EMPLOYMENT TRIBUNALS

Claimant		**Respondents**
Mr A Smirnov	**v**	Network Rail Limited (1) Mr G Montagne (2) Mr T Beck-Nielson (3)

Heard at: **London South (Croydon) (by video)** **On: 5 August 2022**

Before: **Employment Judge C H O'Rourke**

Appearances
For the Claimant: In person
For the First Respondent: not in attendance, or represented
For the Second and Third Respondents: Ms K Moss - counsel

COSTS JUDGMENT

The Claimant is ordered to pay the Second and Third Respondents' costs, in the sum of £20,000.

RESERVED REASONS

Background and Issues

1. By a preliminary hearing judgment of 9 March 2022 ('the Judgment'), the Claimant's claims of protected disclosure detriment and direct race discrimination against all three Respondents and claims of harassment and victimisation on grounds of race against the Second and Third Respondents, were dismissed [8]. As a consequence, the Second and Third Respondents (hereafter simply referred to as 'the Respondents') have applied for an order for their costs.

2. The Respondent was ordered to provide a detailed schedule of costs and the Claimant was ordered to provide copies of documents setting out his financial circumstances [40]. The parties were also ordered to exchange any skeleton arguments upon which they sought to rely, which they did.

3. The Law

   a. **Yerrakalva v Barnsley Metropolitan Borough Council [2012] ICR 420 EWCA** indicates that a tribunal has a broad discretion in such matters and in exercising that discretion should look at the 'whole picture' and ask whether there has been unreasonable conduct by the Claimant in bringing or conducting his claim and in doing so, to identify the conduct, what was unreasonable about it and what effects it had.

   b. Rule 76 of the Tribunal's Rules of Procedure states that

      '(1) A Tribunal may make a costs order or a preparation time order, and shall consider whether to do so, where it considers that—
      (a) a party (or that party's representative) has acted vexatiously, abusively, disruptively or otherwise unreasonably in either the bringing of the proceedings (or part) or the way that the proceedings (or part) have been conducted; or
      (b) any claim or response had no reasonable prospect of success …'

Respondents' Application

4. The Respondents' application [32] and written and oral submissions are summarised as follows:

   a. The Claimant had acted vexatiously in bringing the proceedings and his claims had no reasonable prospect of success. It was considered that the Tribunal's factual findings and observations in the Judgment established that the criteria in Rule 76(1)(a) and (b) were met.

   b. While (not including the costs of today's hearing) the Respondents' costs schedule [92] totals approximately £24,000, they limit their application to the statutory maximum of £20,000, permitted under the Rules (Rule 78(1)(a)).

   c. The skeleton argument referred to passages from the Judgment supporting the Respondents' application.

   d. The Claimant was sent a costs warning, on 10 August 2021 [2].

   e. This is an unusually clear case of vexatious conduct. There were no good reasons for bringing these misconceived claims against the two named individuals. Neither of them had any connection with England or Wales (both being employed by the Claimant's employing company and/or a group company, in Denmark), or UK employment law, but also had little to do with the Claimant during his employment.

   f. It was apparent that the Claimant was frustrated with the result of his previous litigation against Ramboll UK Ltd ("the UK Co") and transparently sought to take revenge on entirely innocent individuals,

simply for doing their jobs for their Danish employer. The Claimant brought very complex litigation against these individuals, necessitating legal representation, and pursued every possible legal avenue in relation to every trivial and insignificant act done by them, which he perceived as adverse to him. The litigation was an abuse of process.

g. By way of example, despite knowing, in advance of the previous Hearing that his alleged protected act post-dated the alleged act of detriment, he persisted with his claim of victimisation.

h. The Claimant now seeks to re-litigate the Judgment, by making an application to set aside this Hearing.

i. He has not made full disclosure in respect of his financial situation, despite being ordered to do so and being sent a detailed questionnaire by the Respondents. He has provided no evidence of his outgoings. His savings account [101] does, however, show a balance of €11,292 and his current account shows a general balance of €3,000. The Tribunal cannot be satisfied, therefore that the Claimant could not afford an order of the amount sought. His CV indicates that he is well-qualified, has been well-paid in the past and therefore could be so again.

j. Indicating that the Claimant does not present himself with sufficient candour, he has, even now, provided contradictory evidence as to his whereabouts in 2019, stating, for example that he was '*not aware of a single document that linked me to France in 2019'* [46], when he himself has made statements as to his travel to and from the Country in that year, to include copies of airline tickets and a medical certificate from a doctor in France [51-52].

<u>The Claimant's Response</u>.

5. The Claimant's response, both as set out in his detailed skeleton argument and by way of oral submission is summarised as follows:

a. He found the process stressful and was nervous.

b. He was not trying to hide anything in respect of his financial affairs.

c. He earns only €2849 net monthly [102], had monthly rent payments of €500, his wife was not earning (as she is a student [66]) and he is responsible for providing for nine people, to include his own family and relatives from Ukraine.

d. He did not consider that he should be liable for the costs of a previous hearing before Employment Judge (EJ) Dyal, as that hearing did not proceed, but collapsed, due to non-disclosure of documents by the Respondents.

e. As the Tribunal had found in the Judgment that it did not have jurisdiction, under the Brussels Recast regulations, to hear claims against the Respondent, it did not, in turn, have jurisdiction to hear this application against him. Also, as he lived in France, the Tribunal had no jurisdiction over him and these proceedings should be brought in a French court.

f. As it had been found that his contract of employment was with a Danish company, the Tribunal did not have jurisdiction and that therefore Danish law must be applied in a French court.

g. He sought to challenge findings in the Judgment, in relation to alleged late presentation of legal argument by the Respondents; also alleged 'misstatements' made in that Hearing that lead to a wrongful conclusion as to vexatious conduct by him and finally a failure by the Respondents to comply with an unless order as to disclosure.

h. The costs warning he was sent was not in relation to this litigation.

i. The costs claimed have been overstated, as the Respondents were not charged with responsibility for preparation of the bundle, but the First Respondent was, who has not made a costs application.

j. His claims were not 'hopeless'.

Findings

6. Reasons for Making a Costs Order. The Judgment stated the following, of relevance to this issue:

a. *9. Previous Claims. The Claimant initially brought two now-consolidated claims against the UK company, the Danish company and also Ramboll Group a/s, the Danish group company. Those claims came before Employment Judge Nash at a preliminary hearing on 25 November 2020. She held that the Claimant had been, at all relevant times, employed by the Danish company and not by the UK company, at any point. That judgment is now the subject of appeal by the Claimant to the Employment Appeal Tribunal and those claims have been stayed.* This indicated the history of this litigation and the weaknesses of the claims brought against the company(ies) that the Claimant considered were his employers, or had some liability to him. When those claims failed, he then proceeded to bring identical or near identical claims, in these proceedings, against Network Rail Ltd (for whom he had carried out some seconded consultancy work) and two managers, one each from the Danish company (who were his actual employer) and their group company, who were not.

b. *21. Connection between 'contract worker' engagement and alleged discrimination by R1. Applying s.108(1) EqA, the requirement is that the discrimination arise out of and be closely connected to a*

relationship that which used to exist between them. As already found, the Claimant was not a contract worker of R1, but, in any event, his allegation of discrimination against R1 (that they had failed to investigate his complaint that the Danish company/R2/3 had discriminated, harassed and victimised him) is not 'closely connected' to whatever former relationship he had with R1. His allegations were solely about those latter entities and when asked in the on-line form 'who was involved?', specifically said 'no-one from Network Rail', having previously stated that his complaint was against the UK company and complaining of the above-mentioned discrimination [297]. Even, therefore, if there had been a past 'relationship' between he and R1, any alleged discrimination certainly did not arise out of it. Clearly, therefore, R1 had no duty to him to investigate his complaint, as it had nothing to do with them. This passage indicates the Claimant's desperate attempts to 'shoe-horn' in claims against Network Rail, on the back of alleged discrimination by the Second and Third Respondents, with whom Network Rail had no conceivable connection, or liability in respect of their actions.

c. *24. Merits of Claimant's Discrimination and Protected Disclosure claims against R1. These claims are completely without merit. There is no evidence whatsoever that the decision by R1 not to substantively respond to his complaint had anything to do with his nationality (he was born in the former USSR) and his Slavic race and nor has the Claimant even attempted to establish such a link. There's no evidence that the person handling the complaint (Mr Houghton) had any personal knowledge whatsoever of the Claimant, or his nationality or race. Instead, as I have already found, R1 had no duty or obligation to investigate a complaint that had nothing to do with them and that is the sole reason they chose not to do so. As already stated, in any event, the Claimant suffered no detriment, as a consequence.* While not directly linked to the claims against the Second and Third Respondents, this passage indicates the convoluted nature of his claims and the absolute lack of merit they exhibited.

d. *26. Merits of the Discrimination Claims against R2 and R3. I don't consider these claims to have any merit,* (my emphasis now) *for the reasons set out below:*

a. *Harassment. Neither R2, nor R3's letters to the Claimant contains any reference to the Claimant's race and cannot, therefore, under any description, amount to the s.26 EqA definition of 'harassment', namely of creating an 'intimidating, hostile, degrading, humiliating or offensive environment', related to the Claimant's race. Nor did the Claimant say so at the time.*

b. *Direct Discrimination. As to direct discrimination, the Claimant has provided no evidence that would make for even a prima facie case of less favourable treatment on grounds of race, necessitating the burden of proof shifting to the Respondent. He provides the name of a*

Mr Møller as a comparator, but does not set out how this person's, or any hypothetical comparator's case might be considered to be, apart from race, not materially different than his own. It is simply not enough to say that 'I am Slavic/not Danish and therefore I must have been less favourably treated than someone else', without providing 'something more'.

c. *Victimisation. Finally, in respect of victimisation, there is unlikely to be any dispute that the Claimant's claim of 29 December 2019 and his complaints on the Danish company's and R1's whistleblower portals constituted protected acts, as they all referenced alleged breaches of the Equality Act. However, there is little evidence to indicate that the Claimant was then victimised by R2 or R3, as a consequence. R2 simply pointed out, in a short email [259] that as, by that point, the Claimant's complaints were the subject of ongoing employment tribunal proceedings and he was being investigated by the Danish police, Ramboll Group a/s considered that these were the most appropriate forums and requested that the Claimant address any further correspondence to their legal representative. This was, of course, in view of both of those processes being in train, an entirely proper response, as any more detailed involvement by them directly may have prejudiced either or both processes. Litigation having been commenced, R2/Ramboll Group/the Danish company were under no obligation to deal with the satellite complaints of a disgruntled former employee and their refusal to do so cannot constitute a 'detriment'. In the case of R3, the Claimant alleged that Mr Beck-Nielsen/the Danish company were motivated by his bringing of his 29 December 2019 claim against them to report him, falsely, to the police for credit card fraud. However, it is clear from Ramboll Group correspondence at the time that the Group/the Danish company had been considering involving the police in this matter, prior to any knowledge of this claim. On 6 December 2019, the Group's Head of Internal Audit wrote to R3 and others, instructing him to draft a letter to the Claimant, raising the issue and also to report the Claimant to the police [233]. Following discussion as to the draft of the letter, it was sent to the Claimant's UK address on 18 December 2019 [241]. The first reference to R3's knowledge of the Claimant having presented his claim to the Tribunal is a Group internal email from the HR Director to R3 and others, on 13 January 2020 stating that 'and by the way, Jo informed me this morning that Anatoli has raised a second tribunal claim, among others for unfair dismissal and discrimination.' [249]. Logically, therefore, the accusation of credit card fraud cannot have been motivated by his claim.*

e. *27. Vexatious Conduct. The following is relevant:*

a. R2 is a US lawyer. Shortly after R2's letter was sent, on 27 March 2020, the Claimant wrote to him [261], stating:

'First of all, I'd like to note, you are listed as a member of the Oregon Bar (Geoffrey Randall Montagne – Bar Number 094475, active and joined in August 2009) and if that is you, then that raises a lot of questions about you acting in a legal capacity ("Organization as Client"), without informing me of this. I don't have the energy to start yet another process, but if you continue to reappear in all my complaints against Ramboll, I will be report (sic) your actions to the Oregon State Bar.'

By 31 March 2020, the Claimant had raised a lengthy complaint (including attaching several documents) against R2 with the Oregon State Bar [263-266], setting out the history of his dispute with the Ramboll Group and his perception of R2's involvement in it. He stated the following:

'… I decided to research Mr. Montagne's background and was very surprised to find out, that he is a member of the Oregon Bar. In my response to Mr. Montagne, I asked about it, but he never replied to me. My complaint: Whilst I'm not a lawyer, I have an English law degree and a good deal of experience in commercial law. In England, Mr. Montagne's actions would lead to an imminent disbarment, as legal professionals have to have highest levels honesty and integrity (my emphasis). I do not know about the levels expected of lawyers in Oregon, but looking at the Oregon Bar's Rules of Conduct, I see the following specific breaches of the code:

*Organization as Client: As per Rule 1.13(a), Mr. Montagne is a lawyer, employed by Ramboll Group AJS (Denmark) and thus has Ramboll as his client. When dealing with me, Mr. Montagne must have clearly stated that he is representing Ramboll as a lawyer. Rule 1.13(f) states that when dealing with me (employee), he should've clearly stated that he is representing Ramboll's directors and that their interests are adverse to mine, so that I could have acted with him accordingly. I was effectively tricked passing on information about my claim to a counterparty's lawyer. Rule 7.1 confirms that he omitted the fact that he is a lawyer and was effectively carrying out covert activities against me, by pretending to be a company investigator, when in fact he was an organization's lawyer. As a result, he received a substantial amount of information from me, which was passed on to Ramboll's managers and HR, who retaliated against me. Ramboll has clearly broken a number of UK and EU laws on taxes, employment and discrimination. Rule 1.13(b) states that as much as possible, Mr. Montagne should've distanced himself from participating in these, yet he took leadership in these breaches. They were obviously not in the interests of (sic) organization. Rule 1. 7 on conflict of interest, meant that Mr. Montagne had no right to act as a lawyer to my February 2020 complaint. He was named in litigation against Ramboll, yet acted as a lawyer against me. Rule 8.4 on Misconduct. Mr. Montagne is clearly involved in conduct involving dishonesty, fraud, deceit and misrepresentation, which reflects on his unfitness to practice law (*my emphasis*). He is also*

participating in intimidation and harassment of myself on the basis of my nationality, as my original complaints related to me (a non-Dane) being treated less favorably than Danish citizens working alongside me on a project in the UK. Mr. Montagne isn't necessarily, actively discriminatory here (I just don't know), but he is supporting the discriminatory actions of Danish management of Ramboll. Attached is some of the correspondence from Mr. Montagne and I am happy to provide more.'

The Oregon State Bar replied to him on 8 May 2020, stating that firstly, R2, even though a lawyer, could be employed in other functions and that there was therefore no reason to assume he was acting as a lawyer in dealing with the Claimant's complaints. Secondly, it pointed out that the State Bar was only concerned with the conduct of lawyers admitted to practice in Oregon and where the alleged misconduct takes place in that State [270].

b. As should be clear from my findings above, the Claimant has brought a host of misconceived and hopeless claims against three respondents who have no liability to him for any such claims. In doing so, account should be taken also of his two previous stayed claims against the UK company, the Danish company and Ramboll Group a/s. I agree with Ms Moss' submission that he has done so with the principal intention of engaging R2 and 3 in complex litigation, in a foreign jurisdiction, out of vindictive motives and in bad faith. His correspondence to the Respondents' solicitors illustrates such attitude, when he states 'I can litigate against Ramboll for decades and I can escalate this further' [273] and refers to the litigation as being 'an excellent spiritual journey' and 'very helpful to my legal studies' [277].

28. Such behaviour is, I consider, the very definition of 'vexatious' conduct (Rule 37(1)(b), justifying strike-out (albeit in this case, it is unnecessary to do so, as I have already dismissed the claims, on other grounds). The characteristics of 'vexatious litigation' were classically described by Lord Bingham in **Attorney General v Barker [2000] 1 FLR 759, QBD (DivCt)***, in terms that have frequently been quoted in succeeding cases: 'The hallmark of a vexatious proceeding is in my judgment 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. Those conditions are in my view met in this case. Many of the proceedings show no justiciable complaint and, as has been pointed out, several writs have been issued against individual officers in the same department when one writ would have served against them all.' In* **Attorney General v Roberts EAT 0058/05***, the EAT also recognised a variation of this theme, one that is particularly prevalent in the employment context. This is the bringing of repeated applications of a*

like type to the employment tribunal against different respondents founded on the same or similar cause of action. Finally, of course, in this claim, the Claimant has made vindictive and entirely unfounded complaints to a Respondent/witness' professional body, with the obvious intention of trying to intimidate or 'punish' R2.

7. Having made such findings, I don't consider that I have any option but to conclude that the Claimant meets the requirements of Rule 76(1)(a) and (b), as to both vexatious and unreasonable conduct, both in the bringing of and his conduct of his claims and also as to his claims having no reasonable prospect of success. I consider, therefore that a costs order is appropriate in these circumstances.

8. I don't consider that the Claimant being a litigant-in-person excuses him from such behaviour. He was, by the time he brought these claims, an experienced litigant, having brought the previous (now stayed) tranche of claims and in respect of which stay he has appealed. Further, he is clearly a well-educated, intelligent man, with professional training (to include a Graduate Diploma in Law) [108] and with, as stated above, a clear interest in the law ('*Whilst I'm not a lawyer, I have an English law degree and a good deal of experience in commercial law'*). He is far, therefore, from being the average litigant-in-person and must, therefore, accept accountability for his actions.

9. The Claimant was sent a costs warning letter, in respect of the previous litigation, which made reference also to the prospect of this proceedings, then apparently in contemplation by the Claimant [2]. The principles set out in that letter apply equally to these proceedings, as they did to the previous ones and were matters, therefore that he should have taken serious consideration of, particularly as the Respondent solicitors considered that their costs, to a final hearing, could be in the region of £50,000. His response, however, was to state, somewhat flippantly that he was '*very happy with where I am with regards to the litigation. It was also an excellent spiritual journey and very helpful for my legal studies (I'm studying for the SQE as a side project)'*. [5].

10. Amount of Costs Order. As stated, the Respondents had provided a costs schedule, totaling £24,493, but limited their application to £20,000 [98].

11. The only challenges raised by the Claimant to this schedule were that, firstly, the Respondents had claimed costs for preparing the bundle for the Preliminary Hearing, when it had, in fact, been the First Respondent (who was not applying for their costs), who had been ordered to do so. Ms Moss pointed out (correctly) that such costs (as set out in the schedule) were a maximum of a couple of hundred pounds and thus, even if removed, still did not reduce the overall amount below £20,000. She submitted also that while the Respondents could have also included their costs of this hearing, they had not done so, as there was no point attempting to seek costs above the limit. Secondly, the Claimant argued that the preliminary hearing before EJ Dyal, on 16 September 2021, had been 'abandoned', due to the lack of preparation of the Respondents and that if that had not happened, the

hearing before me would have been unnecessary. Having re-read Judge Dyal's order this assertion is clearly not the case. The prior case management order had (somewhat optimistically) listed Judge Dyal's hearing for three hours and not made any case management orders as to disclosure. It quickly became clear to Judge Dyal that it would be impossible for him or her to consider striking out claims/making deposit orders and considering issues of both time and geographical jurisdiction, in such a timeframe. The Judge therefore treated the hearing as a further case management hearing, setting out the issues and listing it for the Preliminary Hearing I heard, for two days. As the Judge recorded:

'*11. Most of the hearing was taken up with identifying the issues. It was necessary to consider an application to amend in order to do so. The process was laborious, but was time well-spent.'*

12. In my experience, costs of £20,000, for two Respondents, resisting complex claims, over a period of nearly two years, both represented by counsel, at a total of three (previous) hearings (to include one of two days' duration), are entirely reasonable.

13. Claimant's ability to Pay. Rule 84 states that '*in deciding whether to make a costs … order and if so, what amount, the Tribunal may have regards to the paying party's … ability to pay.* I heard evidence from the Claimant on this issue. I decided that he would either now, or in the future, have the ability to pay an order of £20,000 and did so for the following reasons:

    a. The Claimant has, on his own evidence, savings of €11,292.

    b. He has a regular income of €2850 net and has earned more in the past (his earnings from the Danish company while in UK were approximately £40,000 – pay details in preliminary hearing bundle) and has a balance on his current account of approximately £2750.

    c. Despite being ordered to do so, he provided no corroborative evidence as to his outgoings, in relation to those earnings, such as rent, childcare, food, clothing, transport etc. Nor did he provide any evidence of even the existence of the Ukrainian relatives for whom he says he has responsibilities.

    d. While ability to pay is a factor that a tribunal may take into account, it is not determinative as to the amount of costs ordered. **Arrowsmith v Nottingham Trent University [2011] EWCA Civ 797** states that (paragraph 37) '*The fact that her ability to pay was so limited did not, however, require the ET to assess a sum that was confined to an amount that she could pay. Her circumstances may well improve and no doubt she hopes that they will.*' I consider, as it is, or perhaps in the near future, the Claimant will have the ability to pay such an order, but, if not, it may be further into the future.

e. It is the case that no matter what order is made by this Tribunal, the Respondents will be unable to 'get blood from a stone': if the Claimant genuinely does not have the funds, then he cannot be forced to pay. In that event, it will then be open to the Respondents to consider enforcement through the County Court, in which process the Court can order him to attend, with documents, to satisfy itself as to his means and to then make a repayment order, taking into account his genuine ability to pay.

Supplementary Issues raised by the Claimant

14. The Claimant raised several supplementary issues, which I did not consider relevant to the Respondent's application, but, for the sake of completeness, I deal with them below.

a. There are no grounds for 'staying' or 'setting aside' either the hearing of this costs application, or the order now made. It was not, applying Rule 29, in the interests of justice to set aside the listing of this hearing, as the matter had been determined at the Preliminary Hearing. Following that, it was again further determined, in part, as a consequence of the Claimant's application for reconsideration of that Judgment, at which point the Respondents are perfectly entitled to make an application for costs, if they consider it appropriate to do so.

b. The Claimant contends that because the Judgment found that subject to the 'Brussels Recast' regulations/Rule 8 of the Tribunal Rules, the Tribunal did not have territorial jurisdiction to hear the Claimant's claims against the Respondents, it does not now have jurisdiction to hear the Respondents' costs application against him, an individual working (as was found) under a Danish contract of employment and now living in France. However that is to misinterpret both the regulations and the Rules. An *employer* may only bring proceedings against an employee in the courts of the place where the employee is domiciled — Article 22(1). Accordingly, in **Alfa Laval Tumba AB and anor v Separator Spares International Ltd and anor [2013] ICR 455, CA**, the Court of Appeal overturned a judge's decision to join a Polish employee to English proceedings in which the employer alleged breach of copyright and misuse of confidential information. As the claims against the employee concerned alleged breaches of his contract of employment, the special provisions in the regulations applied, meaning that the employee could only be sued in Poland. Nevertheless, counterclaims may be brought in the court in which the original claim is pending — Article 22(2). So if an employer against whom a claim is pending wishes to bring an employer's contract claim, it may do so in whichever court the employee has lodged the initial proceedings, even if that is not the place where the employee is domiciled. However, in this case, in any event, in respect of this costs application, it is part of (and not separate proceedings) to those proceedings brought by the Claimant, as an employee, against entities he argued were his employer(s), or had liabilities to him. He chose the forum of the Employment Tribunal of England and Wales and is therefore fixed

with its decisions in respect of his claims (and, as here, any costs applications arising as a consequence). Whether or not there may be difficulties of *enforcement* of this costs order against a person domiciled in France does not invalidate the order and is a matter for the Respondents to pursue, as they see fit.

c. Despite having already made an unsuccessful application for reconsideration, the Claimant nonetheless sought to attempt to 're-litigate' some of the Judgment's findings, as follows:

    i. in relation to the Respondents' reliance on the 'Brussels Recast' regulations at the Preliminary Hearing;
    ii. the making of alleged 'misstatements' by the Respondents at that Hearing, contributing to the finding of vexatious conduct and as to his place of residence;
    iii. an alleged failure by the Respondents to comply with an 'unless order' as to disclosure;
    iv. He alleges that in reaching the finding of vexatious conduct it was inappropriate to state that he was conducting litigation in a 'foreign court', as he was, at the time, a resident of UK and had lived there for 25 years. The Judgment recorded a finding that as an element of his vexatious conduct, he had involved the Second and Third Respondent individuals, '*in a foreign jurisdiction'* (to them)*, out of vindictive motives and bad faith'*, this in the context of his previous stayed claims against those individuals' employing companies, those persons lack of any direct responsibility for him, or even past contact and my findings as to the complete lack of merit of the claims against them.
    v. That the Judgment's findings that the victimisation/protected disclosure claim must fail, as the alleged detriment occurred prior to the protected act was incorrect.
    vi. He refers to the Judgment's finding [22] in relation to alleged whistleblowing/victimisation by the Third Respondent as being incorrect, in concluding (he states) that it was likely '*to 'prejudice' my employer'*, as an employer cannot rely on any such 'prejudice' to justify victimisation. This is not what the Judgment states, however. It instead states that if the Third Respondent had chosen to investigate the Claimant's grievance, doing so '*may have prejudiced either or both processes'* then ongoing, namely the Danish police investigation into the alleged credit card fraud by the Claimant and the previous Tribunal proceedings. Any such 'prejudice' had nothing to do with the Third Respondent.

15. Conclusion. For the reasons set out above, the Claimant is ordered to pay the Respondents' costs, in the sum of £20,000.

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Employment Judge O'Rourke
Dated 11 August 2022