**R (on the application of Jeanette Dufaur) v (1) The Road User Charging Adjudicator and (2) Transport for London [2006]**

**Issue: Judicial Review withdrawn prior to refusal, settlement – liability of registered keeper and duty to notify DVLA of sale**

On 5 April the High Court refused permission to Miss Dufaur to apply for a Judicial Review of the decision of the Adjudicator. The Adjudicator had refused an appeal which had been brought on the ground that the Appellant was not the registered keeper of the vehicle.

The Appellant had sold a vehicle prior to the contravention date but did not send the V5 registration document to the Driver and Vehicle Licensing Agency (DVLA), relying on the new owner to contact DVLA. The Adjudicator found as a fact that the Appellant had not complied with the strict requirements of Regulation 6 (5) to notify DVLA of the sale and that liability remained with the Appellant as the registered keeper of the vehicle (PATAS case number 9060048359).

The Appellant sought review by another Adjudicator and that review was refused. The Appellant in turn applied to the High Court for permission to bring Judicial Review proceedings.

In refusing permission, Kenneth Parker QC, sitting as a Deputy High Court Judge, made the following observations:

*“The Adjudicator's decision was plainly right. Under the applicable Regulations, the Claimant remained the registered keeper and hence liable for any congestion penalty until she served DVLA with the notice of change of ownership. On her own account she relied upon the new owner to ensure that non-delegable duties which she personally owed under Regulation 21(2) of the Road Vehicles (Registration and Licensing) Regulations were fulfilled. The new owner failed so to ensure and the change of ownership was not effectively notified until after the penalties had been incurred.*

*“Under the strict provisions governing his jurisdiction on appeal, the Adjudicator had no discretion to allow the appeal once he was satisfied that the conditions of liability had been met, as indeed they were met in this case for the reasons stated. Furthermore, although not strictly relevant to the precise grounds of the claim as formulated, the provisions regulating liability are plainly justified: as is shown by well publicised statistics, a new owner may wish to avoid registering the vehicle in order to evade payment of excise tax and other fines and penalties which ownership may create, and the old owner, albeit innocently, may facilitate such fraud if he or she leaves the non-delegable obligations concerning registration to be discharged entirely by the new owner. The old owner, therefore, remains justifiably at risk of incurring congestion charge penalties as registered keeper until he or she does notify change of ownership.”*

In the event, Transport for London and the Appellant settled the claim and cancelled the Penalty Charge Notice after Judicial Review proceedings were commenced but prior to the court refusing permission on paper.