IN THE COUNTY COURT

Claim No.: **K3????????**

Between

Met parking services Ltd

(Claimant)

????? ??????

(Defendant)

DEFENCE

1. The Defendant denies that the Claimant is entitled to relief in the sum claimed, or at all. It is denied that any conduct by the driver was in breach of any term. Further, it is denied that this Claimant (understood to have a bare licence as agents) has standing to sue or form contracts in their own name. Liability is denied, whether or not the Claimant is claiming 'keeper liability', which is unclear from the boilerplate text in the Particulars of Claim ('the POC').

Preliminary matter: The claim should be struck out

2. The Defendant draws to the attention of the allocating Judge that there is now a persuasive Appeal judgment to support striking out the claim (in these exact circumstances of typically poorly pleaded private parking claims, and the extant POC seen here are far worse than the one seen on Appeal). The Defendant believes that dismissing this meritless claim is the correct course, with the Overriding Objective in mind. Bulk litigators (legal firms) should know better than to make little or no attempt to comply with the Practice Direction. By continuing to plead cases with generic auto-fill unspecific wording, private parking firms should not be surprised when courts strike out their claims based in the following persuasive authority.

3. A recent persuasive appeal judgment in Civil Enforcement Limited v Chan (Ref. E7GM9W44) would indicate the POC fails to comply with Civil Procedure Rule 16.4 and the Practice direction to Part 16. On the 15th August 2023, in the cited case, HHJ Murch held that 'the particulars of the claim as filed and served did not set out the conduct which amounted to the breach in reliance upon which the claimant would be able to bring a claim for breach of contract'. The same is true in this case and in view of the Chan judgment, the Court should strike out the claim, using its powers pursuant to CPR 3.4

TRANSCRIPT OF PROCEEDINGS

Ref. E7GM9W44

IN THE COUNTY COURT AT LUTON

Arndale House
The Mall
Luton
LU1 2EN

Before HIS HONOUR JUDGE MURCH

IN THE MATTER OF

CIVIL ENFORCEMENT LIMITED **(Respondent / Claimant)**

-v-

MING TAK CHAN **(Appellant / Defendant)**

MR YAMBA appeared on behalf of the Appellant
MS CARUS appeared on behalf of the Respondent

JUDGMENT
15th AUGUST 2023
(APPROVED)

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Transcribed from the official recording by eScribers
Central Court, 25 Southampton Buildings, London WC2A 1AL
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JUDGE MURCH:

1. This appeal raises the meaning of and consequences of failing to comply with Civil Procedure Rule 16.4 and the Practice Direction to Part 16. This is a claim for unpaid parking charges where it is said by the appellant that the claim form upon which the claimant - the respondent before me - relied failed to comply with those requirements. An application was made to set aside a judgment entered in default. That application did not succeed.

2. I gave permission to appeal on the single ground that it was arguable there was a real prospect of success on the argument that the failure to comply with the Practice Direction constituted some other good reason pursuant to CPR 13.3(1)(b) to set judgment aside. I did not give permission on the other ground upon which the appellant sought to rely, namely whether the claim form had been served at the correct address.

3. Reminding myself then of the requirements of the rules before setting out what happened in this case, CPR 16.4 reads as follows:

> (1) "Particulars of claim must include -
> (e) such other matters as may be set out in a practice direction."

It is agreed that none of the other parts of that sub-rule are relevant to the decision that I have to reach today. Practice Direction 16 at paragraph 7 is headed "Other matters to be included in the particulars of claim" and then lists them. Pertinent to the present claim is para.7.5 which reads as follows:

> "Where a claim is based upon an agreement by conduct, the particulars of claim must specify the conduct relied upon and state by whom, when and where the acts constituting the conduct were done."

4. This was a claim commenced by the claimant, now the respondent before me, using the money claims online facility. It is common ground that the space for the particulars of claim is limited as to the number of characters which can be inserted. Inevitably, one therefore sees in cases commenced using this procedure a degree of simplicity in the way that claims are put. Quite often, they are grammatically inexact, even if it is argued that they set out in terms the bare bones of the claim such as to comply with the rules. It is of course though always open to a claimant - if of the view that the space by way of character allowance is insufficient - to file and serve separate particulars of claim serving them either with the claim form or in accordance with the rules at a later date.

5. The respondent here elected to put its case in the character limit in the box on the claim form and wrote as follows:

> "Claim for monies relating to a parking charge for parking in a private car park managed by the claimant in breach of the terms and conditions (T&Cs). Drivers are allowed to park in accordance with T&Cs of use. ANPR cameras and/or manual patrols are used to monitor vehicles entering and exiting the site. Debt + damages claimed sum of £236. Violation date: 06.01.2017. Time in: 15:14. Time out: 20:04."

The reference is then given for the penalty charge notice. The registration number of the car said to be involved is given. The name of the car park is set out, namely the Newbury Retail

Car Park. It then sets out the sums due and interest which is claimed and the rate at which it is claimed and therefore the sums which are claimed.

6. Now, on behalf of the appellant before me it is argued that, even though there is a measure of detail set out in those words, it is not sufficient to comply with the provision of para.7.5 of the Practice Direction.

7. This is, I think both sides accept, an argument based on conduct - there is no written agreement between the parties; there is no oral agreement between the parties - and the position is that there is an agreement by conduct namely, as one knows in these cases, the bringing of the car onto land where signs are sufficiently displayed which amounts to conduct accepting those terms and conditions.

8. On behalf of the respondent it was submitted that the claim form states that this is a private car park. It is stated that the defendant was in breach of the terms and conditions: the registration number is given; the location of the car park is given; the times in and out are given as well. Ms Goodchild submitted that the information given was sufficient to comply with the Practice Direction. She referred to pre-action correspondence but accepted that it was not part of the particulars of claim and did not assist in showing whether there had been compliance.

9. On behalf of the appellant though, it is argued that the information set out is not sufficient to set out the conduct relied upon as amounting to a breach of contract. Mr Yamba argues that there are a number of ways in which one might breach the terms and conditions. This is not set out in the brief claim form. By way of example, he said, there may be a failure to buy a parking ticket at all. There may be a failure to park properly in a bay. By way of further example, he said, a person might use a space allocated for use by drivers with disabilities. Alternatively, he submits, it may be a case of overstaying whereby a ticket bought for a certain period of time and the defendant stays longer than he or she has paid for.

10. I am persuaded by these arguments. It is incumbent upon the claimant (the respondent before me) to set out how it is that the entitlement to the charge arises. It is correct that this claim form sets out that there was a contract. One can safely infer that it is as a result of the driver bringing the car onto the land that it is being said by conduct a contract arose. It is also clear which vehicle is said to have been used in a manner which breached the contract. It is also clear where and when the breach is said to have occurred. The breach itself however is not set out. The conduct giving rise to the breach is not set out.

11. This is, I think as Mr Yamba accepts, a technical point, but nonetheless the rules are clear. The particulars of claim must set out that conduct and, in my view, Mr Yamba has shown that the particulars of claim as filed and served did not set out the conduct which amounted to the breach in reliance upon which the claimant would be able to bring a claim for breach of contract.

12. Now, the application that was before Judge Chattaway was to set the judgment aside entered in default and also for an order striking out the claim form. The Judge did not set aside judgment and did not therefore proceed to consider the point whether the claim should be struck out. Of course, it may follow from a set aside application where a failure to comply with Practice Direction is relied upon, that an application might also be made to strike out the claim form. Both advocates are agreed that – and this intends no disrespect to either party - this being a tolerably low value claim for some £250 odd with court fees, I should exercise a

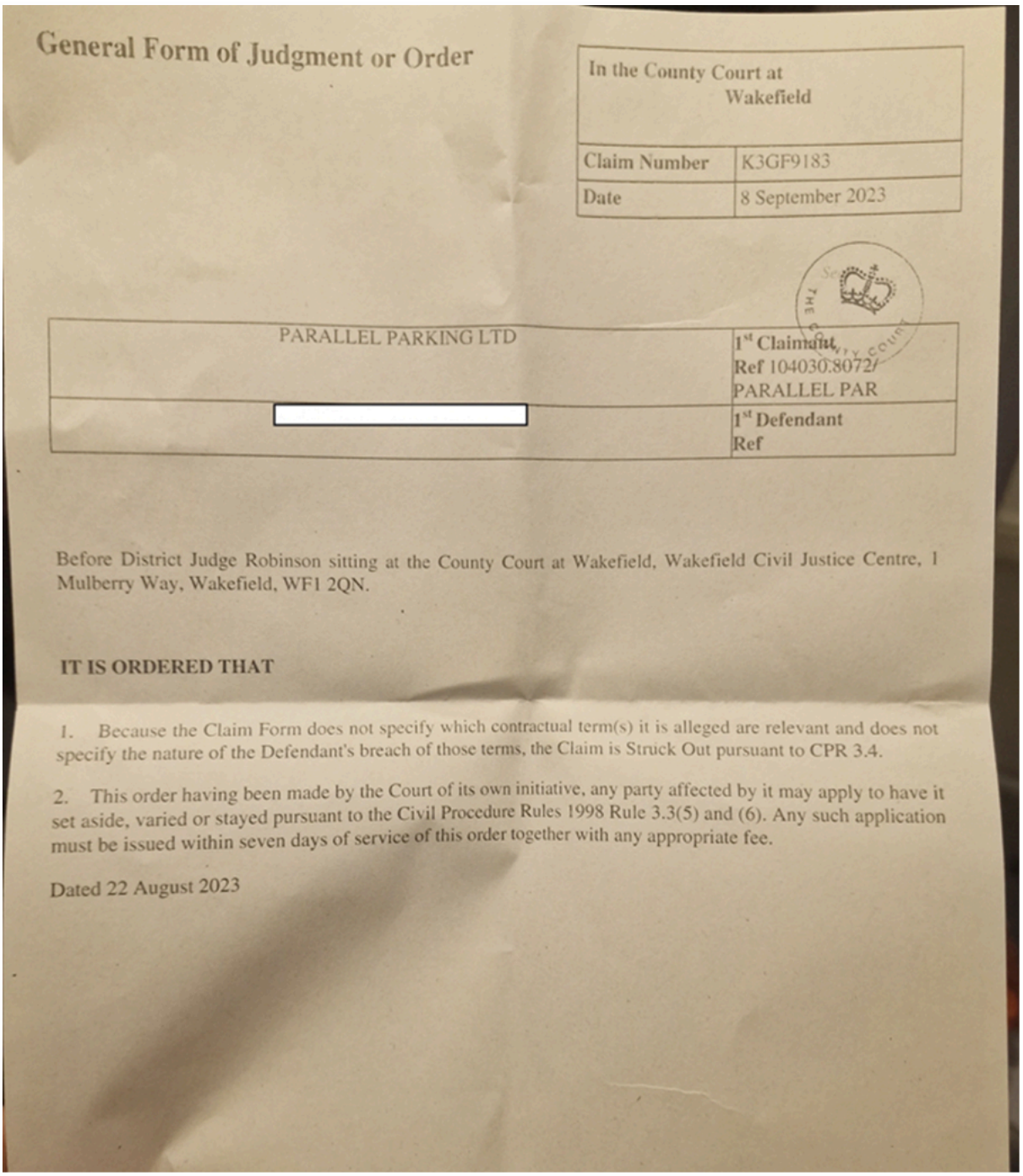
discretion to set aside judgment also to strike out the claim for failing to comply with the rules. They agree that it is not proportionate to re-list this for hearing before a District Judge.

13. I am persuaded that the right thing to do in this case is to strike out the claim form. Therefore, for those reasons, despite the endeavours of Ms Carus who went through with great care what the particulars of claim said, I conclude there has been a failure to comply with the rules. The conduct amounting to the breach was not set out; it was open to the respondent either to attach a separate particulars of claim or set out a little less of the detail as to the interests calculations and perhaps in that way set out how it was argued that there had been a breach amounting to conduct in breach of a contract.

14. The appeal therefore succeeds. Judgment is set aside and I further strike out the claim.

This transcript has been approved by the Judge

4. Similarly, at the Wakefield County Court on 8th September 2023, District Judge Robinson considered mirror image POC in claim K3GF9183 (Parallel Parking v anon) and struck the Claim out without a hearing. See below.



General Form of Judgment or Order

In the County Court at Wakefield	
Claim Number	K3GF9183
Date	8 September 2023

PARALLEL PARKING LTD	1st Claimant Ref 104030.8072/ PARALLEL PAR
[redacted]	1st Defendant Ref

Before District Judge Robinson sitting at the County Court at Wakefield, Wakefield Civil Justice Centre, 1 Mulberry Way, Wakefield, WF1 2QN.

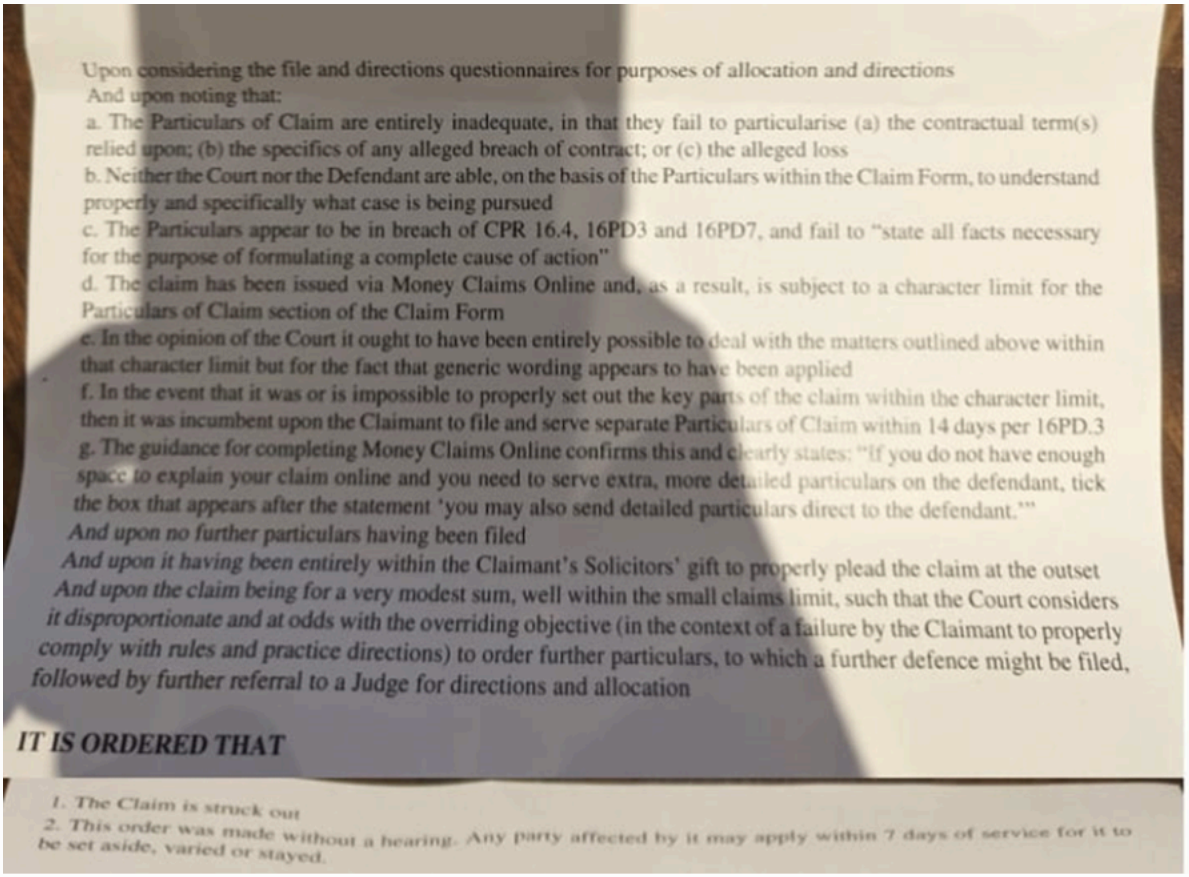
IT IS ORDERED THAT

1. Because the Claim Form does not specify which contractual term(s) it is alleged are relevant and does not specify the nature of the Defendant's breach of those terms, the Claim is Struck Out pursuant to CPR 3.4.

2. This order having been made by the Court of its own initiative, any party affected by it may apply to have it set aside, varied or stayed pursuant to the Civil Procedure Rules 1998 Rule 3.3(5) and (6). Any such application must be issued within seven days of service of this order together with any appropriate fee.

Dated 22 August 2023

5. Likewise, in January 2023 (also without a hearing) District Judge Sprague, sitting at the County Court at Luton, struck out a similarly badly-pleaded parking claim with a full explanation of his reasoning. See below.



Upon considering the file and directions questionnaires for purposes of allocation and directions

And upon noting that:

a. The Particulars of Claim are entirely inadequate, in that they fail to particularise (a) the contractual term(s) relied upon; (b) the specifics of any alleged breach of contract; or (c) the alleged loss

b. Neither the Court nor the Defendant are able, on the basis of the Particulars within the Claim Form, to understand properly and specifically what case is being pursued

c. The Particulars appear to be in breach of CPR 16.4, 16PD3 and 16PD7, and fail to "state all facts necessary for the purpose of formulating a complete cause of action"

d. The claim has been issued via Money Claims Online and, as a result, is subject to a character limit for the Particulars of Claim section of the Claim Form

e. In the opinion of the Court it ought to have been entirely possible to deal with the matters outlined above within that character limit but for the fact that generic wording appears to have been applied

f. In the event that it was or is impossible to properly set out the key parts of the claim within the character limit, then it was incumbent upon the Claimant to file and serve separate Particulars of Claim within 14 days per 16PD.3

g. The guidance for completing Money Claims Online confirms this and clearly states: "If you do not have enough space to explain your claim online and you need to serve extra, more detailed particulars on the defendant, tick the box that appears after the statement 'you may also send detailed particulars direct to the defendant.'"

And upon no further particulars having been filed

And upon it having been entirely within the Claimant's Solicitors' gift to properly plead the claim at the outset

And upon the claim being for a very modest sum, well within the small claims limit, such that the Court considers it disproportionate and at odds with the overriding objective (in the context of a failure by the Claimant to properly comply with rules and practice directions) to order further particulars, to which a further defence might be filed, followed by further referral to a Judge for directions and allocation

IT IS ORDERED THAT

1. The Claim is struck out
2. This order was made without a hearing. Any party affected by it may apply within 7 days of service for it to be set aside, varied or stayed.

6. Furthermore, at Manchester District Judge McMurtrie and District Judge Ranson also struck out a claim (again without a hearing) on the grounds of POC's lacking clarity, detail, and precision. As stated in the final image below, the Claimant's solicitors – DCBLegal - confirmed they would not file an amended POC, demonstrating again the reliance of a number of firms on robo-letters and illegitimate practices. See below.

WARNING: You must comply with the terms imposed upon you by this Order. Otherwise, your case is liable to be struck out or some other sanction imposed. If you cannot comply, you are expected to make a formal Application to the Court before any deadline imposed upon you expires.

Before Deputy District Judge McMurtrie sitting at the County Court at Manchester, Civil Justice Centre, 1 Bridge *Street West, Manchester, M60 9DJ.*

Upon considering the Court file;

IT IS ORDERED THAT:

1. The Particulars of Claim do not comply with CPR 16.4(1)(a) and are by this Order struck out;

2. The Claimant must **by 4.00pm on 22 August 2023**, file and serve a Particulars of Claim, supported by a Statement of Truth, identifying:

a) Whether the claim is brought under Schedule 4 to the Protection of Freedoms Act 2012; If so,

b) By reference to the definition of "relevant obligation" in paragraph 2 of Schedule 4 to the Protection of Freedoms Act 2012, whether it is alleged that the claim is based on a relevant obligation:

i) "arising under the terms of a relevant contract"; or

ii) "arising, in any circumstances where there is no relevant contract, as a result of a trespass or other tort committed by parking the vehicle on the relevant land";

c) If a contract is alleged, what was the consideration provided by the Claimant and what was the breach of contract;

d) If no contract is alleged, what was the "trespass or other tort committed by parking the vehicle on the relevant land"; If the claim is not brought under the Protection of Freedoms Act 2012:

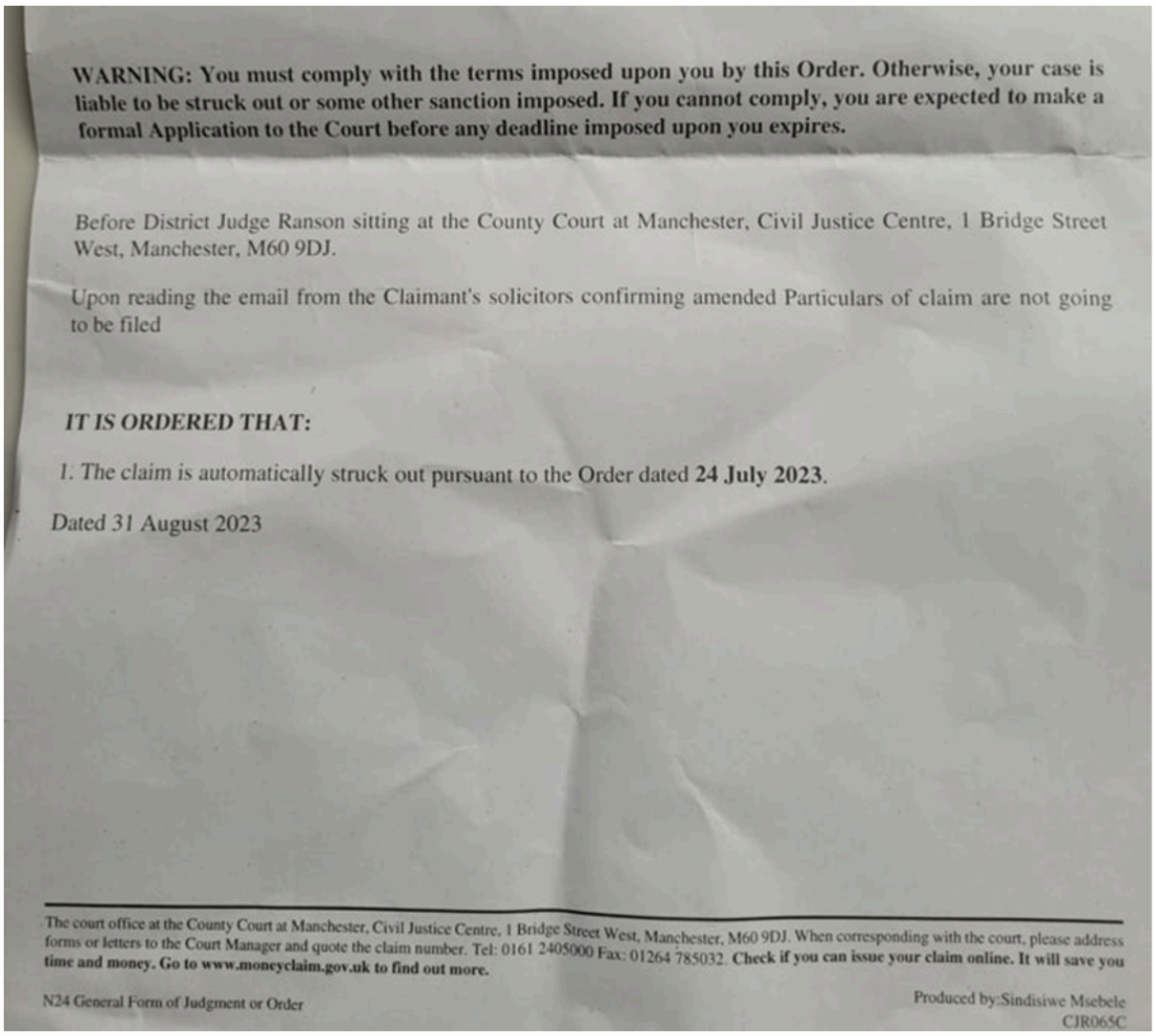
e) The cause of action and how it arose;

f) If the cause of action is breach of contract, the parties to the contract, the consideration provided by the Claimant and the alleged breach of contract;

3) If the Claimant fails to comply with the above direction, the claim shall be struck out automatically and without further Order;

4) If the Claimant complies with this Order the Defendant may send to the Court and the Claimant's solicitors a Defence in substitution for the Defence **dated 30 January 2023 by 4.00pm on 19 September 2023**;

5) At the expiry of the time limit at paragraph 4, the file will be referred back to Deputy District Judge McMurtrie for further case management.



WARNING: You must comply with the terms imposed upon you by this Order. Otherwise, your case is liable to be struck out or some other sanction imposed. If you cannot comply, you are expected to make a formal Application to the Court before any deadline imposed upon you expires.

Before District Judge Ranson sitting at the County Court at Manchester, Civil Justice Centre, 1 Bridge Street West, Manchester, M60 9DJ.

Upon reading the email from the Claimant's solicitors confirming amended Particulars of claim are not going to be filed

IT IS ORDERED THAT:

1. The claim is automatically struck out pursuant to the Order dated **24 July 2023**.

Dated 31 August 2023

The court office at the County Court at Manchester, Civil Justice Centre, 1 Bridge Street West, Manchester, M60 9DJ. When corresponding with the court, please address forms or letters to the Court Manager and quote the claim number. Tel: 0161 2405000 Fax: 01264 785032. **Check if you can issue your claim online. It will save you time and money. Go to www.moneyclaim.gov.uk to find out more.**

N24 General Form of Judgment or Order

Produced by:Sindisiwe Msebele
CJR065C

7. The Defendant believes the Claim should be struck out at Allocation stage and should not have been accepted by the CNBC due to a represented parking firm Claimant knowingly breaching basic CPRs.

8. The Claimant will concede that no financial loss has arisen and that in order to impose an inflated parking charge, as well as proving a term was breached, there must be:

(i). a strong 'legitimate interest' extending beyond mere compensation for loss, and

(Ii). 'adequate notice' of the 'penalty clause' charge which, in the case of a car park, requires prominent signs and lines.

9. The Defendant denies (i) or (ii) have been met. The charge imposed, in all the circumstances is a penalty, not saved by *ParkingEye Ltd v Beavis* [2015] UKSC67 ('the Beavis case'), which is fully distinguished.

Exaggerated Claim and 'market failure' currently being addressed by UK Government

10. The alleged 'core debt' from any parking charge cannot exceed £100 (the industry cap). It is denied that any 'Debt Fees' or damages were actually paid or incurred by this Claimant, who is put to strict proof of:

(i). the alleged breach, which is not pleaded in the POC and requires further and better particulars, and

(ii). a breakdown of how they arrived at the enhanced sum in the POC, including how interest was calculated, which looks to be improperly applied on the entire inflated sum, as if that was all overdue on the day of the alleged event.

11. The Defendant avers that this claim is unfair and inflated and it is denied that any sum is due, whether in debt or damages. This Claimant routinely pursues an unconscionable fixed sum added per PCN, despite knowing that the will of Parliament is to ban it.

12. This case is a classic example where adding exaggerated fees funds the 'numbers game' of bulk litigation of weak and/or archive parking cases. MoJ statistics of bulk litigators reveal that there are several hundred thousand parking claims per annum, *with some 90% causing default CCJs totalling hundreds of millions of pound*s. No checks and balances are likely to have been made to ensure facts, merit or a proper cause of action (given away by the woefully inadequate POC).

13. The Department for Levelling Up, Housing and Communities ('the DLUHC') published a statutory Parking Code of Practice in February 2022, here: **https://www.gov.uk/government/publications/private-parking-code-of-practice**.
The Ministerial Foreword is damning: *"Private firms issue roughly 22,000 parking tickets every day, often adopting a labyrinthine system of misleading and confusing signage, opaque appeals services, aggressive debt collection and unreasonable fees designed to extort money from motorists."*

14. Despite legal challenges delaying the Code - marked as temporarily withdrawn - it is thankfully 'live' after a draft Impact Assessment (IA) was published on 30th July 2023. The Government's analysis exposes what they say are industry-gleaned facts about supposed 'fees'. The analysis is found here: **https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1171438/Draft_IA_-_Private_Parking_Code_of_Practice_.pdf**

15. Paragraphs 4.31 and 5.19 state that the parking industry has shown the DLUHC that the true minor cost of what the former calls debt recovery or 'enforcement' (= pre-action) stage totals a mere £8.42 per case (not per PCN).

16. With that in mind, it is clear that the extant claim has been enhanced by an extreme sum, believed to be routinely retained by the litigating legal team, not the Claimant. In this Claim it is additional to the intended 'legal representatives fees' cap set within small claims track rules. This conduct has been examined and found - including in a detailed

judgment by Her Honour Judge Jackson, now a specialist Civil High Court Judge on the Leeds/Bradford circuit - to constitute 'double recovery'. The Defendant takes that position.

17. The draft IA shows that the intimidating letter-chains actually cost 'eight times less' than the seemingly 'price-fixed' +£70 per PCN. This causes consumer harm in the form of almost half a million wrongly-enhanced CCJs each year, that District Judges are powerless to prevent. This false fee was enabled by the self-serving Codes of Practice of the rival parking Trade Bodies who suddenly aligned in 2021 re allowing +£70, each led by a Board of the very parking operators and debt firms who stood to gain from it.

18. It is denied that the purported damages/fee sought was incurred or is recoverable. Attention is drawn to paras 98, 100, 193, 198 of *Beavis*. Also *ParkingEye Ltd v Somerfield Stores Ltd* ChD [2011] EWHC 4023(QB) where the parking charge was £75, discounted to £37.50 for prompt payment. Whilst £75 was reasonable, HHJ Hegarty (decision ratified by the CoA) held in paras 419-428 that 'admin costs' inflating a parking charge to £135 was not a true reflection of the cost of template letters and *'would appear to be penal'.*

19. This Claimant has not incurred costs. A parking charge model already includes what the Supreme Court called an 'automated letter-chain' and it is a model that generates a healthy profit. In *Beavis*, there were 4 pre-action letters/reminders and the £85 'PCN' was held to more than cover the minor costs of the operation. The DLUHC's IA confirms that the parking charge more than covers the minor costs of the letters (NB: the debt collectors do not charge anything in failed collection cases).

20. Whilst the new Code is not retrospective, all non-monetary clauses went unchallenged by the parking industry. The 2022 DLUHC Code will replace the self-serving BPA & IPC Codes, which are not regulation and carry limited weight. In a clear steer for the Courts and for the avoidance of doubt: the DLUHC say they are addressing 'market failure'.

21. In addition, pursuant to Schedule 4 paragraph 4(5) of the Protection of Freedoms Act 2012 ('the POFA') the sum claimed exceeds the maximum potentially recoverable from a registered keeper. Further, the Claimant is put to strict proof of POFA compliance.

22. The Defendant avers that the DLUHC's analysis now overrides plainly wrong assumptions made by Circuit Judges steered by Counsel in astonishingly weak appeal cases that the parking industry engineered their way: *Britannia v Semark-Jullien, One Parking Solution v Wilshaw, Vehicle Control Services v Ward* and *Vehicle Control Services v Percy.* Far from being persuasive, regrettably these one-sided appeals cherry-picked litigant-in-person consumers without the wherewithal to appeal. Incorrect presumptions were made in every case; and there were major evidence discrepancies (e.g. in *Wilshaw,* where the Judge was also oblivious to the DVLA KADOE requirement for landowner authority). One Judge inexplicably sought out for himself and quoted from the wrong Code of Practice (*Percy*). In *Ward*, a few seconds' emergency stop out of the control of the driver was wrongly aligned with the agreed contract in *Beavis*.

23. The Defendant avers that there was no agreement to pay a parking charge or added 'damages' which were not even incurred, let alone quantified in bold, prominent text.

This Claimant failed to erect well-placed, large and readable signs on a par with the yellow & black warnings seen in Beavis, and unlike the signage requirements set out in the DLUHC Code which reflects the already statutory requirement for 'prominence' (Consumer Rights Act 2015 - the 'CRA').

CRA breaches

24. Section 71 CRA creates a statutory duty upon Courts to consider the test of fairness whether a party raises it or not. Claiming costs on an indemnity basis is unfair, per the *Unfair Contract Terms Guidance* (CMA37, para 5.14.3): **https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/450440/Unfair_Terms_Main_Guidance.pdf**

25. The CRA introduced new requirements for 'prominence' of both terms and 'consumer notices'. In a parking context, this includes a test of fairness and clarity of 'signs & lines' and all communications intended to be read by consumers. Signage must be prominent (lit in hours of darkness/dusk) and all terms must be unambiguous and contractual obligations clear.

26. The Defendant avers that the CRA has been breached due to unfair/unclear terms *and* notices, pursuant to s62 and paying regard to examples 6, 10, 14 & 18 of Schedule 2 and the duties of fair/open dealing and good faith (NB: this does not necessarily mean there has to be a finding of bad faith).

***ParkingEye v Beavis* is distinguished**

27. Unlike in Beavis, the penalty rule remains engaged, not least due to the unconscionable added 'Fee'. The CRA covers disproportionate sums, which are not exempt from being assessed for fairness because a 'fee' is not the core price term and neither was it prominently proclaimed on the signs.

28. The Supreme Court held that deterrence is likely to be penal if there is a lack of a 'legitimate interest' in performance extending beyond the prospect of compensation flowing directly from alleged breach. The intention cannot be to punish a driver, nor to present them with hidden terms or cumbersome obligations ('concealed pitfalls or traps'). In the present case, the Claimant has failed those tests, with small signs, hidden terms and minuscule small print that is incapable of binding a driver. Court of Appeal authorities about a lack of ‘adequate notice’ of a parking charge include:

(i) *Spurling v Bradshaw* [1956] 1 WLR 461 (Lord Denning's ‘red hand rule’) and
(ii) *Thornton v Shoe Lane Parking Ltd* [1970] EWCA Civ2,

both leading authorities that a clause cannot be incorporated after a contract has been concluded; and

(iii) *Vine v London Borough of Waltham Forest*: CA 5 Apr 2000, where Ms Vine won because it was held that she had not seen the terms by which she would later be bound, due to *"the absence of any notice on the wall opposite the parking space".*
34. Fairness and clarity of terms and notices are paramount in the DLUHC Code and these clauses are supported by the BPA & IPC. In Parking Review, solicitor Will Hurley, CEO of the IPC, observed: *"Any regulation or instruction either has clarity or it doesn’t. If it’s clear to one person but not another, there is no clarity. The same is true for fairness.*

Something that is fair, by definition, has to be all-inclusive of all parties involved – it's either fair or it isn't."

Lack of standing or landowner authority, and lack of ADR

29. DVLA data is only supplied if there is an agreement flowing from the landholder (ref: *KADOE* rules). It is not accepted that this Claimant (an agent of a principal) has authority to form contracts at this site in their name. The Claimant is put to strict proof of their standing to litigate.

30. The Claimant failed to offer a genuinely independent Alternative Dispute Resolution (ADR). The DLUHC Code shows that genuine disputes such as this should see PCNs cancelled, had a fair ADR existed. The rival Trade Bodies' time-limited and opaque 'appeals' services fail to properly consider facts or rules of law and reject most disputes: e.g. the IAS upheld appeals in a woeful 4% of decided cases (2020 Annual Report). This consumer blame culture and reliance upon their own 'appeals service' (described by MPs as a kangaroo court and about to be replaced by the Government) should lead Judges to know that a fair appeal was never on offer.

Conclusion

31. There is now evidence to support the view - long held by many District Judges - that these are knowingly exaggerated claims that are causing consumer harm. The July 2023 DLUHC IA analysis shows that the usual letter-chain costs eight times less than the sum claimed for it. The claim is entirely without merit and the POC embarrassing. The Defendant believes that it is in the public interest that claims like this should be struck out.
38. In the matter of costs, the Defendant seeks:

(a) standard witness costs for attendance at Court, pursuant to CPR 27.14, and

(b) a finding of unreasonable conduct by this Claimant, and further costs pursuant to CPR 46.5.

32. Attention is drawn to the (often-seen) distinct possibility of an unreasonably late Notice of Discontinuance. Whilst CPR r.38.6 states that the Claimant is liable for the Defendant's costs after discontinuance (r.38.6(1)) this does not 'normally' apply to claims allocated to the small claims track (r.38.6(3)). However, the *White Book* states (annotation 38.6.1): *"Note that the normal rule as to costs does not apply if a claimant in a case allocated to the small claims track serves a notice of discontinuance although it might be contended that costs should be awarded if a party has behaved unreasonably (r.27.14(2)(dg))."*

Statement of Truth

I believe that the facts stated in this defence are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Defendant's signature:

Date: 11/10/23