

CLAIMS 2318353/2010

2330171/2010

2300254/201

**IN THE LONDON SOUTH
EMPLOYMENT TRIBUNAL**

B E T W E E N:

ADELE VAUGHAN

Claimant

- and -

**CAREERS ENTERPRISE LIMITED &
OTHERS**

Respondents

**APPLICATION TO STRIKE OUT
CLAIMANT'S
CLAIMS AND/OR TO APPLY FOR
COSTS**

Paris Smith LLP
Number 1 London Road
Southampton
Hampshire SO15 2AE
DX 38534 Southampton 3

Tel: 023 80482482
Ref: CBD/91369/4

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BETWEEN:

MS AA VAUGHAN

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**CAREERS ENTERPRISE LTD
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Respondents

**APPLICATION TO STRIKE OUT CLAIMANT'S
CLAIMS AND/OR TO APPLY FOR COSTS**

1. The Respondents hereby make an application:-
 - 1.1. to either strike out the claims brought by the Claimant on the grounds that the manner in which these proceedings have been conducted by the Claimant has been scandalous, unreasonable or vexatious (Rule 18(7(c)); and/or
 - 1.2. for costs to be awarded against the Claimant on the grounds that in conducting the claims the Claimant has acted vexatiously, abusively, disruptively or otherwise unreasonably (rule 40(3)).
2. In support of the above applications made on behalf of the Respondents, the Respondents would refer to the following facts and circumstances (references to page numbers are references to page numbers in the strike out application bundle prepared by the Respondents):-

Contact with Claimant

3. The Claimant has brought a number of claims arising out of contact that the Respondents have had with her, where such contact was reasonable and normal in the circumstances. Examples include:-
 - 3.1. E-mails regarding settlement. Earlier in proceedings the Respondent contacted Mr Obaseki to see whether the Claimant wanted to consider settlement which involved her leaving her employment. Mr Obaseki had accompanied the Claimant to a grievance hearing. In

response the Claimant contacted ACAS, copied to Paris Smith - see e-mail dated 1 June 2010 (Pages 8-9 of the bundle).

The Claimant's e-mail was then forwarded by Paris Smith to the Respondents to obtain instructions - see e-mail dated 1 June 2010 (Page 8 of the bundle).

Debbie Francis of Respondent e-mailed Claimant to respond to the points that the Claimant had made - see e-mail of 2 June 2010 (Page 8 of the bundle).

The Claimant e-mailed Paris Smith, see e-mail of 2 June 2010 (Page 7 of the bundle). This e-mail alleged breach of confidentiality. It also asked for all information to be treated in strictest confidence, presumably therefore requiring us not to forward e-mails to Respondent. This response was totally unreasonable, and out of proportion.

The Claimant didn't however leave the matter at the e-mail of 2 June 2010. The Claimant subsequently wrote to the tribunal, see letter of 5 June 2010 (Pages 12 to 19 of the bundle) applying to amend her claim. The new paragraphs 82(f) & 82(g) (pages 13-14 of the bundle) deal with the complaint by the Claimant concerning the e-mail being sent to her personal e-mail address. The Claimant alleges that this act constitutes a detriment for making a Protected Interest Disclosure and race discrimination

- 3.2. Return to work. The Claimant was absent from work, due to illness, from May 2010. In November/December 2010 she indicated that she was well enough to return to work. In light of the length of time the Claimant had been off work, the Respondent stated that it would request an occupational health report from its normal occupational health provider, Medigold.

The request for an occupational health report, which it is submitted is an entirely reasonable and standard step in the circumstances, has resulted in a further claim - see the claim at pages 76 - 128 of the bundle, and in particular paragraphs 32 to 90 of the claim at pages 100 - 128 of the bundle.

It has also resulted in a further discrimination questionnaire - see pages 129-155 of bundle.

The Claimant has also subsequently asked to amend the claim, to include further facts, see the letter at pages 156-162 of bundle.

- 3.3. This conduct has also applied to the manner in which the proceedings have been conducted by the Claimant. For example:-

By e-mail dated 28 March 2011 (see page 193 of the bundle) the Respondent suggested that there was a need for a supplemental bundle, and asked if the Claimant wanted anything added. The Respondent also gave the Claimant the option to prepare the supplemental bundle herself, as she had insisted on doing with regard to the original bundle.

The above e-mail, prompted a complaint by the Claimant to the tribunal alleging that the e-mail from the Respondent was "extremely intimidating and aggressive" see page 192 of the bundle.

The tribunal responded by letter dated 1 April 2011 informing the Claimant that her characterisation of our e-mail was inappropriate, see page 187 of the bundle.

However despite the above letter from the tribunal, the Claimant still corresponded with the tribunal, see e-mail at page 189 of the bundle. In this e-mail the Claimant asked for guidance on whether she:-

"Should I prepare a supplementary bundle, as the Respondent has directed me to do"

As the tribunal will note from our letter dated 28 March 2011 the above is a complete misrepresentation on what was said.

Continual applications made by Claimant

4. The Claimant has made numerous applications to the tribunal. The Claimant is attempting to conduct the case via correspondence. The requests made by the Claimant are wholly unreasonable in their scope. The requests include the following:-

4.1. Requests for additional information and written answers, see:-

Request made on 24 May 2010 - see pages 1 to 6 of the bundle

Request made on 4 August 2010, see pages 32 to 38 of the bundle;

Request made on 16 December 2010, see page 66-73 of the bundle;

4.2. Disclosure request, see:-

Request made on 4 June 2010, see pages 10 & 11 of the bundle

4.3. Applications to amend claims, see:-

Request made on 5 June 2010, see pages 12-19 of the bundle;

Request made on 8 July 2010, see pages 22-24 of the bundle;

Request made on 30 July 2010, see pages 25-31 of the bundle;

Request made on 10 February 2011, see page 156-162 of the bundle.

Review applications

5. The Claimant also appears unable to accept comments and/or decisions which go against her, as shown by the number of review applications that she has made. For example:-

5.1. Judge sitting alone

By letter dated 16 August 2010 the Claimant applied to vary the order for the CMD/PHR which provided for the hearing to take place before a judge sitting alone see pages 49 & 50 of bundle

In a further letter dated 20 August 2010 the Claimant argued that decision to hold CMD/PHR hearing with judge sitting alone was not just and equitable, and would prevent her from putting case in full - see pages 51-53 of the bundle

5.2. Amendment to claim

By letter dated 10 February 2011 the Claimant applied to amend her claim, see pages 156-162 of bundle;

This was refused, see letter from tribunal dated 16 February 2011, see Page 163 of bundle;

The letter from the tribunal simply led to an application for a review, see page 164 & 165;

5.3. Respondent's strike out application

The Respondent, by letter dated 15 March 2011, made this application to strike out the claimant's claims, see page 166 & 167 of the bundle;

The Claimant objected to this application, see letter dated 15 March 2011 at pages 168 & 169 of the bundle;

The tribunal responded by saying that the application would be considered at hearing - see letter dated 28 March 2011 at page 177 of the bundle;

Again, the letter from the tribunal simply led to a review application by the Claimant, see pages 183-185 of the bundle.

Removal of judges

6. The Claimant has also asked for the removal from her cases of a number of judges; for example:-

6.1. Judge Salter

By letter dated 5 October 2011, the Claimant asserted that Judge Salter should not hear the forthcoming PHR, see pages 54 & 55 of the bundle;

This assertion was repeated in the later letter dated 11 October 2010, see pages 56 & 57 of the bundle;

This application was refused by the tribunal as confirmed in the letter dated 20 October 2010, see page 62 of the bundle;

Again, the letter from the tribunal simply led to application for review - see letter dated 21 October see pages 63 & 64 of the bundle.

6.2. Judge Hildebrand

In addition, in a letter dated 18 February 2011 the Claimant asserted that Judge Hildebrand should not be involved in her case, see page 164 & 165 of the Bundle.

Request to prepare bundle

7. The Claimant has also requested to prepare own bundle, see letter at pages 58 & 59 of the Bundle.

In this letter, the Claimant stated that she needed to prepare own bundle in manner and style that will make it easy for her to navigate. It is submitted that the bundle prepared by the Claimant is not easier to navigate than a bundle in the traditional date order.

It is submitted that if the Claimant were to do the same for the main hearing, this would make the bundle for the main hearing extremely difficult to navigate, which will significantly increase the costs of the Respondents.

Strike out application

8. It is submitted that by reason of the above, the Claimant has behaved in a manner which is scandalous, unreasonable or vexatious, entitling the tribunal to strike out her claims. It is further submitted that a fair hearing would not be possible due to the Claimant's action, as:-

8.1. Due to the continual applications made by the Claimant it is likely to be very difficult to actually get to a full hearing;

8.2. it is extremely difficult to have any contact with the Claimant without prompting a further complaint/claim;

8.3. the way that the Claimant insists on conducting her claims is wholly unreasonable and will escalate costs significantly.

Costs application

9. The Respondents would also make an application for costs, such application to subsist regardless of whether the tribunal strike out the claims brought by the Claimant. The Respondents rely on the same grounds with regard to the costs applications as relied upon with regard to the strike out application.

10. Further, there have been a number of PHR/CMD hearings, including the hearings on 12 August 2010, 4 November 2010 and the current 2 day hearing. It is submitted that these hearings have been significantly more involved, and taken significantly longer, than they should/could have done and this has been due to the way the Claimant has conducted these claims. It is submitted that it is a wholly exceptional step for a case to require a 2 day PHR/CMD.

11. The Respondents therefore apply for costs. The costs estimate provided to the Respondents for the current hearing by its solicitors was £10,000 plus VAT and disbursements. The Respondent therefore applies for costs, limited to £10,000.

Paris Smith LLP
Solicitors for the Respondents
6 April 2011