IN THE LONDON SOUTH

EMPLOYMENT TRIBUNAL

CASE NUMBERS: 2318353/2010N

2330171/2010/N

2300254/2011B

BETWEEN:

Ms A A Vaughan

Claimant

-and-

Careers Enterprise LTD and Others

Respondent

PRE-HEARING REVIEW

STATEMENT OF AYODELE ADELE VAUGHAN

I, Ayodele Adele Vaughan of, CENSORED, make this statement in support of my claims to the tribunal regarding my objection to the respondent party's strike out application and cost order:

1. I am employed by Lewisham Council. I was TUPE'd in from Careers Enterprise Limited on 1 April 2011, **(I refer to document numbers 185d, 185e and 189b of the bundle)**. I was TUPE'd in from Careers Enterprise Limited on 1 April 2011. Careers Enterprise Limited failed to inform me that I had been selected by the

Council for transfer. On 30 March 2011, I received a letter from my old employer informing me of their position and the fact that Lewisham Council were still refusing to TUPE staff, **(I refer to document numbers 185f and 185g of the bundle)**. My employer had also sent me my P45 on 24 March 2011, which arrived in my post on 26 March 2011, (5 days before the contract for Connexions actually expired). I found out that I had been TUPE'd on 1 April 2011 purely by chance. I had decided to go along with more than 20 of my colleagues to Lewisham Council's offices on 1 April 2011 at 9.30am to find out if they intended to take responsibility for staff. We then presented Lewisham Council with a petition asking for work, **(I refer to document numbers 186a, 186b and 186c of the bundle)**. Soon after that, a senior manager came down to address us all. He called out five names of staff and advised that they could follow him upstairs but that the other individuals would have to present themselves to their old employer. This was obviously very distressing and humiliating for us. I was not consulted by either Babcock or Lewisham Council about being selected for TUPE. I have never contacted by Amanda Duckett (the regional manager) or anyone else from CEL to discuss my transfer, even though Amanda Duckett had advised all my colleagues in her e-mail dated 1 April 2011 that she would be doing so, **(I refer to document numbers 185d, 185e and 189b of the bundle)**. It is important to note that I was not included in that e-mail and I only have a copy of it because one of my former colleagues kindly forwarded it on to me).

2. Since being transferred over to Lewisham Council, and having started work, I have found out that all my employment particulars have not been transferred over to the Council in the required time by my former employer CEL, as stipulated under TUPE. Lewisham Council have advised me that they are still

waiting on basic information from Careers Enterprise Limited, i.e. details of my salary, hours worked, annual leave entitlement, continuous employment start date etc. This is particularly detrimental to me as a disabled employee and has caused me tremendous distress and anxiety. I do not even know if I will be paid on time this month, due to these failures. This constitutes a failure to consult under TUPE.

3. Careers Enterprise Limited was responsible for delivering the Connexions contract in Lewisham. Lewisham Council decided not to re-new its contract with Careers Enterprise Limited and the Connexions service closed on 18 March 2011. I began working for the Connexions service in March 2004, under London East Connexions Partnership. Prospects took over the contract for the Connexions service in 2006. VT Group PLC's subsidiary, Careers Enterprise Ltd (VT Enterprise) took over the Connexions contract in the first week of August 2008. Babcock International Group PLC took over the VT Group PLC on July 8th 2010 and their subsidiary, Careers Enterprise Limited (BabcockEnterprise) took over the Connexions contract on this date.

4. I was extremely shocked and alarmed when I saw the respondent party's strike out application and request for a cost order. I believe that Paris Smith, acting on behalf of the Respondent party, have decided to make a strike out application in an attempt to deny me my right to a fair hearing. Their actions also obstruct the just disposal of the proceedings. The respondent party started to engage in procedural abuse quite early, as is evidenced in my submissions dated 26 October 2010. They are the only party guilty of unreasonably, scandalously and vexatiously conducting proceedings in this case. In response to the respondent

party highlighting in the supplementary bundle index dated 5 April 2011, the fact that I made a review application in relation to the tribunal's decision not to postpone the second CMD, this was due to mis-communication with the Tribunal administrative staff. It was a genuine mistake, which I advised the Tribunal of and apologized for in my e-mail dated 19 August 2010 **(I refer to document number 50a of the bundle)**.

5. The respondent has party in the supplementary bundle index dated 5 April 2011, has also made highlighted the fact that I insisted on preparing my own separate bundle. This was due to the fact that we could not agree on the bundle, (content and the cost), **(I refer to document numbers 62a and 65b of the bundle)**. The respondent also failed to include the correct copy of a very crucial document in the bundle which I received from them, despite me having asked them to confirm receipt of the amended document on more than one occasion **(I refer to document number 53b of the bundle)**, and them confirming that they had received the amended version **(I refer to document numbers 53b, 65a and 65c of the bundle)**, which was also included in the PHR bundle which they confirmed receipt of on 1 November 2010 at 12.46 PM **(I refer to document number 65a of the bundle)**. By this time they had not yet to send off their own bundle to me. I raised the issue of their inclusion of the wrong document with them in my e-mail dated 1 November 2010. I believe that this was a deliberate failure. I decided to produce my own bundle in order to ensure the accuracy and I was also able to produce a bundle for a fraction of what the respondent wanted to charge me, **(I refer to document numbers 62a and 62b of the bundle)**.

6. The claimant has also included a copy of my Equality form in the bundle index dated 5 April 2011. It is important to note that the questionnaire process is not a formal part of the Tribunal process, so therefore not part of the proceedings and therefore irrelevant. An employee is entitled to issue a questionnaire, and then can even decided not to lodge a tribunal claim after receiving the response. Not surprisingly, the respondent has opted not to include their responses to the equality form, (which I believe is quite revealing and weakens their defence even more).

7. In relation to the respondent's strike out application of claims 2318353/2010 and 2330171/2010, the respondent has so far received **three** opportunities to strike out my claims. On 14 October 2010, in the Notice of the Pre-hearing Review **(I refer to document numbers 57a and 57b of the bundle)**, Judge Salter ordered that both parties should by 28 October 2010 inform the other in what respect or respects the other has conducted the case scandalously, unreasonably or vexatiously. I complied with this order, informing the tribunal and the respondent in writing by the deadline given. The respondent did not. However, on 4 November 2010 the respondent was given another opportunity by the Tribunal to do so and was asked by Judge MacInnes at the PHR whether they wanted to strike out any claims, they advised the tribunal panel that they did not.

8. At the end of the PHR they were given yet another opportunity to strike out the claims by the Tribunal and were instructed that if they wanted to do this, they would have to put it in writing by 3 December 2010 **(I refer to document numbers 63d and 63e of the bundle)**. On 30 November 2010 the respondent wrote to the Tribunal to advise that they did not propose to apply for any of my

claims to be struck out, **(I refer to document numbers 73m – 73o of the bundle)**.

9. It is important to note that the respondent also failed to make an application to vary, discharge or extend time on the order dated 10 November 2010. The respondent subsequently decided to make an application to strike out my claim **more than three months** after the second deadline had lapsed. It is important to note that only three weeks before the strike out application was made the respondent party had written to the Tribunal in support of my application to amend my third claim, a claim that they would then argue only a few weeks later, should be struck out. That letter dated 21 February 2011 **(I refer to document number 164a of the bundle)** also made no reference at all about scandalous, unreasonable and vexatious conduct of proceedings on my part. Since the PHR that had taken place on 4 November 2010 and before they made their strike out application, the respondent party had not written to the Tribunal to make any complaint about the alleged abuse of process on my part. It is also important to note that in response to my third claim (which was lodged in December 2010), in their letter to the tribunal dated 17 January 2010 **(I refer to document numbers 129a and 129b of the bundle)**, they requested that the claim be consolidated and they also attempted to stay proceedings (which was refused). At no stage did they request that the claims be struck out.

10. There is no evidence at all to support the respondents claim that I have conducted proceedings in a scandalous, unreasonable, vexatious, abusive and disruptive way. The allegation is unfounded, which is why the respondent party

never made an application to strike out my claim before now, even when given numerous opportunities by the Tribunal to do so.

11. The respondent claims to be concerned about the amount of applications being made and the amount of correspondence that this has generated. Since the respondent party had not made any allegations of alleged abuse of process, unreasonable and vexatious conducting of proceedings on my part, either on or before 21 February 2011, I shall have to assume that they have noted this alleged *continued* conduct after this date (and hence felt strongly enough about it to then decide to make the strike out application). In this three week timeframe between 21 February and 15 March 2011, it is important to note that I had made no contact with the Tribunal or the respondent party at all.

12. On 4 November 2010, the first half of the Pre-Hearing Review for claims 2318353/2010 and 2330171/201 (which have been consolidated) took place. I submitted evidence, three witness statements and written submissions to the tribunal. Oral evidence was also given. The decision went in my favour and it was a unanimous one. The Tribunal ordered Babcock Education and Skills Ltd to join proceedings. Judge MacIness asked me to think about whittling down my claims further, even though I had already done so previously. The respondent was asked by Judge MacInnes at the PHR whether they wanted to strike out any claims, they advised the tribunal panel that they did not wish to do this. At the end of the PHR they were given yet another opportunity to strike out the claims by the Tribunal and were instructed that if they wanted to do so, they would have to put it in writing to the Tribunal and myself by 3 December 2010 **(I refer to document numbers 63d and 63d of the bundle)**.

1. On 17 November 2010, I wrote to the tribunal advising it that I had 'whittled down' my claims even further and enclosed an updated schedule of claims **(I refer to document numbers 73a & 73b and 73c - 73l of the bundle)**. However, the respondent party was still unhappy about this and it continued to insist that my claims be cut down further still. This was set out in the respondent's letter to the tribunal dated 30 November 2010 **(I refer to document numbers 73m-73o of the bundle)**. It is important to note that even though the respondent party had not made an application to strike out any of my claims; but they were still trying to prevent all my valid claims from being heard.

13. In the respondent's letter dated 30 November 2010, it also informed the Tribunal that they <u>did not</u> propose to apply for any of my claims to be struck out, and requested that the Tribunal use of sample claims in this case so that only a sample of my claims are heard and stated that if I refuse to agree to this, then they would ask the Tribunal to use its case management powers under Rule 10(2)(i) of the Employment Tribunal Rules of Procedure to organise two hearings, with those claims regarded as secondary, repetitive or otherwise unnecessary being dealt with at the second hearing (if I am is successful in relation to the sample claims heard at the first hearing).

14. On 15 December 2010 **(I refer to document numbers 73p-73x of the bundle)** the respondent wrote to the Tribunal requesting that the PHR/CMD be listed for two days.

15. On 16 December 2010 **(I refer to document number 66 of the bundle)**, I requested additional information and written answers from Babcock Education and Skills Ltd following receipt of its ET3. This was followed up with a request for an order for additional information and written answers on 29 December 2010 following their refusal letter of the same date (**I refer to document numbers 75a and 75b of the bundle)**.

16. At the end of December 2010, I brought another claim against my employer and three individual respondents, clearly citing continuing acts. In response to my new claim, the respondent party wrote to the tribunal on 17 January 2011 **(I refer to document numbers 155a and 155b of the bundle)** requesting a stay of proceedings for this claim and raising the issue again of limiting the scope of my previous claims even further. They also requested that the new claim-2300254/2011 be consolidated with claims 2318353/2010 and 2330171/2010 (which went against the respondents previous applications to stay proceedings and have the claims heard separately over two hearings).

17. On 31 January 2011 **(I refer to document number 155c of the bundle)**, the Employment Tribunal ordered the respondent party to respond to my new claim and apply for a stay of proceedings at the next PHR/CMD.

18. On 2 February 2011 **(I refer to document numbers ? and ? of the bundle)**, the respondent submitted its ET3 and requested again that my new claim be consolidated with my previous two claims, (which they had been attempting for some time to narrow the scope of and put on hold and have heard over two separate hearings).

19. I made an amendment application for claim number 2300254/2011 on 10 February 2010 **(I refer to document numbers 156 of the bundle)** and objected to the respondents request to consolidate the claim with my two previous claims, 2318353/2010 and 2330171/2010. The respondent party wrote to the Employment Tribunal on 14 February 2011 **(I refer to document number 162a of the bundle)** requesting that my amendment application be dealt with at the second half of the PHR/CMD, which had been called for claim numbers 2318353/2010 and 2330171/2010 (and which had not been consolidated with claim number 2300254/2011) and they complained about the fact that the case had been had been delayed and needed to be dealt with as a matter of urgency. I responded to the respondent party's letter on the same date.

20. On 16 February 2011 **(I refer to document number 162b of the bundle)** the Employment Tribunal wrote to me refusing my amendment application and advising me that the respondents request for my new claim to be consolidated with my two previous claims would be considered at the PHR/CMD. I received this letter on 18 February 2011 and requested a review of the decision on the same date.

21. On 21 February 2011 **(I refer to document number 165a of the bundle)** the respondent party wrote to the Tribunal in support of my application to amend claim number 2300254/2011, requesting that it be considered at the PHR/CMD.

22. On 23 February 2011 **(I refer to document numbers 165b and 165c of the bundle)** the Tribunal wrote to both parties informing us that the second half of the PHR/CMD had been set for 14 and 15 April 2011.

23. On 1 March 2011 **(I refer to document number 165d of the bundle)**, the Tribunal wrote to both parties informing us that my amendment application would now be considered at the PHR/CMD.

24. On 2 March 2011 **(I refer to document number 165e of the bundle)** the Tribunal wrote to both parties informing us of the date for the CMD, which had been set for 2 hours.

25. On 15 March 2011 **(I refer to document numbers 166 - 167 of the bundle)** the respondent made a strike out application and requested a cost order, alleging that I had been conducting proceedings in a scandalous, unreasonable, vexatious, abusive and disruptive way. That same day I wrote to the Tribunal (copying in the respondent), objecting to respondents strike out application and request for cost order and requested that the Tribunal to strike out response for respondent's failure to comply with Tribunal Order/directions dated 10 November 2010 **(I refer to document numbers 63d and 63e of the bundle)**- '*by 3 December 2010, the respondent shall inform the claimant and the Tribunal which of any of the claimant's claims it considers should be struck out and if so on what basis*'.

26. On 16 March 2011 **(I refer to document number 170 of the bundle)**, the respondent wrote to the Tribunal to add further argument to their strike out

application/ request for a cost order. I responded that same day, writing to both the Tribunal and copying in the respondent, clarifying my reason for my strike out application **(I refer to document number 171 of the bundle)**. Later that day at 1.09 pm the respondent wrote to the tribunal requesting that claim number 2300254/2011 be covered at the PHR/CMD on 14 and 15 April 2011 **(I refer to document number 174 of the bundle)**, as it had only just come to their attention that it was not covered, even though all tribunal correspondence relating to the PHR/CMD since August 2010 clearly stated this and claim number 2300254/2011 had not been accepted by the Tribunal until 2011. I responded that same day **(I refer to document number 175 of the bundle)**, writing to both the Tribunal and copying in the respondent, setting out my objections to this request.

27. On 28 March 2011 **(I refer to document numbers 178- 183 of the bundle)** the respondents e-mailed me and tried to pressurize me into making arrangements for PHR/CMD, before a decision on our applications had even been made by the Tribunal. I believe that this was an attempt to intimidate me. I forwarded this letter to the Tribunal on the same day **(I refer to document numbers 178-183 of the bundle)**.

28. The Employment Tribunal considered the question my automatic strike out application and sent the decision to both parties on 28 March 2011 **(I refer to document number 177 of the bundle)**. This letter from the Tribunal was unclear and very confusing to me. It stated that the matters raised would be considered on 14 and 15 April 2011. I assumed that it meant that only my points would be considered, because it was addressed to me and the Tribunal failed to refer

specifically to both parties letters, which it normally would do, i.e. the claimant's and the respondent's letters. My interpretation of this was that the respondent's applications would not be considered and that the PHR/CMD would continue as planned.

29. On 29 March 2011 **(I refer to document numbers 178- 182 of the bundle)**, I e-mailed the Tribunal to ask for clarification on its letter dated 28 March 2011

30. On 30 March 2011 **(I refer to document numbers 178- 182 of the bundle)**, I e-mailed the respondent party to inform them of my interpretation of the Tribunal's letters dated 28 March 2011. The respondent party immediately replied to my e-mail disputing this and stating that it clearly meant that the matters raised by both parties would be considered on 14 and 15 April 2011 and that a decision was yet to be provided on our letters dated 16 March 2011**(I refer to document numbers 178- 182 of the bundle)**.

31. I then decided to telephone the case manager, who advised me that the Tribunal's letters referred to both parties correspondence and that the matters raised by both parties would be considered at the PHR/CMD on 14 and 15 April 2011. I was also advised that the decision on the respondents request for claim number 2300254/2011 to be covered at the PHR/CMD and my objection to this had only just been referred to the Judge, (this was also not clear to me from the Tribunal's separate letter which was also dated 28 March 2011.

32. On 30 March 2011 **(I refer to document number 183-185 of the bundle)**, I submitted a review application on the Tribunal's decision dated 28 March 2011.

33. On 31 March 2011 **(I refer to document number 185a - 185c of the bundle)**, I wrote to the Tribunal to request a reasonable adjustment (a request for clear instructions/directions). I cited Article 6 of the European Convention on Human Rights and the duty on the ET to make reasonable adjustments for the benefit of a disabled claimant. Within the context of the letter I also highlighted the fact that I had not been allowed adequate time to prepare and that the Tribunal had advised both parties that my amendment application for claim number 2300254/2011 was to be decided a day after the PHR (at the CMD). In addition to this, I stated that the incidents and allegations identified in the claim forms are continuing acts and that because the continuing act of discrimination straddles 1 October 2010, this would then require the consolidated claims to be brought under the Equality Act 2010 in respect of the whole period of discrimination, and would not rely on the outgoing discrimination regimes. I felt it important to bring to the Tribunal's attention, the fact that this would then make the previous schedule of claims which I was ordered to produce incorrect and inadmissible in relation to the consolidation of claims under the Equality Act 2010. With regards to the respondent's request for claim number 2300254/2011 to be covered at the PHR on 14 March 2011 and my objection to this. I also raised concerns about the fact that the Tribunal had decided to consider the defaulting party's applications, even though it had yet to even make a decision, on their request for claim number 2300254/2011 to be covered at the PHR, (as both parties letters dated 16 March 2011 had only just very recently been referred to the Judge).

34. The Tribunal responded to my correspondence dated 28- 31 March 2011 in three letters to me, all dated 1 April 2011 **(I refer to document numbers 186- 188 of**

the bundle). I was informed that my letter objecting to the respondent's request to have claim number 2300254/2011 had no substance, (even though both parties had previously been advised by the Tribunal that claim number 2300254/2011 would be considered for consolidation a day after the PHR (on 15 April 2011) at the CMD, and the amendment application would be considered on the same date). The Tribunal did not give any specific or clear directions for the PHR/CMD.

35. On 2 April 2011 **(I refer to document number 189 and 189a of the bundle)**, I e-mailed the Tribunal again, (copying in the respondent), reiterating my request for a reasonable adjustment. I was very confused and had no idea if the Tribunal would be permitting me to make written representations and provide evidence, as I had received no formal directions from the Tribunal in relation to the new issues that were to be covered at the PHR/CMD. I was extremely anxious and worried that if I followed the respondent's instructions set out in their e-mail dated 28 March 2011, that I would be unwittingly breaching the order dated 10 November 2011, because the Tribunal had not given these directions/instructions.

36. It is important to note that since the PHR on 4 November 2010, the respondent has made several applications and requests, including the following;

    (a) 30 November 2010 **(I refer to document numbers 73m-73o of the bundle)**- requested that the tribunal use of sample claims in this case so that only a sample of my claims are heard and stated that if I refuse to agree to this, then they would ask the Tribunal to use its case management powers under Rule 10(2)(i) of the Employment Tribunal Rules of Procedure to organise **two hearings**, with those claims regarded

as secondary, repetitive or otherwise unnecessary being dealt with at the second hearing (if I am is successful in relation to the sample claims heard at the first hearing).

(b) 15 December 2010 **(I refer to document numbers 73p-73x of the bundle)**- requested that the PHR be listed for two days.

(c) 17 January 2011 **(I refer to document numbers 129a &129b of the bundle)**- requested that claim 2300254/2011 be consolidated with claims 2318353/2010 and 2330171/2010 (which goes against the respondents previous applications to stay proceedings and have the claims heard separately over two hearings).

(d) 15 March 2011 **(I refer to document numbers 166-167 of the bundle)**- made an unreasonable and vexatious application to strike out my claims

I have only had reason to corresponded with the Tribunal since the first half of the PHR on 4 November 2010 because I lodged another claim in December 2010, (as a result of being subjected to further discrimination in the workplace and because I had to respond to the above pieces of correspondence from the respondent party (whilst all the time complying with the procedural steps and even trying to accommodate the respondent party's requests by whittling down my claims and agreeing to two separate hearings) and also to challenge the defaulting party's vexatious, scandalous and unreasonable applications and request, (which are not in line with the overriding objective and constitute procedural non-compliance). Had the respondent party not made their strike out application, I would have had no reason to send any further correspondence or make any applications or requests and would have just waited patiently for the second half of the PHR/CMD, as I had been doing until that point.

37. The respondents numerous complaints relating to claim number 2300254/2011 set out in their letter dated 15 March 2011 **(I refer to document numbers 166 and 167 of the bundle)** were also irrelevant, as the striking out of this claim or response did not form part of the issues to be considered at the PHR and the Tribunal had yet to even decide whether or not the claim should be consolidated with claim numbers 2318353/2010 and 2330171/2010.

38. In relation to the respondent's complaints about the amount of correspondence from me, it is also important to emphasise the fact that I am an unrepresented, disabled claimant. Much of my correspondence relates to requests for reasonable adjustments. The fact that I have requested guidance and support as a disabled claimant should not count against me. This process has been very difficult for me and since April 2010 I have had to conduct proceedings without any support at all. This is not the easiest thing to do when you have been subjected to 16 months of discrimination in the workplace and that treatment has resulted in severe psychiatric damage which you also have to try to manage at the same time as conducting proceedings without any support. This struggle is reflected in my correspondence, and my naivety, lack of experience, anxiety and distress is also clearly evident. This should not to be mistaken for vexatious, disruptive, scandalous or unreasonable behaviour. Further to this, many of my applications, challenges and requests have been successful:

    a) My objection to the respondents request for the CMD to take place on 26 July 2010

b) My consolidation request for the first two claims

c) My two previous amendment applications

d) My request for a pre-hearing review (which the respondent party challenged, but which was clearly essential)

e) My joinder application, (which the respondent's challenged, but the Tribunal decided unanimously in my favour)

f) My objection to the respondent party's stay of proceeding in relation to claim number 2300254/2011

g) My application for a review of the Tribunal's decision to refuse my amendment application for claim number 2300254/2011

39. In relation to the respondent's complaints about the length of my ET1's, I am an unrepresented claimant and cannot be expected to produce a document that would be on par with the standard and length of one that a represented claimant would produce. In addition to this, to compensate for this fact, I was ordered by the Tribunal, at the respondent's request, to produce a schedule of claims, which I duly complied with. By contrast to the respondent, I have been diligent in my compliance and correspondence with the Tribunal I had tried to assist the Tribunal at every turn by:

a) Producing a schedule of claims, even though I believed that this was not appropriate

b) Whittling down my claims on two separate occasions

c) Suggesting that the Tribunal might consider consolidating the disability discrimination claims in case number 2330171/2010 with case number

2300254/2011B, as this would be just and equitable and in line with the respondents previous requests.

d) Making an amendment application in relation to claim number 2300254/2011B, rather than lodging a new claim, (which would save the tribunal time and money

40. I believe that the respondent's application for a cost order is scandalous and vexatious and if they truly believed my originating claim and amendment to be unreasonably pursued they would not have written to the Tribunal requesting a stay of proceedings or asking it to be consolidated, or for the amendment to be to considered at the PHR/CMD, after the Tribunal had refused the amendment application. The respondent, in their letter to the tribunal dated 15 March 2011 **(I refer to document numbers 166 and 167 of the bundle)**, falsely claimed that my alleged 'scandalous, vexatious, disruptive and abusive' conduct of proceedings had continued, yet there is no evidence to support that the conduct ever started, let alone continued.

41. The Respondent party in their CMD agenda dated 10 August 2010 **(I refer to document number 31a of the bundle)** stated that if I wish to bring proceedings regarding further acts of discrimination or victimisation then they should be treated as new claims and stayed pending the determination of Claims 1 and 2. In line with the respondent's request, I lodged a new claim and I have tried to accommodate their request by suggesting that the third claim is dealt with by a second hearing, along with claim number 2330171/2010/N. This is also in line with the 'overriding objective' of the procedural rules to enable the tribunal to deal

with cases justly.

42. I would like to inform the tribunal that I have reduced the number of protected disclosures, detriments and incidents of discrimination that I will be relying on **(I refer to document numbers 73a & 73b and 73c-73l of the bundle)**. I considered both Judge Salter's and Judge MacInnes's advice and decided to limit the scope of my claims.

43. I believe that it is appropriate for the tribunal, to automatically strike out the respondent's response due to their persistent procedural non compliance. The respondent party has disobeyed two tribunal orders dated 14 October 2010 **(I refer to document numbers 56a & 56b of the bundle)** and 10 November 2010 **(I refer to document numbers 63d & 63e of the bundle)**. In the Tribunal's letter to me dated 23 August 2010 **(I refer to document number 53a of the bundle)**, I was warned that failure to put my case in writing and comply with the order would result in my claims being struck out. This must therefore also apply to the respondent. My strike out application does not seem to me disproportionate in the overall context and not too severe a sanction to impose for the breach of two orders, particularly given the additional abuses of process by the respondents:

    a) The respondents in their letter to the Tribunal dated 3 August 2010, stated, *'It is submitted that the Claimant should present any requests for new orders at the CMD on 12 August 2010 and should not be permitted to make any further requests after this time. It is submitted that there should be no need for any further CMDs in relation to these cases'*- this

request was not in line with the ‘overriding objective’ of the procedural rules to enable the tribunal to deal with cases justly.

b) The respondent’s persistent refusals to provide additional information and written answers

c) The Respondent party’s submission that there should not be agreed facts, admissions, written submissions or skeleton arguments, (as set out in their CMD agenda). I also consider this to be unreasonable, particularly as I am disabled, this is a very complex case, and as such it is just and equitable for this to be allowed, as this will further the overriding objective

d) The fact that the respondent party has indicated in their CMD agenda that they do not believe that medical evidence is required, yet the Respondent party has even stated itself in its DL56 response that ‘*without medical evidence, CEL can neither confirm nor deny what factors contributed towards your mental impairment*’. One of my complaints is of discrimination on grounds relating to my disability. I have been suffering from severe depression and it has become unusual now to run a DDA 1995 case without the use of medical evidence.

e) At the CMD on 12 August 2010, the respondent complained that my ET1’s were too long and so I was ordered to prepare a schedule of claims (at the respondent’s request). I had already stated in my ET1’s that the detriments and incidents of discrimination that I had been subjected to were part of ‘continuing acts’ over a substantial period. The Respondent party’s request for the schedule of claims was unreasonable and oppressive and it would have been more reasonable for the Respondent party to just request a simple list of all my protected disclosures and a list of incidents of discrimination and detriments. This would have been more

appropriate because the continuing act factor make it impossible for me to specify which detriment/incident of discrimination might relate to each specific protected act.

f) The respondent's letter to the tribunal dated 11th October 2010, in which they assert that it would not be necessary for me to submit the evidence of Wayne Davis and Tanya Davis, even though these two individuals were witnesses to a statement that the respondent's solicitor made (but denies making) and were required to corroborate my evidence. This was an attempt by the Respondent party is to suppress evidence obstruct the just disposal of the proceedings.

g) The respondent's denial in their ET3's that I had made any protected disclosures, then later admitting that I had in their letter to the Tribunal dated 30 November 2010

h) The respondents request for two separate hearings for claims 2318353/2010 and 2330171/2010 in their letter to the Tribunal dated 30 November 2010, then their request for a stay of proceedings for my third claim 2300254/2011, in their letter to the Tribunal dated 17 January 2011 and then their request that that same claim is consolidated with my two previous claims, (in an apparent effort to obstruct justice). It is obvious to me that this is an attempt to try to prevent my third claim from being heard altogether, as the respondent party has been arguing for my two previous claims to be limited, and this has continued, despite the fact that I had whittled them down again following advice from Judge MacInnes at the PHR in November 2010.

44. The respondent party's applications and allegations are scandalous, vexatious, intimidatory, abusive, disruptive and designed to cause the maximum amount of distress and further harm to my health, this can be further evidenced by the respondents e-mail to me dated 28 March 2011 **(I refer to document numbers 178 - 182 of the bundle)**, in which I felt pressurized by the respondent party into making arrangements for PHR/CMD, before a decision had even been made by the Tribunal. I felt particularly intimidated by this and was so alarmed and distressed by it that I forwarded the e-mails on to the Tribunal on the same day.

45. The respondent sent me two supplementary bundle indexes dated 28 March and 5 April 2011. The two drafts were completely different. In particular, the second draft dated 5 April 2011, conveniently omitted much of the respondents correspondence which contains many challenges, applications and requests. This is important to note, as many of the documents which were omitted from the second draft, had been listed in the first, **(I refer to document numbers 177a – 177b of the bundle)**. This is yet another example of the respondent's scandalous, vexatious and disruptive conduct and a further attempt to mask the truth and prevent me from being given a fair hearing.

46. Having to endure 16 months of discrimination in the workplace has been very traumatic and stressful. I never for one moment imagined that the trauma would continue to be inflicted upon me by those defending my employer. The conduct of my employer before and during proceedings has exacerbated my injuries (both physical and mental).

47. In support of this witness statement and my evidence, I have also provided written submissions.

This statement is true to the best of my knowledge and belief.

Ayodele Adele Vaughan

Date: 6 April 2011