

Claimant  
R.J.Dougans  
2<sup>nd</sup> Witness Statement  
"RJD2"

15 September 2016

Claim No. C00SA374

IN THE HIGH COURT OF JUSTICE  
CHANCERY DIVISION  
SWANSEA DISTRICT REGISTRY  
BETWEEN:

(1) Dr. Andrew Lewis  
(2) Melanie Byng

Claimants

-and-

(1) Stephane Paris  
(2) Angel Garden

Defendants

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SECOND WITNESS STATEMENT OF ROBERT JAMES DOUGANS

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I, ROBERT JAMES DOUGANS of 88, Wood Street, London, EC2V 7AJ WILL SAY AS FOLLOWS:

**Introduction**

1. I am a Solicitor of the Senior Court of Justice of England and Wales, and am a partner of the firm Bryan Cave at the above address. I have the conduct of this matter on behalf of the Claimants, Dr Andrew Lewis and Mrs Melanie Byng.
2. The facts and matters deposed to herein are from my own knowledge, save where I indicate otherwise. Insofar as they are within my own knowledge, the facts and matters deposed are true to the best of my knowledge and belief. Where I rely upon matters outside my own knowledge, the sources I rely upon for my information on which my belief is based are the persons or documents to which I refer, or both.
3. A paginated bundle of copy documents entitled Exhibit "RJD2" is attached to, and forms part of, this witness statement. References to pages in square brackets are

references to pages of RJD2, in that [3] is a reference to page 3 of RJD2.

4. I am making this witness statement in response to the Defendants application to strike out the Claimants claim for an order for sale (the “**Claim**”) of the freehold property known as 9, Lon Bryngwyn, Sketty, Swansea, SA2 0TX and registered at Her Majesty's Land Registry under Title No. WA315308 (the “**Property**”)

### **Basis of the Defendants' Application**

5. I received a copy of the Defendants application for strike out on 9 September 2016.
6. The basis of the Defendants' application for strike out appears to be (in summary) that the Claim is unnecessary and disproportionate as the parties have come to an agreement regarding payment; (2) that the Claim has been brought under the wrong part of the Civil Procedure Rules; (3) that the Defendants have offered alternative methods of payment; and (4) the claim is vexatious. I will deal with the first two points. The third has been dealt with in my first witness statement and the fourth is apparently based on a premise that the Defendants should not be required to provide a forwarding address and its relevance is not understood.
7. As I have set out in my first witness statement, the Defendants failed to pay the sums due and owing to the Claimants by the agreed dates set out in the Order of Seys-Llewellyn J dated 8 August 2015. Following this failure to pay, the Claimants sought and obtained an interim charging order over the Property. The Defendants, prior to the hearing for the charging order to be made final, suggested that the Claimants made an offer indicating that they wished to settle their debt to the Claimants in full by “handing over the deeds” to the Property to the Claimants. The Defendants indicated on a telephone call, that they would vacate the Property following the GCSE exams of their eldest child (i.e June 2016). Subsequently the Defendants said that they would be unwilling to vacate until August 2016 due to the Second Defendant requiring surgery.
8. Although the Claimants were willing to agree in principle to the suggestion of transferring the Property in full and final settlement of the outstanding debt, the agreement was never formalised, primarily due to the fact that:
  - 8.1 The Defendants were unwilling to sign a consent order, in the belief this would prejudice the ability of the family to obtain social housing.

- 8.2 The Claimants were unwilling to agree to the Defendants simply “handing over the deeds” to the Property, on the basis that the Claimants did not want to take the legal responsibility for the Property and did not want to be responsible for the stamp duty on the transfer to them of the Property, and required a formal order for sale which would mitigate that stamp duty.
9. Subsequent to these exchanges, the Defendants behaviour has not suggested that the Claimants believed that an agreement had been reached, and the recent evidence suggests that they will resist any efforts to give up their home:
- 9.1 The Defendants have not vacated the Property by 31 August 2016 or at all;
- 9.2 The Defendants have set up a website at [www.stopdefamation.net](http://www.stopdefamation.net), which appears to house all of the Claimants’ pleadings and witness statements filed in the underlying first instance and appeal proceedings, together with an annotated version of the Judgement of Seys Llewelyn J dated 14 July 2015 with the following heading “*Below is the judgement for case no. 3SA90091. It is interspersed with comments in red which we had submitted to the judge before it was finalised in response to his request for notification of “glaring errors”, when we saw how divorced from reality the judgement actually was.*” A copy of the homepage of the website is at [1-2], and a screenshot of the judgment page is at [3] (we have not exhibited the whole annotated judgment as it would run over 100 pages).
- 9.3 The Defendants set up a youtube channel called “the Illusion of Justice” (<https://www.youtube.com/channel/UC8sOTaFm-87AhnUU2lb2FXg/about> and at [4]) dedicated to identifying flaws in the judgment (first video published on or around 9 June 2016) described as “*exploring a specific legal case in the UK, 3SA90091, and how the facts are utterly different to the judgement that was made.*”
- 9.4 The Defendants have set up a GoFundMe page soliciting donations from the general public called “help save our home” in order to overcome “a dangerous injustice”. The page has at the date of this statement raised just over £2,000. The page contains the Defendants interpretation of the events which have led up to these proceedings and the perceived injustice. See a copy of the page at [5-9]. The Defendants also released a press release on 28 June 2016 on Crocels News (at [10-13]) titled “*Family’s crowdfunding appeal to fight cyber-stalking and harassment*”

*receives heart-warming support*’ again referring to the judgment as an injustice and including photographs of the First Claimant and the Second Claimant’s husband.

- 9.5 The Defendants have published the following articles on their website at <http://amazonnewsmedia.com/articles/2016/07/18/grandiose-medical-connerie/> on 18 July 2016 and <http://amazonnewsmedia.com/articles/2016/07/14/getting-away-with-social-murder/> on 14 July 2016 and referring to the judgment and the surrounding facts. These posts are exhibited at [14-19 and 20-25] and refer to the GoFundMe campaign with the title “*Judge takes home of disabled family targeted by hate campaign*”.
- 9.6 It appears that the Defendants also gave an interview to the South Wales Evening Post concerning the case (<http://www.southwales-eveningpost.co.uk/libel/story-29572877-detail/story.html> and at [26-28]) following which an article was published on 1 August 2016 in which Ms Garden is quoted as saying in relation to the need to sell the Property “*But I’m not going to just walk away and give them the key.*”. The article goes on to say that “*Ms Garden said she and Mr Paris intended to submit an application to the European Court of Human Rights. “We will definitely keep pushing,” she said.*”.
10. Whilst the Claimants have made clear in correspondence, that they remain willing to limit their recovery to the proceeds of sale of the house if the Defendants do not oppose the Claim, it has not yet been possible to reach agreement and the Defendants application to strike out the Claim suggests that this would be impossible.
11. It is clear that the Defendants do not accept the judgment and it is feared that without an order for sale the Claimants will not obtain vacant possession to enable them to sell the house. In the circumstances the claim is not unnecessary or disproportionate.
12. The Defendants have indicated that the Local Housing Authority has placed them on a “*priority*” list and have linked their refusal to vacate the Property to their wait to find adequate housing. However, the Claimants have no evidence to support the contention that the Local Housing Authority has accepted any housing duty towards the Defendants (and it is possible that concerns could be raised by the Local Housing Authority as to whether the Defendants would be found to have made themselves intentionally homeless). It is not clear from paragraph 31 of the Defendants’ statement in support of

their application that they are willing to make any concrete proposals as to when they could leave.

13. It is clear that the Respondents do not accept the judgment (not that there is any requirement for them to do so but it nevertheless stands) and it is feared that without an order for sale the Applicants will not obtain vacant possession to enable them to sell the house. In the circumstances the claim is not unnecessary or disproportionate. Reference could be made to the fact that there is no evidence to support their contention that the Local Housing Authority has accepted any housing duty towards them (and there must be concerns as to whether they would be found to be intentionally homeless).
14. The Civil Procedure Rules require, at CPR 71.10C (4), that an application for sale be made under CPR Part 8 and accordingly the basis of the Defendants complaint is not understood.
15. I refer to paragraph 25 of my first statement, and I wish to make clear that any costs of this response to the Defendants' application for strike out or of our application for sale are separate from the trial costs and I respectfully suggest are at the discretion of the Court. In any event, I do not consider that this is an appropriate reason to strike out the Claim. The Defendants can raise the issue of costs either in defence of the Claim or as an estoppel should the Claimants ever seek to pursue the Defendants for any shortfall in the outstanding debt from the sale of the Property.
16. Should the Court consider that the Defendants' application be dismissed, as anticipated by the Claimants, the Claimants seek a recital that it was totally without merit.

#### **Statement of Truth**

17. I believe the facts stated in this witness statement to be true.



**Robert James Dougans**

**15 September 2016**