EMPLOYMENT TRIBUNALS

Claimant: **Mr M A Hassan**

Respondents: **(1) Barts Health NHS Trust**
(2) Dr S Ryan
(3) Mr M Pantlin

Heard fully remotely (on CVP) on: **15 & 16 August 2023;**
20 October 2023; and) in
4 & 5 December 2023) chambers

Before: **Judge Barry Clarke**
President of Employment Tribunals
(England & Wales)

Representation
Claimant: In person
Respondents: Mr Cyril Adjei (counsel)

RESERVED JUDGMENT

The claimant's three live claims before the Employment Tribunals (2201691/2015, 3202042/2015 and 3200734/2016) are all struck out under rule 37(1)(b) of the Employment Tribunals Rules of Procedure, because he has conducted these proceedings scandalously, unreasonably and vexatiously.

REASONS

Introduction

1. It is rare for a judge to be required to determine an application for strike out based, at least in part, upon a contention that a party has engaged in assault and threatening behaviour towards members of the judiciary and the legal profession. That, regrettably, is the scenario facing me in this application. The claimant was convicted of criminal offences occurring in the context of a preliminary hearing held at Import Building (the regional office of the London East region of the Employment Tribunals) on 7 February 2019.

2. I will first explain why I have dealt with this case personally. The Employment Tribunals of England and Wales are divided into ten regions for the purposes of administrative support from HMCTS and regional judicial leadership. Two such regions are London Central (based at Victory House) and London East (based at Import Building). This litigation has encompassed a hotly contested dispute – at both first instance and appellate levels – about the tribunal region that should properly determine the claimant's various claims and applications, because of concerns that he has repeatedly raised about judicial fraud and corruption (in London Central, in particular). On one occasion referred to below, the Employment Appeal Tribunal (EAT) considered it arguable that a tribunal had given inadequate weight to the claimant's expressed wish that his case should not be heard at London Central. On another occasion referred to below, the EAT considered that a tribunal had arguably erred in the sequence by which it had considered (or failed to consider) the claimant's application for his case to be transferred to London East. These views were expressed at rule 3(10) hearings before the EAT.

3. The claimant has three live claims before the Employment Tribunals: one in London Central and two in London East. I have dealt with this case because, as President, I am not assigned to any region. My bailiwick is a national one, so no transfer decision is required for me to have conduct of this matter. Clerking support for the hearing was provided by a member of HMCTS staff in the London Central region, simply because that is where the bulk of the paperwork is based. Exceptionally, additional administrative support was provided by members of my own private office, who work for Judicial Office rather than HMCTS. Given the amount of documentation involved, additional time was arranged in chambers to conclude the judgment.

The parties

4. The claimant is Mr Mohamed Ashraf Mahmoud Hassan Sayed, known professionally and in this litigation as Mr Hassan. He styles himself in the correspondence he sends to the tribunal and numerous other recipients as "The Whistleblower". I will simply refer to him as the claimant. His claims are against Barts Health NHS Trust and some of its employees. For convenience, I will refer to the Trust and the two individual respondents as the singular "respondent". The respondent has brought this application to strike out his claims, which is based chiefly upon the incident on 7 February 2019.

5. The claimant is a demonstrably intelligent man. He qualified in the practice of medicine in 1985, graduating from Ain Shams University in Cairo. He holds an MD. The provenance of this dispute is a ten-month period over a decade ago, between July 2012 and April 2013, when the respondent engaged him as a locum consultant gynaecologist in reproductive medicine and surgery.

6. The claimant has been supported throughout this long-running matter by his brother, Mr Ahmed Mahmoud Hassan Said El-Tawil (Mr El-Tawil). Mr El-Tawil styles himself in correspondence as the "Independent Professional Witness". I will simply refer to him as the claimant's brother.

7. This litigation has generated hundreds of thousands of pages; to my knowledge as President, more than any other case heard by this jurisdiction in recent years. Emails and their attachments from the claimant and his brother – and many hundreds of them have been received over the years – often exceed one hundred pages of close type. These communications are invariably described as "*Urgent*" or "*Highly Important*". They are prefaced with statements such as "*Official Service on …*" and followed by a list of individuals and office-holders to whom they have been sent. They are often copied to multiple ministers and Members of Parliament. They are verbose and repetitive, sometimes unintelligible, and laden with florid allegations of fraud, corruption and conspiracy. This has the effect of obscuring any applications they may contain. The tribunal's administration has long since ceased printing them. Efforts by judges over many years to encourage focus and concision in written communications from the claimant and his brother have proved fruitless.

Relevant history

8. These proceedings are convoluted, but it is essential to understand how the dispute has unfolded. What follows represents a summary, rather than findings of fact. I have separated the history into nine stages:

    - Stage 1 – period of employment and first High Court claim
    - Stage 2 – first claim to the Employment Tribunal
    - Stage 3 – second claim to the Employment Tribunal
    - Stage 4 – third claim to the Employment Tribunal
    - Stage 5 – fourth claim to the Employment Tribunal
    - Stage 6 – events of 7 February 2019 and stay of ET proceedings
    - Stage 7 – criminal proceedings
    - Stage 8 – lifting the stay of ET proceedings
    - Stage 9 – MPTS proceedings

9. There is some overlap between these stages resulting from the claimant's appeals against decisions adverse to him. I have therefore provided a separate chronology as an appendix to this judgment, which may assist for cross-referencing purposes.

Documents

10. References to "(R [page number])" are to the respondent's bundle for this hearing (total 1,024 pages). References to "(C [page number]" are to a series of "document sets" provided by the claimant for this hearing (total 5,906 pages), with each set being preceded by a narrative explaining its contents.

11. I confirm that, as requested by the claimant, I have also read his appeal to the EAT against my recent case management decisions, his application to the European Court of Human Rights and the Criminal Cases Review Commission (although I have read them before), and the further written comments he provided to the tribunal on 16 August 2023. I have also read his response to further submissions from the respondent sent on 19 October

2023. The tribunal has received many further emails from the claimant and his brother since the hearing, some of which relate to legal proceedings brought against me personally; it has not been necessary to consider them in detail.

Stage 1 – period of employment and first High Court claim

12. The respondent engaged the claimant in July 2012 as a locum consultant to work in its centre for reproductive medicine. The claimant had by this time worked in the field of gynaecology for over 20 years. His engagement was initially under a fixed term contract of six months' duration. In January 2013, it was extended by three months. In March 2013, the claimant applied for two consultant posts which were advertised in the department where he worked. The vacancies had arisen following the suspension of other consultants in the team. The claimant was shortlisted for interview but unsuccessful; both posts went to two other individuals. His locum role came to an end on 30 April 2013.

13. The claimant was aggrieved by this process. Representing himself, he applied to the High Court for an injunction (reference HQ13X02509). In those proceedings, he contended that he had not been given one of the posts because he was perceived as a troublemaker despite having superior qualifications and experience. Those proceedings came before Leggatt J (as he then was) on 8 May 2013. The respondent was represented by Ms Nadia Motraghi (now KC), who features elsewhere in this narrative as a victim of an offence. The claimant's application for injunctive relief failed, on the basis that there was no arguable basis for contending that the selection process had been unfair or improper. According to the judgment, the claimant interrupted as it was being delivered (R 263); Leggatt J noted that the claimant felt "*extremely strongly*" about this case and was "very emotional" about it.

14. A witness statement signed by the respondent's solicitor for the purposes of a subsequent costs hearing, accompanied by a statement of truth, explained why the respondent was unable to seek its costs on that occasion (R 270-271):

> **Immediately following the handing down of the oral judgment, the claimant stood and sought to argue with Mr Justice Leggatt. The Claimant refused to stop remonstrating even after it was made clear to him by Mr Justice Leggatt that it was entirely inappropriate to do so after judgment had been given. Mr Justice Leggatt refused to hear any further comments and left the Court before Counsel for the Defendant had the opportunity to make an application for costs.**

The solicitor's witness statement further recorded that, during the course of the hearing, the claimant's brother was asked to leave as a result of his conduct.

15. The respondent separately applied for its costs and for the High Court claim to be dismissed. There is before me a solicitor's note of a hearing before Master Cook on 16 July 2013, attended by the claimant's brother rather than

the claimant (R 280-284). This records that Master Cook described their attitude to the litigation as "*unhelpful and hostile*", including making a formal complaint against the judge hearing it, and he declined to adjourn the hearing. The note also refers to threatening behaviour towards court staff. Master Cook struck out the High Court claim on the basis that there were no reasonable grounds for bringing it, and that the statement of case was an abuse of the court process. Master Cook ordered the claimant to pay the respondent's costs. The claimant was unsuccessful in his appeal against that order.

Stage 2 – first claim to Employment Tribunal

16. On 31 May 2013, the claimant presented his first claim against the respondent in the Employment Tribunals (2202703/2013). It was received, and handled, by the London Central region. The claim was articulated as a complaint of automatic unfair dismissal and detriment in respect of whistleblowing. He set out in his claim form how shocked he had been to see the poor quality of care that the respondent provided (as he perceived it) and how he had begun to raise his concerns with the leadership team. His concerns related, among other matters, to the risk of ovarian hyper-stimulation syndrome, which is a complication of fertility treatment where ovaries develop excess follicles as they respond to medication. The claimant referred to IVF patients becoming ill and said that the respondent covered up neglect and malpractice. He contended that these were protected disclosures. He said that these disclosures were the real reason for the respondent's decision, communicated to him on 21 March 2013, not to appoint him to one of the vacant consultant posts referred to above. The claimant accused the respondent of "*destroying his career and life*" (R 307). The respondent resisted the claims.

17. A preliminary hearing for case management purposes was held on 5 September 2013 before Employment Judge Henderson. She noted that the claimant had shown no regard for the orders of the tribunal (R 289) and that, during the hearing, she had faced constant interruptions and disruption from him and his brother (R 293). She declined the respondent's application to strike out the claimant's claim as having no reasonable prospect of success, but she did order him to pay a deposit of £750 as a condition of continuing with his whistleblowing claims (R 295). She ended by urging the claimant to show respect and courtesy to the tribunal.

18. I mention in passing that among the claimant's many baseless allegations of fraud made throughout his litigation is a contention that Employment Judge Henderson "*has falsely alleged to be an Employment Judge*" (see, e.g., C 3490, 3551, 4154). This appears to have followed an (admittedly odd) answer that the claimant received from the Ministry of Justice's disclosure team in response to his freedom of information request, which was to the effect that they could find no records for such a person (C 360). Employment Judge Henderson is a fee paid judge of long standing. Nevertheless, the claimant applied the worst possible interpretation to this response from the disclosure team: he saw it as "*irrefutable evidence*" of criminality in the London Central ET region (C 4102), allegations which would later take a more sinister turn.

19. At another preliminary hearing on 29 October 2013, held for case management purposes, Employment Judge Glennie noted that the claimant had described the respondent's approach to the ordering of documents in the bundle as "*malicious*" and "*fraudulent*", and that he and his brother expressed their disapproval of the tribunal's approach by shouting at him (R 301).

20. The full hearing took place between 17 and 27 March 2014, with two further days in chambers. The claimant represented himself and was assisted by his brother. The panel was chaired by Employment Judge Lewzey. Ms Motraghi, referred to above, represented the respondent. By a 43-page reserved judgment sent to the parties on 2 June 2014, the tribunal dismissed the claim (R 303). Having heard evidence, the tribunal found, in terms, that the claimant appropriately received the lowest score of all the candidates in the interview process (R 329). It decided that he had made no protected disclosures (R 342). It dealt with the matter in the alternative; it decided that, even if the claimant had made protected disclosures, the real reason the respondent rejected his application for one of the vacant consultant posts was his poor performance at interview (R 344).

21. The tribunal recorded that the claimant and his brother did not heed directions about which of them should speak during the hearing and how questions should be asked of witnesses. Repeated interjections from the claimant's brother during the hearing merited admonishment and both the claimant and his brother at various points shouted at the tribunal (R 312).

22. Separately, the claimant had raised concerns directly with the Human Fertilisation and Embryology Authority (HFEA), which is the independent UK regulator of fertility treatment and research using human embryos. The HFEA concluded that there was no cause for concern. I shall return to this point later but, on multiple occasions since, the claimant has described the HFEA as corrupt and he has contended, with no evidence at all, that its officers are working with the General Medical Council, the police, the Crown Prosecution Service, the Employment Tribunals, the EAT, the Magistrates' Court and the Crown Court in pursuit of "*State Organised Crimes*" (R 580).

23. After its successful defence of the claimant's tribunal claim, the respondent applied for its costs. The tribunal dealt with the matter by way of written submissions. In a further judgment sent to the parties on 10 December 2014, the tribunal ordered the claimant to pay the respondent's full costs, the amount to be determined by detailed assessment (R 348). Its reasoning was that the claimant had conducted the proceedings (and behaved during the hearing) in a disruptive and unreasonable manner (R 355) and that he had persisted with a weak claim in the face of a deposit order (R 356). The tribunal also rejected the claimant's application for reconsideration.

24. The tribunal then carried out a detailed assessment of costs, as the ET rules of procedure empower it to do. The detailed assessment procedure was conducted by Employment Judge Goodman. She directed the claimant to provide to the tribunal, within 21 days, his points of disagreement with the respondent's detailed bill of costs. He did not do so. A "default costs

certificate" was therefore issued on 9 June 2015 in the sum of £80,739.59 (C 4473). The detailed assessment of costs did not end there. The tribunal accepted that a procedural irregularity had occurred in this process. So, on 21 December 2015, it gave the claimant a second opportunity to file points of disagreement with the respondent's detailed bill of costs (C 3757-3760). Again, he failed to do so. The bill of costs was therefore validated a second time on 20 January 2016 (C 3761-3762). By now, combined with the High Court costs, the claimant owed the respondent £105,060.79 (R 133). This sum remains unpaid.

25. The claimant presented an appeal to the EAT, at that stage limited to (a) the liability judgment, (b) the costs judgment (that is, the judgment that costs should be awarded, not the detailed assessment thereof) and (c) the reconsideration decision. HHJ Richardson handed down a reserved judgment on 16 September 2015, following a hearing held on 1 May 2015 and 28 August 2015 under rule 3(10) of the EAT Rules (PA/0684/14, PA/0071/15, PA/0074/15 and PA/0097/15). He criticised the thousands of pages the claimant had sent the EAT in pursuit of his appeal (R 364). He allowed through to a full hearing certain of the claimant's contentions about errors of law in the liability judgment (R 372-375), but he made clear that the claimant's allegations of fraud and dishonesty on the part of the tribunal were without substance (R 376). He refused to allow the claimant's appeals against the reconsideration decision to proceed to a full hearing before the EAT (R 383) but he did allow one ground of appeal against the costs judgment to go forward, because it was contingent upon the tribunal's approach to liability (R 385-386).

26. An attempt to challenge HHJ Richardson's decision in the Court of Appeal was dismissed in February 2016 by Lewison LJ. This was on the basis that the claimant's allegations of misconduct and fraud were "*baseless and scurrilous and have no foundation*" (R 403). The claimant subsequently accused Lewison LJ of corruption, fraud and misconduct by "*dishonestly concealing the criminal activities*" of the respondent (e.g., C 3869-3870).

27. The full EAT hearing came before HHJ Shanks on 11 August 2016 (0277/15 and 0278/15). The claimant did not appear. HHJ Shanks proceeded in his absence. The judge made the following observation, which I quote because it exemplifies comments made by most judges who have encountered the claimant (R 403):

> **There can be no doubt that the claimant is aware of this hearing and indeed he has put in a great deal of material in the last few days dedicated to showing that the hearing should be "frozen", as he puts it, stayed or, I suppose, adjourned because he has made criminal allegations against almost everybody involved in the case (including me, rather surprisingly, since I only received the papers earlier this week) … There is also a suggestion that I should recuse myself because apparently I am a businessman and not a judge. I am quite satisfied that there is no basis for my recusing myself.**

Although HHJ Shanks expressed surprise that the Lewzey tribunal had found there to be no protected disclosures, he dismissed the appeal overall on the

basis that it was open to the tribunal to have decided, in the alternative, that the claimant's poor performance at interview was the real reason for his non-appointment to one of the vacant consultant posts (R 403-405). He also dismissed the claimant's appeal against the decision to award costs; as already noted, the costs appeal was contingent upon showing that the liability judgment was flawed and, as the claimant had failed to show that, it fell away (R 405-406). The claimant appealed the judgment of HHJ Shanks to the Court of Appeal but permission was refused by Floyd LJ on 24 May 2017 as being totally without merit (R 434).

28. Even then, the matter found itself back before the EAT on 9 June 2017. A hearing had been convened to deal with an application by the claimant to set aside the judgment of HHJ Shanks on the basis that he was wrong to have proceeded in his absence. The application was heard by HHJ Hand QC. The judge began by noting that:

> **… this application is not really concerned with why [HHJ Shanks] proceeded in [the claimant's] absence. And although the [claimant] has complained about the events leading to that hearing, his broader application is based on the fact that various tribunals have failed to grasp that the respondent has behaved fraudulently and themselves have behaved fraudulently …**

He also noted that the claimant based his approach on the maxim that "*fraud unravels all*". However, having considered the claimant's contentions, HHJ Hand had no hesitation in deciding that they were baseless (R 429-442). He declined to set aside the judgment of HHJ Shanks.

29. As noted above, quite apart from the tribunal's decision in principle to award costs, there was a subsequent process of detailed assessment. The conduct of that process, as supervised by Employment Judge Goodman, was also challenged before the EAT. There was a rule 3(10) hearing before HHJ Barklem on 12 and 13 April 2018 (PA/0080/16 and PA /0081/16). I mention it because, in his judgment, HHJ Barklem recorded other steps that the claimant had by then taken. For example, the claimant had sought disclosure of documents relating to the appointment of HHJ Hand, following his retirement as a Circuit Judge, as a temporary additional judge of the EAT. This was the basis for an assertion that the judgment of HHJ Hand was itself fraudulent. HHJ Hand had already indulged the claimant with an explanation for his appointment (C 1843). In the meantime, the claimant had asked the EAT to stay his appeal pending an "*impeachment application*" to the Supreme Court. The claimant had said that the rule 3(10) hearing had been "*fraudulently fixed*" due to the "*criminal activities*" of the EAT's registrar. HHJ Barklem quoted correspondence from Simler J (as she then was, when President of the EAT) who, when rejecting the claimant's application to adjourn the rule 3(10) hearing, had referred to a "*deluge*" of correspondence from him, containing "*extensive and unnecessarily lengthy, repeated allegations*" which was "*consuming an inordinate and disproportionate amount of court and management time and resource for little or no purpose*" (R 475, C 2491).

30. In the end, HHJ Barklem was unable to conclude the rule 3(10) hearing. He noted that the claimant had effectively forced an adjournment upon the EAT by "*talking the hearing out*". Given that the judge had already read into the case, he directed that it should be relisted before him when he was next sitting in the EAT later that year.

31. Simler J subsequently declined two applications to stay that re-listed rule 3(10) hearing (C 2890-2894). Following repeated failures by the claimant to provide his own availability for that re-listed hearing, his appeal in respect of the detailed assessment process was struck out (C 3436-3438). On 19 July 2018, Simler J refused him relief from that sanction (C 2895-2896).

32. The claimant continued throughout this period to correspond with the Employment Tribunal about his first claim. On 23 February 2018, my predecessor as President, Judge Brian Doyle, wrote to him to say that communications of such length and density were an abuse of process. On 9 October 2018, Judge Doyle told the claimant that, insofar as his correspondence might contain applications for case management orders or directions, they were obscured by its volume and repetitiveness (R 491). On 19 December 2018, having regard to what had by then transpired, Judge Doyle wrote to the claimant to say that his claim (i.e., his first claim) was now at an end with all rights of appeal exhausted, that any further correspondence from him in relation to it was an abuse of process, and that such correspondence would no longer receive any reply (R 239).

33. Even though that claim is at an end, it provides important background to understanding how the claimant's litigation has continued to spread.

Stage 3 – second claim to the Employment Tribunal

34. Separately, on 18 June 2015, the claimant had presented a second ET claim against the respondent (2201691/2015) and two further individuals, its medical director and its HR director. It related to the same period of employment. It is also the first of the three claims covered by the respondent's current strike out application.

35. The claimant's ET1 indicated that he was bringing claims relating to whistleblowing detriment and religious discrimination. In his particulars of claim, he went into considerable detail about the respondent's alleged attempts to cover up malpractice and destroy his career and he identified various acts by the respondent, or failures to act, that he said were unlawful (R 13-46).

36. The respondent resisted the claim, contending that the tribunal lacked jurisdiction to determine the claim (by reference to the absence of Acas early conciliation and/or because the claim had been presented outside the statutory limitation period) and that it should be struck out because the claimant was estopped from proceeding (on the basis that the contentions had previously been determined, i.e., *res judicata*, or ought to have been raised in the previous claim, i.e., by reference to the principle in **Henderson v Henderson**) (R 53-58). The claimant contended that the London Central

ET region (where the previous claim had been heard by the Lewzey tribunal) was conflicted, due to judicial misconduct and fraud, and that the matter should be transferred to a different ET region.

37. By letter dated 26 August 2015 – notably, before the respondent had sent its ET3 response form to the tribunal – the tribunal listed a preliminary hearing for 2 October 2015. Subsequently, on 9 September 2015, the tribunal wrote to the claimant, at the direction of Employment Judge Goodman, to say that his application for a transfer of his claim out of the region would be considered at a separate preliminary hearing on 20 October 2015. Following the hearing on 2 October 2015, Employment Judge Snelson decided that any claims based on events prior to 31 May 2013 (this being the date he presented his first claim) were estopped and should be struck out, while the remainder of the claimant's claim, insofar as they might relate to subsequent events, should be stayed pending the outcome of his appeal to the EAT in respect of his first claim.

38. The claimant appealed to the EAT in respect of the tribunal's directions as set out in its letters dated 26 August 2015 and 9 September 2015. Simler J dealt with the matter at a rule 3(10) hearing on 26 January 2016 (PA/0712/15). She referred in passing to the thousands of pages that the claimant had sent to the EAT (R 394). She decided it was an arguable error of law for the tribunal to have directed a preliminary hearing on 2 October 2015 before it had received the respondent's ET3 response form (and before the tribunal had undertaken the process of "initial consideration" set out at rule 26 of the ET rules of procedure) and an arguable error of law for the tribunal to have deferred consideration of the claimant's contention that the London Central ET region was conflicted until after the first preliminary hearing (R 395-396). Insofar as Simler J refused other grounds of appeal, this was the subject of a further unsuccessful appeal by the claimant to the Court of Appeal.

39. On 11 July 2017, the full EAT hearing came before Soole J (0042/16). The respondent did not attend the hearing to oppose the appeal, in interests of proportionality and saving costs. Soole J noted that the claimant continued to make "*wild allegations of collusion and bias*" on the part of the London Central ET region and the EAT. Nonetheless, he upheld the claimant's appeal, deciding that it had been wrong for the tribunal to act as it did (R 458-468). The result was that the tribunal's directions dated 26 August 2015 and 9 September 2015 were set aside, as was the subsequent judgment of Employment Judge Snelson dated 2 October 2015 which was dependent upon their validity. Despite what he described as the claimant's strenuous opposition, Soole J remitted the transfer request back to London Central ET. He also dismissed the claimant's application to adduce fresh evidence as totally without merit.

40. That remains the status of the second claim. There is an extant application by the claimant to transfer it out of the London Central ET region, and various extant applications by the respondent, but nothing else has happened on it. It is a live claim. In the letter dated 9 October 2018 to the parties referred to above, my predecessor as President said that it was appropriate to await the outcome of all extant appeals before it could progress further (R 491). It was

later stayed following the incident on 7 February 2019, which I address in more detail later in this judgment.

Stage 4 – third claim to the Employment Tribunal

41. On 2 October 2015, the claimant presented a third claim against the respondent and one further individual, its HR director, alleging religious discrimination and whistleblowing detriment. This time, he did so in the London East ET region (3202042/2015), making clear in his ET1 that it should not be transferred to the London Central ET region "*in view of the committed fraud in its proceedings, orders, decisions and judgments*" (R 73). The particulars of complaint occupied 49 pages (R 74-122). Again, it related to the same period of employment and, in terms, covered much the same territory as the previous claims.

42. The respondent filed an ET3 response form resisting the claims, contending that (a) any matters predating the first claim were estopped and therefore an abuse of process; (b) any matters post-dating the first claim were already the subject of the second claim, and which were stayed (as they were at that time) pending the outcome of the EAT appeal in the first claim and therefore an abuse of process; (c) insofar as the third claim raised matters in respect of the claimant's period of employment in 2012-13, they were time-barred and/or estopped under the rule in **Henderson v Henderson** and therefore an abuse of process (R 132-133). The respondent also asked for the matter to be transferred to the London Central ET region.

43. On 8 December 2015, Regional Employment Judge Taylor stayed the third claim pending the conclusion of the appeal process (C 4467).

44. On 29 January 2016, the respondent wrote to both the London Central and the London East ET regions to request an order that the claimant should not send any further correspondence relating to the proceedings to any party (or to any third party) without the tribunal's permission or invitation (R 254-256). I set out aspects of the respondent's request below because of its ongoing relevance to its current strike out application. It stated:

> **Throughout the period of the claimant's litigation against the [respondent], he has sent prolific amounts of correspondence to the ET, to the EAT, to various employees, officers and directors of the respondent and to this firm. On innumerable occasions, he has been asked to refrain from doing so and he has been warned that his conduct is unreasonable and unacceptable.**
>
> **Notwithstanding these many warnings, in a sample period of 14 September 2015 to 25 January 2016 (a period of just 4 months), the claimant has sent the ET, EAT and the respondent approximately 69 emails, the majority of which run to over 10 pages, each with innumerable attachments. These emails are sent as a barrage, sometimes with as many as 9 per day. For example on 14 September, the Claimant sent 6 emails, on 19 November, he sent us 9 emails, on 13 January, he sent us 8 emails and on 24 January, he sent us 4 emails.**

> **Not only are the emails frequent and voluminous, in each case they are copied not only to the respondent's representatives at this firm and the ETs, but also to individual members of staff at the respondent and to a large number of individuals and third parties entirely unconnected to the proceedings. In particular, his emails appear to be being copied to every current Member of Parliament, the Mayor, the police, the Independent Police Complaints Commissioner, various news and media outlets and a number of other public figures.**
>
> **Of most concern is that fact that in his emails the claimant makes repeated, unfounded allegations of serious criminal misconduct. Those allegations are made against the respondent and its employees (including against named senior individuals who have been accused of serious offences such as intent to cause grievous bodily harm, fraud and blackmail, without any foundation). Allegations are also made against this firm, the Employment Tribunal and the EAT. The allegations appear to be escalating in seriousness and are made without any foundation or evidence.**
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> **The claimant's correspondence has now reached such a level that it is causing alarm, distress and concern to individuals employed by the respondent. Those individuals are intimidated and threatened by the claimant's conduct.**

45. On 23 February 2016, REJ Taylor lifted the stay in respect of the third claim, and she directed that it be transferred to the London Central ET region "*for determination of the respondent's application*" (C 4468). The next day, the tribunal sent the parties a letter confirming the transfer of "*the file in this case*" (C 4470).

46. The claimant appealed the transfer decision to the EAT. That came before Slade J at a rule 3(10) hearing on 2 May 2018 (PA/0239/16) (R 484-490). She allowed six grounds of appeal through to a full hearing, which were articulated as follows:

> **(1) The direction of the Regional Employment Judge of 23 February 2016 lacks clarity. It is not clear whether the hearing of the entire claim is to be transferred to London Central or whether it is to be transferred solely for the purpose of considering the application made by the respondent;**
>
> **(2) If the claim is to be transferred for hearing, the Regional Employment Judge erred in making an order without giving the claimant the opportunity to make representations on the order made. Representations were invited only on the proposal advanced by the respondent for a restraint on the claimant communicating with the parties or any third party;**
>
> **(3) Failing to comply with ET Rule 26 to consider the substance of the claim before the East London Tribunal after the ET3 was served;**

(4) Failing to give reasons or a proper basis for the transfer, particularly so soon after a stay of proceedings had been ordered on 8 December 2015;

(5) Failing to have regard to the substance of the claims before the East London ET and the Central London ET to ascertain whether it was necessary or appropriate to have them heard at the same Employment Tribunal;

(6) Failing to have regard to the view expressed by the claimant in his claim form objecting to having his claim heard at the Central London Tribunal for reasons there given.

Slade J did say that the claimant's allegations of fraud were not arguable.

47. In the event, the matter did not proceed to a full EAT hearing. In the interests of proportionality and costs, the respondent did not contest the appeal (R 244). By an order dated 30 July 2018, the EAT therefore remitted the matter to the London East ET region to determine (C 5174). On 23 November 2018, the respondent wrote to the tribunal (R 242-247) to ask for a preliminary hearing to be listed to determine (a) whether the claimant's third claim should be struck out on the grounds of estoppel, abuse of process and/or having no reasonable prospect of success; (b) whether it should be subject to the payment of a deposit; (c) whether all proceedings should be stayed until such time as the claimant had satisfied the outstanding costs orders of £105,060.79; and (d) if the whole claim was not to be struck out, consolidating it with both the second claim and the fourth claim (see below) for further consideration, such matters to proceed in the London Central ET region. The tribunal duly listed a preliminary hearing for those purposes on 7 February 2019 (C 4512-4513).

48. It was in that context that the matter came back before REJ Taylor on 7 February 2019, to which I will return.

Stage 5 – fourth claim to the Employment Tribunal

49. Separately, on 4 August 2016, the claimant had presented a fourth claim against the respondent and its HR director, again alleging religious discrimination and whistleblowing detriment. This claim was again presented in the London East ET region (3200734/2016). The particulars of claim occupied 66 pages (R 151-216). Again, the claim related to the same period of employment and, in terms, covered the same territory as his previous claims. He again said that the "*fraud*" in the London Central ET region should prevent his claim from being heard in that region.

50. The respondent filed an ET3 response form resisting the claim. It made the point that the majority of the claimant's complaints had been adjudicated and dismissed in the first claim, while nearly all the other complaints set out in his fourth claim were within the ambit of the second and third claims. It said that it could only identify two new complaints, which related to decisions by the respondent on 14 January 2016 and 25 March 2016 to reject applications from the claimant for clinical posts (R 225); and, insofar as he was

complaining about those matters, his complaint was out of time. It made the same points as it had before about abuse of process. Finally, it requested the transfer of the claim to the London Central ET region.

51. A preliminary hearing took place before Employment Judge Hyde on 6 January 2017 (C 1724-1733). Ms Motraghi again appeared for the respondent. In a reserved judgment sent to the partes on 4 April 2017, the judge decided to stay the fourth claim pending the outcome of all extant appeals, and she therefore made no orders in relation to the claimant's applications for disclosure and no decision in respect of the respondent's points about jurisdiction, limitation and abuse of process.

Recap

52. By way of recap, this was the position in respect of the claimant's claims as he came before the Employment Tribunal on 7 February 2019 to attend a preliminary hearing, at Import Building, in respect of his third claim:

- His first claim (2202703/2013) was at an end, with all rights of appeal exhausted.
- His second claim (2201691/2015) had been remitted by the EAT to the London Central ET region for initial consideration under rule 26 of the ET rules and a decision on his application for the proceedings to be transferred to the London East ET region (supported by the claimant, opposed by the respondent) – and, thereafter, for decisions to be made on matters such as the respondent's application for it to be struck out as an abuse of process. However, my predecessor as President had said that no further action would be taken until all extant appeals had ended.
- His third claim (3202042/2015) had been remitted by the EAT to the London East ET region to consider afresh whether it should be transferred to the London Central ET region (opposed by the claimant, supported by the respondent) and, as noted above, with a preliminary hearing to be arranged to consider other applications made by the respondent such as whether it was an abuse of process.
- His fourth claim (3200734/2016) had been stayed pending the outcome of all extant appeals.

53. The documents demonstrate that the claimant appeared at that preliminary hearing with a track record of ignoring judicial directions, disruptive behaviour at hearings, and deluging the tribunal, the EAT, the respondent and others with correspondence containing wild and baseless allegations.

Stage 6 – events of 7 February 2019 and stay of proceedings

54. As to what transpired at that hearing, I will summarise or quote from the documents before me. Ms Motraghi's statement was taken immediately afterwards by (and written by) a police officer. It includes the following (C 5118-5121):

> **At 10:00am the claimant hadn't arrived at the tribunal. We waited 15 minutes for the claimant to arrive and he still hadn't. I was then**

called in by the clerk to see the judge. We started to go through the background of the claim so the judge could fully understand the claim as this was the first time she had heard the claim.

At around 10:50am the clerk entered stating the claimant and his brother had arrived and were asked to enter. At this point I have stated to the judge my concerns regarding the claimant and brother due to their volatile behaviour and that I was pregnant and concerned for my safety and that of my unborn children due to the fact that in August 2013 the brother had to be removed by security due to his volatile behaviour and potential to lose control … Due to my concerns the judge had decided to place a security guard in the middle behind myself and the claimant in brother … this put me at ease.

The claimant and brother when they entered were very loud, angry, shouting at the judge ... The brother has then for no reason slammed on the desk a set of paperwork to the size of about 2 full lever arch files which has made me jump a little bit as this was out of the blue.

… The brother then started shouting where are the documents that belong to us. Judge replied "What documents?". The judge then stated I will not proceed whilst being shouted at … if this continues I will halt proceedings. The judge then went on to reassure the claimant that she hadn't considered the respondent's application to dismiss or stay at present. This didn't persuade them and their actions continued throughout, shouting and being unreasonable in their behaviour, this continued until police were requested at about 11:25 hours …

The judge stated that the case will continue to proceed and, if they didn't like the response, they could leave. The brother again started shouting. The judge informed him he didn't have permission to speak. The judge continued stating if they didn't accept the authority of the tribunal they could leave. The claimant stated, no he was continuing, and had made his position clear. The judge stated she wanted them to leave and she was calling police, security was requested. Another 2 security guards entered and stood between myself and the brother …

The brother continued to shout "this is before international courts"… The security guards tried to calm them down and encourage them to leave, the brothers didn't leave. The judge then stated – if he refused to leave, myself and counsel will find another room to continue the hearing in, she then went to leave and gather her things, and stated for me to leave. With the claimant and brother continuing to shout no no no, I have gathered my papers, folder and other items which were heavy. The claimant then rushed around the table towards the judge. I have managed to move by the passageway, the brother then moved behind my table by the door and as the judge has moved to the passageway the claimant has moved towards her, took a step back as everyone was getting rather close and was worried, as the judge came towards me she has then for no reason fell headfirst in front of me … the room is all

> **one level and no reason for her to fall apart from being pushed. She had her necklace ripped from her neck and I could see reddening around her neck, I think this was when I was pushed into the wall, I didn't see who it was as I was looking at the judge, but it was one of the brothers.**
>
> **The security were trying to get the brothers out the way so we could leave, the security were physically trying to restrain the brothers … we have managed to get out the room and into another tribunal room … There was a man and woman in there. The claimant had pursued us and managed to get away from security into the second tribunal room … We managed to get to the clerk's room … one brother shouted Ali Akbar [*sic*] and saw the claimant was chasing, we managed to get into the clerks room and with their help shut the door on the claimant.**

55. REJ Taylor's statement, taken immediately after the incident by a police officer, includes the following (C 5053):

> **During the hearing both Mr Hassan and his brother (Mr A Hassan) were rude, loud, abusive and aggressive towards myself and other Tribunal staff present in the courtroom. I repeatedly warned them to control their behaviour, and for only one person to address the court. For the claimant, Mr Hassan confirmed to me that he did not accept the legitimacy of the Tribunal, to which I responded: "If you do not accept the legitimacy of the Tribunal, then you're free to leave", to which Mr Hassan responded by even more loud shouting and abuse directed at me. At this point I stated: "In that case, I'll leave".**
>
> **Mr Hassan and his brother then stood up as I was leaving the courtroom, shouted at me aggressively and then made towards me in an aggressive manner, barging the security guard as he advanced towards me. Mr A Hassan (the brother) managed to grab hold of my dress at the neck, causing a slight scratch on my neck. The grab had caused me to fall over onto my side. I then managed to get back on my feet. I noticed Ms Motraghi (the respondent's counsel for Barts Health), who is pregnant with twins, look extremely distressed and upset.**
>
> **I managed to get myself and Ms Motraghi into another room via a back door, however I couldn't open the door and Mr Hassan and his brother were making their way towards me and Ms Motraghi, so I pulled away and took Ms Motraghi with me back towards the main door, whilst the security staff fended off the doctors long enough for us to exit the courtroom.**
>
> **… as we left Tribunal Room 4, we were still being pursued by the brothers, and we were forced to turn left outside the corridor, away from the main office. Myself and Ms Motraghi then entered Tribunal Room 5, the brother followed us into this room. Inside this office were other members, including Duncan Ross. We all had to push against the door to close it, in order to prevent Mr Hassan and his brother entering the room.**

> **Throughout this incident both Mr Hassan and his brother were shouting at the top of their voice in an aggressive and abusive manner. My involvement with the two doctors ceased at this point.**

56. Mr Ross was, at the time, a non-legal member of the Employment Tribunals (he has since resigned). He was present at Import Building on other judicial business. His statement, taken immediately afterwards by a police officer, includes this (C 5081):

> **I was in tribunal room 5 with a colleague of mine and around 11:15 I could hear a lot of shouting and raised voices. I walked out into the hall and saw into court room 4. I could see Judge Taylor and security in the room, but could not see any other signs of a disturbance.**
>
> **I went back into room 5 and again a few moments I could hear loud shouting on what sounded like a bang. I went back into the hall and could see Judge Taylor coming out at room for and a middle eastern male following her shouting. Behind the male I could see a male on the floor along with two security guards. A security guard came out of room 4 following the middle eastern male. Judge Taylor walked past me and I stood in between her and this male … It seemed like the male was trying to get to Taylor and Taylor looked afraid at this point.**
>
> **Myself and the security guard stood either side of the male and Taylor then left the room. The male has then tried to follow Taylor, but I have stood in his path. The security guard has grabbed the male from behind so he couldn't follow and the male has grabbed hold of my tie. The security guard pulled him away from me, but the male did not let go of my tie and dragged me along with him. I was pulled a couple times by the tie. Other security guards then came into the room and try to restrain this male. I was let go and I left the room. Officers arrive later on and I saw them with the male and informed them that he had assaulted me**.

57. In later sentencing remarks, it was confirmed that Mr Ross suffered with sleeping problems thereafter and had considered requesting a transfer to a different tribunal (R, 759).

58. Statements were also provided by security officers and by the police officers who had attended the incident. Police evidence included an analysis of CCTV footage. The claimant has provided extensive material to me seeking to rebut these accounts; he considers that they are the result of corruption, fabrication and collusion. A flavour of his view can be gained from the subject matter of emails that, in the aftermath of this event, he began sending to multiple recipients (including the tribunal, the police and the Crown Prosecution Service); they were headed "*Report on the collusion of police officers, in effecting the criminal set-up and physical assault on Mr M Hassan and Mr A Hassan*" (C 5001). The claimant has subsequently described this incident as an attempt by the General Medical Council "*and its affiliated tribunals*" to murder him (C 5471).

59. On 19 March 2019, the then ET President, Judge Doyle, directed that all ET proceedings involving the claimant be stayed pending the outcome of criminal proceedings arising from the incident on 7 February 2019 (R 494).

60. On 11 April 2019, the EAT wrote to the claimant to inform him that all his current appeals were also stayed, with no further actions being taken in respect of a further appeal he had recently presented (R 493).

Stage 7 – criminal proceedings

61. Following the incident on 7 February 2019, the claimant was charged with common assault (against Mr Ross) and the public order offence of causing a fear of violence through threatening, abusive or insulting words or behaviour (against REJ Taylor and Ms Motraghi).

62. The claimant entered a plea of not guilty. Following a trial at Westminster Magistrates' Court on 15 July 2019 and 7 August 2019, he was found guilty. At a subsequent sentencing hearing on 6 September 2019, he was given a custodial sentence of 18 weeks and required to pay compensation to his victims, plus CPS costs of £930 and the victim surcharge. The custodial sentence of 18 weeks represented three six-week sentences to run consecutively: six weeks for the common assault on Mr Ross (and compensation of £300); six weeks for the threatening behaviour towards Ms Motraghi (and compensation of £200); and six weeks for the threatening behaviour towards REJ Taylor (and compensation of £200).

63. The claimant served his custodial sentence at HMP Wandsworth. In material he has provided to me, the claimant refers to going on hunger strike for 45 days, followed by a further attempt being made by the General Medical Council and its "*affiliated tribunals*" to poison him when his hunger strike ended (C 5470). He has contended that the criminal trial was corruptly sent to Westminster Magistrates' Court so that it could be heard by Chief Magistrate Arbuthnot (as she then was), as part of a "*criminal set up*" (C 5472).

64. The claimant appealed against both conviction and sentence. His appeal came before HHJ Sharkey at Snaresbrook Crown Court and was heard over a six-day period concluding on 19 April 2021. By this time, he had already served his sentence. One of the claimant's contentions about judicial corruption arose from the fact that HHJ Hand had conducted jury trials out of Snaresbrook Crown Court prior to this retirement (see the opening comments of the claimant's third, fourth and fifth "document sets", referred to below).

65. The respondent has provided to me a copy of victim-related correspondence sent to Ms Motraghi confirming the outcome of that appeal (R 496-497), and also a transcript of the sentencing remarks of HHJ Sharkey (R 758-766). As will shortly be apparent, HHJ Sharkey had by this stage already presided over the jury trial involving the claimant's brother; see below. This correspondence confirms that, on 19 April 2021, the claimant's appeal against conviction was dismissed. His sentence was varied so as to include a restraining order by which he was (1) not to contact directly or indirectly REJ Taylor and Mr Ross

and (2) not to attend the East London Employment Tribunal hearing centre for seven years. He was ordered to pay an additional £5,000 towards prosecution costs. There was no requirement for him to return to custody.

66. The transcript of the sentencing hearing notes the following:

- The claimant "*for the first time, and for the only time in these proceedings, has effectively refused to speak*"; this was in relation to enquiries about his means when considering the issue of prosecution costs (R 760);
- The claimant had not paid the compensation he had been ordered to pay to his victims (R 761); and
- He declined to answer further questions from the judge about how he might pay the costs ordered, such as in instalments (R 762-763).

67. The claimant presented further appeals against his conviction, but I understand these to have been concluded or at least so far to have proved fruitless for him. He petitioned the European Court of Human Rights and applied to the Criminal Cases Review Commission. My office and the tribunal generally has been copied into emails beyond count from the claimant in which he has alleged corruption at Westminster Magistrates' Court, Snaresbrook Crown Court, the Employment Tribunals and the EAT. One such accompanying document set amounted to 12,611 pages.

68. The claimant continued his scattershot approach to appeals, challenges and other correspondence in documents too numerous to reference. This included claims brought in the High Court against Westminster Magistrates' Court and Snaresbrook Crown Court. With effect from 14 October 2021, the High Court (Chamberlain J), acting of its own initiative, made a two-year general civil restraint order against the claimant in respect of proceedings in the High Court and County Court (R 498-500).

69. Separately, criminal proceedings were brought against the claimant's brother in relation to the incident on 7 February 2019. He elected a jury trial. This took place at Snaresbrook Crown Court from 8 to 17 December 2020, with HHJ Sharkey presiding. There were two counts on the indictment: assault occasioning actual bodily harm; and the alternative of battery.

70. I have been provided with a copy of the two facts that were agreed by the prosecution and defence and put before the jury, which were in these terms: (1) that the person who pursued REJ Taylor and Ms Motraghi along the corridor from tribunal room 5 was the claimant (and not his brother); and (2) that the claimant's brother had no previous convictions. I have also been provided with the written legal directions that were put before the jury as part of the judge's summing up. The judge gave the jury a written direction in relation to identification evidence, which included the following (and it should be noted that references to the "brother" are, in this context, the claimant):

> **The Defendant's defence is that he never assaulted Ms Taylor. The witnesses have falsely accused him and/or are mistaken in their identification of him.**

> **The prosecution allege that it was the Defendant who assaulted Ms Taylor, as alleged by Ms Taylor, and by the three security guards.**
>
> **The Defendant says it was not him. He did not see who, if anyone, assaulted her. He certainly does not say that it was his brother, but says he has been wrongly and falsely identified by the witnesses.**
>
> **Therefore, identification of him as the perpetrator of this assault is in issue.**
>
> **You will also have to look to see if there are any weaknesses in any of the identification evidence, or if there is any evidence which, if you accept it, might undermine the identification evidence. In particular, you should consider the speed in which the incident unfolded, and the fact that Ms Taylor identified the Defendant as pursuing her down the corridor when it is agreed that it was his brother.**

71. The jury found the claimant's brother not guilty in respect of both counts on the indictment. The final position in law, therefore, is that the claimant (and the claimant alone) was convicted in relation to the events at Import Building on 7 February 2019, and the criminal offences for which he was sentenced were common assault on Mr Ross and threatening behaviour towards both REJ Taylor and Ms Motraghi.

72. The claimant considers himself personally vindicated by the jury's decision to acquit his brother. He has taken his brother's acquittal as proof that the charges against him were fabricated. In multiple items of correspondence sent to the tribunal since then, the claimant has used a particular phrase (or a variation of it): that the "*falsity of the allegations*" against him has been "*irrefutably factually determined by the jury's verdict*".

73. Further, in addition to complaints of personal misconduct that seem to have been made against almost every judge involved in dealing with him, the claimant contended that REJ Taylor's allegations against him have now been shown by the jury's verdict to be fabricated and, as such, they constitute misconduct that should lead to her removal from office. This is why his correspondence includes reference to the Judicial Conduct (Tribunals) Rules 2014. His brother's acquittal also prompted an increase in correspondence from the claimant to multiple recipients (including the respondent, this tribunal, the police, the CPS and Snaresbrook Crown Court) – too many to reference with page numbers – referring to corruption and, occasionally, to attempts by these "*perpetrators*", acting in collusion, to murder him. These actions have, in his view, been in retaliation for him raising concerns about patient welfare when working for the respondent over a decade ago.

Stage 8 – lifting the stay of ET proceedings

74. On 1 June 2021, the respondent asked the ET to lift the stay of proceedings so that its strike out application (originally made on 20 February 2019,

following the incident on 7 February 2019) could be considered. Regrettably, due to pressures on the ET system arising from the pandemic, its application was overlooked. However, on 1 September 2022, I wrote to the parties with regard to the remaining live proceedings: the second claim (2201691/2015), the third claim (3202042/2015), and the fourth claim (3200734/2016). In that letter, I proposed to lift the stay of proceedings and to list a preliminary hearing to consider the respondent's application.

75. On 10 November 2022, having reviewed the correspondence received from the parties, I directed that a two-day preliminary hearing be listed for 28 February 2023 and 1 March 2023, and conducted on a fully remote basis. Following requests from the claimant for varying reasons, which do not need to be repeated here, that hearing was subsequently relisted for 17 and 18 April 2023, relisted again for 5 and 6 July 2023, and then relisted again for 15 and 16 August 2023.

76. On 3 July 2023, I received notification from the claimant's brother that I had been named as a respondent in High Court proceedings that he had commenced. The claimant – still subject to a general civil restraint order – was named as an interested party. The other named respondents included my predecessor as President, Judge Doyle; REJ Taylor; Mr Ross; Ms Motraghi; solicitors representing Barts NHS Trust; and three named security guards at Import Building. This claim made allegations against me such as abuse of power, fraud and corruption. By an order dated 11 July 2023, Master Davison struck out the claim on the basis that it was "*a collateral attack on the decision or decisions of the Employment Tribunal*" and because the claim was prohibited by section 2(5) of the Crown Proceedings Act 1947; it was certified as totally without merit. The claimant's brother has since applied to have that order varied or set aside, That process is ongoing.

77. I declined on two occasions to recuse myself from this hearing; these decisions, and others I have made, are the subject of one or more appeals to the EAT. I refer to the orders and directions, with reasons, sent to the parties on 6 July 2023; they should be read with this judgment.

Stage 9 – MPTS proceedings

78. The General Medical Council (GMC) has statutory purposes that include investigating concerns raised about a doctor's behaviour, health or performance. The Medical Practitioners Tribunal Service (MPTS) is a statutory committee of the GMC. The GMC may, as a result of its investigations, refer to the MPTS the question of whether a doctor is fit to practise medicine in the United Kingdom, and the MPTS has the power to restrict or remove a doctor's right to practise medicine.

79. On 23 April 2019, and following the incident on 7 February 2019, the respondent referred the claimant to the GMC. From the documents provided by the claimant, I can infer that, in addition to attempted further appeals against his conviction, brought as judicial review claims in the High Court, he also brought judicial review claims against the GMC arising from its decision

to bring proceedings against him – at least until such time as the High Court imposed a general civil restraint order on him.

80. The MPTS hearing eventually got underway at the end of 2021. It was listed for five days, chaired by Miss Larrinaga, sitting with Mr McKeon (lay member) and Dr De Marco (medical member). It went part heard on three occasions, eventually taking 13 days: 13 to 17 December 2021; 21 to 22 December 2022; 14 to 15 February 2023; and 1 to 4 August 2023. It is recorded that the claimant was not represented throughout, and that he was not present on the final three days of the hearing.

81. The MPTS's decision was published shortly prior to the hearing before me, and was shown to me by the respondent. The MPTS ordered the claimant's erasure from the medical register due to his impaired fitness to practise. This was the most severe available sanction.

82. The MPTS did not publish its reasons for its decision until the following month. On 21 September 2023, the respondent provided a copy of the published reasons and asked me to take them into account when considering my reserved judgment. The claimant objected and, by an email sent on 19 October 2023, he explained why. The document and its attachments were 56 pages long but his position is captured effectively by this sentence at the beginning: *"… the MPTS and MPT tribunal are merely committees of the GMC (which are neither impartial nor independent, nor have proper constitutional standing; but merely instruments in the hands of corrupt GMC officers used for achieving their criminal objectives)*". The three members of the MPTS panel are described as "*criminal perpetrators*".

83. I have read the published reasons for the MPTS's decision, the respondent's application and the claimant's response, but they add nothing of substance to the issues that were discussed at the preliminary hearing. The only points I have noted are: (1) in resisting the allegation that his fitness to practise was impaired, the claimant contended that he was not the person to which the certificate of conviction by Westminster Magistrates' Court related; (2) despite being provided with numerous opportunities to make submissions, the claimant continued to maintain that he was the victim of a criminal conspiracy and that all allegations against him had been fabricated; and (3) in the absence of any remorse on the part of the claimant, and no evidence of attempts to remediate his conduct, the panel considered that there remained a significant risk of repetition of the conduct giving rise to the conviction.

The claimant's position at this hearing

84. I have not thus far quoted much from the claimant's correspondence. However, his position can be ascertained from the covering notes to the "document sets" he provided for this hearing. With the benefit of the summary provided in this judgment, these extracts may now be more comprehensible.

85. The covering note identifies the first document set (C 2-343) as containing the following material:

> **The Protected Disclosures which the Whistleblower and the Independent Professional Witness had made during 2013-2016 to Barts Trust, the HFEA, DOH, the GMC, the Police, the DPP, the MPs … disclosing the ongoing deliberate malpractices and other criminal activities in Barts NHS Trust endangering the patients' lives and abusing the public assets; the disclosures upon which Whistleblowing proceedings had been launched under the Public Interest Disclosure Act 1998, and because of which the Whistleblower and the Independent Professional Witness have been framed in the criminal set-up of 7/2/19 by the perpetrators from that NHS Trust and from the tribunals (to cover up the malpractices and criminal activities in Barts and to cover up the related corruption and fraud in the tribunals). This is the same criminal objective which Barts and its solicitors seek to achieve by seeking to strike out the Whistleblowing claims upon the false allegations of those perpetrators whose falsity has been factually determined by the Jury's Verdict of 17/12/20 upon Jury Trial on 8-17/12/20, and whose falsity the President of the Employment Tribunals is bound to declare upon the official complaint under the Judicial Conduct (Tribunal) Rules 2014 about the misconduct of the involved REJ and ET judges/members.**

86. The covering note identifies the second document set (C 345-1064) as containing the following material:

> **Documents demonstrating the corruption and fraud in Barts NHS Trust and in Central London Employment Tribunal, manifested in its fraudulent proceedings and its orders/judgments on the first whistleblowing claim made/obtained by fraud. Their corruption and fraud disclosed by these documents extended to abusing the statutory function of the Lord Chancellor under Regulation 8 of the ET Regulations 2013 (by hiring a person who is not a judicial-office-holder to falsely pretend to be an employment judge, and to be fraudulently permitted to make by fraud judicial orders and judgment in favour of Barts Trust for concealing the ongoing malpractices and criminal activities in that NHS Trust). The disclosures in these documents thus demonstrate the criminal motive for and criminal purpose from framing the Whistleblower and the Independent Professional Witness in the criminal set-up of 7/2/19, and demonstrate the criminal objective (to cover up their corruption/fraud and cover up the criminal activities in Barts) which Barts application of 20/2/19 seeks to achieve by striking out the whistleblowing claims upon the false allegations of the perpetrators of the criminal set-up of 7/2/19 whose falsity has been factually determined by the Jury's Verdict of 17/12/20 upon Jury Trial on 8-17/12/20 …**

87. The third document set (C 1065-1845) is said to contain:

> **Documents demonstrating the corruption and fraud in the proceedings, orders and judgments of the EAT, in the appeals against the ET judgments of 2014 in respect of the first Whistleblowing Claim; the fraud and corruption in the EAT which extended to abusing the functions of the Lord Chief Justice and the Lord Chancellor under section 24 of the Employment Tribunals Act**

> **1996 to obtain by fraud unlawful appointment to the EAT of judges of Snaresbrook Crown Court after their compulsory retirement, so as for those retired judges to make by fraud unlawful orders and judgments in favour of Barts NHS Trust (for concealing the ongoing malpractices and criminal activities in that NHS Trust, and concealing the corruption and fraud in the ETs and the EAT). Hence, these documents disclose further criminal motive for/purpose from framing the Whistleblower and the Independent Professional Witness in the criminal set-up of 7/2/19, and from the respondent's application of 20/2/19 to cover up their corruption/fraud and to cover up the criminal activities in Barts by striking out the whistleblowing claims upon the false allegations of its perpetrators (whose falsity has been factually determined by the Jury's Verdict of 17/12/20 upon Jury Trial on 8-17/12/20, and whose falsity the President of the Employment Tribunals is bound to declare upon the official complaint under the Judicial Conduct (Tribunals) Rules 2014 about the misconduct of the involved REJ and ET judges/members) …**

88. The fourth document set (C 1846-2898) is said to contain:

> **Documents relating to the fraud of the then EAT President and the retired Judge Hand of Snaresbrook Crown court, to obtain by fraud his unlawful appointment decision as EAT temporary additional judge after his compulsory retirement (in abuse of the functions of the Lord Chief Justice and the Lord Chancellor under s.24 of the Employment Tribunals Act 1996), so as for this retired judge of Snaresbrook Crown court to make by fraud EAT orders and judgments for concealing the fraud & corruption in Barts Trust, concealing the fraud & corruption in the involved ETs, and concealing the fraud & corruption in the EAT; the criminal objectives which the perpetrators sought to achieve by the criminal set-up of 7/2/19 (hence, the corrupt purpose from redirecting the appeal relating to this criminal set-up to Snaresbrook, after the appeal has been sent to Southwark Crown court as should be, because of the involvement of its judges in achieving these criminal objectives by fraud in their unlawful roles as EAT temporary additional judges), and criminal objectives which the respondent's application of 20/2/19 seeks to achieve by striking out the ET claims upon the false allegations of its perpetrators. Thus, these documents disclose further the criminal motive for and purpose from framing the Whistleblower and the Independent Professional Witness in the criminal set-up of 7/2/19, and from the respondent's application criminally made upon the false allegations of the perpetrators (whose falsity has been factually determined by the Jury's Verdict of 17/12/20, and whose falsity the ET President is bound to declare upon the official complaint under the Judicial Conduct (Tribunals) Rules 2014 about the misconduct of the involved REJ and ET judges/member) …**

89. The fifth document set (C 2899-3715) is said to contain:

> **The applications made during 2018 upon the irrefutable material evidence in the formal letter of 22/12/17 from Barts Information Governance Manager and in the illegal contracts (issued by fraud**

> **to the two unlawful appointees upon the unlawful selection process for the consultant posts of March 2013), which are yet to be heard. This irrefutable material evidence discloses the fraud in Barts Trust and the fraud in the ET's and EAT's orders/judgments, which the criminal set-up of 7/2/19 and the respondent's application of 20/2/19 have been meant to cover up by striking out the ET claims upon the false allegations of its perpetrators and upon the corruption in Snaresbrook CC (whose judges had earlier concealed by fraud the fraud in Barts and in those ET & EAT orders/judgments in their unlawful fraudulently obtained roles as EAT temporary additional judges, because of which the appeal relating to that criminal set-up has been redirected to Snaresbrook CC after sending it to Southwark CC as it should be). The abuse of power under rule 30 & 54 of the ET Rules 2013, and the violation of Article 6(1) & 14 of the ECHR are clearly evident from refusing to fix hearing for these legitimate applications which have been officially served again on the President of the Employment Tribunals on 28/10/22 (while deciding to hear the respondent's application upon the false allegations of the perpetrators of the criminal set-up of 7/2/19 whose falsity the President is bound to declare, since their falsity has been factually determined by the Jury's Verdict of 17/12/20 about which the ET President has been officially notified by the Official Complaint under the Judicial Conduct (Tribunals) Rules 2014 …**

90. The sixth document set (C 3716-4424) is said to contain:

> **The disclosures made to the Parliament, the Crown Ministers, the Attorney General, the DPP, the Police Chiefs, other public authorities … and the complaints to the Attorney General during 2016-2019, about the ongoing malpractices and criminal activities in Barts NHS Trust, and about the related corruption and fraud in the employment tribunals and appeal tribunal: the disclosures because of which the Whistleblower and the Independent Professional Witness have been framed in the criminal set-up of 7/2/19, and the respondent's application of 20/2/19 has been criminally made to cover up the disclosed information by striking out the ET claims (facilitated by the said hearing in the ET's letter of 22/3 & 24/5/23), upon the false allegations of its perpetrators, whose falsity has already been factually determined by the Jury's Verdict of 17/12/20, and whose falsity the ET President is bound to declare under the Judicial Conduct (Tribunals) Rules 2014.**

91. The seventh document set (C 4425-4944) is said to contain:

> **The documents … served on the President of the Employment Tribunals with the Official Complaint of 17/12/20 & thereafter under the Judicial Conduct (Tribunals) Rules 2014 about the misconduct of the REJ of East London ET and the misconduct of other ET judges/members involved in the criminal set-up of 7/2/19. The proceedings in East London ET to which these documents relate demonstrate the misconduct of REJ Carol Taylor, and her collusion with Barts NHS Trust and its representatives for arranging the criminal set-up of 7/2/19 so as to cover up their corruption & fraud and the fraud in the ET judgments of 2014. These documents thus**

> **demonstrate the criminal motive for/purpose from framing the Whistleblower and the Independent professional Witness in that criminal set-up, and demonstrate the criminal objective which the respondent's strike out application seeks to achieve upon the false allegations of those perpetrators, whose falsity has been factually determined by the Jury's Verdict of 17/12/20 and whose falsity the ET President is bound to declare by these Rules …**

92. Finally, the eighth document set (C 4945-5464) is said to contain:

> **The other documents served on the President of the Employment Tribunals with the Official Complaint of 17/12/20 & thereafter under the Judicial Conduct (Tribunals) Rules 2014 about the misconduct of the REJ of East London ET and the misconduct of other ET judges/members. These documents brought to the attention of the ET President compelling CCTV/BWV visual evidences irrefutably proving the perjury in the false statements and false evidence given by those ET judges/members working under the authority, over and above the Jury's Verdict of 17/12/20 which has factually determined the falsity of their allegations – the falsity of the allegations fabricated by those perpetrators which the ET President is bound to declare under these Rules, and is bound to consider and rely on this verdict by the Independent Jury and these irrefutable visual evidences in deciding the facts about their misconduct as set out by these Rules. However, instead of applying and complying with these Rules, the criminal objective which the respondent's application seeks to achieve by striking out the claims (to cover up the ongoing malpractices and criminal activities in Barts Trust to which these ET claims relate, to cover up the fraud and corruption in the ETs and the EAT which became clearly evident from their proceedings and orders/judgments on the first claim of these claims, to cover up the criminal conduct of the perpetrators of the criminal set-up of 7/2/19 which is subject to this official complaint by processing the respondent's application upon their false allegations which the ET President already knew about their falsity from this Verdict)** …

93. I have worked through the contents of the document sets as best I can so that the claimant can be reassured that his views have been considered, but the covering notes are enough to make his position apparent, as well as providing a representative sample of the nature of his correspondence.

The hearing

94. This hearing was held on a fully remote basis, using the HMCTS Cloud Video Platform. The start of the hearing, which had been due to commence at 10am, was delayed because of technical difficulties encountered by the parties in sending documents to the tribunal for my attention. It was delayed further due to steps taken to ensure that the claimant was present and able to be heard. He participated from home on a laptop, with his brother sitting alongside him. The tribunal and the respondent's counsel could see and hear them both.

95. Once the hearing began at about midday, it was subject to multiple interruptions, because the claimant said that he was unable to hear the respondent's counsel, although he was usually able to hear the tribunal clerk and me. By way of example, the claimant said that he could see counsel's lips moving, could hear his voice, but could not make out what he was saying.

96. Attempts were made to improve clarity through the use of headsets. When that did not work, the claimant joined the CVP room by telephone (audio only) to supplement the video. As a further adjustment to facilitate his participation, I asked the respondent's counsel to pause at regular intervals so that I could summarise and/or repeat back to the claimant what had been said. This seemed to succeed. On one occasion during the hearing I directed the claimant's brother to stop shouting at me. The claimant said that this way of speaking was because his brother had a hearing impairment, although I observe that the brother's gesticulation and facial expression gave the clear impression of anger and impatience.

97. I was and remain satisfied that both parties were given a full opportunity to put forward their positions. I reserved judgment and needed to arrange further sitting days, in chambers and without the parties, to complete my review of the documentation and to consider post-hearing correspondence. This resulted in some unavoidable delay before this judgment could be finalised, and the parties were kept informed.

The relevant law

98. Rule 37 permits a tribunal to strike out all or part of a claim or response, at any stage of the proceedings, either on its own initiative or on the application of a party. The grounds on which a tribunal may exercise this power include, at rule 37(1)(b), where "*the manner in which the proceedings have been conducted… has been scandalous, unreasonable or vexatious*". In exercising this power, the tribunal must have regard to the overriding objective which, as provided by rule 2, requires it to deal with cases fairly and justly.

99. The consequences of striking out a claim are, self-evidently, drastic and draconian. That is why such powers are used sparingly. In particular, it would be unusual to strike out a case on procedural grounds which has reached the point of trial (**Blockbuster Entertainment Ltd v. James** [2006] IRLR 630 EWCA, per Sedley LJ at para 19). A tribunal must address a sequence of questions, at four stages, when deciding whether to strike out a claim or response on the basis of conduct impugned by reference to the three epithets of "scandalous", "unreasonable" and "vexatious".

100. At the first stage, a tribunal is not just deciding whether a party has behaved scandalously, unreasonably and/or vexatiously. It must decide specifically whether the party has conducted the proceedings in a manner that can be so described; see **Bolch v. Chipman** [2004] IRLR 140 EAT, at para 55(1).

101. Depending on the circumstances, this can include conduct outside the physical confines of a hearing room (**Bolch**, para 55(1)). Examples of such conduct can be found in three cases to which Mr Adjei referred me:

101.1 In **Harmony Healthcare plc v. Drewery** EAT/866/00 EAT, the alleged misbehaviour arose from an attempt by the respondent's representative to enter the claimants' waiting room in order to retrieve witness statements from the claimant's representative. It was said that the respondent's representative had grabbed one of the statements from the claimant's representative, nipping her wrist, and causing her to fear that she would be hit. The tribunal struck out the response. Insofar as relevant to this case, the EAT held (at para 14(1)) that the fracas in the claimants' waiting room constituted unreasonable conduct of the proceedings even though it took place outside the physical confines of the hearing room.

101.2 In **Force One Utilities Ltd v. Hatfield** [2009] IRLR 45 EAT, the alleged misbehaviour was that one of the respondent's directors had made a threat of violence towards the claimant, which had left the claimant frightened and anxious. The tribunal heard evidence and it found that the incident occurred as alleged. It concluded that it constituted scandalous, unreasonable or vexatious behaviour, and that a fair trial was no longer possible. It struck out the response. The EAT upheld the tribunal's decision.

101.3 In **Gainford Care Homes v. Tipple & Roe** [2016] EWCA Civ 382, the alleged misbehaviour took two forms: one of the respondent's directors had threatened the second claimant in order to induce her to withdraw support for the first claimant, while another director had driven his car at speed close to the first claimant as she was using a zebra crossing outside the tribunal venue. The tribunal heard evidence and found that both incidents occurred as alleged. It concluded that they constituted scandalous and unreasonable conduct. It found that the claimants would find it difficult to continue with the case, meaning a fair trial was no longer possible. It struck out the response and debarred the respondents from taking any further part in the proceedings. The Court of Appeal upheld the tribunal's decision on the basis that its reasoning was adequate.

102. At the second stage, a tribunal must decide whether a fair trial is still possible notwithstanding the scandalous, unreasonable or vexatious conduct (**De Keyser Ltd v. Wilson** [2001] IRLR 326 EAT, para 25). If a fair trial remains possible, the case should generally be permitted to proceed because the sanction of strike out is not regarded as punitive (**Arriva London North Ltd v. Maseva** EAT/0096/16, para 27). Even if a party promises good behaviour in future, a tribunal can still properly conclude that "*confidence has been entirely lost in the good faith and honesty*" of a party (**Bolch**, para 55(2)) and proceed to strike out.

103. In certain exceptional circumstances, however, it may be possible to dispense with the second stage. In **Logicrose v. Southend United Football Club** [1998] *The Times*, 5 March 2000, a civil case involving inadequate disclosure, Millet J held that a party should not be deprived of his right to a proper trial

as a penalty for disobedience of rules about the disclosure of documents, unless it had rendered a fair trial impossible. He observed:

> **… I do not think that it would be right to drive a litigant from the judgment seat without a determination of the issues as a punishment that his conduct, however deplorable, unless there was a real risk that that conduct would render the further conduct proceedings unsatisfactory. The court must always guard itself against the temptation of allowing its indignation to lead to a miscarriage of justice.**

104. Millet J's analysis was adopted by the Court of Appeal in **Arrow Nominees v. Blackledge** [2000] 2 BCLC 167, another case about inadequate disclosure. However, in that case, Chadwick LJ also noted (at para 55) that:

> **… a fair trial is a trial which is conducted without an undue expenditure of time and money; and with a proper regard to the demands of other litigants upon the finite resources of the court.**

105. He then stated (at para 54):

> **… where a litigant's conduct … amounts to such an abuse of the process of the court as to render further proceedings unsatisfactory and to prevent the court from doing justice, the court is entitled – indeed, I would hold bound – to refuse to allow that litigant to take further part in the proceedings and (where appropriate) to determine the proceedings against him. The reason, as it seems to me, is that it is no part of the court's function to proceed to trial if to do so would give rise to a substantial risk of injustice. The function of the court is to do justice between the parties; not to allow its process to be used as a means of achieving injustice. A litigant who has demonstrated that he is determined to pursue proceedings with the object of preventing a fair trial has forfeited his right to take part in a trial. His object is inimical to the process which he purports to invoke.**

106. In **De Keyser** (paras 24-25), having considered **Logicrose** and **Arrow Nominees**, the EAT accepted the possibility that "*wilful, deliberate or contumelious disobedience*" could lead directly to an order debarring a party from participating in proceedings.

107. At the third stage, even where it has concluded that a fair trial is impossible, a tribunal should only strike out a claim or response if it is a proportionate response to the offending behaviour (**Bolch**, para 55(3), and **Bennett v. Southwark London Borough Council** [2002] IRLR 407, at para 28). For example, a lesser penalty may be available, and firm case management might yet repair the damage in such a way that a fair trial of the proceedings could be achieved. To decide whether irreparable damage has been done, a tribunal must assess the nature and impact of the wrongdoing (**Chidzoy v. BBC** EAT/ 0097/17, para 24, and **Bayley v. Whitbread Hotel Co Ltd & another** EAT/0046/07, para 20).

108. A lesser penalty may still mean a trial could not be fair; for example, a party might still feel intimidated and, in such a case, that lesser penalty would not be proportionate to deal with the prejudice to the wronged party (**Force One Utilities**, para 36). Once a tribunal finds that a party is sufficiently intimidated as to affect his ability to give evidence without fear of consequences, the only proportionate response is to bar the other party from participating in the trial, at least at the liability stage (**Force One Utilities**, para 37).

109. At the fourth stage, a tribunal should consider the consequences of its order. This is especially relevant where it is striking out a response, because it may still be appropriate to allow a respondent to participate in a remedy hearing.

110. There is an obvious overlap between the "fair trial" question asked at the second stage of the analysis under rule 37(1)(b) and the "fair hearing" question posed specifically by rule 37(1)(e). It is permissible for the tribunal to consider those two points together (**Abegaze v. Shrewsbury College of Arts & Technology** [2010] IRLR 236 EWCA, per Elias LJ at para 21). However, where the concern about fairness under rule 37(1)(e) arises due to unreasonable conduct by a party, the better approach is to focus on the four-stage test under rule 37(1)(b); this is because rule 37(1)(e) is focused on the impact of delay on the proceedings or other reasons that may affect fairness (**Emuemukoro v. Croma Vigilant (Scotland) Ltd** [2022] ICR 327 EAT, per Choudhury J at para 20). Mr Adjei referred me to **Harvey on Industrial Relations and Employment Law**, which provides (Division P1, para 647.02) that rule 37(1)(e) is a "*catch-all for circumstances where a fair trial is no longer possible for reasons other than the scandalous, unreasonable or vexatious conduct of proceedings*" (my added emphasis). For that reason, he confirmed that the respondent did not pursue its application under rule 37(1)(e). I will therefore confine my analysis to rule 37(1)(b).

111. Turning to the meaning of the three epithets:

    111.1 The word "scandalous", in its colloquial sense, signifies something that shocks. However, in the present context, it embraces two narrower meanings: the misuse of the privilege of legal process to vilify others, and giving gratuitous insult to the court (see the judgment of Sedley LJ in **Bennett v. Southwark London Borough Council** [2002] IRLR 407, at para 27). Ward LJ in **Bennett** (para 53) adopted, with approval, an older definition of "scandal" as:

> **… anything which is unbecoming the dignity of the court to hear, or is contrary to good manners, or which charges some person with a crime not necessary to be shown in the cause: to which may be added, that any unnecessary allegation, bearing cruelly upon the moral character of an individual, is also scandalous.**

    111.2 "Vexatious" was described by Bingham LCJ in **Attorney General v. Barker** [2000] 1 FLR 759 as a "*familiar term in legal parlance*". He said that the hallmark of a vexatious proceeding was that it had:

> **… 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**.

111.3 As to what conduct is "unreasonable", the EAT in **Brooks v. Nottingham University Hospitals NHS Trust** (EAT/0246/18, at para 47) referred to "*a wide range of matters*", which might include "*an unreasonably distorted perception of matters*".

Submissions

112. I summarise the respondent's application for striking out the three remaining live claims as follows:

112.1 At the first stage, the conduct of the claimant at the hearing on 7 February 2019 should be found to be scandalous and unreasonable. It should be considered as having all taken place within the physical confines of the hearing room or otherwise associated with the conduct of the proceedings. There is no need to go behind the conviction of the claimant; it is sufficient to establish his impugned behaviour. Moreover, the correspondence from the claimant and his brother to the tribunal and the respondent has, over many years, been prolix and offensive, constituting separate vexatious and unreasonable behaviour.

112.2 The second stage can be dispensed with because the case falls within the exceptional category by which the claimant's behaviour was so egregious that he should be punished in the form of having his claims struck out. In the alternative, even if the second stage is not dispensed with, a fair trial is no longer possible by reference to the claimant's long history of aggressive behaviour and disobedience culminating in the incident on 7 February 2019. Ms Motraghi did not feel safe to return to representing the respondent in these proceedings, and its witnesses were reasonably likely to be in fear of future attacks or threatening behaviour by the claimant and/or his brother. Additionally, a fair trial is not possible because the claimant has made clear that he will not accept any outcome other than his complete vindication, and he will continue to subject the respondent and its employees to repeated false allegations of serious wrongdoing.

112.3 At the third stage, striking out would be proportionate in all the circumstances.

112.4 At the fourth stage, although it is more relevant when considering striking out a response, the consequence would simply be that all live proceedings came to an end.

113. The claimant's response to the respondent's application is more difficult to summarise. However, as I discern it, his position is that the incident on 7 February 2019 was a "set up" in which he was framed, and where one of the desired outcomes was his death. There are numerous conspirators behind this, including the respondent (and its solicitors, Capsticks, and its barrister, Ms Motraghi), a series of named judges (but most especially REJ Taylor, HHJ Hand and HHJ Sharkey), the HFEA, the General Medical Council, the MPTS, the police, the Crown Prosecution Service, the Magistrates' Court, the Crown Court and, of course, both the Employment Tribunals and the EAT. In the claimant's view, the two-fold aim underlying the actions of the above-named conspirators is both the concealment of his original allegations of poor patient care and punishment of him for daring to have raised his concerns in the first place. The claimant did not directly accuse me during the hearing of being part of a conspiracy to harm him, although that viewpoint is evident in the correspondence he has sent the tribunal.

114. I invited the claimant to address me specifically in relation to the above four stages, but his central submission was that the respondent did not even get past the first stage. This is because there was simply no evidence identifying unreasonable conduct on his part. He described the respondent's application as being "baseless" and, indeed, that it had been made with "criminal intent". Insofar as there was CCTV evidence before the Magistrates' Court (and, on appeal, before the Crown Court) about what transpired on 7 February 2019, the claimant asserted that this had been manipulated. In support of this contention, the claimant referred me to his eighth document set, where some stills of the CCTV footage revealed suspicious "shadows on the ceiling". He also suggested that the footage showed Mr Ross sending a "smiling instruction" to one of the security guards to attack him (although this evidence, even on his own account, had somehow escaped manipulation). Furthermore, the claimant contended that his innocence of all the charges against him had been irrefutably demonstrated by his brother's subsequent acquittal, which showed that the jury did not believe any of the evidence put forward by REJ Taylor, Ms Motraghi and the others. He was especially critical of REJ Taylor; he described her as being "up to her neck" in this conspiracy, because she had allocated the hearing on 7 February 2019 to herself so that she could orchestrate the attack on the claimant and his brother. The claimant was confident that his latest High Court claim would vindicate him further, above and beyond the fact of his brother's acquittal.

115. As I have already noted, during the trial of the claimant's brother at Snaresbrook Crown Court, an agreed fact was put before the jury that the claimant had pursued REJ Taylor and Ms Motraghi along the corridor from tribunal room 5. This confirmed his position as an aggressor. Mr Adjei observed that, while one could of course infer nothing about the jury's factual conclusions, which are sacrosanct, it did not follow from the acquittal of the claimant's brother that the jury had concluded that the claimant was innocent. Quite the contrary, he said, the jury's verdict kept open the possibility that the jury considered the claimant to be REJ Taylor's (and Ms Motraghi's) assailant; accordingly, the claimant had no proper basis for saying that his brother's acquittal rendered his own conviction unsafe. In response to this, the claimant

maintained that his brother had given no instruction to his barrister, in his criminal trial, about the agreed fact mentioned above. The claimant said that the agreed fact was itself a fabrication, and both the brother's barrister and HHJ Sharkey were instrumental in its fabrication.

116. I allowed the claimant to speak for a little over two hours, but it was very much more of the same. I have no doubt he would have continued in the same vein for much longer if I had allowed it, but the thrust of his position was clear and it would not have become clearer with repetition. I asked him at the end whether he had any final comments to make. He said this: "*I will never stop. I will never give up. It is my legal duty to my patients and the public*".

117. In an effort to ensure that the time limit I imposed on the claimant placed him at no disadvantage, I agreed (exceptionally) to his request to send me further submissions overnight. Several sets of documents appeared the next day, which included copies of further appeals to the EAT in respect of my earlier case management decisions. These documents were copied to the respondent, but I did not consider it necessary to seek the respondent's comments and none were received. As I have already noted, however, further submissions were received from both parties once the MPTS published the reasons for its sanction of erasure.

Discussion and conclusions

118. I deal with each of the relevant stages in turn, by reference both to the incident on 7 February 2019 and the claimant's wider conduct of these proceedings.

First stage

119. I agree with Mr Adjei that it would be wrong for me to go behind the conviction of the claimant for his assault upon Mr Ross and for his threatening behaviour towards both REJ Taylor and Ms Motraghi. I indulged the claimant with time to explain why he believed his conviction to be unsafe, even though it is no part of this tribunal's jurisdiction to consider the safety of criminal convictions. I have spent a great deal of time reading his lengthy written submissions on the point. These were dominated by his nonsensical contention that REJ Taylor orchestrated the incident on 7 February 2019 and that a conspiracy was afoot by which CCTV footage had been manipulated to disguise the true position, which is that he and his brother were the true victims of assault and, indeed, an attempted murder.

120. I proceed, as I consider that I must, on the basis that the conviction represents the correct factual position. Accordingly, I adopt as a factual finding that, in the context of the preliminary hearing on 7 February 2019, the claimant became aggressive and disruptive, following which he threatened the judge and his opposing barrister (who was heavily pregnant), being a public order offence, and he assaulted a non-legal member who happened to be nearby. REJ Taylor was simply carrying out her public duties when this happened. As the prosecution was proved to the requisite criminal standard of proof, I further adopt the accounts (insofar as they relate to the claimant) as set out in the statements provided to the police by REJ Taylor, Ms Motraghi and Mr

Ross. The claimant has picked over these accounts to identify what he considers to be inconsistencies, but it is clear that he was the aggressor on that occasion. For the avoidance of any doubt, I reject his contention that his brother's acquittal demonstrates the falsity of his own conviction. Quite apart from this tribunal having no jurisdiction to reach such a conclusion, there is in any case nothing inconsistent between the two outcomes based on the agreed fact that was put before the jury in his brother's trial. The claimant's behaviour was sufficiently serious to merit a custodial sentence, which was upheld on appeal. It also merited an order of compensation to his victims and the imposition of a restraining order. It led to Ms Motraghi withdrawing from these proceedings and Mr Ross considering a transfer to a different tribunal.

121. The claimant's criminal conduct on 7 February 2019 was part and parcel of his conduct of the tribunal proceedings as a whole. His actions on that day may have occurred at least in part outside the physical confines of the hearing room, but they occurred within the premises of the tribunal venue as a whole and they were intimately connected to the preliminary hearing (**Harmony Healthcare** applied). The claimant's conduct was scandalous. It gratuitously insulted the tribunal and the administration of justice, and it was offensive to the rule of law.

122. Although not strictly necessary to do so, I also find that, before and since the incident on 7 February 2019, the claimant has conducted these proceedings vexatiously and unreasonably. Prolixity and repetition in correspondence is rarely, in and of itself, unreasonable; and it is part of the tribunal's duty, in giving effect to the overriding objective, to manage a case so that the essential contentions of an unrepresented party are properly understood; see **Cox v. Adecco** [2021] ICR 1307. In this case, the prolixity and repetition of the claimant's correspondence had reached such a level that, a year before the incident on 7 February 2019, my predecessor as President had told the claimant that it had become an abuse of process and would no longer be responded to. However, what really sets the claimant's correspondence apart is his wild and baseless allegations of serious criminal conduct – including attempted murder – by the respondent, its legal representatives, the tribunal, and various other alleged conspirators. Such offensive correspondence can properly be considered vexatious in the sense that it has no discernible basis in law, it subjects the respondent and others to inconvenience and harassment, and it involves an abuse of the tribunal process (**A-G v. Barker** applied). It can also be considered scandalous because it bears cruelly upon the moral character of the individuals who are its target (**Bennett** applied)

123. Even if I were to accept that the claimant genuinely believes in the conspiracy and fraudulent behaviour that he has described, this would not excuse his behaviour because his perception of events is, to say the least, unreasonably distorted (**Brooks** applied).

Second stage

124. I agree with Mr Adjei that the claimant's conduct on 7 February 2019 is such that it falls within an exceptional category by which the second stage can be dispensed with and a punitive approach taken. His abuse of process on that

occasion was so egregious that it would be unjust to the respondent, and contrary to the effective administration of justice, to allow his claims to continue in any shape or form. If his claims were not struck out, the respondent and its representatives, and the wider public, would have legitimate grounds for concluding that the tribunal lacks the ability or the willingness to punish a person who acts in a violent fashion, or threatens so to act, if he does not get his way; and that would undermine the rule of law.

125. This judgment has recounted the unreasonable and aggressive behaviour of the claimant and his brother on many occasions over the years. The claimant has been given rebukes and warnings on multiple occasions that have simply had no moderating impact on him. He has been told on occasions beyond count that his allegations of fraud and conspiracy are without merit. Even when he was made the subject of a general civil restraint order, his brother would pick up the cudgels on his behalf. Rather than take those rebukes and warnings on board, his behaviour has demonstrably worsened. It escalated into what transpired on 7 February 2019, and which now forms part of his belief in the wider conspiracy I have described. The claimant has shown his determination to pursue these proceedings with the objective of preventing a fair trial. He refuses to acknowledge (let alone apologise for) his behaviour. His objective instead is to demonstrate, despite having no evidence, that numerous individuals and organisations have conspired to make him the real victim. Since this objective is inimical to the very process he purports to invoke, he has forfeited his right to a hearing of his claims (**Arrow Nominees** and **De Keyser** applied).

126. Alternatively, had it been necessary to consider the second stage fully, I would have concluded that a fair trial of the three live claims is no longer possible. It bears repeating that this is a case where the claimant has been convicted of threatening behaviour towards his judge, threatening behaviour towards his professional opponent, and assault of a member of the lay judiciary who had the misfortune to be nearby. He has repeatedly claimed, without any evidence, to be the victim of a conspiracy to frame him and to attempt his murder. This is set against a long history of aggression during hearings, and a long history of disobedience to orders made by various courts and tribunals on a range of topics (including his refusal to comply with the orders to pay costs to his opponent and compensation to his victims). By his words, he has made clear that he will not stop. By his actions, he has made clear that he may become violent. In those circumstances, it is reasonable and predictable that the respondent's witnesses will fear reprisals if they attend a hearing where he is present. I accept the submission of Mr Adjei that such fear is not properly remedied simply by holding future hearings on a fully remote basis, since such conduct can take place outside of those hearings. In any event, I would add that the same standards of behaviour should be expected of participants in litigation whether a hearing takes place in person or remotely.

127. I further consider it to be both reasonable and predictable that any judge of this jurisdiction would fear an attack by the claimant; this case showed that, even with security guards present in a hearing, a person can still engage in assault and threatening behaviour. If justice in the Employment Tribunals

requires a hearing to be held in person, it is inimical to justice to hold that hearing remotely for the sole reason of minimising the risk of physical attack.

128. For those reasons, I have concluded that a fair trial is no longer possible. My confidence has been entirely lost in the claimant's ability to conduct these proceedings in a respectful manner (**Bolch** and **De Keyser** applied).

129. Although not strictly necessary to do so, I have also considered the claimant's conduct through the lens of the offensive correspondence that he has sent, and has continued to send. In this correspondence, the claimant has made clear that he will only accept his complete vindication, and that he will not accept any other outcome apart from his complete vindication. When he does not receive complete vindication, he will continue to deluge the respondent, the tribunal and others with correspondence containing wild and baseless allegations of serious criminal conduct. This is amply demonstrated by the fact that, over a decade after his short period of engagement as a locum consultant came to an end, he still continues to argue that all this has happened, and his life ruined, because he made protected disclosures about the quality of care provided by the respondent. He cannot accept that he is the author of his own misfortune, and he cannot accept the finality of litigation. Instead, at every turn, when a decision goes against him, he places the judge responsible into the circle of assumed conspirators and/or he makes a complaint of misconduct and/or he (or his brother) sues them personally.

130. In the absence of any acknowledgement by the claimant of the effect of his behaviour upon others, let alone any apology for it, there is every reason to believe he will continue sending offensive correspondence containing such allegations. In his own words, he will "never stop". Any representative or witness for the respondent will know that, through being drawn into this case, they too will face months or years of unending offensive correspondence. In those circumstances, it is reasonable and predictable that the respondent's witnesses would fear the consequences if they gave evidence that did not fully support the claimant's case. That is another reason to conclude that a fair trial is no longer possible (**Bolch** and **De Keyser** applied).

131. Lastly, I bear in mind that a "fair trial" in the circumstances is one that is conducted without an undue expenditure of time and money, and with a proper regard to the demands of other litigants upon the finite resources of the court. If I do not strike out the claimant's three remaining claims, there is every reason to suppose that, through those claims, he will continue to absorb a wholly disproportionate amount of this tribunal's limited resources, adversely impacting upon its ability to deliver justice to the other parties waiting in the queue for their correspondence to be answered, for their hearings to be listed, and for their cases to be determined. This would be contrary to the overriding objective (**Arrow Nominees** applied).

Third stage

132. In my judgment, striking out the three remaining live claims is a proportionate response to the offending criminal behaviour. There is no lesser penalty that would suffice (**Bolch** and **Bennett** applied). Even the most firm and skilful

case management would not address the prejudice to the respondent (and its representatives and witnesses), who would still be likely to feel intimidated by the claimant's criminal conduct and fearful of the consequences of failing fully to support his case (**Force One Utilities** applied). The damage the claimant's criminal conduct has done to the integrity of these proceedings is irreparable. I consider it proportionate to strike out his claims so that the capacity for further damage by him is also brought to an end (**Chidzoy** and **Bayley** applied). Furthermore, in my judgment, if the claimant were permitted to continue with his claims in circumstances where he has engaged in assault and threatening behaviour towards others, including members of the judiciary and the legal profession, it would be offensive to the rule of law.

133. Although not strictly necessary to do so, I also consider that striking out the claimant's three remaining claims is a proportionate response to his scandalous, vexatious and unreasonable conduct in deluging the respondent and the tribunal with offensive correspondence of the type I have described. Over many years, the claimant has repeatedly and amply demonstrated his inability to heed rebukes and warnings from numerous judges about the scope and impact of his correspondence. He has made clear to me in this hearing that he has every intention of continuing this correspondence. Only by striking out his three remaining claims can the tribunal draw a line under this decade of litigation and the hundreds of thousands of pages of correspondence that it has needlessly generated.

Fourth stage

134. I agree with Mr Adjei that the fourth stage is more apposite when an order to strike out is made against a respondent. This is because there may be other aspects of the proceedings – such as a remedy hearing – where the respondent can properly and proportionately be permitted to participate. In this case, I observe only that the appropriate consequence of striking out the claimant's three remaining claims is that these proceedings are finally brought to an end. This outcome, while draconian, properly addresses the claimant's scandalous, unreasonable and vexatious conduct; is consistent with the overriding objective; and is necessary in the interests of justice.

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Judge Clarke, President
Dated: 28 December 2023

RESERVED JUDGMENT & REASONS SENT TO THE PARTIES ON

.....28 December 2023.....

.....
FOR EMPLOYMENT TRIBUNALS

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Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Recording and transcription

Please note that if a tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here: https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/

Note: appendix follows

Appendix: relevant chronology

Date	Event	Related legal process
23 July 2012	R engages C as locum consultant for fixed term of six months	
21 March 2013	C informed that his application for appointment to one of two vacant consultant posts had been rejected	
30 April 2013	C's locum engagement ends upon expiry of three-month extension	
8 May 2013	High Court (Leggatt J) refuses application by C for interim injunction	High Court proceedings
31 May 2013	C presents first claim to ET (London Central)	First ET claim
16 July 2013	High Court claim struck out (Master Cook)	High Court claim
5 September 2013	Preliminary hearing (EJ Henderson) – deposit ordered	First ET claim
29 October 2013	Preliminary hearing (EJ Glennie)	First ET claim
17-24 March 2014	Full hearing (EJ Lewzey and members)	First ET claim
2 June 2014	Reserved judgment dismissing C's claim	First ET claim
10 December 2014	ET makes costs order against C	First ET claim
23 March 2015	C's further application for consultant post rejected	
9 June 2015	Detailed assessment (EJ Goodman) – costs assessed	First ET claim
18 June 2015	C presents second claim to ET (London Central) – R says it is estopped, abuse of process etc	Second ET claim
26 August 2015	Prior to receipt of R's ET3, ET lists preliminary hearing for 2 October 2013	Second ET claim
9 September 2015	ET (EJ Goodman) directs that C's application for claim to be transferred to a different region will be considered at a preliminary hearing on 20 October 2015	Second ET claim
16 September 2015	EAT (HHJ Richardson), following a rule 3(10) hearing, permits limited grounds of appeal against Lewzey judgment (liability and costs) to go forward	First ET claim
2 October 2015	ET (EJ Snelson) holds that C's claim estopped insofar as pre-dates 31 May 2013, but stays remainder pending appeals in respect of first ET claim	Second ET claim
2 October 2015	C presents third claim to ET (London East) – R says it is estopped, abuse of process etc	Third ET claim

8 December 2015	ET (REJ Taylor) stays the third claim pending the conclusion of all extant appeals	Third ET claim
20 January 2016	Following further opportunity to challenge bill of costs, detailed assessment confirmed (EJ Goodman)	First ET claim
26 January 2016	EAT (Simler J), following a rule 3(10) hearing, allows C to appeal ET decisions dated 26 August 2015 and 9 September 2015	Second ET claim
29 January 2016	R applies to the ET for an order that C should not correspond with any party (or third party) without ET's permission	First, second and third ET claims
February 2016	Court of Appeal (Lewison LJ) refuses C permission to appeal HHJ Richardson's rule 3(10) judgment	First ET claim
23 February 2016	In response to R's application sent on 29 January 2016, ET (REJ Taylor) lifts the stay of the third claim and transfers it from London East to London Central	Third claim
4 August 2016	C presents fourth claim to ET (London East) – R says it is estopped, abuse of process etc	Fourth ET claim
11 August 2016	EAT (HHJ Shanks) dismisses C's appeal against Lewzey judgment	First ET claim
4 April 2017	Following a preliminary hearing, ET (EJ Hyde) stays the fourth claim	Fourth ET claim
24 May 2017	Court of Appeal (Floyd LJ) refuses C permission to appeal HHJ Shanks' EAT judgment	First ET claim
9 June 2017	EAT (HHJ Hand QC) declines to set aside judgment of HHJ Shanks	First ET claim
11 July 2017	EAT (Soole J) sets aside ET decisions dated 26 August 2015 and 9 September 2015 and Snelson judgment	Second ET claim
23 February 2018	ET (President Doyle) warns C that his lengthy communications were an abuse of process	First and second ET claims
12 & 13 April 2018	EAT (HHJ Barklem) conducts, but is unable to conclude, a rule 3(10) hearing in respect of C's appeal against detailed assessment of costs	First ET claim
27 April 2018	EAT (Simler J) issues unless order, leading to C's appeal against detailed assessment of costs being struck out	First ET claim
2 May 2018	EAT (Slade J), following a rule 3(10) hearing, permits C to appeal REJ Taylor decision to transfer third claim to London Central	Third ET claim
19 July 2018	EAT (Simler J) refuses relief from sanction	First ET claim
30 July 2018	As R did not oppose appeal against REJ Taylor's decision to transfer third	Third ET claim

	claim to London Central, EAT remits matter to ET	
9 October 2018	ET (President Doyle) informs C that no further action will be taken by the ET until all extant appeals concluded	First and second ET claims
23 November 2018	R requests preliminary hearing in third claim to consider whether it should be struck out etc	Third ET claim
19 December 2018	ET (President Doyle) informs C that his first claim is at an end with all rights of appeal exhausted	First ET claim
7 February 2019	ET holds preliminary hearing (REJ Taylor) to consider R's application made on 23 November 2018 – date of assault	Third ET claim
20 February 2019	R applies to strike out C's claims on basis of his behaviour on 7 February 2019	Second, third and fourth ET claims
19 March 2019	ET (President Doyle) stays all of C's live claims in London Central and London East	Second, third and fourth ET claims
11 April 2019	EAT stays all current appeals	Second, third and fourth ET claims
23 April 2019	Respondent refers C to the GMC	MPTS
15 July 2019 and 7 August 2019	C's trial at Westminster Magistrates' Court	Criminal proceedings
6 September 2019	C's sentencing hearing at Westminster Magistrates' Court – thereafter C at HMP Wandsworth	Criminal proceedings
15 September 2019	C complains to the European Commission	
8-17 December 2020	C's brother – trial at Snaresbrook Crown Court	Criminal proceedings
19 April 2021	Concluding day of C's appeal against conviction and sentence – Snaresbrook Crown Court	Criminal proceedings
1 June 2021	R requests that stay of ET proceedings be lifted	Second, third and fourth ET claims
14 October 2021	C made subject to General CRO (two years)	High Court proceedings
13-17 December 2021	MPTS hearing commences	MPTS
15 December 2021	European Commission acknowledges C's complaint	
10 June 2022	C applies to the European Court of Human Rights	
1 September 2022	ET President proposes to lift stay	Second, third and fourth ET claims
10 November 2022	Stay of proceedings is lifted; two-day preliminary hearing listed (but postponed on three occasions upon C's application)	Second, third and fourth ET claims
31 January 2023	C applies to the Criminal Cases Review Commission	Criminal proceedings

3 July 2023	C's brother presents High Court claim against current and former ET President, REJ Taylor and others	High Court proceedings
5 & 6 July 2023	Preliminary hearing – postponed but various orders and directions made	Second, third and fourth ET claims
11 July 2023	High Court claim by C's brother has struck out	High Court proceedings
4 August 2023	MPTS hearing concludes	MPTS