
From: KB Judges Listing Office <KBJudgesListingOffice@Justice.gov.uk>
Sent: 01 February 2023 16:15
To: Petra Billing
Cc: Laura Higson
Subject: RE: National Highways and Persons Unknown ; Claim No: QB-2021-003576, QB-2021-003626, QB-2021-003737

****EXTERNAL****

Dear Madam,

Please use the email below and confirmation.

Kind regards,

Lauren Dixon

KB Judge's Listing Office Team Leader

KB Judge's Listing Office | HMCTS | RCJ | The Strand | London | WC2A 2LL

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Coronavirus (COVID-19): courts and tribunals planning and preparation



From: Petra Billing <Petra.Billing@dlapiper.com>

Sent: 01 February 2023 16:11

To: KB Judges Listing Office <KBJudgesListingOffice@Justice.gov.uk>

Cc: Laura Higson <Laura.Higson@dlapiper.com>

Subject: RE: National Highways and Persons Unknown ; Claim No: QB-2021-003576, QB-2021-003626, QB-2021-003737

Dear Sir/ Madam

Thanks you for confirming this.

Will you be issuing a notice of hearing or should we serve the Defendants with the email exchange below?

regards

Petra Billing

Partner

T:
M:
petra.billing@dlapiper.com

From: KB Judges Listing Office <KBJudgesListingOffice@Justice.gov.uk>
Sent: 31 January 2023 13:27
To: Petra Billing <Petra.Billing@dlapiper.com>
Cc: Laura Higson <Laura.Higson@dlapiper.com>
Subject: RE: National Highways and Persons Unknown ; Claim No: QB-2021-003576, QB-2021-003626, QB-2021-003737

****EXTERNAL****

Dear Sirs

Thank you for your email below, the final hearing has been listed for 24th April 2023 for ½ day before a High Court Judge in person.

The Judge and the time of the hearing will be confirmed the working day before on the cause list.

Regards

Rupkiran Bhamra (Mon-Fri 7am-2:30pm)
Team Leader
King's Bench Judge's Listing Office, Room E03
King's Bench Division | HMCTS | Royal Courts of Justice | Strand, London | WC2A 2LL
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From: Petra Billing <Petra.Billing@dlapiper.com>
Sent: 31 January 2023 13:20
To: KB Judges Listing Office <KBJudgesListingOffice@Justice.gov.uk>
Cc: Laura Higson <Laura.Higson@dlapiper.com>
Subject: National Highways and Persons Unknown ; Claim No: QB-2021-003576, QB-2021-003626, QB-2021-003737

Dear Sirs/ Madams

Both leading and junior counsel's availability for the review hearing (based on a **half day** estimate) in April 2023 is limited.

The only dates free are 24, 25 and 26 April 2023.

They are also both available 1, 2 and 3 May 2023.

Regards

Petra Billing

Partner

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From: KB Judges Listing Office <KBJudgesListingOffice@Justice.gov.uk>
Sent: 30 January 2023 11:30
To: Petra Billing <Petra.Billing@dlapiper.com>
Subject: RE: National Highways and Persons Unknown ; Claim No: QB-2021-003576, QB-2021-003626, QB-2021-003737

****EXTERNAL****

Dear Sirs

Further to your email below, can you provide dates for the final injunction to be listed in April.

Regards

Rupkiran Bhamra (Mon-Fri 7am-2:30pm)
Team Leader
King's Bench Judge's Listing Office, Room E03
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From: Petra Billing <Petra.Billing@dlapiper.com>
Sent: 30 January 2023 11:10
To: KB Judges Listing Office <KBJudgesListingOffice@Justice.gov.uk>
Subject: National Highways and Persons Unknown ; Claim No: QB-2021-003576, QB-2021-003626, QB-2021-003737

Dear Sir/ Madam

We refer to paragraph 19 of the attached Order ("the Bennathan Order"). This matter is to be listed for review in April of this year. To date we have not received a listing for the hearing from the Court, but before the Court does list the review hearing we wish to draw the following to the Court's attention:

1. Permission to appeal the attached order (“the Bennathan Order”) has been granted by the Court of Appeal. The matter is to be heard by the Court of Appeal on 16 February 2023. The outcome of that appeal will determine whether the interim injunction granted at paragraph 10 of the Bennathan Order becomes final or not – this is the crux of the appeal. The Bennathan Order also contains a final injunction at paragraph 9, but that will be unaffected by the appeal.
2. Both the final injunction ordered at paragraph 9 and the interim injunction granted at paragraph 10 of the Bennathan Order expire presently **on 9 May 2023**. The purpose of the review hearing is to enable the Court to determine whether to extend the injunctions. The Claimant will be seeking an extension to the injunctions for at least 1 year with some time allowed for service.
3. It is anticipated that the Court of Appeal will not give judgment on the appeal on 16 February 2023, but instead will reserve judgment with some uncertainty as to when they will be in a position to hand down judgment following the hearing on 16 February 2023. The determination of the appeal in the Bennathan Order may require that the interim injunction part of the Bennathan Order be varied so as to be a permanent injunction.

In light of the above, we would invite the Court to list the review hearing in April (that is, prior to the expiration on 9 May 2023) and deal with the issue of whether or not the injunction should be extended at that point. As to the effect of the appeal on the review hearing:

- If the Court of Appeal has handed down judgment and found that the interim injunction should be a final injunction, that can be incorporated into any Order made at the review hearing.
- If the Court of Appeal has *not* handed down judgment by the date of the review hearing, we consider that the Court should in any event determine the issue of continuation of the interim injunction at a review hearing in April. If the Court of Appeal subsequently finds that the interim injunction should have been a final injunction, then the Claimant proposes to deal with that by making an application to vary the injunction in due course. We would emphasise that this would not affect the substance of the injunction, only whether it is interim or final; and also we would highlight that the test for whether or not the injunction should continue is, by virtue of s.12 of the Human Rights Act 1998 very similar (if not materially identical) whether the injunction is interim or final. Therefore, the outcome of the appeal should not materially affect the task before the Court on the review hearing.

If the Court disagrees with that proposal and considers that it wishes to adjourn the review hearing till a later date to allow it to take account of the Court of Appeal’s judgment, a short extension of the injunctions would need to be granted so that the injunctions did not expire prior to the adjourned review hearing.

We would appreciate it if you would place this email before a Judge for determination before steps are taken to list the review hearing.

Petra Billing

Partner

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