

Application notice

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Name of court County Court	Claim no.
Fee account no. (if applicable)	Help with Fees - Ref. no. (if applicable)
	H W F - [] [] - [] []
Warrant no. (if applicable)	
Claimant's name (including ref.)	
Defendant's name (including ref.)	
Date	

1. What is your name or, if you are a legal representative, the name of your firm?

2. Are you a Claimant Defendant Legal Representative
 Other (please specify)

If you are a legal representative whom do you represent?

3. What order are you asking the court to make and why?

1. To strike out the claim as the 2nd Defendant believes it lacks merit for the reasons set out in the attached Defence 2. Be granted relief from sanction, this order is sought as a precautionary measure, the 2nd Defendant believes it did not receive the claim 3. The Claimant to pay costs of the application and claim

4. Have you attached a draft of the order you are applying for? Yes No

5. How do you want to have this application dealt with?
 at a hearing without a hearing
 at a telephone hearing

6. How long do you think the hearing will last?
 Hours Minutes
 Is this time estimate agreed by all parties?
 Yes No

7. Give details of any fixed trial date or period

8. What level of Judge does your hearing need?

9. Who should be served with this application?

9a. Please give the service address, (other than details of the claimant or defendant) of any party named in question 9.

10. What information will you be relying on, in support of your application?

- the attached witness statement
- the statement of case
- the evidence set out in the box below

If necessary, please continue on a separate sheet.

1. CPR 3.4 (2)(a) provides the Court may strike out a statement of case if the statement discloses no reasonable grounds for bringing the claim. For reasons set out in the attached Defence, the Second Defendant believes this to be the case.

2. The Second Defendant believes it did not receive the claim form and therefore in the interest of justice it should be allowed to file the attached Defence. Further information is set out in the attached Defence. The Second Defendant seeks relief from sanctions as a precautionary measure.

Statement of Truth

(I believe) (The applicant believes) that the facts stated in this section (and any continuation sheets) are true.

Signed _____ Dated _____
Applicant('s legal representative)('s litigation friend)

Full name _____

Name of applicant's legal representative's firm _____

Position or office held In-House Solicitor
(if signing on behalf of firm or company)

11. Signature and address details

Signed _____ Dated _____
Applicant('s legal representative)('s litigation friend)

Position or office held In-House Solicitor
(if signing on behalf of firm or company)

Applicant's address to which documents about this application should be sent

In-House Legal Department	If applicable			
	Phone no.			
	Fax no.			
	DX no.			
Postcode	<input type="text"/>	<input type="text"/>	Ref no.	
E-mail address				

IN THE COUNTY COURT AT

CLAIM NO:

BETWEEN:

MR MOHAMED ABDALLAH

Claimant

-and-

Defendants

DRAFT ORDER

Before his/her honour Judge _____

On the () day of () 2019

UPON reading the Second Defendant's application dated

IT IS HEREBY ORDERED:

1. The Claimant's claim against the Second Defendant is struck out pursuant to CPR 3.4, as it discloses no reasonable grounds for bringing the claim.
2. The Claimant is given permission to file the attached Defence.
2. The Claimant do pay the Second Defendant's costs of Defending the claim and application

IN THE COUNTY COURT SITTING AT

CLAIM NO
BETWEEN:-

Claimant

-and-

Defendants

DEFENCE ON BEHALF OF THE SECOND DEFENDANT

Introduction

1. This Defence is filed in response to the Claim Form and Particulars of Claim issued on
2. For the sake of clarity and identification, the Second Defendant is a housing trust but manages a housing development at a site known as . There are restrictions that control the parking of motor vehicles at the site.
3. By an agreement dated between the First and Second Defendant, the First Defendant was appointed to provide its services, in accordance with the British Parking Association and Approved Operator Scheme Code of Practice to operate, manage and enforce (including taking legal action to recover unpaid charges from those involved in unauthorised parking) the restrictions at the site. The First Defendant was engaged as an independent contractor

Service of the Claim

4. As to the Service of the Claim Form:
 - 4.1. The Second Defendant has not received nor been provided with a copy of a letter addressed to it sending the Claim Form. The Second Defendant contends that the Claim Form was not sent to the Second Defendant and accordingly the deemed date of service under CPR 6.14 did not apply or alternatively (for the reasons set out below) that it is in the interest of justice that it should be disapplied as against the Second Defendant.

- 4.2. A Notice of Issue ("the Notice") has been prepared by the court. The Notice identifies that there are two Defendants. The Notice indicates that the court sent the Claim Form by first class post on [redacted] to "the defendant". The Notice does not indicate that the court sent it to the "defendants". Accordingly, the Notice was sent to only one Defendant, that is the First Defendant, not the Second Defendant. The Notice refers to the deemed date of service being [redacted].
- 4.3. As the Notice was not sent to the Second Defendant the deeming provisions for service under CPR 6.14 were not triggered and does not apply in relation to the Second Defendant. The Claim Form could not therefore be deemed served on the Second Defendant on 8 June 2019.
5. If, contrary to the Second Defendants contentions above, the court did send the Claim Form to the Second Defendant and the deeming provisions are found to apply, the Second Defendant, relies on the following matters.
- 5.1. The Second Defendant came to know that it had been named as a party to these proceedings upon receipt of a letter from Gladstones solicitors dated [redacted] which enclosed a copy of the Defence that had been filed on behalf of the First Defendant. Neither the Claim Form nor Particulars of Claim had been sent to the Second Defendant.
- 5.2. On [redacted] the Claimant wrote to the Second Defendant stating, amongst other things, that he had informed the court that he wished his claim to proceed and that he did not wish to engage in mediation.
- 5.3. On [redacted] the Second Defendant solicitors wrote to the Claimant and to the Court Business Centre indicating that the Claim Form and Particulars of Claim had not been sent to it and requesting to be sent a copy of the same. The Court Business Centre responded on [redacted] stating that the matter had been transferred to the court sitting at [redacted] and therefore it was not able to provide the Claim Form or Particulars of Claim. The Claimant responded on [redacted] and enclosed a copy of an unsealed unissued copy of the Claim Form and the Particulars of Claim together with a copy of the Notice of Issue referred to above.
- 5.4. The Second Defendant filed and served an acknowledgment on [redacted] and will seek relief from any sanction alleged to arise by virtue of this not being done or a Defence filed prior to that date.
6. The Second Defendants averments set out hereinbelow are without prejudice to the contentions regarding non-service of the Claim Form.

7. The Second Defendant avers that the Particulars of Claim are embarrassing for lack of particularity is vague, unclear and ill-founded. The Second Defendant is placed in an invidious position in responding to the claim and the averments below are without prejudice to that contention.

Breach of the Data Protection Act

8. The Claimant has failed to provide any particulars of the breach of the Data Protection Act 1998 that he alleges against the Second Defendant;

9. For the avoidance of doubt, it is expressly denied that the Second Defendant has breached any provision of the Data Protection Act 1998, whether section 13 or otherwise, and the Claimant is put to strict proof of any such alleged breach.

10. It is expressly denied that anything set out in the Particulars of Claim raises any cause of action against the Second Defendant and/or establishes any unlawfulness on the part of the Second Defendant and/or any breach by the Second Defendant of the Data Protection Act 1998.

11. The Second Defendant was not involved in the issue of the parking charge notices dated or and has no knowledge of what if any action was taken in relation to them or what data is alleged to have been processed and when this was done.

12. The Second Defendant was not a party to the claim under number referred to in the Particulars of Claim and therefore is unable to admit or deny the nature of that claim, the address that was attributed to the Claimant, whether default judgment was entered against the Claimant and/or the Claim struck out or discontinued and, if so, on what grounds and/or was discontinued.

13. Any such claim that may have existed or been pursued under case number arose solely between the Claimant and the First Defendant. No cause of action arises in the Claimant against the Defendant by virtue of those proceedings having been commenced or terminated.

Vicarious Liability

14. The Claimant has failed to provide any proper particulars of the grounds upon which it is alleged that the Defendant is vicariously liable for any action constituting or alleged to be a breach of the Data Protection Act 1998.
15. If, which is not admitted, the issuance of any parking charge notice was purportedly in the interest of the First Defendant, this would not constitute a ground on which the second Defendant could or would be held to be vicariously liable for the actions of the First Defendant.
16. If the First Defendant processed the Claimants data contrary to the Data Protection Act whether as alleged or at all (but none being admitted), this would not have been done under any authority from the Second Defendant and the Claimant is put to strict proof of the allegation.
17. For the avoidance of doubt, it is expressly denied that the Second Defendant is or can be vicariously liable for the processing of data by the First Defendant (none being admitted). As a matter of law, the First Defendant is an independent contractor and accordingly any decision or action taken by the First Defendant is done entirely on its own account and the Second Defendant is not and cannot be liable for those actions or their consequences.

Damages and Relief

18. It is denied that the Second Defendant is liable to compensate the Claimant in the sum of or any sum. The Claimant is put to strict proof of any alleged damage caused by any actionable breach by the Second Defendant.
19. It is denied that the Claimant is entitled to any relief whether as stated in the Claim Form and/or Particulars of Claim or otherwise.
20. Accordingly, the Claimants claim against the Second Defendant is without merit. The Claim discloses no reasonable grounds for bringing a claim against the Second Defendant and/or is an abuse of the courts process and/or is otherwise frivolous or vexatious and/or it's continuance is likely to obstruct the just disposal of the proceedings pursuant to CPR 3.4(1)(a), and/or(b).

STATEMENT OF TRUTH

[I believe or The 2nd Defendant believes]* that the facts stated in this Defence are true.

[I am duly authorised by the 2nd Defendant to sign this Statement.]*

Signed

Full name Dated... ..

Position or office held.. ..

*Delete as appropriate

In-house Legal Department,