



EMPLOYMENT TRIBUNALS

Claimant: Mr M Barnett

Respondent: Asda Stores Limited

JUDGMENT ON A PRELIMINARY HEARING

Heard at: Birmingham by CVP

On: 27 & 28 October 2020

Before: Employment Judge Connolly (sitting alone)

Appearances

For the claimant: In Person and Mr J Barnett (the claimant's son)

For the respondent: Mr B Frew (Counsel)

JUDGMENT

1. The claimant's complaints that he was subjected to a detriment because he made a protected disclosure within the meaning of s.43B of the Employment Rights Act 1996 are dismissed upon withdrawal by the claimant.
2. All the claimant's complaints of unlawful treatment contrary to the Equality Act 2010 where the treatment took place prior to 16 April 2019 are struck out by virtue of the operation of the principle of *res judicata* and/or the rule in **Henderson v Henderson**.
3. For the avoidance of doubt, any complaints of victimisation based on a protected act prior to 16 April 2019 and a detriment after the said date, are permitted to proceed.
4. By consent, the claimant was a disabled person within the meaning of the Equality Act 2010 by reason of (a) osteoarthritis in his right knee, (b) low back pain and (c) anxiety and depression at all relevant times, specifically, from 1 May 2019 and on all relevant dates thereafter.

Employment Judge Connolly
28 October 2020