

Case No. BL-2023-000713

**IN THE HIGH COURT OF JUSTICE
THE BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
CHANCERY DIVISION
BETWEEN:**

JOCKEY CLUB RACECOURSES LIMITED

Claimant / Applicant

-and-

- (1) DANIEL FRANK PETER KIDBY**
- (2) PERSONS UNKNOWN ENTERING THE AREA DESCRIBED BELOW AS THE
“RACE TRACK” ON THE DAY OF A “RACING FIXTURE”, EXCEPT AT “CROSSING
POINTS” WITH “AUTHORISATION”, AS DESCRIBED BELOW**
- (3) PERSONS UNKNOWN ENTERING AND/OR REMAINING ON ANY “CROSSING
POINTS” WITHOUT “AUTHORISATION” ON THE DAY OF A “RACING FIXTURE”,
AS DESCRIBED BELOW**
- (4) PERSONS UNKNOWN ENTERING THE AREA DESCRIBED BELOW AS THE
“PARADE RING” WITHOUT “AUTHORISATION” ON THE DAY OF A “RACING
FIXTURE”, AS DESCRIBED BELOW**
- (5) PERSONS UNKNOWN ENTERING AND/OR REMAINING ON ANY PART OF THE
AREAS DESCRIBED BELOW AS THE “HORSES’ ROUTE TO THE PARADE RING”
AND/OR THE “HORSES’ ROUTE TO THE RACE TRACK” WITHOUT
“AUTHORISATION” ON THE DAY OF A “RACING FIXTURE”, AS DESCRIBED
BELOW**
- (6) PERSONS UNKNOWN INTENTIONALLY OBSTRUCTING THE “HORSE RACES”,
AS DESCRIBED BELOW**
- (7) PERSONS UNKNOWN INTENTIONALLY CAUSING ANY OBJECT TO ENTER ONTO
AND/OR REMAIN ON THE “RACE TRACK” WITHOUT “AUTHORISATION” ON THE
DAY OF A “RACING FIXTURE”, AS DESCRIBED BELOW**
- (8) PERSONS UNKNOWN INTENTIONALLY ENDANGERING ANY PERSON AT THE
LOCATION DESCRIBED BELOW AS THE “EPSOM RACECOURSE” ON THE DAY
OF A “RACING FIXTURE”, AS DESCRIBED BELOW**

First to Eighth Defendants

(9) MR BEN NEWMAN

Ninth Defendant / Respondent

FIRST AFFIDAVIT OF NEVIN TRUESDALE

I, **NEVIN TRUESDALE**, Group Chief Executive Officer of The Jockey Club (Company Number RC000287, 21-27 Lambs Conduit Street, London, England, WC1N 3NL), the ultimate parent company of Jockey Club Racecourses Limited (Company Number 02909409, 21-27 Lambs Conduit Street, London, England, WC1N 3NL) (the latter being the "**Applicant**"), **STATE ON OATH** as follows:

1. I am employed as the Group Chief Executive Officer of The Jockey Club, the owner and parent company of the Applicant. I have held this position since the end of August 2020.
2. I am duly authorised by the Applicant to make this affidavit on its behalf and in support of its application for contempt of court proceedings against Mr Ben Newman¹ who is the proposed ninth defendant (the "**Respondent**") for breaching the Order of Sir Anthony Mann of 26 May 2023 (the "**Order**") (pages 5-20 of NT2 (defined in paragraph 4 below)).
3. Unless stated otherwise, the facts and matters set out in this affidavit are within my knowledge and are true. Where any facts or matters are not within my own knowledge, the source of the information is identified, and those facts and matters are true to the best of my knowledge and belief.
4. There is now shown to me marked exhibit "**NT2**" a bundle of true copy documents to which I refer in the course of this affidavit. Save where stated otherwise, references below to page numbers are to the pages of exhibit "**NT2**".
5. There is now also shown to me:
 - 5.1 A copy of the bundle used at the hearing of the Applicant's application dated 22 May 2023 (the "**Injunction Application**") for an Order prohibiting 1 named defendant and 8 unnamed defendants (persons unknown) from entering, or causing objects to enter, various areas of the Epsom Racecourse and from intentionally endangering any

¹ Surrey Police have confirmed Mr Newman resides at [REDACTED]

person at the Epsom Racecourse. References to pages within the Injunction Application bundle are marked in the following format: “**IA page x**”.

- 5.2 A copy of the Applicant’s authorities bundle used at the Injunction Application.
6. For completeness, I enclose the Applicant’s skeleton argument for the Injunction Application at pages 21-36 of NT2.
7. Unless otherwise stated I adopt the definitions in the Order, thereafter in my first Witness Statement dated 22 May 2023.

Background

8. The background to this matter has been set out extensively in the first witness statements of:
 - 8.1 myself (IA pages 30-162);
 - 8.2 Amy Starkey, Managing Director of the Applicant (IA pages 163-187);
 - 8.3 Dickon White, Aintree and North-West Regional Director for the Applicant (IA pages 188-221);
 - 8.4 Simon Knapp, Senior Veterinary Surgeon for London Region Races at the Applicant (IA pages 222-226); and
 - 8.5 Julian Diaz-Rainey of the Applicant’s solicitor (IA pages 227-252).
9. In summary, the Applicant owns Epsom Racecourse, which hosts the Epsom Derby Festival, a horse-racing festival set across 2 days each year including the prestigious race the Epsom Derby on the Saturday. In response to a threat from the group Animal Rising to disrupt the Derby Festival, as it had done at the Grand National, the Applicant issued proceedings against the First to Eighth Defendants, applying concurrently for an interim order to prohibit the Derby Festival from being disrupted.

The Order

10. The Injunction Application was successful and resulted in the provision of the Order.
11. The Order (as is set out in its terms) ordered that the First Defendant as named, plus certain categories of ‘persons unknown’ defendants (the “**Persons Unknown**”

Defendants”) listed on the Order, were prohibited from acts listed at paragraph 2 of the Order.

12. As I explain further below, the Respondent fell within the definitions of both the Second and Sixth Defendants being, respectively:

12.1 *“Persons unknown entering the area described below as the “Race Track” on the day of a “Racing Fixture” except at “Crossing Points” and with “Authorisation”, as described below; and*

12.2 *Persons unknown intentionally obstructing the “Horse Races”, as described below”.*

13. As I explain further below, for the purposes of this application, the relevant prohibited acts within paragraph 2 of the Order are at sub-paragraphs 1 and 6 which are:

13.1 *“(1) Enter the Race Track, except at authorised Crossing Points; and*

13.2 *(6) Intentionally obstruct the Horse Races.*

14. Per paragraph 1 of the Order, the following are the relevant definitions for the purposes of interpreting the Order in relation to this application:

14.1 The “Race Track” means the area between the crowd barriers on either side of the stretch of land marked with a yellow dotted line, starting at point (C) and ending at point (D) on the Plan.

14.2 “Racing Fixture” means an Authorised Meeting within the meaning of s. 14 of the Act, being a race meeting held on up to 16 days in any one year at the Epsom Racecourse, including Oaks Day and Derby Day.

14.3 The “Crossing Points” mean the 10 points at which members of the public may cross from one side of the Race Track to another with Authorisation, marked in blue on the Plan.

14.4 “Authorisation” means authorisation given to any member of the public to be in a particular area at the Epsom Racecourse at a particular time, whether by a steward, police officer, and/or any agent of Jockey Club Racecourses Limited.

14.5 “Horse Races” means any and all horse races taking place on the day of a Racing Fixture.

- 14.6 “Epsom Racecourses” means the area where the Claimant holds Racing Fixtures, within the red line marked on the Plan.
- 14.7 The “Plan” means the aerial photographs of the Epsom Racecourse and the markings thereupon, appended to the Order.
15. The Order contained a penal notice as follows:

IF YOU THE WITHIN NAMED DEFENDANTS OR ANY OF YOU DISOBEY THIS ORDER OR INSTRUCT OR ENCOURAGE OTHERS TO BREACH THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED, [OR] HAVE YOUR ASSETS SEIZED

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS THE DEFENDANTS TO BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED

Service of the Claim Documents and Order

16. Paragraph 3 of the Order sets out the steps that the Claimant had to undertake to effect service of the Claim Documents on the Persons Unknown Defendants. For ease of reference these steps were:
- 16.1 Posting digital copies of the Claim Documents on its website and Facebook page;
- 16.2 Affixing sealed copies of the Claim Documents in transparent containers in at least 2 conspicuous locations at public entrances to the Epsom Racecourse; and
- 16.3 Providing digital copies to the organisation Animal Rising by email.

Posting a digital copy of the Claim Documents on its website and Facebook page

17. On 22 May 2023 at 16:10 the Applicant posted the Claim Documents to both the website relating to Epsom Downs (i.e., www.thejockeyclub.co.uk/epsom) and its own website (i.e., www.thejockeyclub.co.uk). I enclose at pages 37-41 of NT2 screenshots of both websites along with a screenshot of the displayed Claim Documents at page 41 of NT2.

Affixing sealed copies of the Claim Documents in transparent containers in at least 2 conspicuous locations at public entrances to the Epsom Racecourse

18. Enclosed at pages 42-47 of NT2 are six photographs with details of their metadata taken between 15:48 and 16:04 on 22 May 2023. They show two envelopes contained the Claim Documents at each of the two public entrances to the Epsom Downs Racecourse. This information has been provided to me by Simon Durrant, the General Manager of Kempton Park Racecourse.

Providing digital copies to the organisation Animal Rising by email

19. On 22 May 2023 at 15:50, the Applicant's solicitors emailed a digital copy of the Claim Documents to the First Defendant, who is the Co-Founder of Animal Rising. I enclose this email at page 48 of NT2, as well as confirmation that the First Respondent downloaded the documents attached to the aforementioned email at 17:24 on 22 May 2023 at page 49 of NT2.
20. Paragraph 4 of the Order confirmed that the Order would be served personally by the Claimant on the First Defendant. My understanding is that this was done by Stephen Williams a service agent (process server) in the employ of Conflicts International Limited on the instruction of the Applicant. I refer the court to enclosure 9 of NT2 at pages 50-51 being the witness statement of Mr Williams confirming that personal service of the Order on the First Defendant was achieved on 30 May 2023 at 5:16pm.
21. Paragraph 5 of the Order sets out the steps that the Claimant had to undertake to effect good service of the Order on the Persons Unknown Defendants where personal service was dispensed with. For ease of reference these steps were:
 - 21.1 Posting the Order at 50-metre intervals along the part of the perimeter of the Race Track marked with an orange line on the Plan;
 - 21.2 Posting a digital copy of the Order on its website and Facebook page; and
 - 21.3 Providing digital copies to the organisation Animal Rising by email.

Posting the Order at 50-metre intervals along that part of the perimeter of the Race Track marked with an orange line on the Plan

22. Between 10am and 1pm on Sunday 28 May 2023 copies of the Order were displayed at 50 metre intervals around the perimeter of the Race Track per the orange line on the Plan attached to the Order. This was confirmed to me by Simon Durrant, who is the General Manager of Kempton Racecourse and who was in charge of the operation to display the Order. Enclosure 10 of NT2 at pages 52-105 shows a series of images showing the locations of the copies of the Order, including as attached to the front gate. Mr Durrant also confirmed that the locations would be periodically checked in the lead up to the Derby Festival.
23. Mr Durrant has confirmed to me that the locations of the displayed Order were checked periodically throughout the week leading up to the Derby Festival and on each of the two days (Friday 2nd and Saturday 3rd June). He has confirmed that on the occasion of each check, the displayed copies of the Order remained in place.

Posting a digital copy of the Order on its website and Facebook page

24. On 28 May 2023 the Applicant posted the Order to both its own website (i.e., www.thejockeyclub.co.uk) at 11:20am and the website relating to Epsom (i.e., www.thejockeyclub.co.uk/epsom) at 11:21am. I enclose at pages 106-118 of NT2 screenshots of both websites along with a screenshot of the displayed Order.
25. On 28 May 2023 at 11:45am the Applicant posted confirmation that it had obtained the Order on its official Facebook page together with links to the relevant news page of the Applicant's website and the webpage containing the Order. I enclose at page 119 of NT2 a screenshot of the Facebook post.
26. Although not directed to by the Court, the Applicant also posted confirmation of the Order on its Twitter account, with links to its website, on 26 May 2023 at 4:09pm. I enclose at page 120 of NT2 a screenshot of the relevant twitter post.

Providing digital copies to the organisation Animal Rising by email.

27. On 28 May 2023 at 13:14 the Applicant's solicitors emailed a digital copy of the Order to the First Defendant, who is the Co-Founder of Animal Rising, requesting that he bring it to the attention of all members of Animal Rising. I enclose this email at pages 121-126 of NT2, including the full email chain for context and completeness.

Wide-spread publication of the Order

28. The terms of the Order notwithstanding, the fact of the Applicant securing the Order received widespread press attention. I enclose at pages of NT2 articles from the BBC, the Guardian, Sky Sports, the Telegraph, the Express and the Daily Mail.

The Respondent's radio interview

29. The Respondent told BBC Radio Surrey on 2 June 2023 that, in spite of the Order, individuals were planning to go onto the track the next day and obstruct the race, as he went on to do. I attach a transcript of the interview at pages 164-165 of NT2 and an audio file, Recording 1 of NT3 (defined in paragraph 41.1 below) (e-filed and enclosed on USB with the hard copies for service). This shows that the Respondent had actual knowledge of the Order prior to the Derby Festival.

The Derby Festival

30. The Derby Festival took place on Friday 2 and Saturday 3 June 2023. It was broadcast live on ITV and received mainstream and sports media press attention and

much social media commentary. It was one of the leading sports stories all weekend, particularly because of the Order, Animal Rights' threats, and it being Frankie Dettori's final races at the Derby Festival.

31. It was publicised that there were a number of arrests prior to the 2023 Derby on 3 June 2023. See for example the article from the Irish Times at pages 166-171 of NT2.
32. Per paragraph 58 of my first witness statement (IA page 58) the Applicant had in force additional security measures for the Derby Festival. Surrey Police also had a significantly increased presence at the Derby Festival and a significant operation prior to it.
33. There has been widespread publication of the Respondent entering the Race Track, which I address in further detail below.

The Respondent

The Respondent's disruption of the Grand National at Aintree

34. I enclose at pages 172-175 of NT2 an article from the Daily Mirror dated 11 April 2023 entitled '*Grand National 2023: 'Animal Rising' plead for people to join protest amid plan to sabotage race.*' It includes a quote attributed to the Respondent, who is described as an 'Animal Rising spokesman', that amongst other things states "*We're inviting everyone to come down at 9:30am on the 15th to Aintree racecourse and hope to stop the race...Come on down if you'd like to know more. Protest is a fairly common thing in a democracy and there's nothing new about it. We'll be using our bodies and that's all there is to it really.*"
35. I enclose at pages 176-178 of NT2 a copy of the witness statement of Mr Lewys H Salisbury, the Police Constable, who apprehended the Respondent on 15 April 2023, the day of the Grand National.
36. Mr Salisbury confirms that, "*at around 16:45 hours large numbers of people were sighted in the woods near jump 8 and 7. I sighted multiple people wearing pink t shirts and holding extendable ladders, attempting to scale the outer and inner fences of the racecourse*". Further he states that "*these people were attempting entry to the racecourse to conduct a protest in order the disrupt or delay the Grand National Race*".

37. In describing the disrupting and dangerous actions of the Respondent, Mr Salisbury states he “*sighted a male wearing a pink t shirt scale the green inner fence at incredible speed..... I crossed the race track towards him and as he negotiated the top of the fence, he rips the front of his t shirt, lands on the floor and runs away from me to my left, towards jump 8 "CANAL TURN"..... I continued to chase the male and I saw him reach into his pocket and pour something into his hands and he dropped a white lid in the process. I believed that he had super glue and was going to attempt to glue himself onto or around the CANAL TURN jump*”, see page 177 of NT2. Shortly after the Respondent was apprehended by Mr Salisbury, the Respondent was cautioned and arrested.
38. Merseyside Police have confirmed in an email to the Claimant’s solicitor that Mr Newman had police bail conditions put upon him, which were to not enter Merseyside, nor attend any National sporting events and not to contact co-accused.²

The Respondent’s disruption elsewhere

39. I enclose at pages 179-181 of NT2 an article from Farmers Weekly that indicates the Respondent was charged with a public order offence in May 2021 following disruption at a McDonald’s restaurant.
40. I enclose at pages 182-184 of NT2 an article from Planet Radio that indicates that the Respondent occupied a private farm in May 2023.

The Respondent’s disruption at the Epsom Derby

41. There is now shown to me marked ‘**NT3**’ a USB memory stick containing the following digital files:
- 41.1 BBC Radio Surrey Interview with the Respondent on 2 June 2023 (“**Recording 1**”);
- 41.2 A side-by-side video showing the start and end of the 2023 Derby (“**Recording 2**”);
- 41.3 Police Officer body worn video footage showing the removal of the Respondent from the Racecourse (“**Recording 3**”);
- 41.4 Video obtained from the Twitter account of Animal Rising showing the removal of the Respondent from the Racecourse (“**Recording 4**”); and
- 41.5 Video obtained from the Daily Mail showing the removal of the Respondent from the Racecourse (“**Recording 5**”).

² Merseyside Police have said that National sporting events did not cover the Derby; however, the Claimant does not agree with Merseyside Police’s definition, and considers that the Derby is unequivocally a National sporting event.

42. On 2 June 2023 the Respondent was interviewed on BBC Radio Surrey. He was asked *"There is an injunction to prevent a repeat of what happened at the Grand National. So are your plans still going to go ahead?"*. The Respondent replied *"Yes, so after the Grand, yes, so after the Grand National, people left crying and the whole country was shocked and really they lost the argument and now they've brought out some private laws, which are quite concerning, the use of injunctions, but yes the protest will still be going ahead, yes."* He also added, *"some people will be, putting their bodies, getting on the tracks and disrupting the race and y'know maybe delaying it for a bit..."* and when asked whether the action would be happening during or in between races, he said *"no-one's going to be running in front of horses who are running no."* The transcript is enclosed at pages 164-165 of NT2.
43. Immediately prior to the start of the 2023 Derby, I was standing on a balcony of a top floor box on the Queen Elizabeth II Stand. I could see the start of the race clearly from there by looking across the course to the start and I was using binoculars to do so. I observed the horses start the race and cover the first few yards. I would not be able to say how far they were into the race exactly, when my attention was taken by a movement that I saw out of the corner of my eye on the home straight just below the Queen Elizabeth II stand, but slightly to my left around the half furlong to go (i.e., 100m from the finish) marker sign. A male ran onto the track, into the middle and was swiftly apprehended by police and stewards. I observed his passage onto the Race Track, into the middle and he started to run down the hill towards the finish but his progress was soon curtailed. He was swiftly removed from the track and carried back into the area behind the rails, from where he had come.
44. I refer the court to Recording 2 in NT3, a side-by-side video showing the start of the 2023 Derby on the left-hand side, with video of the final straight on the right-hand side. As the video shows, at around 13:32:23:119 the gates are opened, and the horses begin their race. At around 13:32:25:02 the Respondent can be seen on the right-hand screen entering the Race Track. At approximately 13:32:38:18 the Respondent is apprehended by police and security staff in the middle of the Race Track. At this point, the horses are around the 11 furlong marker, which is 1 furlong (approximately 200 metres) into the race. The Respondent is finally removed from the Race Track at approximately 13:32:49:08, some 26 seconds or so after the 2023 Derby had begun. At this point, the horses have reached the top of the Hill, which is approximately 1000 metres from the start and 1400 metres from the finish line.

45. I refer the court to enclosure 29 of NT2 at pages 185-189 showing the Respondent on the Race Track and being removed from it.
46. I refer the court to enclosure 30 of NT2 at pages 190-192 being the witness statement of PC Katherine Stevens dated 7 June 2023. PC Stevens was on duty at the Derby Festival. She states, inter alia:
- 46.1 *"At approximately 1333 HRS I have been stood between the main public barrier and the track lining barrier..."*
- 46.2 *Members of public began approaching the public barrier so they could get a better view of the race track. The loud speaker has then announced that the main race has started. I was not aware of the exact timing that the race had started but the cheering of the public had started and the race was being shown on large screens in the LONSDALE Enclosure so it was clear that the race had started...*
- 46.3 *I was closely watching members of public and facing away from the race track in order to get the best view of persons attempting to climb over the barrier. I have then heard shouting of "ON TRACK". As I have turned round I have seen a male I now know to be a Ben NEWMAN running from the Grandstand side of the race track into the middle of the live racing track. I was incredibly concerned as the main Derby race had started and horses would be coming towards NEWMAN at high speeds. I was aware that the main Derby race is a longer race so I knew that I had enough time to get onto the track and attempt to get NEWMAN off the track for his safety. He seemed to be smiling as he ran and I do not believe he had any care for his own safety, the horses who would be coming towards him or the jockeys riding the horses. I have seen that he has attempted to dodge a steward and has successfully done this and kept running. It was clear that NEWMAN was not aware of his own personal safety and the risk he was putting on those trying to get him off the course. Due to a concern for his safety I have run onto the main track during the live track. I have seen my colleague PC 40632 HODGKINS standing in the middle of the track and have seen him manage to rugby tackle NEWMAN to the ground where a race course steward has joined him. This was during the live race and I believe it was near the 1/2 furlong marker. I have immediately run towards my colleagues PC 40632 HODGKINS, the steward and NEWMAN who was detained on the floor. I have started shouting "GET HIM OFF THE TRACK. HORSES ARE COMING" as I could hear my colleague PC 40632 HODGKINS stating he was going to handcuff NEWMAN. I had real concerns for the safety of everyone dealing with NEWMAN and the risk he had put on himself, my colleagues and the racecourse steward.*
- 46.4 *I have then assisted with carrying NEWMAN off towards the LONSDALE Enclosure side as I knew that prisoner transport vans had been sat up on standby at the entrance to the enclosure...*
- 46.5 *I have been holding NEWMAN's leg as he had refused to walk off the track by himself. He was a heavy weight and had gone all floppy. We have carried NEWMAN towards a gate exit through the public into the LONSDALE Enclosure. Members of the public were shouting and swearing at NEWMAN and we managed to clear a way through to keep NEWMAN safe from the public. The stewards attempted to help us with this. I have been saying "GET BACK GET BACK" to the public who have been booing. During this I have heard the racehorses come galloping past and they were clearly at maximum speed due to being near the finish line. We have walked NEWMAN towards the prisoner transport unit and stood him next to the van in a sterile area. NEWMAN*

has tried to get onto the van and I have asked him to stay outside until we had searched him. I had concerns that he may have items on him which may be used for locking on or glue items for sticking himself to the van. NEWMAN has given me his details and also to PC 2511 AINSWORTH."

47. I refer the court to enclosure 31 of NT2 at pages 193-195 being the witness statement of PC Mark Hodgkins dated 3 June 2023. PC Hodgkins was also on duty at the Derby Festival and states, inter alia:

47.1 *"At approximately 13:35 hours the main derby [sic] race (THE BETFRED DERBY) started and the horses began racing down the back end of the track. I knew this due to the big screen opposite the GRANDSTAND showing the race live and the crowd noise from people cheering.*

47.2 *A short while into the race I could hear a lot of the crowd shouting and booing. I looked down the track towards 'TATTENHAM CORNER' (last corner before the home straight to the finish line) and could see a male (NEWMAN) in the middle of the track running down towards the finish line being chased by a steward.*

47.3 *I now know this male to be BEN NEWMAN (32). NEWMAN was running away from stewards down the track towards the finish line in front of the main 'GRAN[D]STAND' and the 'TATTE[N]HAM MQ' area. Due to the race being on and the risk of horses coming down the home straight at any moment I decided to enter the race track to remove NEWMAN. I ran towards NEWMAN who was still running away from stewards and I tackled him to the floor to prevent his escape.*

47.4 *At 13:36 hours I said to NEWMAN 'YOU ARE UNDER ARREST ON SUSPICION OF CAUSING A PUBLIC NUISANCE'. A colleague has then joined and shouted 'QUICK WE NEED TO GET OFF THE TRACK THE HORSES ARE COMING'. Along with other police colleagues we have dragged NEWMAN off of the track. Whilst at the side of the track NEWMAN was restrained on the floor. I have then applied handcuffs to him in the rear stack position, double locking and checking for tightness.*

47.5 *We kept NEWMAN restrained at the side of the race track on the grass till all of the horses raced passed us towards the finish line.*

47.6 *It was evident to me that NEWMAN's actions created a serious risk to the horses, the jockeys, myself and other colleagues working at the event who had to enter the live race track. NEWMAN's actions also caused significant distress and annoyance to the thousands of members of the public in attendance at the event. When I had tackled NEWMAN to the floor and my female colleague shouted at me that the horses were travelling down the home straight we were on I suddenly realised the severity of the situation. I was in genuine fear for my safety at the thought of 10+ horses travelling directly towards us (near the finish line) at around 40 mph. I was really scared that I was going to be seriously injured by the on coming horse[s]. I [am] extr[e]mely grateful that other officers arrived so we were able to get NEWMAN off of the track before the horses came racing down."*

48. The video evidence, photographic evidence and statements from the attending police officers speak for themselves. It is clear that the Respondent's actions were deliberate and dangerous.

The Respondent's subsequent charge, refusal of application for bail and guilty plea

49. The Respondent was arrested immediately after being apprehended by the Police. He was subsequently interviewed, charged, and remanded to prison. His charge sheet (MG04) enclosed at pages 196-197 of NT2 states the Respondent's charge:
- 49.1 *"(1) Intentionally / recklessly cause a public nuisance 2023/06/03 -- on 03/06/2023 at Epsom in the county of surrey, without reasonable excuse, did an act, namely entered a horse racing track intending to cause disruption to the racing programme, and that created a risk or caused serious harm by serious annoyance to the public or a section of the public intending or being reckless that it would have such a consequence.*
- 49.2 *'Contrary to section 78(1) and (4) of the Police, Crime, Sentencing and Courts Act 2022.'*
50. At his initial hearing in front of magistrates at Guildford Magistrates Court on 5 June 2023 the Respondent requested a Crown Court trial and indicated an intention to plead not guilty. He was refused bail and remanded to prison.
51. On 7 July 2023 the Respondent indicated a guilty plea and was given a sentence including 18 weeks imprisonment (suspended for 2 years), 80 hours of unpaid work, and a costs order of £1,356.

The Respondent's actions constituted a breach of the Order

The Respondent as party to the Order

52. The Order binds 7 categories of *'persons unknown'* defendants. Anyone who comes within one or more of these categories is bound by the terms of the Order and must not breach it.
53. By entering the Race Track, the Respondent fell within the definition of the Second, and Sixth Defendants being:
- 53.1 *"Persons unknown entering the area described below as the "Race Track" on the day of a "Racing Fixture" except at "Crossing Points" and with "Authorisation", as described below"; and*
- 53.2 *"Persons unknown intentionally obstructing the "Horse Races", as described below."*
54. I understand from the Claimant's solicitors that the Respondent is already a party to the proceedings (albeit not yet identified by name), as he is a member of the categories of persons identified as the Second or Sixth Defendants. In the interests of

transparency, the Applicant has made a concurrent application to name the Respondent in proceedings.

The Respondent's breach of the Order

55. Paragraph 2 of the Order states amongst other things that on Derby Day on 3 June 2023 the Defendants must not:
- 55.1 “(1) *Enter the Race Track, except at authorised Crossing Points; or*
- 55.2 *(6) Intentionally obstruct the Horse Races.*
56. During the 2023 Derby, the Respondent entered the Race Track at a place that was not at an authorised Crossing Point. This is clearly evidenced by the photographic, video, and press evidence referenced above. Indeed, the Respondent has accepted that he entered the Race Track by entering a guilty plea to the offence of public nuisance. As such, the Respondent breached paragraph 2, sub-paragraph (1) of the Order.
57. Further, by entering the Race Track around the time of the 2023 Derby, it is clear that there was an intention by the Respondent to obstruct the Horse Races (the definition of which includes the 2023 Derby) and therefore he has also breached paragraph 2, sub-paragraph (6) of the Order. There is no other explanation for the actions of the Respondent. Indeed, the stated intention of Animal Rising around the Derby Festival was to disrupt (see paragraphs 10-12 of my first witness statement (IA pages 32-33)) and the Respondent confirmed that disruptive action would be taken in the BBC Surrey radio interview as noted above.
- 57.1 The geography of the Race Track means that it is not always possible to see the horses from all places (see pages 5-7 of my witness statement at IA pages 34-36). This works two ways in that the jockeys cannot see if anyone is on the Race Track at all points. This makes the actions of the Respondent particularly dangerous. Around 110 years ago Emily Davison died when she entered the Race Track at Tattenham Corner, which is a blind corner, (see page 7 of my witness statement at IA page 36).
- 57.2 It took the actions of at least 3 police officers and 3 stewards to remove the Respondent from the Race Track. If any of them had suffered an injury or if they had not been able to apprehend the Respondent promptly, then there was a real chance that people would have been on the course as the horses approached them. This could have led to loss of life.

- 57.3 Should further people (for example, members of the public) have entered the Race Track, either to assist the stewards and the Police, or in support of the Respondent then the danger to life would have been greater.
- 57.4 PC Hodgkinson has described that the Respondent's actions created a serious risk to the horses, the jockeys, himself and other colleagues working at the event who had to enter the live Race Track. He also describes that he was in genuine fear for his safety and was scared that he was going to be seriously injured, see page 195 of NT2.
- 57.5 PC Stevens has stated that she does not believe that the Respondent had any concern for his own safety, the safety of the horses and jockeys, or the safety of those who were trying to remove him off the Racecourse. PC Stevens was concerned for the safety of the individuals who were dealing with the Respondent and the high risk situation that the Respondent had created, see page 191 of NT2.
58. The Respondent's actions speak for themselves. They were undoubtedly dangerous. As is set out above, the Respondent had previously entered the track at the Grand National at Aintree. He therefore must have known of the dangers of doing so at the Epsom Derby.

Additional requirements of CPR 81.4 (2) not already addressed

59. I confirm the following, which are the outstanding requirements of CPR 81.4 (2) that have not already been addressed in this affidavit:
- 59.1 The Respondent has the right to be legally represented in the contempt proceedings;
- 59.2 The Respondent is entitled to a reasonable opportunity to obtain legal representation and to apply for legal aid which may be available without any means test;
- 59.3 The Respondent may be entitled to the services of an interpreter;
- 59.4 The Respondent is entitled to a reasonable time to prepare for the hearing;
- 59.5 The Respondent is entitled but not obliged to give written and oral evidence in their defence;
- 59.6 The Respondent has the right to remain silent and to decline to answer any question the answer to which may incriminate the Respondent;

- 59.7 The Court may proceed in the Respondent's absence if they do not attend but (whether or not they attend) will only find the Respondent in contempt if satisfied beyond reasonable doubt of the facts constituting contempt and that they do constitute contempt;
- 59.8 If the Court is satisfied that the Respondent has committed a contempt, the Court may punish the Respondent by a fine, imprisonment, confiscation of assets or other punishment under the law;
- 59.9 If the Respondent admits the contempt and wishes to apologise to the Court, that is likely to reduce the seriousness of any punishment by the Court;
- 59.10 The Court's findings will be provided in writing as soon as practicable after the hearing; and
- 59.11 The Court will sit in public, unless and to the extent that the Court orders otherwise, and that its findings will be made public.

Statement of Truth

I believe that the facts stated in this affidavit 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.

Signed: Nevin Truesdale

NEVIN TRUESDALE

Dated: 1/8/23

Sworn at: 107 LEADENHALL STREET, CANNON ECJ

On: 1 AUGUST 2023

Before me: [Signature]

Signed: _____

Name: _____
A Commissioner for Oaths
Bankside House, 107 Leadenhall Street,
London EC3A 4AF
England
(Edward Gardiner)