

N244

Application notice

For help in completing this form please read the notes for guidance form N244Notes.

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Name of court Cardiff Civil Justice Centre	Claim no. 1CF03361
Fee account no. (if applicable)	Help with Fees – Ref. no. (if applicable)
	H W F - <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/>
Warrant no. (if applicable)	
Claimant's name (including ref.) Maurice John Kirk	
Defendant's name (including ref.) The Chief Constable of South Wales Constabulary	
Date	1st Sept 2021

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

David Leathley of Coal Lex chambers

2. Are you a ☐ Claimant ☐ Defendant ☒ Legal Representative

☐ Other (please specify)

If you are a legal representative whom do you represent?

The Claimant

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

A trial fixture on the 6th September next be vacated pending an appeal against interim Orders

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

30 Minutes

Is this time estimate agreed by all parties?

☐ Yes

☐ No

7. Give details of any fixed trial date or period

6th September for 2 weeks

8. What level of Judge does your hearing need?

Circuit Judge

9. Who should be served with this application?

The respondents/defendant

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

Messrs Dolmans Solicitors
Capital Tower
Greyfriars Road
cardiff
CF 103AG

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.

The file (already lodged at court in Appeal CF036/2021CA)

The statement of David Leathley dated 1st September 2021

The Grounds of Appeal against the Order of the Honourable Mrs Justice stacey dated 25th August 2021

Statement of Truth

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.

- ☒ **I believe** that the facts stated in section 10 (and any continuation sheets) are true.
- ☐ **The Applicant believes** that the facts stated in section 10 (and any continuation sheets) are true. **I am authorised** by the applicant to sign this statement.

Signature

David Jonathan Leathley

- ☐ Applicant
- ☐ Litigation friend (where applicant is a child or a Protected Party)
- ☒ Applicant's legal representative (as defined by CPR 2.3(1))

Date

Day

1

Month

9

Year

2021

Full name

DAVID JONATHAN LEATHLEY

Name of applicant's legal representative's firm

COAL LEY CHAMBERS

If signing on behalf of firm or company give position or office held

Applicant's address to which documents should be sent.

Building and street

1st Floor Portland House

Second line of address

113 - 116 Bute Street.

Town or city

CARDIFF

County (optional)

Postcode

CF105EQ

If applicable

Phone number

02920 099907

Fax number

DX number

DX 200763 CARDIFF BAY

Your Ref.

Email

Appellant's notice

(All appeals except small claims track appeals and appeals to the Family Division of the High Court)

Notes for guidance are available which will help you complete this form. Please read them carefully before you complete each section.

For Court use only

Appeal Court Ref. No.

Date filed

SEAL

Section 1 Details of the claim or case you are appealing against

Claim or Case no.

1CF03361

Fee Account no.
(if applicable)

Help with Fees -
Ref no. (if applicable)

H W F - -

Name(s) of the

☒ Claimant(s) ☐ Applicant(s) ☐ Petitioner(s)

Maurice John Kirk

Name(s) of the

☒ Defendant(s) ☐ Respondent(s)

The Chief Constable of South Wales Constabulary

Details of the party appealing ('The Appellant')

Name

Maurice John Kirk

Address (including postcode)

34A Westgate Street
Taunton
TA1 4EY

Tel No.

Fax

E-mail

Details of the Respondent to the appeal

Name

The Chief Constable of South Wales Constabulary

Address (including postcode)

c/o Messrs Dolmans Solicitors Capital Tower
Greyfriars Road
Cardiff
Cf10 3AG

Tel No.

Fax

E-mail

Details of additional parties (if any) are attached

☐ Yes ☐ No

Section 2 Details of the appeal

From which court is the appeal being brought?

- ☒ The County Court at
Cardiff
- ☐ The Family Court at
- ☒ High Court
- ☒ Queen's Bench Division
- ☐ Chancery Division
- ☐ Family Division
- ☐ Other (please specify)

What is the name of the Judge whose decision you want to appeal?

the Honourable Mrs Justice Stacey

What is the status of the Judge whose decision you want to appeal?

- ☐ District Judge or Deputy ☐ Circuit Judge or Recorder ☐ Tribunal Judge
- ☐ Master or Deputy ☒ High Court Judge or Deputy ☐ Justice(s) of the Peace

What is the date of the decision you wish to appeal against?

25th August 2021

Is the decision you wish to appeal a previous appeal decision?

☒ Yes ☐ No

Section 3 Legal representation

Are you legally represented?

☒ Yes ☐ No

If Yes, is your legal representative (please tick as appropriate)

- ☐ a solicitor
- ☒ direct access counsel instructed to conduct litigation on your behalf
- ☐ direct access counsel instructed to represent you at hearings only

Name of your legal representative

David Leathley

The address (including postcode) of your legal representative

Coal Lex Chambers
1st Floor Portland House
113-116 Bute Street
Cardiff CF 10 5EQ

Tel No.	
Fax	
E-mail	david.leathley@coalxlex.cjsm.net
DX	200763 Cardiff Bay
Ref.	

Are you, the Appellant, in receipt of a Civil Legal Aid Certificate?

☐ Yes ☒ No

Is the respondent legally represented?

☒ Yes ☐ No

If 'Yes', please give details of the respondent's legal representative below

Name and address (including postcode) of the respondent's legal representative

Messrs Dolmans Solicitors
Capital Tower
Greyfriars Road
cardiff
CF 10 3AG

Tel No.	
Fax	
E-mail	
DX	
Ref.	

Section 4 Permission to appeal

Do you need permission to appeal?

☒ Yes ☐ No

Has permission to appeal been granted?

☐ Yes (Complete Box A)

☒ No (Complete Box B)

Box A

Date of order granting permission

Name of Judge granting permission

Box B

I David Leathley

the Appellant('s legal representative) seek permission to appeal.

If permission to appeal has been granted **in part** by the lower court, do you seek permission to appeal in respect of the grounds refused by the lower court?

☐ Yes ☐ No

Section 5 Other information required for the appeal

Please set out the order (or part of the order) you wish to appeal against

The order of the Honourable Mrs Justice Stacey dated 25th August 2021

Have you lodged this notice with the court in time?
(There are different types of appeal - see Guidance Notes N161A)

☒ Yes ☐ No

If '**No**' you must also complete
Part B of Section 10 and Section 11

Section 6 Grounds of appeal

Please state, in numbered paragraphs, **on a separate sheet** attached to this notice and entitled 'Grounds of Appeal' (also in the top right hand corner add your claim or case number and full name), why you are saying that the Judge who made the order you are appealing was wrong.

☒ I confirm that the grounds of appeal are attached to this notice.

Section 7 Arguments in support of grounds for appeal

- ☐ I confirm that the arguments (known as a 'Skeleton Argument') in support of the 'Grounds of Appeal' are set out **on a separate sheet** and attached to this notice.

OR (in the case of appeals other than to the Court of Appeal)

- ☒ I confirm that the arguments (known as a 'Skeleton Argument') in support of the 'Grounds of Appeal' will follow within 14 days of filing this Appellant's Notice. A skeleton argument should only be filed if appropriate, in accordance with CPR Practice Direction 52B, paragraph 8.3.

Section 8 Aarhus Convention Claim

For applications made under the Town and Country Planning Act 1990 or Planning (Listed Buildings and Conservation Areas) Act 1990

I contend that this claim is an Aarhus Convention Claim ☐ Yes ☐ No

If Yes, and you are appealing to the Court of Appeal, any application for an order to limit the recoverable costs of an appeal, pursuant to CPR 52.19, should be made in section 10.

If Yes, indicate in the following box if you do not wish the costs limits under CPR 45 to apply. If you have indicated that the claim is an Aarhus claim set out the grounds below

Section 9 What are you asking the Appeal Court to do?

I am asking the appeal court to:-
(please tick the appropriate box)

- ☒ set aside the order which I am appealing
- ☐ vary the order which I am appealing and substitute the following order. Set out in the following space the order you are asking for:-

- ☒ order a new trial

Section 10 Other applications

Complete this section **only** if you are making any additional applications.

Part A

- ☐ I apply for a stay of execution. (You must set out in Section 11 your reasons for seeking a stay of execution and evidence in support of your application.)

Part B

- ☐ I apply for an extension of time for filing my appeal notice. (You must set out in Section 11 the reasons for the delay and what steps you have taken since the decision you are appealing.)

Part C

- ☒ I apply for an order that:

The trial fixed for the
6th September 2021 be vacated

(You must set out in Section 11 your reasons and your evidence in support of your application.)

Section 11 Evidence in support

In support of my application(s) in Section 10, I wish to rely upon the following reasons and evidence:

Affidavit of David Leathley

Statement of Truth

This must be completed in support of the evidence in Section 11

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.

- ☒ **I believe** that the facts stated in section 11 are true.
- ☐ **The Applicant believes** that the facts stated in section 11 are true. **I am authorised** by the applicant to sign this statement.

Signature

David Jonathan Leathley

- ☐ Applicant
- ☐ Litigation friend (where applicant is a child or a Protected Party)
- ☒ Applicant's legal representative (as defined by CPR 2.3(1))

Date

Day	Month	Year
1	9	2021

Full name

DAVID JONATHAN LEATHLEY

Name of applicant's legal representative's firm

COAL LEX CHAMBERS

If signing on behalf of firm or company give position or office held

Section 12 Supporting documents

To support your appeal you should file with this notice all relevant documents listed below. To show which documents you are filing, please tick the appropriate boxes.

If you do not have a document that you intend to use to support your appeal complete the box over the page.

In the County Court or High Court:

- ☐ three copies of the appellant's notice for the appeal court and three copies of the grounds of appeal;
- ☐ one additional copy of the appellant's notice and grounds of appeal for each of the respondents;
- ☐ one copy of the sealed (stamped by the court) order being appealed;
- ☐ a copy of any order giving or refusing permission to appeal; together with a copy of the judge's reasons for allowing or refusing permission to appeal; and
- ☐ a copy of the Civil Legal Aid Agency Certificate (if legally represented).

In the Court of Appeal:

- ☐ three copies of the appellant's notice and three copies of the grounds of appeal on a separate sheet attached to each appellant's notice;
- ☐ one additional copy of the appellant's notice and one copy of the grounds of appeal for each of the respondents;
- ☐ one copy of the sealed (stamped by the court) order or tribunal determination being appealed;
- ☐ a copy of any order giving or refusing permission to appeal together with a copy of the judge's reasons for allowing or refusing permission to appeal;
- ☐ one copy of any witness statement or affidavit in support of any application included in the appellant's notice;
- ☐ where the decision of the lower court was itself made on appeal, a copy of the first order, the reasons given by the judge who made it and the appellant's notice of appeal against that order;
- ☐ in a claim for judicial review or a statutory appeal a copy of the original decision which was the subject of the application to the lower court;
- ☐ one copy of the skeleton arguments in support of the appeal or application for permission to appeal;
- ☐ a copy of the approved transcript of judgment; and
- ☐ a copy of the Civil Legal Aid Certificate (if applicable)
- ☐ where a claim relates to an Aarhus Convention claim, a schedule of the claimant's financial resources

Reasons why you have not supplied a document and date when you expect it to be available:-

Title of document and reason not supplied	Date when it will be supplied
Appeal bundles lodged in Cardiff Civil Justice Centre	1 week

Section 13 The notice of appeal must be signed here

Signed

David Jonathan Leahy

Appellant('s legal representative)

Find out how HM Courts and Tribunals Service uses personal information you give when you fill in a form.

<https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/personal-information-charter>

IN THE HIGH COURT OF JUSTICE

CASE NUMBER 1CF03361

Queen's Bench Division

Appeal Ref. CF036/2021CA

BETWEEN

MAURICE JOHN KIRK

Appellant

-and-

THE CHIEF CONSTABLE OF SOUTH WALES POLICE

Respondents

GROUNDS OF APPEAL AGAINST THE ORDER OF THE HONOURABLE MRS
JUSTICE STACEY DATED 25TH AUGUST 2021 PERTAINING TO AN APPEAL AGAINST
THE RULING OF HIS HONOUR JUDGE PETTS DATED THE 7TH MAY 2021 DENYING
THE APPELLANT HIS STATUTORY RIGHT TO JURY TRIAL AND FURTHER DENYING
HIM RELIEF FROM SANCTIONS

1. These are Claims of Malicious Prosecution, False Imprisonment and Misfeasance in a Public Office against The Respondent. On the 7th **May 2021** His Honour Judge Petts denied the Claimant his statutory right to a trial by jury with regard to the mode of trying the Claimant's claims. The Respondent, who has lost the criminal trial at Cardiff Crown Court before a previous jury pertaining to the subject of these claims, clearly did not want to repeat the experience. Put very simply, the right to a jury trial would almost certainly augment the Claimant's chances of success. Essentially, the civil claim (to a lesser standard of proof) is no more complex than the criminal jury trial. That criminal trial was managed before a jury in Cardiff Crown Court in 2010 who acquitted the Claimant/Appellant. Notwithstanding a timeous appeal the Honourable Mrs Justice Stacey refused leave to appeal clearly through frustration at the delay in obtaining a transcription of the proceedings, a frustration with regard to events outside the Claimant/Appellant's control.
2. Since 2011 the Claimant has been constrained to litigate in person. In **2011** he formally pleaded that the right to trial by jury be reserved in his favour. In a formal Defence dated the 30th June 2011 Queen's Counsel, instructed by The Respondents, formally pleaded ***It is admitted and averred that the Claimant has a right to request trial by jury but the Defendant will aver that given the complexity of the case, the inter-relationship with existing actions and the likely number of documents which will have to be referred to in order for the matter to be fully investigated at trial, the claims contained within the particulars of Claim should be tried by a judge sitting alone.*** There are material changes that

have since occurred. The Claimant can now rely on very little material and no witnesses but himself. Because he was incarcerated in HMP prison estate at a time when he should have been serving his case he was wholly reliant on disclosure documents served by The Respondent.

3. In 2011 the Claimant pleaded these claims as the final act in a series of malicious arrests and prosecutions comprising Case Number **BS614159**. That case was tried by a single judge, His Honour Seys-Llewellyn, Queen's Counsel, who found in the Claimant's favour in 3 of 22 claims. The Claimant had pleaded that the proof of an 'animus' by the Defendant against The Claimant in his alleged 'over-arching' conspiracy (to prosecute the Claimant needlessly) lay in one last, determined 'push' to have the Claimant incarcerated indefinitely (**Case 1CF03361**).

The Defendant/ Respondent had pleaded : its ***inter-relationship with existing actions*** was the key. Put simply, the Claimant believed the matter subject to this appeal was the ***sine qua non*** of his assertions in **BS614159**. His Honour Judge Seys-Llewellyn, Queen's Counsel ordered the stay of **1CF03361** pending the trial of **BS614159** or, in the proposed Appellant's idiom, 'decapitated' the final act of the Claimant's pleaded escalating acts of aggression and hostility. This effectively left 'a play without a final scene' or 'a thriller lacking its *d'enouement*.'

4. It is the proposed Appellant's belief that the separation of the two claims took from the court's overview the unequivocal evidence of 'animus' necessary to prove the 'over-arching' conspiracy. As a consequence there is now no ***inter-relationship with existing actions*** or any of the degree and complexity of the 2011 Particulars of Claim and Defence.
5. The proposed Appellant's claim in **1CF03361** was revived after he sought the assistance of counsel. At a case management hearing on the **18th December 2020** His Honour Judge Keyser refused to grant the proposed Appellant Relief from Sanctions after he failed to file statements and documents on time due to his incarceration in prison and his having had all his case papers stolen by G4S. At a further case management hearing on the **7th May 2021** (before His Honour Judge Petts) the Learned Judge again refused to allow the proposed Appellant Relief from Sanctions by allowing him to rely on any witness statement he had served on the Defendant other than his first heavily redacted statement or any document other than those disclosed by the Defendant. The proposed Appellant was then represented by counsel.

6. During **May 2021** the proposed Appellant stood trial before a jury at **Exeter Crown Court**. The then trial judge, His Honour Judge Johnson, acting Recorder of Exeter, ordered a statement to be taken from **G4S** about paperwork allegedly confiscated and not returned from the Claimant/Appellant's cell. The Claimant/Proposed Appellant was acquitted by the Exeter jury. The indictment concerned stalking allegations pursuant to section 4A of The Protection from Harassment Act 1997 and originally included the erstwhile allegation the Claimant/Appellant had sent to an MP, Rebecca Pow, a noxious substance.

It is the proposed Appellant's case that the hyperbole behind the Exeter allegation, together with the prosecutions behind the index matters subject to appeal further demonstrate an 'animus' was persistent and the Defendant/Respondent effectively strove to silence these claims permanently by depriving the Claimant/Appellant of his ability to conduct his own litigation. In fact the Exeter jury was sympathetic to the Claimant's defence that the Claimant/Appellant was simply acting reasonably in seeking assistance from his MP about the subject matter of his various grievances against the defendant and **G4S**. There is now a statement dated **9th April 2021** from **Darrell Davies** by order of the Exeter trial judge. The Claimant/Appellant's assertions that he was not able to give standard disclosure of his documents because he was incarcerated for 2 years now had corroborating evidence from **G4S** themselves. The Claimant/Appellant will further attest he was not permitted access to his legal papers in prison, nor permitted to attend hearings via video link. By **30th May 2019** the Claimant was incarcerated again until **3rd November 2019**, the prison having again parted The Claimant from his legal papers. There is a nexus also in that successive parole board hearings did not view the Claimant favourably after documents created by the Defendant asserted The Claimant had convictions for offences he did not have. In prison The Claimant/Appellant had written asking for assistance from an MP called Pow (the alleged victim in the failed Exeter prosecution). **ICFo3361** was brought back before the court on the **30th May 2019** and so the Defendant was able to encourage the order, subject to application, that the Claimant/Appellant be debarred from relying on any document save for those already listed by the Defendant. It is the Claimant/Appellant's case that he has been systematically and deliberately incarcerated as part of a continuing course of conduct by The Defendant who has prevented him from participating in relevant hearings, deprived him of case papers and smeared him as to the accuracy of his criminal record.

7. On the **12th October 2020** the proposed Appellant was only then able to assess evidence of animus within **ICFo3361** after first time disclosure of Defendant case papers occurred. Ergo, the court must regard the **12th October 2020** as the only realistic

‘start point’ to the Claimant/Appellant effectively being able to litigate his claims. Having regard to **Denton v TH White Ltd** and **Andrew Mitchell MP v News Group Newspapers (2013) EWCA Civ 1537** the court should consider why a default occurred and whether there is good reason for it. It is The Claimant/Appellant’s position that the course of bullying he set out to demonstrate has been maintained by The Defendant throughout the conduct of this matter and accordingly he should be allowed to litigate within the parameters of his own witness statements and documents. The Defendant’s reprehensible conduct must not be allowed to ‘hijack’ The Claimant/Appellant’s case. Further, the Bristol County Court recently dealt with claim **GooTA1220**, a claim against G4S pertaining to the theft by them of case papers in **1CF03361** and the genesis of the Claimant’s communications in the Exeter trial. It is averred that the **Darrell Davies** statement reinforces both the basis of the application for relief from sanctions in this matter in addition to providing the proof the Claimant was deprived of in the Bristol G4S claim.

8. At the hearing before His Honour Judge Petts on the **7th May 2021** the Respondents relied heavily in their successful application to deprive the Claimant of his right to trial by Jury in the last paragraph of the Claimant’s document ***‘Legal Submission in support of The Claimant’s Right to Trial by Jury’*** placed before His Honour Judge Keyser QC on the **18th December 2020** ***The Claimant accepts these matters are placed before the honourable court more than 28 days after the service of the defence but the court still retains a discretion.*** It is averred the effect of **CPR 26.11 (1)** prescribes a default period following the service of the Defence document after which the Claimant is prevented from seeking a trial by jury. It has no application to a situation where a Claimant pre-empts the defence document by the formal pleading of his statutory right BEFORE the Defence is lodged. There cannot have been any default therefore by The Claimant requiring 28 days following the lodging of the Defence to make an application he has already made. The Respondents’ argument on the **7th May 2021** was essentially that presented in **2011** but the landscape of the Appellant’s claims had vastly changed and diminished. As such the Learned Judge Petts should have entertained the Appellant’s right to trial by jury. Absent the annexation of these claims with the **BS14159** case the present matter was no more complicated than a possession of a machine gun prohibited weapon allegation, contrary to section 5 (1) (a) of The Firearms Act 1968 for which the case of **Burke (1978) 67 Cr App R 220 CA** –see **Archbold 2021 para 24-132 page 2681** stated that on the issue of exemption on the grounds of antiquity (the main issue here) the ultimate decision should be for a jury.

AND THE GROUNDS OF APPEAL ARE:

- (i) The decision of His Honour Judge Petts of the 7th May 2021 to deprive the Claimant/Proposed Appellant of Relief from Sanctions was unreasonable in the light of new evidence provided by the disclosed statement of Darrell Davies dated 9th April 2021 in the Exeter trial. The failure of the Claimant/Appellant to comply with directions was therefore neither serious nor culpable and nor did it create prejudice to the Defendant.**
- (ii) The Learned Judge erred in fact and law by depriving the Claimant/Proposed Appellant of his statutory right to jury trial. The Claimant/Appellant's application for jury trial should have been upheld. It was *Wednesbury* unreasonable of the Learned Judge to uphold disingenuous submissions by the Defendant that were no different to the 2011 pleadings that inter-connections with other litigation and the volume of paperwork rendered the case unsuitable for a jury. There had been material changes since 2011. The potential connection with case BS 614159 was a redundant consideration following judicial severance. The Claimant/Appellant's paperwork was truncated to one statement. The court should have acceded to the submissions of the Claimant's counsel dated the 6th May 2021 (attached, together with chronology).**

On a true interpretation of Section 69 of The Senior Courts Act 1981, provided a court is satisfied that there is an issue of a claim in respect of malicious prosecution or false imprisonment there is a mandate that the case be tried by jury *'unless the is of the opinion that the trial requires any prolonged examination of documents or accounts or any scientific or local investigation which cannot conveniently be made with a jury.'* CPR r26.11 states that, subject to an exception, an application for a claim to be tried by jury must be made within 28 days of the defence (r26.11 (1)). The White Book 2020 Volume 2 page 2560 Paragraph 9A-258 deals with the discretion inherent in section 69 (4) thus *'the meaning of "in accordance with the rules of court" in s 69(4) is not clear (Armstrong v Times Newspapers LTD (2005) EWHC 2816 (QB);(2006) EMLR (Eady J).*

A timeous application for trial by jury contained in a Particulars of Claim was *'in accordance with the rules of court'* and nothing in

r26.11(1) prescribed for an application to be repeated if it had already been made before the Defence was formulated. Indeed the Defence more particularly addressed the point by objecting to it and it would be disingenuous of the court to uphold those objections and then determine that there was nothing before the court to warrant objection in the first place. The fact that the Defendant/Respondent deemed an application for jury trial had been made by the 2011 particulars of Claim by replying formally in a defence raised issues of estoppels in 2021 when there was effectively a denial any such application was made. In any event a revised defence was dated 25th August 2017.

- (iii) *The Order of the Honourable Mrs justice Stacey dated 25th August 2021 wrongly deemed an appeal lodged on the 1st June was dated 22nd June and in context (see statement of David Leathley dated the 1st September 2021) was manifestly unfair given that inherent delays in the appeal process were not attributable to the proposed Appellant.*

I BELIEVE THE CONTENTS OF THIS, MY APPEAL ARE TRUE

SIGNED

*David Leathley per pro Marnie
John Kirk*

DATED

this 1st day of September 2021

In The High Court of Justice

Queen's Bench Division

Appeal CF036/2021 CA

MAURICE JOHN KIRK

Appellant

-and-

THE CHIEF CONSTABLE OF SOUTH WALES CONSTABULARY

Respondent

STATEMENT OF DAVID JONATHAN LEATHLEY

1. I am a Direct Public Access barrister and represent the Claimant/Appellant , Maurice John Kirk.
2. On the 7th May 2021 His Honour Judge Petts refused to grant the Claimant relief from sanctions and denied him the right to jury trial in allegations he is bringing against the respondent of False Imprisonment, Malicious Prosecution and Mifseasance in a Public Office.
3. Within 21 days of the order an appeal was prepared but Mr. Kirk was not available to pay the fee as he is an elderly gentleman in his seventies living in Taunton and he required urgent medical attention. The appeal was emailed electronically to Cardiff Civil Justice Centre and the Respondents on the 1st June 2021 **Exhibit DJL/1**. An attempt to file the appeal on Friday 28th May was thwarted when Mr. Kirk arrived only to find the court office closed. Monday 31st may was a Bank Holiday. The appeal was one working day late and was emailed at 09.46 on the 1st June. It was accepted by the court.

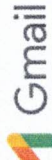
4. On the 10th August His Honour Judge James deemed the Appeal as dated 21 days after it was sent (22nd June 2021). I enclose his order **Exhibit DJL/2**. He granted 2 working days from receipt of his Order dated 10th August to file four bundles. These were lodged by me personally at Cardiff Civil Justice Centre by placing the files in the DX. They were delivered to the court on the 13th August 2021. I telephoned the court and receipt was confirmed. I enclose my email to the court and Respondents dated the 12th August 2021 **Exhibit DJL/3**.
5. An application for an approved transcript was lodged on the 10th August. I was not contacted by The Transcription Agency who, when I telephoned, told me they had corresponded with me via my secure email on the 16th August. They had not. I received two emails from the court asking for progress **DJL/4**.
6. On the 24th August Mr. Kirk paid £1200 to the transcription Agency to expedite the transcript. I informed the court **Exhibit DJL/5**.
7. On the 25th August 2021 Mr. Kirk 's appeal was refused as entirely without merit. It is transparently obvious that the Honourable Mrs Justice Stacey was striving to maintain the scheduled date for a trial (without a jury) on the 6th September 2021 and this had nothing to do with the merits of Mr. Kirk's appeal.
8. On the 1st September 2021 I telephoned the Transcription Agency and was informed that the transcript would not be ready before the 6th September 2021 (the date scheduled for trial) when it would be sent to the court for approval.
9. I produce the Appeal file **DJL/6** , hard copies of which are at cardiff Civil Justice Centre. I apply for the fixture on the 6th September 2021 to be broken and the trial stood out from the list at Cardiff Civil Justice Centre as to proceed to trial before the single judge and without a jury obviates the whole point of the appeal and would waste the time of the High Court. I attach form N244 requesting postponement of trial pending appeal **DJL/7**.

I believe the contents of this statement are true

Dated

this ³¹ 12th ^{DJL} day

David Leahy
September 2021



David Leathley Barrister at Coal Lex Chambers <coallex@gmail.com>

Source John Kirk v The Chief Constable of South Wales 1CF03361-Appeal Against Order of Judge Petts dated 7th May 2021 FAO Enfys O'Doherty

Message

David Leathley Barrister at Coal Lex Chambers <coallex@gmail.com>

"BPC, Cardiff" <bpc.cardiff@justice.gov.uk>

"Adrian Oliver" <adriano@dolmans.co.uk>

Dear Enfys,

Enclose form N161 and other documents.

Mr. Kirk was in hospital all last week. He came to chambers last Friday but your court offices were closed.

Please contact me concerning the fee.

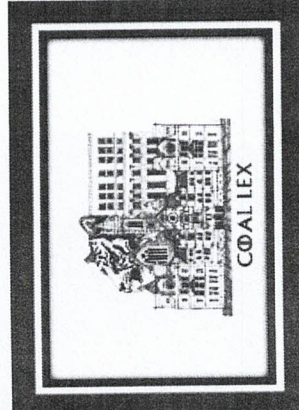
Kind regards

Mr David Leathley Counsel

Coal Lex Chambers

Chambers Tel: 029 20099907

Clerks Mob: 07971212540



Coal Lex Chambers, Portland House, 113 to 116 Bute St, Cardiff Bay, S.Wales CF10 5EQ. DX 200763

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1 June 2021 at 09:46

EXHIBIT DJL/1

General Form of Judgment or Order

In the County Court at Cardiff	
Claim Number	1CF03361
Date	10 August 2021

EXHIBIT DJL/2



MAURICE KIRK	1 st Claimant Ref DJL
CHIEF CONSTABLE OF SOUTH WALES CONSTABULARY	1 st Defendant Ref APO.SWP-1-464

In the Matter of CF036/2021CA

Before His Honour Judge James sitting at the County Court at Cardiff, Cardiff Civil Justice Centre, 2 Park Street, Cardiff, CF10 1ET.

UPON receipt of an email by legal representative on behalf of the Appellant

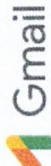
AND UPON Notice of Appeal being dated the 22nd June 2021 but the first request for a transcript being dated the 10th August 2021

AND UPON the Appellant requesting expedition of the Appeal

IT IS ORDERED THAT

1. The Appellant shall within 2 working days of receipt of this Order comply with paragraphs 6.3, 6.4 and 6.5 of CPR PD 52B save he shall be permitted to file a transcript 2 working days after receipt of the transcript.

Dated 10 August 2021



wd: Message from MF3301

Message

12 August 2021 at 14:28

David Leathley Barrister at Coal Lex Chambers <coalxlex@gmail.com>

"BPC Cardiff" <bpc.cardiff@justice.gov.uk>

"Adrian Oliver." <adriano@dolmans.co.uk>

RE APPEAL OF MAURICE JOHN KIRK CF036/2021

Dear Sirs,

In accordance with the Directions of HHJ James dated the 10th August four indexed bundles have been placed in the post.

An index will follow. Herewith Appeal Bundle pages A1-A49.

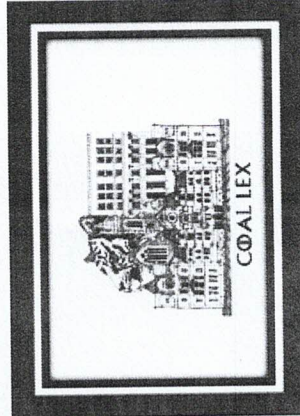
Kind regards

Mr David Leathley Counsel

Coal Lex Chambers

Chambers Tel: 029 20099907

Clerks Mob: 07971212540



Coal Lex Chambers, Portland House, 113 to 116 Bute St, Cardiff Bay, S.Wales CF10 5EQ. DX 200763

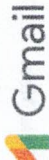
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----- Forwarded message -----

David Leathley Barrister at Coal Lex Chambers <coalxlex@gmail.com>

EXHIBIT DJL/13



David Leathley Barrister at Coal Lex Chambers <coallex@gmail.com>

EXHIBIT DJL/4

CF036 2021CA (1CF03361)

Message

From: C. Cardiff <BPC.Cardiff@justice.gov.uk>

To: David Leathley Barrister at Coal Lex Chambers <coallex@gmail.com>

24 August 2021 at 12:44

Dear Sir,

Justice Stacey has asked if there is any way the transcript can be expedited?

Kind Regards

nfys O'Doherty

Llys Busnes Ac Eiddo Yng Nghymru / The Business And Property Courts In Wales
anolfan Llysoedd Sifil Caerdydd / Cardiff Civil Justice Centre

Stryd y Parc / 2 Park Street

Caerdydd / Cardiff

F10 1ET

fon / Tel 02920376430

Ffôn Ffacs / Fax 02920376430

STYRIWCH YR AMGYLCHEDD – OES RHAI DDIWYBODAETH I CHI BRINTIO'R E-BOST HWN?

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Coronavirus (COVID-19): courts and tribunals planning and preparation | Coronavirus (COVID-19): cynlluniau a pharatoadau'r llysoedd a'r tribiwlysoedd

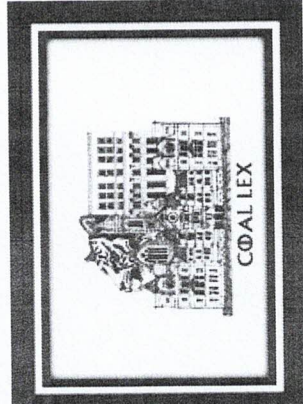


EXHIBIT DTL/4.

Coal Lex Chambers, Portland House, 113 to 116 Bute St, Cardiff Bay, S. Wales CF10 5EQ, DX 200763

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On Mon, 23 Aug 2021 at 11:03, BPC:Cardiff <BPC.Cardiff@justice.gov.uk> wrote:

Dear Sir,

Please may we have an update on the status of the transcript? The Judge is waiting for it.

Kind Regards

Enfys O'Doherty

Y Llys Busnes Ac Eiddo Yng Nghymru / The Business And Property Courts In Wales
Canolfan Llysoedd Sifil Caerdydd / Cardiff Civil Justice Centre

2 Stryd y Parc / 2 Park Street

Caerdydd / Cardiff



HM Courts & Tribunals Service
Gwasanaeth Lysoedd a Thribiwnlysoedd EM

EXHIBIT DS L/S.

From: David Leathley Barrister at Coal Lex Chambers <coallex@gmail.com>
Sent: 24 August 2021 10:20
To: BPC Cardiff <BPC.Cardiff@justice.gov.uk>
Subject: Re: CF036 2021CA (1CF03361)

Dear Enfyys,

MAURICE KIRK V THE CHIEF CONSTABLE OF SOUTH WALES 1CF03361

Thank you for your email. I telephoned The Transcription Agency today (24th August) and they said an invoice or estimate for £989 was sent to my secure email on the 16th August last.

I checked and it hasn't. Mr. Kirk has, however, agreed this sum.

Once paid the Transcription Agency require 12 working days.

Kind regards

Mr David Leathley Counsel

Coal Lex Chambers

Chambers Tel: 029 20099907

Clerks Mob: 07971212540