales 36 story tower"</p>	<p>RT UK</p>	<p>04.08.21</p>	<p><a href="#">Sitting atop the Stratosphere   Previously convicted free-climber scales 36 storey tower - YouTube</a></p> 

<p>"CLIMBING ONE THAMES CRANE -210M (LONDON)"</p>	<p>DAVIES VLOGS</p>	<p>31.08.21</p>	<p><a href="#">CLIMBING ONE THAMES CRANE - 210M (LONDON) - YouTube</a></p> 
<p>"London Sunrise Rooftop Free Climbing POV"</p> <p>"Me and a couple friends free climbed up one of the tallest construction sites in London".</p>	<p>ChaseTO</p>	<p>03.09.2021</p>	<p><a href="#">London Sunrise Rooftop Free Climbing POV - YouTube</a></p> 

<p>"Pulling these sick shots out the bag"</p>	<p>Air Addiction</p>	<p>18.09.21</p>	
<p>"Chill rooftop climb in London"</p>	<p><u>Tjvss</u></p>	<p>7.10.2021</p>	<p><a href="#">Chill rooftop climb in London - YouTube</a></p> 

"Stole the stage..."

Cp.xl

15.10.21



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London, United Kingdom

 cp.xl Stole the stage ...



#urbex #urbexpeople #urbexphotography  
#urbeworld #urbexplaces #urbexphoto  
#urbexchampions #urbanrogues #urban

389 likes

OCTOBER 15, 2021

 Add a comment...

<p>"City of London crane climb (120m)"</p>	<p>Mxxrgn</p>	<p>20.10.221</p>	<p><a href="#">City of London crane climb (120m) - YouTube</a></p> 
<p>"*INSANE POLICE ESCAPE* SKYSCRAPER CLIMB IN CANARY WHARF"</p>	<p>Mike Siurek</p>	<p>23.10.21</p>	<p><a href="#">*INSANE POLICE ESCAPE*   SKYSCRAPER CLIMB IN CANARY WHARF   - YouTube</a></p> 

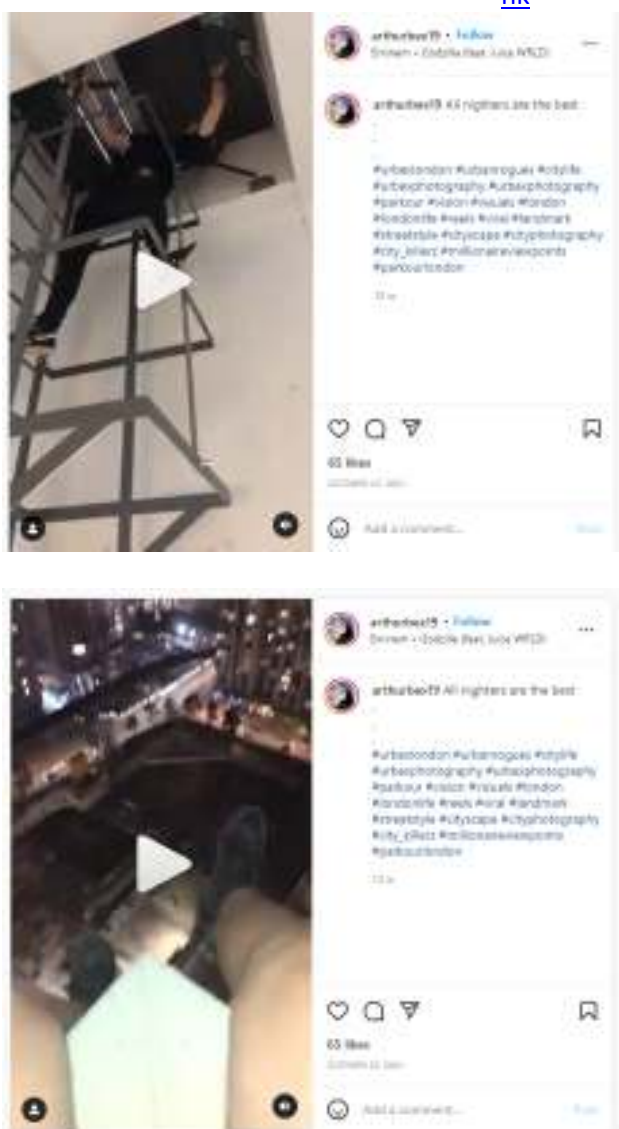


"All nighters are the best"

Arthurbex  
19

23.10.21

[https://www.instagram.com/arthurbex19/reel/CVX44MSj2Yu/?utm\\_medium=copy\\_link](https://www.instagram.com/arthurbex19/reel/CVX44MSj2Yu/?utm_medium=copy_link)



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Screen - 23 Oct 21, July 19:21

arthurbex19 All nighters are the best...

#bedonten #barroque #style  
#bedphotography #bedphotography  
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65 likes  
Screen 21 Oct

Add a comment...


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65 likes  
Screen 21 Oct

Add a comment...

<p>"Red Light Green Light"</p>	<p>Arthurbex 19</p>	<p>28.10.21</p>	<p><a href="https://www.instagram.com/reel/CVjMEw8ovrI/?utm_medium=copy_link">https://www.instagram.com/reel/CVjMEw8ovrI/?utm_medium=copy_link</a></p>  <p>The screenshot shows an Instagram Reel interface. The video content is a night view of a city with lights and a prominent red light source. A large white play button is centered over the video. The user's profile 'arthurbex19' is visible at the top, along with the caption 'Digga D - Red Light Green Light'. The caption includes several hashtags: #urbanrogues, #citylife, #liftsurfing, #urbex, #urbexlondon, #urbexworld, #parkour, #canarywharf, #london, #londonlife, #transurfing, #chasingcranes, #chasingrooftops, #citykillers, #citygrammers, #visualart, #viral, #vintage, #reels, #reelsinstagram, #urbexphotography, #urbex_supreme, and #urbexpeople. The post has 67 likes and is dated October 28, 2021. A comment from 'alfw6' is visible: 'Uno how we leaving the scene like...'. The bottom of the screen shows the 'Add a comment...' input field.</p>
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<p>"Cold sunrise"</p>	<p>Majetik.sb</p>	<p>09.11.21</p>	
<p>"Night Street Photography POV - LONDON Rooftop (SONY A7III)"</p>	<p>Bobby Vasilev</p>	<p>26.11.21</p>	<p><a href="#">Night Street Photography POV - LONDON Rooftop (SONY A7III) - YouTube</a></p> 

(untitled)

t.w.visions

15.12.21

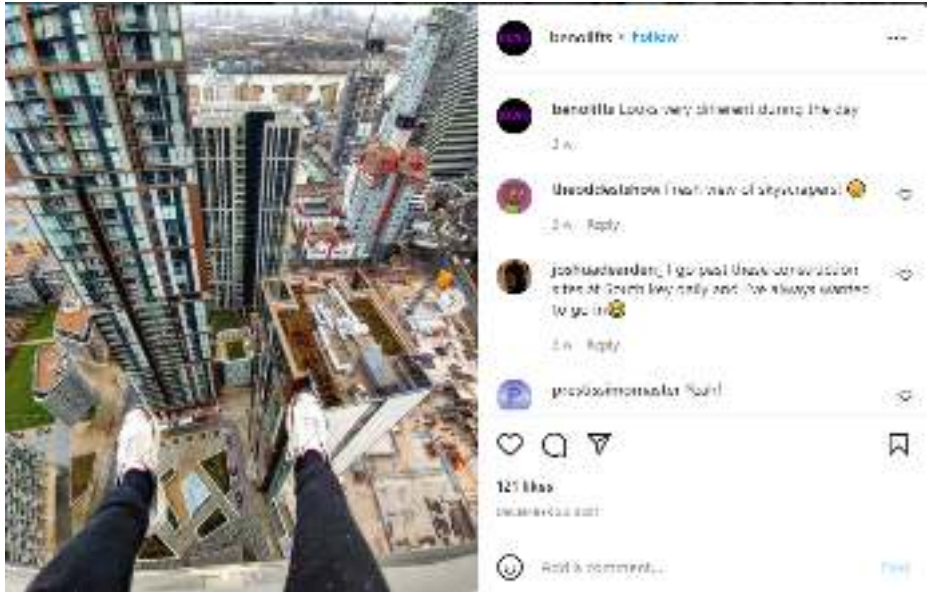




"Easy Life..."

Arthurbex  
19

22.12.21





<p><i>"Looks very different during the day"</i></p>	<p>Benolifts Beno</p>	<p>24.12.21</p>	
<p><i>"Merry Christmas"</i></p>	<p>Alexander Ferrell Alexanderferrell1999</p>	<p>25.12.21</p>	



<p><i>"One of the coldest mornings of my life..."</i></p>	<p>Cp.xl</p>	<p>25.12.21</p>	 <p>The image shows a rooftop view of London. In the foreground, there is a large, white, circular structure with a central pole and a red light on top. The structure is surrounded by a metal railing. In the background, a person is standing on the rooftop, looking out over the city. The sky is overcast and grey.</p> <p>Instagram post details:</p> <ul style="list-style-type: none"> <li>Profile: cp.xl - Follow, London, United Kingdom</li> <li>Caption: cp.xl One of the coldest mornings of my life...</li> <li>Hashtags: #urbex #urbexpeople #urbexphotography #urbexworld #urbexplaces #urbexchampions #urbanphotography #urbanrogues #urban #urbandictionary #urbandecay #urbanoutfits #way2ill #moodygrams #cityscape #rooftop #london</li> <li>Engagement: 324 likes, December 25, 2021</li> <li>Comment: Add a comment...</li> </ul>
<p><i>"High up in London – Overlooking Canary Wharf"</i></p>	<p>Luke Badharee</p>	<p>26.12.2021</p>	

Signature.  
photoartist





<p><i>"The TERRIFYING jump...OFF THE ROOF"</i></p>	<p>Usamalama</p>	<p>27.12.2021</p>	<p><a href="#">The TERRIFYING jump... OFF THE ROOF!!! - YouTube</a></p>  A first-person perspective shot from the edge of a skyscraper's roof. The sun is low on the horizon, creating a bright, hazy glow over a city skyline. A person is seen in mid-air, having just jumped from the edge of the roof. The foreground shows the edge of the roof and a dark, possibly wet, surface.
<p><i>"Free Climbing Stratosphere (120 METERS)"</i></p>	<p>Trikkstar69 Owen Reece</p>	<p>29.12.21</p>	<p><a href="#">Free Climbing Stratosphere (120 METERS) - YouTube</a></p>  A first-person perspective shot of a person climbing a white metal structure on a high-rise building. The person's hands and feet are visible as they grip the metal beams. The background shows a cityscape with buildings and a clear sky.


<p>"Central london rooftop climb"</p>	<p>Tvjss</p>	<p>04.01.22</p>	<p><a href="#">Central london rooftop climb - YouTube</a></p> 
<p>"Breezy"</p>	<p>Cp.xl</p>	<p>05.01.22</p>	 <div data-bbox="1509 740 1995 1329"> <p>cp.xl <a href="#">Follow</a> London, United Kingdom</p> <p>cp.xl Breezy4D</p> <p>#urbex #urbexphotography #urbexworld #urbexexploration #urbexchampions #urbanphotography #urban #urbanclimb #urbexlogos #photoshop #compunergeneatedimages #zryclimb #cityscape</p> <p>581 likes</p> </div>

"Keeping the dream alive"

t.w.visions

07.01.22



<p>"Active Member"</p>	<p>Owen Reece</p> <p>Trikkstar69</p>	<p>07.01.22</p>	 <p>Instagram post showing a person sitting on a ledge overlooking a river and city. The post includes user avatars and names: @Trikkstar69 (Active Member), @OwenReece (Active Member), and @OwenReece (Active Member). The post has 254 likes and 2 comments.</p>
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*"London Crane Climb"*

"we are well aware of the risks".

Chasing  
MomentZ

08.01.22


[London Crane Climb - YouTube](#)



"Centre"

cp.xl

09.01.22






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#urbex #urbexpeople #urbexphotography #urbexworld #urbexphoto #urbexchampions #urbanphotography #urbanoutfitters #urbanadventures

256 likes

JANUARY 9

<p><i>"Long way down"</i></p>	<p>Alexander Ferrell  Alexanderferrell1999</p>	<p>11.01.22</p>	 
<p><i>"London Rooftopping 2021"</i></p>	<p>Mxxrgn</p>	<p>16.01.22</p>	<p><a href="#">London Rooftopping 2021 - YouTube</a></p> 

<p>"Moods"</p>	<p>t.w.visions</p>	<p>19.01.22</p>	 <p>The image is a screenshot of an Instagram post. It features a person in silhouette standing on a narrow, reflective metal ledge of a rooftop. The person's reflection is clearly visible on the surface. In the background, a dense urban landscape stretches out, with a prominent skyline of skyscrapers under a hazy sky. The Instagram interface is visible at the bottom, showing icons for likes, comments, and shares, along with the text '309 likes' and the username 'te.w.visions Mood'. A list of hashtags is also present at the bottom of the post.</p>
<p>28DL Urban Exploration</p>			<p>Discussion forum for Urban Exploration 81,674 members <a href="http://28DaysLater.co.uk">28DaysLater.co.uk</a></p>



**Claim Number:**

**IN THE HIGH COURT OF JUSTICE**

**QUEEN'S BENCH DIVISION**

**B E T W E E N**

- (1) 1 LEADENHALL GP LIMITED
- (2) 1 LEADENHALL NOMINEE LIMITED
- (3) MULTIPLEX CONSTRUCTION EUROPE LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT  
THE CONSTRUCTION SITE AT 1 LEADENHALL STREET  
LONDON EC3V 1PP WITHOUT THE CLAIMANTS' PERMISSION

Defendants

---

**"SSW4"**

---

This is the exhibit marked "**SSW4**" referred to in the witness statement of Stuart  
Wortley dated 8 February 2022

## BUILDINGS > 150 METRES CONSTRUCTED IN LONDON SINCE 2018

### HIGH COURT INJUNCTIONS TO RESTRAIN TRESPASS GRANTED IN ALL CASES SAVE FOR NOS 7, 9 AND 13

	Height (m)	Name	Owner	Contractor	Year	Primary Use	Evidence of Trespass		Claimants' Solicitors	Action No
1	278	22 Bishopsgate City	22 Bishopsgate LP	Multiplex Construction Europe Ltd	2019	Office	✓	1 incident of trespass in May 2018 + various incidents of reconnaissance between January and July 2018 when proceedings were issued – see para 27 of w/s of James Senior dated 24.07.18	Eversheds Sutherland	HQ-18-X-02657
2	233	Pinnacle Canary Wharf	City Pride Ltd	Charlgrave Properties Ltd	2020	Residential	✓	Although a copy of this injunction is at <a href="http://www.charlgrave.co.uk/london-injunction">www.charlgrave.co.uk/london-injunction</a> ... the supporting court papers (incl w/s) are not.  On 12.03.21, Melissa Thompson the supervising partner at Pinsent Masons confirmed that there had been previous incidents of trespass on this site.	Pinsent Masons	PT-2019-0236
3	220	Newfoundland Canary Wharf	Canary Wharf Group plc	Canary Wharf Contractors Ltd	2019	Residential	x	There were incidents of trespass at the Canary Wharf Estate before the injunction was granted but none at the Newfoundland construction site – see para 38 of the w/s of Nick Bennett dated 15.02.18  Following the grant of this injunction, there was an incident of trespass involving 5 individuals which resulted in proceedings for contempt of court	Eversheds Sutherland	HQ-18-X-0612
4	215	South Quay Plaza 1	Berkeley (SQP) Ltd	Berkeley Group	2019	Residential	x	There were no incidents of trespass at this site before the	Eversheds Sutherland	HQ-18-X-03914

		Canary Wharf						injunction was granted – see paras 45-49 of the w/s of Sean Gavin dated 31.08.18		
5	205	One Park Drive Canary Wharf	Canary Wharf Group	Canary Wharf Contractors Ltd	2019	Residential	x	There were incidents of trespass at the Canary Wharf Estate before the injunction was granted but none at the One Park Drive construction site	Eversheds Sutherland	HQ-18-X-0612
6	192	South Quay Plaza 4 Canary Wharf	Berkeley (SQP) Ltd	Berkeley Group	2020	Residential	x	There were no incidents of trespass at this site before the injunction was granted – see paras 45-49 of the w/s of Sean Gavin dated 31.08.18	Eversheds Sutherland	HQ-18-X-03914
7	190	52 Lime St (The Scalpel) City	WR Berkeley	Skanska	2018	Office	✓	There were multiple incidents of trespass on The Scalpel.  Several videos were uploaded to YouTube - this includes videos by well-known urban explorers - Ally Law, Ryan Taylor and Owen Kelley (aka Trikkstar)  As far as Eversheds Sutherland is aware Skanska did not apply for an injunction which resulted in a number of copy-cat incidents	n/a	n/a
8	187	Wardian East Canary Wharf	Eco World Ballymore Arrowhead Quay Company Ltd	Ballymore	2019	Residential	✓	There were various incidents of trespass between April 2018 and January 2019 when proceedings were issued – see paras 20-31 of w/s of Terry Arnold dated 24.01.19	Hogan Lovells	QB-2019-0267
9	182	The Madison Canary Wharf	LBS Properties	Balfour Beatty	2019	Residential	✓	In June 2019, Usama Quaraishi (aka Usamalama) uploaded a video to YouTube featuring him climbing on this construction site  As far as Eversheds Sutherland is aware Balfour Beatty did not apply for an injunction	n/a	n/a

								This property continues to be targeted by urban explorers		
10	172	100 Bishopsgate City	The 100 Bishopsgate Partnership (GP1) Ltd and The 100 Bishopsgate Partnership (GP2) Ltd	Multiplex Construction Europe Ltd	2019	Office	✓	Various incidents of trespass between August 2017 and July 2018 when proceedings were issued – see para 27 of w/s of James Senior dated 24.07.18	Eversheds Sutherland	HQ-18-X-02657
11	168	Wardian West Canary Wharf	Eco World Ballymore Arrowhead Quay Company Ltd	Ballymore	2019	Residential	✓	Various incidents of trespass between April 2018 and January 2019 when proceedings were issued – see paras 20-31 of w/s of Terry Arnold dated 24.01.19	Hogan Lovells	QB-2019-0267
12	168	Damac Tower Vauxhall	Nine Elms Property Ltd	Multiplex Construction Europe Ltd	2020	Residential	✓	There were 2 incidents of trespass in November and December 2018  However this injunction also applied to 6 other major construction sites, namely:-  Market Towers 48 Carey Street Marble Arch Place New Scotland Yard Chelsea Barracks  In respect of those sites, there was no specific evidence of trespass	Eversheds Sutherland	QB-2019-0645
13	165	One Blackfriars South Bank	Berkeley Group	Berkeley Group	2018	Residential	✓	Berkeley Group considered applying for an injunction but did not do so	n/a	n/a
14	161	Principal Tower City	Principal Place Residential Ltd	Multiplex Construction Europe Ltd	2018	Residential	✓	2 incidents of trespass in May and June 2018 and various incidents of reconnaissance between January and July 2018 when proceedings were issued – see para 27 of w/s of James Senior dated 24.07.18	Eversheds Sutherland	HQ-18-X-02657
15	155	40 Leadenhall Street	Vanquish Properties LP	Mace Ltd	2021	Office	X	There were no incidents of trespass at this site before the	Eversheds Sutherland	QB-2021-000827

								injunction was granted. Instead Mace relied on evidence of trespass at other sites in London – see paras 32 of the w/s of Andrew Brown dated 05.03.21		
		40 Leadenhall Street	Vanquish Properties LP	Mace Ltd	2022	Office	✓	3 incidents of trespass between November 2021 and January 2022 – see para 43 of w/s of Andrew Brown dated 26.01.22	Eversheds Sutherland	QB-2022-000280
17	155	Carrarra Tower Islington	Berkeley Homes (City Forum) Ltd	Berkeley Group	2018	Residential	✓	Various incidents of trespass between January 2016 and July 2018 – see paras 42-44 of w/s of Sean Gavin dated 31.08.18	Eversheds Sutherland	HQ-18-X-03914

**Claim Number:**

**IN THE HIGH COURT OF JUSTICE**

**QUEEN'S BENCH DIVISION**

**B E T W E E N**

- (1) 1 LEADENHALL GP LIMITED
- (2) 1 LEADENHALL NOMINEE LIMITED
- (3) MULTIPLEX CONSTRUCTION EUROPE LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT  
THE CONSTRUCTION SITE AT 1 LEADENHALL STREET  
LONDON EC3V 1PP WITHOUT THE CLAIMANTS' PERMISSION

Defendants

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**"SSW5"**

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This is the exhibit marked "**SSW5**" referred to in the witness statement of Stuart  
Wortley dated 8 February 2022

If this Transcript is to be reported or published, there is a requirement to ensure that no reporting restriction will be breached. This is particularly important in relation to any case involving a sexual offence, where the victim is guaranteed lifetime anonymity (Sexual Offences (Amendment) Act 1992), or where an order has been made in relation to a young person.

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IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
[2018] EWHC 3418 (QB)



No. ATC 18/0626

Royal Courts of Justice

Monday, 26 November 2018

Before:

HIS HONOUR JUDGE FREEDMAN (SITTING AS A JUDGE OF THE HIGH COURT)

B E T W E E N :

CANARY WHARF INVESTMENTS LIMITED & OTHERS

Applicants

- and -

- (1) ALEXANDER FARRELL
- (2) OWEN KELLY
- (3) ELLIOT HENSFORD
- (4) FINDLEY GLEESON
- (5) USAMA QUARISHI

Respondents

MR D. FORSDIC QC (instructed by Eversheds Sutherland) appeared on behalf of the Applicants.

MS BRUCE-JONES appeared on behalf of the Second Respondent

MR A. FARRELL, MR E. HENSFORD, MR F. GLEESON and MR U. QUARISHI appeared as Litigants in Person.

**J U D G M E N T**

HIS HONOUR JUDGE FREEDMAN (SITTING AS A JUDGE OF THE HIGH COURT):

- 1 Alexander Farrell, Owen Kelly, Usarma Quarishi, Elliot Hensford and Findley Gleeson have been brought to this court because they are in contempt of court and they are therefore the subject of committal proceedings. That is so because each of them has breached an injunction made in the High Court on 23 February 2018 by Mr Justice Warby.
- 2 That order was made against certain named defendants but also against persons unknown who might be minded to enter the Canary Wharf Estate. The terms of the order were that nobody was allowed to trespass in the Canary Wharf Estate and should they do so, in breach of the order, they were at risk of being sent to prison. I am satisfied that each of the five respondents was well aware of the existence of that order and indeed, in the case of Alexander Farrell, he had given an undertaking to this court that he would not trespass within the Canary Wharf Estate.
- 3 Notwithstanding their knowledge of the existence of that order, on 22 September of this year, all five of them broke through a secure door and entered a building under construction known as Newfoundland which has in excess of 50 storeys. When they broke into the building, they climbed past a sign, a sign which made it clear that it was dangerous for them to enter the building and, moreover, if they entered the building they were in breach of the court injunction. They took no notice and they scaled the height of the building passing signs on their way which they chose to ignore. That they had trespassed in this building became clear from their posts on social media.
- 4 They are, all of them, or were at the time, what is colloquially called 'urban explorers'. They were engaged in activities known as roof topping, carrying out acrobatic stunts, sitting or standing in exposed and precarious positions which were then filmed either on camera or on video and then posted on social media.
- 5 The activities of urban explorers cause considerable harm and could result in very serious danger. Indeed, before I go any further, I should observe that on 2 January this year, a young man by the name of Sam Clarke died at Canary Wharf as a result of falling from a high rise building.
- 6 First and foremost, in doing these antics on high rise buildings they expose themselves to considerable potential harm and indeed any one of them could have fallen on the night in question. It does not stop there. Security in the Canary Wharf site is of maximum importance. It is, as I am told, a matter of national significance. Security guards, coupled no doubt with other sections of the security forces, patrol and supervise the site for reasons of anti-terrorism. If people like the respondents break into buildings for their own gratification, that has the potential to compromise matters of national security. Moreover, it imposes an increasing and unnecessary burden on the security staff who are there to protect the national interest. Your activities have other implications. Were you to fall from a building, anybody in the vicinity of that building could be injured by you falling. Your activities also potentially place demands on the emergency services.
- 7 The prevalence of this activity caused the owners, after much reflection, to obtain the injunction. They did so to stop you from targeting these iconic trophy buildings. You



ignored that order. It is a grave matter. Each of you tell me that you did not appreciate the seriousness of the injunction. I find that hard to believe because anybody who sees written on a boarding "You are liable to go to prison" should understand that that is exactly what it does mean, should you breach the order. Nevertheless, I am satisfied that only now that you have been brought to the High Court and realised the gravity of your position that you have fully appreciated the implications of your acts.

- 8 Each one of you, albeit late in the day, has had the good sense to admit your involvement in trespassing that building on 22 September this year and to admit that you were aware of the injunction which said you could not do so. That is your saving grace because I can tell you now that had you contested these matters and had there been a hearing before me, then the outcome would have been very different indeed. As it is, I am willing to accept that you now do appreciate the gravity of what you did. I am willing to accept that you are truly apologetic for what you did. By accepting your responsibility, you are showing a degree of remorse and contrition.
- 9 Most importantly I am willing to accept that you are genuine when you say to me that you will never again engage in this kind of activity. In your case, Usarma Quarishi, I am particularly impressed when you say to me that you will do your utmost to discourage others, whom you know who are inclined to take part in urban exploring, from doing so. You should all do that if you do have contact with anybody who might be so inclined to do it in the future. Everybody who is attracted to this activity needs to understand it is forbidden, it is dangerous and it has all sorts of repercussions. On another occasion a court is unlikely to take the lenient approach that I am taking today.
- 10 I have thought long and hard about whether I should impose some form of custodial sentence. I have, ultimately, come to the view that that is not necessary. You are all young men, one of you 17, three of you 18 and one of you 19. You are, it seems to me, essentially decent young men; you are all engaged in gainful activities, whether it is at college or part-time work or full-time work. I do not want your careers to be blighted by having had some form of custodial sentence imposed upon you, but had I taken that course of action, you could not have complained. As an act of leniency and to safeguard your futures, I have decided not to take that course of action, but please rest assured that if any of you breach any further order in any way, then that is what a court will do. Make no mistake about it.
- 11 Alexander Farrell you are in a slightly different position because, first of all, you were not an unknown person, but you gave an undertaking, and secondly, you have been subject to a number of banning orders. You have flagrantly breached that undertaking, you have shown disrespect to the court because you gave the undertaking knowing you had to observe it and you did not. Moreover, you are in work and earning a reasonable salary. In your case, the sentence which I am going to impose is a financial penalty. You will pay the sum of £250 to reflect the seriousness of your breach.
- 12 In the other four cases, I am not going to impose a penalty. That does not mean you are getting off scot free: you have had the indignity of coming to court and facing these allegations of contempt, and you have had the anxiety of not knowing what the outcome was likely to be because you will all have heard what I said last Monday, that the court was contemplating some form of custodial sentence. You have therefore been punished to some extent but, as I say, I am not imposing a separate penalty. None of you, it seems to me, is in a position to pay any meaningful financial penalty and I do not, as I have said, want to go down the route of imposing a custodial sentence.

- 13 You can regard yourselves as fortunate, but let it be clear that you must never ever engage in this activity again.

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**Claim Number:**

**IN THE HIGH COURT OF JUSTICE**

**QUEEN'S BENCH DIVISION**

**B E T W E E N**

- (1) 1 LEADENHALL GP LIMITED
- (2) 1 LEADENHALL NOMINEE LIMITED
- (3) MULTIPLEX CONSTRUCTION EUROPE LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT  
THE CONSTRUCTION SITE AT 1 LEADENHALL STREET  
LONDON EC3V 1PP WITHOUT THE CLAIMANTS' PERMISSION

Defendants

---

**"SSW6"**

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This is the exhibit marked "**SSW6**" referred to in the witness statement of Stuart  
Wortley dated 8 February 2022



Neutral Citation Number: [2019] EWHC 2962 (QB)

Case No. HQ 18 X 00427

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**

Royal Courts of Justice  
Strand, London WC2A 2LL

Date: 21<sup>st</sup> October 2019

Start Time: 14:00 Finish Time: 14:30

Page Count: 12

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Number of Folios: 76

Before:

**THE HONOURABLE MR JUSTICE MURRAY**

Between:

(1) TEIGHMORE LIMITED  
(2) LBQ FIELDEN LIMITED

**Claimants/  
Applicants**

- and -

(1) IAN DAVID BONE  
(2) PERSONS UNKNOWN ENTERING IN OR  
REMAINING AT THE SHARD OR SHARD  
PLACE WITHOUT THE CLAIMANTS'  
LICENCE OR CONSENT

**Defendants**

- and -

GEORGE HENRY KING-THOMPSON

**Respondent**

MR DAVID FORSDICK QC (instructed by Eversheds Sutherland (International) LLP) for  
the Claimants/Applicants.

MR PHILIP MCGHEE (instructed by Reeds Solicitors) for the Respondent.

The First Defendant did not attend and was not represented.

**APPROVED JUDGMENT**

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## **MR JUSTICE MURRAY:**

1. This is an application by the applicants, Teighmore Limited and LBQ Fielden Limited, seeking the committal of the respondent, Mr George King-Thompson, for breaching an order made on 8 February 2018 by Ms. Leigh-Ann Mulcahy QC, sitting as a judge of the High Court (“the Injunction”). The applicants seek an order against Mr King-Thompson under CPR r.81.4(1)(b) for his committal on the grounds that he knowingly and/or deliberately acted in breach of the Injunction.

### *The parties*

2. The first applicant owns a leasehold interest in the development known as “The Shard”, which is situated on land registered at the Land Registry with title number TGL386845. It is in possession of all the common parts of The Shard (including all of the stairwells and elevators).
3. The second applicant owns a leasehold interest in the site previously known as Fielden House. That building has now been demolished and the land is a site on which The Shard apartments are being (or have been) built, the land being registered at the Land Registry with title number TGL144345.
4. Mr King-Thompson is a 20-year-old man, who is a member of the urban exploring community. On Monday 8 July 2019, when he was 19 years old, he climbed the exterior of The Shard from ground level to near the top in breach of the Injunction, which restrained persons unknown from entering or remaining upon any part of The Shard without the licence or consent of the first applicant. Mr King-Thompson, of course, did not have such licence or consent.

### *Background*

5. Urban exploring is an activity which involves the exploration of buildings and manmade structures within the urban environment. The activity often involves trespassing on parts of buildings to which public access is prohibited, which the public have no licence to access and which are intended to be secure. The term “urban exploration” is commonly abbreviated to “urbex”, “UE”, “bexing” and “urbexing”. One particular feature of urban exploration is known as “rooftopping”. This is an activity in which individuals gain access to the roof of a building, generally without the consent of the building owner, in order to take photographs and/or videos. Urban explorers see the tallest buildings as trophy targets.
6. Many urban explorers use social media and other forms of media to promote their activities, with a view to building their social media profile through platforms including YouTube, Facebook, Instagram and Snapchat. Some generate income this way. Some urban explorers have their own channels on YouTube.
7. The risks involved in urban exploring are apparent from the number of deaths that have occurred in various places around the world. A list of such deaths, running to 16, is attached to the affirmation dated 20 July 2019 of Mr Stuart Wortley, a Partner at Eversheds Sutherland (International) LLP, the applicants’ solicitors. It is unlikely to be controversial to note that urban exploring is potentially a dangerous activity. That, no doubt, is an important part of its appeal to those who undertake it.

8. The Shard is the tallest building in Western Europe and is therefore a trophy target for trespassers and, in particular, urban explorers. It has been the target of numerous actual and threatened acts of trespass. Anti-climbing measures have been installed at The Shard, but they are obviously not entirely effective. The Shard is located next to London Bridge station, which is the fourth busiest railway station in the UK, serving the south and the southeast of England.

*Procedural history*

9. These proceedings were served on Mr King-Thompson's solicitors, who were authorised to accept service on his behalf, on 9 September 2019, along with the four affirmations provided by the applicants as evidence in support of their committal application against Mr King-Thompson.

*Terms of the Injunction*

10. The Injunction included a penal notice, making it clear to anyone with sight of the Injunction that among the possible sanctions for breach of the Injunction is imprisonment. In addition, a warning notice regarding the Injunction itself ("the Warning Notice") was posted at various points around The Shard. The Warning Notice reads as follows:

**"THE SHARD**

**IMPORTANT NOTICE**

HIGH COURT OF JUSTICE - CLAIM NO. HQ18X00427

On 8th February 2018, an order was made in the High Court of Justice prohibiting anyone from trespassing on these premises.

The area beyond these doors is private and you will be trespassing and in breach of this injunction if you enter.

Anyone in breach of this injunction will be in contempt of court and may be imprisoned, fined or have their assets seized.

A copy of the court order is available from  
[enquiries@shardquarter.com](mailto:enquiries@shardquarter.com)

Teighmore Limited"

*The applicable legal principles*

11. The procedural requirements governing a committal application are set out in CPR Part 81.
12. The law that applies to establish if there has been a contempt of court by virtue of the breach of a court order is summarised in numerous recent cases. One helpful example of such a summary is in the judgment of Marcus Smith J in *Absolute Living Developments Limited v DS7 Limited* [2018] EWHC 1717 (Ch) at [30]. That case

concerned breaches of a freezing order, but the same principles apply to the Injunction. The key principles are:

- i) The order must bear a penal notice.
  - ii) There has to have been effective service on the respondent, either by personal service or, as in this case, by substituted service where that has been permitted.
  - iii) The order must be capable of being complied with (in the sense that the time for compliance is in the future), and it must be clear and unambiguous.
  - iv) The breach of the order must have been deliberate, which includes acting in a manner calculated to frustrate the purpose of the order. It is not necessary, however, that the respondent intended to breach the order in the sense that he or she knew the terms of the order and knew that his or her relevant conduct was in breach of the order. It is sufficient that the respondent knew of the order and that his or her conduct was intentional as opposed to inadvertent: *Spectravest v Aperknit* [1988] FSR 161 at 173).
  - v) A deliberate breach of an order is very significant. It is clearly in the public interest that court orders be obeyed.
  - vi) The standard of proof in relation to any allegation that an order has been breached is the criminal standard. The burden of proof is on the applicant or applicants to establish an allegation of breach to the criminal standard.
13. In this case, I must, in other words, be sure beyond reasonable doubt that Mr King-Thompson has committed a deliberate breach of the Injunction. The burden of proof is on the applicants to establish to the criminal standard that he has committed the alleged breach.
  14. Because of the consequences of breaching an injunction order with a penal notice attached, the terms of the order must be clear and unequivocal and should be strictly construed. This was emphasised by Lord Clarke in the Supreme Court in the case of *JSC BTA Bank v Ablyazov (No 10)* [2015] UKSC 64, [2015] WLR 4754 at [19], where Lord Clarke approved a statement to this effect in the judgment of Beatson LJ at [37] of the Court of Appeal's decision in the same case ([2013] EWCA Civ 928).
  15. Mr David Forsdick QC, who represents the applicants, drew my attention to passages in the reference work *Arlidge, Eady & Smith on Contempt* (5th Edition), that highlights the importance placed by the court in civil contempt proceedings on the public interest in seeing that court orders are upheld. I was referred to paras 3-73 and 3-74 of *Arlidge, Eady & Smith*, and my attention was drawn in particular to the observation made by Lord Woolf MR in *Nicolls v Nicholls* [1997] 1WLR 314 at 326B-C:

“Today it is no longer appropriate to regard an order for committal as being no more than a form of execution available to another party against an alleged contemnor. The court itself has a very substantial interest in seeing that its orders are upheld.”



16. *Arlidge, Eady & Smith* goes on to discuss the judgment of Lord Phillips MR in *Mid-Bedfordshire District Council v Thomas Brown* [2004] EWCA Civ 1709 at [26]-[27], where the Master of Rolls emphasised the importance of court orders being obeyed and the necessity for sanctions in circumstances where they are deliberately disobeyed:

“26. The practical effect of suspending the injunction has been to allow the defendants to change the use of the land and to retain the benefit of occupation of the land with caravans for residential purposes. This was in defiance of a court order properly served on them and correctly explained to them. In those circumstances there is a real risk that the suspension of the injunction would be perceived as condoning the breach. This would send out the wrong signal, both to others tempted to do the same and to law-abiding members of the public. The message would be that the court is prepared to tolerate contempt of its orders and to permit those who break them to profit from their contempt.

27. The effect of that message would be to diminish respect for court orders, to undermine the authority of the court and to subvert the rule of law. In our judgment, those overarching public interest considerations far outweigh the factors which favour a suspension of the injunction so as to allow the defendants to keep their caravans on the land and to continue to reside there in breach of planning control.”

17. I also bear in mind that:

- i) the sanction of custody on a committal application is the “court’s ultimate weapon”, as noted by Mrs Justice Proudman in *JSC BTA Bank v Solodchenko* [2010] EWHC 2404 (Comm), and must be sparingly used and only invoked when truly needed;
- ii) the sanction of committing a person to prison for contempt can only be justified where the terms of the order allegedly breached are unambiguous and the breach is clear beyond all question: see, for example, *Redwing Ltd v Redwing Forest Products Ltd* [1947] 64 RPC 67 at 71 (Jenkins J).

*Evidence of alleged breaches*

18. In support of the committal application the applicants have submitted evidence in the form of four affirmations, each accompanied by one or more exhibits.
19. The first affirmation is dated 20 July 2019 and is the affirmation made by Mr Wortley to which I have already referred. In his affirmation Mr Wortley gives evidence about the activity of urban exploring and some of the well-known individuals who are involved in urban exploring beyond Mr King-Thompson, who has become well-known since his climb of The Shard.

20. Mr Wortley describes the circumstances in which the Injunction in this case was obtained. He also describes the circumstances in which Mr King-Thompson first came to the attention of his firm in November 2018 after he had uploaded photograph and video footage showing him climbing a tower crane at one of the 15 construction sites at Wembley Park on Bonfire Night, using the firework display at Wembley Stadium as a backdrop to his images. In relation to that, Mr Wortley referred to a witness statement prepared in relation to that incident by Mr Matt Voyce, a construction director at Quintain Limited, one of the companies involved with the Wembley Park development. At para 39 of Mr Voyce’s witness statement, Mr Voyce referred to an incident in which five well-known urban explorers had deliberately breached an injunction to restrain trespass at Newfoundland, a construction site at Canary Wharf which was protected by an injunction obtained in February 2018. At para 50 of that statement he referred to committal proceedings that occurred before HHJ Freedman, sitting as a Judge of the High Court, on 26 November 2018. It is reasonable to suppose that Mr King-Thompson would have read Mr Voyce’s witness statement and by that means would have become aware, if he was not already, of the serious implications of breach a court injunction.
21. Mr Forsdick took me to the judgment of HHJ Freedman in the proceedings to which Mr Voyce had referred, where the judge indicated that he had seriously considered sending the five young men, who were of roughly similar age to Mr King-Thompson, to prison for breach of that injunction, but where he ultimately decided that it was not necessary, for reasons given in his judgment. The judge very clearly warned those respondents that on a future occasion imprisonment might be inevitable.
22. Mr Wortley also gives evidence as to the events of 8 July 2019. The climb started at 5:00 am. Mr King-Thompson climbed up the external structure of The Shard. Mr Wortley also deals with media coverage of the climb as well as various videos uploaded by Mr King-Thompson himself or by others. There was a significant amount of coverage of the climb in the days and weeks that followed it.
23. I also have the affirmation dated 25 July 2019 of Ms Joanna Begaj, an associate at Eversheds Sutherland, in which she:
  - i) notes that Mr King-Thompson has acquired a manager since his climb of The Shard, who happens to be the same manager as represents Mr Alain Robert, a famous urban explorer known as “the French Spiderman”;
  - ii) refers to an Instagram post made by Mr King-Thompson on 21 July 2019 in which he referred to his ascent as illegal and to which he also appended the hashtag #rooftopilegal [sic]; and
  - iii) refers to an interview with Mr Piers Morgan and Ms Susanna Reid on the television programme *Good Morning Breakfast* on 10 July 2019, during which Mr King-Thompson refers to having been helped in his preparations by seven other individuals.
24. I also have the affirmation dated 26 July 2019 of Ms Kay Harvey, Head of Property Management at Real Estate Management (UK) Limited, in which she deals with:
  - i) the posting of the Warning Notice at various locations at The Shard;

- ii) the anti-climbing measures at The Shard;
  - iii) visitors to the public viewing gallery at The Shard and the visit of Mr King-Thompson himself to the public viewing gallery at The Shard on 30 November 2018;
  - iv) the climb itself on 8 July 2019; and
  - v) the questioning of Mr King-Thompson by the Metropolitan Police on 18 July 2019 in connection with possible offences of criminal damage, aggravated trespass, public nuisance and trespass on the railway, at the end of which, Ms Harvey understands, he was issued with a caution for trespassing on the railway.
25. Regarding Mr King-Thompson's visit to the public viewing gallery on 30 November 2018, Ms Harvey notes that he had bought his ticket on-line the day before and made his visit at about 1:00 pm. She says that during that visit he would have had to walk past at least 10 copies of the Warning Notice regarding the Injunction on level 1 (5 locations), level 33 (3 locations), level 68 (one location) and level 72 (one location).
26. Regarding the events of 8 July 2019, Ms Harvey stated that Mr King-Thompson had accessed The Shard from next to platform 9 at London Bridge Station, climbing on to the glazed roof above London Bridge Station and from there accessed the bottom of The Shard structure using suction cups to get over the lower part of the climb in order to circumvent anti-climbing measures. She said that he then was able to abandon the suction cups after level 5 and eventually reached level 73, the floor immediately above the public viewing gallery, to which there was no public access at the time, where he stopped climbing. The police and two ambulances were called to the site, but Mr King-Thompson was not arrested at that time.
27. Finally, I have a second affirmation, this one dated 29 August 2019, from Ms Begaj of Eversheds Sutherland, in which she gives evidence as to a video podcast uploaded on 27 July 2019 between Mr King-Thompson and Ms Ally Law, a well-known urban explorer, in which Mr King-Thompson talks about months spent planning the climb, the speed and aggression needed for the climb and the closure of London Bridge Station as a result of his climb. Regarding that last point, he appears to minimise the disruption he caused, saying during the podcast:
- “Yes, I may have closed down a little bit of the station, but you know, like, at 5 o'clock there's not many training running anyway, so ...”
28. Ms Begaj also notes in her second affirmation that during the podcast Mr King-Thompson described his many nights of reconnaissance, including in disguise, up to a year of preparation, getting help from seven unnamed associates, the various routes up The Shard that he considered, and the creation of his brand as a result of his climb.
29. Ms. Begaj also gives evidence as to the appearance of Mr King-Thompson and his mother on the BBC *One Show* to discuss the climb. He apparently talked in that interview about taking his mother to dinner at The Shard before climbing it, the visit

being one of around 200 he made as part of his planning, in various disguises and so on.

### *Findings*

30. Mr King-Thompson has made full admissions in these proceedings, although only belatedly. He has admitted he has been aware of the Injunction since the Spring of this year. He has described his meticulous preparation for the climb in social media posts and interviews, and I have referred to some of that in my review of the evidence. He would have passed numerous copies of the Warning Notice, particularly during his visit to the public viewing gallery of The Shard, and he has admitted he was aware of the Injunction and its contents since last Spring, substantially before his climb. In the circumstances I am satisfied to the criminal standard that Mr King-Thompson's breach of the Injunction was knowing, deliberate and contumacious.

### *Legal framework for sentencing*

31. Section 14 of the Contempt of Court Act 1981 provides that a committal must be for a fixed term and that the term shall not on any occasion exceed two years. If the committal is ordered to take effect immediately, the contemnor is entitled to automatic release without conditions after serving half of that committal.
32. There are two functions of sentencing for civil contempt. The first is to uphold the authority of the court and to vindicate the public interest that court orders should be obeyed. The second is to provide some incentive for belated compliance. These dual purposes are discussed in various authorities, one being *JSC BTA Bank v Solodchenko (No. 2)* [2012] 1 WLR 350 (CA) (Jackson LJ) at [45].
33. In all cases, it is necessary to consider whether committal to prison is necessary and, if so, what the shortest time necessary for such imprisonment would be and whether a sentence of imprisonment can be suspended.
34. Lawrence Collins J in the case of *Crystal Mews Limited v Metterick* [2006] EWHC 3087 (Ch) set out a number of principles that apply to sentencing for civil contempt. At [13] he notes various factors to be taken into account when considering the appropriate penalty:

“13. The matters which I may take into account include these. First, whether the claimant has been prejudiced by virtue of the contempt and whether the prejudice is capable of remedy. Second, the extent to which the contemnor has acted under pressure. Third, whether the breach of the order was deliberate or unintentional. Fourth, the degree of culpability. Fifth, whether the contemnor has been placed in breach of the order by reason of the conduct of others. Sixth, whether the contemnor appreciates the seriousness of the deliberate breach. Seventh, whether the contemnor has co-operated.”

35. In a subsequent case, *Asia Islamic Trade Finance Fund Ltd v Drum Risk Management Ltd* [2015] EWHC 3748 (Comm) at [7] Popplewell J added to the foregoing list the following factor:

“... whether there has been any acceptance of responsibility, any apology, any remorse or any reasonable excuse put forward.”

36. Finally, Popplewell J in the *Asia Islamic Trade Finance Fund Ltd* case (affirmed by the Court of Appeal) made the point that if it is determined that a term of committal is inevitable, then where there have been admissions it is appropriate to make some form of reduction in the term. By analogy with the Sentencing Council Guidelines, a maximum reduction of one third might be appropriate where the admissions are made at the outset of proceedings for contempt, and thereafter a sliding scale down to about 10 per cent where admissions are made at trial.
37. In this case Mr King-Thompson was 19 years old at the time of the breach of the Injunction, and he is 20 years old now. Mr Forsdick has drawn my attention to sections of *Arlidge, Eady & Smith* dealing with the sentencing of defendants between the ages of 18 and 21, namely, paras 14-74 to 14-78 and 14-81 to 14-82, the key points being that (i) where a custodial sentence is passed, rather than going to adult prison, the custodial sentence will be served as detention in a Young Offenders' Institution and (ii) the court is not required to obtain a pre-sentence report before passing sentence.

#### *Culpability*

38. Considering Mr King-Thompson's culpability for this breach, I have already indicated that I consider the breach to have been deliberate, knowing and contumacious. His culpability is, therefore, high.

#### *Harm*

39. In terms of the harm caused by his contempt, it seems to me there are a number of heads of harm:
- i) most seriously, the harm to the public interest caused by a serious breach of an injunction such as the one at issue in this case;
  - ii) the risk of death to which Mr King-Thompson subjected himself and, by his example and the publicity given to his breach in which he actively participated, the increased risk that others, perhaps less skilful, will attempt the same or similar illegal and dangerous climbs;
  - iii) his compromising of the security of The Shard; and
  - iv) the disruption at London Bridge Station (not the most serious harm occasioned by his breach, but he did cause disruption to operations there, inconveniencing members of the public).
40. Regarding compromising the security of The Shard, I note that ionic buildings are sometimes the target of terrorists. If such a building is targeted by urban explorers and information regarding ways into and around the building are posted online, the safety and security of those who live in, work in and visit such buildings is potentially at risk.

Some of the publicity that Mr King-Thompson has given to his climb would appear to have increased that risk in relation to The Shard.

*Aggravating factors*

41. In my view, the aggravating factors in this case are:
- i) despite being aware of the Injunction and its penal consequences, Mr King-Thompson's meticulous planning and preparation over a lengthy period, including numerous visits to the site, including the use of disguises;
  - ii) the involvement of up to seven accomplices (which also makes it all the more unlikely that Mr King-Thompson would not have been fully aware of the consequences of breaching the injunctions, since there is likely to have been discussion between them concerning the possible consequences of the climb);
  - iii) the fact that Mr King-Thompson has actively and widely publicised the contempt through social media and interviews with traditional media.
42. Regarding that last point, I take into account the submission made on his behalf by Mr Philip McGhee that to some extent he has just gone along with that publicity rather than actively courted it, but nonetheless Mr King-Thompson had the choice not to go along with that publicity and/or to take the opportunity of the publicity to express contrition for breaching a court order, which he does not appear to have done.

*Mitigating factors*

43. In his letter to the court, to which I will revert in a moment, Mr King-Thompson says he chose a time and a route to minimise public possible disruption. He was therefore clearly aware that there could be some disruption of the public. In his letter, Mr King-Thompson says the following:
- i) he climbed at 5:00 am to minimise potential adverse effect on the travelling public;
  - ii) he chose a route where, if he fell, he would land on a roof, rather than directly on to a pedestrian concourse (although there is no evidence that he made any assessment as to whether, if he had fallen, the roof would have held up under the impact of his fall); and
  - iii) he did not wear a head camera because the climb was not about publicity (although he has given interviews and made various social media postings about the climb).

*Personal mitigation*

44. In relation to personal mitigation, Mr King-Thompson's age, 19 at the time of the climb and 20 now, is obviously very important, and I accept that there must have been a degree of immaturity in his approach to this breach.
45. I also take into account his previous good character. He received a caution for trespass as a result of this incident, but other than that he has had no involvement with the police.

Indeed, I have had a couple of character references that speak of his positive good character.

46. This morning I was handed a bundle of documents, which I have read carefully. The bundle includes the following documents:
- i) various letters, documents and medical records dealing with Mr King-Thompson's early history of learning difficulties and his diagnosis of Attention Deficit Hyperactivity Disorder (ADHD), for which he was prescribed medication;
  - ii) a report dated 16 October 2019 by Dr David Oyewole, a consultant psychiatrist;
  - iii) an undated letter by Mr King-Thompson to the court;
  - iv) a letter dated 16 October 2019 (so, just five days before this hearing) from Mr King-Thompson's solicitors confirming that Mr King-Thompson accepts liability and that he does not intend to contest the committal proceedings;
  - v) a letter dated 16 October 2019 from a family friend of the King-Thompson family, Mr Kent Rowey, who talks of Mr King-Thompson's high personal integrity and genuine desire to help others; and
  - vi) an e-mail dated 4 October 2019 from JP Hassett of R.E.A.L Fundraising, who talks about Mr King-Thompson's passion for fundraising for the young homeless, his high work rate and his attention to detail.
47. Regarding Dr Oyewole's report, at para 7.6 Dr Oyewole notes that ADHD is not a direct factor in the decision to climb, but at para 7.7 he suggests that it is an indirect effect, noting that, in his view, there is a subset of individuals with ADHD who find that ultra-exercise has a significant beneficial effect. I accept that Mr King-Thompson's ADHD may have played a factor in his breach of the Injunction, but that is merely explanatory, not exculpatory.
48. Regarding Mr King-Thompson's letter to the court, I presume that it was written recently. I accept that he is now sorry and takes full responsibility for his actions. He talks about his aim in life to inspire individuals and to spread his philosophy of following one's passion. He also talks about his having made a number of conscious decisions to minimise the impact of his climb on others, as I have already mentioned.

*Credit for admissions/remorse*

49. Mr King-Thompson has made a late admission for liability, but the extensive publicity that has been given to his climb undermines the credibility of his claim that he is now remorseful. His counsel suggested that he merely went along with much of the publicity that has accompanied his climb, but even taking that view, the fact that he did so and did not take the opportunity to express remorse in my view undermines his claim of remorse. I note that he expressed some contrition for causing a degree of disruption to commuters, but no apparent contrition for breaching a court order until his letter was handed up to me this morning.

*The sentence*

50. I have had regard to the eloquent and forceful submissions of Mr McGhee, who has said to the court all that could be said in mitigation on Mr King-Thompson's behalf.
51. Given the clearly deliberate and knowing nature of the breach in this case, which involved meticulous planning over an extended period, involvement of at least one other person (and, on Mr King-Thompson's own account, advice and assistance of up to seven other people), Mr King-Thompson's lack of remorse until really very recently, and the giving of publicity to the contempt through social and traditional media, this matter crosses the custody threshold.
52. In the circumstances, given the high culpability and number of aggravating factors, which involve a deliberate and knowing flouting of the Injunction, despite Mr King-Thompson's age and previous good character, I am not able to suspend the sentence. Therefore, the sentence will be one of immediate custody.
53. I have mentioned that sentencing for contempt typically has a dual purpose; punishment and coercion. In this case, however, it is not possible for Mr King-Thompson to purge his contempt. The order has been breached, and that breach cannot be cured.
54. Had Mr King-Thompson been older, the starting point would have been at least 39 weeks (or nine months). However, in light of his age and apparent immaturity I have taken a starting point of 26 weeks (or six months). There are a number of aggravating factors which I have already mentioned, but I balance against that that he has made an admission, albeit late, and has expressed remorse and contrition, although he appears to have done so principally in the shadow of this hearing and the imposition of sanction, rather than due to any real contrition for deliberately breaching a court order.
55. I have taken his previous good character, and indeed positive good character as evidenced by the character references, into account.
56. Accordingly, overall the sentence that I consider to be just and proportionate, in light of Mr King-Thompson's deliberate and knowing breach of the Injunction, having regard to the aggravating and mitigating factors, is a total sentence of 24 weeks' detention in a Young Offenders' Institution.
57. Mr King-Thompson will be released after serving one behalf of that sentence.
58. I now commit Mr King-Thompson into the hands of the Tipstaff to be taken into detention.

- - - - -

This transcript has been approved by Mr Justice Murray



**Claim Number:**

**IN THE HIGH COURT OF JUSTICE**

**QUEEN'S BENCH DIVISION**

**B E T W E E N**

- (1) 1 LEADENHALL GP LIMITED
- (2) 1 LEADENHALL NOMINEE LIMITED
- (3) MULTIPLEX CONSTRUCTION EUROPE LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT  
THE CONSTRUCTION SITE AT 1 LEADENHALL STREET  
LONDON EC3V 1PP WITHOUT THE CLAIMANTS' PERMISSION

Defendants

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**"SSW7"**

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This is the exhibit marked "**SSW7**" referred to in the witness statement of Stuart  
Wortley dated 8 February 2022

# Who goes there?

Recent years have seen an explosion in construction-site trespass incidents by so-called urban explorers. *Miles Rowland* investigates the problems these daredevils pose for contractors – and how they can be stopped



**SECURITY**  
**MILES ROWLAND**

The idea of breaking into a construction site is unappealing and frightening to most people. But for a small network of thrill seekers who call themselves urban explorers, behind the hoardings lies a world of potential.

Urban explorers interviewed by *Construction News* speak fondly of nights spent trespassing on unmanned projects.

“We would be exploring London until 4am with our cameras, wearing gloves and black hoodies, wandering around,

finding construction sites. We would climb anything that looked like it was under construction,” says a 21-year-old photographer who spoke to *CN* on the condition of anonymity. On social media platform Instagram, he showcases the exclusive angles of London’s skyline that he captures from high-rise construction sites.

The 21-year-old’s antics are on the more conservative side of the urban explorer spectrum. Another individual who spoke to *CN* on an anonymous basis specialises in free climbing – scaling buildings without ropes or harnesses. He says he regularly accesses high-rise sites in London and Birmingham.

He describes how construction sites offer opportunities for dangerous stunts, including parachuting from roofs and the jibs of tower cranes – an activity known as BASE jumping (the acronym stands for building, antenna, span and earth, from which participants will parachute). Contractors can be liable for any injuries sustained by these daredevils under English law. But the internet is enabling them to identify urban explorers that break into their sites, and to serve preventative legal injunctions. The result has been a





**“We would scout out the security then jump over walls, and then you can climb up to the top of the structure – it adds to the excitement a lot because you’re on this unfinished construction site”**

ANONYMOUS URBAN EXPLORER

cat-and-mouse game between site owners and trespassers that produces plenty of work for lawyers.

#### **A common problem**

As a prolific high-rise builder Multiplex has suffered its fair share of trespass incidents.

“When you build high-rise towers in the middle of a city, you create opportunities for individuals that want to get that adrenaline rush,” says its safety, health, environment and quality executive director for Europe, the Middle East and Canada, Stephen Smith. “[Trespassing has] been fairly common, not only within Multiplex, but throughout the whole sector for the past few years now.”

The more lax security on construction sites compared with that of completed buildings is another draw for the 21-year-old photographer. “There are the odd sites with security and dogs patrolling. But some have patrols that are quite inconsistent, and they have just one team covering the whole site – it’s so easy to get past them,” he says.

“We would scout out the security then jump over walls, and then you can climb up to the top

of the structure. You’re not going through any CCTV in lifts and lounges and stuff. It adds to the excitement a lot because you’re on this unfinished construction site, but also it’s easier to get up.”

Contractors are duty-bound to care for the safety of trespassers and account for any risks they might encounter, under the Occupiers’ Liability Act of 1984.

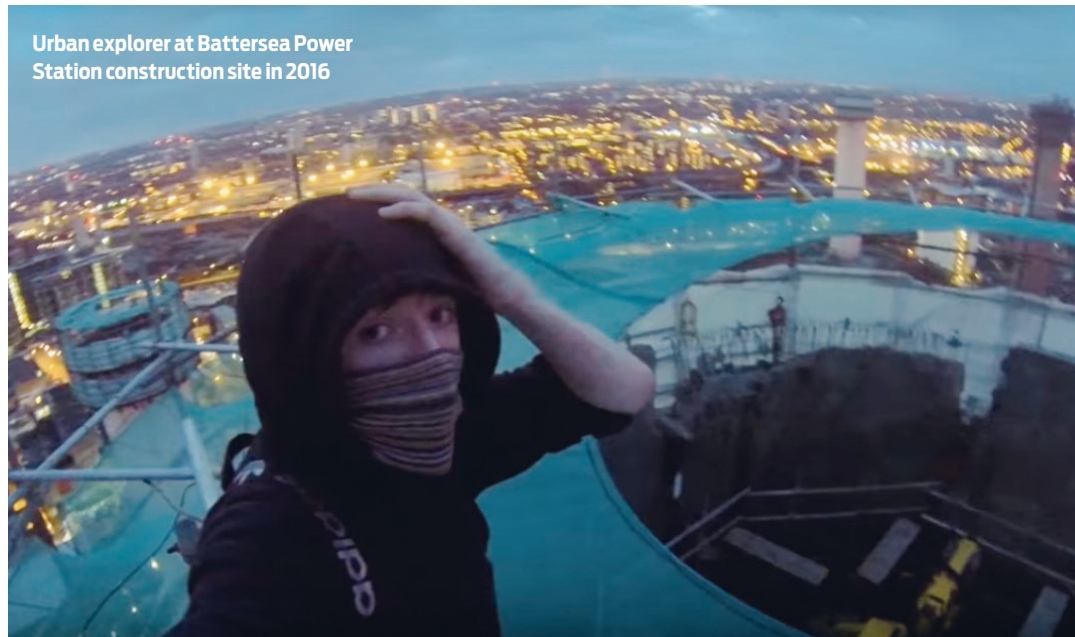
“We obviously have many different hazards that they will be subjected to,” says Mr Smith. “If they are climbing, particularly external structures, there is a risk of fall from height.”

“In addition to that, when you’re building you generally have temporary structures. These can hold materials and equipment that could be dislodged and lead to objects falling into a pedestrian thoroughfare or onto vehicles.”

These dangers are not just theoretical – there have been several recent fatalities involving urban explorers on construction sites (see box, page 24).

#### **Trespassing for the masses**

In recent times, internet platforms such as YouTube and Instagram have brought urban exploring to a much larger, more mainstream audience. Some of ▶



Urban explorer at Battersea Power Station construction site in 2016

IMAGE COURTESY OF WILD STREET FOR CHANNEL 4

## SECURITY SAFETY

### The risk is real

The urban explorers interviewed by *Construction News* were blasé about the potential risks of their activity. But there are some brutal examples of things going wrong. In the past two years alone, several well-documented cases have shown people dying after falls from height after trespassing on construction sites.

According to figures from law firm Eversheds Sutherland, at least six Britons have died from urban-exploring accidents since January 2017.

On New Year's Eve 2017, 19-year-old Sam Clarke got into Canary Wharf Contractors' One Bank Street site, fell 50 ft and was killed. The student's body was only discovered by site workers three days later.

In September, Johnny Turner fell to his death from an eight-storey scaffolding in Waterloo, London. The 28-year-old was a renowned free-runner in the city.

those filming themselves on construction sites have reached celebrity status with huge online followings. Videos of stunts amass millions of views, turning amateur adventurers into professional content creators who can make a living from the videos of their escapades. British YouTubers Ally Law and Night Scape have 4 million subscribers between them and regularly upload videos of themselves trespassing on construction sites.

The photographer/urban explorer who spoke to *CN* anonymously says he first took part in this type of activity in 2016, when such stunts were largely the domain of small communities who communicated over Instagram, but YouTube has changed that.

**“Urban explorers are becoming more organised about it, making videos and taking photographs to try to build a profile, and in some instances, to make a living”**

STUART WORTLEY,  
EVERSHEDS SUTHERLAND

“Before, when it was mainly just photos, it was inaccessible because people thought it was too hard to do,” he recalls. “But YouTube shows videos of people actually [entering sites]; it shows more of the process, how easy it is. That’s what makes people realise anyone can do this, and I think that’s when it really started becoming a problem for the construction companies.”

The anonymous free climber echoes this view: “It used to be really underground, and only a certain type of person did it. But because YouTube [exposure] glorifies everything, and it’s been in the news so much, so many kids do it now.”

#### Legal loophole

Stuart Wortley, a partner at legal firm Eversheds Sutherland, is a real estate litigation specialist who is carving out a niche in helping contractors protect their sites from these internet stars.

“What we realised last year was that because of the growth [in activity], driven by social media, urban explorers [are] not simply trespassing for their own kicks,” he tells *CN*. “People [are] becoming more organised about

it, making videos and taking photographs that they upload to the internet to try to build a profile, and in some instances, to make a living. It started to become more prevalent – more and more buildings and construction sites started to be targeted.”

The problem for contractors is made worse by the fact that, at present, the law around trespassing has something of a loophole. Mr Wortley continues: “Parliament doesn’t generally consider it appropriate for simple trespass to be a criminal offence. It’s considered that there should be something more serious at play in order for trespassing on somebody else’s property to be treated as criminal behaviour.”

As urban explorers only occupy the site briefly and are often willing to leave when asked by security staff, provided they don’t damage the site in a provable way, it’s difficult for a site owner to pursue them through the courts.

#### Fighting back

The lack of a statutory deterrent has led contractors to take preemptive legal action by obtaining injunctions against individuals at the High Court. These injunctions make the act of knowingly

**£30k**  
Potential cost of an injunction for a single site

trespassing a contempt of court, a much more serious offence that can result in hefty fines or prison sentences. This, Mr Wortley argues, is the only way to effectively prevent urban explorers from entering sites.

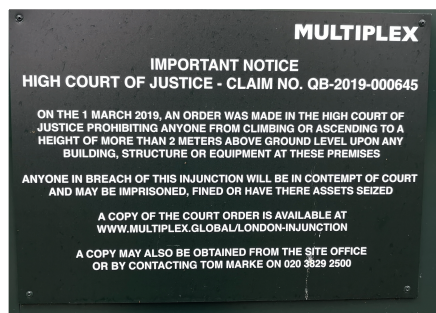
He says his firm began obtaining injunctions for contractors last year and that the method has quickly gained popularity. So much so, that Mr Wortley says he has a team at Eversheds Sutherland monitoring YouTube videos for evidence that certain urban explorers have accessed construction sites.

He says these individuals can be surprisingly open about their real identities and unlawful activity online: “Trespassing on a construction site where there’s no injunction, there’s no reason why they would disguise their identity. If they haven’t caused any damage, they’re not exposed to any risk at all – there’s no real civil or criminal liability.”

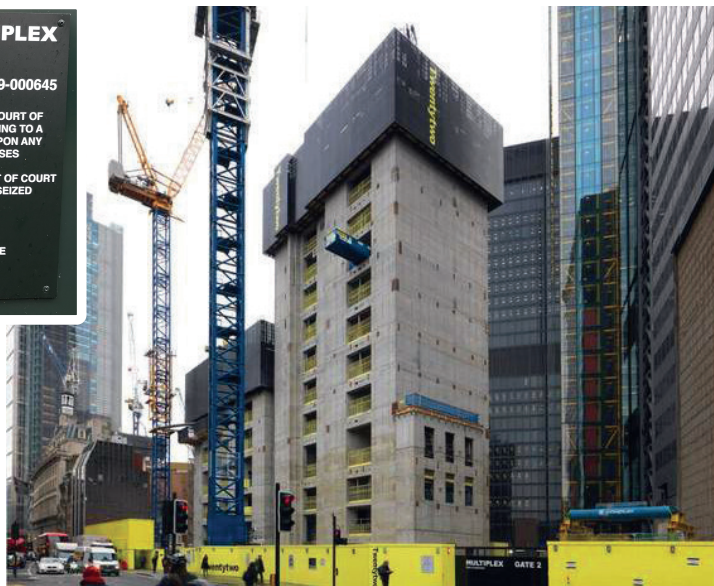
For Mr Wortley’s team, such a video presents an opportunity.

# Tall buildings: Security

constructionnews.co.uk/special-reports



**Multiplex has taken out an injunction covering multiple sites including 22 Bishopsgate in the City of London (right)**



“The other day, for example, there was a [trespass] incident at Battersea Power Station, so we’re in touch with the security team there, and Mace is building that [scheme]. We say to them, ‘People are up on your site again; do you want to get an injunction?’”

## Cost of injunction

If the contractor wishes to proceed with an injunction, it must first gain the consent of the landowner. The process can be completed within a week once the proceedings and witness statement have been drafted. It costs the contractor between £20,000 and £30,000 for each site. This fee includes compiling evidence of past incidents of trespass on a site, taking the claim into court and advice on enforcing the injunction.

Contractors that decide to take this route will often include multiple sites in the same injunction. Multiplex obtained a multisite legal block in March, which covers seven of its London sites, including New Scotland Yard, Chelsea Barracks and Market Towers, the Nine Elms development in Battersea. Together with a previous injunction in September 2018, the contractor has taken legal action to protect a total of 10 developments in the capital – the majority of its major projects in the city.

Each site displays the injunction on signs around the perimeter (see

image, above) in an effort to demonstrate to would-be urban explorers that it is a no-go zone.

Another injunction for a large area was taken out by developer Quintain in December 2018 for its Wembley Park scheme, which covers 14 sites under construction by Wates, John Sisk, McLaren and McAleer & Rushe.

As well as preventing ‘persons unknown’ from entering the sites listed, the injunction specifically names George King-Thompson, the 20-year-old free climber who had accessed sites at Wembley Park and was given a six-month sentence in a young-offender institution last month for scaling the Shard in July. Mr King-Thompson’s sentence set an important precedent for the industry because the climber’s punishment was a result of him knowingly breaking an injunction.

His lawyer, Philip McGhee, also

**“As soon as there’s an injunction, then it’s not worth literally breaking the law just to go on a construction site”**

ANONYMOUS URBAN EXPLORER

issued a broadly worded apology following the sentence: “Mr King-Thompson will not climb another building in the UK. He very much regrets and is very sorry for doing what he did.”

Stuart Wortley believes the growing trend for

injunctions has changed the landscape for urban explorers, with ‘protected’ sites generally being left alone, while other sites are still considered fair game.

The free climber agrees. “As soon as there’s an injunction, and especially if they have proof of your name on it, then it’s not worth literally breaking the law just to go on a construction site,” he says.

## Call for law change

Injunctions offer an effective and powerful deterrent for would-be urban explorers, not to mention a handy tool for a contractor to minimise its liability. If a tragic accident involving a trespasser were to occur on a site, a company would have a much stronger legal platform in a health and safety inquiry if it had already taken the proactive step of obtaining an injunction. That said, this form of legal action is not cheap. While £30,000 per site would not represent a prohibitive outlay for a large company such as Multiplex or Quintain, smaller

## TIMELINE

Stuart Wortley of Eversheds Sutherland says about 30 injunctions have been taken out in the past year by a range of companies to protect existing buildings and construction sites in the UK. Below is a list of all construction companies and developers that are known to have taken out injunctions. Note that these injunctions may include multiple sites

Feb 18	Canary Wharf Group: all buildings and building sites in the Canary Wharf estate
Sep 18	Multiplex: three sites in London, including 22 Bishopsgate
Nov 18	Berkeley Group (three buildings and two building sites: 250 City Road and South Quay Plaza)
Dec 18	Quintain: Wembley Park, including 14 sites contracted by Wates, John Sisk, McLaren and McAleer Rushe
Mar 19	Multiplex: seven sites in London, including New Scotland Yard and Chelsea Barracks
Apr 19	Sir Robert McAlpine: four sites in Manchester

contractors would struggle to afford such an expense.

The growth of urban exploring has also highlighted the legal restrictions, and questions are beginning to be asked of the government about whether it should introduce new criminal offences to resolve the issue.

Last November, former Metropolitan Police commissioner Lord Stevens of Kirkwhelpington used a written question to ask the government what plans it had for combatting urban exploring.

The response from Baroness Williams of Trafford cited existing legislation and was non-committal about any changes other than to say “the Home Office keeps the available police powers under constant review”.

Until this legal gap is addressed, urban explorers are likely to continue seeking thrills on the UK’s building sites, giving little option to contractors other than to file injunctions in the High Court.

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**Claim Number:**

**IN THE HIGH COURT OF JUSTICE**

**QUEEN'S BENCH DIVISION**

**B E T W E E N**

- (1) 1 LEADENHALL GP LIMITED
- (2) 1 LEADENHALL NOMINEE LIMITED
- (3) MULTIPLEX CONSTRUCTION EUROPE LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT  
THE CONSTRUCTION SITE AT 1 LEADENHALL STREET  
LONDON EC3V 1PP WITHOUT THE CLAIMANTS' PERMISSION

Defendants

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**"SSW8"**

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This is the exhibit marked "**SSW8**" referred to in the witness statement of Stuart  
Wortley dated 8 February 2022

## **BROOKFIELD PROPERTIES**

### **Important Notice**

### **High Court of Justice – Claim No QB-2022-[XXXXXX]**

On [ ] February 2022, an injunction was made by the High Court of Justice prohibiting anyone from entering on or remaining at any part of the construction site at 1 Leadenhall Street, London EC3 without the owners' permission. Anyone in breach of the injunction will be in contempt of court and may be imprisoned, fined or have their assets seized.

**This means that you must not go beyond this notice and enter this construction site without permission.**

**If you do, you may be sent to prison or have your assets seized.**

Copies of the documents listed below may be viewed at:-

[www.brookfieldproperties.com/injunctions](http://www.brookfieldproperties.com/injunctions)

- Claim Form + Particulars of Claim
- Application dated [ ]
- Witness Statement of Peter Clarke dated 4 February 2022
- Witness Statement of Stuart Wortley dated 8 February 2022
- Order dated [ ]

Copies may also be obtained from the Site Office or by contacting Stuart Wortley of Eversheds Sutherland on 0771 288 1393 or by email [stuartwortley@eversheds-sutherland.com](mailto:stuartwortley@eversheds-sutherland.com)