# INVENTORY OF PRODUCTIONS Claimant: BC Lay Representative Mr B Case reference number: LIV-xxx Evidential Hearing October, 2024

Act of Sederunt (Simple Procedure) 2016 SSI 2016/200

### The Sheriffdom of Lothian and Borders at Livingston

### Case Ref – LIV-xxx

## Assisted by lay representative Mr B

### Compliance with order from Sheriff M, Sept 2024

Claimant: BC

Respondent: SJK

Response from claimant BC

### **1.0 Background**

To clarify the situation and furnish the court, I will give a background of this claim in or around the end of January 2023. The respondent approached me about her ford KA car and said she feared it would fail an MOT and she did not have the fiance to repair it.

1.1 I suggested a mechanic that I frequently used in my home town of central Scotland, could look at it and give her an opinion. She drove the car to the garage in or around January 30<sup>th</sup>, 2023, and met with I and the mechanic at his premises. She left the car with him for assessment and was content for him to relay a response to me and I would pass on the information to her about then necessary repairs required for the MOT.

1.2 That day she borrowed £200 in cash from me as she stated that she had no money and would repay this back. On  $31^{st}$  January 2023, I received a call from the mechanic at xxx, informing me of the necessary work required for the respondent's

car to pass the MOT, which I promptly relayed to her. Namely, hydraulic lines for steering to be replaced as they were completely corroded and not functioning. Genuine Ford part to be installed, hydraulic oil replaced and a new tyre fitted, at a cost of between £800-£900. I called the respondent and as she was shocked and distressed that she would not be able to afford this,

1.3 I suggested I had a KA in my drive, a project I had been working on, that might suit her better, if she wanted to look at purchasing this due to the high cost of the MOT it may work out as a better way forward. She stated she was comfortable with her car and that it had a personal number plate on it and the cost of transferring this to another car would outweigh what she would save on purchasing my KA.

1.4 She asked if I could meet the cost of the repairs on her car and she would pay me back along with the £200 that she had already borrowed as she was intending to start work in late spring. I agreed to assist with this loan on the understanding she would pay me back. I paid the invoice for the MOT by cheque (cheque number xxx for car REG xxx xxx). The respondent at this stage knew the cost and agreed to the work being carried out.

1.5 She collected the car on xxx February 2023 and was handed a copy of the MOT paperwork and viewed a copy of the invoice detailing the costs at the time. Between February and April 2023 various conversations took place on the telephone between myself and the respondent and she mentioned that she would start paying back the money she owed me, as she was getting a job in May/June 2023.

1.6 The emails below are lodged in evidence from the respondent, which support that she knew the cost of repairs and she promised to pay the money back. She also laid out terms and conditions of her intentions to pay (which she never honoured).

1.7 There are 6 separate emails from the respondent in the month of April 2023, supporting the position that she was fully informed and clear that this money was not a gift and she accepted it was loan. She even set out terms of how she intended to pay this back. I have put excerpts of the emails in chronological order below with full details of them included in my form A10 on the portal:

- 1. Email one dated April, "once I get myself sorted and back into work, I will start paying you of the money for the car". See Exhibit A
- 2. Email two dated April, "once I start working, I will get the money for the car back to you, if you can let me know how much even if I am paying up a little at a time"? See Exhibit A
- 3. Email Three- dated April 2023, "when I get on my feet financially, I will pay you back for the car". See Exhibit A
- 4. Email Four dated April 2023, "Oh and please, I had no idea the car cost so much, you really should have told me, I took a lot of abuse over the last week, and I will pay it back, I would never have anyone say that I took advantage, I

thought that it was maybe £300 maximum. But I promise you that's one thing that is top of my list." See Exhibit A

- 5. Email Five Dated April 2023, "Plus I should be able to start paying back the money for the MOT in a month or so all going well." See Exhibit A
- Email Six dated April 2023, "Clearly at this point I don't have £1000, but even If I have to pay £5 a month, I will pay it off and I have never done anything in malice against you, and I never knew the cost of the MOT." See Exhibit A

## 2.0 Conduct of the respondent

## Act of Sederunt (Simple Procedure) 2016 SSI 2016/200 SCHEDULE 1

1.5 What are parties' responsibilities?

(1) Parties must respect the principles of simple procedure.

(2) Parties must be honest with each other, with representatives and with the sheriff.

(3) Parties must be respectful and courteous to each other, to representatives, to witnesses and to the sheriff.

(4) Parties must not try to make a witness give misleading evidence.

(5) Parties must consider throughout the progress of a case whether their dispute could be resolved by negotiation or alternative dispute resolution.

(6) Parties must approach any negotiation or alternative dispute resolution with an open and constructive attitude.

(7) Parties must follow the sheriff's orders.

2.1 The respondent has failed to adhere to the rules laid out in schedule one. She purports a bundle of untruths to the court in her voluminous plethora of incoherent documents that are unrelated to the case and so far number 51 entries to date.

2.2 I the claimant and my lay representative have spent a total of 8 hours sifting through these documents trying ascertain any coherent relevance they have to this case before the court.

2.3 The extract in her standing of evidence in one of these 51 documents, at document R 33 in the portal page 2, uploaded 12<sup>th</sup> March 2024, alleging that this was a gift, was the only one we could identify as being potentially related to the case, as follows: **"SJK had not known the cost of the repair and MOT on her car from Mr S nor did she have any bank details until the xx** September 2023, therefore there could not have been a verbal agreement to repay any alleged 'loan' as there was no means of making payment. This extortion, monetary abuse of a vulnerable woman on benefits put SJK in distress, fear and alarm, and SJK thought that by starting to make payments prior to Christmas would stop any court action. Being that time of the year, and with the cost of living, this put SJK further into poverty over the Christmas period and she did not have the technology to access the Civil Online Portal".

## 3.0 Claimants Rebuttal of respondents claims.

3.1 The claimant rebuts that the respondent did not know the costs of the repairs for the MOT of her car as she authorised repairs on January xxx 2023. She was given a copy of the MOT paper work, ref MOT Number xxxxx on xx February 2023 and was fully versed in the cost of repairs and viewed the invoice on the day of collection of her car. She also agreed, with the claimant, to paying for the car as a loan and offered verbally at this juncture to pay it back. The claimant paid for the car by way of cheque as a safeguard and paper audit of the invoice. cheque number xxx Bank xxx date cheque was written and submitted to xxx Autos by the claimant on xxx - Stub no.xxx. See Exhibit B.

3.2 The respondent has admitted and verified in her trail of 6 emails to the claimant in April 2023, that: (See Exhibit A)

- 1. She accepted this was a loan;
- 2. Her intentions of paying back this money;
- 3. The offer of terms she intended to pay back the monies owed;
- 4. She promises to honour this loan and stipulates in written format that she is aware of outstanding monies owed to the claimant being in excess of £1000.

3.3 Her defence to the court that this was a gift is untrue and does not agree with the evidence. In her submitted evidence, she states that she did not know of costs until xx 2023 when she was conveyed a letter of claim before action. The same letter that was opened and she has lodged in productions and sent back to the sender which the claimant lodges in evidence form A10. See Exhibit C She wrote on the envelope no longer resident here, gone away. How can she possess a copy of this production if she had sent it back? This took 9 weeks to be returned to the sender via Royal mail returns and was received in xxx 2023, with the above message hand written on the envelope. The letter of claim before action was also returned and lodged in form A10.

3.3.1 https://www.advicescotland.com/category/gift/

## The Legal Position

In Scotland the legal position is family and friend loans are legally recoverable, like any other loan. In fact, the law presumes when you give someone money, even an adult child, that money is a loan and not a gift. This is because under Scots Law there is a presumption against gift.

That means that in the absence of any evidence to the contrary, if you can prove you provided someone with money, then the assumption is it was a loan and not a gift.

It is, therefore, safer where someone is giving you money as a gift, that you ask they confirm that in writing.

3.4 The Respondent purports to the court in her defences that she lives as a recluse, does not open the door or sign for recorded deliveries. See Exhibit C. How then, could she sign for the letter of claim before action, which was sent as recorded delivery and signed as received on xxx, saying no longer resident, gone away, and then lodge it in the portal as evidence on form A10? She also refused two competent citations from Livingston Sheriff Court on xxx and xxx November 2023 which are both lodged in the portal. It appears she is selective with what she signs for and writes untruths on at least some of the letter's she receives.

3.5 She purports in the court process, to not being able to access the civil portal, yet she has been engaging via email with this action since xxx November 2023 and was acutely aware of it's functionality. She states that she never had a device to engage with the system, then how did it transpire in her own evidence and productions that between the dates of October xx and November xx, that she harassed via email and audio recorded without consent, the mechanic who had repaired her car in good faith. She has lodged this recording in her evidence and productions so how did she manage to send 8 harassing emails to the claimant during this time period even though the claimant asked her politely to refrain from doing so and to put all matters to the court process. He had no option but to block her harassing emails. See Exhibit D. How did she manage to email the voluminous recipients in these time frame dates being trading standards, snap shots of pictures and you Tube channels but had no device to engage with the court portal?

3.6 The respondent has been offensive to the court in her initial communication in evidence back in November xxx, 2023, via Ms H, Court Clerk and stated the court is operating a postcode lottery. She has been offensive to the xx Autos mechanic, xxx, stating he is a back street tin mechanic and sent further defamatory statements and harassing emails to various people that she is trying to bind in to this action. See Exhibit D. These

are not the typical actions or behaviours of a vulnerable person that she purports to the court.

## 4.0 Manipulation tactics of the respondent to evade this claim.

4.1 The respondent has done everything in bad faith to evade paying this money owed to the claimant by her own admission and evidence.

4.2 She has harassed and made unscrupulous unfounded allegations about the service and workmanship of the mechanic.

4.2 She waited until a court action was raised and then alleged that the car repairs were not up to standard.

4.3 She states in her own evidence that she had no idea of costs of the repairs and MOT and then further states it was a gift when her own admission by emails in April 2023 confirms her position and knowledge of this as a loan.

4.4 She makes ferocious accusations that the claimant was trying to sexually groom her which he **vehemently refutes**, as can be seen from the documents lodged in the portal.

4.5 She then proceeds to abuse the process in non-acceptance of the action by delivery method of the court action and was fully versed that this action was in place and yet refused to engage with the process after she was offensive to the court on xxx November 2023, see Exhibit C.

4.6 The facts and evidence that the claimant has lodged in this process from the respondent, supports his stance that she was fully versed, that this was a loan and it had to be paid back.

4.7 She also agrees to pay it back and started doing so in November 2023, when court action commenced. She now consumes the court's time with her additional untruths and used 4 different approaches in her defence, the latest being that this was a gift.

4.8 The burden of proof lies upon her to provide the evidence of this. To-date, amongst the plethora of 51 or so incoherent, voluminous documents.

4.9 The only relevant extract I can find in her evidence of gift is the following "SJK had not known the cost of the repair and MOT on her car from Mr S nor did she have any bank details until the xx of September 2023, therefore there could not have been a verbal agreement to repay any alleged 'loan' as there was no means of making payment.

4.10 This extortion, monetary abuse of a vulnerable woman on benefits put SJK into distress, fear and alarm, and SJK thought that by starting to make payments prior to Christmas would stop any court action. Being that time of the year, and with the cost

of living, this put SJK further into poverty over the Christmas period and she did not have the technology to access the Civil Online Portal", as detailed above.

4.11 The respondent has had every reasonable opportunity to repay this loan. She has had every reasonable opportunity to engage with the court process, was fully versed the action was going ahead and once decree is granted, she asks for a recall consuming more of the courts time, changing her stance and thereby abusing the process.

## 5.0 Plea for the claimant

5.1 I move the court to uphold the original decree dated xxx 2024, in my favour as I have demonstrated and evidenced, by the respondent's own admission of emails, she was versed and aware these monies were a loan that she agreed to pay back, outlining terms along with a promise to honour it by way of a written agreement supplied by herself, as outlined in no less than 6 email documents, portrayed to myself during April 2023.

5.2 I acted in good faith in this matter loaning  $\pounds$ 200 cash and a further  $\pounds$ 880 for her car/MOT repairs.

5.3 I was assured and promised by the respondent that she would pay me back. None of this was honoured by the respondent and only £80 in payments were made by her in November 2023, following this court action.

5.4 A second Mediation Offer from Claimant was made to the respondent on xx September 2024. See Exhibit E.

5.6 A Mediation Refusal was received from the Respondent on xx September 2024. See Exhibit F.

xxx September 2024

Assisted by lay representative. Mr B

## EXHIBIT A

Hallo, Sam

Sorry for the delay in responding, bit up tight at present, sickiing myself before I go to the dentist this morning. Not looking forward to this appointment.

Thanks for you note , please believe me. You DID NOT offend me .

Feel so disgusted at what we "all" are having to tolerate in our lives so the way I'm dealing with it is to go quiet 😜

Going to lie down. Perhaps you will allow me to call later

Blessings. Bill

Sent from my iPad

> I'm sorry if I have upset or offended you, all I tried to do was not allow your Mother to die alone without you.

> Which at the time Sandra said all that was left was a personal injury claim for you.

> I was not told any more and a straight answer was never forthcoming.

> It's good news about the appeal. I had every faith that she would pull something out the bag if only she was willing to actually appeal, but that only came after the document failed.

> But if you remember I got it tight for even suggesting we apply for permission, as I knew the document was wrong.

> So I'm extremely upset by the whole situation and I was never wrong, I gave you the CL option of getting your Mum when that wasn't on offer elsewhere and it wasn't like I was pushing Sandra out, I wanted her to see both sides as I know she could be potent.

> I've been left out of two events now after it was agreed to collect me at Livingston.

> Does it matter long term absolutely not, what is hidden has been revealed which I did pray for, reveal to me Lord who is really for me?

> I will need your bank details to pay you back as this appears to be a massive issue for Sandra, you keeping me on the road, the cost of living is crippling me and now It appears I can't mention random things in my life like I don't know if I'll make the vigil because I'm skint and it's getting worse.

> Clearly at this point I don't have £1000, but even If I have to pay £5 a month, I will pay it off and I have never done anything in malice against you, and I never knew the cost of the MOT.

> I have prayed to keep your mam alive for you to be together. I trust God that will happen.

>

#### Subject: Going Forward

I can only take from what Sandra has told me that there will be no motion for permission to appeal due to the corruption and what you would be subjected to.

Although she has not come out and said that straight forwardly, I have asked her that direct question yes or no.

If you are both in agreement with this and that is your institution, not to continue with appeal.

I apologise for getting the wrong end of the stick.

Essentially it's not my decision to make that can only be agreed by you both.

I apologise if I have upset anyone if the decision has been made.

I'm here to support and not fall out or cause any trouble.

I'll take a back seat and let you come to your own decision over the matter.

Please keep in touch, as you mean the world to me, and whatever happens I'm here to support you.

Plus I should be able to start paying back the money for the MOT in a month or so all going well.

I'm in Edinburgh in the morning early not sure when I'll get home.

(I am genuinely not getting a good feeling in my spirit, and I can ask Neil for assistance if required, but please please free to tell me to back off if it's not the right thing for you, only you will know what you steps you want to take after speaking with Sandra).

Yahoo Mail - Fwd: My Prayer

Fwd: My Prayer

Oh and please, I had no idea the car cost so much. You really should have told me.

I took a lot of abuse over that last week, and I will pay it back I would never have anyone say I took advantage, I thought it was maybe £300 maximum.

But I promise you that's one thing that is top of my list.

I haven't come through as I don't like taking money for fuel, I only have my dignity left, which has taken some extreme abuse over the past few days.

Anyway good luck keep me informed.

Sam x

Begin forwarded message:

#### Subject: My Prayer

Is that this document does assist you getting your mam home.

It signifies the end of the angels as we know it.

As she won't be doing court work and I don't do the streets, or anyone who doesn't want me to get my kids back.

I've said well done, she achieved literally everything she set out too, this was revenge for them putting her in jail.

It's really quite sad, we worked well together but I took my eye off the ball last year when I should have been doing stuff for my own kids.

And Please don't give me the clique they will turn up at the door one day.

It's a long fucking wait in pain when you have been shafted by everyone with the exception of yourself.

I do want to keep in touch if I continue to wake up each day and when I get on my feet financially I will pay you back for the car.

I've nothing left now. I'm 50 if I get enough money to survive, I'll never trust again.

That's not a life.

Like I said I had to ask Curtis is my daughter still has breasts.

What mother has to ask that question when their child turns 18?

I'll never be able to have a proper relationship with Chloe there are two members missing.

#### about:blank

1/2

#### 16/11/2023, 11:04

Yahoo Mail - Well

#### Well



#### Hi Bill,

I do hope that you manage to get mam home with the challenge document, so she can see her last days out at home with you she deserves as do you.

Since my NOCA is worthless and are myself and my children. I'll be removing myself from any further harm.

It's clear my life and my children's lives are not worthy of any assistance.

So I'll wish you well, and once I start working I'll get the money for the car back to you.

If you could let me know how much, even if I'm paying a little up at the time, as clearly anything I do is trivial and again my kids are worthless.

You are a lovely man and I do hope you and Mam get to spend her last days together.

Lots of Love

Sam

about:blank

#### 16/11/2023, 11:02

Yahoo Mail - Hi

Hi

Once I get myself sorted and back into work I'll start paying you off the money for the car.

I'll never forget your kindness, that was a beautiful thing.

I have to move on and not remain stagnant, I need my life back.

I need my kids back and my vision has been to rebuild the family unit for all.

So I need to start with myself.

I'm clearly in the wrong having issues the NOCA's.

I hope the challenge works for you and Mam I really do, you don't need to go through anymore, and neither do I.

I'm not going anywhere near these courts, and I have a job offer, I just need to wait (not too long) to find out if it will come to fruition.

I'm on my own again, but it the best place to rebuild my life with God.

Take care

about:blank

## EXHIBIT B

Cheques paid from claimant for car loan xxx

### Thanks for the draft

1. Hydraulic line for steering replaced as completely corroded not functioning Genuine Ford part installed hydraulic oil refilled.

Scott to give me more paperwork on this job to substantiate.

2. New tyre fitted.

- 3. M.O.T. Provided. When car uplifted for return by herself Friday xx 2023
- 4. xx Autos paid by cheque xxx 2023. Bank xx no.xxx. £ 880.

As a point of clarity, there are 2 cheque numbers in your document for payment of the invoice:

1. cheque number xxx Bank xxx for car REG xxx Ford KA

## EXHIBIT C



## EXHIBIT D

The respondent has stated that she did not receive any paperwork and sent the following disrespectful correspondence extract as follows via email to sheriff clerk on

### 11th November 2023

Dear Ms SJK, A Simple Procedure claim has to be served by a Sheriff Clerk, Sheriff Officer or by the claimant's solicitor.

See 3.2 (e) the Claim Form is formally served on the respondent, either by the sheriff clerk, a solicitor or a sheriff officer (see Part 6). Simple Procedure Rules scot-courts.gov.uk this procedure has not done been once correctly and **I have never** 

**been served.** I have already made mention of the Livingston Sheriff Court and your postcode lottery. I deem this alleged false delivery as a faux fas as an action of entrapment by the court and any/claimants. You as a court of alleged law appear to be unable to adjudicate to your OCR and actual legislation and the Rule of Law. The respondents' states that she was not served the court simplified action and then cites ordinary cause rules that have no relevance to a simplified action. She then further states the following in the same email to the court.

## On Nov xxx, SJK wrote:

Dear Ms H, I am unable to access civil online. I do not answer my door. Therefore, I never refused anything. In order to defend this action, I require you send me the court paperwork by the proper OCR. rules. I do not answer my door for safety reasons being a vulnerable woman with a child. Therefore, a recorded delivery will not ever be signed for. I suffer from social anxiety and live like a recluse. The claimant has uploaded in other document in portal on xx **2024 a copy** of letter of claim before action recorded delivery envelope that was sent recorded delivery to the respondent SJK marked private and confidential and signed for on xxx 2023 by way of recorded delivery. It was then opened and re sealed with cellotape and on the front of the envelope it had in printed in hand writing No longer resident gone away and the letter returned in xx once it had gone through royal mail returns process centre. The letter of claim before action pre-empted to the respondent if no response was had within 14 days what her intentions to address the outstanding debt to the claimant then a small claims action would be raised no response was forthcoming from the respondent hence the reason to proceed with small claim action. On xx 2023 and xx 2023, the court sent the simplified action to the respondent via recorded delivery the postal delivery person has clearly stated this was refused twice and wrote this on the envelope and the respondent would have been versed in what was in the envelope as it states the content is a simplified action The refusals are lodged in the process by the court on civil portal **dated xxx and xxx. The envelope gives explicit expression of the onus on the postal service and this was written, twice refused.** The claimant believes that the respondent did answer the door and refused this action on the two occasions, otherwise it would have stated "unable to serve", not RE-FUSED. The respondent signed for the letter of claim before action and was versed enough to engage in the court process from xxx November 2023 once she had refused twice to accept documents of the said action and now wants the court to recall the action.

**On xx Nov 2023 at xx** the respondent emails the court and states she is being hassled by the claimant about a small claims action

On Nov xx, 2023, at xx, Livingston Civil livingstoncivil@scotcourts.gov.uk> wrote:

Good afternoon, there has been a Simple Procedure action raised against you and the court has served this to your address twice by recorded delivery. On both occasions the recorded delivery has been returned to the court by Royal Mail advising that. delivery was refused. The court considers refused citations as served. If however, you would like the opportunity to lodge a response in this action I will arrange for the documents to be posted to you again. Alternatively, you can sign up to civil online. The respondent purports that she knows nothing about an action in her submissions to the court on xxx **offer to send her out the action and a day** 

# later she responds with in depth repugnant responses about the claimant when she further states that she can't get on to the portal.

The car mechanic and the claimant had to block the email of the respondent as she was sending abusive distressing messages to the claimant even though she was requested to refrain from doing this (all emails retained). The respondent was fully versed that proceedings were raised against her she has chosen to dip her toe in to the process and attempted to rail road proceedings she signed for the initial letter of claim before action and then returned it marked "No longer resident gone away". This copy of email (one of many) supports that the respondent knew full well that matters had progressed to court From: xxx. Date: xxNovember 2023 at xx GMT

To: xx Subject: Letter to xxAuto's

Dear BC, In the interests of truth and transparency, I have attached a copy of a letter outlining what I require from your friendly mechanic 'Mr S' from xx Auto's in xx.

This letter will be used as a production to the court in my defence.

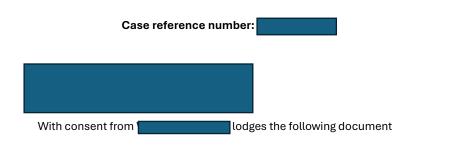
I trust you are keeping well and wish you only well. With no ill will, malice, or vexation whatsoever, SJK

After numerous further emails from the respondent and besmirching the mechanic and I the claimant wrote this email and blocked the respondent **On xx Nov 2023,** 

## BC:

You have been reasonably requested on numerous occasions not to contact me directly, yet you refuse to adhere to this. We are in court process, direct all communication to that portal. With effect from today, I will be blocking your email, and I will access any Communication through Scottish Court civil portal. BC.

## EXHIBIT E



In light of the discussions held on 19/09/2024 and the Sheriff's comments regarding mediation, the Claimant, \_\_\_\_\_\_hereby offers the Respondent, \_\_\_\_\_\_ an opportunity for mediation. This offer is extended by way of this document to be conveyed to the claimants address as stated above.

The Claimant proposes that this mediation take place before the assigned hearing date of 2024, with the aim of resolving the matters at hand. Please note that any correspondence related to this mediation shall be lodged in the court process.

## EXHIBIT F

