Neutral Citation: [2026] EWHC 1697 (KB)

Claim No. B5QZ6R90

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice,
Strand, London,
WC2A 2LL

Hearing Date: 27th May 2026
Draft judgment to parties: 22nd June 2026
Judgment handed down: 17th July 2026

Before:

MASTER YOXALL
(Sitting in Retirement)

BETWEEN

YVONNE EMIANTOR

Claimant

- and –

FANDO FREIGHT

Defendant

- and –

YEMI ADEREMI

Third Party Claimant

- and –

SIMON WILLIAMSON

High Court Enforcement Officer

JUDGMENT

This judgment was handed down by circulation to the parties by email and by release to the National Archives. The date and time of hand-down is deemed to be 12.00 on 17th July 2026

1. This is an application by Ms Yemi Aderemi, the Third Party Claimant, dated the 23rd October 2024 for an order under CPR r.85.5 or sections 3-4 of the Torts (Interference with Goods) Act 1977 for the recovery of money which she paid to an enforcement officer.

2. In answer to the question on the application notice asking what order she seeks and why, Ms Aderemi states:

> "An application under CPR 85.5 or sections 3-4 of the Torts (Interference with Goods) Act 1977 for recovery of money wrongly taken by an Enforcement Agent, as it did not belong to the debtor and was forcibly taken following ransacking the third-party's shop premises."

3. I also have an application by Ms Aderemi, seeking similar relief, dated 18th May 2023 and issued on 15th October 2024.

4. The matter came before me on a disposal hearing. I did not hear any oral evidence.

5. Ms Aderemi appeared in person. Mr. Jack Armstrong, of counsel, appeared for the Claimant and Mr. Teen Jui Chow, of counsel, appeared for the High Court Enforcement Officer. I am grateful for their submissions.

6. The background to the application is as follows.

7. On the 18th January 2017, the Claimant obtained judgment against the Defendant, Fando Freight, in the County Court at Lambeth in the sum of £2,690. The claim related to shoes, clothing and a television which were shipped through the Defendant and went missing.

8. On 3rd November 2021 a writ of control was issued. The defendant was named as Ola Olu Fando and the address for enforcement was stated as 172 Rainham Road, Chatham, ME5 7EN: "172 Rainham Road".

9. A notice of enforcement dated 5th November 2021 was sent to 172 Rainham Road, and to Unit A2 Eastern Approach, 25 Alfreds Way, Barking.[1]

10. On the 22nd November 2021, an enforcement agent attended 172 Rainham Road and a van bearing the livery "Fando Freight" was seen to the rear of the premises. I have a photograph of the van in the hearing bundle. The enforcement agent did not proceed with the enforcement as he was concerned about the identity of the defendant on the writ of control.

11. By an application dated 10th March 2022, the Claimant applied to amend the judgment so that the defendant was named as Mr. Afeez Olayemi Olundegun. On the 11th July 2022, District Judge Bell, sitting in the County Court at Clerkenwell & Shoreditch, dismissed the application on the basis that the Claimant had produced no evidence that Fando Freight was the trading name of Mr Olundegun.

12. On the 23rd August 2022, a fresh writ of control was issued. This named the defendant as Fando Freight.

13. On the 25th August 2022, a notice of enforcement was sent to 172 Rainham Road and to Unit A2 Eastern Approach. It was sent to 172 Rainham Road as the trading address of Fando Freight.

14. On the 20th October 2022, Mr. Gary Brown, an enforcement agent, attended 172 Rainham Road. He observed the signage of the shop premises showing "Fando Foods" and "Fando Freight". The words "Fando Freight" appear in smaller font but are evidently part of a single shop sign. There is a photograph of the shop front and signage in the hearing bundle.

15. Ms Aderemi trades as Fando Foods. She was not at the premises when Mr. Brown attended. An employee telephoned Ms Aderemi and after a while she attended the premises.

16. Ms Aderemi insisted that she was not the judgment debtor and that she had no connection with Fando Freight. She produced various copy invoices to Fando Foods. She also produced a copy lease agreement showing that she was the tenant of the premises. Interestingly, Ms Aderemi's guarantor under the lease was Mr. Olundegun.

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[1] 25 Alfreds Way was shown as the address of Fando Freight on the County Court Register.

17. While at the premises Mr. Brown carried out a Google internet search in respect of Fando Freight. That search revealed that the trading address of Fando Freight was 172 Rainham Road. I have a copy of that search in the bundle.

18. In the circumstances, Mr. Brown took the view that Fando Freight and Fando Foods were part of a single business. In my judgment, Mr. Brown had reasonable grounds to come to that view. He decided to proceed with the enforcement.

19. Ms Aderemi thought that Mr. Brown's conduct was unreasonable, oppressive and overbearing. She thought that the goods being seized (various fruits and perishables) were being handled too roughly. She called the police. The police attended but declined to intervene on the basis that this was a civil dispute. The police remained while Mr. Brown continued to take control of various goods. Again, the police declined to intervene.

20. Eventually, Ms Aderemi states that she found the situation unbearable and wished to halt the removal of goods so she paid £4,200, *by way of bank transfer* using her own personal Nationwide credit card, to DCBL.[2] Mr. Brown ceased to remove the goods and left the premises.

21. On the 22nd October 2022, Ms Aderemi requested DCBL to provide proof of notice of enforcement which she said she had not received. At about this time, Mr. Olundegun contacted DCBL also asking about service of the notice of enforcement.

22. On the 4th November 2022, DCBL paid the £4,200 over to the Claimant.[3]

23. On the 16th November 2022, Ms Aderemi sent an email to DCBL complaining about the conduct of Mr. Brown. She stated that she was not named on the writ and that she had no notice of enforcement. DCBL replied by letter on 6th December 2022.

24. On the 7th April 2023, Ms Aderemi sent an email to the Claimant, copied to DCBL making a claim to controlled goods under CPR r.85.4.

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[2] "DCBL" is Debt Collection Bailiffs Ltd. Enforcement was delegated to this company – the High Court Enforcement Officer, Mr. Williamson, remaining responsible. A copy credit card statement is at p.38 of the hearing bundle.

[3] I am not certain if any charges were deducted from this sum.

25. DCBL replied by letter dated 14th April 2023 making the point that there was a 7 day time limit in r.85.4 and that DCBL would not be taking any action and that they had closed the complaint. Rule 85.4 was set out in the letter.

26. On about the 23rd May 2023, Ms Aderemi issued an application under r.85.4 in the County Court at Medway. There is a dispute as to whether or not the application was served. In any event, the application did not proceed in that court – indeed, it could not proceed in that court.

27. I have before me Ms Aderemi's application dated 23rd October 2024 at p.6 of the hearing bundle. This is unsealed. At p.253 of the bundle is Ms Aderemi's application dated 18th May 2023 and issued on the 15th October 2024.

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Legislation

28. The primary legislation is the Tribunals Courts and Enforcement Act 2007, sections 62 to 70 and Schedule 12.

29. Section 62 provides:

> 62 Enforcement by taking control of goods
>
> (1) Schedule 12 applies where an enactment, writ or warrant confers power to use the procedure in that Schedule (taking control of goods and selling them to recover a sum of money). …

30. Schedule 12, para 1 provides:

> 1 (1) Using the procedure in this Schedule to recover a sum means taking control of goods and selling them to recover that sum in accordance with this Schedule and regulations under it. …

31. Schedule 12, para 3 provides the following relevant definitions:

> 3 (1) In this Schedule—
>
> …
>
> "controlled goods" means goods taken control of that—

(a) have not been sold or abandoned,
(b) if they have been removed, have not been returned to the debtor (unless subject to a controlled goods agreement), and
(c) if they are goods of another person, have not been returned to that person;

…

"goods" means property of any description, other than land;

…

"money" means money in sterling or another currency;

32. Schedule 12, para 13 defines what "taking control of goods" means:

13 (1) To take control of goods an enforcement agent must do one of the following —

(a) secure the goods on the premises on which he finds them;

(b) if he finds them on a highway, secure them on a highway, where he finds them or within a reasonable distance;

(c) remove them and secure them elsewhere;

(d) enter into a controlled goods agreement with the debtor. …

33. Schedule 12, para 60 is significant. It states:

60 (1) This paragraph applies where a person makes an application to the court claiming that goods taken control of are his and not the debtor's.

(2) After receiving notice of the application the enforcement agent must not sell the goods, or dispose of them (in the case of securities), unless directed by the court under this paragraph.

(3) The court may direct the enforcement agent to sell or dispose of the goods if the applicant fails to make, or to continue to make, the required payments into court.

(4) The required payments are—

(a) payment on making the application (subject to sub-paragraph (5)) of an amount equal to the value of the goods, or to a proportion of it directed by the court;

(b) payment, at prescribed times (on making the application or later), of any amounts prescribed in respect of the enforcement agent's costs of retaining the goods.

(5) If the applicant makes a payment under sub-paragraph (4)(a) but the enforcement agent disputes the value of the goods, any underpayment is to be —

(a) determined by reference to an independent valuation carried out in accordance with regulations, and

(b) paid at the prescribed time.

(6) If sub-paragraph (3) does not apply the court may still direct the enforcement agent to sell or dispose of the goods before the court determines the applicant's claim, if it considers it appropriate.

(7)(8) …

34. When a party makes a claim to "controlled goods", the procedure is governed by CPR rr 85.4 and r. 85.5 (my emphasis):

<u>Procedure for making a claim to controlled goods</u>

85.4—(1) Any person making a claim under paragraph 60(1) of Schedule 12 **must, as soon as practicable but in any event within 7 days of the goods being removed** under the exercise of an enforcement power, give notice in writing of their claim to the enforcement agent who has taken control of the goods ("the notice of claim to controlled goods") and must include in such notice—

(a) their full name and address, and confirmation that such address is their address for service;

(b) a list of all those goods in respect of which they make such a claim; and

(c) the grounds of their claim in respect of each item.

(2) On receipt of a notice of claim to controlled goods which complies with paragraph (1) the enforcement agent must **within 3 days** give notice of such claim to—

(a) the creditor; and

(b) any other person making a claim to the controlled goods under paragraph (1) ("any other claimant to the controlled goods").

(3) The creditor, and any other claimant to the controlled goods, must, **within 7 days** after receiving the notice of claim to controlled goods, give notice in writing to the enforcement agent informing them whether the claim to controlled goods is admitted or disputed in whole or in part.

(4) The enforcement agent must notify the claimant to the controlled goods in writing **within 3 days** of receiving the notice in paragraph (3) whether the claim to controlled goods is admitted or disputed in whole or in part.

(5) A creditor who gives notice in accordance with paragraph (3) admitting a claim to controlled goods is not liable to the enforcement agent for any fees and expenses incurred by the enforcement agent after receipt of that notice by the enforcement agent.

(6) If an enforcement agent receives a notice from a creditor under paragraph (3) admitting a claim to controlled goods the following applies—

(a) the enforcement power ceases to be exercisable in respect of such controlled goods; and

(b) as soon as reasonably practicable the enforcement agent must make the goods available for collection by the claimant to controlled goods if they have been removed from where they were found.

(7) Where the creditor, or any other claimant to controlled goods to whom a notice of claim to controlled goods was given, fails, within the period mentioned in paragraph (3), to give the required notice, the enforcement agent may seek —

(a) the directions of the court by way of an application; and
(b) an order preventing the bringing of any claim against them for, or in respect of, their having taken control of any of the goods or having failed so to do.

<u>Procedure for making a claim to controlled goods where the claim is disputed</u>

85.5—(1) Where a creditor, or any other claimant to controlled goods to whom a notice of claim to controlled goods was given, gives notice under rule 85.4(3) that the claim to controlled goods, or any part of it, is disputed, and wishes to maintain their claim to the controlled goods, the following procedure will apply.

(2) The claimant to controlled goods must make an application which must be supported by—

(a) a witness statement—

(i) specifying any money;

(ii) describing any goods claimed; and

(iii) setting out the grounds upon which their claim to the controlled goods is based; and

(b) copies of any supporting documents that will assist the court to determine the claim.

(3)(4)(5) …

(6) The claimant to controlled goods must make the required payments on issue of the application in accordance with paragraph 60(4)(a) of Schedule 12, unless such claimant seeks a direction from the court that the required payment be a proportion of the value of the goods, in which case they must seek such a direction immediately after issue of the application, on notice to the creditor and to the enforcement agent.

(7)(8) …

The Application

Out of Time?

35. The first issue with Ms Aderemi's application is whether or not it can be entertained at all. The Claimant and the HCEO submit that the application is out of time and must fall.

36. It is clear from r.85.4(1) that any person making a claim under paragraph 60(1) of Schedule 12 *must, as soon as practicable* but *in any event within 7 days of*

the goods being removed under the exercise of an enforcement power, give notice in writing of their claim to the enforcement agent. This is a strict time limit as demonstrated by the use of the words "must, as soon as practicable" and "in any event within 7 days."

37. That short and strict time limits are an inherent feature of Schedule 12 of the 2007 Act was recognised by Lane J in *Hamilton v Secretary of State for Business, Energy and Industrial Strategy [2021] EWHC 2647 (QB); [2022] 1 WLR 1707* at [105] and following:

> [105] It is, in my view, manifest that the legislative scheme comprising the 2007 Act and the instruments made under it give effect to Parliament's intention to produce a system of enforcement that strikes a fair balance between the interests of creditors, debtors and third parties. It also provides a clear, if sometimes challenging, framework within which enforcement agents operate.
>
> [106] The time limits for taking control of and selling goods make it clear that the legislature intends that enforcement action is undertaken with due expedition. There is nothing inherently problematic in that intention. Expedition is plainly in the interest of the creditor, who wishes to secure prompt reimbursement through the sale of the controlled goods. Expedition is also, in my view, likely to be in the interest of the debtor, who will normally be keen to see an end to the enforcement proceedings sooner rather than later. Expedition is also likely in many cases to be in the interests of a third party, who claims an interest in goods which are the subject of enforcement. Finally, as a general matter, uncertainty as to the fate of goods is inherently undesirable.
>
> [107] Overall, therefore, there is a coherent reason for the time limits contained in Schedule 12. It is against this background that I must consider whether the effect of the interaction of paragraphs 40, 54 and 60 [of Schedule 12] is such that I must infer some form of modification of those limits. In doing so I must, however, be mindful of the obvious and important realities that, once expedition is identified as a feature of the enforcement world, time limits are going to be necessary; and that any system of time limits is in the nature of a blunt instrument, which may, in certain circumstances, produce consequences that could rightly be described as harsh.
>
> [110] It is necessary at this point to examine the relationship between paragraph 60 and CPR r 85.4. As Mr Royle acknowledged, it is noteworthy that CPR r 85.4(1) provides a short time limit of seven days within which a person making a claim under paragraph 60(1) must give written notice of their claim to the enforcement agent who has taken control of the goods. …

> [113] As Mr Royle accepts, the seven-day limit in CPR r 85.4(1) and the other equally short or shorter time limits in the rest of that rule, are indicative of the fact that the clock governing the party giving notice of the sale continues to run during the procedure created by paragraph 60. So too is the fact that such claims proceed as Part 23 applications rather than fully case-managed Part 7 claims.

38. The alleged removal of "goods" (the £4,200) took place on 20th October 2022. Ms Aderemi gave notice to DCBL on 7th April 2023. This is **169 days** after the removal of the "goods".

39. Rule 85.4 and Rule 85.5 do not specifically state when the application to the court must be made but given the strict time limit of 7 days in r.85.4 in relation to giving notice to the enforcement agent, I consider that the application to the court cannot be entertained. The application to the court must, by implication, be made promptly. It was not.

40. Assuming for a moment that the court did have a discretion to retrospectively extend the time limits for giving notice and for issuing the application to the court (a discretion I do not accept exists) – I do not accept such a discretion should be exercised in the circumstances of this case. The notice to the enforcement agent was massively out of time. This is a serious breach. Apart from asserting that she is a litigant in person, no good explanation has been given for the serious delay. In all the circumstances, it could not be just to grant any extension of time or relief from sanction. I bear in mind, in particular, the fact that the Claimant was paid the £4,200 as long ago as 4th November 2022. It cannot be right that she be put at any risk of having to repay this sum after such a delay.

41. In argument, Ms Aderemi submitted that a previous order of the court had given her permission to make the application. While I accept that previous orders of the court had given directions in relation to the application and the hearing, there is no judgment or order specifically dealing with the consequences of the delay in giving notice to the enforcement agent or making the application. The court has not ruled on the point until this judgment.

Bank Money Not Controlled Goods

42. Mr. Chow submitted that "bank money" cannot be controlled goods within the meaning of the 2007 Act. I accept that submission. The £4,200 paid by bank transfer or credit card from Ms Aderemi's personal account to DCBL is not controlled goods.

43. In *Court Enforcement Services Ltd v Marston Legal Services Ltd [2020] EWCA Civ 588; [2021] QB 129* at [96] Lord Leggatt stated:

> *"It was suggested in argument by Mr Page on behalf of CES that only physical money [i.e. notes and coins], and not bank money, is capable of being taken control of using the procedure in Schedule 12, thereby becoming "controlled goods". I think this is right*. Although the definition of goods in paragraph 3(1) as property of any description, other than land is broad enough to include intangible property such as a debt owed by a bank to its customer, the ways of taking control of goods available under Schedule 12 … all involve securing the goods in a particular physical location. (While entering into a controlled goods agreement does not directly involve this, it presupposes that the goods covered by the agreement can be physically removed and secured if the agreement is not made or is not complied with.) *It therefore seems to me that the only goods which it is possible to take control of are tangible property or securities* defined in paragraph 3(1) as including bills of exchange, promissory notes, bonds, specialties and securities for money which are embodied or represented in some tangible form. Thus, an amount credited to a bank account, which is merely a legal obligation and is not represented by any physical object, is not amenable to enforcement by a writ of control. …" (My emphasis).

44. Mr. Chow submitted that to Lord Leggatt's reasons, it may be added that the whole purpose of the process in the 2007 Act, as seen from section 62 and para 1 of Schedule 12, is that it allows an enforcement agent to take control of goods and sell them to recover a sum of money. It makes no sense for "bank money" to be taken control of to be sold to recover a sum of money. I agree.

45. Ms Aderemi's application must fail on this further ground. Paragraph 60(1) of Schedule 12 to the 2007 Act does not allow for the remedy sought by Ms Aderemi given that the £4,200 paid digitally were not "goods".

46. Ms Aderemi, relied on the case of *Alenezy v Shergroup Ltd [2022] EWHC 777 (QB)* in support of her proposition that money paid digitally or electronically could be treated analogously to physical goods. I reject Ms Aderemi's submission. The *Alenezy* case, which concerned the purported taking of control of a Range Rover by an enforcement officer, says nothing at all about monies paid digitally being equivalent to goods.[4]

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[4] Paragraphs 8 to 15 of Mr. Chow's skeleton argument point out how Ms Aderemi's citation of cases and regulations are erroneous. It is not necessary for me to rehearse this further.

Claim under sections 3-4 of the Torts (Interference with Goods) Act 1977 (and conversion claim) not permissible

47. Mr. Chow submits that whereas a claim under paragraph 60(1) of Schedule 12 of the 2007 Act can be commenced by a N244 notice [see: paragraph 60(1) and CPR r.85.5], it is not permissible to commence a claim under the 1977 Act or in conversion or wrongful interference with goods by such a notice. I agree. A claim under the 1977 Act - or in conversion or wrongful interference with goods - must be commenced using an N1 claim form.

48. Accordingly, Ms Aderemi's claim in conversion is a nullity in any event.

49. There is a further objection to Ms Aderemi's claim under sections 3 and 4 of the 1977 Act. Section 3 provides for the form of judgment where goods are detained. Section 4 provides for interlocutory relief where goods are detained. These sections deal with remedies not with the cause of action. The sections deal with the remedies in cases of conversion.

50. The 1977 Act preserves the common law tort of conversion. The tort of conversion of goods only applies to physical things. It does not apply to incorporeal things such as bank money; see *OBG Ltd v Allan [2007] UKHL 21; [2008] 1 AC 1* at [97] "The whole of the statutory modification of the law of conversion has been on the assumption that it applies only to chattels." (Lord Hoffman). See Lord Walker at [271]; and Lord Brown at [321].

51. The definition of "goods" in s.14 of the 1977 Act concludes this issue. It states:

> " goods" includes all chattels personal other than things in action and money,

52. In the circumstances, Ms Aderemi cannot bring a claim in conversion.

Ms Aderemi and Fando Freight

53. In paragraph 4 of her witness statement dated 2nd May 2025, Ms Aderemi states:

> 4. The suggestion that I was affiliated with the original debtor is without merit. There is no legal entity named "Fando Freight". I trade as Fando Foods

and have no association with the named judgment debtor. The lease for the shop and all business records are in the name of Fando Foods.

54. In paragraph 4 of her witness statement dated 25th November 2025, Ms Aderemi states:

> 4. I have never traded as Fando Freight. I have no connection with any person or entity called Fando Freight. My business signage has been Fando Foods Afro Caribbean and Global Food Store.[5]

55. I'm afraid that I consider that Ms Aderemi is being less than frank when she states that she has no association with Fando Freight. She has failed to explain the Fando Freight van parked to the rear of 172 Rainham Road; or the shop signage which plainly refers to Fando Freight; or the fact that internet searches stated that 172 Rainham Road was the trading address of Fando Freight.

56. Ms Aderemi was the lessee of the shop premises. She fails to explain how it is that Fando Freight came to share the shop signage or how Fando Freight came to use the same trading address. The use of the name "Fando" in common is not explained.

57. We now know of Fando Limited. This was a company incorporated on 26th March 2010. Mr. Olundegun was named as a director and Ms Aderemi as secretary. There were two issued shares and they held one share each. On the 5th January 2015 Ms Aderemi was appointed as a director. On the 18th March 2016 her appointment as a director ceased. On the19th May 2021 the registered office of Fando Limited was changed to 172 Rainham Road. Company accounts for the year ended 31st March 2025 still show the registered office as 172 Rainham Road. A confirmation statement dated 13th February 2023 describes the principal activities of the company as: "Operation of warehousing and storage facilities for land transport activities Other transportation support activities". It appears that Fando Freight was the trading name of Fando Limited.[6]

58. As already stated, Mr. Olundegun was a guarantor under the Ms Aderemi's lease. It is noteworthy that he also made contact with DCBL about not having received a notice of enforcement.

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[5] Ms Aderemi retreated from these assertions in her witness statement dated 22nd May 2026.

[6] As far as the company history is concerned, I have made reference to Company House records on the GOV UK website – a link being provided in Mr. Chow's skeleton argument; para 58 n.27

59. The Claimant's evidence is that Ms Aderemi was involved in the initial transaction and assisted her by providing her with the account details to pay the shipping fee of £1,100 before an invoice was raised. The Claimant states that when the shipment went missing Ms Aderemi was the only person she corresponded with – Ms Aderemi having told her that she could not speak to or deal with any other member of staff. I do not have copies of the said correspondence. In argument, Ms Aderemi told me that she had no recollection of speaking to the Claimant.

60. In argument, I asked Ms Aderemi what her relationship to Mr. Olundegun was. She told me that they used to be friends.

61. While I accept that Ms Aderemi was not the judgment debtor and that she traded as Fando Foods, her relationship with Fando Freight and Mr. Olundegun remains opaque. Matters have not been helped by Ms Aderemi being reticent about her relationship.

Conclusions

62. The application and Ms Aderemi's notice to the enforcement officer were grossly out of time. Accordingly, the application cannot be entertained.

63. The £4,200 paid to DCBL by credit card / bank transfer were not controlled goods. CPR r. 85.5 cannot be used by Ms Aderemi.

64. A claim in conversion is not possible given that the tort only applies to chattels or goods.

65. The relationship between Ms Aderemi and Fando Freight, the judgment debtor, remains opaque.

66. In the circumstances, I shall dismiss the application.