



# EMPLOYMENT TRIBUNALS

**Claimant:** Joseph Johnson

**Respondents:** (1) KOKA Community Projects CIC  
(2) William Judd

**Heard at:** East London Hearing Centre (by video)

**On:** 13 June 2024

**Before:** Employment Judge Housego

## Representation

**Claimant:** In person (at the start of the hearing, then not present or represented)

**Respondent:** Naomi Cunningham, of Counsel, instructed by Fiona Satiro, solicitor (non-practising)

## JUDGMENT

1. The claim is struck out.
2. The Claimant is ordered to pay to the Respondents costs in the sum of £5,262.00.

## REASONS

### The hearing

1. The hearing was a preliminary hearing to consider the Respondents' application to strike out the claim.
2. At the start of the hearing the Claimant said that he had sent in 3 documents at 18:07 the previous day. The 2<sup>nd</sup> Respondent had emailed in a witness statement also. I adjourned to collect them and to read them, and to conclude

reading the bundle of documents of 170 pages provided by the Respondent. At 10:15 I adjourned the hearing, which had started at 10:00, until 11:00 am so that I could read the documents now provided. I had looked through most of the 170-page bundle of documents before the hearing started.

3. The documents with which I was provided by both parties were:
  - 3.1. The bundle of documents of 170 pages (and an index).
  - 3.2. The judgment of EJ Wright dated 26 May 2022 striking out cases numbered 2307618/2020, 2307851/2020 and 2308282/2020 for failing to comply with an Order dated 08 March 2022 that he show cause why these claims should not be struck out.
  - 3.3. My judgment dated 26 July 2023 in cases brought by the Claimant numbered 3204227/2022, 3204228/2022, 3204780/2022, 3204638/2022, 3204970/2022, 3205762/2022 and 3200445/2023, striking out those claims (based on an assertion that he was a worker for the main respondent).
  - 3.4. An 11-page document from the Claimant dated 27 July 2023 sent to the President's Office headed "RE: 27TH JULY COMPLAINT AGAINST EMPLOYMENT JUDGE MASSARELLA FOR RACIALLY DISCRIMINATING AGAINST ME BECAUSE I AM A BLACK MAN"
  - 3.5. A judgment of 17 April 2024 in case number 3202049/2023 of EJ Bradford in which the Claimant succeed in claiming that he was a worker and was owed £5,500.
  - 3.6. A document of 17 pages from the Respondent headed "JOSEPH JOHNSON FULL EXPLANATION OF HOW HE ATTAINED FUNDS TO DELIVER OFFSITE COMMUNITY MARTIAL ARTS PROVISION" which he asked be taken as his witness statement.
  - 3.7. The 2<sup>nd</sup> Respondent's witness statement dated 12 June 2024.
4. Before reading the documents sent to me by the Respondents at the start of the hearing, I was unaware that I had previously struck out a case brought by the Claimant. I was allocated this hearing at random. I did not consider that to be a fact that required me to consider recusing myself. Nor did I consider that the Claimant had made allegations against me about that case reason to do so. The allegations seemed to me no more than to disagree with my previous decision, to note a difference in ethnicity and to attribute my decision to that difference, when it was a fully reasoned fact-based decision.
5. Having read the papers I observed to the Claimant that had noted that I had previously struck out a claim he had brought. He asked me whether it was the PureGym claim, and I said that it was. He then said "*You are the racist and corrupt judge who heard the PureGym case and I have made multiple complaints against you and I have no interest in anything you have to say*". He

then disconnected from the video link and took no further part in the hearing. I decided to continue the hearing in his absence.

6. I heard oral evidence on affirmation from the 2<sup>nd</sup> Respondent. He stated that he had read his witness statement recently, had no amendments or corrections to make and stated that to the best of his knowledge information and belief it was all true. He was asked no supplemental questions and as the witness statement is comprehensive, I needed to ask no questions to clarify or expand on what he said.

#### Submissions of Counsel for the Respondents

7. Counsel for the Respondents then made submissions. I summarise these below. There were the following reasons for seeking to strike out the claim:

- 7.1. The race discrimination claim was identical to that struck out by EJ Moor on 29 September 2023, with case number 3200881/2023. That meant that:

- 7.1.1. the matter was res judicata and;

- 7.1.2. filing a second claim on the same basis, with no reason put forward, was an abuse of process once the first claim had been struck out.

- 7.2. The rest of the claim, for wages between November 2022 and September 2023, was incomprehensible as it was found as a fact by EJ Moor that the 2<sup>nd</sup> Respondent terminated any connection between the 1<sup>st</sup> Respondent and the Claimant on 25 November 2022, and so there can have been no pay or money due to the Claimant for any period after that. Accordingly, it had no reasonable prospect of success

- 7.3. The entirety of the claim was vexatious.

- 7.4. The claim was out of time. The previous judgment had decided that it was not just and equitable to allow the first race discrimination claim to continue, and this claim was filed even later with no explanation or reason why it was just and equitable to allow it offered by the Claimant. The 1<sup>st</sup> was on 05 October 2022 and this claim on 15 May 2023. The 2<sup>nd</sup> Respondent had reported the taking of the £20,000 to the police in November 2022. That the police may have visited the Claimant for the first time in May 2023 was not reason to bring another claim. The Claimant knew in November 2022 that the 2<sup>nd</sup> Respondent had complained to the police about this.

- 7.5. Given the way the Claimant had just conducted himself – making an allegation of racism and corruption against me and then exiting the hearing he was either:

- 7.5.1. conducting the case unreasonably or

- 7.5.2. failing adequately to progress the case.
- 7.6. He had failed to comply with Tribunal Orders (although in fairness the Respondents had filed their witness statement only very recently). However, despite claiming to have £40,000 in the bank he had failed to pay the Respondent the costs of £3,028.80 awarded to them by EJ Moor.
- 7.7. He had a history of making hopeless claims of race discrimination. He had won one case, for pay, but that was against a respondent who had not prepared at all. He had a history of making baseless race discrimination claims and that was vexatious and unreasonable.

### Findings of fact

8. The facts are these:

- 8.1. I adopt the findings of EJ Moor, made at the hearing on 29 September 2023, and they should be read as the preamble to this judgment.
- 8.2. I accept the evidence of the 2<sup>nd</sup> Respondent as truthful, and should it be necessary it can be considered as part of my findings of fact.
- 8.3. The Claimant then lodged another claim, this claim, on 05 October 2023.
- 8.4. The race discrimination claim is identical to that in the 1<sup>st</sup> claim. That claim, as set out in box 8.2 of the claim form was:

*“K.O.C.A via William Judd on 9<sup>th</sup> May 2023 falsely accused me of fraudulently taking money raised via L&Q funding. When in fact I was commissioned by William Judd on behalf of K.O.C.O. to take the funding and deliver a community based martial arts organisation away / offsite from K.O.C.A. This false allegation was made as an extension of a racial discrimination campaign I was already subjected to by William Judd.”*

The second claim has at box 8.2:

*“William Judd has refused to pay me for the period November 2022 to September 2023. On top of that has made false claims that I as an employee committed fraud.”*

- 8.5. The judgment of EJ Moor sets out detailed reasons why the first claim was struck out, relating to time, and to the absence of any particularity other than that he had been reported to the police over the £20,000 he transferred from the 1<sup>st</sup> Respondent’s bank account to his own personal account.
- 8.6. It appears that the Claimant thinks that under the auspices of the 1<sup>st</sup> Respondent he was to seek a grant to run a martial arts organisation at a place other than the 1<sup>st</sup> Respondent’s premises, so that when the 2<sup>nd</sup> Respondent ended his association with the 1<sup>st</sup> Respondent it was

acceptable to take the money from the 1<sup>st</sup> Respondent's bank account so as to be able to spend it on the aims approved by the donor of the money. While making no finding of fact about that, it does not explain the removal of the 2<sup>nd</sup> £10,000 paid by mistake by the donor, and there has never been any explanation as to the ultimate destination of that money, unless it still reposes in his personal bank account. The 2<sup>nd</sup> Respondent had to repay the second £10,000 from his own resources.

- 8.7. No reason was put forward as to why a second identical race discrimination claim was lodged by the Claimant.
- 8.8. The 2<sup>nd</sup> Respondent terminated the arrangement with the Claimant on 22 November 2022. No explanation is offered as to why or how he could be entitled to any money from the 1<sup>st</sup> Respondent after that. It is a claim that has no reasonable prospect of success.
- 8.9. The Claimant's trial for fraud is due to be heard at Snaresbrook Crown Court. The next hearing is in February 2026.

### Conclusions

9. The 1<sup>st</sup> claim was out of time as the reporting to the police was known by the Claimant on 08 February 2023. This was the last date there was any contact between them (§39 of EJ Moor's decision). The claim was not filed until 15 May 2023. There was no extension of time by reason of the Acas early conciliation period, as the Claimant did not contact them until the same day, obtaining the certificate immediately and issuing the proceedings that day. Therefore, it was out of time and was dismissed for the reasons fully set out by EJ Moor.
10. This race discrimination claim, on the same basis, is even more out of time. No reason is advanced as to why it should be permitted to proceed. I strike it out as being filed out of time, and it is not just and equitable to extend time.
11. I also strike it out as an abuse of process. While there is a discretion whether or not to do so, what happened here is that within a short time of his claim for race discrimination being struck out – at a hearing he refused to participate in – he filed another identical race discrimination claim. That is an abuse of process. He did not seek to appeal, just to repeat the process.
12. Not only is it an abuse of process it is vexatious and unreasonable, within the meaning of Rule 37.
13. The findings of fact of EJ Moor were based on evidence given and accepted. The claim of race discrimination has no reasonable prospect of success given those facts, which the Claimant does not dispute. Where a complaint is made to the police resulting in a Crown Court trial for fraud it is fanciful (whatever the outcome of that trial) to suggest that there was a racial element to the complaint. The Claimant does not deny that he removed a grant payment of £10,000 from the 1<sup>st</sup> Respondent's bank account, and that a 2<sup>nd</sup> payment of £10,000 was also made by the same donor, was made by mistake, and that he removed that

money also from the 1<sup>st</sup> Respondent's bank account, and without telling it that he had done so. There is no reasonable prospect of the Claimant establishing facts that could lead to an inference that there was any connection with anyone's racial identity. The allegation of a "*campaign*" of race discrimination remains a bald assertion with no particulars at all and is therefore incapable of supporting the claim that reporting him to the police was race discrimination.

14. The claim for wages has no reasonable prospect of success. It is totally unparticularised. Given the severance of any arrangement between them in November 2022, the claim made on 05 October 2023 has no reasonable prospect of success. Any claim for money before is long out of time. As the test is whether it was reasonably practicable to bring it in time it must fail as it was not brought as part of the first claim, lodged on 15 May 2023 (and would have been out of time then).
15. Had I not struck the claim out for other reasons I would also have strike out the claim for failure to comply with Tribunal orders, specifically the costs order of EJ Moor of £3,028.80. I would not strike it out for non-compliance with orders about witness statements – the Claimant's position has always been clear, and the 2<sup>nd</sup> Respondent's witness statement was filed late too. (The Claimant was not disadvantaged by this as he decided not to participate in the hearing.)
16. The Claimant's long document makes numerous unparticularised allegations against judges and seeks to explain my dismissal of his previous claim by an allegation of racism and (unspecified) corruption against me. I was asked to strike out the claim on the basis that it is unreasonable conduct to make multiple unfounded and unparticularised allegations against almost all the judges before whom he has appeared. I decline to do so, as that might be seen as a judgment upon those complaints. There are, in any event a multiplicity of other reasons why the entirety of this claim must be struck out.
17. Nor do I strike it out for failing to progress the claim. The Claimant's absence deprived him of any opportunity to make submissions or to give evidence.

### Costs

18. Ms Cunningham applied for costs against the Claimant. A costs warning letter was sent by the Respondents' solicitor to the Claimant on 12 March 2024. It was entirely professional, and clearly put the Claimant on notice as to why his claim would be struck out, and that an application for costs would follow. I note that the Claimant is not unfamiliar with costs orders in the Employment Tribunal as EJ Moor made one against him after dismissing the 1<sup>st</sup> claim.
19. Given the Claimant's conduct and given the reasons for dismissing this claim the success of that costs application is an inevitable consequence of this decision.
20. I record that I have considered Rules 74-78. I note that the Claimant has stated more than once that he has a bank account with £40,000 in it, and so he has the means to pay a costs order.

21. The race discrimination claim had no reasonable prospect of success. It was vexatious, as it was a response to the striking out of the 1<sup>st</sup> claim and was a repeat of that claim with a spurious money claim added, which also had no reasonable prospect of success.
22. The representative of the Respondents sent to me a costs schedule. The figures are reasonable. In particular, Counsel who was instructed for this hearing was substantially junior to the well-known employment and discrimination Counsel who appeared before me, and had she been instructed originally the brief fee would undoubtedly have been substantially higher. I was provided with documentary evidence of Counsel's fees and a detailed breakdown of all the costs claimed which I do not set out here, as the figures are plainly reasonable. They are:

Counsel's fees for the hearing on 19 February 2024 and drafting the Grounds of Resistance: £1,875 + vat = £2,250.00

Counsel's fee for today's hearing: £1,850 + vat = £2,220.00

Preparation time (Ms Satiro): £660 + vat = £792.00.

Total: £5,262.00.

23. I order the Claimant to pay to the Respondents that sum. (How that sum is apportioned between the 1<sup>st</sup> and 2<sup>nd</sup> Respondents is a matter for them.)

**Employment Judge Housego**

**Dated: 13 June 2024**