EMPLOYMENT TRIBUNALS

Claimant		**Respondent**
Ms U Baz	**v**	**Specialist Dentist Services Limited**

Heard at: London Central (by video) **On**: 21 September, 1 October and 17 November 2020

Before: Employment Judge E Burns

Representation

For the Claimant: In person

For the Respondents: Ms L Hatch (counsel)

RESERVED JUDGMENT

The judgment of the Employment Tribunal is that the claimant's claim is struck out under rule 37(1)(b) on the ground that the manner in which the proceedings have been conducted by the claimant has been scandalous, unreasonable or vexatious.

REASONS

THE PRELIMINARY HEARING

1. The purpose of the preliminary hearing was to consider the following applications:

    (a) The respondent's application dated 18 December 2019 that the claim should be struck out under rule 37(1) (a) and/or 37(1)(b);

    (b) The claimant's application dated 18 February 2020 that the response be struck out because of the respondent's failure to comply with tribunal orders.

2. This was a remote hearing which was consented to by the parties. The form of remote hearing was V: video fully remote. A face to face hearing was not held because it was not practicable, and all issues could be determined in a remote hearing.

3. There were some minor technical difficulties on the first day of the hearing, but none on the second or third days.

4. In accordance with Rule 46, the tribunal ensured that members of the public could attended and observe the hearing. This was done via a notice published on Courtserve.net and a member of the public attended the hearing. All participants were told that it was an offence to record the proceedings.

5. I decided that I should hear both applications before reaching any determination. The respondent's application was heard first, because it was made first. The applications were originally due to be heard in February 2020. For various reasons, including the impact of the COVID-19 pandemic, this was not possible. As several months had passed since the original applications were made, I gave both parties an opportunity to expand on the original applications by bringing them up to date orally.

6. There was a hearing bundle of 635 pages which had been produced by the respondent. The claimant and I had a pdf version of the bundle which we could access during the hearing. I refer to the page numbers of key documents contained in that bundle below.

7. The claimant prepared an additional small bundle of emails which ran to 20 pages to support her application. I refer to the page numbers of that bundle below using a C to distinguish them. I also refer below to correspondence on the tribunal file.

8. Witness evidence was heard from two witnesses on behalf of the respondent:

   - Dr Shabir Jagani, owner and director of Bullsmoor Dental Practice
   - Professor Shakeel Shahdad, owner and director of the respondent

   The claimant made submissions, but did not give evidence.

9. The hearing was initially scheduled for one day. By the end of the first day, we had concluded the evidence and submissions on the respondent's application. It was therefore necessary to resume the hearing on a second day.

10. During the course of the first day the parties had referred to documents which were not included in the bundle. There were also documents on the tribunal file that were relevant to the issues being considered that were not

included in the bundle. In addition, the claimant had served two written witness statements on the respondent and the tribunal which contained evidence that was relevant to the preliminary hearing. The claimant said that the witnesses would attend the final hearing, but this would be too late. I therefore wrote to the parties to ask for copies of the documents and to give the claimant a chance to call the witnesses at the resumed hearing.

11. Unfortunately, I provided tribunal staff with an incorrect email address for the claimant and she did not receive my letter until the day before the hearing. I therefore postponed the second day's hearing to ensure that the claimant had time to consider the letter, hence the reason for needing a third day.

12. The third day of the hearing was listed to suit the claimant's availability and that of her witnesses. Neither of the witnesses attended on the third day. The claimant's application was completed on the third day.

13. One of the issues I have been asked to consider is the tone of the correspondence between the parties. I have therefore quoted from that correspondence where I consider it to be appropriate. I have not identified grammatical errors, spelling mistakes or use of the wrong terminology in such quotes, as there are many examples of these.

14. I note that English is not the claimant's first language although she speaks it to a high level of fluency. The claimant is a well-educated, intelligent person. She is a dental nurse who is registered with the General Dental Council.

LAW

Tribunal Rules

15. The tribunal's power to strike out claims and responses is found in Rule 37(1) of the Tribunal Rules. The relevant parts of Rule 37(1) for the purpose of this hearing say the following:

> "At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds—
>
> (a) that it is scandalous or vexatious or has no reasonable prospect of success;
>
> (b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;

(c) there has been non-compliance with any of the Rules or with an order of the Tribunal;"

16. The overriding objective in Rule 2 of the Tribunal Rules is also relevant at all times when considering applications of this nature. It says:

    "The overriding objective of these Rules is to enable Employment Tribunals to deal with cases fairly and justly. Dealing with a case fairly and justly includes, so far as practicable—

    (a) ensuring that the parties are on an equal footing;
    (b) dealing with cases in ways which are proportionate to the complexity and importance of the issues;
    (c) avoiding unnecessary formality and seeking flexibility in the proceedings;
    (d) avoiding delay, so far as compatible with proper consideration of the issues; and
    (e) saving expense.

    A Tribunal shall seek to give effect to the overriding objective in interpreting, or exercising any power given to it by, these Rules. The parties and their representatives shall assist the Tribunal to further the overriding objective and in particular shall co-operate generally with each other and with the Tribunal."

Rule 37(1)(a)

17. Rule 37(1)(a) is concerned with the substance of the claim or the response.

18. A 'scandalous' or 'vexatious' claim or defence has been described as one that is not pursued with the expectation of success, but to harass the other side or out of some improper motive (*ET Marler Ltd v Robertson* [1974] ICR 72).

19. In *Attorney General v Barker* [2000] 1 FLR 759, QBD (DivCt), it was said that the hallmark of a vexatious claim is that it has '*little or no basis in law (or at least no discernible basis); that whatever the intention of the proceeding may be, its effect is to subject the defendant to inconvenience, harassment and expense out of all proportion to any gain likely to accrue to the claimant; and that it involves an abuse of the process of the court, meaning by that a use of the court process for a purpose or in a way which is significantly different from the ordinary and proper use of the court process'*.

20. The courts have repeatedly warned of the dangers of striking out discrimination claims on the grounds that they lack prospects of success, particularly where "the central facts are in dispute" e.g. in *Anyanwu v. South Bank Student Union* [2001] ICR 391 at [24] and [37] and *Ezsias v. North*

Glamorgan NHS Trust [2007] ICR 1126 at [29]. The same caution should also be applied where there are other grounds for a strike out.

21. However, while exercise of the power to strike out should be sparing and cautious in discrimination claims, there is no blanket ban on such practice.

22. The question of striking out discrimination claims was considered by the Court of Appeal in *Ahir v. British Airways Plc* [2017] EWCA Civ 1392, where Underhill LJ stated at [16]: "*Employment tribunals should not be deterred from striking out claims, including discrimination claims, which involve a dispute of fact if they are satisfied that there is indeed no reasonable prospect of the facts necessary to liability being established, and also provided they are keenly aware of the danger of reaching such a conclusion in circumstances where the full evidence has not been heard and explored, perhaps particularly in a discrimination context. Whether the necessary test is met in a particular case depends on an exercise of judgment*."

Rules 37(1)(b) and 37(1)(c)

23. Rules 37(1)(b) and 37(1)(c) are concerned with the conduct of proceedings. The former applies where the manner in which proceedings have been conducted by or on behalf of the claimant or respondent has been scandalous, unreasonable or vexatious, whereas the latter concerns specific identifiable non-compliance with tribunal rules or orders.

24. The power to strike out under rule 37(1)(b) expressly includes the manner in which proceedings have been conducted on behalf of the claimant or the respondent, making it clear that a representative's conduct can be taken into account.

25. Applying these rules involves three elements:

- Identifying the conduct and determining whether it is scandalous, vexatious or unreasonable or demonstrates non-compliance with tribunal rules or orders

- Considering whether the conduct means that a fair trial is rendered impossible

- Considering whether striking out is a proportionate response to the conduct.

(*Blockbuster Entertainment Ltd v James* [2006] IRLR 630, CA; *De Keyser Ltd v Wilson* [*2001*] *IRLR 324, EAT*; *Bolch v Chipman* [2004] IRLR 140, EAT)

CLAIM AND ISSUES IN THIS CASE

26. The claimant was employed by the respondent as a Practice Manager from 22 September 2018 to 27 May 2019.

27. By a claim form presented to tribunal on 18 July 2019, she brought claims of unfair dismissal, direct discrimination because of sexual orientation, sexual orientation-related harassment and for unlawful deductions from wages / breach of contract. The claim of unfair dismissal was struck out because the claimant did not have two years' service with the respondent.

28. The respondent denies the allegations of discrimination and harassment. It says the claimant resigned with immediate effect when it told her that it was contemplating initiating disciplinary action against her because she had sent aggressive emails.

29. A list of issues, based on the parties' strike out applications was not prepared before the preliminary hearing. I created the following list for my own use and set it out below so that the matters I have considered are clear.

Respondent's Application

Rule 37 (1)(a)

1. *Should the claimant's claims be struck out on the basis that the allegations have been made scandalously or vexatiously to subject the respondent to inconvenience, harassment and expense out of all proportion to any gain likely to accrue to the claimant?*

   The respondent highlights that the claimant started a new job on 3 June 2019 and so had a minimal period of loss. It says that the claimant has a history of making allegations that are designed to subject respondents to inconvenience, harassment and expense.

2. *Should the claimant's claims be struck out on the basis that they are false and therefore have no reasonable prospect of success?*

Rule 37(1)(b)

3. *Has the claimant conducted the litigation in the following ways that are scandalous, vexatious or unreasonable:*

   3.1 *seeking to mislead the tribunal by deliberately presenting a false schedule of loss which omitted to mention that she had found a new job with Bullsmoor Dental Limited within days of leaving the respondent;*

   3.2 *seeking to mislead the tribunal in her case against Colosseum Dental (claim number* 2302293/2018) *by presenting a schedule*

of loss that omitted to mention that she had found a new job with the respondent;

3.3 seeking to mislead the tribunal by telling Employment Judge Davidson that she had won her claim against Colosseum Dental;

3.4 seeking to mislead the tribunal when she told it that she had not worked for Bullsmoor Dental Limited and falsely accusing Professor Shahdad of the respondent and Dr Jagani of Bullsmoor Dental Limited of making this up because they were in a sexual relationship with each other;

3.5 seeking to mislead the tribunal by fabricating witness statements;

3.6 the tone of her correspondence towards the respondent's representative;

3.7 making false accusations about the conduct of the proceedings by the respondent's representative;

3.8 refusing to correspond with the respondent's representative; or

3.9 any other ways identified by the tribunal of its own initiative?

4. If so, does the claimant's conduct mean that a fair trial is rendered impossible?

5. Is striking out the claim a proportionate response to the conduct.

Claimant's Application

Rule 37(1)(b)

6. Has the respondent or its representative conducted the litigation in the following ways that are scandalous, vexatious or unreasonable:

6.1 failing to comply with the standard case management order that required the parties to send each other lists of documents by 10 December 2019;

6.2 Ms Reece sending the claimant an email with documents attached to it on the evening before the preliminary hearing of 17 December 2019;

6.3 Ms Reece referring to the claimant as "he" or "him" in some of the correspondence before the preliminary hearing;

6.4 Ms Reece lying to Employment Judge Davidson on 17 December 2019 about the respondent's clocking-in machine and disciplinary and confidentiality policies;

6.5 Ms Reece not seeking to agree a final bundle for the final hearing with the claimant by 24 January 2020 and not providing her with a bundle for the final hearing by 31 January 2020;

6.6 Ms Reece serving a large pdf bundle on the claimant on the day before the preliminary hearing, which the claimant could not open;

6.7 failing to comply with the orders made by Employment Judge Taylor concerning the confidentiality policy or clocking-in machine;

6.8 failing to provide the claimant with a hard copy of the bundle for the preliminary hearing by 9 March 2020; or

6.9 any other ways identified by the tribunal of its own initiative?

The claimant highlights Ms Reece's conduct in other litigation and the facts that she was disbarred as a barrister in 2007 and has previously been made bankrupt. She says Ms Reece has a record of deliberately conducting litigation in a way designed to cause difficulties for litigants in person and it is this that causes her conduct to be scandalous, vexatious or at the very least unreasonable.

7. If so, does the conduct mean that a fair trial is rendered impossible?

8. Is striking out the response a proportionate response to the conduct?

Rule 37(1)(c)

9. Does the conduct listed above at 7 constitute non-compliance with any of the tribunal rules or with any orders of the tribunal by the respondent or its representative?

10. If so, does the conduct mean that a fair trial is rendered impossible?

11. Is striking out the response a proportionate response to the conduct?

FINDINGS RELEVANT TO THIS PRELIMINARY HEARING

30. In this section, I set out my findings in relation to the issues above. Where these are findings of fact, I have made the findings on the balance of probabilities having considered all the evidence.

31. I set out first the chronology of the conduct litigation to date and various findings in connection with it. This is followed by a section with findings in relation to some broader issues which cut across the chronology, namely:

    - The claimant's employment with Bullsmoor Dental Practice
    - The claimant's claim against Colosseum Dental
    - Disclosure Issues
    - The Civil Restraint Order
    - Katherine Reece

32. The parties will see that not all the matters that they told me about are recorded in this section. That is because I have limited this section to the matters that are relevant to the issues.

Chronology of the Litigation

Initial Stages

33. As noted above, the claimant presented a claim to the tribunal on 18 July 2019. The claimant elected to use the title "Mr" on the claim form (1). The response was filed by the respondent on 28 October 2019. It named Katherine Reece of Markel Law LLP as the respondent's representative (29).

34. Standard case management orders were sent to the parties with the Notice of Claim dated 1 October 2019. These included an order that the claimant serve a schedule of loss on the respondent by 29 October 2019 and that both parties exchange written lists of relevant documents by 10 December 2020 (20). A preliminary hearing for case management purposes was listed for 17 December 2019 (17) and the final hearing was listed for four days starting on 6 April 2020 (19).

35. On 18 November 2019, the claimant emailed Ms Reece to ask for 27 documents or pieces of additional information said to be relevant to her claim copying in the tribunal (C1-2). This included requests for:

    - the respondent's disciplinary procedure
    - a report of the claimant's working hours from the respondent's digital clocking in machine
    - the respondent's confidentiality policy

36. Ms Reece replied on 27 November 2019 advising the claimant that it was not appropriate to copy the tribunal into inter-party correspondence and pointing out that the tribunal had made an order for general disclosure by 10 December 2019 (C3).

37. This led to the claimant writing to the tribunal on 28 November 2019 to ask for an order (451). In her email to the tribunal, the claimant stated

"*on the 27th of November 2019 the defendant sent me the email below "declined all 27 of them" and tried to educate me about court rules and procedure by a simple "employment adviser - a woman called katherine reece" she is NOT even a paralegal let alone a solicitor, it looks to us that the defendant could only effort to pay for "an advisor" who also "patheticallu advises to the claimant at the same time.*

this woman thought she could teach me when to sent documents to Court or how to follow Court orders, I can only suggest her that she is a simple advisor for the defendant, not for the claimant

it also shows how this woman tries to take advantage of me not having a solicitor…. (451)

The defendant might believe they rules this case, they are the Judge, But it does not work in such way, we live in a legal Country

I do not live in this woman - katherine reece's jungle or the defendant's little playground, I cannot be make myself victim of the defendant's above the law behaviours" (452)

38. Ms Reece responded by emailing the tribunal on 27 November 2019 to resist the application saying that there was already an order for general disclosure by 10 December 2019 and to suggest that, as there was a preliminary hearing due to take place on 17 December 2019, the claimant could raise any issues about disclosure there. Ms Reece also said:

"*We take this opportunity to remind the Claimant that there is an obligation to conduct his claim reasonably which means he should refrain from making further offensive comments about the respondent or further sexist and racist remarks about the writer."* (459)

39. The claimant responded on the same day to say that her email did not contain any sexist or racist content and accused Ms Reece of making a "*fake false allegation*" in "*a panick and pathetic attack back on the claimant*" to avoid having to disclose any of the documents sought to the claimant. In addition, she asserted in any event that "*The claimant is fully protected under Article 10 of Human Rights Act which gives the claimant the right to hold his own opinions and to express them freely to the Court*." The claimant also added:

"if this woman katherine reece carries on bullies me with fake accusations, tries to supress my legal rights, she will find herself be subjected a complaint at her regulatory body – I guess she does not even have a license, she did not go to any uni, never studied any law at any uni, but did some daily legal courses" (460)

40. The tribunal declined to make an order and wrote to the parties on 12 December 2019 referring to the existing order for disclosure of documents. The tribunal's letter said the claimant should await the outcome of this before making applications for specific disclosure. It also highlighted that disclosure needed to be relevant to the issues and added that any issues could be raised at the preliminary hearing (39 – 40).

41. In the meantime, the claimant had served a schedule of loss on the respondent's representative and the tribunal on 28 November 2019. In it the claimant stated that by the time of the final hearing in April 2020 she would have been out of work for 11 months and claimed £22,000 in past losses. She said she was "*unable to work due to severe psychiatric effect of defendant's behaviours*" and claimed future loses for a period of 36 months because of this and because "*The local job market is difficult and the claimant is unable to travel extensive distances due to his medical health*." (55 – 56)

42. I have not been provided with any evidence that either party sent the other a list of documents on 10 December 2019. I therefore find that neither party complied with the standard case management orders.

43. On 16 December 2019, the day before the preliminary hearing, Ms Reece wrote an email to the claimant said to be "Without prejudice save as to costs". She noted in it that the respondent had learned that the claimant had been potentially working for Bullsmoor Dental since 3 June 2019 when her schedule of loss set out that she has been unable to work. She also mentioned that the respondent was aware of other claims being made which overlap with these circumstances (466).

44. The claimant responded to say:

    "*It is none of your client's business whether I got other cases elsewhere, that has got no relation to this matter.*

    <u>All your client can know now</u> that I am not working at any place, I got serious medical issues at the moment. (original emphasis) (466)

    The claimant added "*please be aware "your cost threat" is irellavent, you will be only lucky to recover 1 pound per month from my monthly government benefit IF worse scenario happened and I lost*" (466).

45. The claimant forwarded the exchange of correspondence to the tribunal at 17:51 on the same day (470).

46. At 18:23 the respondent emailed the tribunal attaching six attachments (475). The claimant was copied in. The attachments were:

- A draft list of issues

- A case management agenda
- Claimant's schedule of loss (2 pages)
- A photoshot of a message sent on 28 May 2019 from the claimant to Charlotte saying she got a job offer (1 page)
- A letter from Bullsmoors Dental dated 9 December 2019 confirming it had started to employ the claimant from 3 June 2019 and that employment was continuing (1 page)
- A short tribunal judgment dated 7 November 2019 striking out the claimant's unfair dismissal claim against Colosseum Dental Limited (1 page)

Case Management Hearing – 17 December 20219

47. The preliminary hearing for case management purposes took place in person on 17 December 2019 before Employment Judge Davidson.

48. At the hearing, the claimant indicated that she wished to correct her title to "Ms" and the tribunal's records were updated accordingly.

49. There was a need to clarify the issues in the case. Employment Judge Davidson went through the issues in some detail and set these out in her Order (42 - 44).

50. Her Order also records that the respondent applied for an open preliminary hearing to consider whether a deposit order should be made on the grounds that the claimant's claims had little reasonable prospect of success and whether the claimant's claims should be struck out on the basis of the manner in which the clamant had conducted the litigation (45 – 46).

51. The respondent referred Employment Judge Davidson to the letter from Bullsmoor confirming, contrary to the Schedule of Loss, that the claimant had successfully found a job shortly after leaving the respondent. The claimant told Employment Judge Davidson that she had never been employed by Bullsmoor Dental Limited. She alleged that the letter had been written to mislead the tribunal because the author, Dr Jagani (the owner of Bullsmoor Dental Limited) was in a sexual relationship with Professor Shahdad (the owner of the respondent).

52. The claimant had brought an employment tribunal claim against her previous employer, Colosseum Dental under claim number 2302293/2018. The respondent suspected that the claimant had not told the tribunal or that employer that she had started working for the respondent in September 2018 and also raised this with Employment Judge Davidson. The claimant told Employment Judge Davidson that the claim had been concluded and she had won.

53. The respondent also complained about the tone of the claimant's correspondence.

54. The claimant did not make any applications, but alleged that the respondent had harassed her, served some documents on her shortly before the hearing and failed to provide other documents that she had requested.

55. Employment Judge Davidson's Case Management Summary and Order records that she declined to list a preliminary hearing to consider the deposit order, but was inclined to list a hearing so that both parties could raise any issues relating to the conduct of the proceedings in advance of the final hearing. She did not do so, however, because the claimant informed the tribunal that she would be in Germany, caring for a relative from 21 December 2019 to 6 April 2020 and that she did not have regular internet access while there. Employment Judge Davidson decided it would be disproportionate to require the claimant to come back from Germany. However, she reminded the parties of their obligations to conduct the litigation in a reasonable and set out a further reminder elsewhere in the order (45 – 46).

56. Her reminder at paragraph 11.1 said:

"*The parties were reminded about the need to communicate in a reasonable manner and only to deal with the issues in hand. They were reminded that they should maintain proper professional courtesy at all times and that there is no place for abuse in such correspondence. If either party considers that, in any communications after today's date, the other was not conducting correspondence in a reasonable manner, they could bring this to the attention of the tribunal. The tribunal would consider holding a hearing to deal with the matter (using technology to allow the claimant to participate from Germany if necessary) or, alternatively, the issue could be dealt with at the start of the full merits hearing or on the date listed for a full merits hearing with that hearing postponed to a later date."*

57. Employment Judge Davidson also ordered the claimant to provide a Schedule of Loss by 10 January 2020 (Order 6.1) (46). The order does expressly require the claimant to amend her existing Schedule of Loss, but this may have been what Employment Judge Davidson was contemplating. At Order 5.1 Employment Judge Davidson ordered the claimant to include details of her money claims in the Schedule of Loss.

58. Employment Judge Davidson also ordered the parties to send each other lists and copies of all relevant documents by 17 January 2020 and to agree the bundle for the final hearing by 24 January 2020. The respondent was ordered to prepare the bundle and provide the claimant with a hard and an electronic copy of it by 31 January 2020.

Events following the Hearing – December 2019

59. Within a short time of the preliminary hearing being concluded, on 17 December 2019, Ms Reece sent the claimant an email attaching a number of the documents she had been seeking. This did not include a printout of her working hours from the respondent's clocking in machine or the respondent's disciplinary and confidentiality policies or any information about these, however (C5).

60. On 18 December 2019, the claimant emailed the tribunal and Ms Reece at 11:47. The claimant attached 10 documents to the email. In the body of email, the claimant accused Ms Reece of trying to deceive Employment Judge Davidson. The claimant alleged Ms Reece was responsible for perjury, lies and deceptions and that she had "*acted in an extremely illegal, totally unreasonable way, bullied the claimant, attempted to present justice and block the claimant's fair tria*l." The letter provided evidence of four matters said to be "LIES" and requested disclosure of further documents. The claimant mistakenly addressed the letter to Judge Williamson (482 – 484).

61. Ms Reece also emailed the tribunal on 18 December 2019 (12:09) submitting the application that I am considering (485 – 486). In the respondent's letter, it explained the following:

   - It had learned from the solicitors representing Colosseum Dental that a preliminary hearing in person had been listed for February 2020, which led it to doubt that the claimant was going to be in Germany as she had said

   - It understood that there may be overlap in the psychiatric injury claimed and in the loss of earnings period claimed and the period in which the claimant was working for the respondent

   - It had learned that the claimant had been subject to a civil restraint order banning the claimant from bringing claims in any jurisdiction including the employment tribunal without judicial permission which expired just days prior to the claimant bringing the Colosseum claim. Since that point the claimant had brought multiple claims

   - The claimant had written several emails immediately after the hearing to Ms Reece and a member of staff of the respondent which included very serious allegations and intimated further litigation and complaints to professional bodies and to the tribunal. The respondent noted that; "*The claimant was aggressive and demeaning to both the writer ("fat," "simple," "liar", etc) and the Tribunal (shouting that she would appeal and make a complaint to the Regional Employment Judge and speaking over the Employment Judge) yesterday. Her subsequent emails to the Tribunal alleging that the writer lied to the Tribunal show the same conduct is unfortunately continuing and will continue (485).*

62. The claimant responded in an email sent to the tribunal and copied to Ms Reece at 12:34. She said that she did not have a civil restraint order, but otherwise did not respond to the allegations in Ms Reece's email, except to say she considered them to be based "*on "rumours and gossips" with NO ACTUAL proof*". (487)

63. The claimant sent further emails to the tribunal and copied to Ms Reece the following day on 19 December 2019 at 13:52 (491), 13:54 (496 - 499) and 13:55 (500 – 502). These were the same email as the one sent on 18 December 2019, but re-addressed to Employment Judge Davidson.

64. Ms Reece emailed the claimant at 14:36 to remind her the tribunal had instructed the parties not to copy it into interparty correspondence. She also requested the claimant to confirm if she had a preliminary hearing in February 2020 in the Colosseum case (503).

65. This led the claimant to reply (at 15:34, copying in the tribunal) alleging that no such reminder had been given. She refused to answer the question about the Colosseum preliminary hearing saying: "*I must remind you "again" that you cannot "cross examine" me with your questions via emails. Do not take advantage of me being not represented by a solicitor*" and added "*I feel I am being extremely intimitaded, being harassed and abused by your behaviours*" (506).

66. The claimant sent a final email of 19 December 2019 to Ms Reece, copying in the tribunal at 16:27 asking for disclosure of county court proceedings involving Professor Shahdad (510).

January 2020

67. The correspondence was considered by Employment Judge JS Burns who made an order on 6 January 2020 that there should be a preliminary hearing held in public to consider the respondent's application (49)

68. A notice of hearing was sent out to the parties on 8 January 2020, before the order. The hearing was initially arranged to take place in person on 21 February 2020.

69. In response to receiving the notice of hearing, the claimant objected by sending an email in block capitols to the tribunal at 17:19. The email was not copied to the respondent. She sent a second email at 17:45 asking for the order to be set aside which was copied to the respondent. The basis of the claimant's objection was because she was due to be in Germany.

70. Employment Judge JS Burns' order was sent to the parties on 10 January 2020. He ordered that any evidence to be relied upon by either part at the preliminary hearing (including any witness statements) shall be exchanged by no later than 4pm on 14 February 2020.

71. On receipt of the order, on 10 January 2020, the claimant sent three emails to the tribunal (11:35, 11:37 and 11:34) none of which were copied to the respondent. The last of these submitted a complaint addressed to the "Regional Judge". It said:

    "2. on the 08.01.2020 Judge burn ….. set a hearing in February

    3. I immediately appealled and objected it and emailed it same day, on 08.01.2019 objected it

    4. today on 10.01.2020 I received further notice form Judge Burr saying "there was no objection form me", Judge Burr lies, acted dishonest as I clearly and severely objected with strong reason"

72. I note that the claimant did not serve an updated Schedule of Loss to the tribunal or to the respondent on 10 January 2020 and therefore failed to comply with Employment Judge Davidson's order.

73. The claimant sent the respondent two emails on 17 January 2020, which were copied to the tribunal, to remind the respondent that it had to comply with Order 7.1 made by Employment Judge Davidson and asking for the print out of hours from the clocking machine and for the respondent's disciplinary and confidentiality policies.

74. Acting Regional Employment Judge Wade responded to the parties on 20 January 2020 to say it was not appropriate for her to interfere with the decision made by Employment Judge JS Burns. She suggested a remote hearing could be held if the claimant was unable to attend in person. The respondent confirmed it was able to facilitate a skype connection if required.

75. On 20 January 2020, the claimant emailed the tribunal and Ms Reece to complain, in very strong terms, that the respondent had failed to comply with the order made by Employment Judge Davidson to send lists of documents by 17 January 2020. She also requested that the date set for February should be set aside and the final hearing go ahead as planned (511 – 512).

76. Ms Reece responded on 21 January 2020 at 10:34 denying a failure to comply and saying it had disclosed all the evidence held by the respondent. In her email she explained the ongoing difficulties the respondent was having with accessing reports from the clocking-in machine. She did not address the respondent's disciplinary or confidentiality policies (514 – 515).

77. The claimant sent a series of lengthy emails to the tribunal at 10:43 (513), 10:56 (525) 10:59 (519) which were almost identical. Ms Reece responded at 11:06 to say:
    "This is the fourth almost identical application the claimant has made in two days – it is too much;"

We refute the allegations therein." (537)

78. The claimant sent a further almost identical email at 11:10 (531). She then sent a further email at 11:17 saying her emails were not intended to be applications, but were responses to the respondent's application (537). She sent the same email at 11:18 (545) 11:23 (553), 11:25 (560) and 11:28 (567).

79. On 29 January 2020, Acting Regional Employment Judge Wade considered an application for a witness order submitted by the respondent on 23 January 2020. She granted a witness order for Dr Jagani to appear at the preliminary hearing.

80. I note from the bundle that the claimant also applied for a witness order for Dr Jagani's son to attend the preliminary hearing on 23 January 2020 (574). This email is not on the tribunal file and was not considered by Acting Regional Employment Judge Wade.

81. The claimant submitted a complaint addressed to the "Regional Judge" on 29 January 2020 complaining about Judge Wade. The complaint was headed:

"JUDGE WADE OPENLY DISCRIMINATED AGAINST A TRANSEXUAL PERSON AGAINST HER SEXUALITY"

The claimant's email described the witness order as "*totally illegal and only made to discriminate against the claimant*" and later added:

- *"Judge wade – illegally – granted this application just to create sickness against the claimant*
- *"The claimant does NOT live in Judge wade's jungle and Judge wade's professional misconducts brought her professionalism into disrepute"*
- *"The claimant request that judge wade to be penalised for the sick/nasty behaviours he/she carried out when discriminating against the claimant*"

February 2020

82. On 12 February 2020 the claimant emailed the tribunal to raise further similar concerns about the respondent's conduct. The email was not copied to the respondent.

83. On 18 February at 13:00 the claimant sent an email to the respondent attaching two unsigned witness statements. There was a flurry of emails concerning the respondent's ability to open the documents and how the claimant would access the hearing by Skype.

84. The claimant sent the application that I am considering to the tribunal and to the respondent at 14:20 on 18 February 2020. She gave three reasons why the response should be struck out:

First Reason

- The respondent stubbornly but intentionally refused to comply with Order 7.1 made by Employment Judge Davidson, having failed to send her the respondent's disciplinary and confidentiality policies

- The respondent had failed to comply with the Order 8.1 made by Employment Judge Davidson which had required the parties to reach agreement on the bundle for the final hearing by 24 January 2020

- There was a further failure by the respondent to provide the claimant with a copy of the bundle by 31 January 2020 (also covered by Order 8.1)

Second Reason

The respondent had refused to follow various orders in the past, namely the original order that the parties sent each other lists of documents by 10 December 2020, but instead Ms Reece had sent the claimant 6 documents on 16 December 2020, less 12 hours before the start of the case management hearing.

Third Reason

Ms Reece had been warned by various ET/EAT judges in many hearings in the past for her unreasonable and time wasting behaviours. The claimant listed 12 ET and EAT cases where it was said that Ms Reece had lost the case and been warned for:

- defending the case in a scandalous and unreasonable manner
- attacking claimants with fake allegations
- abuse court processes
- wasting court time

and therefore the tribunal should "*discredit any word she say, any act she carries ….*" (580 – 581).

85. The claimant resent her email to the tribunal together with the unsigned witness statements on 19 February 2020. The tribunal confirmed that the application would be heard on 21 February 2020 and that the claimant should cooperate with the respondent to ensure she could join the hearing by Skype if she was not going to attend in person.

86. The respondent emailed a pdf bundle for the hearing on 20 February 2020 at 12:06 together with a number of other documents. The respondent explained in the email that the volume of emails from the claimant had made it very difficult to finalise a bundle. The respondent also attached copies of witness statements for Dr Jagani and Professor Shakeel which had been sent to the claimant on 14 February 2020.

87. The claimant responded by sending several emails to the tribunal to say she was unable to access the documents and in any event, she was unable to go through them in the time allowed. The respondent later resent the bundle in three separate emails to try and ensure it was accessible.

88. Ms Reece also sent an email on 20 February 2020 (C9) to confirm that she had told tEmployment Judge Davidson:

- she understood that the respondent was unable to access the information contained in the clocking-in machine. This was because it had been set up by the claimant and she had the pin number, but she would check on this
- she would check to see if the respondent had disciplinary and confidentiality policies

89. On 20 February 2020 at 16:17, the respondent responded to the claimant's reference in her application to Ms Reece's history as an advocate, by pointing out that the claimant's information was inaccurate, but "*ultimately ….irrelevant and no more than an attempt to upset [her] and the respondent and to divert the tribunal from the real issues*."

She added:

"*The claimant's tone and aggression and characterisation of [Ms Reece] as someone for the tribunal not to even listen to is intended to be offensive and is indeed offensive. The Claimant aims to upset all involved in her tone and volume of emails and has succeeded*." [585]

90. On 20 February 2020 at 18:17, the claimant sent the unsigned witness statement of Kostas Smitis to the tribunal without copying in the respondent.

91. On 20 February at 18:23, Ms Reece emailed the tribunal to address a number of the issues raised in the claimant's application. In particular she said that the respondent did not have a disciplinary policy, but did have a disciplinary procedure which she attached to the email together with the respondent's equal opportunities policy. The email added:

"*The Respondent will say it does not have a "confidentiality policy*". (C9)

Hearing of 21 February 2020

92. The Judge allocated to conduct the hearing, Employment Judge Taylor decided not to hear the strike out applications. He decided to vacate the final hearing listed for 6- 9 April 2020 and use 6 April 2020 for a hearing in person to consider the applications instead. He made a number of case management orders including that:

- Both parties should send any final application for consideration at the preliminary hearing by 24 February 2020

- the claimant should disclose to the respondent the claim form, response and schedule of loss in the Colosseum dental case by 2 March 2020

- the respondent should send the claimant any document that showed the hours of the claimant's attendance at work and any confidentiality policy or explain why they cannot be provided in a witness statement supported by a statement of truth by 2 March 2020 (62 – 64).

After the hearing - February 2020

93. A flurry of emails followed the hearing starting with an email from the claimant dated 24 February 2020 at 17:30 making a further 14 applications. Each application was for disclosure of a document or information.

94. In one of the subsequent emails (26 February 2020 at 16:19) the claimant included the comment:

"*katherine reece is dangerous, angry, aggressive person, her manipulative skills are over the top, very professional at manipulations…..*

she thinks she is a special case, she is above all law, all court orders and must be treated in a special way"

95. In response Ms Reece wrote to the tribunal at 16:47 saying:

"We are professional representatives doing a job, but are also human and respectfully, like anyone doing their job, should not have repeated abuse. The emails from the claimant are most upsetting. We would be most grateful if the claimant could be given a firm instruction to stop the persistent personal abuse of the writer" (C – 12).

March – May 2020

96. On 18 March 2020, the claimant sent a medical report dated 9 March 2020 and prepared by a Consultant Psychiatrist to the tribunal by email. The claimant says her email was copied to Ms Reece, but this is not apparent from the face of the email.

97. The medical report refers to the claimant as "he" but I have changed this below. Some parts of it are redacted.

98. The report records the claimant telling the Consultant Psychiatrist that:

- *"… [she] has changed three employers from 2017 to 2019 where all them discriminated against [her] because of [her] gender reassignment*

- *In 2017 [she] worked as a practice manager for a corporate dental practice and [she] got bullied and abused by the regional manager until June 2018 when she had to quit because of the ongoing abuse.*

- *[She] went back to work in October 2018 where [she] became practice manager for a dental practice in Harley Street.*

- *After leaving this job the following day [she] received an offer from another dentist who was nearby [her] home in Enfield and [she] became practice manager.*"

99. The claimant told the Consultant Psychiatrist that she had been bullied and harassed in all three jobs. The report records that the claimant reported low mood and increasing anxiety as a result of being discriminated against by her employers and the litigation in which she was involved. The Consultant Psychiatrist says he observed no psychotic phenomena. He diagnosed depression and recommended an anti-depressant and a referral for talking based therapy.

100. By 6 April 2020, the COVID-19 pandemic meant the preliminary hearing was not able to take place. London Central Tribunal was closed on 6 April 2020 and was not able to contact the parties in advance.

101. On 14 April 2020, the claimant emailed the tribunal (with a copy to Ms Reece) to say:

"*The defendant stubbornly and sickeningly has been refusing to comply with all ET orders back to back to current date, Currently the defendant failed to comply with more than 6 ET orders including all the orders in Judge Tayler's order dated 24.02.2020*

Judge Taylore's order dated 24.02.2020 ordered defendant:

a) send claimant any document that show the hours of the claimant's attendance at work and any confidentiality policy or explain why they cannot be provided in a witness statement supported by a statement of truth by
02.03.2020
THE DEFENDANT REFUSED TO COMPLY WITH THIS ORDER, THE DEFENDANT DID NOT SENT ANYTHING TO THE CLAIMANT

b) provide additional documents to be added into the bundle by 02.03.2020
THE DEFENDANT REFUSED TO COMPLY WITH THIS ORDER, THE DEFENDANT DID NOT SENT ANYTHING TO THE CLAIMANT

c) send finalised bundle to the claimant by 09.03.2020
THE DEFENDANT REFUSED TO COMPLY WITH THIS ORDER, THE DEFENDANT DID NOT SENT ANYTHING TO THE CLAIMANT

Most Importantly: THE DEFENDANT IS HARASSING THE CLAIMANT BY TELEPHONING HER, BY SENDING HER FACE-TIMING REQUESTS ALL THE TIME

The claimant is scared, stressed, distressed every day

the defendant's agent katherine reece- an employment advisor (not a solicitor) has also been harassing, abusing and bullying the claimant,

on the 20.03.2020 at 10.59am this bully emailed the claimant saying we quote " dear ms baz, what is the address that you would like the bundle sent to please"

her email is a clear PUNCH/KICK on the Judge Taylor's order dated 24.02.2020 which JUDGE ORDERED HER TO DO THAT BY 09.03.2020 not on the 20.03.2020. Katherine reece sends this message to the court I quote " heyy who are you to tell me when I do things, I decide that , "

this bully katherine reece does not show any respect to the COURT, no respect to the claimant, however she thinks the claimant has to chant her, has to show her the utmost respect, it looks to us that she does have certain mental issues

her hourly rate is the lowest amongs anybody in her firm, that is what the defendant can effort, hence she aim to carry out her abuse/harass/bully with the lowest cheapest way. katherine reece herself telephoned the solicitor firm who represent other party in my other et case, that solicitor is a respectful lady, she never ever treated me with even 0.001% of what this bully katherice reece is trying on me and on Court

I cannot compare that lady with this cheap bully katherine reece. it has come to the stage that this bully katherine reece is intentionally abuse/haras/ bully the claimant, the claimant therefore is taking further action and currently now preparing a civil harasment legal action directly against this bully katherine reece at the COUNTY COURT, which the claimant would donate any Court Award to Charity for victim of bully. A COUNTY COURT JUDGEMENT will also be entered against her at her credit reference agencies, It has been decided and currently being acted on.

the court must notice that katherine reece's severe abuse, harasment and bully has resulted her to go to COUNTY COURT for civil harasment claim, i am not going to put up with this sick bully, she has to face to the JUDGE AT THE COUNTY COURT. she needs a legal lesson which i am determinded to give her one. hope this CCJ will shut her unlawful bully mouth for forever.

Courts is for everybody, Court access is for everybody , as a claimant I got right to have my case progress with no bully, no harasment, no abuse from katherine reece or shakeel shahdad

at the bottom of the Judge Taylor's order dated 24.02.2020 it says I quote:

you must comply with this order, if you do not then:
1. your part in this case may be ended
2. you may not be allowed to use documents
3. you might have to pay £1000

the defendant refused to comply with all the section of this order, and his employment advisor katherine reece laughed at court on the 20.03.2020 sent court a message i quote " hey who are you, I decide things myway"

therefore I apply Court to Order to:
- struck the defendant's defence ***with immediate effect*** *, The defendant's part in this case MUST BE ENDED immediately - defendant to pay £1000 immediately to the Court*

It is known that the defendant pre-planned to sack me on the 28.05.2019, got his friend shabir to offer me job right after his pre-planned attack so they both carry on their hate-attacks on me hands to hands which they did and resulted me to be forced to resign on 09.12.2019, they planned it all.
the defendant and shabir jagani both radical islamist, homophobic and severely hate JEWISH , both jointly planned to carry out such ugly attack on a transexual JEWISH claimant.

The witness statement of Sanadi Aslan proves how both shook hands and promised to each other to finish the claimant off. Sanadi Aslan will attend the trial as a witness

Therefore the "Salary Loss" section of -up to date Schedule of Loss- would contain the following:

from 28.05.2019 to 03.06.2019 from 09.12.2019 to the actual trial date which would be some time in 2021 = approximately 14 to 18 months period , it might be even longer.

The injury feeling section would also be increased accordingly depending on the actual waiting time to the main trial

I respect the Court's very busy diary especially with COVID-19 , I am very happy to wait for my main trial hearing until such time in 2021, I would add entire waiting period into the schedule of loss

However I request Court to immediately order to:

- struck the defendant's defence with immediate effect
- defendant to pay £1000 immediately to the Court

i will forward you the progress of COUNTY COURT case against sick bully katherine reece."

102. In place of the preliminary hearing, and in accordance with the Guidance issued by the Presidents of the Employment Tribunals in Scotland and England and Wales, a private telephone case management hearing was listed for 5 May 2020. The hearing was allocated to Employment Judge Tayler. He wrote to the parties on 1 May 2020 to explain that as it would not be possible to consider the strike out applications at a private telephone hearing, the hearing would not proceed.

103. Employment Judge Tayler noted in his email that the proposed bundle for the public preliminary hearing had been served as a 3 part Pdf on the employment tribunal and the claimant and that he was satisfied that the claimant had a copy of the bundle that could be easily read. He noted that as a result of the Presidential Guidance referred to above, all case management orders had been suspended, but nevertheless he was ordering that the parties should comply with the orders he had made on 21 February 2020. He gave them an additional 21 days to comply with any outstanding directions save for any which dealt with finalisation of the bundle.

104. In response to the Judge Tayler's letter, the claimant asked him to reconsider his decision to allow the respondent a further 21 days to comply with the order of 21 February 2020, saying it was unfair on her. In addition, she added:

*"**The defendant's representative, an employment advisor, katherine victoria reece is A STRUCK OF BARRISTER,**SHE IS WELL known for refusing to comply **with any Court orders**, further harass/abuse and bully the other parties*

Bar Standard Board STRUCK HER OFF in 2007, They found her discreditable as a barrister, they found that she diminished public confidence in her legal profession and brought her legal profession into disrepute.

Her deceptive and deceitful character progresses over years, She stole money from many people.

She refused to pay people's money back and she has been declared bankcrupt on the 14.12.2015 by Manchester County Court - case number 0001166.

Her "refusing to cooperate with Court orders" *behaviours did "again" come on surface with her official insolvency practitioner appointed by the Court, Mr Hemal Mistry , she REFUSED TO COMPLY WITH HER OWN BANKCRUPY ORDERS, she bullied harrassed Mr Mistry which resulted The Court to further order to suspend her discharge from the bankrupcy* ***indefinitly.***

any normal people get discharged from their bankcrupcy after a year, but she is not normal. Her bankcrupcy is indefinite because she refuses to comply with the Court orders. yet again.

Therefore you should not believe what she says at any time, it was her duty to provide us with a bundle by 09.03.2020, she did that on 29.04.2020, ***she cannot walk free from the murder she committed***

Please re consider your decision of allowing a struck off barrister katherine victoria reece , (who bar standard board declared her discedible), for another 21 days, it is unfair on the claimant"

105. Employment Judge Tayler did not reconsider his order.

Preliminary Hearing

106. The public preliminary hearing was initially arranged for 7 August 2020, but had to be postponed late on 6 August 2020, due to a lack of judicial resources. In the run up to that hearing, the claimant sent several emails to the tribunal complaining about not being able to access the bundle.

107. The preliminary hearing was rearranged for 21 September 2020. When Ms Reece wrote to the tribunal on 12 August 2020 at 9:52 to provide availability dates for the hearing, she said:

"*With regard to the bundle, if the Claimant kindly sends over anything which she would like us to add, we can to it. The Claimant advises that she cannot open the bundle in pdf form but has not replied to our offer of sending it in a different format. The Claimant has refused to accept a physical delivery of it from us, we ask please if we may deliver a hard copy to the Tribunal which is then available for the Claimant to collect. Would the Tribunal agree to us doing this please, to ensure that when the case is re-listed there are no issues with the bundle?"*

108. The claimant responded in an email sent 17 minutes later at 10:09. She did not address the question asked by Ms Reece. The claimant accused Ms

Reece of refusing to send the bundle to her by 9 March 2020 in compliance with the tribunal's order. The claimant stated:

"I follow the ET order deadline , I do not follow A struck off barrister's sick requests ,

Orders are there for us all to comply with, we know Katherine Reece ALWAYS REFUSES to comply with ANY COURT order hence :

- *She got struck off as a barrister*
- *She got declared bankrupt definitely by Manchester County Court*

Does Katherine Reece concersn that she still does NOT comply with the bundle delivery deadline

I am sick totally sick of this struck off barrister's endless unlawful behavoiurs

Bar Standard Board and Manchester Coucnty Couty did not want to put it up with her sick behaviours and erased her , So why shall we ? The Court must stike her part out from the case"

109. When dealing with the relisting of the hearing, Employment Judge Stout made various orders regarding the bundle and observed;

"The Claimant should further note that the tone of her correspondence to the Tribunal regarding Ms Reece is not always appropriate. The Claimant needs to avoid language that may be construed as personally abusive. For example, in the email below while the Claimant is at liberty to complain about orders that she considers have been breached, and other factual matters, it is not appropriate to use block capitals, to say that Ms Reece "ALWAYS REFUSES", to accuse her of "sick behaviours" or to say that she was "erased" by the Manchester Court. There is also no need to repeat in every communication that she was struck off as a barrister or declared bankrupt. Correspondence of this type may, if it continues following this warning, be regarded by the Tribunal as unreasonable conduct warranting a costs award or even the striking out of proceedings."

110. The hearing was relisted for 21 September 2020. At the beginning of the hearing, the claimant confirmed that she was able to access the bundle. She said she had been assisted by a next door neighbour the previous day.

111. The hearing began to proceed as I would expect. However, during the course of day one of the hearing, I intervened to stop Ms Baz asking Professor Shahdad a question which I considered he had been asked and answered twice. The claimant had asked the question twice and considered an unsatisfactory answer had been given. I read out my note of what Professor Shahdad had said and explained to the claimant that I thought it would not help me to make the decisions I had to make by asking the

question a third time. The claimant accused me of denying her right to a fair trial and accused me of bias. She threated to leave the hearing and said she would complain about me to the Regional Employment Judge.

112. As it was nearly lunch time, I adjourned the hearing for lunch early and asked the claimant to reflect on her position during the break. I said I hoped she would come back which indeed she did. The claimant asked me to read my note of the evidence again. I did this and said that although I did not think it was necessary for her to need to ask the question she had tried to ask, I was happy to permit her to do so if she wished. The claimant chose not to put the question to the witness.

113. During the lunch break the claimant had emailed my clerk saying:

"it has come to my attention that Judge Emma Louise Burns used to be a partner at Huge james Solicitor Firms until 16.09.2020 when she was appointed as a judge, her solicitor firm Hugh James has strong connection with no1 Essex Court (barrister chambers) for years including its barrister Lisa Hatch,

the defendant's barrister Lisa Hatch has been member of same chamber since 2001

May I please kindly clarify the judge Burns who conducts today's hearing is Judge Emma Louise Burns?"

114. The email was not marked private or confidential and was forwarded to me by my clerk. I felt it was necessary to addressed it in open tribunal. The claimant objected that it was a private email that was not intended for me.

115. I informed the parties that the email correctly identified me, but that I was not aware of a strong connection between No 1 Essex Court and Hugh James. I added that it was a large firm and other departments may have a relationship with those chambers. I also said that I had not instructed Ms Hatch and as far as I was aware, I had never met her. The claimant said she had telephoned Hugh James during the lunch break and been told that firm did have a strong connection with No 1 Essex Court. When I asked her how she had found out my details, she initially refused to say, but later confirmed that she had googled me.

116. The claimant then challenged my decision to allow the member of the public to attend the hearing with her camera switched off. I explained that this was my practice during video hearings to avoid representatives and witnesses being distracted by the reactions of observers. I noted that in a physical hearing room, observers sit behind the parties and their reactions cannot be seen, so my practice aimed at replicating those conditions. The claimant suggested that the member of the public was in fact Ms Reece who was hiding behind a false name and deliberately keeping her camera switched

off. I confirmed that this was not the case and that the member of the member of the public was known to the tribunal and had attended several remote hearings.

117. On day two of the hearing, I explained my mistake about the claimant's email address, apologised for it and suggested that a postponement might be in order. The claimant agreed that she wished the hearing to be postponed. I allowed her time to contact her witnesses so that the hearing could be relisted on a date that would be convenient for the claimant and her witnesses.

118. Before the heating finished Ms Hatch asked me to remind the claimant abut the need for correspondence to have a professional tone. The claimant had sent emails the previous day which were disparaging about Ms Reece. When I began to refer to the warning Employment Judge Stout had issued to the claimant, the claimant became very animated and agitated.

119. The claimant first accused me of deliberately giving tribunal staff an incorrect email address for her. The claimant then accused me of not being competent to judge the case because I had only been a judge for a year. In addition, she said that as I had worked as a solicitor for 20 years only acting for employers and not employees I should not sit on the case. She said that I was "friends" with Ms Hatch and had been speaking with Ms Hatch behind her back. She said that she would appeal against my decision (even though I had not made one at that stage) and that I guilty of criminal conduct and she would complain about me to the attorney general. I did not respond, other than to say that I had previously explained addressed the suggestion of a conflict of interest and had nothing further to add.

120. On day three of the hearing, when speaking in support of her application the claimant reiterated her allegation that Ms Reece had persistently lied to the tribunal. She said that Ms Reece did not comply with tribunal orders because she was angry at the justice system, having been disbarred and made bankrupt. She therefore behaved in a deliberately malicious manner including picking on litigants in person like her in order to try and "feed her own ego." This included deliberately ignoring judge's orders. The claimant also said that Ms Hatch was either deluded or also dishonest.

Key Areas

Claimant's Employment with Bullsmoor Dental Limited

121. Although she denied it initially, the claimant has now admitted that she employed by the Bullsmoor Dental Limited from 3 June to 9 December 2019. She left because she resigned with immediate effect that day.

122. The claimant told her Consultant Psychiatrist that she had moved straight from the job with the respondent to a new role, as recorded in the medical

report dated 9 March 2020 which she sent to the tribunal. Having done this, she was unable to sustain her initial dishonesty.

123. The claimant did not deny that she had told Employment Judge Davidson that she had not worked for Bullsmoor Dental Practice or that she had alleged that Dr Professor Shadhad and Dr Jagani were in a sexual relationship before her. All the claimant said about this was that Employment Judge Davidson did not think there was a serious problem and dealt with the matter simply by ordering a fresh Schedule of Loss.

124. Before me, the claimant alleged that the Professor Shahdad had arranged with Dr Jagani that he would offer the claimant a job at Bullsmoor Dental Limited, so as to deliberately ensure that the value of her claim against the respondent would be diminished. She alleged that the two men had made a deal whereby Professor Shahdad would provide professional support to Dr Jagani's son in return.

125. Dr Jagani and Professor Shadhad both confirmed that they did not know each other well before the proceedings commenced. Dr Jagani had attended one of Professor Shadhad's seminars in the past, but Professor Shadhad could not recall meeting him or his son.

126. Dr Jagani told me that when the claimant spoke about instigating litigation against him, he had contacted Professor Shahdad. Professor Shahdad explained to him that the claimant was claiming she had not been able to work since leaving the respondent due to having suffered a psychiatric injury and asked Dr Jagani if he would confirm that the claimant was working for him in writing. Professor Shahdad also confirmed this version of events and the follow up email exchange about the letter between Dr Jagani and Professor Shahdad was included in the bundle at pages (394 – 399).

127. I accept the evidence of Dr Jagani and Professor Shahdad. The claimant sought to discredit their evidence as witnesses by questioning them about matters entirely unrelated to the litigation. This included asking them about complaints to the General Dental Council she had made about them, as well as other past misdemeanours. I found them both to be patient, credible and honest witnesses.

128. I note that the bundle contained copies of several emails to and from the claimant who is using a Bullsmoor Dental Limited email account and signing off as the Practice Manager. The emails are dated 9 June 2019 (293) 11 July 2019 (296-297) and 19 November 2019 (394). It also contained documents relating to a grievance raised by the claimant about a colleague at Bullsmoor Dental Limited (385 – 388).

129. The claimant did not allege that the documents were false at the preliminary hearing before me or put this in cross examination to Dr Jagani. This was notwithstanding that the content of the unsigned witness statement of Kostas Smitis was that Dr Jagfani had asked Mr Smitis to prepare false

documents with the claimant's name on them. The description of the documents in the witness statement matches the documents in the bundle.

130. Mr Smitis did not attend the hearing. I consider it notable that his unsigned witness statement is written in language which contains the same types of grammatical and spelling mistakes as other written material produced by the claimant. I conclude the statement was fabricated by the claimant at a time when she had not concede her earlier dishonesty.

131. According to the statement of Mrs Sanadi Aslan (412 – 413) Ms Aslan met the claimant and Dr Jagani together in the practice. In the statement, Ms Aslan says she met the claimant at the Bullsmoor Practice. The statement says that the claimant was not working there, but was only present to translate for a builder friend who was giving a quote to Dr Jagani. The statement then says:

- "*Dr Jagani is known within the area as a '' liar - butcher'' by the local community"*

- "*Local Community is aware that Dr jagani is subjected to many litigations at various Courts by many of his patients*" and gives some examples of this, some of which are described in lewd terms

- "*Dr jagani wanted to refer me to shakeel shahdad for an implant consultation, he said I quote '' dr shahdad is muslim like us, I meet him quite regularly, he is my son's teacher at queen Mary dental school, he is the best implantologist'' I later checked shakeel shahdad on google but found that a patient wrote a horrible comment about him on his google reviews, I contacted the patient vie google and she said her name is Victoria Matthews and she has issued legal action against shahdad, she said dr shahdad is the most egoist and sadist person she ever met, I saw shakeel shahdom's photos on his website*"

- "*I than seen shakeel shahdad in dr jagani's practice, I did shakeel shahdad's photo on his web site previously , I recognised him immediately, shakeel shahdad came out from dr jagani's room located on the ground floor right next to the main door, they shook hands and shakeel shahdad said to jagani I quote '' we will finish that Jewish transexual m…ker Umut off yeah, Do not worry I will approve Abbas' university request '' jagani responded saying '' of course we will, thank you for approving Abbas' and they both laughed*"

- "*After shahdad left, I confronted jagani about what I witnessed, and jagani threaten me to not get involve otherwise he said he has connections in syria and iraq and he will hand me over to his connections if I get involved*"

132. Ms Aslan did not attend the hearing on the third day, despite the date of the hearing having been specifically arranged to facilitate her attendance. The claimant provided no explanation as to why she was not present. It is again notable that the unsigned witness statement is written in language which contains the same types of grammatical and spelling mistakes as other written material produced by the claimant. I conclude that it was fabricated by the claimant.

133. Based on the above evidence, I find that the claimant's Schedule of Loss dated 28 November 2019 contained information which she knew to be false.

134. I also find that the claimant has falsely accused Dr Jagani and Professor Shahdad of conspiring to mislead the tribunal and that the claimant has created fabricated witness statements for two witnesses.

Claimant's Claim against Colosseum Dental

135. The claimant brought an employment tribunal claim against her employer before the respondent, Colosseum Dental under claim number 2302293/2018.

136. I note that a preliminary hearing was held at the London South Employment Tribunal on 4 February 2020. The judgment from that hearing is available at *www.gov.uk/employment-tribunal-decisions* and records that the tribunal struck out a claim made by the claimant for whistleblowing on the ground that it had no reasonable prospect of success. The claimant did not attend the hearing. There is also an earlier judgment dated 17 November 2019 striking out the claimant's complaint of ordinary unfair dismissal. No reason is given in the judgment.

137. The information the claimant told Employment Judge Davidson about the status of this claim was therefore incorrect.

138. The respondent sought disclosure of the claim form, response and schedule of loss from this claim at a later preliminary hearing before Employment Judge Tayler on 21 February 2020. The claimant was ordered to provide these documents to the respondent.

The claim has failed to do this to date. The claimant has produced photographs of three German "certificates of posting" dated 28 February 2020. She says these demonstrate that she posted these documents to the respondent. I do not accept this and find that this has dine this deliberately to try and cover her deception.

139. The claimant has been able to send a large number of documents by email, including taking photographs of them when she only has them as hard copies. I find that she has deliberately claimed these documents were sent

by post so that she can try and rely on the postage certificates as a device designed to deceive the tribunal and the respondent.

140. The claimant has done the same thing again more recently. I asked to be sent these documents by 31 October 2020. The claimant agreed to send them to me at the hearing held on 1 October 2020. The documents have not been received by the respondent or the London Central Employment Tribunal. The tribunal has no record of them being received in its post register. The claimant has however provided photographs of two Post Office Horizon Certificates of Posting dated 30 October 2020.

141. Taking the above into account, I find that the claimant has not complied with the orders to provide the respondent and the tribunal with the claim form, response form and schedule of loss for the Colosseum Dental claim.

142. I infer from this failure that there is a high likelihood that the claimant did not inform the respondent or the tribunal in the Colosseum Dental case that she had started working for the respondent in September 2018 and instead presented false information about her period of loss.

Disclosure Issues

143. As noted above, neither party provided the other with a list of relevant documents on 10 December 2020.

144. The respondent disclosed documents to the claimant on 17 December 2020. This did not include a report of the claimant's working hours from the clocking-machine or the respondent's confidentiality or disciplinary policy.

145. The respondent explained its difficulties with producing a report of the claimant's working hours at the preliminary hearing and subsequently in correspondence. As the claimant did not accept the respondent's explanation, Employment Judge Tayler ordered the respondent to send the claimant any document that showed the hours of the claimant's attendance at work or explain why it could not be provided in a witness statement supported by a statement of truth. The respondent failed to do this by the original deadline of 2 March 2020 or the extended deadline of 21 May 2020.

146. Professor Shahdad covered the clocking-in machine in his evidence before me. He was unable to explain why the respondent had not complied with the order made by Employment Judge Taylor, but confirmed under oath that he was unable to access the clocking-in machine without the pin set up by the claimant.

147. The claimant challenged Professor Shahdad's account and put to him that she had proof that he was lying in the form of a report of the cleaner's hours which had been printed out from the clocking-in machine after she had left and which she had obtained. The claimant said she had not disclosed this

document to the respondent in advance because she knew they would try and manipulate the truth if they saw it in advance.

148. I provided the claimant with an opportunity to provide the evidence during the course of the hearing. She said she was unable to do this because her lap top was frozen.

149. The claimant subsequently emailed a screen shot of what appears to be a device showing a list of dates and times as an attachment to an email. The screen shot is not of a printed report, but of a digital device. In addition, the dates shown are within the period 17 April 2019 to 29 April 2019. If this is the clocking-in device, this is a period when the claimant was employed by the respondent. It does not contradict Professor Shahdad's witness evidence. I find his account to be true.

150. The respondent provided the claimant with a copy of the respondent's disciplinary procedure by email of on 20 February 2020. At the same time, Ms Reece indicated that her instructions were that the respondent did not have a confidentiality policy.

151. This was not true as the bundle includes a document called "Practice Confidentiality Policy" on the respondent's letterhead and dated June 2019 bundle (81 – 82). The claimant has admitted she acquired this policy elsewhere. Although the respondent initially failed to provide a copy of the confidentiality policy to the claimant, it has not sought to hide this fact and it has now been disclosed.

Civil Restraint Order

152. The claimant admits that she was made the subject of a General Civil Restraint Order. The information contained in the bundle suggests it expired on 16 May 2018.

153. The claimant says this dated back to litigation in which she was involved against Singapore Airlines and that she successfully appealed against the Order. She provided me with an appeal case number B2-2017-2133 for a Court of Appeal judgement dated 8 Sept 2017. I have been unable to access an online judgment in the case and the claimant did not send it to me, despite agreeing that she would.

154. The claimant has issued several cases since the order expired. I am aware of the following employment tribunal claims: this one, the Colosseum Dental claim, a claim against the General Dental Council and a more recent claim. In addition, the claimant has issued county court proceedings against the respondent and Dr Jagani. She has also made complaints to the General Dental Council about Professor Shahdad and Dr Jagani.

Katherine Reece

155. The claimant has invited the tribunal to distrust Ms Reece from the very beginning of the litigation. Initially the claimant said this was because Mr Reece was not a qualified lawyer. The claimant then said Mr Reece should be trusted because she had been lost 12 cases and been warned by judges about her conduct. Finally, the claimant said the tribunal should not trust Ms Reece because she was disbarred by the Bar Standards Council for being dishonest and has been declared bankrupt.

156. I have read as many of the judgments in the 12 cases listed by the claimant as I have been able to access. As most of the cases date back to 2015, only a few of them are available on-line. The party represented by Ms Reece did not lose on all occasions in the judgments. I could see no evidence of any judge warning Ms Reece about her conduct and in one case, she successfully applied for costs from the other party on behalf of her client.

157. It is correct that Ms Reece was disbarred. I have read the summary of the decision made on 28 June 2007. She was not disbarred because she was found to be dishonest as alleged by the claimant. Instead, the key issues appear to have been a failure to maintain communications with clients from whom she had accepted instructions and a failure to respond to correspondence about complaints from the Bar Council. It is also correct that Ms Reece was made bankrupt.

158. I note that Ms Reece works for a large law firm which is regulated by the Law Society. Neither she nor her firm hold her out as a solicitor or barrister. She is described as an Employment Advisor.

159. The claimant has now blocked emails from Ms Reece and has refused to correspond with her.

ANALYSIS AND CONCLUSIONS

160. One of the allegations levied by the respondent against the claimant is that she has made false allegations against the respondent's representative. I have therefore considered the claimant's allegations first as this makes logical sense.

Strike out of the Response – Rules 37(1)(b) and 37(1)(c)

Has the respondent or its representative conducted the litigation in ways that are scandalous, vexatious or unreasonable or demonstrates non-compliance with tribunal rules or orders?

If so, does the conduct mean that a fair trial is rendered impossible? Is striking out the response a proportionate response to the conduct?

161. The claimant's first complaint is that the respondent failed to comply with the standard case management order that required the parties to send each other lists of documents by 10 December 2019. This is correct. The claimant also did not comply. I do not consider this to be a serious breach by either party. There was a case management hearing on 17 December 2019. The issues in the claimant's case needed to be discussed and clarified. It made sense to wait until after the case management hearing to undertake the disclosure exercise. This failure would not prevent a fair trial taking place.

162. The claimant's next complaint that when Ms Reece sent her an email with documents attached to it on the evening before the preliminary hearing this gave her no time to read them.

163. I do not consider this was an attempt by the respondent or its representative to ambush the claimant or take advantage of her being a litigant in person. The failure is not one which I judge constitutes unreasonable conduct, nor does it prevent a fair hearing taking place. The email was sent at 18:23 which was after normal working hours, but not particularly late. The claimant had sent an email to the tribunal and Ms Reece at 17:51. In any event, the documents were not lengthy. It would not have taken the claimant long to read and digest them. The hearing did not start until 10 am the following morning.

164. The claimant complains that Ms Reece referred to her as "he" or "him" in some of the correspondence before the preliminary hearing, which she found to be offensive, given that her claim concerned transsexuality. I do not agree that this is a fair complaint. The claimant referred to herself as "Mr" in the claim form and used "he" herself in the early correspondence. She only confirmed she wished to be referred to as Ms Baz and use "she" and "her" at the preliminary hearing. Ms Reece referred to the claimant using feminine pronouns thereafter.

165. The claimant's next complaint is that Ms Reece lied to Employment Judge Davidson about the respondent's clocking-in machine and disciplinary and confidentiality policies.

166. I conclude that Ms Reece did not mislead the tribunal about the respondent's ability to access a report from the clocking-in machine. The information she provided to the tribunal was confirmed by Professor Shahdad in his oral testimony. The evidence that claimant sent to the tribunal in an attempt to expose Ms Reece and Professor Shahdad as liars does not do this. Even if I accept that the screen shot is of the clocking in machine (which is not at all clear) it does not undermine the explanation given by the respondent and its representative because of the date period that it covered.

167. Turning to the disciplinary policy, there was also no misinformation given about this. Ms Reece told the tribunal on 17 December 2019 that she would check if the respondent had a disciplinary policy and, if so, provide the claimant with a copy. Although the respondent had a disciplinary procedure,

she did not send this to the claimant on 17 December 2019 with the rest of the respondent's documents. She did however send it to the claimant on 20 February 2020. This was a month after the revised deadline for disclosure set by Employment Judge Davidson of 17 January 2020.

168. I note that by the revised deadline, the tribunal had listed a preliminary hearing. It is understandable that the respondent's focus had changed from preparing materials for the final hearing to preparing for the preliminary hearing. I judge that the lateness of the disclosure would not prevent a fair taking final hearing pace.

169. With regard to the confidentiality policy, Ms Reece initially told the tribunal that she would check if the respondent had a confidentiality policy. None had been sent to the claimant by 17 January 2020.

170. Ms Reece's email of 20 February 2020 confirmed that her instructions were that the respondent did not have such a policy. This was not correct as at that date because a confidentiality policy dated June 2019 was found, although I note this is dated after the claimant's employment ended and it is possible that there was no policy in place when the claimant was in employment.

171. I do not consider that Ms Reece was trying to mislead the tribunal with her email of 20 February 2020. She was reflecting the information that she had been given by Professor Shahdad. The claimant herself conceded that it was unlikely that Professor Shahdad was personally aware of the existence of the policy.

172. The respondent does not believe the policy is relevant to the issues to be considered at the final hearing. The claimant did not explain why it was to me. She told me that she acquired the policy from a source other than the respondent and sent it to the tribunal to expose the "lie" told by Ms Reece. This suggests that the claimant had the policy, but did not tell the respondent this.

173. Other than the three items above, the claimant did not make any other complaints at the preliminary hearing about the respondent's failure to comply its disclosure obligation. She had asked for a variety of other documents and information to be sent to her by 17 January 2020 and complained to the tribunal and the respondent when they were not. She did not refer to any other 'missing' documents when making her strike out application before me.

174. The next complaint that formed part of the claimant's application was her complaint that the respondent did not seek to agree a final bundle for the final hearing with her by 24 January 2020 and did not provide her with a bundle for the final hearing by 31 January 2020. The respondent accepts this is correct.

175. The respondent's position is that, by this point in time, it was impossible to agree anything with the claimant. Whenever it emailed the claimant about any matter, the response was an abusive email. The respondent therefore gave up trying to agree a bundle for the final hearing pending the outcome of the preliminary hearing. Although this was not agreed with the tribunal, it was a perfectly sensible way to proceed, in my view. There was also a need for the tribunal to determine if any of the claimant's requests for specific disclosure should be ordered before the bundle could be finalised.

176. The next complaint that the claimant makes is that the respondent served a large pdf bundle on her on the day before the preliminary hearing on 21 February 2020, which she could not open, but which, even if she had been able to open, she would not have had time to go through.

177. I consider that it was unreasonable of the respondent to expect the claimant to read and digest the bundle for the preliminary hearing in such a short space of time. I note that there had been an order for the exchange of evidence for the preliminary hearing by 14 February 2020. The respondent complied with this in so far as it served witness statements on the claimant by this date, but not the material in the bundle. I do not think, however, this was a deliberate attempt to ambush the claimant and take advantage of her being a litigant in person. The respondent was unable to agree the bundle with the claimant and was trying to ensure it was as up to date as possible with the latest correspondence from the claimant.

178. The late serving of the bundle for the preliminary hearing did not prevent a fair hearing taking place because the strike out applications were not considered on 21 February 2020. Employment Judge Tayler postponed this which gave the claimant plenty of time to consider the material in the bundle. He recorded that he was satisfied on 1 May 2020 that the claimant had been sent a version of the bundle that she could access.

179. The claimant next complains that the respondent failed to comply with several of the orders made by Employment Judge Taylor. The respondent admits that it did not comply with the order concerning the confidentiality policy or clocking-in machine. The confidentiality policy has now been located and, tot eh extent it is relevant to the proceedings, the claimant has a copy well in advance of any final hearing. In addition, Professor Shahdad has now given oral testimony confirming the position in relation to the clocking-in machine. There is no reason why these breaches mean that there could not be a fair final hearing.

180. The claimant says that the respondent failed to provide her with a hard copy of the bundle for the preliminary hearing by 9 March 2020. The respondent says it tried to send the claimant the bundle by post and email on several occasions. As noted above, in his email of 1 May 2020, Judge Tayler indicated that he was satisfied that the claimant had an electronic copy of the bundle which she could access. She confirmed to me that she could access the bundle at the start of the hearing on 21 September 2020.

181. Finally, the claimant has based her application on the assertion that Ms Reece cannot be trusted and has a record of deliberately conducting litigation in a way designed to cause difficulties for litigants in person.

182. The success or otherwise of Ms Reece as an advocate in other cases is irrelevant Her conduct in such cases, however, could be relevant. As noted above, having reviewed as many of the cases cited by the claimant as I could, there was no evidence that Ms Reece had been warned about her conduct generally or towards litigants in person.

183. There is no requirement for representatives in employment tribunal cases to be practising legal executives, solicitors or barristers. Ms Reece is entitled to appear as a professional representative before the tribunal and the respondent is entitled to choose her as its representative.

184. Ms Reece is employed by a large law firm that is regulated by the law society. I was told that they are aware of her background and continue to employ her. I have no reason to doubt this is true.

185. In my view the tone of Ms Reece's correspondence has been professional throughout. Her early correspondence demonstrates that she was trying to assist the claimant by advising her in relation to general tribunal litigation etiquette. This was met by abuse from the claimant, who then began to attack Ms Reece personally. That abuse has escalated as the litigation has progressed to completely unacceptable levels.

186. Taking all of the above into account, I conclude that the claimant is correct that there are some examples of the respondent failing to comply with the tribunal's case management orders. When the context is taken into account, however, I determine that none of these constitute serious failings which would prevent a fair final hearing being able to take place.

187. There is also one example of conduct (the delivery of the large bundle the day before the preliminary hearing) which was unreasonable. I note that this did not prevent a fair hearing taking place, however.

188. I therefore do not consider that the tests in either 37(1)(b) or 37(1)(c) are met. My decision is not to strike out the response as to do so would be disproportionate.

189. The claimant has not made false allegations with regard to the respondent's failures to comply with the case management orders. She has, however, embellished and exaggerated the seriousness of such failures. The claimant has made false allegations about Ms Reece. There was no evidence before me that Ms Reece has a history of being deliberately difficult towards litigants in person, or that she has been warned by judges in relation to such

behaviour. There was also no evidence that she is dishonest and has lied to the tribunal.

Strike out of Claim – Rule 37(1)(a)

Should the claimant's claims be struck out on the basis that they are false and therefore have no reasonable prospect of success?

190. The claimant has been the subject of a General Civil Restraint Order. I have not been provided with very much information about it, but I note that these are not made lightly. Since it expired, she has issued claims in the employment tribunal and county court against her three employers and she has also made several complaints to the General Dental Council about them. She has also brought proceedings against the General Dental Council. This is a large volume of litigation in a relatively short space of time, but this does not mean that none of it is justified.

191. The tribunal's own experience of the claimant is that, during the course of this litigation. This includes:

- The claimant's allegations about Ms Reece's conduct.

- The claimant's allegation Dr Jagani and Professor Shahdad were well known to each other and conspired to present false evidence to the tribunal. Initially the claimant denied that she had worked for Bullsmoor Dental and alleged that the witness evidence would confirm that this was false. The claimant then changed her story and said that Dr Jagani and Professor Shahid conspired to offer her a job knowing Professor Shahdad would be dismissing her.

- The claimant accused Employment Judge JS Burns of dishonesty

- The claimant accused Regional Employment Judge Wade of discriminating against a transexual person

- The claimant accused me of bias, breaching her privacy, colluding with the respondent and behaving criminally

192. The nature of the allegations which form the substance of the claim bear a striking similarity with some of the allegations above. I have formed the view that when someone does something that makes the claimant unhappy, she launches an attack on that person that is out of all proportion. She has offered no explanation for this behaviour nor apologised for it. It would not be explained by her mental health diagnosis.

193. In some of the above cases, something has happened that could give rise to a potential genuine complaint. However, it is exaggerated and embellished by the claimant and becomes something that bears no relation

to the original concern. This is true in relation to some of the allegations about Ms Reece's conduct and her complaints about judges.

194. This is not true, however, of the allegations concerning Dr Jagani and Professor Shahdad however, which are entirely invented in response to the claimant having been caught out in a lie.

195. Given this pattern, I consider that it is highly probable that the claimant has reacted to Professor Shahdad's decision to take disciplinary action against her for sending aggressive emails by falsely accusing him of sexual orientation discrimination. Without a trial, however, I cannot rule out that there is no truth in the allegations and therefore I feel bound to adopt the cautionary approach as advocated by the higher courts in discrimination cases. This is equivalent to concluding that the claimant has little prospects of success rather than no prospect of success. I have therefore decided not to strike out the claim under this part of rule 37(1)(a).

Should the claimant's claims be struck out on the basis that the allegations have been made scandalously or vexatiously to cause to subject the respondent to inconvenience, harassment and expense out of all proportion to any gain likely to accrue to the claimant?

196. Given the pattern described above, I consider that it is highly likely that the claimant has brought this litigation vexatiously, in order to cause difficulties for Professor Shahdad and force him to incur legal costs.

197. The claimant's financial losses are minimal because she mitigated her loss of earnings so quickly.

198. I am conscious, however, that this is a discrimination claim for which other remedies are available. This incudes a declaration, an appropriate recommendation and an injury to feeling award. There are likely to be many genuine cases where a claimant experiences unlawful discrimination, but suffers minimal financial loss. I suspect this is not one of them, but as above, without a trial, I cannot rule out that there is no truth to the claimant's allegations. I therefore feel bound to adopt the cautionary approach as advocated by the higher courts in discrimination cases and I decided not to strike out the claim under this part of rule 37(1)(a).

Strike out of Claim – Rule 37(1)(b)

Has the claimant conducted the litigation in ways that are scandalous, vexatious or unreasonable?

199. The claimant's conduct of the litigation has been unacceptable in the following ways:

- The claimant sought to mislead the tribunal in this case by deliberately presenting a false schedule of loss which omitted to mention that she had found a new job within days of leaving the respondent. This had the effect of embellishing the potential value of her claim by nearly £130,000. It is likely she has done this in other litigation too.

- When caught out in her lie about the job with Bullsmoor Dental, the claimant made false allegations against Dr Jagani and Professor Shahdad and presented fabricated witness statements to the respondent and to the tribunal. She also attempted to humiliate Dr Jagani and Professor Shahdad when cross examining them, asking them questions about matters not relevant to the litigation in an attempt to undermine their credibility.

- The tone of the claimant's emails and the attacks that she has made on Ms Reece are entirely unacceptable. The claimant was warned about her language in emails twice, by Employment Judge Davidson and Employment Judge Stout, but did not heed these warnings.

- The claimant has embellished and exaggerated complaints about Ms Reece's conduct of the litigation.

- The claimant has falsely accused Ms Reece of having a history of behaving badly towards litigants in person that has led to her being warned by judges. She has also falsely accused Ms Reece of being dishonest.

- The claimant falsely accused Ms Hatch of lying to the tribunal during eh course of the hearing.

- The claimant has embellished and exaggerated complaints about nearly every judge that has dealt with this litigation. She has written about such judges in terms which are entirely inappropriate.

- The claimant has repeatedly sent correspondence to the tribunal without copying the other party in in breach of rule 92. She has now refused to correspond with the respondent's chosen representative.

- The claimant has failed to cooperate with the respondent in breach of the overriding objective found at rule 2 of the tribunal rules.

- The claimant has failed to comply with tribunal orders regarding disclosure of documents, but has sought on two occasions to present false evidence to disguise this.

200. I judge the claimant's conduct meets the definition of scandalous and vexatious conduct. She has deliberately behaved in the way she has to cause maximum distress to the respondent and its chosen representative

with very little, if any, expectation of success. She has also attempted to upset and embarrass the judges involved in this litigation. Even if this is not scandalous or vexatious conduct, there is no question that it has been extremely unreasonable.

Does the claimant's conduct mean that a fair trial is rendered impossible? Is striking out the claim a proportionate response to the conduct.

201. The claimant has tried to make each hearing she has attended as uncomfortable as possible for the judges conducting them, by threatening to make complaints about their conduct. She has made complaints about all, but one of the judges that have made case management decisions in the litigation. If this was the only conduct issue, I would not be minded to strike the claimant's claim out.

202. In this case, however, I consider the claimant's conduct towards the respondent makes it impossible for there to be fair hearing. Her refusal to cooperate with Ms Reece and constant attacks on her mean that it is impossible for the case to be properly prepared for a hearing. The claimant has had two warnings from judges about the tone of her correspondence with Ms Reece, but has completely failed to adjust her behaviour in response. She has not apologised for her behaviour or even acknowledged that it is inappropriate.

203. In addition, the claimant has demonstrated that she is prepared to take extreme measures to prevent the respondent bringing evidence to its attention. This has included fabricating witness statements, inventing allegations about the respondent's witnesses and seeking to humiliate them on the witness stand. She has also sought to deceive the tribunal by falsifying evidence that she posted documents to the respondent and the tribunal.

204. The decision to strike a claim out is not one which should be taken lightly. However, I have decided that, when viewed as a whole, the claimant's conduct would prevent a fair hearing taking place. She has shown no likelihood of adjusting her behaviour, having had previous warnings. I determine that her conduct has been so extreme this is a case where strike out is a proportionate response to the conduct.

Employment Judge E Burns
21 December 2020

Sent to the parties on:

29/12/20.

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For the Tribunals Office