Neutral Citation Number: [2026] EAT 34

Case No: EA-2025-000003-RN

EMPLOYMENT APPEAL TRIBUNAL

Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 03 March 2026

Before:

THE HONOURABLE MR JUSTICE SHELDON
MISS EMMA LENEHAN
MR NICK AZIZ

- -

Between:

THE ATTORNEY GENERAL

Applicant

- and –

MS SANDRA MESSI

Respondent

- -
- -

Richard Boyle (instructed by Government Legal Department) for the **Applicant**
The **Respondent** represented herself, but made no oral representations

Hearing date: 18th December 2025

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JUDGMENT

SUMMARY

Practice and Procedure

His Majesty's Attorney General applied for a restriction of proceedings order against Ms Sandra Messi under section 33 of the Employment Tribunals Act 1996 ("the ETA"), on the basis that she is a vexatious litigant.

Section 33 of the ETA permits the Employment Appeal Tribunal (EAT) to impose a restriction order where a person has habitually and persistently and without reasonable ground instituted vexatious proceedings or made vexatious applications.

The EAT reviewed extensive materials evidencing Ms Messi's litigation history. Since 2017, Ms Messi has issued over 50 Employment Tribunal claims, including 13 in 2024, typically arising from unsuccessful job applications or short-lived engagements. Her allegations commonly include discrimination, whistleblowing detriment, and unpaid wages. The EAT noted that from the materials that it had seen none of her claims have succeeded, nor have any settled.

Ms Messi's claims, which had been brought across multiple employment tribunal regions, had variously been struck out as having no reasonable prospect of success, were dismissed following non-attendance, or had been withdrawn. Ms Messi had also repeatedly failed to comply with directions, sought adjournments without evidence, avoided attending hearings and made unsubstantiated allegations of dishonesty or fabrication against employers and their representatives. She had also brought a remarkable number of applications for interim relief in whistleblowing proceedings, all unsuccessful, often repeating defects previously explained to her.

The EAT decided that the test for a restriction of proceedings order was made out, and that an order should be made in the circumstances. Ms Messi's approach to proceedings imposes serious burdens on opposing parties and on the tribunal and Court system, and imposing the order would not shut her out from bringing claims.

The EAT refused to make an order precluding Ms Messi from acting as a McKenzie friend. There was no jurisdiction for the EAT to make such an order and, in any event, there was no evidence that Ms Messi had sought to act as McKenzie friend.

MR JUSTICE SHELDON, EMMA LENEHAN, NICK AZIZ

Introduction

1. This is an application by His Majesty's Attorney General for a restriction of proceedings order against Ms Sandra Messi pursuant to section 33 of the Employment Tribunals Act 1996 ("the ETA"), on the basis that she is a vexatious litigant.

2. The hearing of the application took place before the Employment Appeal Tribunal on 18 December 2025. Ms Messi applied at the outset of the hearing for the application to be dismissed. This application was refused, and we shall set out the reasons for that refusal later on in this judgment. Ms Messi then invited the Employment Appeal Tribunal not to proceed with the hearing without receiving further materials from the Attorney General. This application was also refused, and we shall set out reasons for that refusal later in the judgment.

3. Ms Messi then said that she would not take part in the proceedings on what she described as "religious grounds". Ms Messi explained that the application was tainted by fraud, and she could not be a party to proceedings which were a fraud. What she was referring to was the way in which the affidavit in support of the application had been produced. The relevant form was created on 21 November 2024, and yet the supporting affidavit was not signed until 17 December 2024.

4. Ms Messi confirmed that she had put before the Employment Appeal Tribunal all of the material that she wished to adduce. Ms Messi was invited to reconsider her position over the lunch adjournment, but maintained her position that she would not participate further. The Employment Appeal Tribunal proceeded to consider the application without hearing further from Ms Messi.

The Legal Framework

5. Section 33 of the ETA provides that:

> **Restriction of vexatious proceedings.**
>
> (1) If, on an application made by the Attorney General or the Lord Advocate under this section, the Appeal Tribunal is satisfied that a person has habitually and persistently and without any reasonable ground—
>
> (a)instituted vexatious proceedings, whether before the Certification Officer, in an employment tribunal or before the Appeal Tribunal, and whether against the same person or against different persons, or

> (b) made vexatious applications in any proceedings, whether before the Certification Officer, in an employment tribunal or before the Appeal Tribunal,
>
> the Appeal Tribunal may, after hearing the person or giving him an opportunity of being heard, make a restriction of proceedings order.
>
> (2) A "restriction of proceedings order" is an order that—
>
> (a) no proceedings shall without the leave of the Appeal Tribunal be instituted before the Certification Officer, in any employment tribunal or before the Appeal Tribunal by the person against whom the order is made,
>
> (b) any proceedings instituted by him before the Certification Officer, in any employment tribunal or before the Appeal Tribunal before the making of the order shall not be continued by him without the leave of the Appeal Tribunal, and
>
> (c) no application (other than one for leave under this section) is to be made by him in any proceedings before the Certification Officer, in any employment tribunal or before the Appeal Tribunal without the leave of the Appeal Tribunal.
>
> (3) A restriction of proceedings order may provide that it is to cease to have effect at the end of a specified period, but otherwise it remains in force indefinitely.
>
> (4) Leave for the institution or continuance of, or for the making of an application in, any proceedings before the Certification Officer, in an employment tribunal or before the Appeal Tribunal by a person who is the subject of a restriction of proceedings order shall not be given unless the Appeal Tribunal is satisfied—
>
> (a) that the proceedings or application are not an abuse of the process, and
>
> (b) that there are reasonable grounds for the proceedings or application.
>
> (5) A copy of a restriction of proceedings order shall be published in the London Gazette and the Edinburgh Gazette.

6. Section 33 of the ETA is in substantially similar terms to section 42 of the Senior Courts Act 1981. One difference, however, is that section 42(1)(b) of the Senior Courts Act 1981 which is an analogue to section 33(1)(b) of the ETA refers to persons who have "habitually and persistently and without any reasonable ground made vexatious applications in any civil proceedings, whether in the High Court or the family court or any inferior court, **and whether instituted by him or another**" (emphasis added). We shall deal with the consequences of this difference later in the judgment.

7. On its proper construction, section 33 of the ETA provides that if certain conditions are satisfied, the Employment Appeal Tribunal has a discretion whether to make an order, but is not

obliged to do so.

8. With respect to the conditions, they are as follows: (i) has the Respondent instituted vexatious proceedings or made vexatious applications; (ii) has this been done "habitually and persistently"; (iii) has this been done without "any reasonable ground".

(i) What are vexatious proceedings or applications?

9. In **Attorney-General v Barker** [2000] 1 FLR 759, Lord Bingham CJ considered an application under section 42(1) of the Supreme Court Act (the predecessor to the Senior Courts Act), and explained at [19] that:

> "Vexatious" is a familiar term in legal parlance. The hallmark of a vexatious proceeding is in my judgment that it has little or no basis in law (or at least no discernible basis); that whatever the intention of the proceeding may be, its effect is to subject the defendant to inconvenience, harassment and expense out of all proportion to any gain likely to accrue to the claimant; and that it involves an abuse of the process of the court, meaning by that a use of the court process for a purpose or in a way which is significantly different from the ordinary and proper use of the court process."

10. It is not necessary for proceedings to be deemed "vexatious" by a tribunal for them to form relevant material for an application under section 33 of the ETA: see **Attorney General v Wheen** [2001] IRLR 91 at [28]-[30]. Furthermore, it is not open to the Respondent to proceedings to seek to go behind rulings of the relevant tribunal which have not been subject to successful challenge: see **Attorney General v Groves** (unreported, 14 October 2014 at [9]).

11. In this regard, Eady P observed in **Attorney General v Taheri** [2022] EAT 35 at [11] that:

> "In determining whether proceedings are vexatious, it is not the function of the EAT to look behind conclusions reached in earlier judicial decisions of the ET in the underlying proceedings. As the Court of Appeal observed at paragraph 24 of Wheen, if an ET's finding that the proceedings were vexatious had been thought to be erroneous the proper course would have been for the Respondent to have pursued an appeal; absent such a challenge:
>
> "… the decision must stand and is capable of forming the basis for the court being satisfied upon an application [under section 33] that [the Respondent] had habitually and persistently and without any reasonable ground acted [vexatiously] …""

(ii) When is a person acting "Habitually and persistently"?

12. In Barker, Lord Bingham CJ stated at [22] that:

> "The essential vice of habitual and persistent litigation is keeping on and on litigating when earlier litigation has been unsuccessful and when on any rational and objective assessment the time has come to stop."

13. Lord Bingham CJ accepted at [23] that the words "habitually and persistently" connote an element of repetition, albeit that did not have to be over a long period.

14. In the employment field, it is acknowledged that the habitual and persistent litigation does not need to be against the same party with whom the litigant has become obsessed. The test can be satisfied when the litigant makes "repeated applications of a like type to employment tribunals, usually against different Respondents but founded on the like basis": see **Attorney General v Roberts** UKEAT/0058/05, per Rimer J.

(iii) "Without any reasonable ground"

15. This is a curious feature of the statutory test, because it is difficult to conceive of a situation where a person has "habitually and persistently . . . instituted vexatious proceedings" or "made vexatious applications" for which there was a "reasonable ground". In Barker, at [20], Lord Bingham CJ found the condition to have been met where:

> "All the proceedings have been struck out; none has gone to trial; none has been settled. Leave to appeal against Alliott J's striking-out order in relation to the 19 actions was refused. In truth, none of these actions could have succeeded".

16. It seems to us that this condition means that there was not proper basis for the proceedings or application, looked at objectively.

Exercise of Discretion

17. If the statutory conditions are satisfied, there is no obligation on the Employment Appeal Tribunal to grant the restriction of proceedings order. In deciding whether to do so, Lord Bingham

CJ observed in Barker at [2] that:

> "Whether, where the condition is satisfied, the court will exercise its discretion to make an order, will depend on the court's assessment of where the balance of justice lies, taking account on the one hand of a citizen's prima facie right to invoke the jurisdiction of the civil courts and on the other the need to provide members of the public with a measure of protection against abusive and ill-founded claims. It is clear from section 42(3) that the making of an order operates not as an absolute bar to the bringing of further proceedings but as a filter."

18. In exercising discretion, the Employment Appeal Tribunal should be mindful of the litigant's right of access to the courts under Article 6 of the European Convention on Human Rights. In Wheen, it was observed that Article 6 is not an absolute right and that:

> "A balance has to be struck between the right of the citizen to use the courts and the rights of others and the courts not to be troubled with wholly unmeritorious claims. The administration of justice has to be taken into account. But in any event the order which has been made against Mr Wheen provides for access to the Employment Tribunal system by him so long as permission is obtained. . . . Access to the courts is not prohibited; it is provided for on certain terms."

The basis of the application

19. The Attorney General contends that restriction of proceedings order should be made because Ms Messi has made more than 50 claims to the Employment Tribunals since 2017, 13 of which were made in 2024. It is contended that Ms Messi brings claims following an unsuccessful job application or the alleged termination of her employment. Ms Messi makes allegations including race discrimination, disability discrimination, sex discrimination, whistleblowing, victimisation and for unpaid wages. Ms Messi regularly makes applications for interim relief in whistleblowing proceedings. On one occasion, an Employment Judge has deemed Ms Messi's claim to be vexatious. On other occasions, the question of vexatiousness has been raised by Employment Judges. Ms Messi's actions have been deemed to be an abuse of process or an improper use of the tribunal process. Many of her claims have been struck out, including on the basis that there is no reasonable prospect of success; other cases have been dismissed following withdrawal. There is no evidence that Ms Messi has been successful in any substantive element of her claims, and there is no evidence that she has ever been awarded a remedy.

20. It is also said by the Attorney General that the way in which Ms Messi has conducted herself with the Employment Tribunals, and with the legal representatives of the employers against whom she has brought proceedings, demonstrate a wholly improper approach to the litigation. Some of her correspondence with the Employment Tribunals has been regarded as threatening and aggressive. Employers have been accused of dishonesty. Lawyers have been reported to professional regulatory bodies, and staff of employers and lawyers have been reported to the police. Ms Messi has frequently failed to comply with directions, and on several occasions she has failed to attend hearings.

21. Since the application was made in January 2025, it is said by the Attorney General that Ms Messi's improper behaviour has continued. Ms Messi appealed from the decision to stay her existing 27 appeals before the Employment Appeal Tribunal pending consideration of the application for a restriction of proceedings order. Permission to appeal was refused by the Court of Appeal on 20 October 2025, with her appeal being certified as totally without merit.

22. Ms Messi resists the application. In her written submissions, she states among other things that there was an appearance of bias as the application was made by the Solicitor General who had been in chambers with a barrister accused of dishonesty in related proceedings that Ms Messi had been involved in. Ms Messi contended that the evidence submitted in support of the application was incomplete, and that cases where she had secured meaningful or partially successful outcomes had been omitted. Further, many of the judgments against her resulted from her non-attendance, or failure to meet deadlines, which did not show a lack of merit but frequently reflected the challenges she faced as a result of her severe mental health difficulties. Ms Messi acknowledged that she had made multiple claims, but pointed out that many of these addressed serious issues such as whistleblowing concerns and race discrimination. Whilst criticism was made of her making complaints to regulatory bodies or calling in the police, she had a right to complain and report her concerns.

23. Ms Messi contended that the order sought was draconian as it would effectively extinguish her right to seek redress for legitimate claims. She also suggested that any order made publicly would effectively render her unemployable.

Ms Messi's claims and applications

24. We have carefully considered the evidence relating to Ms Messi's claims and applications. We have relied primarily on the judgments given by the various Employment Tribunals as these reflect the judicial consideration of the claims and applications and, unless successfully appealed

(which has not happened on any occasion as far as we can tell), should not be second-guessed by the Employment Appeal Tribunal on an application for a restriction of proceedings order. We highlight the following matters:

(1) Messi v Canadian Solar UK Projects Ltd (Case Nos.: 2200202/2017; 2200868/2017)

25. These claims for direct race and disability discrimination, race-related harassment and failure to pay wages and/or holiday pay were dismissed on 18 January 2018 as being not well founded following a trial. Shortly after the hearing, Ms Messi wrote to the President of the Employment Tribunals to complain about the conduct of Employment Judge Snelson. Ms Messi accused the judge of racially profiling her. She said that a witness had given evidence via video link but the judgment referred to a witness attending in person. This was described as being "completely untrue and dishonest".

(2) Messi v Bio-Rad Services UK Limited (Case No.: 3334267/2018)

26. The proceedings were dismissed on withdrawal by Ms Messi on 15 October 2019.

(3) Messi v Susan Mann and 8 others (Case No.: 2206758/2018)

27. Ten days before the preliminary hearing to strike out the claim, Ms Messi had applied for a postponement of the hearing on grounds that she was due to have oral surgery. The application was refused due to the lack of supporting evidence, and she did not attend the hearing or make written representations.

28. On 27 January 2020, the claims against 7 of the respondents were struck out on the grounds that they had no reasonable prospects of success and/or were an abuse of process. All claims against 2 of the respondents, save for claims of harassment, direct discrimination and victimisation, were struck out. The claims that were allowed to proceed were subject to a deposit order.

29. With respect to one of the respondents, the corporate owner of Ms Messi's employer, the Employment Judge noted that there was no legal nexus between Ms Messi and that respondent. Further, that Ms Messi would have been aware of this, and the employment judge suspected that the reason for claiming against the respondent was "to cause reputational harm".

(4) Messi v Pret-a-Manger (Europe) Ltd (Case No.: 2203613/19)

30. Ms Messi claimed that she had been discriminated against because of her race in not being appointed to an accounts position. At the final hearing of the claim, held on 4 March 2021, Ms Messi did not provide a witness statement for the substantive hearing and declined to ask questions of the respondent's witnesses. She left the hearing before they were called, and did not participate in the hearing.

31. Ms Messi had previously failed to attend a case management hearing, stating that she had three other hearings on the same day. Of his own volition, an employment judge made deposit order. Ms Messi had requested a postponement of the substantive hearing due to the impact on her mental health. This was refused. The application for postponement was reconsidered at the substantive hearing, but refused again. The employment judge found that "there were real grounds for fearing that the real reason for seeking a postponement was not C's inability to participate, but her reluctance to obtain judgement in her claim."

32. The employment tribunal proceeded with the claim in Ms Messi's absence, and dismissed her claim on the merits.

33. At a subsequent hearing with respect to costs, the employment tribunal found that Ms Messi had conducted the claim unreasonably and ordered her to pay the respondent's costs in the sum of £15,000.

34. In their judgment, the employment tribunal referred to the decision of the previous employment judge to make a deposit order which showed "the additional evidence of C's uncooperative approach to Tribunal orders". The Judge commented that "the claimant appears....to be assuming that she can avoid the deposit order being made by being uncooperative. If that is the case, she is mistaken." It was noted that Ms Messi had failed to pay the deposit order.

35. The employment tribunal found that Ms Messi had "deliberately avoided and obstructed service of the hearing bundle". The employment tribunal considered that "it looks very much as if the Claimant was being difficult for the sake of it and to obstruct or prevent a hearing."

36. As to whether Ms Messi's conduct was unreasonable, the employment tribunal concluded that it was, finding that:

> "She deliberately postponed writing a witness statement, saying she would do so nearer the hearing, but never wrote one, despite reminders. She obtained permission to rely on the covert recording, but has not disclosed it, whether before or after the deadline for doing so. She has caused the Respondent added cost and difficulty in their attempts to send her a hard copy bundle. In these respects, she has been uncooperative in the Respondent's reasonable attempts to prepare for a hearing, while doing nothing herself, to the extent that the Tribunal strongly suspects that she may never have intended to go to a final adjudication of her claim. As for the correspondence, we could overlook aggression and threats as an expression of nerves on the part of a nervous and unrepresented litigant, but knowing that she has brought a number (at least six) claims in this employment Tribunal and in other Tribunal regions from time to time, we are less inclined to be sympathetic, as she must have acquired some knowledge of the steps necessary to bring a claim to hearing. The aggressive tone, however, is not what weights upon us in finding her conduct unreasonable. It is the complete lack of cooperation, whether before or after she obtained doctor's notes saying she was not fit for work."

37. The employment tribunal continued by stating that:

> "We have already concluded from the claimant's conduct of the claim that in all probability she did not want to bring it to a hearing. In so doing, she kept this hanging over the respondent. The evidence was growing stale. The respondent's witnesses had both left the respondent's employment and had had to get time off to appear. She has complained that the respondent acted unreasonably in failing to negotiate, so she hoped to settle the claim while it was undecided. A claimant may hope for a settlement but if proceedings are brought, they must be heard if it is not settled. The Tribunal has considered though without being able to give a conclusion that the claimant's conduct at least suggests that the recording of the interview she says she made does not in fact contain anything contradicting the respondent's account, as she had everything to gain by disclosing it and it was a bluff. Making a claim to obtain a settlement without any intention of taking it to a final hearing is an improper use of the Tribunal process and to be discouraged."

38. The employment tribunal referred to the numerous claims that Ms Messi had brought, including a number that were pending, as well as unsuccessful appeals to the Employment Appeal Tribunal. It was stated that:

> "The claimant should by now have acquired some knowledge of the rules and of how parties are expected to conduct their claims. That is a factor suggesting that making a costs order in this case may deter her from bringing claims of little merit, as it will bring home to her that while Tribunals are generally costs neutral, that does not apply where a party is unreasonable or uncooperative."

The employment tribunal found that, in this case, Ms Messi had:

> "wasted Tribunal time and respondents' costs by the way she has conducted the claim, and when she knew she ran the risk of a costs order."

39. An application for reconsideration of the cost order was refused on the basis that there were no reasonable prospects of success. Ms Messi had complained of the "Very bias[ed] decision of the judge", but gave no reasons for that allegation.

(5) Messi v Serco Plc (Case No.: 1401285/2021)

40. Ms Messi brought a number of claims against the respondent, including a claim for automatic unfair dismissal for making a protected disclosure. She made an application for interim relief pursuant to section 128 of the Employment Rights Act 1996. This application was dismissed on 10 May 2021. Ms Messi had claimed that she was employed by the respondent and alleged that insofar as the documents appeared to show otherwise they were forged. The employment judge considered whether Ms Messi had a good chance of a finding that she was an employee of the respondent and found that did not. There was no evidence, beyond Ms Messi's assertion, that the picture painted by the documents was not the true picture. Further, in any event, there was not a good chance that an employment tribunal would find that the disclosures alleged to have been made by Ms Messi were "qualifying disclosures" for the purposes of the whistleblowing regime, and there was no basis that four additional disclosures referred to by Ms Messi were "protected disclosures".

41. In the course of the judgment, the employment judge referred to Ms Messi being "a prodigious correspondent" to the employment tribunal: she had sent 116 emails to the employment tribunals by 28 April 2021; having lodged her claim on 26 March 2021.

(6) Messi v Croydon Logistics Ltd & others (Case Nos.: 2300102/2017, 2303470/2017, 2300962/2018)

42. Ms Messi's claims were struck out on 22 July 2021, as she had failed to comply with an unless order.

(7) Messi v All People Employment Ltd and FedEx Express UK Transportations Ltd (Case No.: 4110316/2021)

43. Ms Messi brought a claim for automatic unfair dismissal for making a protected disclosure. Her application for interim relief was refused on 6 September 2021. She had contended that she was an employee, but the respondent maintained that she was an agency worker. Ms Messi had not disclosed any evidence of her contract of employment.

(8) Messi v Manpower UK Ltd & Teleperformance UK Ltd (Case No.: 3314273/2021)

44. Ms Messi brought a claim for automatic unfair dismissal for making a protected disclosure against two respondents. The application for interim relief was refused on 23 November 2021. The employment judge found that there was no evidence that Ms Messi was dismissed by the first respondent: Ms Messi had indicated that she remained in their employment. There was no evidence that the second respondent was Ms Messi's employer.

45. Mis Messi had sought postponement of the hearing due to ill health. This was refused as no evidence had been produced to support the request.

(9) Messi-v-Cordant People Ltd (Case No.: 2204514/2021)

46. Ms Messi brought a claim for automatic unfair dismissal for making a protected disclosure. An application for interim relief was refused on 4 October 2021, and she was ordered to pay costs of £2,000.

47. The interim relief hearing had been postponed several times previously. Ms Messi had applied to postpone the hearing of 4 October 2021 due to ill health. This was refused as she had been informed that she would need to provide medical evidence to support any further postponement requests and she had not done so. The hearing (conducted remotely by CVP) proceeded in her absence, although a French interpreter for Ms Messi did attend.

48. The application for interim relief was dismissed because it was found that Ms Messi did not have a pretty good chance of succeeding on her claim. The employment judge noted that the documents supported the respondent's contention that Ms Messi was an agency worker, that a particular assignment was brought to an end, and the reason for it was not her protected disclosure

but the use by Ms Messi of abusive language.

49. In making the costs award, the employment judge stated that:

> "In my judgement the claimant has pursued the claim for interim relief unreasonably knowing that the claim had no reasonable prospects of success. . . I consider she has acted unreasonably in the way she has conducted these proceedings. . . . This is not the first time the Claimant has made an unsuccessful claim for interim relief. She did the same in a claim brought against Serco Group PLC. The claim was heard on 10th May 2021. . . . The legal issues in that case were very similar. In both cases the Respondents prepared written detailed submissions containing accurate summaries of the law. The Claimant has had the written submissions since 20th August 2021. As such, I consider the Claimant ought to have realised even though she is not a lawyer, but representing herself, that her claim on this occasion would fail . . .
>
> In addition, turning to the issue of conduct, in both the earlier case and this case, the Claimant has sought to argue that the employment documentation provided by the respective respondents should not be relied upon because there is other documentation. She accused them both of underhand behaviour in this regard. She has not, however, produced the documentation, despite being in a position to produce covert recordings of telephone calls and numerous screen shots. I therefore conclude that she the Claimant has deliberately sought to misdirect the Tribunal on this point. I have also formed a similar view about the Claimant's letter to the Tribunal providing further and better particulars of her purported protected disclosures. Although she has had ample opportunity to provide copies of relevant communications referred to in that letter, she has failed to do so. I conclude that her letter is another attempt to misdirect the Tribunal. . . .
>
> The Respondent has had to defend a poorly conceived application which the Claimant likely knew would fail, and one based on known false allegations."

(10) Messi-v-Cordant People Ltd; Lucy Goring; and Hinduja Global Solutions UK Ltd (Case Nos.: 2204302/2021 and 2204154/2021)

50. On 18 January 2022, an employment judge struck out Ms Messi's claims against the second respondent for unfair dismissal, race discrimination, sex discrimination and for detriment due to public interest disclosures; and against the third respondent for notice pay and pension payments, for having no reasonable prospects of success. A number of other claims, including for disability discrimination and automatic unfair dismissal for making protected disclosures, were not struck out. Ms Messi had not attended the hearing, even though she had previously been sent notice of the

hearing.

51. Ms Messi was ordered to write to the employment tribunal explaining why her remaining claims should not be struck out on the basis that they had not been actively pursued or to ask for a hearing to determine the issue. On 12 April 2022, the remaining claims were struck out. Ms Messi did make representations, but did not explain why she did not attend on the previous occasion.

52. The employment judge stated that:

> "None of the claimant's correspondence demonstrates any recognition on the claimant's part that if she wishes to pursue claims she has to attend hearings and that if she does not attend hearings, she should explain her non-attendance. It cannot be fair to the respondents that they continue to expend costs in proceedings which the claimant is not engaging with ...
>
> In the circumstances I have concluded that the claimant's default is intentional and contumelious-she has shown disrespect to the Tribunal and its procedures and evinces no intention of complying with the Tribunal's processes. I consider that she will continue to waste the resources of the Tribunal and the respondents and that is not in accordance with the overriding objective that that situation be permitted that that situation be to continue."

(11) Messi v Amazon UK Services Ltd (Case No.: 2304911/2021)

53. The claim was dismissed on 1 April 2022 following withdrawal by Ms Messi.

(12) Messi-v-Autumn Paper Ltd t/a/ Alexander McQueen & Handle Recruitment Ltd (Case No.: 2207426/2021)

54. On 11 March 2022, the claims against the first respondent were struck out as showing no reasonable prospects of success. The claims against the second respondent were allowed to continue.

(13) Messi-v-Takeda UK Ltd & Ms Miroslawa Kucinska (Case No.: 3322788/2021)

55. On 13 July 2022, Ms Messi's claims for race, disability and sex discrimination, and for unfair dismissal were dismissed. Ms Messi was notified that an employment judge was proposing to strike out her claim of unfair dismissal because she had been employed by the respondents for less than two years. She was asked to say why the claim should not be struck out. Ms Messi responded by requesting

a reconsideration on the basis that this was an interim relief application and she was unfairly dismissed for making a protected disclosure. A preliminary hearing was arranged, and Ms Messi was directed to provide full details of the alleged protected disclosures.

56. The initial hearing was adjourned by the employment tribunal and a fresh date was fixed; the hearing was to take place via CVP. Ms Messi was informed that she had not complied with the order and that failure to comply may lead to her complaint being struck out. Ms Messi did not comply with the order. Ms Messi also failed to respond to a request from the respondent for further and better particulars of her various discrimination claims, a request which was found by an employment judge to contain "a series of things which it was plainly reasonable to ask the claimant to state".

57. Ms Messi did not attend the hearing. The employment judge dismissed her claims, concluding that "the claimant was not in reality pressing her claims"; she had been warned about the possibility of strike out; and it would be in the interests of justice to dismiss her claims.

(14) Messi v Nicholas Howard Ltd (Case No.: 1404778/2021)

58. On 18 August 2022, Ms Messi's claim was struck out. She did not attend a case management hearing, and had failed to comply with directions requiring her to file a statement setting out information about her claimed disability. The employment judge stated that: "there is no reason to waste the time of the Tribunal or of the Respondent further. The claim itself contains nothing beyond the headline allegations. The Claimant has not engaged with the Tribunal or the Respondent since filing her claim and is in breach of directions made on 2nd April 2021."

(15) Messi v Rameni Caussy & Ors (Case Nos: 33144610/2021; 3316467/2021; 3321117/2021; 3321170/2021)

59. On 19 August 2022, Ms Messi's claims were struck out on the basis that they had not been actively pursued. Ms Messi did not attend the hearing, stating in advance that she had not been given sufficient notice of the hearing. She had not sought an adjournment, however, or explained further her reason for not attending. Ms Messi had previously failed to attend a hearing for her application for interim relief on 11 January 2022, without explanation. An application for reconsideration was refused on 17 January 2023 as there was no reasonable prospect of the original decision being varied or revoked.

(16) Messi-v-Precise Media Monitoring Ltd (T/A Onclusive) (Case No.: 2200391/2023)

60. On 21 February 2023, an application for interim relief was dismissed. The underlying claim was for automatically unfair dismissal for making a protected disclosure. The employment judge found that an employment tribunal was not likely to determine that Ms Messi was dismissed for protected disclosures rather than for gross misconduct, or conduct that had the effect of damaging or destroying mutual trust and confidence. Ms Messi had admitted during the course of the hearing that she had recorded conversations with colleagues without their consent, and circulated that material widely.

61. On 21st March 2023, the employment judge refused an application for costs made by the respondent. In the course of the judgment, it was stated that "There is considerable force in the respondent's solicitors' suggestion that as an experienced litigator the claimant should have known that she was pursuing a hopeless application. But as I have observed, she is very invested in these claims and probably lacks objectivity about them. I suspect that her previous experience counts for little in how she views her present claims."

(17) Messi-v-Origin Multilingual, Infosys Ltd., Ernst & Young LLP (Case No.: 3204190/2022)

62. On 11 May 2023, Ms Messi's claims against the 2nd and 3rd Respondents were struck out, on the basis that the claims had no reasonable prospects of success and the employment tribunal had no jurisdiction to hear the claims.

(18) Messi-v-Alvarez and Marshall Europe LLP (Case No.: 2214057/2023)

63. On 2 October 2023, Ms Messi's application for interim relief was refused. She was claiming automatic unfair dismissal for making protected disclosures. The employment judge found that an employment tribunal was not likely to find that Ms Messi believed that the disclosure she had made was in the public interest or that any such belief was reasonable. The information that had been disclosed was said to be of concern to Ms Messi as an individual but was "not obviously a matter of concern to the public".

(19) Messi-v-Coremont Partnership Services Ltd (Case No.: 2300226/2023)

64. On 18 October 2023, Ms Messi's claims for automatic unfair dismissal, victimisation, equal pay, and wrongful dismissal were struck out and dismissed as having no reasonable prospects of success. The employment tribunal also refused an application made by Ms Messi to amend her ET1. The employment judge observed that it was:

> "beyond doubt in my view, that the Claimant well understands that a Tribunal claim must be properly particularised and is aware of the specific sort of information which must be provided in order to advance claims for discrimination, victimisation, harassment, equal pay, whistleblowing dismissal and breach of contract."

The employment judge also found that Ms Messi was:

> "a litigant in person but is well versed in many aspects of employment Tribunal procedure, including in respect of amendment and striking out, given her previous claims (against a number of different respondents and in other Tribunal regions. . . . In any event looking at each of the newly asserted complaints on its own apparent merit, I consider that the claimant would be likely to face real difficulty with each complaint. Whilst I cannot conduct a mini trial of the merits of each complaint which she seeks to introduce by amendment, I can have regard to the apparent lack of merit when deciding whether the respondent and the Tribunal should be put to the time and effort (at the expense of Tribunal users) required to address the new complaints."

65. A claim for reconsideration was refused on 10 January 2024, on the basis that there was no reasonable prospect of the original decision being varied or revoked. In the judgment, the employment judge stated as follows:

> "The claimant says that I did not examine evidence produced by her and instead focused on evidence allegedly "fabricated" by the respondent. She has not identified which piece of evidence was alleged to have been fabricated by the respondent. She did not allege at the hearing that the documents relied on by the respondent had been fabricated. . . There were and are no grounds for concluding that any of the documents provided by the respondents had been "fabricated" as now alleged by the claimant in her application for reconsideration."

(20) Messi v Kao (UK) Ltd & Mr L Joergensen (Case No.: 2212727/2023)

66. On 18 January 2024, an employment tribunal dismissed Ms Messi's claims for direct race discrimination, or in the alternative race related harassment, as not being well founded.

67. The day before the hearing was due to start, Ms Messi asked for a postponement on the grounds that the bundle was not agreed. On the first day of hearing, Ms Messi contacted the employment tribunal to confirm that she was unwell with chest pains and a panic attack and had been unable to log on to the hearing. She also emailed the employment tribunal to say that she had an emergency appointment with her GP. The employment tribunal adjourned the start of the hearing to allow Ms Messi to attend the appointment. The GP note requested a postponement for a week and then reassessment. The employment tribunal directed Ms Messi to attend at 11.30 a.m. for her to make an application to adjourn. Ms Messi attended the hearing by telephone. The Respondents pointed out that Ms Messi had acted in a similar way at the final hearing of her claim against Pret a Manger on 4 March 2021 (see paragraph 30 above). The employment tribunal found that: "It seems to us we were in a remarkably similar situation in this case. . . We accepted that the claimant was genuine in saying before us that she was experiencing anxiety and stress as a result of the pending hearing, but we did not accept that it was of an order that would prevent her from participating."

68. The employment tribunal refused the adjournment application, and Ms Messi stated that she would not be participating in the hearing. The employment tribunal provided encouragement and opportunity for Ms Messi to attend, including by inviting her to send in cross-examination questions so that the respondent could address these in evidence. The employment tribunal delayed the start of the afternoon session to allow Ms Messi to return home and attend. Ms Messi claimed to have technical difficulties, and the hearing started in her absence. The employment tribunal referred to similar behaviour in another final hearing, and stated that "We were not persuaded that the claimant was prevented from attending by difficulties with the technology, rather that she had chosen not to attend once her application to postpone the hearing had been rejected."

(21) Messi v Hydrafacial UK Ltd (Case No.: 13000098/2023)

69. This claim was dismissed on 9 July 2024 following withdrawal by Ms Messi.

(22) Messi v Mars Chocolate UK & Pertemps Management Solutions (Case No. : 3305345/2022)

70. On 9 January 2023, Ms Messi's claim had been listed for a preliminary hearing to determine whether the claims should be struck out as having no reasonable prospect of success. Ms Messi failed to attend, and explained that she was having technical difficulties accessing the hearing. The employment judge stated that "I have concerns as to whether the claimant is using the Tribunal process for its intended purpose of whether she is, as the Respondent's assert, a vexatious litigant who is abusing the Tribunal process. However, on this occasion I will give the claimant the benefit of the doubt as she has engaged with the email exchange this morning and asserts, she is having technical difficulties."

71. The claim was not struck out. However, the employment judge did direct that Ms Messi's claim be rejected under Rule 12(1)(b) of the Employment Tribunal Procedure Rules 2024, on the basis that the claim form was found to be in a form which could not sensibly be responded to or was otherwise an abuse of process. Whilst Ms Messi had ticked boxes in the claim form to raise complaints of race discrimination, disability discrimination and sex discrimination, and had ticked boxes to confirm that she claimed for payment of notice pay, holiday pay, arrears of pay and other payments, she had not provided adequate particulars of these claims. The employment judge found that the "reader (both the respondents and the tribunal) is left wholly unable to understand the basis for any claims. Not even the bare bones are decipherable". There was, for instance, a failure to state what her disability was, or what the respondents are said to have done or failed to do which amounted to discrimination.

(23) Messi v Shop Circle Ltd (Case No.: 2201793/2023)

72. On 22 September 2023, Ms Messi's claim was dismissed upon withdrawal.

(24) Messi v LVMH Services UK Ltd & Ors (Case No. 2202400/2022)

73. On 4 October 2022, following Ms Messi's failure to attend a hearing, an employment tribunal dismissed Ms Messi's claims for breach of contract claim, holiday pay, sex discrimination alternatively equal pay, direct race discrimination alternatively race related harassment, and victimisation as having no reasonable prospects of success. One claim for alleged victimisation was not struck out, but was made the subject of a deposit order.

74. Ms Messi did not attend the hearing of the remaining act of victimisation which took place on 12 July 2023. The case had been listed for three days. Ms Messi had requested that day one of the hearing be remote, but that application had been refused. The respondent drew to the employment tribunal's attention a pattern of non-attendance. The employment tribunal stated that:

> "It follows from this history that we accept the submission from the Respondents that initiating litigation and then failing to attend a hearing is "standard behaviour" from the claimant. . . "As to adjournment we had no confidence that the claimant would be likely to attend a hearing listed on another date. It did not seem fair to us to put the respondent to the additional expense of attending a hearing on another date when the claimant's attendance was significantly in doubt, furthermore we noted that one of the respondent's witnesses, Miss Sanchez, had travelled from Spain to attend this hearing and another had left his employment for the day. . . . It is absolutely clear to us that the claimant is aware that this hearing is taking place today and has chosen not to attend."

75. An application for costs was made, relying on Ms Messi's habitual non-attendance and repeated abusive correspondence which included Ms Messi alleging that false statements were made by the respondents and that crucial evidence had been omitted. Ms Messi had also contacted the police and the Solicitors Regulation Authority about the conduct of the respondents' solicitor. The employment tribunal accepted the respondents' submission that there was "significant evidence of unreasonable conduct, first the claimant failing to turn up against the background of a pattern of repeatedly failing to turn up in other litigation. It is quite clear to the Tribunal from correspondence yesterday 11th July 2023 that the claimant knew this hearing was going ahead. We find that she knew that this hearing was going ahead and unreasonably failed to attend it."

76. The employment tribunal accepted that it could be appropriate to "bring in authorities such as the police force or a professional's regulatory body". In the circumstances of this case, however, the employment tribunal found that:

> "there is nothing to merit the involvement of either of those bodies and that this is a tactic being employed by the claimant unreasonably in our view to threaten and unsettle the respondent's lawyers who are simply trying to do their job of preparing this matter for hearing. . . . In summary we accept the submission put forward by the respondents that the claimant has conducted this litigation in an unreasonable manner . . . she has undoubtedly increased the costs of the respondents by lack of cooperation."

(25) Messi v Casterbridge Tours Limited (Case No.: 2213167/2024)

77. On 23 April 2024, an employment tribunal dismissed Ms Messi's application for interim relief: she had claimed unfair dismissal and automatic unfair dismissal for making a protected disclosure.

(26) Messi-v-Change Grow Live (Case No.: 2303961/2024)

78. On 3 June 2024, an employment tribunal dismissed an application for interim relief and ordered Ms Messi to pay the respondent's costs of the application. The respondent had referred to previous interim relief applications made by Ms Messi. The employment judge agreed that the application was vexatious, stating that:

> "Applications for interim relief are relatively rare. To have brought so many, in so short a space of time, against so many employers, and to have them all rejected indicates that this is a scheme which Mrs Messi is engaged in rather than any genuine pursuit of justice. This is in my view a plainly vexatious application, and it follows, totally without merit."

(27) Messi v User Testing Ltd (Case No.: 8000219/2024)

79. On 19 March 2024, Ms Messi's application for interim relief was refused.

Decision

80. In our judgment, the conditions for the making of a restriction of proceedings order against Ms Messi are clearly satisfied.

81. We reject the contention made by Ms Messi that the application was tainted by bias as a result of the Solicitor General's previous professional association with a barrister involved in related proceedings. This tribunal is concerned with the underlying merits of the application and any issue about that professional association is, therefore, irrelevant to our consideration of the application. In any event, we reject the allegation of apparent bias. The fair-minded and reasonable observer, with knowledge of the relevant facts, would not consider that there was a real risk of bias in the making of the application.

82. That observer would consider that the relationship between the Solicitor General and a

member of her former chambers was not sufficient to give rise to any concerns. The Solicitor General is a law officer of the Crown. Her obligations would be to the Crown, and any relationship with a member of her former Chambers would be remote from those obligations. Further, the application for a restriction of proceedings order was not made in a vacuum. Concerns about Ms Messi were triggered by a request from a law firm to the Attorney General's Office, which was followed by contact from various other law firms who have represented clients in claims brought by Ms Messi. The matter was subsequently investigated and the voluminous material involving Ms Messi came to light.

83. We also reject the suggestion that the application was tainted by "fraud". The authorisation given by the Solicitor General for the making of an application for a restriction of proceedings order was dated 12 November 2024. The affidavit in support of the application was dated 17 December 2024. There is, however, no requirement that the authorisation has to be preceded by the affidavit that is relied upon for the application. The authorisation is simply that: it authorises an application to be made. How that application is evidenced will ordinarily be a matter for the legal team advising and representing the Attorney General's Office.

84. As for the merits of the application, applying the case law set out above, it is clear that Ms Messi has instituted vexatious proceedings and made vexatious applications, habitually and persistently, and without "any reasonable ground". This is all demonstrated by an examination of the various judgments in the cases discussed above.

85. Ms Messi has brought an extraordinary number of claims against a large number of different employers. Her claims have been considered by a variety of employment judges and tribunals sitting in different tribunal centres. As far as we are aware, and Ms Messi has provided no evidence to suggest otherwise, none of her claims have succeeded. There was also no evidence that any of her claims had been settled. On the face of the materials that we have been provided with, Ms Messi's claims have been of little or no merit.

86. There have been repeated applications for interim relief, brought on the basis that Ms Messi had been unfairly dismissed automatically on the basis of her making a protected disclosure. Each of the applications that we have been referred to have been dismissed. The basis for dismissing those applications were clearly explained to Ms Messi, and yet she has brought further applications which contain the same flaws as had been identified in her previous applications. Ms Messi must know, or be taken to know, that her applications are bound to fail and yet she has persisted in them. We agree

with the observation of the employment judge that "To have brought so many [applications for interim relief], in so short a space of time, against so many employers, and to have them all rejected indicates that this is a scheme which Mrs Messi is engaged in rather than any genuine pursuit of justice".

87. The fact that Ms Messi is engaged in a "scheme" of some kind, rather than being engaged in "any genuine pursuit of justice" is also evidenced by her failure on a considerable number of occasions to attend hearings, even though she has been notified of the relevant dates and requests for postponement had been refused. There were also occasions where Ms Messi was granted postponements to allow her to attend hearings, and was given opportunities to serve supporting evidence which they failed to do. It is further demonstrated by the number of cases in which claims have been made by Ms Messi but were then withdrawn by her.

88. It is correct that many of the claims that have been dismissed did not involve findings of facts. However, that is because the claims were either so weak on the face of it that they did not cross the threshold for striking out, or because Ms Messi had not attended the hearing at which her oral evidence could be tested. Whilst we note Ms Messi's contention that she did not attend hearings on certain occasions as a result of her mental health difficulties, the materials that we have seen show that she was dealt with sympathetically on a number of occasions. Hearings were frequently adjourned at her request.

89. Whether or not to make the restriction of proceedings order is a matter of discretion once, as we have found, the statutory conditions are made out. In our judgment, it is highly appropriate to exercise that discretion to make the order in this case. The material that we have seen makes it abundantly clear that Ms Messi's conduct in bringing so many proceedings which have little or no merit causes substantial prejudice not only to respondents, but also to the tribunal and Court system as a whole. We find that the making of a restriction of proceedings order will provide an appropriate balance to address these matters.

90. Respondents are required to expend time and resources in answering the claims made by Ms Messi, and attending hearings. The tribunal and Court system is caused real prejudice because it is necessary to deal not only with the claims that Ms Messi brings, and the applications that she makes, but also to the inordinate amount of correspondence that Ms Messi generates. There are limited resources available to the tribunal and Court system, and it is unfair to other litigants if they are diverted to dealing with Ms Messi where, as indicated above, her claims have little or no merit.

91. We note Ms Messi's concern that a restriction of proceedings order will effectively make her unemployable. There is, however, no evidence that this would be the case. As for Ms Messi's concern that the granting of a restriction of proceedings order will effectively extinguish her right to bring claims, and will therefore shut her out from instituting genuine claims. In our judgment, that will not be the effect of the restriction of proceedings order. The order will provide a judicial filter, so that any future claims can be examined by a judge at the outset. If there is potential merit in the claim, then it will be granted permission to proceed in the ordinary way. If there are no potential merits, it will not be permitted to proceed. That is a proportionate way of dealing with the any future claims given the long history of vexatious proceedings.

92. As for the terms of the restriction of proceedings order, we do not consider that we have jurisdiction to make an order which would preclude Ms Messi from serving as a representative or McKenzie friend for any other person. Section 33 of the ETA does not include the wording "whether instituted by him or another", and we see no basis for reading that language into the section. In any event, even if we had jurisdiction, we would not have exercised our discretion to make an order that imposed any filter on Ms Messi serving as a representative or McKenzie friend. There is no suggestion from the materials that we have seen that Ms Messi has performed that role in the past, or that she had done so in a way which caused any obstruction to the administration of justice.

Conclusion

93. For the foregoing reasons, therefore, we grant a restriction of proceedings order for an indefinite duration in terms which provide that:

(i) No proceedings shall, without the permission of the Employment Appeal Tribunal, be instituted in any employment tribunal or in the Employment Appeal Tribunal by Ms Messi, whether by herself or through another;

(ii) Any proceedings instituted by Ms Messi in any employment tribunal or in the Employment Appeal Tribunal before the making of this order shall not be continued by her without the permission of the Employment Appeal Tribunal;

(iii) No application other than an application for permission pursuant to section 33 of the ETA is to be made by Ms Messi, whether by herself or through another, in any proceedings in any employment tribunal or before the Employment Appeal Tribunal without the permission of the Employment Appeal Tribunal.