



## EMPLOYMENT TRIBUNALS

**Claimants**

**Respondents**

v

**Mr M Williams (1)**  
**Mr RC Cooper (2)**  
**Mr R Day (3)**  
**Mr S Collinson (4)**  
**Mr M Taviner (5)**  
**Mr A Voysey (6)**

**LCG International Ltd (1)**  
**Professional Design Works Ltd (2)**  
**Suprema Group Ltd (3)**

### OPEN PRELIMINARY HEARING

**Heard at: Bristol**

**On: 4 and 5 December 2017**

**Before: Employment Judge Pirani**

#### **Appearances**

**For the all the Claimants:** Mr A Johnston, counsel

**For the First Respondent:** did not attend

**For the Second Respondent:** did not attend

**For the Third Respondent:** Mr R Peebles Brown, husband of director

### JUDGMENT ON PRELIMINARY ISSUES

1. The claim of Mr Williams in claim number 1400402/2017 is dismissed on withdrawal. His second claim, case number 1400594/2017, remains.
2. At the point of the claimants' dismissals, which was after they received letters dated 30 January 2017, the claimants were employed by the first respondent.
3. The claimants' employment was transferred to the first respondent from the third respondent by way of a business transfer pursuant to Regulation 3(1)(a) of the TUPE Regulations 2006 on or about 26 October 2016.



4. It was not reasonably practicable for the claimants to bring their regulation 15 TUPE 2006 claims in relation to failure to inform and consult within 3 months from the date of transfer.
5. The claimants did bring their claims within a reasonable further period. Accordingly, the tribunal does have jurisdiction to consider the Regulation 15 TUPE 2006 claims.
6. The second respondent submitted its responses in relation to all the claimants' claims out of time and failed to make any valid applications for extension of time.
7. In light of the findings in relation to which respondents employed the claimants, the claims against the second respondent do not succeed and are dismissed.
8. The first respondent failed to submit valid responses in time for Mr Day, Mr Collinson, Mr Taviner and Mr Voysey. Accordingly, pursuant to rule 21 of the tribunal rules the first respondent is to receive notice of any further hearings in relation to these claims, but may only participate in those hearings to the extent permitted by the Employment Judge who hears the case.

*Note: Reasons for the decision having been given orally at the hearing, written reasons will not be provided unless a written request is received from either party within 14 days of the sending of this record of the decision.*

## CASE MANAGEMENT SUMMARY

### Listing the hearing

1. After all the matters set out below had been discussed, it was agreed that the substantive cases in these claims should be listed for 3 days. Unfortunately, due to non-availability it was agreed that the listing should be split over two periods.
2. **It has been listed before Employment Judge Pirani sitting alone at Bristol Employment Tribunal at the Civil Justice Centre, 2 Redcliff Street, Bristol BS1 6GR on 8, 9 and 28 February 2018 commencing at 10 am on the first day. The representatives are to attend by 9.30 am.**

### Background and issues

3. As has previously been set out, the substantive claims in these cases are for:
  - i. failure to inform and consult: TUPE regulations
  - ii. unfair dismissal



- iii. redundancy pay
  - iv. breach of contract: outstanding notice pay
  - v. outstanding holiday pay
  - vi. failure to provide particulars of employment
  - vii. failure to provide itemised pay statements
4. Because of the issues determined the Open Preliminary Hearing the third respondent has potential liability in relation to the regulation 15 TUPE 2006 failure to inform and consult claims. All the claims proceed against the first respondent. No claims proceed against the second respondent.

## ORDERS

### Made pursuant to the Employment Tribunal Rules 2013

I make the following orders with the agreement of the parties who attended:

#### 1. Statement of remedy/schedule of loss

- a. By **19 December 2017** the claimants are to provide to the first and third respondents and the Tribunal, updated itemised statements of the sums claimed by way of remedy (also called a schedule of loss) including details of any income (including state benefits) received after the end of employment.

#### 2. Disclosure of documents for the substantive claims

- a. On or before **19 December 2017** the parties are to mutually disclose documents relevant to the substantive claims identified above by list and/or copy documents as appropriate. Documents to be disclosed are all relevant documents which are in the parties' possession, custody or control, whether they assist the party who produces them, assist the other party or appear neutral.

#### 3. Bundle of documents

- a. By **8 January 2018** the parties are to agree a common set of core, relevant documents for use at the preliminary hearing, indexed and page numbered for use of the witnesses and the Tribunal, and limited without further direction to 150 pages (excluding pleadings). The bundle be prepared by Ms Almeida, one set provided to the other claimant and respondents and its contents agreed by the parties. The limit on the bundle size may not be exceeded by more than 5% without the express prior consent of the Tribunal.
- b. Das are ordered to bring two copies of the bundle of documents to the Tribunal for use at the hearing, by 9.30 am on the day of the hearing.



**4. Witness statements**

- a. By no later than **22 January 2018** the parties shall mutually exchange witness statements (including statements of the parties themselves). No further statements may be served without the consent of the tribunal.
- b. No witness will be permitted to give evidence, (without leave of the tribunal), unless a witness statement has been prepared and exchanged in accordance with this order.
- c. Each witness statement must contain all the evidence upon which that witness wishes to rely. Witness statements must refer to documents by their page number in the bundle but are not to be bound into the bundle itself. At the discretion of the tribunal, witness statements may be taken as read. Witnesses may be cross-examined.
- d. Sufficient copies of the above be supplied to the Tribunal for use at the hearing by 9.30 am on the day of the hearing.

**5. Issues to be determined**

- a. By **4 PM on 29 January 2018** the claimants' representatives are to email to the tribunal with confirmation of which causes of action they intend to pursue together with a list of legal and factual issues to be determined by the employment tribunal.

**6. Closing Submissions**

- a. Each party shall prepare a summary or skeleton of the case, for use during closing submissions. The summary shall attach copies of the authorised reports of all cases upon which that party relies. The summaries will be mutually exchanged by the parties after the evidence has been heard.

**7. Further Orders and variation of existing orders**

- a. All applications for further orders or for variation of these orders are to be made immediately upon receipt of this Order or as soon as is practicable thereafter.

**8. The Overriding Objective**

- a. In accordance with the overriding objective, set out in Regulation 2 of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013, this case will be managed so as to ensure a fair hearing. This may include limiting the time for witnesses' evidence, cross-examination and the making of submissions.



9. **Failure to comply with this Order**

- a. **Failure to comply with any part of this Order may mean that the tribunal has insufficient time to hear the application on the hearing date and may give rise, upon application by a party who has incurred extra costs as a result, to an Order for Costs or preparation time against the offending party. Further, the tribunal may regard any failure to comply with this Order as unreasonable conduct of proceedings in the event of an application for costs or a preparation time order against the party who has failed so to comply.**

**CONSEQUENCES OF NON-COMPLIANCE**

1. Failure to comply with an order for disclosure may result on summary conviction in a fine of up to £1,000 being imposed upon a person in default under s.7(4) of the Employment Tribunals Act 1996.
2. The Tribunal may also make a further order (an “unless order”) providing that unless it is complied with, the claim or, as the case may be, the response shall be struck out on the date of non-compliance without further consideration of the proceedings or the need to give notice or hold a preliminary hearing or a hearing.
3. An order may be varied or revoked upon application by a person affected by the order or by a judge on his/her own initiative.

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**Employment Judge Pirani**

6 December 2017

Sent to the parties on:

6 December 2017

For the Tribunal:

**Case Number: 1400402/2017 and others**  
(See attached schedule)



<b>Case no.</b>	<b>Claimant</b>
1400402/2017	Mr M Williams
1400510/2017	Mr RC Cooper
1400594/2017	Mr M Williams
1400595/2017	Mr R Day
1400596/2017	Mr S Collinson
1400613/2017	Mr M Taviner
1400627/2017	Mr A Voysey