

VEHICLE CONTROL SERVICES LIMITED

(Claimant)

V

xxx

(Defendant)

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**WITNESS STATEMENT OF DEFENDANT FOR TELEPHONE HEARING ON xxx**

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1. I am xxx of xxx, and I am the defendant against whom this claim is made. The facts below are true to the best of my belief and my account has been prepared based upon my own knowledge.

2. In my statement I shall refer to exhibits within the evidence supplied with this statement, referring to page and reference numbers where appropriate. My defence has been repeated and built upon in the below arguments.

**Correspondence**

3. I received a notice of recovery (exhibit 1) from the Claimant dated 04/02/2019 stating they had been awarded a County Court Judgement against me for the amount of £185. This letter caused me significant distress and was extremely misleading during the process of submitting a defence to the claim. I sent a copy of this letter with my submission to the court (exhibit 2). On the basis of the above, I invite the court to consider striking out the claim.

4. The Claimant's solicitors are known to be a serial issuer of generic claims similar to this one, with no diligence, no scrutiny of details nor even checking for a true cause of action. HMCS have identified over 1000 similar sparse claims. I believe the term for such conduct is 'roboclaims' which is against the public interest, unfair on unrepresented consumers and parking companies using the small claims track as a form of aggressive, automated debt collection and is not something the courts should be seen to support.

**Background**

5. The location in question was a road used to access both i) resident car parks for X1 properties and ii) Ordsall Leisure Centre.

6. There were redundant pavements spaces next to the both of the above buildings (exhibit 3 and 4) whereby it was common practice to park vehicles without being a permit holder. These were not marked out as designated car park spaces but were commonly used by a range of people visiting the area. Occasionally, I would park my vehicle there so that I was closer to my building for example, if I had large quantities of groceries/items to bring into the house or to the car. The double yellow lines

were present along the pavement areas before the managing agents introduced parking restrictions however, vehicles parked here did not incur any parking charges.

7. I was residing at Endeavour House, Elmira Way, Salford during the period 1st December 2018 to 28th April 2018 and at some point during this residential period, the managing agents foisted enforced parking conditions at the estate through Vehicle Control Services Limited (VCS) without any formal notification to the residents. There was also no change the entrance into the road to indicate that vehicles were now are entering an area with controlled parking.

### **Inadequate signage**

8. Any terms on signage or charges on the day of parking were not seen as the car was parked on the evening of 23/03/2019 and it was dark when I parked the vehicle. But, even if the court believes signs were displayed, the terms were in such small print as to be illegible, contrary to the Consumer Rights Act 2015.

9. I refer to the IPC Code of Practice (CoP) Part E, highlighting that adequate and clear entrance signs are required. It states that "entrance signs should make it clear that the motorist is entering onto private land and refer the motorists to the signs within the car park which display the full terms and conditions".

10. At the point of entry, there is no entrance sign present (exhibit 5) which, in this case, would have shown clearly that I was entering an area with controlled parking. The result of having no entrance sign is a lack of clarity over what specific areas the restrictions cover; they could be referring to the actual resident car parks or the leisure centre car park. The claimant and other private parking companies often rely on the case *ParkingEyeLtd vs Beavis [2015]* to automatically justify their PCN costs. Unlike in this case, ParkingEye demonstrated a commercial justification for their £85 private PCN, which included all operational costs, and they were able to overcome the real possibility of the charge being struck out as punitive and unrecoverable. The decision was specific to that 'unique' set of facts: the legitimate interest argued, the car park location, and the 'brief and clear' signs with the parking charge itself in bold and the largest text. The unintended consequence is that, rather than persuade courts considering other cases that all private PCNs are automatically justified, the Beavis case facts and pleadings (and in particular, the brief and prominent signs) set a high bar that this Claimant has failed to reach. A key factor in "*ParkingEye v Beavis*" was that the relevant signs were "large, prominent and legible, so that any reasonable user of the car park would be aware of their existence and nature". I have included a comparable entrance/parking sign used by ParkingEye Ltd shown in exhibit 6.

11. The only signs present are sparse and set back on walls of buildings, considering they are the only signs present they are small with small text. In most cases the signs are parallel to the direction of driving hence, difficult to see upon entry. Exhibit 5 shows the view from a vehicle when entering the area. In *Vine v London Borough of Waltham Forest [2000]* the Court of Appeal held that it was unsurprising that the appellant did not see the sign "in view of the absence of any notice on the wall opposite the southern parking space" and ruled that a person cannot be presumed bound by terms and conditions on signage that they haven't seen. In many cases where parking firm Claimants have cited Vine in their template witness statements, they have misled courts by quoting out of context from Roch LJ, whose words related to the Respondent's losing case, and not from the appeal which was found in favour of the motorist. In fact, Miss Vine won because it was held as a fact that she was not afforded a fair opportunity to learn of the terms by which she would be bound.

12. There was no red hatched area or no stopping zone signs on the curb on signposts declaring the kerb area was now within the restricted zone.

13. Exhibit 7 shows a picture of the sign from approximately 1-2 meters away from the sign whereby the majority of the text is difficult to read. The text is in different sized fonts and the £100 charge is in one of the smaller sizes used. The largest text on the sign addresses "valid permit holders", as stated in point 6, this area was previously not a permit restricted area and so, the sign does not give any clear instructions to non-valid permit holders. The Claimant has not applied Lord Denning's "Red Hand Rule" to the terms and conditions in this case.

### **The claim**

14. The Particulars of Claim (PoC) do not meet the requirements of Practice Direction 16 7.5 as there is nothing which specifies how any terms were breached. Indeed the PoC are not clear and concise as is required by CPR 16.4 1(a) and CPR 1.4. It vaguely refers to "a charge notice for a contravention" incurred on 24/03/2018. However, they do not state the basis of any purported liability for these charges, in that they do not state what the terms of parking were, or in what way they are alleged to have been breached, for example whether this charge is founded upon an allegation of trespass or 'breach of contract'.

15. The claimant failed to include a copy of their written contract nor any detail or reason for - nor clear particulars pertaining to - this claim (Practice Directions 16 7.3(1) and 7C 1.4(3A) refer).

16. The Claimant, or their legal representatives, has added an additional sum of £60 to the original £100 parking charge, for which no explanation or justification has been provided. Schedule 4 of the Protection Of Freedoms Act, at 4(5), states that the maximum sum which can be recovered is that specified in the Notice to Keeper, which is £100 in this instance. It is submitted that this is an attempt at double recovery by the Claimant, which the Court should not uphold, even in the event that Judgment for Claimant is awarded.

### **Further costs**

17. I have included a costs assessment in exhibit 8. Being a litigant-in-person, I have had to spend a considerable amount of time to research the laws and regulations around parking enforcement whilst processing and preparing my defence, attending mediation service and preparing this witness statement. I invite the court to consider making an award to include these, in accordance with the court's powers in relation to misconduct (ref. CPR 44.11). I would like to remind the court of the false CCJ notice sent by the Claimant and of inability of the Claimant to settle this case through the mediation service.

**Statement of truth**

I believe that the facts state in this Witness Statement 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.

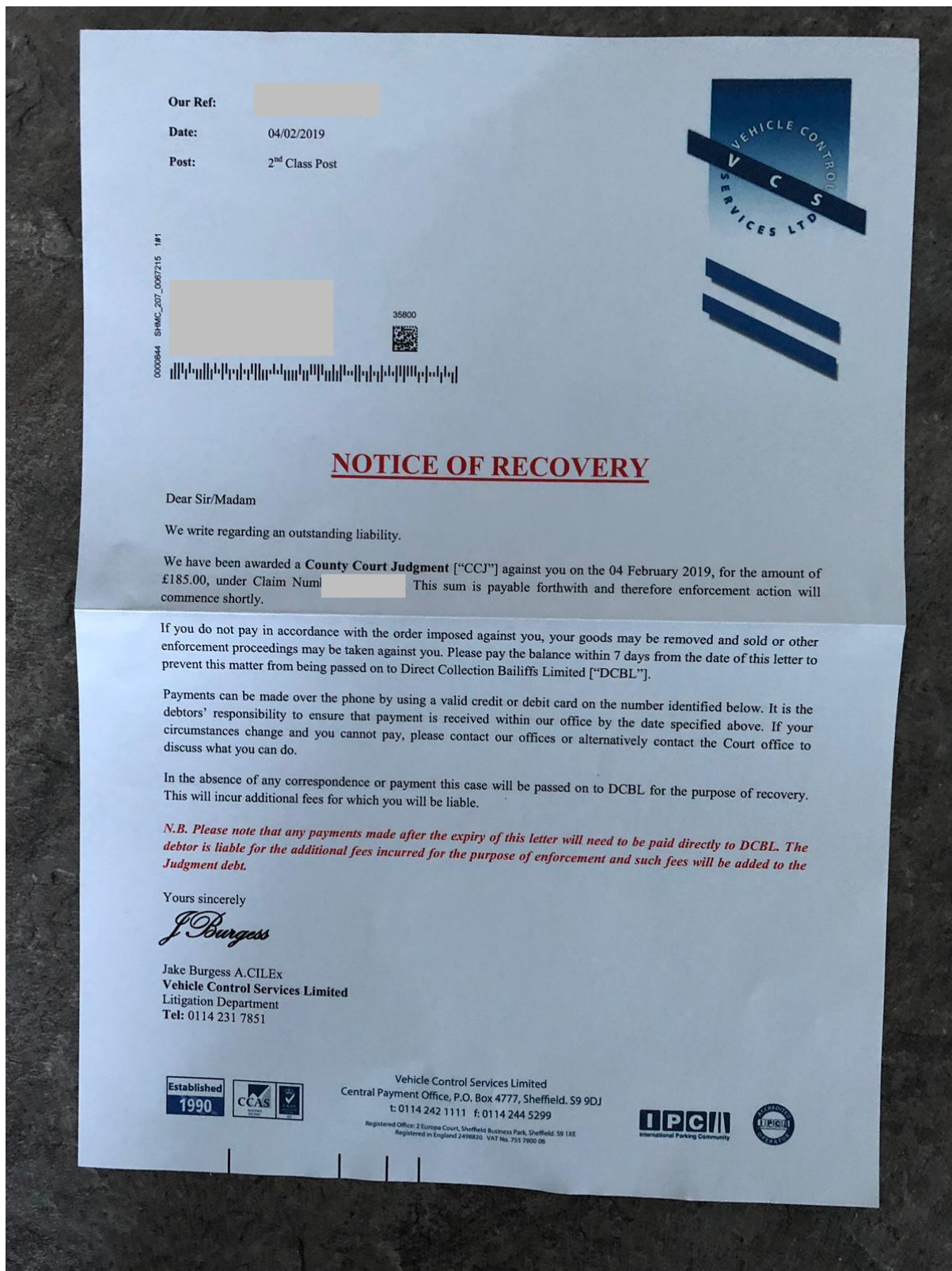
**Signature:** .....

**xxx**

**Date:**

## Exhibit 1

Incorrect notice of recovery received from Claimant



## Exhibit 2

Additional information submitted with defence on 11<sup>th</sup> February 2019.

From: [REDACTED]  
Sent: 11 February 2019 14:23  
To: [ccbc@justice.gov.uk](mailto:ccbc@justice.gov.uk) <[ccbc@justice.gov.uk](mailto:ccbc@justice.gov.uk)>  
Subject: [REDACTED] Defence Update

Hi,

In addition to my defence I would like add that the Claimant 'Vehicle Control Services' has issued me a 'notice of recovery' letter saying they have been awarded a CCJ and that I need to pay it.

I rang the CCBC today and it was confirmed that this was false information from the Claimant as my claim is still held at the defence stage and hence, I now feel this is starting to be harassment from the Claimant sending falsified documents to myself.

See attached letter.

Many thanks,

[REDACTED]

## Exhibit 3

Photo showing redundant pavement space next to X1 resident building





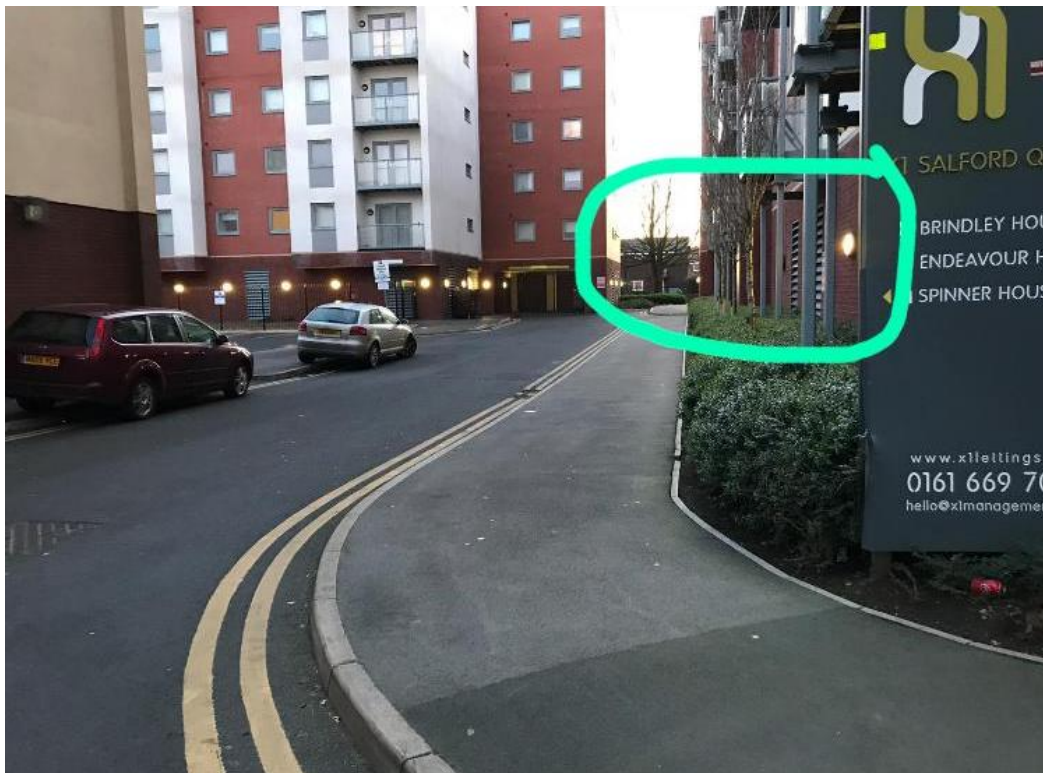
#### Exhibit 4

Photo showing redundant pavement space next to Ordsall Leisure Centre.



#### Exhibit 5:

Photo showing both entrance with no clear signage and the signs which are along the pavement in which the car was parked – not visible.



## Exhibit 6

A large entrance/parking sign displayed by Parking Eye clearly stating the terms of the car park and charges in large font.



## Exhibit 7

View of sign from 1-2m away.





**Exhibit 8**

**DEFENDANT'S SCHEDULE OF COSTS**

Costs for Claimant's misconduct, in relation to Civil Procedure Rule 44.11

Research, preparation and drafting documents (16 hours at Litigant in Person rate of £19 per hour):  
£304

**TOTAL COSTS CLAIMED £304.00**

**Signature**

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**Date:**