Case Numbers: 1311073/2020 ("Claim 7"); 1405631/2020 ("Claim 8") 1300452/2021 ("Claim 9"); 1300542/2021 ("Claim 10"); 1300675/2021 ("Claim 11"); 1300857/2021 ("Claim 12"); 1301367/2021 ("Claim 13"); 1301368/2021 ("Claim 14"); 1304669/2021 ("Claim 15"); 1304670/2021 ("Claim 16"); 1404230/2021 ("Claim 17"); 1303599/2022 ("Claim 18"); and 1303607/2022 ("Claim 19")

EMPLOYMENT TRIBUNALS

Claimant:	**Mr T Azam**
Respondent:	**IBM United Kingdom Limited**
Heard at:	**Birmingham (and by CVP)**
On:	**18 October 2024**
Before:	**Employment Judge Flood** **Mrs R Forrest** **Mrs J Keene**

Representation

Claimant:	**In person**
Respondent:	**Mr Edge (Counsel)**

RESERVED JUDGMENT ON COSTS

The unanimous judgment of the Tribunal is that the respondent's application for costs against the claimant succeeds. The respondent is awarded and the claimant is liable to pay the sum of **£20,000** towards the legal costs of the respondent.

REASONS

Background and relevant facts

1. By claim forms presented on various dates between July 2020 and August 2022, the claimant brought 19 claims making complaints of race and disability discrimination and victimisation. A Tribunal determined 6 of the claims first and following a 11 day hearing dismissed all such claims, in doing so made a number of adverse findings relating to the claimant's credibility and motive in bring such claims which are set out in the written reasons for that judgment at pages 7-101 of the Bundle ('Claims 1-6 Reasons'). The remaining 13 claims contained 79 different complaints of discrimination and victimisation. Follow a 3 day preliminary hearing in February 2023, Regional Employment Judge Findlay

struck out 22 of the complaints and made a deposit order in respect of a further 9 (with those complaints subsequently being dismissed following non-payment of the deposit) – see judgment at pages 107-119.

2. The remaining 48 complaints were determined over 15 days by this Tribunal in January and February 2024. All such complaints were dismissed by an oral judgment delivered on 6 February with written reasons being sent to the parties on 12 February 2024 (pages 179-283) ('Claims 7-19 Reasons'). In addition, in its judgment the Tribunal 'certified' that all the complaints dismissed were "*totally without merit*" within the meaning of **Sartipy v Tigris Industries [2019] 1 WLR 5982.**

3. On 8 March 2024, the respondent made an application for costs pursuant to rule 78(1) of the Employment Tribunal Rules of Procedure 2013 ('ET Rules'). It contends that the Tribunal should make an order under the provisions of rule 76 (1) (b) on the basis that the claims had "*no reasonable prospects of success*" and or rule 76 (1) (a) that in his conduct of the proceedings the claimant has acted "*vexatiously, abusively, disruptively, or otherwise unreasonably*". The claimant resisted this application. The matter was listed for hearing and case management orders in relation to this application were made in an order sent to the parties on 28 May 2024. The claimant was ordered to provide to the respondent a schedule of his household income and outgoings together with any supporting documents by 28 June 2024 with the respondent being required to confirm by 19 July 2024 whether the costs application was still pursued and prepare a bundle of documents 21 days in advance of the hearing.

4. The claimant emailed the Tribunal (not copying the respondent) on 18 June 2024 and again on 27 June 2024 applying for the case management order to be "*suspended as there are ongoing appeals*". He sent a further e mail on 27 June 2024 to the Tribunal (again not copying the respondent) providing some detail about his monthly income and outgoings. He further set out that he believed the trial was unfair and biased and that the costs hearing should be postponed pending outcome of appeals that he had submitted. This was not referred to a Judge. The respondent had not received any of the above and it confirmed on 19 July 2024 that it still pursued its costs application in the absence of anything being received from the claimant. Upon request from the respondent the claimant's e mails were sent to it by the Tribunal on 3 October 2024.

5. On 16 October 2024 (the day before the costs hearing), the claimant wrote again to the Tribunal (copying the respondent) attaching a fitness to work certificate confirming that he was not fit for work for a period of 4 weeks from 11 October 2024 and a copy of his annual Barclaycard statement. He provided some updated financial information and also reminded the Tribunal that he had applied for a "*rule 29 suspension of this costs hearing for health reasons*". The respondent replied the same day objecting to the postponement application pointing out that the medical information did not address the ability of the claimant to attend a hearing. Those e mails were referred to Judge Flood on 16 October 2024 and a decision was made to refuse the postponement on the basis that pending appeals was an insufficient reason to prevent the hearing going ahead and that the medical information supplied did not address the claimant's fitness to attend a hearing at this time, in the future of otherwise. The claimant

was referred to the Presidential Guidance on seeking a postponement of a hearing and informed that he could renew his application to postpone with any further information or evidence at the support at the start of the hearing. No such further application was made at the outset of the hearing.

6. We had before us the following:

   6.1. Bundle of documents for costs hearing running to 299 pages ('Bundle');

   6.2. Respondent's Authorities Bundle;

   6.3. Skeleton argument prepared by Mr Edge on behalf of the respondent;

   6.4. Copies of sick note from the claimant; and

   6.5. A Barclaycard annual spending summary document for 2023/4 from the claimant.

7. The claimant did not give oral evidence/submit a written witness statement. The hearing proceeded on the basis of submissions only with the respondent making its application and following a short adjournment, the claimant responding with his own submissions objecting to it. The Tribunal decided to adjourn the hearing for a reserved judgment and reasons to be provided to the parties in writing. The Tribunal apologises to the parties for the delay in completing this written judgment and reasons.

The Issues

8. The issues which needed to be determined were:

   8.1. Had the claimant acted vexatiously, abusively, disruptively, or otherwise unreasonably in either the bringing of the proceedings or the way the proceedings have been conducted (within rule 76 (1) (a) of the ET Rules?

   8.2. Did the claims made by the claimant have "no reasonable prospects of success" (within rule 76 (1) (b) of the ET Rules?

   8.3. Should, in the Tribunal's discretion, a costs order be made?

   8.4. If so, how much should be awarded?

The relevant law

9. References to rules below are to rules under **Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.**

10. Rule 74 provides:

> (*1) "Costs" means fees, charges, disbursements or expenses incurred by or on behalf of the receiving party (including expenses that witnesses incur for the purpose of, or in connection with, attendance at a Tribunal hearing). In Scotland all references to costs (except when used in the expression "wasted costs") shall be read as references to expenses.*

(2) "Legally represented" means having the assistance of a person (including where that person is the receiving party's employee) who—

(a) has a right of audience in relation to any class of proceedings in any part of the Senior Courts of England and Wales, or all proceedings in county courts or magistrates' courts;….

11. Rule 75 provides:

(1) A costs order is an order that a party ("the paying party") make a payment to—
(a) another party ("the receiving party") in respect of the costs that the receiving party has incurred while legally represented or while represented by a lay representative

12. Rule 76 provides:

(1) A Tribunal may make a costs order or a preparation time order, and shall consider whether to do so, where it considers that—

(a) a party (or that party's representative) has acted vexatiously, abusively, disruptively or otherwise unreasonably in either the bringing of the proceedings (or part) or the way that the proceedings (or part) have been conducted; or
(b) any claim or response had no reasonable prospect of success; or

(c) a hearing has been postponed or adjourned on the application of a party made less than 7 days before the date on which the relevant hearing begins.

13. Rule 77 provides:

A party may apply for a costs order or a preparation time order at any stage up to 28 days after the date on which the judgment finally determining the proceedings in respect of that party was sent to the parties. No such order may be made unless the paying party has had a reasonable opportunity to make representations (in writing or at a hearing, as the Tribunal may order) in response to the application.

14. The relevant part of rule 78 provides:

"*A costs order may—*
(a) order the paying party to pay the receiving party a specified amount, not exceeding £20,000, in respect of the costs of the receiving party;…."

15. Rule 84 provides:

"*In deciding whether to make a costs, preparation time or wasted costs order and if so in what amount, the Tribunal may have regard to the paying party's (or where a wasted costs order is made the representative's) ability to pay."*

16. A Tribunal must ask whether a party's conduct falls within rule 76(1)(a) or (b). If so, the Tribunal must then go onto ask whether it is appropriate to exercise the discretion in favour of awarding costs against that party. It is only when these two stages have been completed that the tribunal may proceed to the third stage, which is to consider the amount of any award payable

17. **Gee v Shell UK Limited [2003] IRLR 82.** The Court of Appeal confirmed that that costs are the exception rather than the rule and that costs do not follow the event in Employment Tribunals.

18. Litigants in person usually should be judged less harshly in terms of their own conduct than those who are professionally represented: **AQ Ltd v Holden [2012] IRLR 648 EAT**. However see **Barton v Wright Hassall LLP [2018] 1 WLR 1119 UKSC**

19. **Scott v Russell [2013] EWCA Civ 1432**, approved the definition of "vexatious" in **Attorney General v Barker [2000] 1 FLR 759**, as having no basis in law (or at least no discernible basis) and:

    "*that whatever the intention of the proceedings may be, its effect is to subject the defendant to inconvenience, harassment and expense out of all proportion to any likely gain to accrue to the claimant, and that it involves an abuse of the process of the court, meaning that a use of the court process for a purpose or in a way which is significantly different from the ordinary and proper use of the court process"*

20. **Barnsley Metropolitan Borough Council v Yerrakalva [2012] ICR 420** - "*The vital point in exercising the discretion to order costs is to look at the whole picture of what happened in the case and to ask whether there has been unreasonable conduct by the claimant in bringing and conducting the case, and in doing so to identify the conduct, what was unreasonable about it and what effects it had.*"

21. **Dyer v Secretary of State for Employment** -whether conduct is unreasonable is a matter of fact for the tribunal; unreasonableness has its ordinary meaning and should not be taken by tribunals to be the equivalent of vexatious. This was accepted by the Employment Appeal Tribunal in **National Oil Well Varco v Van der Ruit UKEATS/0006/14/JW.**

22. **McPherson v BNP Paribas [2004] ICR 1398 [40], [41**] – The Court of Appeal held that (the then) r14(1) did not require a party to prove that unreasonable conduct caused particular costs to be incurred, but required the tribunal to have regard to the nature, gravity, and effect of the unreasonable conduct when determine whether to exercise their discretion to award costs. The Court of Appeal further held, it is not punitive or impermissible for a tribunal to order costs without confining them to the costs attributable to the unreasonable conduct. In **Sunuva Ltd v Martin UKEAT/0174/17** at [22] the Employment Appeal Tribunal

expressed the view that this is still the position under the ET Rules.

23. There is no general principle that dishonest evidence must inevitably result in a costs award (**Daleside Nursing Home Ltd v Mathew EAT 0519/08**) but it is capable of doing so and the Tribunal must examine the context and look at the nature, gravity and effect of the dishonest conduct (**HCA International Ltd v May Bheemul EAT 0477/10**, endorsed by the Court of Appeal in **Arrowsmith v Nottingham Trent University [2012] ICR 159, CA**.) Examples of the application of such principles are to be found in **Ghosh v Nokia Siemens Networks EAT 0125/12, and Topic v Hollyland Pitta Bakery and ors EAT 0523/11**

24. **Scott v Inland Revenue Commissioners [2004] ICR 1410, CA** in addressing rule 76 (1) (b) the focus should be on whether claims had a "reasonable prospect of success" and whether the Claimant had reasonable grounds for believing that they did and a genuine belief in wrongdoing is irrelevant

25. **Radia v Jefferies International Ltd EAT 0007/18**, the test as to whether the claim had no reasonable prospects of success must be judged on the basis of the information that was known or reasonably available at the start of proceedings.

26. **Jilley v Birmingham and Solihull Mental Health NHS Trust UKEAT/0584/06/DA,** - if a Tribunal decided not to take account of the paying party's ability to pay, it should say why. If it decides to take into account ability to pay, it should set out its findings about ability to pay, say what impact this has had on its decision to award costs or on the amount of costs, and explain why. There may be cases where for good reasons ability to pay should not be taken into account: for example, if the paying party has not attended or has given unsatisfactory evidence about means. There are also circumstances, for example, where a claimant is completely unrepresented, where, in the face of an application for costs, the tribunal ought to raise the issue of means itself before making an order: **Doyle v North West London Hospitals NHS Trust [2012] All ER (D) 205 (Jun) (UKEAT/0271/110).**

27. **Sumukan (UK) Ltd v Raghavan EAT 0087/09,** in relation to 'unassessed costs' in making an award of a sum a Tribunal must state:

    (i) on what basis, and in accordance with what established principles, it is awarding any sum of costs;

    (ii) on what basis it arrives at the sum; and

    (iii) why costs are being awarded against the party in question.

Submissions

28. In relation to prospects of success, the respondent relies upon the conclusion of the Tribunal that all complaints it heard were 'totally without merit'. Mr Edge pointed out that of the 79 allegations originally made, 70 were found at final hearing or at the earlier preliminary hearing to be totally without merit or to have

had no reasonable prospects of success and the remaining 9 had little reasonable prospects of success. He took us to the Radia case above and submitted that the Tribunal is deciding whether the claim had no reasonable prospects of success judged on the basis of information known or reasonably available at the start of the claim. It can and should take account of information it has seen and evidence gained during the trial that may properly shed light on the question, but should not have regard to information not available at the start. We were also reminded of the difference between the way that the Tribunal approaches the question of prospects of success as part of a strike out application and as part of a costs application. He submits that the respondent did not apply for a strike out order in respect of all the complaints at an earlier stage, because it took the view that the Tribunal would conclude that as factual disputes were involved evidence must be heard. This of itself did not mean that the claims themselves had any prospects of succeeding at the start. It was submitted that the claimant must have been aware his claims were likely to fail as they had the same flaws as Claims 1-6, namely that the claimant was seeing discrimination where it did not exist and where contemporaneous evidence (which the claimant had possession of) entirely explained the conduct in very many instances. Mr Edge submitted that had taken at least 29 days of Tribunal time dealing with claims of which every single one failed and that this was an egregious waste of money and Tribunal resources.

29. Mr Edge referred us to a number of paragraphs in the Claims 1-6 Reasons including paragraphs 9.88; 9.92; 9.99; 9.73; and 9.75 as examples of where the Tribunal had found the claimant to have been dishonest and where he appeared to misinterpret interactions as discrimination where none existed. Mr Edge submitted that the claimant was creating an alternative reality where the respondent is full of racists seeking to damage him and moreover admitted he was paranoid but refused to treat the causes or symptoms of this. It was submitted that the claimant was acting vexatiously and abusively in pursuing his claims and using litigation as a weapon to inconvenience the respondent and punish individuals the claimant perceived to have wronged him, submitting close to a claim a month over a 2 year period. Mr Edge stated that these claims were vexatious 'in spades', as whatever the intention the effect of the claims was to subject the respondent to inconvenience, harassment and expense out of all proportion to any likely gain.

30. Mr Edge further submitted that the claimant having brought unreasonable claims, continued with them and conducted them in an unreasonable manner. He suggested that comments in the Claims 1-6 Reasons should have acted as a warning to the claimant to think long and hard about carrying on with similar claims. The respondent contends that instead that the claimant 'doubled down' and continued with claims 7-19 which it submits were even more unreasonable involving 34 different individuals within the respondent and giving evidence that one in 3 of the respondent's employees was racist. It was suggested that the claimant was using the Tribunal process as a way of complaining about mundane matters by presenting claims about everything that had occurred involving the claimant that he did not like no matter how insignificant. It is submitted that the claims were unreasonable and vexatious and ought never to have been made or carried on with following the findings made in the judgment for Claims 1-6.

31. He points out that the Tribunal found that the claimant had fabricated evidence (as he had in claims 1-6) and made statements he knew to be untrue despite their falsity being pointed out to him. He suggests that the claimant sought to relitigate matters already addressed in claims 1-6 or which had been struck out by calling evidence in his witness statement about those matters. Furthermore it points out that the claimant made 'egregious allegations' and chose to call no evidence at all nor to challenge the evidence of the respondent in relation to a large number of the allegations he made. This was illustrated by the table at Schedule 1 to its skeleton argument which highlights that in only a minority of cases was a positive case advanced by the claimant or mentioned at all in evidence. The majority of complaints the claimant did not address at all nor advance any evidence to support. This led to the Tribunal finding that for each and every allegation that there was no evidence to support it, any evidence was lacking in detail or that the claimant had been dishonest. The respondent says that these failures at least doubled the total cost of the litigation as it still had to call extensive evidence documentary and oral to address all allegations made.

32. It was submitted his unreasonable behaviour included making allegations of criminal behaviour against the respondent and its employees, including gang activities and bribery. Further Mr Edge states that the claimant made spurious allegations that the respondent's legal representatives were discriminating against him and were misleading the Tribunal. He threatened those legal representatives stating he would "*build a case against you personally"* and that they would be reported. Mr Edge reminds us that serious professional accusations of this nature must be responded to and have a detrimental effect on proceedings but also personally on individuals working on the respondent's behalf. Mr Edge suggests the claimant refused to co-operate with the production of the Bundle; made applications for postponement and alleged that the Tribunal and its staff were also discriminating against him. It was further pointed out that the claimant bullied one of the claimant's witnesses during cross examination rather than using the process to elicit probative evidence. Mr Edge reminded us that the claimant acknowledged that he was behaving in the way he was to her (which we found to be oppressive and hectoring) because he wanted to repeat what he perceived to be aggressive cross examination of him by Mr Edge. It was suggested that paragraphs 18.1- 18.5 and 18.7 of the Claims 7-19 Reasons clearly set out the concerns with the claimant's conduct and behaviour and in particular draws our attention to the fabricated allegation in relation to Polish employees which the Tribunal found to be based on the claimant's own prejudices and 'offensive'. Mr Edge further submitted that this behaviour continued even in litigating the costs application itself by failing to comply with the Tribunal's case management orders and to prevent the respondent from having access to information relevant to the application.

33. The respondent suggested that given all the circumstances it was entirely appropriate for the Tribunal to make a costs award and that the effect of the claimant's conduct has costs the respondent hundreds of thousands of pounds in legal costs. It suggests that the respondent has behaved in a proportionate manner and rather than seeking a full costs assessment and award, that it has limited its application to £20,000. Given the very extreme facts involved, it was impossible for the respondent to have litigated this complaint for anything close

to this sum or even 2 or 3 times that sum. In terms of ability to pay an award, it points out that the claimant has taken steps to obscure the truth about his financial situation and provided partial information. Mr Edge points out that the claimant remains employed by the respondent earning £56,000 per annum, appears to have minimal outgoings but can choose to spend £36,000 on his credit card each year and pay this off, which he submits suggests that the claimant can afford to meet a costs bill. He points out the lack of evidence and unwillingness to be cross examined and further states that as the claimant remains employed by the respondent an accommodation could be reached to enable the award to be paid off in instalments.

34. The claimant submitted that it was not the case that he was using the Tribunal as a way of raising grievances and again repeated his earlier allegation (which the Tribunal found not to be correct) that when he had tried to raise a grievance at the respondent, he was told it would not be considered. He stated that he felt that all his cases should have been heard together and he was at a disadvantage because they were not. In relation to his symptoms of paranoia, he submitted that it was his choice to treat his health condition without recourse to medication and by exercising. He alleges that no consideration has been given to his health and reminds the Tribunal that he is a litigant in person and representing himself has been a daunting task. He pointed out that he had appealed all the Tribunal's decisions. He stated that he believed the respondent had failed in its duty of care to him which had impacted his health and made it difficult for him to fulfil financial responsibilities. He contended that this had affected members of his family (who had suffered serious illness). His view was that the respondent had pursued a costs application to negatively affect his health and aggravate his injuries and contended that the suggestion that he take medication was being used by the respondent as a 'weapon' which was 'encouraging and assisting suicide'.

35. The claimant submitted that the respondent had spent an excessive amount on legal costs and had never discussed settlement with him. He denied that he had misused or abused the court process and invited the Tribunal to reject the application for costs.

Conclusion

36. We have approached the issues set out at paragraph 8 above in a slightly different order but started by considering whether any of the 'gateway' tests within Rules 76 (1) (a) and/or (b) had been met, before going on to consider the second and third stage of whether it was appropriate to make a costs award and if so how much that award should be.

Issue 8.2 - Did the claims have 'no reasonable prospects of success (rule 76 (1) (b))?

37. To answer this question, we had to consider how at the earlier point of bringing the claims, the prospects of success in a trial that was yet to take place would have looked to determine whether those claims had reasonable prospects of succeeding. We can consider any information gained or evidence that may cast light on that question, but must ignore information or evidence which would not have been available at that earlier time. Claims 7 to 17 were all presented before 31 October 2021. Therefore the precise terms of the findings of fact and

conclusions from claims 1-6 which were given by oral judgment on 6 May 2022 and in the Claims 1-6 Reasons were not as a matter of fact available to the claimant when he presented claims 7 to 17. However claims 18 and 19 were presented after the claimant had received the Claims 1-6 Reasons. We make this observation to conclude that in respect of claims 18 and 19 we were satisfied that the claimant knew when presenting these claims that they had no reasonable prospect of succeeding given the comments that were made in the Claims 1-6 Reasons about the failings in the nature of complaints the claimant was making in terms of the lack of evidence to support them and his own credibility. Those failings were just as prevalent in the allegations made in claims 18 and 19.

38. However we also accept the more general submissions made by the respondent that in respect of the complaints made in claims 7 to 17 the claimant knew or objectively should have known that the complaints had no reasonable prospects from the outset. Of course discrimination claims often require a Tribunal to hear evidence to determine what the reason for treatment is but so many of the allegations made by the claimant were no more than bare assertions, so objectively had no reasonable prospect of success. The examples cited by Mr Edge relating to the complaints about being removed from an essential car user scheme when the claimant knew and accepted a car was not essential for his role; a delay in receiving an automated response to an competition the claimant could not identify; a complaint about receiving e mails after 6pm that did not require the claimant to do anything which were also sent to someone of a different race and being asked questions about a TOOL license in e mails which on their face were reasonable and clearly not discriminatory were particularly pertinent. We accept that the claimant either actually knew or ought reasonably to have known that very many of the complaints he made in claims 7 to 19 would not succeed as they were either trivial and/or entirely baseless. The claimant was in possession of clear documentary evidence in many cases entirely explaining acts done and decisions made as being non discriminatory but still persisted in saying that discrimination was the motive.

Issue 8.1 - Did the claimant act vexatiously, abusively, disruptively, or otherwise unreasonably in either the bringing of the proceedings or the way the proceedings have been conducted (76 (1) (a))?

39. The next question is whether the claimant acted vexatiously or unreasonably in bringing and pursuing the claims. We accept the respondent's submissions in full in this regard. By presenting and continuing to pursue claims which had no real prospect of succeeding, the claimant clearly behaved unreasonably (of which more below) and we also conclude that the claimant acted vexatiously. We conclude this firstly by considering the sheer number of claims presented over a relatively short period of time, many of which dealt with what appeared to be trivial matters which the claimant was either misinterpreting or using as a basis to fabricate allegations of racism or victimisation. The vast number of individual allegations made (79) against a large number (34) and wide range of different people within the respondent was striking and suggested strongly that the claimant's use of the Tribunal process was not to obtain legal redress but to cause maximum disruption and increase legal spend by the respondent. Secondly we take into account the fact that rather than abandon some of his

claims having received the judgment in Claims 1-6, he continued to pursue all of them (despite the fact that such complaints were on their face even weaker and less supported by evidence). Thirdly at the final hearing his failure to call any evidence at all in support of the vast majority of complaints, suggests that the motive in doing so was not to raised genuinely held beliefs about breaches of the EQA. In any event, this was to us a very clear case that whatever the claimant intended by behaving as he did, the effect was to subject the respondent to “to *inconvenience, harassment and expense out of all proportion to any likely gain to accrue to the claimant”* as envisaged in the authorities cited above. The claimant seemed to view the Tribunal process as a way to pursue internal gripes and attack his colleagues. The vast number of days spent by the judiciary and the Tribunal staff administering and dealing with his unmeritorious claims in hearings and in preparing detailed written judgments was disproportionate and placed a strain on the already overburdened system and did not further the wider interests of justice.

40. We also accepted in full the submissions that the claimant was unreasonable in the conduct of the proceedings taking into account the guidance of the authorities above and have taken the ordinary meaning of the word ‘unreasonable’. We therefore did not hesitate to find as a fact that the above conduct was unreasonable. We refer to paragraph 18 of the Claims 7-19 Reasons which addresses much of the concerns we had at the time. The claimant attempted to relitigate factual allegations in claims 7-19 that had already been addressed and dismissed in Claims 1-6 and a 3 day preliminary hearing had to take place to dispose of 22 complaints on this basis or because they were clearly not going to succeed. Many of the remaining complaints suffered from precisely the same fundamental flaw as those in Claims 1-6 but the claimant chose to keep pursuing rather than to consider withdrawing some or all of them. The claimant then repeated evidence about allegations that had already been dismissed or struck out once again in his evidence to this Tribunal.

41. We accept that the claimant was using the process to try and harass certain of the respondent’s employee in particular, Ms Abel who was the subject of so many allegations and who the claimant questioned in an oppressive manner at the hearing itself. The claimant has provided untruthful evidence and has fabricated allegations (including the troubling allegation related to a decision to place him on a project with Polish employees which highlighted his own racial prejudices). The claimant failed to adduce evidence to support his own case (only dealing at all with 10 of the 48 allegations) and did not challenge detailed evidence given by the respondent’s witnesses. He admitted that some of the allegations could have been caused by paranoia so has some awareness of the difficulties he would face with proving his case.

42. The claimant also behaved in an unreasonable manner in the way he litigated his claims and we accept the respondent’s submissions on this point. The unfounded allegations of discrimination and misconduct against the respondent’s legal representatives and direct personal threats were extremely concerning. The way the claimant conducted himself in correspondence which Mr Edge drew our attention to (in particular pages 169, 172, 173 and 174) was appalling and went way beyond the realms of acceptable behaviour. He makes it abundantly clear

that he is being deliberately obstructive when he writes to the respondent's representative on 24 July 2023 (page 163):

"I don't want to co-operate with you".

43. The effect of the claimant's unreasonable and vexatious conduct is abundantly clear when the schedule of respondent's costs incurred since 22 August 2022 (when the defence of claims 7 to 19 began) is examined. We agree that the sums the respondent had to spend on legal costs on dealing with one claimant are 'eye wateringly high'. We did not accept the contentions of the claimant however that the amounts spent were excessive given the number of claims and nature of allegations made and the way in which the claimant was conducting litigation. We fully accept that the manner in which the claimant brought and pursued his claims at least doubled the costs incurred by the respondent in defending the claims and amounts to a sum way in excess of the £20,000 claimed for in this costs application. In our view it is likely that several hundreds of thousands of pounds of costs were incurred solely as a result of the claimant's unreasonable and vexatious conduct.

44. Should a Costs Order be made?

45. Having found that the conduct of claimant fell within rules 76 (1) (a) and (b) the Tribunal had to then go onto ask whether it is appropriate to exercise the discretion in favour of awarding costs against him.

46. In considering whether a costs order should be made, we conclude that this behaviour caused significant unnecessary cost and also given the very many serious and damaging allegations of misconduct and criminal activity, have caused significant distress to the employees of the respondent and their representatives. Therefore, we concluded it is appropriate to exercise our discretion to award costs. We are aware of the authorities regarding costs being the exception rather than the rule, but we find that this case is indeed an exceptional case where the bringing of such a vast number of claims with no reasonable prospect of succeeding and involving conduct that was vexatious and so unreasonable as to merit an award of costs. The claimant places weight on his status as a litigant in person and his health problems. However the pursuance and vexatious continuation of so many allegations that the claimant knew to be so weak or indeed entirely false which must have been clear to the claimant, irrespective of his status. The claimant is an intelligent and educated man who must have had some insight into the very significant challenges with the validity of his own claims. He acknowledges that paranoia may have played a part and we again sympathise with the claimant about his health struggles. Nonetheless the impact on the respondent in terms of the astronomical amount spent in dealing with his unmeritorious complaints cannot be justified and requires that the respondent be compensated in some manner. In our view it is entirely appropriate for an award to be made.

How much should be awarded?

47. In terms of how much should be awarded by way of a costs order against the respondent, we have considered the information provided by the parties and all the submissions. Clearly the true costs of this litigation go well beyond what the respondent seeks in this application and in our view it is entirely understandable

why sums at this level were incurred given what we have highlighted above. We do not accept the general point made by the claimant that the fees were excessive. Even if the claimant had not conducted the litigation unreasonably as we have highlighted above, simply dealing with such a vast number of claims none of which ultimately succeeded (or were every likely to succeed) would have been in the hundreds of thousands of pounds. The claimant’s vexatious and unreasonable conduct exacerbated the spend significantly and again we have no doubt that it led to an unnecessary spend way in excess of the sum of £20,000 claimed.

48. We have considered the limited information provided to us about the means of the claimant. The claimant is in full time employment earning a good salary and lives at home. He has not informed us that he is responsible for the payment of a mortgage or any rent. His monthly outgoings of internet broadband (£32.26), mobile phone (2x £10), TV package (£51.63), Car (£1,369), and Food bills £610.98 are comfortably accounted for by his salary. The claimant has produced no evidence as to savings or investments at all. His annual spending on a credit card does not tell us anything (as there is no information on what spending was on) other than to suggest the claimant’s financial position is strong enough to spend in excess of £35,000 in a year and to fully pay off this sum during the year (as it is clear that the claimant paid no credit card interests or fees). We concluded that given the information on means before us the claimant would be in a position to pay the costs awarded if not in full at this time, potentially either in full in the near future, or by way of an agreed instalment plan (which we encourage the parties to explore).

49. For those reasons, we made the Order as sought in favour of the respondent and order that the sum of £20,000 is paid by the claimant by way of costs under rule 78 (1) (a) of the ET Rules.

Employment Judge Flood

22 November 2024

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