



EMPLOYMENT TRIBUNALS

Claimant: Mr Belmani

Respondents: Royal Free London NHS Foundation Trust

Heard at: Watford Tribunal On: 24 April 2026

Before: Employment Judge Cowen

Representation

Claimant: Mr Belmani (in person)

Respondent: Mr Ross (counsel)

JUDGMENT

1. The Claimant's application for strike out of the Respondent's response was dismissed.
2. The Respondent's application for strike out of the Claimant's claim was dismissed
3. The Claimant's application for wasted costs was dismissed.

FULL WRITTEN REASONS

1. A summary oral judgment was given to the parties on 24 April 2026. A written judgment was sent to the parties on 3 June 2026. The Claimant applied for written reasons on 12 June 2026. Summary Written Reasons were provided to the parties on 24 August 2026. On 25 August 2026 the Claimant requested full written reasons. The Tribunal notes that there were no findings of fact, as these were applications to strike out and

therefore the Tribunal made no decision of fact. The following written reasons comply with rule 60(7) Employment Tribunal Rules of Procedure 2024 in all other ways.

The Law

2. Striking out – Employment Tribunal Rules of Procedure 2024
“rule 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.*
 - (3) Where a response is struck out, the effect is as if no response had been presented, as set out in rule 22 (effect of non-presentation or rejection of response, or case not contested).*
 - (4) Where a reply is struck out, the effect is as if no reply had been presented, as set out in rule 22, as modified by rule 26(2) (replying to an employer’s contract claim)”*
3. The Tribunal should bear in mind the case of [*Abertawe Bro Morgannwg University Health Board v Ferguson 2013 ICR 1108, EAT*](#), where the EAT remarked that, in suitable cases, applications for strike-out may save time, expense and anxiety. However, in cases that are likely to be heavily fact-sensitive (such as those involving discrimination or public interest disclosures (‘whistleblowing’)) the circumstances in which a claim will be struck out are likely to be rare.

Similar sentiments had been previously expressed by the House of Lords in [*Anyanwu and anor v South Bank Student Union and anor 2001 ICR 391, HL*](#)

4. The Tribunal should also exercise its discretion to strike out taking into account the overriding objective to deal with cases 'fairly and justly'. Strike out is a draconian step and should only be taken in exceptional circumstances.
5. Where the basis for the strike out application is that the claim or response has 'no reasonable prospect of success', A v B[2011] ICR D9, set out that where there is a 'more than fanciful' prospect of success, the claim should be allowed to proceed.
6. The Tribunal should consider the case which is being tested at its highest, in order to consider whether there is a prospect of success; Cox v Adecco Group UK & Ireland [2021] ICR 1307, EAT. The Tribunal is aware that the same test applies when considering strike out of the response as of the claim.
7. Where the ground for strike out is rules 38(1)(b); the manner in which the proceedings have been conducted.. or been scandalous, unreasonable or vexatious, the Tribunal has been guided by Blockbuster Entertainment Ltd v James [2006] EWCA Civ 684.
8. The Tribunal must consider: (a) has the party (or representative) conducted proceedings unreasonably? (b) does the unreasonable conduct consist of deliberate or persistent disregard of procedural steps and the breaching of orders? (c) if not, has the unreasonable conduct made a fair trial no longer possible? (d) is strike out the proportionate response?
9. The Tribunal should take into account the nature and quality of the conduct, whether the actions are wilful and deliberate, whether the conduct was the responsibility of the party and the extent to which the actions cause unfairness, disruption or prejudice.
10. The Tribunal must also consider whether strike out is the correct response or whether some lesser sanction would be an appropriate response to the conduct in question.
11. There is overlap with r38(1)(e) that is whether a fair trial is still possible as this must also be considered under 38(1)(b). Where the conduct does not satisfy the test in 38(1)(b), it may nevertheless mean that a fair trial is no longer possible and that strike out under 38(1)(e) is appropriate. The test in 38(1)(e)

is higher as it requires the Tribunal to be sure that that a fair trial is not possible. Under 38(1)(b) the Tribunal need only consider that there is a significant risk of such.

12. The leading authority on wasted costs is *Ridehalgh v Horsefield* [1994] 3 All ER 848, from which the following principles are taken;

A Tribunal must consider a three stage test;

- (i) Has the legal representative of whom complaint was made acted improperly, unreasonably or negligently?
- (ii) If so, did such conduct cause the applicant to incur unnecessary costs?
- (iii) If so, is it, in all the circumstances, just to order the legal representative to compensate the applicant for the whole or part of the relevant costs?

Claimant's application to strike out

13. The Claimant had written repeatedly to the Tribunal making applications to strike out the Respondent's response on the grounds that it showed no reasonable prospect of success. These letters are somewhat jumbled and confusing in their content and make allegations about the Respondent and their legal advisers. This hearing dealt with all outstanding applications, but in particular the application dated 30 October 2025. The Claimant made oral submissions to the Tribunal in relation to his own application. The Respondent replied to that application and made its own application to strike out the claim. The Claimant was then given the opportunity to reply to the Respondent's application.

14. The Claimant's oral submissions were lengthy and confused. The Claimant spoke of other litigation and made reference to being told to be objective and to get to the point. Sadly he did not heed this advice and his application was heartfelt, but very difficult to understand as it failed to address directly the reasons why he felt that the Respondent's response showed no reasonable prospect of success.

15. In essence, the application was based on the Claimant's belief that the fact that his contract of employment makes reference to a disciplinary and grievance procedure means that they are incorporated into his contract and therefore any breach of the procedure amounts to a breach of contract. He asked the Tribunal to listen to an audio recording of his dismissal meeting, and said that this would prove that the Respondent had no prospect of defending the claim. The Tribunal did not allow the recording to be played at a strike out application. In any event it did not appear to the Tribunal that either

party had in fact brought the recording or a means of playing it, to the Tribunal.

16. However, when it was pointed out to the Claimant that he did not bring a claim of Breach of Contract and that this information did not, even if it is correct, impact on any of the claims on the list of issues, the Claimant returned to his initial point and went over it, repeatedly. He was quite fixed on this point and seemed not to entirely grasp that the Tribunal must look at the claims contained in the list of issues.
17. The Claimant did not refer to any of his other claims, when insisting that the Respondent had no prospect of success. The Tribunal listed, for the benefit of the Claimant, the different reasons for strike out under rule 38 and asked the Claimant to focus his application on these rules, but sadly he was unwilling or unable to do so. The Claimant spoke for almost an hour in total, in order to make his application (a 20 minute break was taken mid-morning).
18. The Respondent's submissions pointed out that the Claimant had not identified any claim before the Tribunal in which the Respondent had no reasonable prospect of success in their defence. The Respondent highlighted that the question for the Tribunal at the final hearing will be whether the actions of the Respondent were due to the Claimant having made a protected disclosure (if they were qualifying disclosures).
19. The Tribunal considered that these were factual matters which will have to be decided at the final hearing. The Tribunal couldn't say, based on the information available, whether the Respondent has any prospect of success or not.
20. The Tribunal took into account Cox v Adecco which sets out that where there is a factual dispute – it is unlikely that strike out is appropriate.
21. The Tribunal reminded the parties that it would take the Claimant's case at its highest in accordance with Malik v Birmingham CC, but that does not mean that the Respondent has no prospect. As the application was against the Respondent, the Tribunal also had to take the response at its highest and consider whether, if the Respondent's witnesses come up to proof, whether it is more than fanciful that they would successfully defend the claim.
22. The Tribunal found that there was a prospect that the Respondent will succeed, that factual disputes will need to be considered and that will require a final hearing.

23. The Claimant spoke at length about the actions of Capsticks or the Respondent being vexatious or unreasonable by withholding the contract of employment. It was not clear to the Tribunal why the Claimant was reliant on the Respondent to provide this. If the contract was with him, he ought to have already been in possession of a copy of it. Even if he didn't have one, the Tribunal did not consider that the Respondent providing documents at the appointed time of disclosure is vexatious or unreasonable. It has not been suggested that the Respondent delayed in providing it after it was required. The Tribunal did not consider that it would be appropriate to strike out the Respondent for any such delay.
24. The Tribunal also considered whether, despite the actions of the Respondent in allegedly delaying disclosure and witness statement exchange, a fair trial can proceed; The hearing is listed in September 2027, there is therefore plenty time for the parties to prepare and to come to the hearing ready to deal with all aspects. It is plain that it is possible for a trial to take place.
25. The Claimant's application to strike out on either of these grounds was therefore dismissed.

Respondent's application to strike out

26. The Respondent's application to strike out was made on the basis of 38(10)(b) and(e)
27. The Respondent characterised the Claimant's actions as a misuse of the Tribunal process in making complaints about people/organisations who are not party to the claim, asking for irrelevant documents and saying that there are duplicate High Court proceedings, as well as sending inappropriate emails to the Respondent's solicitor.
28. The Tribunal considered it fair to describe the Claimant's emails as lengthy, at times somewhat rambling and often irrelevant to the issues before the Tribunal. The Claimant appeared to have little insight to this, on occasion saying that he knows that the points he makes, or documents he provides are not relevant, but proceeding to send them in any event. On some occasions he referred in derogatory terms to the Respondent's solicitors and to others at the Respondent. He has made allegations of bribery, corruption and fraud against the Respondent's solicitors. He even suggested again in his submissions today that the police are working for Capsticks.
29. All of this behaviour is totally unacceptable. The Tribunal had made it clear on previous occasions that the Claimant must concentrate only on the issues in the case, those on the list of issues and that he must understand that the

Respondent's solicitor and barrister are doing their jobs.

30. By repeatedly asking for documents which are not relevant to the issues in this case, such as HR records of others or contracts between the Respondent and others, the Claimant is causing the Respondent and the solicitors to undertake work which is unnecessary.
31. The Tribunal was concerned to see In particular, that the Claimant has potentially been in breach of a restraining order against him, in relation to Ms Mitchell which is valid until September 2027.
32. The Claimant's claims that he is litigating at least some of the same matters in the High Court appears not to be true so far, but he appears to be trying to use it to intimidate either the Respondent or the Tribunal or both. This will not work.
33. The Tribunal concluded that the Claimant's behaviour has been inappropriate, unnecessary and at times, worrying to those receiving it. If that were the limit of the test to strike out, then the Tribunal considered that the Claimant would have reached the threshold.
34. However, the Tribunal must also consider whether such a draconian step should be taken. To strike out the claim would be to deprive the Claimant of his chance to achieve justice, if his claims have merit. The Tribunal must balance that against the obligations and costs on the Respondent of having to defend the claim.
35. One of the aspects of this balance is whether a fair trial can still be had. The trial is set for September 2027. There is therefore time for the remaining disclosure and witness statements to be exchanged and for both sides to prepare for the hearing itself.
36. The Tribunal was sympathetic to the unpleasant and difficult position which the Claimant has placed the Respondent's solicitors in, on a number of occasions so far. This will not be tolerated by the Tribunal. Any further such behaviour may warrant a further application by the Respondent and may be considered afresh.
37. However, it also has to be considered in perspective. Solicitors in litigation have to engage with upset, agitated and sometimes unreasonable parties on the other side. It sometimes goes with the territory. The Tribunal now deals with many litigants in person, who have varying knowledge of the law or legal procedure. Solicitors firms are obliged to interact with them all and to apply the overriding objective and their own professional conduct standards, to

every case they deal with. It is to be noted however, that there needs to be a limit on what is acceptable from a litigant in person.

38. As for the unnecessary workload due to the Claimant's irrelevant emails, these could be dealt with shortly, in order to save costs and time. A one line letter to say you will not be responding in detail as it is not relevant to the issues, would suffice.
39. Taking into account all the aspects, the Tribunal remained of the view that a fair trial can still occur In this case. No specific reasons were put forward by the Respondent as to why it would not be possible to complete case management orders and to hold the final hearing. Ultimately that is the purpose and aim of the Tribunal, and we must all work towards that.
40. In conclusion, the Tribunal was not willing to strike out the claim, at this point. However, that does not mean that if any of the previous behaviour is repeated, that the Tribunal would not be open to a further application being made.
41. The Claimant should take this judgment as a warning, that if he continues to request documents which are not relevant to the issues in this case, he risks an award of costs against him, or even a further consideration of strike out.
42. If he attempts to write anything to the Tribunal or Respondent's solicitors about Ms Mitchell which could be a breach of that order, then this would also amount to unreasonable behaviour and would be grounds for strike out. The Claimant must be careful with both the language he uses and the reason why he writes to the Respondent's solicitors or the Tribunal. Anything which is considered rude, defamatory or inappropriate could give rise to a further application to strike out, which would be strengthened by the fact that these warnings are being given.
43. In clear terms; This is your last chance Mr Belmani. If you continue to conduct yourself in this manner, you seriously risk a successful strike out application against you, and/or costs award.

Claimant's Wasted Costs

44. The Claimant's submission on his wasted costs application was that he had lost 1.5 years defending himself and cannot find other work as he keeps thinking about this claim. He described it as a huge trauma. He said that if he had been paying for advice he would have spent £150-200,000 by now. He asserted that his claim is the first in the UK to claim both whistleblowing and disability discrimination against the NHS. He reiterated his assertion that the

police are working for Capsticks solicitors and said he will have more merit to his claim after his High Court claim. He also asked the Tribunal to consider an interim award to provide some money in advance of a successful claim.

45. The Respondent pointed out in their reply that the Tribunal cannot make a wasted costs award, if the Claimant has not incurred any costs. The Claimant had failed to identify any costs under rule 78. It was pointed out that the Claimant had tried to bring Capsticks into the claim as a further Respondent and that this application was another means by which the Claimant was attempting to pull the solicitors into the claim.
46. Taking both these submissions into account, the Tribunal was clear that the Claimant failed to show any improper, unreasonable or negligent action by Capsticks. He made no reference to any specific acts at all. His submissions were a general complaint about the firm. Furthermore, the Claimant did not assert that he had incurred any costs as a result of any action by Capsticks. That application was dismissed.

Approved by

Employment Judge Cowen

26 August 2026

JUDGMENT SENT TO THE PARTIES ON
26 August 2026

FOR THE TRIBUNAL OFFICE

Notes

Judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

If there are written full reasons for the judgment, they are also published. Written summary reasons are not published.

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a written request is presented by either party within 14 days of the sending of this written record of the decision.

The reasons given orally were the summary reasons. If a request for written reasons is made (within the time limit), the Tribunal might choose to supply written summary reasons or else the Tribunal might choose to provide the written full reasons.

If written summary reasons are provided, then written full reasons will not be provided unless requested by any party by a written request received by the Tribunal within 14 days of the sending of the written summary reasons.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/