EMPLOYMENT TRIBUNALS

Claimant: X

Respondent: Y

Heard at: Manchester Employment Tribunal

On: 29 May 2025, and 03 July 2025 (Judge in Chambers without the parties)

Before: Employment Judge M Butler (sitting alone)

Representation
Claimant: In person, supported by Dr M Idriss (lay person)
Respondent: Ms C Davis (of King's Counsel)

JUDGMENT (AT PUBLIC PRELIMINARY HEARING)

1. The respondent's application to strike out the claimant's claims pursuant to Rules 38(1)(b) and 38(1)(c) of the Employment Tribunals Rules of Procedure 2024 succeeds.

2. The claimant's claims are struck out in their entirety.

3. Any hearings currently listed are vacated.

REASONS

INTRODUCTION

4. This is the reserved decision following the respondent's application to strike out the claimant's case presented at the hearing of 29 May 2025.

5. This is the fourth preliminary hearing that has taken place in this case.

6. The respondent applied to strike out the claim by letter dated 16 January 2025. This was brought pursuant to Rule 38(1)(b) of the Employment Tribunal Rules of Procedure 2024.

7. In support of the application, the respondent sent to the claimant a bundle of documents on 16 January 2024. This bundle ran to some 2,874 pages (this will be referred to as Bundle A). Bundle A contained documents up until the date of the application. There were two further bundles of documents placed before this tribunal at this hearing. Bundle B contained documents that was described as the correspondence between the claimant and the respondent since 16 January 2024 up until 16 May 2025 (as a defined cut off point). The majority of these documents were generated by the claimant. This bundle ran to 2,353 pages. Bundle C was sent to the tribunal and the claimant at 09.58 on the morning of this hearing. This was to ensure that correspondence between the claimant and the respondent up until the date of this hearing was all before the tribunal. This ran to 105 pages.

8. The tribunal was also provided with indexes to each of the three bundles, an authorities bundle, a reading list that related to Bundle B and a skeleton argument prepared by Ms Davis.

9. When referring to documents in this decision, the page number will be preceded by either A, B or C to denote which bundle the page reference relates to. For example, p.A108, will be for page number 108 in Bundle A.

PRELIMINARY MATTERS

(i) <u>Anonymity Order and Restricted Reporting Order</u>

10. The first part of this hearing was held in private. This was to discuss some case management issues that had arisen in this case. Details of which are contained within a separate document.

11. However, it is important to note for the purposes of this judgment that there is an anonymity order and Restricted Reporting Order ('RRO') currently in place in respect of this case. In short, the reason for this is that there are concurrent matters before the family courts (between the claimant and her former partner, both of whom worked for the respondent at the relevant time), for which an anonymity has been put in place to protect the identity of the claimant's ex-partner, and which form the basis of some of the allegations in this case. The Employment Tribunal, being aware of jigsaw identification, has similarly applied such orders to the Employment Tribunal proceedings to not undermine the orders in place in the Family Court.

12. The claimant sought to challenge this anonymity order. And this was raised on

several occasions during this hearing. The claimant seemed to disagree that any such orders should be in place.

13. The rationale for the orders continuing was explained to the claimant on each occasion she raised it. In short, this was that the tribunal would not revoke such orders unless it was satisfied that no such anonymity or RRO still applied in the family court or any other jurisdiction. As to do otherwise would enable an observer to be able to piece together findings from the Employment Tribunal, given the similarity of some of the issues being considered, and identify the person to whom the Family Court (or other court if that is the case) had offered such protection. In other words, it would render such protections worthless. The judge at this hearing was simply repeating the same explanation already given to the claimant by Employment Judge Cookson. Despite these explanations, the claimant continued to raise this matter and showed her disagreement with it applying. The claimant simply would not accept anonymity or an RRO continuing in this case, as she considered this approach to be protecting a person to whom she attributed blame.

14. It was impressed on the parties that, despite the claimant's views, as the second part of this hearing was to be held in public that the parties must observe the anonymity of the parties. The claimant was to be referred to as 'X', the respondent as 'Y' and the person also party in the Family Court as 'ZH'.

(ii) <u>Claimant's access to relevant documents</u>

15. Prior to this hearing, at 18.45 on 27 May 2025, the respondent emailed the claimant. This email contained a link from which the claimant could download the following files:

    a. A copy of the Respondent's Strike Out Application dated 16 January 2025 (already filed on 16 January but included for ease of having all relevant documents in one place).

    b. An index for the Bundle in support of Strike Out Application dated 16 January 2025 (already filed on 16 January but included for ease of having all relevant documents in one place).

    c. Bundle in support of Strike Out Application dated 16 January 2025 (already filed on 16 January but included for ease of having all relevant documents in one place).

    d. An index for a Correspondence Bundle including correspondence from 16 January 2025 to 16 May 2025 inclusive.

    e. Correspondence Bundle including correspondence from 16 January 2025 to 16 May 2025 inclusive.

    f. Respondent Authorities Bundle which includes the authorities referred to in the Strike Out Application.

    g. Respondent Reading List for Correspondence Bundle.

16. Amongst other emails, the claimant emailed the respondent and Manchester Employment Tribunal at 01.26 on 28 May 2025 to explain that she had been trying to access the link, but that it would not load onto her iPad. She included a screenshot of her iPad, which showed a series of Zip files, and a file being downloaded (it is unclear why the claimant was saying that this supported her

position that she could not access the file, given the screenshot showed the files being downloaded).

17. The claimant repeated at this hearing that she was unable to access the files provided to her by the respondent.

18. The tribunal was concerned that it would be unfair to hear the respondent's application where it was brought in part on unreasonable conduct which related to the claimant's correspondence, if the claimant was not able to access the correspondence in question and did not have copies of in front of her. This caused the tribunal to interrogate this matter further.

19. The claimant explained and accepted that she had had access to the initial bundle of documents, that had been produced and sent to her in support of the application, since around 16 January 2025. And she had access to this. This was Bundle A.

20. This meant the focus was on the correspondence bundle (Bundle B) that contained correspondence from 16 January 2025 up until 16 May 2025. And although Ms Davis submitted that the claimant would not be taken to any documents in that bundle and that the claimant had access to all of the emails as she was the author, and that the claimant informed the tribunal that she did not need it and that she knew the contents of her emails, the tribunal still considered it necessary that the claimant had this bundle in front of her before the application could be heard. In short, this bundle was some 2,353 pages in length. There is no way the claimant would be able to recall the specific details of all those documents, nor would it be possible to give the claimant sufficient time to identify specific documents in her email inbox during the hearing. And secondly, the respondent was making a general submission that the documents in this bundle were not relevant to the proceedings in the Employment Tribunal as part of its submission of unreasonable conduct on the part of the claimant. To do fairness to the claimant, she would have to be able to consider the documents in the bundle and make submissions on documents where she says they were relevant, and this would require her to be able to take the tribunal to specific correspondence.

21. Given the claimant was maintaining that she was not able to access the bundles on her iPad, the judge asked that he be able to satisfy himself that this was the case. The claimant agreed to allow the judge to do this. However, when the judge clicked on the appropriate zip file, the file unzipped, and the separate bundles opened up with no issue. In short, the claimant was able to access the bundles on her iPad.

22. The tribunal was satisfied that the claimant had the bundles in front of her. And that her iPad could open the bundles sent to her. In those circumstances, the tribunal was also satisfied that it would be fair to hear the respondent's application to strike out the claim and determine it today.

23. To assist the claimant, before hearing the application, Ms Davis took the claimant through the respondent's written application and the basis of it. The tribunal then took an extended break. This enabled the claimant to consider documents, prepare her submissions, whilst also ensuring there was a sufficient break for lunch. The claimant also informed the tribunal that she would require some time to pray. The length of the break also took this into account.

LIST OF ISSUES

24. Whether the claims should be struck out pursuant to Rule 38 of the Employment

Tribunal Rules of Procedure 2024.

THE RELEVANT RULES

25. Rule 3 of the Employment Tribunal Rules of Procedure 2024 expresses the Overriding Objective, which all parties must comply with, in the following terms:

> **3.**—(1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.
>
> (2) 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.
>
> (3) The Tribunal must seek to give effect to the overriding objective when it—
>
> (a)exercises any power under these Rules, or
>
> (b)interprets any rule or practice direction.
>
> (4) The parties and their representatives must—
>
> (a)assist the Tribunal to further the overriding objective, and
>
> (b)co-operate generally with each other and with the Tribunal.

26. The power to strike out a claim, or part of it, is provided for by rule 38 of the Employment Tribunal Rules of Procedure 2024:

> **38.**—(1) The Tribunal may, on its own initiative or on the application of a party, strike out all or part of a claim, response or reply on any of the following grounds—
>
> (a)that it is scandalous or vexatious or has no reasonable prospect of success;
>
> (b)that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;
>
> (c)for non-compliance with any of these Rules or with an order of the Tribunal;

(d)that it has not been actively pursued;

(e)that the Tribunal considers that it is no longer possible to have a fair hearing in respect of the claim, response or reply (or the part to be struck out).

(2) A claim, response or reply may not be struck out unless the party advancing it has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.

THE RELEVANT PRINCIPLES

27. The tribunal is grateful to Ms Davis and the respondent for drawing its attention to several relevant authorities in this area. This included the authorities of **Smith v Tesco Stores Ltd [2023] EAT, Bolch v Chipman [2004] IRLR 140, Blockbuster Entertainment Ltd v James [2006] IRLR 630, Arrow Nominees v Blackledge [2000] 2 BCLC 167** and **Governing Body of St Albans Girls' School v Neary [2009] EWCA Civ 1190.**

28. In oral submissions, Ms Davis also referred to **Emuemukoro v Croma Vigilant (Scotland) Ltd 2022 ICR 327, EAT.**

29. Whilst the tribunal also took account of the principles laid down by the EAT in its decisions of **Weir Valves & Controls (UK) Ltd v Armitage [2004] ICR 371** and **Harris v Academies Enterprise Trust [2015] IRLR 208.**

30. For completeness, the principles contained within these authorities are developed further below.

31. As noted by His Honour Judge Tayler, in **Smith v Tesco Stores Ltd [2023] EAT 11** at paragraph 36:

> "*it is important to remember that parties are not merely requested to assist the employment tribunal in furthering the overriding objective, they are required to do so.*"

32. The fundamental importance of cooperation between the parties and fairness was also noted by HHJ Taylor, at paragraphs 4 and 5:

> "*4. The longer case management goes on, the greater the risk that a litigant in person will become embattled and fail to engage properly with the employment tribunal. Good case management requires that the parties work with the employment tribunal and each other in a constructive manner. Even litigants in person must focus on their core claims and engage in clarifying the issues. It is not the fault of a litigant in person that she or he is not a lawyer, but neither is it the fault of the other party or the employment tribunal. While the employment tribunal should take reasonable steps to assist litigants in person, this must not be at the expense of fairness to the other parties to the claim, and to litigants in other proceedings, who seek a fair determination of their disputes, having regard to the limited resources of the employment tribunal.*
>
> *5. Regrettably, those who are confused by, or disagree with, proper case management decisions that are fair to both parties, sometimes jump to the conclusion that the employment judge is biased and that the employment tribunal and its staff are adversaries to be challenged and*

> *attacked. If such a mistaken view results in a withdrawal from the required cooperation with the employment tribunal and the other party, necessary to advance the overriding objective, it puts a fair trial at risk.*"

33. His Honour Judge Tayler also gave consideration in **Smith** as to when strike out was appropriate, at paragraph 47:

> "*This judgment should not be seen as a green light for routinely striking out cases that are difficult to manage. It is nothing of the sort. We must remember that the 'tribunals of this country are open to the difficult'. Strike out is the last resort, not a short cut. For a stage to be reached at which it can properly be said that it is no longer possible to achieve a fair hearing, the effort that will have been taken by the tribunal in seeking to bring the matter to trial is likely to have been as much as would have been required, if the parties had cooperated, to undertake the hearing. This case is exceptional because, after conspicuously careful, thoughtful and fair case management, the claimant demonstrated that he was not prepared to cooperate with the respondent and the employment tribunal to achieve a fair trial. He robbed himself of that opportunity.*"

34. Strike out is a draconian measure. A tribunal should take great care before striking out a claim and should consider whether there is some proportionate less draconian sanction that could be applied.

35. When considering whether to strike out a claim because of scandalous, unreasonable or vexatious behaviour, the tribunal must ask itself three questions (as per Mr Justice Burton in **Bolch v Chipman [2004] IRLR 140**):

    (i) Whether there has been scandalous, unreasonable or vexatious conduct of the proceedings.

    (ii) If so, save in very limited circumstances where there has been wilful, deliberate or contumelious disobedience of an order of the tribunal, whether a fair trial is no longer possible.

    (iii) If so, whether strike out would be a proportionate response to the conduct in question.

36. The **Bolch** approach was approved by the Court of Appeal in **Blockbuster Entertainment Ltd v James [2006] IRLR 630**, where Lord Justice Sedley stated at paragraph 5:

> "*This power, as the employment tribunal reminded itself, is a draconic power, not to be readily exercised. It comes into being if, as in the judgment of the tribunal had happened here, 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.*"

37. Whilst at paragraph 18, when considering proportionality, Lord Justice Sedley explained:

> "*The first object of any system of justice is to get triable cases tried. There can be no doubt among the allegations made by Mr James are things*

which, if true, merit concern and adjudication. There can be no doubt, either that Mr James has been difficult, querulous and uncooperative in many respects. Some of this may be attributable to the heavy artillery that has been deployed against him – though I hope that for the future he will be able to show the moderation and respect of others which he displayed in his oral submissions to this court. 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."

38. In **Governing Body of St Albans Girls' School v Neary [2010] IRLR 124 (CA)**, Lord Justice Smith (with whom Sedley and Ward LJJ agreed) stated, at paragraph 60, that "It is well established that a party guilty of deliberate and persistent failure to comply with a court order should expect no mercy."

39. It is also well-established that, where it is necessary to consider the question of whether a fair trial remains possible, there is no requirement to conclude that a fair trial is not possible in absolute terms. The question is whether there is a "significant risk" that a fair trial is no longer possible.

40. The Court of Appeal in **Arrow Nominees v Blackledge [2000] 2 BCLC 167** held that test was not as to whether a fair trial was not possible in absolute terms, but rather whether there was a significant risk that a fair trial could not take place. Further, Lord Justice Chadwick went on to hold:

> *"[54] …where a litigant's conduct puts the fairness of the trial in jeopardy, where it is such that any judgment in favour of the litigant would have to be regarded as unsafe, or where it 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.*
>
> *[55] Further, in this context, 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.*"

41. Further, in Blockbuster, the Court of Appeal [paragraph 21] held that the question of proportionality must be considered in the context of the duration and character of the unreasonable conduct of proceedings.

42. At paragraph 19 of **Emuemukoro v Croma Vigilant (Scotland) Ltd [2022] ICR 327**, Choudhury J (President) made a very important point about what constitutes a fair trial, when he explained the following:

> *"I do not accept Mr Kohanzad's proposition that the power can only be triggered where a fair trial is rendered impossible in an absolute sense. That approach would not take account of all the factors that are relevant to a fair trial which the Court of Appeal in Arrow Nominees [2000] 2 BCLC 167 set out. These include, as I have already mentioned, the undue*

expenditure of time and money; the demands of other litigants; and the finite resources of the court. These are factors which are consistent with taking into account the overriding objective. If Mr Kohanzad's proposition were correct, then these considerations would all be subordinated to the feasibility of conducting a trial whilst the memories of witnesses remain sufficiently intact to deal with the issues. In my judgment, the question of fairness in this context is not confined to that issue alone, albeit that it is an important one to take into account. It would almost always be possible to have a trial of the issues if enough time and resources are thrown at it and if scant regard were paid to the consequences of delay and costs for the other parties. However, it would clearly be inconsistent with the notion of fairness generally, and the overriding objective, if the fairness question had to be considered without regard to such matters."

43. In **Weir Valves & Controls (UK) Ltd v Armitage [2004] ICR 371**, the EAT reminded Employment Tribunal's of the need to approach procedural defaults through a nuanced inquiry into the extent of prejudice and to explore alternative and proportionate remedies to any such default. The tribunal should focus on maintaining fairness. In doing so it was explained that:

> "*For justice to be done between the parties to consider all the circumstances, contumelious default, the disruption, the unfairness, the prejudice, whether a fair trial is still possible and whether a lesser remedy would be more appropriate*."

44. Further guidance is given in **Harris v Academies Enterprise Trust [2015] IRLR 208, where it was stated that:**

> *"…consider what has happened, the failure to comply with Orders over the period of time, repeatedly may give rise to a view of indulgence if granted the same would happen again."*

WRITTEN SUBMISSIONS

45. The respondent's written submissions were contained in its application for strike out, dated 16 January 2025. The following submissions were made:

    a. The claimant has repeatedly failed to comply with Orders and directions of the Employment Tribunal. And particularly, in response to EJ Cookson's reasonable attempts to case manage the proceedings, the claimant accused EJ Cookson of bias, bullying and harassment.

    b. Despite being repeatedly told not to copy the respondent and/or its legal representatives into irrelevant correspondence, the claimant has continued to do so. And where there is relevant material, it is often buried within multiple pages of repetitive correspondence.

    c. The claimant's correspondence has included offensive material, including used sanitary pads and soiled underwear.

    d. The respondent and the tribunal have exercised considerable patience and restraint with the claimant and done all it can reasonably be done to encourage the claimant to comply with the Overriding Objective and to conduct the proceedings in a reasonable, respectful, and professional manner with a view to enabling her claims to be heard. However, this case has now reached the stage where there is a significant risk that a

fair trial is no longer possible, and it would be proportionate to strike out the Claimant's claims in their entirety, no lesser sanction being appropriate and/or consistent with a fair trial.

e. The correspondence bundle prepared in support of this application runs to over 2,800 pages, with over 1,700 pages having been generated since the Preliminary Hearing on 4 June 2024 and more being generated by the Claimant on a weekly, and sometimes daily (or even hourly), basis. Indeed, as at the date of this Application, Bird & Bird continue to be sent and/or copied on multi-paged emails, a great many of which seem wholly irrelevant to these Employment Tribunal proceedings - the email received from the Claimant on 16 January 2025) is a prime example of this point [pp.A2845-2874]. For the purposes of the application, a cut-off date of 16 January 2025 was applied. Reviewing the Claimant's correspondence is time-consuming, expensive and, at times, it causes anxiety and distress to those tasked with reviewing it. As the Respondent's legal representatives, owing professional duties to the Respondent and to the Employment Tribunal, Bird & Bird cannot choose simply to ignore and not review the Claimant's correspondence.

Persistent failure to comply with Orders and Directions

f. This has been present since the start of proceedings on 01 February 2023. With the claimant appearing to have prioritised other matters over progressing her claims before the Employment Tribunal.

g. Despite being reminded by EJ Howard at the Preliminary Hearing on 16 May 2023 (see para 21 of the Case Management Orders), the claimant was contacting the tribunal without copying in the respondent.

h. EJ Holmes by letter dates 19 July 2023 (p.A178), wrote to the claimant again reminding her of the need to copy in the respondent to any correspondence with the tribunal, and also sought information as to whether the claimant was seeking extensions to directions made by EJ Howard, and if so to provide a revised timetable.

i. The parties agreed to extensions for compliance with directions on 01 August 2023. Despite this the claimant then wrote to the respondent to explain that she was currently 'super busy' and that she was (p.A194):

> *"…most likely to ask for the hearing date to be pushed back as I am at my limit dealing with my degree, being unemployed, the non-molestation order, being harassed online by [ZK], being ill, the criminal investigation into [ZK], the PIR status of my thesis, being diagnosed with ASD and it is South Asian Heritage Month until 15 August 2023, which for the type of Academic I am is extremely important hence I have a lot to do.*"

j. The respondent objected to the claimant's application to postpone the hearing listed for 18 September 2023. And given that the claimant had not complied with the directions relating to a disability impact statement and/or medical documents, applied to strike out the claim.

k. The claimant's application for postponement was refused by the Tribunal on 14 September 2023.

l. On the morning of the Preliminary Hearing but before it started, the claimant sent the respondent two emails. The first explained that she had not properly looked at the bundle prepared for the hearing. And the second was a link to the claimant's MA thesis.

m. During the hearing, the claimant sent two further emails. One attached a schedule of loss. And the second attached a document which the claimant identified as a Disability Impact Statement (pp.A460-471).

n. EJ McDonald extended time and refused the respondent's strike out application at the hearing on 18 September 2023. Importantly, it was made clear that it was important the claimant complied with directions and conducted proceedings in a reasonable way. The following paragraphs of EJ McDonalds written decision were highlighted:

> *"Conclusion on striking out application based on non-compliance*
>
> *52. I have found some non-compliance with Tribunal orders by the claimant. The disability impact statement has been provided, albeit late. The medical records have not been supplied. The claimant has provided some explanation for why the medical records have not yet been provided. In deciding whether to strike out for non-compliance I need to consider whether a fair trial is still possible. I find that it is. There is time to rectify any defaults on the claimant's part. That means that it is not appropriate to strike out the claimant's claim for non-compliance with the Tribunal's orders. I have instead made an unless order requiring the claimant to provide her medical records by 14 December 2023. The terms of that unless order are set out in my case management summary and orders of today's date.*
>
> *Claimant actively pursuing her claim*
>
> *53. Dealing next with whether the claimant has actively pursued her claim, Ms Fagan suggested that the delays in complying with Case Management Orders and the claimant's evident prioritising of her academic career suggested she was not actively pursuing the claim. It seems to me that there is something in that argument. On the one hand, the claimant has (in some senses) clearly been actively pursuing her claim because she has been emailing the Tribunal and the respondent on a regular basis. One of Ms Fagan's concerns was that the costs of this case are escalating because of the claimant's habit of sending long emails. That, it seems to me, almost acknowledges that the claimant has been pursuing her claim.*
>
> *54. There was a suggestion from Ms Fagan in submissions that the claimant was not genuinely actively pursuing her claim. I do not accept that. It seems to me that while the claimant has been to some extent prioritising other matters (some of which are in her control (like the academic issues) and some not (like the cease and desist proceedings brought by her former partner), she is pursuing the claim to an extent and I cannot say that she is not actively pursuing it. The application to strike out the claimant's claim on this basis is refused.*
>
> *Conducting proceedings in an unreasonable way*

55. When it comes to conducting proceedings in an unreasonable way, Ms Fagan repeated the submissions in relation to the delays on the claimant's part. It is clear that the claimant does (because of her ADHD) organise documents in her own way which can lead to documents appear complicated to others (while they may be helpful to her). I have referred above to the delays in proceeding matters but I do not think that that is sufficient to amount to unreasonable conduct.

56. Ms Fagan did refer to another aspect, however, which was to the claimant sending social media messages or posting about the Employment Tribunal proceedings in social media posts. This matter is complicated because, as I understand it, elements of the claimant's thesis are tied in with facts of this case. When she publishes her thesis she is therefore to some extent publishing matters about the claim.

57. However, it does seem clear to me that she has also tagged individuals (including a named comparator) and regularly tagged the respondent in her social media posts. Some of the social media posts do seem to me to be more than simply her releasing aspects of her thesis and straying into conducting the litigation online rather than in the Tribunal. I explained to the claimant that the Tribunal will be very concerned if such steps lead to a fair hearing being prejudiced e.g. because of any adverse behaviour towards the respondent's witnesses.

58. The claimant's position is that although an anonymity order and a restricted reporting order has been made in this case, that does not apply to her posting social media matters about her thesis. Her claim is that she discussed this with Employment Judge Howard and it was made clear that social media posts would not fall foul of any restricted reporting order. It is true that the restricted reporting order is aimed primarily at publication in the press, but it does seem to me that there may well be issues with publication of matters in social media. The claimant was adamant that she would not stop disclosing aspects of her thesis even if they did refer to matters subject to the Tribunal case. She was however willing to agree not to post or tag individuals such as the named comparator. During our discussions the claimant made clear that she was willing to waive the anonymity in relation to sexual misconduct which was at the root of Employment Judge Howard's decision to make a restricted reporting order and an anonymity order.

59. As I explain below, I have decided not to strike out the claimant's case. In those circumstances the orders I made at the Tribunal hearing relating to anonymity will take effect. The claimant is going to write by 30 October 2023 to sat why she feels an anonymity order and restricted reporting order should not be maintained. Given the claimant's indication she will no longer engage directly with the respondent's witnesses on social media posts, and given that the status of the anonymity order and the restricted reporting order is to be decided, it does not seem to me appropriate to strike out the claimant's claim based on her conduct in relation to these matters. Even when the delay in dealing with

the matters are added in, I do not find that the claimant has conducted the claim unreasonably to the extent that it justifies striking out her claim.

60. In those circumstances I have decided to refuse the respondent's application to strike out the claimant's claim.

61. In doing so, I am mindful of the valid points Ms Fagan made about the way that the claimant is conducting the claim. Potentially partly related to her ADHD, the claimant has a tendency to send long, very detailed emails but which do not necessarily address the issues the Tribunal has asked her to address. There was, for example, a misunderstanding on her part about the need to supply further details. That was based on a misreading of paragraph 18 of Employment Judge Howard's Case Management Order. I am also concerned about the claimant's decision to prioritise her academic career over the Tribunal process. I can understand from what the claimant told me how important her academic career and her thesis is to her. However, as a Tribunal we also have to have regard to the interests of the other parties to this case. The overriding objective requires the Tribunal to deal with matters proportionately and avoiding delay and costs. Ms Fagan suggested that the claimant had shown a wilful disregard of the Tribunal's orders. It does seem to me that there is an element on the claimant's part of taking the Tribunal's orders too lightly. It is now important that she focuses her efforts on complying with the orders made in this case."

o. At the hearing of 18 September 2023, EJ McDonald put in place directions to prepare the case for final hearing. This included an unless order relating to medical documents for the issue of disability. Directions relating to the identity of witnesses and their relevance to the issues. Matters relating to the anonymity order. Restricted reporting order. And directions for exchange of documents, preparation of a final hearing bundle and for witness statement exchange.

p. Following correspondence concerning the continuing of the anonymity order, the claimant on 28 November 2023 (p.A578) wrote the following:

"This is my story and my sensitive matter not Y's [the Respondent] to hide Miss Hannah Burke [a witness] being an Islamophobic racist ableist victim blamer…

I have had enough of this anonymity thing and I demand the removal of the anonymity order immediately. Y took everything from me that I had worked on my entire career, they will not take my thesis because demanding anonymity damages my thesis and I will die for that thesis before I let people like Miss Hannah Burke come in between me and my work."

q. The claimant again emailed the tribunal on 04 December 2023 (pp.A588-591) explaining that she did not accept an anonymity order and requested a pause in proceedings between 15 December 2023 and 22 January 2024.

r. EJ McDonald listed this case for a further preliminary hearing, he made various directions (see pp.A606-607), and included a clear warning to the claimant in relation to her conduct, when he wrote:

> *"The claimant in her email dated 28 November 2023 refers to one of the respondent's witnesses, Hannah Burke, in abusive terms, calling her a 'Islamophobic racist ableist victim blamer". The Tribunal has not yet heard evidence and has made no findings in this case about whether discrimination has taken place. It must balance the parties' rights to ensure a fair hearing can take place. The Tribunal may strike out a claim where proceedings are conducted in a manner which is scandalous, unreasonable or vexatious. The claimant must ensure that she does not conduct proceedings in that way. That includes the way she refers to the respondent and its witnesses in correspondence."*

s. On 03 January 2024, the respondent wrote to the tribunal (pp.A646-647) to explain that the claimant had not complied with the directions set down by EJ McDonald.

t. The claimant applied to postpone the hearing listed for 02 April 2024 by email on 04 January 2024 (pp.A652-657). In her email the Claimant also noted that she was aware that she has been told not to speak in an "abusive" manner about the Respondent and/or its witnesses, but "*the thought of Miss Hannah Burke speaking to me makes me nauseous*".

u. The preliminary hearing was postponed and re-listed as a one-day hearing to be heard on 04 June 2024. The notice of hearing included the following:

> "*At the hearing, an Employment Judge will consider some or all of the following (subject to the decision of the Employment Judge conducting the hearing): whether the claimant's claim should be struck out for non-compliance with the orders of the Tribunal; and the three matters stated in the letter of 12 December 2023.*
>
> *As the claimant does not appear to have complied with the unless order made by EJ McDonald at the hearing on 18 September as confirmed in his case management order, the claimant will not be able to rely upon any medical records when asserting that she is a disabled person.*
>
> *The claimant has also not complied with what was ordered as detailed in the letter of 12 December (or, at least, she has not complied with some of what was ordered).*
>
> *In the light of the respondent's solicitor's email of 3 January and the suggestion that a day may be required for the preliminary hearing, the preliminary hearing has been re-arranged. That relisting also changes the date when the hearing is listed and avoids the conflict addressed in the claimant's email of 4 January. As the claimant states that it must occur by video call, the hearing has been listed to be conducted by video, however the claimant must ensure she takes all reasonable steps to enable her to attend and be fully heard at the hearing (including obtaining a headset, if that is the best way of ensuring that occurs).*"

v. Aside from providing the respondent access to a google drive, which largely included documents not relevant to the Employment Tribunal claims, the claimant did not take any steps to comply with the directions of EJ McDonald either from 18 September 2023 or 12 December 2023. Rather the claimant sent lengthy and unclear emails (or copied them into emails), which did not appear relevant to the tribunal proceedings (for example see documents at pp.A782-812, A826-831, A842-854, A863-875, A885-929 and A933-1008). Within this correspondence the tribunal reminded the claimant again not to copy it in to correspondence unless she was making or responding to an application (p.A904) and the respondent reminded the claimant to only copy it in to matters relevant to the Employment Tribunal claims (see email chain pp.A920-929).

w. On 30 May 2024, the claimant forwarded further documents to the Employment Tribunal and the respondent (see p.A988), she explained that these documents were "*for information as well as evidence that I am working as hard as I can and as fast as I can on multiple legal proceedings*" before then explaining:

> "*I apologise for sending emails that may appear irrelevant at first however I assure that, in due time, everything I have uploaded and wrote an email upon, shall make sense. Further, my reason for this level of organisation is because I do not trust the justice system in any capacity of the word anymore. The Family Court ignored my Reasonable Adjustments Request, the Police ignored me for nearly two years and the Employment Tribunal made me and is still going to make me prove I am disabled under the Equality Act 2010 even after there is an overwhelming amount of evidence that I am telling the truth*."

x. Immediately before the Preliminary Hearing on 04 June 2024, the claimant emailed the tribunal and the respondent a series of documents (pp.A1009-1048). Within this, the claimant appears to suggest that she is being discriminated against by the tribunal (see p.A1022), where she states:

> "*I sent emails several times explaining between September 2023 and April 2024 that I am overwhelmed and that I need a break but not a single one of them was taken seriously and or even responded to by Manchester Employment Tribunals but instead I was given more case management orders to fulfil. This is obviously setting myself up for failure and here I believe, because of the amount of times I have had to defend why my case should not be struck out, there is obvious discrimination prominent in the disproportionality of case management orders being made towards myself, one person, and to the Respondent, a Tech Unicorn with access to specialist teams in whatever concern that may arise*."

y. And, at (p.A1041], the Claimant complained that she had "*already explained the discrimination evident in the disproportionality of case management orders being made*."

z. Further, in relation to the continuation of the anonymity and restricted reporting Orders, the Claimant wrote, suggesting that she had misled by the Employment Tribunal into agreeing to it for the Respondent's benefit (see p.A1037:

> *"I do not accept the anonymity order, which I am in my full rights to do so because I was tricked into accepting it in the hearing at the time of 2pm on the date of 16th May 2023 by being told that it was because of the details of abuse but it is obvious that it is just so the Respondent can hide their alleged actions from the public. I want the Final Hearing to be a public hearing where the public and press is allowed, so I am able to invite Academia – the only entity I believe has offered me support in an unwavering manner – to witness that being a tech unicorn with money cannot put you above the people of words and citations but can mark you as the ones in the business of ill planning that sought to destroy an Academic that will do anything for the sake of her dream of Dr Hamna."*

aa. And, wrote (see p.A1040):

> "*Hence, I now reject the anonymity order and affirm that I waive my right to anonymity as the victim of sexual crimes for reasons two in number.*
>
> - *I wish to talk of my story of surviving abuse for a period of nine years as I wish;*
>
> *and*
>
> - *The Respondent made the deliberate decision many times that my personal background story is not a matter they can be involved within when dismissing me and that what they were concerned with was my behaviour within the workplace towards a fellow employee no matter the context, hence it appears maliciously opportunistic that the Respondent is now seeking to employ my right to anonymity, as a victim of violent sexual crimes, in an attempt to cover up the discriminatory behaviours exhibited by their personnel, in particular, Ms Hannah Burke, when there occurred a subjection of summary dismissal upon myself*."

bb. By 04 June 2024, the claimant's proceedings had been ongoing for some 16 months, but with limited progress. The respondent adopted a pragmatic approach at this hearing and decided not to pursue the strike out application. EJ Cookson set out in detail the position with respect the anonymity order and restricted reporting order at paragraphs 26-38 of the Case Management Summary (see p.A1117). This is not repeated here. Importantly, the claimant was also directed to revise her disability impact statement due to its length and it was not clear which parts of the document dealt with the issue of disability. This was to be done by 27 September 2024 (see direction 5.1 on p.A1126).

cc. Again, there is clear reference to the need for the claimant to co-operate with the respondent and the Employment Tribunal, and for the claimant to conduct herself reasonably and in accordance with the Overriding Objective. The following was recorded by EJ Cookson at paragraphs 58-60 (see p.A1123):

> "*58. The parties have already been informed that the Tribunal does not need to be copied into emails or letters between the parties, and it was highlighted to the claimant that emails sent to the other side which are simply copied to the Tribunal will not be placed on the file or referred to a Judge. The claimant has also been warned by Employment Judge McDonald about her conduct in how she refers to witnesses in correspondence. I have emphasised that she must take that warning seriously.*
>
> *59. There has been a complicating factor in correspondence in this case that the claimant has frequently copied the Tribunal and the respondent into correspondence with other legal bodies, including West Yorkshire Police and the Family Court. The respondent objects to this and I have pointed out to the claimant that, as correspondence from the Employment Tribunal has shown, most recently from Employment Judge Eely, her practice of doing this is unhelpful because it is unclear what the claimant expects from the Tribunal and the respondent with this correspondence. The claimant suggested to me that she has done this so she cannot be criticised for not keeping the respondent and the Tribunal informed of what is happening in other proceedings. I have pointed out to the claimant that she cannot reasonably expect either the respondent or the Tribunal to go through correspondence to other parties/organisations, which is often lengthy, and work out what may be relevant to the Employment Tribunal proceedings.*
>
> *60. If the claimant believes there is information in correspondence to or from organisations and institutions and individuals involved in other legal proceedings or otherwise, she must write directly to the Tribunal and the respondent to identify the relevant information. I do not consider this to be particularly burdensome – all the claimant is required to do is to briefly summarise the relevant information which is directly relevant to this case. Given what the claimant has said about her academic abilities and training, this would not appear to be a difficult or onerous task for her. I therefore consider this to be a proportionate and appropriate direction in the circumstances. It is also consistent with the claimant's duty under rule 2 to assist the Tribunal to further the overriding objective of dealing with cases fairly and justly by cooperating with other parties and with the Tribunal.*"

dd. The claimant applied for an indefinite stay of proceedings on 21 June 2024 (see pp.A1085-1110). The respondent objected (see pp.A1132-1136). The application was refused by EJ Cookson. In short, the medical evidence disclosed did not justify such a stay (pp.A1214-1219).

ee. There is further correspondence form EJ Cookson to the claimant in respect this matter on 10 September 2024 (see pp.A1147-1148).

ff. Despite, EJ Cookson's warning on 10 September 2024, the claimant persisted in sending extensive correspondence to (or at least copying in) the Employment Tribunal.

gg. On 1 October 2024, the respondent wrote to the Employment Tribunal with reference to the Claimant's correspondence and her failure to progress her claim (see pp.A1406-1415). The letter:

i. noted that the Claimant continued to copy the respondent into correspondence which was not relevant to the Employment Tribunal proceedings, despite being warned on more than one occasion that she should not do so;

ii. requested that the Claimant be reminded of the Rule 50(now Rule 49 under the 2024 Rules of Procedure) orders and the consequences of breaching those Orders;

iii. noted that the Claimant continued to request a stay of proceedings based at least in part on her inability to deal with the proceedings, despite continuing to generate a significant amount of correspondence not relevant to the Employment Tribunal proceedings;

iv. explained that the Respondent did not consider that a stay was necessary, but it was prepared to postpone the Case Management Orders until January 2025 and had proposed amended deadlines to the Claimant accordingly; and

v. requested that the Employment Tribunal urgently issue directions in respect of the Claimant's request for a stay of proceedings and the Respondent's proposed directions.

hh. On 11 November 2024, the Employment Tribunal wrote to the parties on behalf of Employment Judge Cookson (see pp.A1666-1668). Amongst other things, the letter stated as follows, under the heading "Stay Application":

> *" 1. The Claimant restates her application for a stay of these proceedings. She relies upon a fit note from her GP for the period 27 July 2024 to 26 October 2024. It seems from her letter of 16 September that she also relies on her bail and the criminal proceedings in some way but EJ Cookson stresses again to the claimant that she cannot send correspondence to other courts or bodies, like the police, to the tribunal and expect a judge to work out how that is relevant to the application that the claimant makes in relation to the employment tribunal proceedings. The claimant has not explained why and how the matters referred to in her correspondence means that she is unable to prepare for the tribunal hearing, for example she has not identified documents on her laptop which are relevant to the legal issues in the tribunal case nor why they cannot be obtained from any other source.*
>
> *2. A fit note from a doctor about whether someone is fit for work does not provide the information the tribunal needs to determine that someone is unable to progress tribunal litigation. Those things are not the same. Further the fit note refers to a period of time ending some significant amount of time before the final hearing. The claimant has elsewhere referred to other health matters but there is an absence of specific and detailed medical evidence from a doctor explaining why the claimant us unable to take the steps she has been ordered to do to prepare for the hearing. EJ Cookson is not satisfied that she can safely conclude the claimant is unable to prepare for the tribunal case if she chooses to do so.*

3. The claimant has failed to explain how granting a stay in this case would be in accordance with the overriding objective. In light of the inevitable delay that will be caused by a stay and the impact that will have on the quality of the evidence available to the tribunal at the final hearing, in the circumstances EJ Cookson concludes that it is not appropriate to grant a stay, especially on the apparently indefinite basis sought.
The application is refused.

The parties must now progress preparation for the final hearing. There is plenty of time for that to be done before the listed hearing. The parties must cooperate to agree a new timetable based on the timetable previously ordered. If they cannot agree that, one may be imposed by the tribunal."

ii. The respondent, in line with EJ Cookson's direction, sought to agree revised directions, whilst emphasising the need to co-operate and progress the claim. This took place on the following occasions:

i. The respondent's letter to the Claimant dated 21 November 2024 (pp.A1859-1860) and the Claimant's response sent within six minutes and copied to a Matthew Barber of the Greater Manchester Police (p.A1856).

ii. The respondent's email to the Claimant dated 22 November 2024 [pp.A1867-1868] and the Claimant's response dated 22 November 2024 [pp.A1864-1867].

iii. The respondent's further email to the Claimant dated 22 November 2024 extending the time for the Claimant to agree or comment on the Respondent's proposed directions [pp.A1873] and the Claimant's responses dated 22 and 25 November 2024 [pp.A1872-1873, A1890-1907].

iv. The respondent's further email to the Claimant dated 26 November 2024 [p.A1908] and the Claimant's response dated 3 December 2024 [p.A1932-1936].

v. The respondent's further email to the Claimant dated 6 January 2025 [pp.A2555-2560] and the Claimant's response dated 6 January 2025 [pp.A2593-2602].

vi. The respondent's further email to the Claimant dated 7 January 2025 [pp.A2635-2636] and the Claimant's response dated 7 January 2025 [pp.A2637-2656]

jj. The claimant's responses to each of the communications has been wholly unreasonable. And he has steadfastly refused either to agree the directions proposed by the respondent or suggest alternatives.

kk. It is now plain that the Claimant is simply unwilling to cooperate with the Respondent and/or to comply with the Employment Tribunals Orders and directions and she has shown a blatant disinterest in, and disregard to, the need to progress her Employment Tribunal claims to a final Hearing. The Respondent has, at considerable expense, done all that can reasonably be expected of it and yet the Claimant's claims are no closer to being ready for the final Hearing.

Persistent sending of irrelevant correspondence

ll. Despite being repeatedly told not to, the Claimant has persistently copied the Respondent and/or the respondent's legal representative and/or the Employment Tribunal into correspondence addressed to multiple entities, including various members of the Greater Manchester Police, the West Yorkshire Police, and other firms of solicitors or third parties. Much of that correspondence appears irrelevant to the Claimant's claims before the Employment Tribunal but related to the various proceedings in which the Claimant appears to be embroiled with her former partner, ZH, and/or his family, or related to what the Claimant refers to as her "Academia" and thesis/theses. It appears that the Claimant has entirely lost sight of the issues to be decided by the Employment Tribunal.

mm. Since the Preliminary Hearing on 4 June 2024, the Claimant has sent to the Respondent or to the Employment Tribunal over 1700 pages of correspondence, only a small percentage of which directly relate to the Employment Tribunal proceedings. The majority of those pages of correspondence were sent by the Claimant following the Employment Tribunal's letter dated 11 November 2024 (referred to above, and also see pp.A1660—1663, A1670-1898, A1923-2545, A2552-2594, A2628-2874.

nn. Even where an email from the Claimant has some relevance to the Claimant's Employment Tribunal claims, the relevant part may be buried deep within multiple pages of repetitive correspondence, which are largely impenetrable.

Persistent sending of threatening and/or offensive correspondence

oo. Further, the Claimant's correspondence, most recently since 4 June 2024, has been littered with:

i. Offensive and potentially defamatory comments about the Respondent and/or its witnesses and/or Bird & Bird and/or Myerson (see, for example: these are all pages in bundle A, pp.1085-1087, 1268-1269, 1308-1312, 1329-1353, 1630-1631, 1767-1771, 1795-1796, 1840, 1848-1855, 1856, 1932-1936, 1937-1946, 2046-2054, 2202, 2321, 2628-2646 and 2772-2784]);

ii. threats towards the Respondent and/or its witnesses and/or Bird & Bird, including threats to seek "revenge" on the Respondent and/or its witnesses, and threats to report Bird & Bird and those acting on behalf of the Respondent to the SRA and the police (all pages in bundle A, see for example [pp.1411, 1863, 1983-1988, 2055-2066, 2105, 2436, 2466-2471, 2670-2720]);

iii. accusations of discrimination levelled against the Employment Tribunal in general and Employment Judge Cookson in particular (all pages in bundle A, see for example: [pp.1316-1319, 1320-1321, 1669-1670, 1673, 1873, 1904, 1984, 2104, 2395, 2424, 2430-2432, 2593, 2657-2668]); and

iv. screenshots/images which are liable to cause upset and offence, including a used sanitary towel and images which may be

considered discriminatory (all pages in bundle A, see for example [pp.2084, 2237, 2603-2634])

pp. The claimant continues to send multiple emails to the respondent as at the date of this application. This is plainly unreasonable conduct.

Fair Trial and Proportionality

qq. The Respondent, and the Employment Tribunal, has to-date exercised considerable patience and restraint and done all that can reasonably be done to encourage the Claimant to comply with the Overriding Objective and to conduct the proceedings in a reasonable, respectful and professional manner with a view to enabling the claims to be heard.

rr. It is now over two years since the Claimant started the proceedings in the Employment Tribunal. A substantial amount of time and money has been spent by the Respondent dealing with the Claimant's proceedings and yet the Claimant's claims appear no closer to a final Hearing.

ss. The Claimant has demonstrated time and again that she is simply unprepared to take heed of the multiple warnings given to her by those acting on behalf of the Respondent and/or the Employment Tribunal and conduct the proceedings in a reasonable way and comply with the Overriding Objective and the Employment Tribunal's Orders and directions.

tt. There is not the slightest reason to believe that the Claimant will amend her ways and conduct herself reasonably going forward.

uu. In the circumstances, it is respectfully submitted that the stage has been reached at which it can properly be said that it is no longer possible to achieve a fair hearing. Despite conspicuously careful, thoughtful and fair case management, the Claimant has demonstrated that she is not prepared to cooperate with the Respondent and the Employment Tribunal to achieve a fair trial. She has robbed herself of that opportunity.

vv. For the reasons stated above, the Respondent requests that the Employment Tribunal exercise its discretion to strike out the Claimant's claims.

46. The claimant appears to have sent two emails in response to the respondent's application for strike out. The first by email dated 17 January 2025 (see pp.B17-25). And the second email was sent on 19 January 2025 (see pp.B21-23).

a. The email of 17 January 2025 does not provide any response to the application that is brought. Rather, it explains that when considering whether to strike out a claim, the claimant's case should be viewed and taken at its highest. The remainder of the email appears to be the claimant trying to explain why her claim should not be struck out, when taken at its highest. Such a reply would be relevant if the application was made on the claims having no reasonable prospects of success. The claimant does not engage with the application insofar as failing to comply with orders or directions of the tribunal, or in respect matters relating to unreasonable conduct. Therefore, nothing further is recorded in respect this response here.

b. The email of 19 January 2025 takes the claimant's reply no further. That also does not engage with the application made by the respondent. And again, is taken no further here.

ORAL SUBMISSIONS

47. In addition to the written submissions, Ms Davis made the following oral submissions at the hearing, amongst others (where it already recorded from the written submission, it may not have been repeated here):

a. The respondent is relying on and repeating the application as set out in its application of 16 January 2025.

b. The claimant has lost sight of the Employment Tribunal proceedings. And this is clear, particularly given the claimant refers to criminal collusion and a voice note, which the respondent knows nothing about.

c. The list of issues in this case were recorded by EJ Howard following the case management hearing on 16 May 2023, and set out at pp.A148-152. The tribunal should focus on those issues.

d. With respect the failure to comply with orders and directions, this case is over 2 years old, and is no closer to the case being prepared for final hearing. Rather, the claimant has bombarded the respondent and the tribunal with correspondence, invariably copied to third parties, without any explanation as to why the respondent was copied in. And the claimant has been told on several occasions that she should not do that.

e. The claimant's emails include offensive and defamatory comments about witnesses and representatives with repeated threats to report the respondent to the police, and its representatives to the SRA. As well as threats to the tribunal that it would be sued for discrimination and reported for judicial misconduct. The claimant has also included offensive material in emails, including photos of soiled underwear and used sanitary pads. The claimant makes references to the British Empire, and various other discriminatory references to Palestine and the State of Israel,

f. The bundle in support of the application is 2874 pages in length, with some 1700 pages generated following the preliminary hearing before EJ Cookson on 04 June 2024. This is despite the respondent applying a cut off point of 16 January 2025.

g. Since 16 January 2025 up until 16 May 2025, there have been a further 2353 pages. With a further 105 pages since then. And not one of those documents have taken this case any closer to being heard.

h. The tribunal is reminded of the power to strike out under Rule 38 of the ET's procedural rules 2024. And the overriding objective, which the parties are required to comply with. This case is precisely in line with the situation outlined at paragraphs 4 and 5 of the EAT decision in **Smith v Tesco Stores Limited**, where HHJ Taylor set out the fundamental importance of cooperation between the parties and fairness.

i. In this case, the tribunal and the respondent have responded in a patient and calm manner and have made every attempt to get the claimant to deal with her case. However, that has been met with responses that the

respondent, its representatives and the tribunal are enemies, on whom she must be revenged. As in the claimant's analysis, a failure to agree with what the claimant asks for prompts accusations of discrimination and attack. The claimant has entirely withdrawn her cooperation in this case.

j. The respondent recognises that great care should be taken before striking out, and that less draconian measure should be applied if available (as per the decisions in **Bolch** and repeated in **Blockbuster)**. However, there are two cardinal conditions, and that is unreasonable conduct, and where there have been deliberate and disregard of steps that have made a fair trial no longer possible.

k. The tribunal is reminded of the decision of the Court of Appeal in **Neary** where Smith LJ explained that "*It is well established that a party guilty of deliberate and persistent failure to comply with a court order should expect no mercy*."

l. When considering a fair trial, there is no requirement that this be viewed in absolute terms. Rather it is whether there is a significant risk that a fair trial could not take place (**Arrow Nominees v Blackledge)**

m. At paragraph 19 of **Emuemukoro v Croma Vigilant (Scotland) Ltd [2022] ICR 327**, Choudhury J (President) made a very important point about what constitutes a fair trial, when he explained the following:

> "*I do not accept Mr Kohanzad's proposition that the power can only be triggered where a fair trial is rendered impossible in an absolute sense. That approach would not take account of all the factors that are relevant to a fair trial which the Court of Appeal in Arrow Nominees [2000] 2 BCLC 167 set out. These include, as I have already mentioned, the undue expenditure of time and money; the demands of other litigants; and the finite resources of the court. These are factors which are consistent with taking into account the overriding objective. If Mr Kohanzad's proposition were correct, then these considerations would all be subordinated to the feasibility of conducting a trial whilst the memories of witnesses remain sufficiently intact to deal with the issues. In my judgment, the question of fairness in this context is not confined to that issue alone, albeit that it is an important one to take into account. It would almost always be possible to have a trial of the issues if enough time and resources are thrown at it and if scant regard were paid to the consequences of delay and costs for the other parties. However, it would clearly be inconsistent with the notion of fairness generally, and the overriding objective, if the fairness question had to be considered without regard to such matters.*"

n. It is not enough to say that it is possible, at some point, that the claimant may focus on her claim, or disclose documents to get the case ready for hearing. And that at some point there may be an end to the claimant's correspondence with a focus on this case. That misses the point. As a fair trial is not to be viewed in absolute terms. And that is the purpose of the second bundle.

o. On 16 January 2025, the claimant had clear warning. This was about her detrimental conduct. She had been warned by the tribunal and the respondent to stop copying the respondent into correspondence that was not relevant to the Employment Tribunal claims. It was also made clear to

the claimant that she would need to agree new directions to prepare this case for final hearing. Despite this, after 16 January 2025, there are almost 3,000 pages of correspondence, which is the purpose of the second and third bundle. There is not the slightest hope that the claimant will amend her ways. There has been no response to the application and nothing to say she no understands and will now stop such correspondence. Even the early hours of today, there has been more correspondence on matters irrelevant to the proceedings as a whole.

p. There is a similar pattern of the claimant, as with today, shortly before the hearing begins she sends various documents. And explains that she has not looked through the bundle.

q. Following EJ Howard's Preliminary Hearing on 16 May 2023, and EJ Holmes subsequent letter, the respondent agreed to vary directions. The claimant's response was that she was 'super busy' (p.A184).

r. The respondent applied to strike out the claim for non-compliance on 11 August 2023, to which the claimant applied for a postponement of the hearing. This was refused by the tribunal and the hearing took place on 18 September 2023. 15 minutes before that hearing, the claimant emailed the respondent and the tribunal. This included a document that the claimant called her disability impact statement. EJ McDonald made various orders. This included an unless order and orders on anonymity. The claimant has received various clear warnings on conduct going forward, including at this hearing.

s. On 28 November 2023, the respondent wrote to the tribunal to inform it that it had complied with directions to date, but that the claimant had not. This led to the claimant's email which described one of the respondent's witnesses as an Islamophobic racist (see p.A578).

t. On 12 December 2023, EJ McDonald made further directions (see pp.A606-607). 1 and 2 of those orders have never been complied with. Nor did the claimant comply with the unless order.

u. The claimant has still not complied with the direction for disclosure, other than sending screenshots of the claimant's G Drive to show that she was working on it (see pp.A858-862).

v. The hearing before EJ Cookson on 04 June 2024 was dealt with fairly. The respondent did not pursue strike out at this hearing. The claimant could not have been in any doubt as to what was required of her, and of the need to comply with the Overriding Objective (see pp.A1112-1131).

w. Then the claimant made an application to stay proceedings, which was refused. With the reasons explained to her by EJ Cookson (see pp.A1217-1218). This includes an express warning not to send lengthy correspondence to the tribunal. This is almost immediately responded to by the claimant, raising various matters including accusing the respondent and the tribunal of collusion (see pp.A1316-1328).

x. Such allegations then become a familiar theme in the claimant's correspondence.

y. Further correspondence is sent by the EJ Cookson on 11 November 2024, this deals with various matters, including that the patties must co-operate

to agree a new timetable for directions, to progress the case for final hearing (see p.A1667). The respondent makes six attempts to discuss and agree such a timetable. The claimant does not engage with the question of the timetable on any of those occasions. Rather, the claimant says she cannot agree to a timetable due to the criminal proceedings (p.A1856), accuses the respondent of gaslighting the claimant as her position was that she had replied on the timetable point, and that was that she could not agree one. And this was followed with a threat of reporting the respondent's representative to the SRA (p.A1872), and a veiled accusation that the tribunal was favouring the respondent (see point 4 on p.A1873). A response referring to the respondent's representative as being the representatives of the colonizer, before referring to getting revenge (see p.A1932). Focusing on how she considers herself wronged by the tribunal and that she will be suing it (p.A2593). And a lengthy response on pp.A2637-2656.

z. Since 16 January 2025, the claimant has done nothing to comply with the directions and orders of the tribunal. With much of the correspondence that followed being wholly irrelevant to these proceedings. Even if there is a nugget of relevance, that is often buried within text messages or pages of the claimant's thesis, which makes it very difficult to identify. Further, the claimant copies these emails to police and other firms. It is unclear why she does this and this is despite her being told not to.

aa. Some of the emails sent by the claimant are offensive attacking the respondent's representatives and the Employment Tribunal. And there are photos of soiled underwear and used sanitary towels, which is disgusting and irrelevant to these proceedings.

bb. The claimant now exemplifies what HHJ Taylor refers to in **Smith v Tesco**, she is unwilling to comply with overriding objective and this is after endless warnings having been given. She has ignored these warnings. The claimant has not provided the slightest reason to support that she would be willing or capable of mending ways, and this is despite careful and thoughtful case management by this tribunal.

a. Time after time, the claimant has demonstrated that she is not prepared to cooperate with the respondent or the Employment Tribunal. The claimant has robbed herself of a fair trial.

48. In reply, the claimant focussed her submissions on the documents that made up the reading list presented on behalf of the respondent. She made, amongst other submissions, the following oral submissions at the hearing:

a. When I sent the emails about Gaza, the photos referred to, colonization, the massive links between Palestine and not being allowed in the apartheid state of Israel, I am sure I had a valid reason for sending these at the time.

b. I did send emails about impact on life expectancy to the respondent. I was saying what had happened was unfair and it has an impact on life.

c. With respect emails about porn addiction and masturbation. I sent these as ZH had pointed out I had a large chest. And this led to years of abuse.

d. In respect Item 6. I sent this as people had been displaced from Pakistan to India between 1600 and 1947. And the British Empire is to blame. I am allowed to say why my work is important. As these matters are affecting my

academic career,

e. Item 7, I sent these social media extracts because I am not interested in men. And yet the respondent is suggesting I am.

f. Item 10, I did send a reference to a pig-headed unicorn. And I also sent reference to reparation theory. This is because I want my victory to be for my people. I believe if a white woman did the same, they would be treated differently. That is why I sent that.

g. I did keep sending emails to the tribunal. As the tribunal kept telling me that what I sent was not enough. I would then ask was that enough.

h. Item 13, she was uncomfortable with me talking about my period. And yet she expected me to get up and work. None of that was considered that is why I told them would be submitting a pic of a bloody pad.

i. I had to have a wisdom tooth out and needed a week to recover. If never told them they would say why have you not tole me. This is what happened during disciplinary process, so now tell everybody everything.

j. The anonymity order, I kept bringing it up. As that is a shut up and get on with it. I did not want to hide it.

k. Item 15, that was me showing me attempting to contact the tribunal.

l. Item 16, I was just recording my diarrhea.

m. Item 17, I believe that the respondent and my ex-partner have criminally colluded to get rid of me as my story was getting attention. Led me to telling everybody of my secret life.

n. Item 20, my laptop and my iPhone are no longer available. My laptop has been ceased by the police and my google pixel phone is broken,

o. Item 19, India was rich, and this is my paper. This is my response, I dressed as a demon and sent pics. This is to protect me in the long run.

p. Item 21, this is me trying to prove my story.

q. Item 22, this is the respondent trying to cause me detrimental impact. As I said, would make SRA request. They are telling me something that did happen did not happen.

r. Item 27, nobody can make me respect an army veteran. They are killing Muslims. And yet at an event they held, they had an army veteran talking about the war in Iraq.

s. Item 28, the claimant explained that she had been ignored. And made a point of talking about the bundle. And that it was also about open justice and telling the truth.

t. Item 29, my menstrual cycle was important.

u. Item 30 was sent as when in Oxford women were being turned away. And if she was arrested in Oxford then they needed to know.

v. Item 31, the meme about being a Professional British Empire Hater was a joke, form an academic perspective. And that during a 7-week investigation I did say that. As I cannot be nice to somebody who uprooted my life.

w. On 18 December 2024, I had a mental breakdown and was fined on the Metrolink. I would not pay out of principle. I had to attend at the police station, which meant I missed County Court proceedings. I was making the respondent aware.

x. I am not deliberately disregarding the orders and directions of the tribunal. And I have not withdrawn co-operation. The timeline should be read as the respondent saying they do not want to read something that is important to me.

y. I do make reference to SRA, as there is a constant denial of me being raped.

z. I have shown patience. They believed I would continue playing the sad victim. Whereas I stood up to them.

aa. I have not robbed myself of a fair trial. But presented s somebody who will stand up to misogyny.

bb. On non-compliance. I showed the police to show them I am going through several things. Nothing I have said is defamatory as I am telling the truth.

cc. On a fair trial, I do not yet have access to all of the evidence, but I am building my case.

49. The tribunal on at least 4 occasions interjected during the claimant's submissions to explain to her that she did not appear to be providing a response to the application. Rather than explaining why her conduct was not unreasonable, or to explain the issues with compliance, or why a fair hearing was still possible, or why the tribunal should not use its discretion to strike out her claim, the claimant merely went through the reading list and explained what documents were and why she considered them important to her and why that meant she should send them to the respondent. There was no attempt to explain the relevance of the documents to the issues in the claimant's Employment Tribunal case. The tribunal decided not to interject any further, as the claimant had been given ample direction to focus her submissions on the issues to be determined by it.

50. Ms David took up her right to reply to the claimant, and raised the following issues:

a. A concerning matter has come to light quite late. And that is that the claimant sent an email to a number of people at 04.31am with the CVP link. This included members of the GMP, other solicitors, ZH, and used the de-anonymised case name.

b. And then at 15.12 today, the claimant followed this up with another email sent to various people (7 in total, including ZH), again using the de-anonymised case name. And this is the starkest example that the claimant will not conduct herself differently going forward.

c. The tribunal was forwarded the two emails referred to above by both the claimant and the respondent, at the direction of the judge.

d. The reading list are samples of what the respondent says are irrelevant or

offensive communications.

ANALYSIS AND CONCLUSIONS

Has the claimant failed to comply with any Rules or with an order of the Tribunal such as to support striking out the claim?

51. There is little doubt that the claimant has been set various directions by the tribunal, which have been fair and reasonable directions with a view to progressing the case to final hearing, and on multiple occasions these have not been complied with. And this appears to be a deliberate decision made on behalf of the claimant. The claimant does not say otherwise. And given that the claimant has sent to the respondent screenshots of a Google Drive and has engaged in various correspondence with the tribunal and the respondent, this deliberate intention is an appropriate inference to draw. There certainly is nothing impeding the claimant complying with directions of the tribunal.

52. Similarly, the claimant has been reminded by the tribunal of the requirement to comply with the overriding objective that is contained within Rule 3 of the Employment Tribunal Rules of Procedure 2024, and again, she has failed to engage on various matters in a manner that is in with furthering the overriding objective. This is again inferred as being deliberate. This being on the same basis as above.

53. At the time of this Preliminary Hearing, the final hearing was listed to be heard across 10 days starting on 01 September 2025. This is the trial window against which this application is being considered (consideration of a new trial window is discussed below).

54. Turning to the specifics of this matter.

55. The claimant was directed by EJ McDonald at the preliminary hearing of 18 September 2023 to do the following, amongst others:

    a. By 14 December 2023, send to the respondent any medical documents she relies on in respect disability (this was subject to an unless order, taken further below).
    b. By 30 October 2023, the claimant was to provide a list of witnesses she intended to call at the final hearing.
    c. By 29 January 2024, to send a list of documentary evidence they have in their control or possession relevant to the issues in this case, along with electronic copies of those documents.

56. The claimant was in breach of the unless order and is restricted to only being able to rely on documents submitted before 14 December 2023, with respect the issue of disability. This non-compliance is not considered by this tribunal insofar as the strike out application is concerned. EJ McDonald considered that an unless order was a proportionate sanction with respect medical documents for the purposes of establishing disability, and an appropriate sanction was applied when the claimant failed to comply with it. Failing to comply with that order led to appropriate sanctions being applied to the claimant, and no further sanction should follow from it.

57. The claimant did send a document on 28 November 2023, which contained what the claimant says is a witness list (see A566-571). Although this list is extensive and the relevancy of such witnesses is unclear, the claimant at least presented a

list in compliance with EJ McDonald's direction, albeit some 29 days late. This late compliance has not been considered in determining non-compliance with directions for the purposes of this strike out application. As although this direction was complied with late, it has at least in some way been complied with. The timing of the compliance has not risked a fair trial.

58. However, the claimant has failed to comply with her disclosure obligations as set down initially by EJ McDonald. And this continues to be the position as of the date of writing this judgment. This is an ongoing failure to comply with this requirement and the tribunal considers a deliberate one. The claimant has not provided any meaningful explanation for this. Rather, the claimant appears to be sending screenshots of a Google Drive, which contains a series of documents, many of which appear to have no relevance to the Tribunal claims (indeed it is not clear if any of the documents are relevant). The claimant therefore has access to documents she considers relevant (even if they are not) and has decided not to send a list of documents nor copies of such documents to the respondent. This must be a deliberate decision. And this is depriving the respondent of the opportunity to review documents which the claimant says are relevant to the issues in this case. This is a crucial case management step in preparing the case for final hearing.

59. On 12 December 2023 (see p.A606-607), the claimant was directed by EJ McDonald to send to the tribunal and the respondent a copy of her MA thesis and to explain the current status of any criminal or other court proceedings in which she was involved. These were to be done by 20 December 2023. Neither of these directions were or have been complied with by the claimant. These directions were to assist the tribunal with case managing the case through to final hearing. And this has impacted on the tribunal's ability to properly case manage this case.

60. At the preliminary hearing before EJ Cookson on 04 June 2024, she made various directions, including directing the claimant not to copy the tribunal or the respondent into correspondence to or from organisations and institutions involved in other legal proceedings, and where she does make such contact she must identify the relevant information (see para 60 at p.A1123). It was recorded that the claimant had not complied with the direction for disclosure set by EJ McDonald (and this was not disputed by the claimant). EJ Cookson set down a new date with clear guidance as to what was required by her. That being that a list of relevant documents and PDF and/or paper copies were directed to be sent to the respondent by 27 September 2024. It was also made clear that the claimant was not to expect the respondent to access documents on a Google drive that she has created. It was also explained, and EJ Butler agrees, that the new date given to the claimant gave her significant additional time to comply with this direction (see directions 4.1-4.3 on p.A1125). The claimant was also directed to extract the relevant contents from what the claimant described as a disability impact statement and put in a new standalone document. This is because the current 'disability impact statement' was very lengthy and was for the most irrelevant to the question of disability (see direction 5.1 on p.A1126). The claimant did not comply with any of these reasonable and proportionate case management directions. And more particularly, the claimant failed to comply with the direction for disclosure of documents, which has had a serious consequence for the current trial window.

61. Following a refused stay application, EJ Cookson on 11 November 2024, directed that the parties co-operate and agree a new timetable for directions to progress preparation of the case for final hearing, in light of the claimant's failure to comply with her case management directions of 04 June 2024. This in effect was reminding the parties of their obligations under the Overriding Objective and that the parties needed to co-operate to move this case forward. The claimant, despite

various attempts from the respondent (all outlined above) refused to engage with discussion about a new timetable. And rather reverted to explaining that she could not agree a timetable.

62. Exchange of documents, an agreed hearing bundle and exchange of witness statements should all have taken place by now, in preparation for a final hearing that was due to start on 01 September 2025. Not only has the claimant failed to comply with the directions to disclose relevant documents, which has been in place since 18 September 2023 (some 21 months ago), this has caused other necessary preparation steps to be missed and has meant that it is not possible for this case to be ready from the current trial window. The claimant has not only failed to comply with this necessary procedural step, she has in doing so also failed to give effect to the overriding objective. The tribunal considers this to be a wilful and deliberate decision by the claimant not to comply with this necessary procedural step.

63. The claimant has deliberately not complied with various directions of the tribunal and has failed to act in accordance with the overriding objective, as required by the Employment Tribunal Rules of Procedure. And this is despite various warnings to the claimant of such conduct, by both the tribunal and the respondent. In those circumstances this tribunal finds that Rule 38(1)(c) is satisfied.

Has the manner in which the proceedings have been conducted by the claimant been scandalous, unreasonable or vexatious such as to support striking out the claim?

64. This tribunal also finds that Rule 38(1)(b) is also satisfied.

65. First, the claimant's deliberate and persistent disregard of required procedural steps, outlined above, has to be taken into account with respect Rule 38(1)(b).

66. This tribunal agrees with the respondent's analysis of the claimant's correspondence, as recorded above in both the written and oral submissions made on behalf of the respondent. And this is following the judge having had the opportunity to read all of the relevant correspondence, after and having been taken to various specific correspondence by the respondent's written application and during oral submissions at this hearing.

67. The extent of the correspondence which both the tribunal and the respondent has been copied into is a real issue and is demonstrative of unreasonable conduct. Much of which is irrelevant to the issues in this case.

68. The judge spent a full day reading through the three files of documents. And he struggled to identify any document in Bundle B that was relevant to the issues in this case. And that bundle is 2,353 pages in length. And this is despite the clear warning from both EJ McDonald and EJ Cookson. And he also concluded that from around circa page 1700 in the Bundle A, the correspondence from the claimant was largely irrelevant, and if there was something relevant it was difficult to identify.

69. Furthermore, there are photos of soiled underwear, used sanitary pads, and even an extracted tooth. There are diaries relating to the claimant's menstrual cycle. There are screenshots of the claimant's social media posts. Not only are these irrelevant, but some of these can be properly categorized as offensive.

70. Taken as a whole, given the overwhelming irrelevant correspondence and given the threatening and offensive communications (all as outlined by the respondent), the claimant has clearly passed the threshold of conducting these proceedings in an unreasonable manner.

71. Furthermore, the claimant's conduct with respect the anonymity order also leads this tribunal to classify the manner in which the claimant has conducted these proceedings as being unreasonable. This is particularly with respect the claimant's emails during proceedings today whereby she emailed various individuals, members of the public, with the de-anonymised case name. And this is despite clear indication by the judge at this hearing as to why anonymisation was in place, and clear warning by EJ Cookson of the seriousness of breaching the anonymity order in the correspondence sent to the parties on 11 November 2024 (see p.A1668). Despite this, the claimant on two occasions today acted in breach of that anonymity order.

72. The above leads this tribunal to properly characterising the manner in which the claimant has conducted these proceedings passes the threshold of being unreasonable.

Is a fair trial still possible? And could an alternative sanction be applied?

73. The Tribunal reminds itself that being a litigant in person does not mean that litigant is exempt from compliance with procedure, or from engaging in the litigation process in a reasonable manner.

74. This tribunal also reminded itself that given that it has concluded that the claimant's conduct and failure to comply with directions has been deliberate and persistent then whether a fair trial was still possible carries less weight in the analysis of whether to strike out the claim. Despite this, this tribunal concludes the following.

75. The tribunal agrees with the submission of Ms Davies, that the Claimant has demonstrated time and again that she is simply unprepared to take heed of the multiple warnings given to her by those acting on behalf of the Respondent and/or the Employment Tribunal and conduct the proceedings in a reasonable way and comply with the Overriding Objective and the Employment Tribunal's Orders and directions.

76. The tribunal agrees that this case has reached the stage that there is a real risk that a fair trial will not be possible. And this is because, despite the tribunal putting in place fair and reasonable directions, of which clear explanations were given, both in respect of case preparation and conduct, the claimant has shown time and time again that is she simply not prepared to cooperate with either the Respondent and/or the Employment Tribunal to achieve a fair trial. She has robbed herself of that opportunity.

77. The tribunal has also considered the impact of the need to vacate the current final hearing listing. And it is concerned that this case is now over two years old and involves discrimination complaints for which memory is important. The current backlog in the tribunal means that the earliest that this case can be relisted for is 08-19 February 2027. And this further significant delay means that there is a substantial or significant risk that a fair trial is no longer possible, and this is a relevant factor. This is a case where there is significant failure by the claimant which has caused massive disruption, unfairness and prejudice to the Respondent.

78. Having regard to all the circumstances, the Tribunal has considered whether a lesser sanction or further extension should be granted, or a further warning as o conduct. The Tribunal did not consider that any of those options would be appropriate bearing in mind the history of the proceedings over two years and the extensions granted to which the Claimant has failed to comply, and the warnings she has already been given to no avail. Additionally, the period of additional delay should the trial window be moved is of some concern. As is the continued

irrelevant correspondence that the pattern of conduct by the claimant suggests will continue up until the point of final hearing. And therefore, the tribunal does not consider that any alternative sanction can be applied in these circumstances.

Are the claims to be struck out?

79. The Tribunal acknowledges, as per paragraph 5 of **Blockbuster Entertainment Limited v. James** that rule 38 is a "draconic power, not to be readily exercised". The judge has tried not to exercise this power, and in doing so has considered the claimant's explanations with a view to whether this demonstrated that the claimant could modify her behaviour and pursue this claim to final hearing.

80. The guiding principle in deciding whether or not to strike out a party's case is the requirements of the Overriding Objective. A tribunal must consider all the circumstances of the case, including the need for litigation to be conducted efficiently and at proportionate cost, the need to enforce compliance with rules, practice directions and orders, and the demands of other litigants upon the system. The orders that have been made in this case and the directions given are all in accordance with the overriding objective in that they were made with a view to ensuring that this case was dealt with fairly and justly. Further, the orders would bring an end to the ongoing delay in preparation for this claim and save expense for the parties and Tribunal.

81. The Tribunal therefore concludes, taking all matters into account, that a Strike Out is an appropriate and proportionate sanction due to the claimant's continual failure to comply with tribunal directions and the overriding objective, and given the claimant's obvious unreasonable behavior to date, given what has taken place over the last two years.

82. The claims in their entirety are struck out for the reasons explained above.

Approved by:

Employment Judge **M Butler**

Date: 08 July 2025

JUDGMENT SENT TO THE PARTIES ON

6 August 2025

FOR THE TRIBUNAL OFFICE

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