

## Witness Statement

IN THE COUNTY COURT BUSINESS CENTRE

CLAIM No: **xxxx**

BETWEEN:

PARKING CONTROL MANAGEMENT (UK) LIMITED (Claimant)

-and-

**xxxx** (Defendant)

I am **xxxx** and I am the Defendant in that matter. I am representing myself due to the cost of a solicitor and due to this I request some leeway.

The defendant requests from the court to consider the statement of defence and this witness statement as both are forming the basis of Defendant legal arguments so Defendant will try to avoid repeating the same defence points. Claimant already been served with a copy of Statement of Defence.

### 1. Preliminary: Describes back ground of the case.

1.1 It is admitted that at all material times the Defendant was the registered keeper of vehicle registration mark **xxxx** which is the subject of these proceedings. The vehicle was insured with **xxxx** with two of named drivers permitted to use it.

1.2 **Defendant Primacy of Contract and Authority to use the land in question:**  
The Defendant has a land registry contract with the Landowner of **xxxx** Development (the land where the Claimant claims a parking charge (s) for breaching of the terms of parking).

Defendant avers that there was an absolute entitlement to park, loading or unloading and to use the common parts or estate roads of **xxxx** Development with or without vehicle and to authorise others for the same along with other rights and benefits deriving from the terms of the Defendant Land Registry and that terms do not restrict or charge for parking in the development for the type / condition of the vehicle in question.

The Land registry terms cannot be fettered by any alleged parking or other restriction terms established by third party like Claimant or management company **xxxx**.

Defendant Land Registry attached (**Exhibit ps/1**) and other lease contract attached (**Exhibit ps/2**).

- 1.3 Although Defendant is sure he has all the right mentioned above, Defendant was always avoiding to be a victim of Claimant as other residents and Defendant does not want to waste his time defending unreasonable claim like this one but Claimant was targeting Defendant specially after Defendant refused to give up his contractual rights and been awarded costs for Claimant unreasonable behave under CPR 27.14(2)(g) (court case no. **xxxx** at **xxxx** County Court).**Exhibit ps/3**
- 1.4 Defendant won appeals to third party POPLA- BPA association against Claimant for other previous cases before Claimant moved to IPC association. (**Exhibit ps/4**)
- 1.5 Claimant failed to prove he had a contract with the Landowner as he claimed in his letters dated **xxxx** and **xxxx**. So Claimant has no authority to claim for parking charges under Schedule 4 of POFA 2012 as he is not the landowner or occupier of the **xxxx** Development.
- 1.6 Claimant issued that immediate PCN while Defendant was loading, unloading and drop off shopping to his home which that took less than three minutes and then the vehicle was removed from site. Claimant has a medical condition preventing him to carry heavy loads for long periods.
- 1.7 Claimant made that immediate PCN in one minute (**Exhibit ps/6**) while that doesn't comply with Claimant's association code of practice which requires grace time before issue the PCN. No prove that Claimant issued that PCN after grace time was elapsed. Also Claimant didn't fix the PCN on the vehicle as required by Protection of Freedom Act 2012 (POFA 2012).
- 1.8 Claimant has no reasonable ground for bringing that claim as he knew all of the above paragraphs from previous case with the Defendant, case number **xxxx** at **xxxx** county court, which was struck out as the Claimant neither paid the court fees nor served his Witness Statement to the court or the Defendant and the Defendant awarded costs under CPR 27.14(2)(g). All the claimant trials to set aside that struck out order were dismissed and his request for permission to appeal at the hearing dated **xxxx** was refused. Court orders attached (**Exhibit ps/3**)
- 1.9 Residents of **xxxx** Development declined the scheme provided from the claimant in residents meeting on **xxxx** and management company **xxxx** been informed of that refusal before starting any car park scheme in the land in question. Minuets of meeting attached. (**Exhibit ps/8**)
- 1.10It is denied that there was any relevant obligation upon the Defendant that can have been breached. The Defendant did not enter into any 'agreement on the charge', no consideration flowed between the parties and no contract was established. The Defendant declined all trials by the Claimant, four years before Claimant issued the alleged parking charge(s), to enter into a contract allowing Claimant to charge the Defendant. (**Exhibit ps/9**)
- 1.11It is denied that any "parking charges / damages and indemnity costs" (whatever they might be) as stated on the brief Particulars of claim are owed and any debt is denied in its entirety.

1.12 As a resident of **xxxx** Development, Claimant never provided to the Defendant any parking permit although the Defendant asked for that several times. **(Exhibit ps/10)**

1.13 The Claimant's Solicitor Gladstones been reported in parliament bill debate on 02 February 2018 for their poor practiced mentioned above against public and targeting victims like Defendant. **(Exhibit ps/11)**

1.14 The Claimant's solicitor Gladstones are known to be a serial issuer of generic claims similar to this one, with no due diligence, no scrutiny of details nor even checking for a true cause of action. HMCS has identified thousands of similar poorly pleaded claims.

1.15 The Court is invited to take Judicial Notice of the fact that the Claimant's solicitors, Gladstones, is engaged in a course of conduct which involves issuing tens of thousands of totally meritless Claims, which are routinely struck out / dismissed by District Judges sitting in **xxxx** County Court, and other County Court hearing centres in all parts of England & Wales.

1.16 The Court is therefore invited to refer the matter to the Designated Civil Judge, for consideration of the issuing an Extended Civil Restraint Order against the Claimant, pursuant to CPR Practice Direction 3.1(3).

## **2. Claimant non compliance with Schedule 4 of Protection Of Freedom Act 2012 (POFA 2012) Recovery Of Unpaid Parking Charge:**

2.1 The government have put in place a strict mechanism under the POFA 2012, schedule 4 and if any of the conditions not met the creditor doesn't has the right to recover the parking charges from the keeper as stated in Paragraphs 8.f, 9.f of the Act.

One of the vital and mandatory condition Claimant has to met is to specify **the period** of parking which Claimant didn't specify the period of alleged parking he is claiming for in any of his letters **(Exhibit ps/7)** or Claim Form as required from Paragraphs 4.2, 7.2.a & b, 7.3, 7.4a, 8.1, 8.2a to c, 8.2f, 8.3, 9.1, 9.2.a & c, 9.3, 11.1.a & 11.3.a of the POFA 2012, Schedule 4. That is serious breach and does not comply with the conditions Claimant must be met for purpose of paragraph 4 of the Act (*Right to claim unpaid parking charges from keeper of vehicle*).

2.2 Schedule 4 of POFA 2012 paragraph 4(5) does not permit the Claimant to recover a sum greater than the parking charge on the day before a Notice to Keeper was issued. Claimant claims for £247.6 in the Claim form while the notice to keeper for only £100.

Schedule 4 of POFA 2012 paragraph 4(6) prohibited Claimant to use that paragraph as permitting double recovery. The Defendant also has the reasonable belief that the Claimant has not incurred the stated additional costs in the Letter Before Claim or in the claim form and it is put to strict proof that they have actually been incurred especially after the Defendant clearly informed the Claimant, letter dated 02 March

2017(**Exhibit ps/5**) that alleged parking charge is denied and any additional costs would be a thinly-veiled attempt to 'double recovery'.

Even if those additional costs have been incurred, the Claimant has described some of them as "legal representative's costs" in the claim form. These cannot be recovered in the Small Claims Court.

### **3. Claimant non compliance with his agreement with Management Company xxxx:**

3.1 The agreement between Claimant and Management company xxxx (**Exhibit ps/12**) required from Claimant to operate the car park scheme in accordance with BPA (British Parking Association) and its AOS (Approved Operator Scheme) Code Of Practice (COP) while:

3.1.1 The Claimant letters and signage shows clearly that the car park scheme been operated according to Independent Parking Committee (IPC) and its AOS (Approved Operator Scheme) Code Of Practice (COP).

3.1.2 Claimant is not and was not a member of BPA at the time the PCN in question was issued in question. BPA and IPC members list attached (**Exhibit ps/13**)

3.1.3 Claimant didn't allow any grace period before he issued the PCN in question. Grace time is vital requirement by BPA & IPC Code Of Practice.

3.1.4 Grace time section of IPC Code of Practice is attached (**Exhibit ps/14**).

3.2 This agreement limiting Claimant to post code xxxx (located in phase 1) not to all of xxxx Development but Claimant extended his parking control to all of the estate with no authorisation or approval from any one. The Vehicle was loading, unloading, dropping off shopping next to Defendant home in xxxx which that area not included in the agreement between xxxx and the Claimant. Phase 1 Post codes attached and Google map (**Exhibit ps/15**).

3.3 The Defendant believes that Claimant been limited to the post code xxxx which that in the front of the school gate to stop public to park in the front of school gate.

3.4 The Claimant breached his agreement with Management Company xxxx by adding / changing terms, regulations and Code of practice from BPA to IPC.

3.5 Estate Management Company xxxx annual cost statements for last 3 years (**Exhibit ps/16**) didn't show any expenses towards private car parking scheme. That boosts / proof why the Claimant has been limited to run private parking scheme in small portion of phase 1 of the development and not to all of the estate.

### **4 Claimant Alleged Authority:**

4.1 Claimant failed to prove he had a contract with the Landowner as he claimed in his letters dated xxxx and xxxx. So Claimant has no authority to claim for parking charges under any law or Act including Schedule 4 of POFA 2012 as he is not the landowner or occupier of the xxxx Development.

- 4.2 Claimant agreement with the management company **xxxx** (**Exhibit ps/12**) is worthless and cannot give the Claimant authority to issue parking charge(s) on **xxxx** Development and this authorisation does not comply with Schedule 4 of POFA 2012, para 1(a &b) **Relevant Contract** meaning (page 137) as neither **xxxx** nor the Claimant are the owner or the occupier of the land of **xxxx** Development.
- 4.3 Management Company **xxxx** by this agreement over authorised their duties specified in Defendant's Land Registry which limited the duties of the management company **xxxx** to only the **Common Parts & Amenity Areas** (and that exclude **Estate Roads**) Also **xxxx** has no parking duties except to maintain, properly repaired, renewed, replaced and cleaned any parking spaces.
- 4.4 Schedule 4 of POFA 2012 para (3.1.a) does not allow Claimant to issue parking charge(s) on highway maintainable at the public expenses like the **Estate Roads** of **xxxx** Development. Defendant admitted that the car was loaded or unloaded in roads intended to become highways maintainable at the public expenses definite in the Defendant Land registry terms / drawings as **Estate Roads**.
- 4.5 The Defendant avers that the agreement between **xxxx** and Claimant and Claimant's signs cannot:
- (i) override the existing rights enjoyed by Buyer, Residents and their visitors and
  - (ii) offer parking on more onerous terms than were already granted and agreed in the Land Registry contract, or
  - (iii) decide to remove parking bays or restrict using of the estate roads from use by residents / buyers and/or start charging for them.
- 4.6 Parking easements cannot retrospectively and unilaterally be restricted where provided for within the Land Registry.

## 5 Other defence / issue points:

- 5.1 All the residents of that estate, including Defendant, complained about Claimant's employee who invariably targets residents, resident's visitors, deliveries dropping off passengers, or when loading or unloading. This is a predatory operation which is unconscionable and without any legitimate interest, meaning that unlike the wholly different facts in **ParkingEye Ltd v Beavis [2015] UKSC 67**, this charge undoubtedly remains unrecoverable under the penalty rule which was considered 'engaged' in Beavis (and their charge was only saved by the unique facts/signs in a free retail park). MP complained letter to Claimant attached (**Exhibit ps/17**)
- 5.2 The Claimant's employee is infamous for skulk in corners at sites like this one, then target victims like Defendant. This is a business practice which is unfair, contrary to the doctrine of good faith, contrary to the stated landowner policy and against the Consumer Rights Act 2015 as well as their own Code of Practice, and case law (**the Jopson v Home Guard Appeal case** is persuasive on this very issue).

5.3 Defendant suggests that the Claimant is practising bullying & extortion on victims like Defendant by using techniques such if the victim didn't pay for that alleged invoice, Claimant is going to waste the victim time & efforts causing harassment & stress on him and at the end using the Court small claims track as a form of aggressive, automated debt collection depending on the myth said Defendant costs could not be claimed in small claim track. That is not something the courts should be seen to support.

5.4 It is denied that the signs used by this claimant can have created a fair or transparent contract with a driver in any event. The signs were insufficient in terms of their distribution, wording and lighting hence incapable of binding the driver, which distinguishes this case from the Beavis case. Real site signage photos attached **(Exhibit ps/18)**

At the end Defendant asks the court for:

- Dismiss that claim.
- An Injunction order to prevent Claimant to sue Defendant in future at the same land.
- Order Claimant to pay Defendant costs.

I believe the facts contained in this Witness Statement are true.

Name: **xxxx**

Date: **xxxx**

Address: **xxxx**