**R (on the application of Ismaila Jabang v (1) Transport for London and (2) The Parking and Traffic Appeals Service [2007]**

**Issue: Permission to apply for Judicial review refused – adjournments, delay and right to a fair trial under Article 6 of the European Convention on Human Rights**

In January 2008 the High Court refused permission to Mr Jabang to apply for a Judicial Review of the decision of the Adjudicator.

The background to the application was that on 3 April 2007, the Appellant’s vehicle was used on a road within the Central London Congestion Charge Zone at a time when a licence (“a Congestion Charge”) was required in respect of the use of that vehicle in the Congestion Charge Zone.

Transport for London issued a Penalty Charge Notice and the Claimant in turn made representations to Transport for London against the issue of the Penalty Charge Notice. Transport for London rejected the Claimant’s representations and the Claimant in turn filed with The Parking and Traffic Appeals Service a Notice of Appeal requesting a personal hearing before a Road User Charging Adjudicator.

The Parking and Traffic Appeals Service wrote to the Claimant on a number of occasions offering him a personal hearing date and agreeing to adjournments he requested of this date due to his alleged ill-health. On the third occasion the Appellant sought to adjourn his personal hearing the Adjudicator refused the Claimant’s application noting that no evidence had ever been provided from the Claimant’s doctor to support his assertion of ill-health.

The Adjudicator had regard to the delay in the proceedings, the nature of the Claimant’s case and that all evidence had already been filed by both parties. The Adjudicator proceeded to determine the appeal on the papers and on the evidence provided by both parties. The Adjudicator refused the appeal giving reasons and a copy of his determination was sent to both parties.

The Claimant sought a Review of the Adjudicator’s decision on the ground that he failed to appear at the hearing due to illness. No details or evidence of the illness was provided.

The Claimant’s Application for Review was scheduled for a personal hearing before another Adjudicator and again the Appellant sought an adjournment of this hearing and of the adjourned hearing. At the third personal review hearing the Claimant did not attend and the application was stayed for 7 days during which time a letter from the Claimant requesting a further adjournment was received by the Parking and Traffic Appeals Service.

A different Road User Charging Adjudicator refused the Claimant’s third application to adjourn the hearing of his Application for Review, the sixth adjournment request in total. The Claimant’s application for review was refused and the decision to refuse the Claimant’s appeal

was upheld.

In his application for judicial review the Claimant asserted that his right to a fair trial under Article 6 of the European Convention on Human Rights had been infringed.

In refusing permission to apply for Judicial Review HHJ Mackie QC, sitting as a Deputy High Court Judge, held:

*“The Claimant’s grievance was properly and fairly considered by the Defendant [TfL] and by the independent appeal body PATAS. His ECHR rights have not been infringed.*”