

Date: 25 February 2020
Party: Claimants
Witness: SS Wortley
Number: 3rd
Exhibits: "SSW19" - "SSW20"

Claim Number: HQ18X00427

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N

- (1) TEIGHMORE LIMITED**
(2) LBQ FIELDEN LIMITED

Claimants

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

WITNESS STATEMENT OF
STUART SHERBROOKE WORTLEY

I, Stuart Sherbrooke Wortley of Eversheds Sutherland (International) LLP, One Wood Street, London EC2V 7WS WILL SAY that:-

1. On 21 February 2020, my assistant Joanna Begaj sent a copy of the Claimants' application for a final injunction and my witness statement in support of the application to the First Defendant by special delivery (page 382 of the hearing bundle) and to Andrew Clark, Head of Legal at Red Bull Limited by email (page 383 of the hearing bundle).
2. Proof of delivery to the First Defendant is attached at page 1 of the exhibit marked "**SSW19**".

3. At 18.57 yesterday (24 February), Mr Clark sent me an email message in which he disputed the accuracy of paragraphs 41.2.2 of my 2nd witness statement and suggested that this should either be deleted or replaced.
4. At 11.38 today, I replied to Mr Clark informing him that paragraph 41.2.2 of my 2nd witness statement was correct based on what Mr Lowcock had told me. However, I agreed to put a copy of his email message to be before the Court.
5. Copies of the email messages are attached to this statement at pages 3-5 of the exhibit marked "**SSW19**".
6. In paragraph 45 of my second witness statement I recorded the fact that the First Claimant seeks an order to clarify the position in relation to airspace.
7. In considering the position with regard to airspace, it may assist the Court to understand the extent to which the First Claimant used the airspace above The Shard during construction.
8. Page 1 of the exhibit marked "**SSW20**" is an article from "Building" magazine dated 30 September 2011 which records the fact that:-
 - 8.1 The Shard is 310 metres tall; and
 - 8.2 when fully extended, the crane used to complete construction was 7 metres taller than The Shard (see page 6 of "**SSW20**").
9. Pages 2 to 7 of the exhibit marked "**SSW20**" are taken from a website for Van Doorn Tower Crane Consultants which:-
 - 9.1 record the fact that this company "*erected, climbed and dismantled Europe's tallest crane at 337 metres off of a diving platform ...*" (see page 4 of "**SSW20**"); and
 - 9.2 include a number of photographs which show cranes operating around the structure of The Shard.

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



Stuart Sherbrooke Wortley
25 February 2020

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Defendants

"SSW19"

This is the exhibit marked "SSW19" referred to in the witness statement of Stuart Sherbrooke Wortley dated 25 February 2020.

ROYAL MAIL FORM

Please Return to Abigail Petney

Date: 21.02.20

Sender: Stuart Wortley

Client / Matter No.
(eg. 123456.123456) 176956 - 000186

Useful Information: Let and enc - Ian David Bone -
Notice of final injunction. 21.02.20

Post Code: BS4 2DT

Please see the reverse of this sheet for more information on the delivery services available, including the minimum cost of each product.

Tick relevant box:

Special Delivery	<input type="checkbox"/>	Guaranteed next day by 1 pm (Monday - Friday) <i>(Weight must not exceed 10kg)</i>
	<input checked="" type="checkbox"/>	Guaranteed next day by 9 am (Monday - Friday) <i>(Weight must not exceed 2kg)</i>
Saturday Delivery	<input type="checkbox"/>	Tick this box if your Special Delivery needs to be delivered on the Saturday - £2.50 extra fee
Signed For <i>(Recorded Delivery)</i>	<input type="checkbox"/>	Not a guaranteed next day delivery. <i>(Weight must not exceed 20kg)</i>
Signed For International	<input type="checkbox"/>	Signature on delivery, but only able to track item whilst in the UK. <i>(Weight must not exceed 2kg)</i>

ITEMS MUST BE IN THE POST ROOM BY 17.00

For post room use only:

Weight/Size:	170 grams	Letter/LL/Packet
Price:	£ 6.29	
Item Reference Number:	KG7765 7471 0613	
Facilities Signature	UM	
Addressee Name		



Track your Item

Proof of Delivery

Tracking no. KG776574710GB

A handwritten signature in black ink, appearing to be "IAN PARSONS".

Your item was delivered on ****22-02-2020****.

Signed for by: PARSONS IAN

Service used: Royal Mail Special Delivery Guaranteed 9am™

Delivered: 8:23am

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Begaj, Joanna

From: Wortley, Stuart
Sent: 25 February 2020 11:38
To: Andrew Clark
Cc: Dylan Wyn Pugh; Dominique Octave; Begaj, Joanna; Olivia Pippet
Subject: The Shard
Attachments: Email dated 16.12.19

Dear Mr Clark

Further to our exchange of messages yesterday, I attach a copy of an email from Ed Locock to me dated 16.12.19.

You will see that para 41.2.2 of my witness statement is correct by reference to what Mr Locock informed me.

I will of course put a copy of your email message of 18.47 yesterday before the Court tomorrow and ensure that Counsel informs the Judge that this paragraph of my witness statement is disputed.

Given that Red Bull Limited has not been joined as a party in any event (so nothing turns on this) I trust that this will satisfactorily address any concern you may have.

Yours sincerely

Stuart Wortley | Partner – Real Estate Dispute Resolution | Eversheds Sutherland

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www.eversheds-sutherland.com

Eversheds Sutherland

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From: Andrew Clark <Andrew.Clark@redbull.com>
Sent: 24 February 2020 20:19
To: Wortley, Stuart <StuartWortley@eversheds-sutherland.com>
Cc: Dylan Wyn Pugh <Dylan.WynPugh@redbull.com>; Dominique Octave <Dominique.Octave@redbull.com>; Begaj, Joanna <JoannaBegaj@eversheds-sutherland.com>; Olivia Pippet <Olivia.Pippet@redbull.com>
Subject: Re: EXT: The Shard

Dear Mr Wortley,

Thank you for acknowledging my email and for reviewing our feedback in more detail tomorrow morning.

Ms Begaj's cover note did not invite comments so I was concerned that we were not being provided with an opportunity to provide feedback.

I look forward to hearing from you tomorrow.

Yours sincerely,

Andrew

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On 24 Feb 2020, at 20:02, Wortley, Stuart <StuartWortley@eversheds-sutherland.com> wrote:

Dear Mr Clark

Thank you for your email message.

I will of course ensure that the facts are presented to the Court accurately - indeed the very purpose of sending a copy of my witness statement to you (notwithstanding the fact that Red Bull has not been joined as a party) was to give you a opportunity to comment on our evidence.

I am unable to review my statement at the moment but I will do so in the morning and will respond then.

Yours sincerely

Stuart Wortley

0771 288 1393

Sent from my iPhone

On 24 Feb 2020, at 18:57, Andrew Clark <Andrew.Clark@redbull.com> wrote:

Dear Mr Wortley,

Further to our previous correspondence dated 21st January and the below email from Ms. Joanna Begaj, we have now had the opportunity to review the witness statement and note the Red Bull references in paragraphs 38 – 44. We do not believe that the witness statement as currently drafted is an accurate record and as a result there is a danger that the court will be misled if you do not correct the relevant paragraph.

In particular, the statement within paragraph 41.2.2 is wrong. We have already advised you of this in our email dated 21st January 2020 so it is very concerning that you have continued this error into a witness statement which is to be put before the court in support of an application for an injunction endorsed with a penal notice. Paragraph 41.2.2 should either be deleted in its entirety or replaced with the following:

"41.2.2 was proactively seeking REM's permission and collaboration to complete the stunt although he indicated that he was unsure whether it was required;"

Mr Dylan Wyn Pugh acted properly and cooperatively throughout and whilst we understand it may be beneficial to your client to paint a picture to the contrary, I understand that as an officer of the court you are duty bound to accurately and impartially represent the facts.

In addition, the date of the conversation between Mr Lowcock and Mr Dylan Wyn Pugh referenced at paragraph 41.2 is incorrect. As per the email on within exhibit SSW18, the conversation occurred on 29th October 2019 not 7th November 2019.

Please confirm by no later than 12pm 25th February that paragraph 41.2.2 will be deleted or amended as per our request.

Yours sincerely,



Andrew Clark

<image001.png>

Andrew Clark

Head of Legal

Red Bull Media House UK • Seven Dials Warehouse 42 – 56 Earlham Street • London •

WC2H 9LA • UK

+44 7971765561

andrew.clark@redbull.com • www.redbull.com

From: Begaj, Joanna <JoannaBegaj@eversheds-sutherland.com>

Sent: Friday, February 21, 2020 1:04 PM

To: Andrew Clark <Andrew.Clark@redbull.com>

Cc: Wortley, Stuart <StuartWortley@eversheds-sutherland.com>; Dylan Wyn Pugh

<Dylan.WynPugh@redbull.com>; Dominique Octave

<Dominique.Octave@redbull.com>

Subject: EXT: RE: The Shard

Dear Sirs,

We refer to our previous correspondence and confirm we have now issued an application to convert the interim injunction granted in February 2018 into a final injunction.

We will be asking the court to confirm, for the avoidance of doubt, that the injunction automatically extends to the airspace above The Shard as a matter of law.

If the court is not so satisfied we will be asking that this point be clarified on the face of the order.

Having regard to your previous correspondence we have elected not to join Red Bull Ltd as a named co-defendant to the action.

We enclose a copy of the sealed application, draft order and supporting witness statement of Stuart Wortley dated 19 February 2020.

You will note the hearing has been listed for Wednesday 26 February 2020. We assume, but please confirm, you will not wish to attend.

Yours faithfully,

Eversheds Sutherland

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"SSW20"

This is the exhibit marked "SSW20" referred to in the witness statement of Stuart Sherbrooke Wortley dated 25 February 2020.

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UK's tallest crane erected at Shard site

By Iain Withers | 30 September 2011

Crane will lift first sections of Shard's spire into place

The UK's tallest crane was erected at London Bridge this week to lift the first steel sections of the Shard's spire into place.

When fully extended the crane will sit 317m (1,040ft) above ground level - 7m taller than the building's eventual highest point.

The crane has been "jumped" into place to enable construction of the Shard's spire and take the building to its ultimate height of 310m. It is presently 244m high.

The spire will form the top 23 floors of the Shard starting at level 72 (the viewing gallery) and rising to level 95.

Although there are 800 separate pieces of steel making up the spire, entire sections have been assembled off-site and then transported to the Shard rather than individual beams lifted and attached to each other at the top.

Developer Sellar has worked with main contractor Mace, structural engineer WSP and steel contractor Severfield-Rowen to develop the modular approach.

Irvine Sellar, chairman of Sellar Property Group, said: "This is another unique milestone in the development of this global iconic landmark building.

"The Shard is already making a positive impact on London's skyline and the spire will complement the design of the building."

<https://vandoornntcc.co.uk/project/the-shard-london/>



The Shard is a 97-story skyscraper in London. Its construction began in March 2009 and it opened to the public in February 2013.

At 310 metres (1004 feet), it is the tallest building in the European Union. An open-air observation deck – the UK's highest – is on the 72nd floor, at a height of 244.3 metres (802 feet). The building features 11,000 panes of glass, with a total surface area of 56,000 square metres (600,000 square feet).

The Shard contains first class office space, a hotel, luxury residences, retail space, restaurants, a five-story public viewing gallery and a spa.

Our involvement:

- Involved in consultation and erection, installation, climbing and dismantling of all eight tower cranes on the project.
- We performed erection, climb, and dismantle of all tower cranes associated with the project.

- We erected, climbed and dismantled Europe's tallest crane at 337 metres off of a diving platform co-designed with other structural engineering companies which started at level 54.

Due to the nature of this innovative project, we had to deploy unique and never seen before methods. We assisted in the engineering and installation of the first ever tower crane to be attached and taken up with a slip form to level 72 without a bottom and self-stabilized.

Contact Van Doorn for a complimentary consultation for your next tower crane project.

Photos Attribution:

[Loz Pycock – The Shard](#)







