



EMPLOYMENT TRIBUNALS

Claimant:

Mr W Maseke

v

Respondents:

Telefonica Uk Limited (1)

Telefonica (O2) (2)

The Outer Temple (3)

Shoosmiths LLP (4)

JUDGMENT

1. The claims on the attached schedule are consolidated.
2. The claims on the attached schedule are struck out.

REASONS

INTRODUCTION

1. On 30 August 2023 I made an order in the following terms:

“On or before the date 14 days from when this order is sent to the parties the claimant must either:

1. *Submit his written representations in respect of the respondents’ application to strike out his claims or any other matters referred to in para 3 below, or*
2. *Request a preliminary hearing to consider such matters.”*

2. The “para 3” referred to reads:

“I intend to consider the respondent’s application(s) to strike out the claimant’s claim including (if necessary) considering of my own motion whether to strike out the claim(s) on the basis that (i) the manner in which the claimant has conducted his claim has been scandalous, unreasonable or vexatious and/or (ii) a fair trial is no longer possible.”

3. In the final sentence of my reasons (which were supplied to the parties with the order) I said:

“For the avoidance of doubt, this question of striking out the claim or claims is intended to encompass all and any claims brought by the

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claimant against the respondents or any other respondents included in claims against the respondents (such as their lawyers) irrespective of whether they are mentioned in the case numbers set out above or consolidated with those claims.”

4. This order was sent to the parties on 6 September 2023, and the claimant replied, within time, on 19 September 2023. He said:

“Attached please find my response to the order of 30.08.2023 ... in the form of witness statement. I respectfully consider that you consider. Also attached is my medical report and witness statement of 21.07.2022 in support.”

5. The material submitted by the claimant did not include any request for a preliminary hearing. Indeed, at para 75 and 77 of his the claimant seeks a decision on the papers, “as soon as practically possible”. According I have made this decision on the papers. Regrettably the claimant’s response did not come to my attention until 23 October 2023, when a further claim submitted by the claimant (3305951/2023) was referred for consideration under rule 26.

THE CLAIMS

6. It has not been straightforward to establish the current position across the claimant’s multiple claims.
7. On 2 November 2020 the claimant submitted claim no. 3313184/2020 against Telefonica UK Limited. The respondents call this the “First Claim”.
8. On 14 May 2022 the claimant submitted claim no. 3306767/2021 against Telefonica UK Ltd. It appears this claim was later the subject of a partially successful application to amend. The respondents call this the “Second Claim”.
9. On 14 July 2021 the claimant submitted claim no. 3313063/2021 against Telefonica UK Ltd. This was struck out in a judgment dated 5 April 2022.
10. On 20 November 2021 the claimant submitted claim no. 3322993/2021 against Telefonica UK Ltd. This was struck out in a judgment dated 5 April 2022.
11. On 5 January 2022 the claimant submitted claim no. 3300036/2022 against Telefonica UK Ltd. The respondents call this the “Fifth Claim”.
12. It appears that 21 January 2022 was the end of the claimant’s employment.
13. On 13 May 2022 the claimant submitted claim no. 3305682/2022 against Telefonica (O2). I will call this the Sixth Claim.
14. On 10 March 2023 the claimant submitted claim no. 3302475/2023 against Telefonica UK Ltd (Vmed O2 UK Ltd). I will call this the Seventh Claim.

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15. On 1 June 2023 the claimant submitted claim no. 3305951/2023 against Telefonica UK Ltd, The Outer Temple and Shoosmiths LLP. I will call this the Eighth Claim.
16. On 5 July 2023 the claimant submitted claim no. 3307733/2023 against Telefonica UK Ltd, "Ministry of Justice/Lord Chief Justice", Outer Temple Chambers and Shoosmiths LLP. I will call this the Ninth Claim. The claimant's particulars of this claim start by saying "*This is a discrimination victimization, harassment, intimidation, aggravation ("conduct"), and a protected disclosure (p.d) claim as there has been a collusion between the Tribunal, HMCTS, Lead Respondent (Telefonica UK Ltd), its representative and counsel ("Respondent").*"
17. These claims must all be consolidated.
18. I have identified these claims from the tribunal's electronic database, but even then I cannot be confident that these are all the claims. It appears that in some cases ET3s have not been received (or perhaps not registered, or not received or registered from all respondents) and it may be that some respondents are unaware of some of the claims. That does not affect this decision, although I note the claimant makes various points about delay in serving the Sixth Claim.

THE RESPONDENTS' APPLICATION(S)

19. The relevant application from the respondents (at least the first and second respondents) was made on 12 July 2023. It reads:

"In the two-week period since the Tribunal wrote to the parties on 23 June 2023 confirming Employment Judge Gumbiti-Zimuto's decision to recuse himself from further consideration of the Claimant's claims against the Respondent, the Claimant has written to the Tribunal on three separate occasions to make further numerous requests of the Tribunal and applications, as well as continuing to make false allegations about the Respondent, ourselves and the Tribunal. This is the same way in which the Claimant has conducted himself throughout his claims, but in particular since December 2022. It is contended that it is not sustainable for the proceedings to continue to be conducted in this manner by the Claimant, which only serves to put the Tribunal's limited resources (as well as the Respondent's time and costs) to waste.

In addition to the multiple and excessively detailed correspondence sent by the Claimant to the Tribunal, the Claimant has raised two further claims against the Respondent and also a claim against ourselves as the Respondent's legal advisor and also a barristers' chambers.

We have written to the Tribunal on three previous occasions on 1 February, 9 May and 9 June 2023 to apply for a substantive preliminary hearing to address jurisdictional matters relating to the claim brought by

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the Claimant under case number 3302475/2023 and also the Claimant's ongoing unreasonable and vexatious conduct in these proceedings ... To date, though the Tribunal has responded to some of the Claimant's applications, we have not received a response to our applications. In view of the Claimant ongoing conduct, and the unnecessary and wasted time and cost to which he continues to put the Respondent in having to respond to his frequent applications, we would request that our applications for a preliminary hearing are put before an Employment Judge as a matter of urgency.

It is noted that the Claimant's preference is to not have a further substantive preliminary hearing due to his health, however, as a result of his own conduct and potential jurisdictional issues arising from one of his newest claims, it is believed that a substantive preliminary hearing is now required in order to further the overriding objective and ensure that the proceedings are heard in a fair, reasonable and proportionate manner."

20. The respondent's application of 1 February 2023 talks of *"the Claimant's further spurious and malicious allegations and misconceived applications, which the Respondent believes to be an abuse of process"* and includes the following: *"In making the serious and untrue allegations against the Employment Judge and the Respondent's Counsel (and potentially by extension the Respondent and ourselves), the Claimant continues to conduct the proceedings in a scandalous, unreasonable and vexatious manner ..."*. They also say:

"Furthermore, in view of comments made by the Claimant ... the Respondent believes that it is no longer possible for a fair hearing to be held ... the Claimant does not, and will not, accept the judgments made at the Preliminary Hearings due to his dissatisfaction with them, to the extent that the Claimant now makes extremely serious and malicious allegations against the Employment Judge and the Respondent's Counsel in an attempt to subvert the normal Employment Tribunal process. In the circumstances, there can be no assurance that the Claimant would not take the same approach if dissatisfied with any further judgments that are made by the Employment Tribunal, in particular at the final hearing. Accordingly, the Respondent submits that the Remaining Claims should be struck out pursuant to Rule 37(1)(e) of the Regulations, on the basis that it is no longer possible for a fair hearing to be held."

21. The email of 9 May 2023 makes representations that are specific to case no. 3302475/2023.
22. The email of 9 June 2023 says (amongst other things):

"On 1 February 2023, the Respondent applied for a substantive preliminary hearing to determine whether the First, Second and Fifth

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Claims should be struck out on the ground that the Claimant is conducting the proceedings in a scandalous, unreasonable or vexatious manner and / or that a fair hearing is no longer possible (“the Respondent’s First Application”). Following presentation of the Sixth Claim by the Claimant, the Respondent made a further application on 9 May 2023 for a preliminary hearing to determine whether the Tribunal has jurisdiction to hear the Sixth Claim. At the time of writing, the Respondent has not received a response from the Tribunal to either of its applications.

Since the Respondent’s First Application, the Claimant has continued to make spurious allegations against the Respondent, Shoosmiths LLP and / or Miss Clarke in their role as the Respondent’s advisor, Mr Lawrence in his role as the Respondent’s barrister at the three preliminary hearings, and also Employment Judge Gumbiti-Zimuto and the Employment Tribunal. In addition, the Claimant has made a significant number of applications, including numerous applications for strike out of the Respondent’s responses without any just cause (and which have been refused by the Employment Tribunal).

It is contended that the Claimant’s ongoing behaviour in making unwarranted applications and vexatious allegations, which has culminated in the Claimant now making scandalous applications to add Shoosmiths LLP and / or Miss Clarke and Mr Lawrence as parties to his claim due to their roles as legal advisors to the Respondent, is clear proof of the Claimant’s ongoing unreasonable, vexatious and scandalous behaviour. It is submitted that the Claimant’s conduct does not further the overriding objective, but is an abuse of the Tribunal process and the Tribunal’s limited resources and time. In addition, the Respondent (and now its legal advisors) have been put to significant unnecessary time and cost in having to review and respond to the Claimant’s frequent and excessively detailed correspondence and applications to the Tribunal.”

RECUSAL OF EJ GUMBITI-ZIMUTO

23. An application submitted by the claimant on 24 April 2023 included an application for EJ Gumbiti-Zimuto to recuse himself from further involvement in the case. In an order of 22 June 2023, EJ Gumbiti-Zimuto granted that application, although on a limited basis. The judge’s reasons for granting the application include the following:

“The claimant’s application for me to recuse as the judge to his cases is made based on serious but unsubstantiated allegations, including allegations that there is deliberate collusion by me as judge with the respondent and that I have discriminated against the claimant because of his race. The supposed factual basis of such complaints is not readily

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ascertainable beyond the fact that the claimant disagrees with various decision made by me in the conduct of his cases against the respondent and that I have deliberately ignored the claimant's applications with a view to frustrating the claimant's case. There are essentially no facts alleged that by the claimant to support these allegations ...

The claimant's application for me to recuse has no proper factual basis ...

... an objective bystander fully informed of all the relevant circumstances would not consider that there is bias against the claimant, I nonetheless consider that they would consider that the claimant's unfounded complaints amount to a considerable obstruction and distraction from the orderly conduct of the work of the Employment Tribunal and is possibly impacting on the claimant's ability to properly address the issues he needs to address in the case if he is to have a successful outcome. The objective bystander would further consider that the manner in which the case has been conducted is having an obstructive effect on the administration of justice because of the claimant's unfounded complaints against the Judge ...

Though reluctant to do so I am satisfied that it is on balance better that I recuse myself from the further conduct of the claimant's case. I come to this conclusion because I consider that I act as a lightning rod to further complaints from the claimant. This is disruptive of the conduct of the case and is likely to impact on the ability of the parties to be able to deal with case in a way which is proportionate to the complexity of the issues. Furthermore, generally it is a waste of resources for me to have to continue to spend considerable amounts of time responding to repeated applications and unfounded allegations."

24. To paraphrase this, the judge considered that there was no proper basis for the claimant's recusal application, but nevertheless found that it was pragmatic to agree to the application in the hope that the claimant would move on to address the issues between the parties, rather than ancillary matters such as unfounded allegations of collusion. He also recorded that "*there is no merit in the claimant's various complaints*".
25. The order was sent to the parties on 23 June 2023. On the face of it, then, the claimant would have had it by the time of lodging his Ninth Claim (5 July 2023), which repeated the allegations of collusion and sought to join the "Ministry of Justice/Lord Chief Justice" as a respondent.

THE CLAIMANT'S RESPONSE

Medical evidence

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26. The claimant's response to the order included with it a report from Georgia Costa, Psychologist and Psychotherapist, dated 31 March 2022. Ms Costa concludes – she says in agreement with other mental health professionals – that the claimant has Generalised Anxiety Disorder as well as a depressive illness. She says:

“GAD is characterised by persistent and excessive worry about a number of different things ... Individuals with GAD find it difficult to control their worry. They may worry more than seems warranted about actual events or may expect the worst even when there is no apparent reason for concern.”

Previous witness statement

27. The witness statement of 21 July 2022 is headed “*application to amend, correct and update statement in response to respondent’s application(s) of 28.04.2022*”. This seems to relate largely to the merits of his claims and an earlier application by the respondent to strike out parts of the claims (perhaps all of them) on the basis that they were brought outside the normal time limits.

Current witness statement

28. The claimant's current witness statement runs to 87 pages (including appendices).
29. In the first four pages the claimant sets out some background.
30. At page 5 the claimant refers to the order of 30 August 2023, correctly pointing out that there is nothing in the order that relates to his claims having “*no reasonable prospects of success*”. At page six the claimant raises the prospect of his own application under rule 37 to strike out the respondent(s) responses. In page seven he applies under rule 29 for a variation of the order of 30 August 2023, to include issuing orders against the respondent(s), although it is not clear to me on what basis that application is made. He says that this is the second time he has had to face an application to strike out his claim(s). He goes on to make counter-applications against the respondent(s) concerning questions in relation to witnesses and disclosure, some of which are set out in more detail in his appendices. He says that the appendices “*include vital information which is integral and an important part of my response as to why my claims should not be struck out*”. He continues with criticism of the respondents and previous employment judges, particularly in relation to a list of issues, and then discusses the recusal decision of EJ Gumbiti-Zimuto.
31. The claimant goes on to talk about defamation by the respondent and his rule 50 application. At para 67 he says:

“Therefore, given the above facts and before I dive deeper on the crux of the matters I am ordered to respond ... any reasonable persona may

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come to a conclusion that if there was any unreasonableness at all, or vexatious or inappropriate manner, it would be by the Respondents and Tribunal in how it had unreasonably, scandalously and disastrously flawed the process, repeatedly breached the rules, UK and International laws on how the proceedings were conducted and which prompted me to repeatedly make those vital applications.”

32. He continues at para 68:

“I feel this disastrous and unacceptable conduct by Respondents and Tribunal is even reflected in their collusion whereby some events ... could not have happened had there been no communication (in any form) which was outside the rule 92 between the Tribunal and Respondents.”

33. From para 80 onward the claimant complains of delay in serving his sixth claim.

34. At para 108 the claimant complains of “abuse of process” in a failure by the respondent to observe rule 92 on submitting its ET3. He requests that the tribunal strike out the respondent’s response. He talks of “*shoddy, unreasonable and ulteriorly written reasons*” and his further applications in May 2022. He goes on to speak of events at the preliminary hearing on 22 July 2022.

35. At para 124 the claimant talks of “*collusion between the Judge and Respondent*” in relation to events surrounding and concerned with that preliminary hearing. At paras 126-129 he addresses the position of the original respondents’ legal representatives (who are now respondents in their own right to some of his claims).

36. At para 132 the claimant says, as he has said elsewhere, that a fair trial is no longer possible. In the following paragraph this is developed into a fair trial being “*forever impossible*”.

37. At para 134 onwards the claimant refers to specific disclosure. At para 142 he speaks of striking out each respondent’s defence, and at para 144 speaks of the Secretary of State for Justice as being a respondent (to the Ninth Claim). He says:

“... the Tribunal has encouraged this conduct and now punish me for its own irresponsibility, breach of its own rules, abuse of powers and privileges at my significant detriments ...”

38. At para 145 he continues, and says “*all Respondents have improperly used Tribunal procedures and rules for an unintended, malicious, or perverse reason in which I’d more often been discriminated against and victimized because of my race and taken advantage for due to my lack of the complex legal matters, dire ill-health and financial vulnerabilities*”.

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39. The claimant goes on to discuss abuse of process, saying that a fair trial was no longer possible even before 1 February 2022. He talks of the damage to his health caused by the events in these proceedings, and encourages the tribunal to “*avoid a hearing by all means possible*”.
40. At para 168 he speaks of the merits of elements of his claims, accusing the respondents (including the respondents who are legal representatives) of providing a defence they know to be false. The claimant refers to case 3301182/2021, a previous decision of EJ Gumbiti-Zimuto in a case brought against the respondents’ legal representatives. This appears to be in support of his position that EJ Gumbiti-Zimuto had colluded with the respondents or their legal representatives.
41. The remainder of the claimant’s witness statement or submission is taken up with a number of appendices.
42. The nature of the materials submitted by the claimant is essentially that his claims should not be struck out and that he has not done anything wrong. His position is that the respondents and the tribunal itself have committed multiple wrongs against him and that it is the respondents’ response(s) that should be struck out.
43. It appears also from the tribunal file that the claimant has lodged an appeal against an earlier decision by EJ Gumbiti-Zimuto to refuse to strike out a response, and that that appeal remains outstanding. I note that one of the grounds of appeal sets out the claimant’s concern that “*a fair trial for me is no longer forever possible*”. The appeal seeks, amongst other things, “*strike out all respondent’s response*”.

THE LAW

44. Rule 37(1) provides that:

“... a Tribunal may strike out all or part of a claim or response on any of the following grounds:

...

- (b) *that the manner in which the proceedings have been conducted by ... the claimant or the respondent ... has been scandalous, unreasonable or vexatious ...*
- (e) *that the Tribunal considers it is no longer possible to have a fair hearing in respect of the claim ...”*

45. Rule 37 is to be applied in accordance with the overriding objective in rule 2:

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

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

46. Cases such as Blockbuster v James [2006] EWCA Civ 684 make clear the close relationship between rule 37(1)(b) and (e). At para 5 of Blockbuster Sedley LJ says:

“[The power to strike out a claim or response] is a Draconic power, not to be readily exercised. It comes into being if ... a party has been conducting its side of the proceedings unreasonably. The two cardinal conditions for its exercise are either that the unreasonable conduct has taken the form of deliberate and persistent disregard of required procedural steps, or that it has made a fair trial impossible. If these conditions are fulfilled, it becomes necessary to consider whether, even so, striking out is a proportionate response.”

47. There has been no “*persistent disregard of required procedural steps*” by the claimant. From Blockbuster, the questions to be considered are (and see also Bloch v Chipman [2004] IRLR 140):

- 1. Has the claimant conducted the claims in a scandalous, unreasonable or vexatious manner?
- 2. If so, is a fair trial possible?
- 3. If not, is striking out the claim a proportionate response, or is some lesser response appropriate?

48. An aspect of point 3 must be whether, if striking out is a proportionate response, the proportionate response is striking out the whole of the claim(s) or just part of the claim(s).

49. I also note para 18 of Blockbuster:

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“The first object of any system of justice is to get triable cases tried. There can be no doubt that among the allegations made by [the claimant in that case] are things which, if true, merit concern and adjudication. There can be no doubt, either, that [the claimant in that case] has been difficult, querulous and uncooperative in many respects ... But the courts and tribunals of this country are open to the difficult as well as to the compliant, so long as they do not conduct their case unreasonably.”

50. That must apply equally to the claimant in these claims. Among the allegations made by him are things which, if true, merit concern and adjudication. They should be considered by the tribunal to the extent possible, with striking out being seen as a last resort.

DISCUSSION AND CONCLUSIONS

1. Scandalous, unreasonable and vexatious conduct of proceedings?

51. I have no hesitation in finding that the claimant has conducted these proceedings in a scandalous, unreasonable and vexatious manner.
52. EJ Gumbiti-Zimuto made it clear in his response to the claimant’s application for his recusal that *“the application ... has no proper factual basis”* and *“there are ... no facts alleged ... by the claimant to support these allegations”*. He also explained that he was recusing himself not because of any merit in the claimant’s application, but because *“it is a waste of resources for me to have to continue to spend considerable amounts of time responding to repeated applications and unfounded allegations”*, with the claimant’s complaints against him being *“disruptive of the conduct of the case”*.
53. At least part of the application made by the claimant was based on supposed *“deliberate collusion ... with the respondent”*.
54. There will be occasions when an application for recusal is warranted. A bad or unsuccessful application for recusal is not necessarily unreasonable conduct of a claim or response. I must also bear in mind that as a litigant in person the claimant would not necessarily know the legal tests to be applied in an application for recusal.
55. What makes the claimant’s application for recusal in this case unreasonable conduct is that it was made with *“no proper factual basis”*. I also find that accusing a judge of *“deliberate collusion”* with another party, without any proper factual basis, is scandalous conduct of proceedings.
56. There is more to it in this case, though. EJ Gumbiti-Zimuto plainly hoped that by withdrawing from the case the claimant would find himself able to move on with the substance of his case, and would cease making the accusations that EJ Gumbiti-Zimuto had found to be baseless. Unfortunately that has not been the case.

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57. Since the success of his recusal application, the claimant has only increased the strength of his accusations against the judiciary, the respondents and their representatives, including bringing the Ninth Claim with the Ministry of Justice/Lord Chief Justice and the respondents' legal representatives as respondents.
58. Even if the facts alleged by the claimant were true I do not see how the employment tribunal would have any jurisdiction over the claims that the claimant seeks to bring against the respondents' legal representatives or the Ministry of Justice/Lord Chief Justice. To bring those claims amounts to unreasonable and vexatious conduct by the claimant. To allege collusion without any proper factual basis is scandalous conduct.
59. I have considerable reservations about the extent of the claimant's applications, but do not consider it necessary to determine whether the extent of the claimant's applications amounts to unreasonable conduct, since the volume of applications is not something I consider yet interferes with the prospects for a fair trial.

2. A fair trial?

60. Given that there has been scandalous, unreasonable and vexatious conduct by the claimant, is a fair trial still possible?
61. Both parties agree, although for different reasons, that a fair trial is not possible. It is the claimant's case that "*a fair trial was no longer possible or me from the word 'go' at the very earliest stages of the tribunal proceedings in 2021*". However, what matters is whether the tribunal considers that it is no longer possible to have a fair hearing in respect of the claim(s).
62. There are clearly formidable obstacles in the way of a fair trial. Trust and co-operation between the parties appears to be minimal. However, that of itself only makes a fair trial difficult. It does not mean that it is not possible.
63. The claimant's repeated baseless attacks on EJ Gumbiti-Zimuto are disturbing, but do not mean that a fair trial is no longer possible. The judiciary are expected to be robust in the face of what may be unmerited criticism from people who struggle to understand tribunal procedure or whose commitment to their claims leads them into unwise actions.
64. What makes a fair trial no longer possible is the claimant's ongoing collateral attacks on the respondents' legal representatives and baseless allegations of collusion between those representatives and the judiciary. This is the way it is put in the respondents' application (made by their representatives):

"[the claimant] continue[s] to make false allegations about the respondent, ourselves and the tribunal. This is the same way in which the claimant has conducted himself throughout his claims, but in

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particular since December 2022 ... it is not sustainable for the proceedings to continue to be conducted in this manner by the claimant ... the claimant has raised two further claims against the respondent and also a claim against ourselves as the respondent's legal advisor and also a barristers' chambers."

65. And in their application of 1 February 2023:

"the Claimant now makes extremely serious and malicious allegations against the Employment Judge and the Respondent's Counsel in an attempt to subvert the normal Employment Tribunal process. In the circumstances, there can be no assurance that the Claimant would not take the same approach if dissatisfied with any further judgments that are made by the Employment Tribunal, in particular at the final hearing."

66. As referred to above, even if there was merit to the claimant's criticisms of the respondent's representatives it is difficult to see how his criticism of them could then fall within the jurisdiction of the tribunal. However, he has now made two claims against them, including now the Ministry of Justice/Lord Chief Justice. The respondents' representatives should be free to conduct the defence of the claims in accordance with their instructions and their professional and legal obligations without fear that they themselves will come under collateral attack from the claimant in a forum that has, essentially, no jurisdiction to rule on his complaints against them. They should not be under intimidation of being joined into the claims themselves.

67. That is all the more so when it includes highly damaging and baseless claims of collusion with the judiciary. By the time of his response to the application, the claimant has gone so far as to review a previous claim that EJ Gumbiti-Zimuto was concerned with against the respondent's solicitors, and has drawn completely unwarranted conclusions as to collusion from that.

68. A fair trial is no longer possible because of the claimant's vexatious and unreasonable attempts to bring employment tribunal claims against the respondents' representatives and the judiciary, and because of his scandalous baseless allegations of collusion.

3. Is striking out the claim(s) a proportionate response?

69. What else can be done in response to this?

70. An award of costs is always a possibility in the face of vexatious, unreasonable or scandalous behaviour, but this would not address the underlying problem of holding a fair hearing.

71. Although not provided for in the rules, I have considered whether any sort of informal or formal warning could be given to the claimant about his conduct in order to give him a last chance of continuing with the claims. The difficulty with

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this is that I see no prospect of it being effective. As time has gone on, the claimant has become more vehement in his allegations. EJ Gumbiti-Zimuto's order may have been seen by some as a caution against repeating the allegations made by the claimant, but they have not been seen that way by the claimant. I see no suggestion that the claimant would ever desist in his allegations.

72. There is then the question of whether part only of the claims should be struck out, with some continuing.
73. The first point on this is that it is clear that the claims against the Ministry of Justice/Lord Chief Justice and the respondent's legal representatives must be struck out. They are in themselves unreasonable and vexatious.
74. The second question is whether there is anything that can be saved from the claimant's claims against his former employers. The difficulty with this is that it is not a case where the problems lie in understanding the claimant's claims or in the merits of different aspects of his claim. The problem is with the claimant's overall conduct of the claims, and I do not see any way in which parts of the claims could be struck out but other points not struck out.
75. Finally, I have considered the implications of the claimant's diagnosis for this decision. It has not been part of the claimant's response to the application that his medical condition has led him into inappropriate behaviour. His main point is that his medical condition has been aggravated by the actions of the tribunal, respondents and respondents' representatives. It seems likely to me (although it was not part of the claimant's response) that his health condition has adversely affected his ability to conduct his claim, but that does not mean that his behaviour has not been vexatious, unreasonable or scandalous, nor does it mean that a fair trial is possible. I do not see any steps that could be taken on the basis of his health short of striking out the claims, and he has not suggested any.
76. The claimant's claims are struck out.

Employment Judge Anstis

Date: 10 November 2023

Judgment and reasons

Sent to the parties on: 5 January 2024

For the Tribunal Office

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SCHEDULE OF CLAIMS

3313184/2020
3306767/2021
3300036/2022
3305682/2022
3302475/2023
3305951/2023
3307733/2023