

**IN THE LONDON SOUTH
EMPLOYMENT TRIBUNAL**

CASE NUMBERS: 2318353/2010N

and 2330171/2010/N

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 dated 9th and 16th August 2010:

1. I am employed by Careers Enterprise Ltd, **(I refer to document number 106 and 107 of the bundle)**. It is responsible for delivering the Connexions contract in Lewisham. I began working for the Connexions service in March 2004. VT Group PLC took over the Connexions PFI contract in the first week of August 2008. Babcock International Group PLC acquired VT Group PLC on 8th July 2010 **(I refer to document number 97 of the bundle)**. The Chief Executive of Babcock is Peter Rogers. Babcock is an international private corporation, running

a public service. It is the UK's leading engineering support services organisations with recorded revenue of £1.9bn in 2010. It employs more than 27,000 staff. Babcock delivers critical asset support to many sectors, including transport, energy, defence, telecommunications and education. I work in the Support Services division of the company. The name of the specific division is Babcock Enterprise/Babcock Education and Skills **(I refer to document number 136 of the bundle)**. When Babcock acquired VT it also took on the liabilities of the company.

2. I believe that Babcock (not Careers Enterprise Ltd), have continued to instruct Paris Smith to defend the case. The proof of this is in Ms Biddlecombe's e-mail to me dated 2nd June 2010, stated that she feels that it was appropriate for her to seek instructions from 'her clients employees', which implies that her client is Babcock, because the employees that she is referring to were VT employees, (now Babcock employees). **(I refer to document number 47 of the bundle)**. This is further confirmed in the DL56 document that was completed by Paris Smith on behalf of my employer, **(I refer to document number 73 of the bundle)**.
3. It has been confirmed by Paris Smith's Ms Biddlecombe, that Careers Enterprise Ltd accepts that if liability was established it was responsible for the actions of the individual respondents (VT/Babcock employees) to the claims **(I refer to document number 24 of the bundle)**. This statement is in itself an admission that the acts of the VT/Babcock employees had a sufficiently close connection to my employment. Essentially the subsidiary company is supporting and possibly even funding the case of the parent company's employees. The

individual Respondents were not asked to obtain separate representation and this in itself is another example of impropriety in relation to the use of the company structure to avoid/conceal a legal obligation. It is necessary for the tribunal to establish which party or parties originally instructed Paris Smith solicitors to defend the case, as this is not clear. This question is important, not only to aid the tribunal to establish liability, but because the Connexions contract (that is allegedly run by *Careers Enterprise LTD*), is publicly funded and it would be inappropriate and perhaps even illegal for *Careers Enterprise LTD* to fund the defence of the individual respondents and other non-*Careers Enterprise LTD* employees, because they would be using tax payers money to do so.

4. I have requested that the parent company Babcock International Group PLC and/or, Babcock Enterprise/Babcock Education and Skills LTD join proceedings because they owe me a duty of care and as recommended by the relevant law. The Respondent party and its solicitors Paris Smith has refused to follow the law and has attempted to conceal evidence about this legal obligation and is trying to use of the company structure to avoid/conceal liability and the control of the company by the wrongdoer and the (mis)use of the company as a devise or a façade to conceal the wrongdoing. The Respondent party is attempting to obstruct the just disposal of the proceedings.
5. I requested a pre-hearing review in this case to determine the following questions:

- a) Should the ET by-pass the separate legal personality of my employer's subsidiary by postulating a duty owed in tort by the parent company Babcock International Group PLC to me?
- b) Should the Respondents defence be struck out on the grounds of abuse of process, unreasonable behaviour and the deliberate concealing of information about the above?
- c) Whether I can continue with all of my claims?

6. In relation to the point a), on 9th August 2010 I wrote to the Tribunal requesting that a pre-hearing review be held to determine the first question **(I refer to document numbers 2 and 3 of the bundle)**. Paris Smith solicitors acting on behalf of the Respondent party failed to object to the application within seven days, as required by Rule 11 of the procedure rules. Paris Smith finally wrote to the Tribunal on 17th August 2010 **(I refer to document number 7 and 8 of the bundle)**, objecting to my follow up letter of 16th August 2010 **(I refer to document numbers 4, 5 and 6 of the bundle)**, in which I added further questions to be determined at the PHR. So far, Paris Smith solicitors, acting on behalf of the Respondent party, have failed to comment on the allegations set out in my letter dated 9th August 2010. I believe that this is because they know that my allegations are well-founded. In which case its attempt to challenge my request for a PHR was vexatious and unreasonable and shows a clear disregard for justice.

7. I attended a Case Management Discussion on 12th August 2010 and I was accompanied by two friends, Tanya Davis and Wayne Davis. During the CMD I produced a letter from my employer that had been typed on Babcock headed paper (**I refer to document number 91 of the bundle**), proving that the subsidiary company (my employer) was an agent of the parent company and/or working in partnership with the parent company VT PLC (now Babcock International Group PLC). It proves that the Connexions contract that I work on was part of a joint venture between VT PLC (and is now part of a joint venture between Babcock International Group PLC and Careers Enterprise Ltd- my employer). This was a protected disclosure within the meaning of section 43A of the Employment Rights Act 1996.
8. I read the letter out loud and my friend Tanya Davis showed it to Judge Salter. Ms Biddlecombe from Paris Smith Solicitors, (acting on behalf of the Respondent), tried to dismiss the letter. She told a lie and informed everyone at the meeting that, 'the letter is mistaken'. This allegation is also backed up by witness statements from Ms Davis and Mr Davis (who are in no way related to one another).
9. Prior to this disclosure I had asked Judge Salter if Babcock could be added as a Respondent but Judge Salter refused (**I refer to document number 24 of the bundle**), without hearing all the evidence. Paris Smith stated in its letter to the tribunal dated 17th August 2010, that Judge Salter had 'dealt with' this issue, (**I refer to document number 7 of the bundle**). The tribunal's letter to me and Paris Smith dated 18th August 2010, informing us that this issue would be

determined at a PHR, is an acknowledgement of the fact that the issue had not been dealt with at the CMD **(I refer to document number 26 of the bundle)**.

10. I believe that there should be joint liability and that *Babcock International Group PLC* and/or *Babcock Enterprise/Babcock Education and Skills LTD* should join its subsidiary company (my employer) in proceedings. The subsidiary company *Careers Enterprise LTD* was the agent of its holding company at the time (VT Group PLC) and is now the agent of (*Babcock International Group PLC* and/or *Babcock Enterprise/Babcock Education and Skills*). VT Group PLC and/or VT Enterprise/VT Education and Skills LTD (now *Babcock International Group PLC, Babcock Enterprise/Babcock Education and Skills*) owed a duty to me by reason of the direction, control and involvement by it and its staff in the operations of its subsidiary. The reason *VT/Babcock* is liable in the circumstances here is because it brought itself into a relationship with the employees of its subsidiary by placing its staff in the role of management at its subsidiary, **(I refer to document number 168, 169, 180, 196, 200, 202, 203, 206, of the bundle)**. I am not the only member of staff who believes that I was treated as a VT employee. There are various testimonies from other members of staff who feel this way and who are also working on the 'joint ventures' contract, **(I refer to document numbers 169, 170 and 171 of the bundle)**, which is an e-mail from Unison which attached angry comments from staff.

11. I had previously set out these allegations in my letter to the tribunal dated 9th August 2010 requesting a PHR to determine this issue, which the Respondent party has not denied. I am aware that Paris Smith did seek instruction from Babcock about this **(I refer to document number 10 of the bundle)**. This e-mail

from Paris Smith (Ms Biddlecombe) explains the reason for the delay in sending me a copy of the Respondent party's CMD agenda. She explains that the delay was caused by her 'waiting for instructions from her client in relation to my recent applications, (referring to my application for a PHR on the issue).

12. I believe that this shows that Paris Smith and Babcock discussed this issue before the CMD took place and that Paris Smith's Ms Biddlecombe would have been fully aware that my allegations were true, therefore the Respondent party and/or those acting by or on behalf of the Respondent party, is guilty of trying to conceal evidence about a breach of a legal obligation, impropriety in relation to the use of the company structure to avoid/conceal liability and the control of the company by the wrongdoer and the (mis)use of the company as a device or a façade to conceal the wrongdoing. The Respondent party is attempting to obstruct the just disposal of the proceedings.

13. It is just and equitable for *Babcock International Group PLC, Babcock Enterprise/Babcock Education and Skills*) to join proceedings in order to provide a remedy for the wrong which those controlling the subsidiary company (my employer) and those employees of *VT Group PLC and/or VT Enterprise/VT Education and Skills LTD, (now Babcock International Group PLC, Babcock Enterprise/Babcock Education and Skills LTD)* acting through the subsidiary company have done. This will protect paramount public interest and prevent the corporate form being used as a medium through which to lawfully carry out an activity which would otherwise be a wrongdoing. If the tribunal fails to do this, these companies will escape accountability and liability for its unlawful actions and it will be free to continue with its discriminatory practices, acting through its

numerous subsidiaries, knowing that it will be able to hide behind them. All the individual Respondents in this case were/are employees of; *VT Group PLC, VT Education and Skills LTD, Babcock International Group PLC, and/or Babcock Education and Skills LTD* and the majority of discriminatory actions were perpetrated by these employees. Ultimately the companies in question exercised complete control and they had the power to insist on proper workplace standards being maintained.

14. The subsidiary (Careers Enterprise Ltd) does not have any real autonomy. The companies in question are and have always been the “*head and brains*” of the venture. *VT Group PLC* and/or *VT Enterprise/VT Education and Skills LTD* exercised complete control of it. Now *Babcock International Group PLC/Babcock Enterprise/Babcock Education and Skills LTD* exercises complete control over it. *VT* (now *Babcock*) played a decisive role in the *Connexions* contract which was formally signed by its subsidiary. *VT* had responsibility because it was the decision-maker. It played and now *Babcock* plays an active role in the negotiations, delivery and performance of the *Connexions* contract (**I would like to draw the tribunal’s attention specifically to document number 134 of the bundle, however more generally, document numbers 91-255 of the bundle also illustrate this**).

Findings of agency

15. I have found no evidence of the subsidiary’s purportedly independent existence;

- a) The Solicitors firm Paris Smith (represented by Ms Biblecombe) has implied that they are being instructed by my employer to defend the claims on behalf of Babcock employees, **(I refer to document number 24 of the bundle)**.
- b) I believe that the parent company owns all or most of a subsidiary's shares.
- c) The parent company was and is in effective and constant control of the subsidiary: **(I refer to document numbers , 91-105 , 106-153, 154-178 of the bundle)** relating to VT and the day to day management of my workplace, VT company restructuring, VT pay awards, VT pay freezes imposed on myself and other staff working on the 'joint ventures contract', my pay slips, with the VT/Babcock information and no mention of Careers Enterprise Ltd **(numbers 176-178)**, correspondence between the Unions and VT regarding pay awards and pay freezes etc, the acquisition of VT and the integration of the company into Babcock. VT/Babcock employee Bev Bannister was placed in control of Careers Enterprise Ltd (the Lewisham office) by VT.
- d) Careers Enterprise Ltd does not have its own payroll department **(I refer to document numbers 130, 176, 177 and 178 of the bundle)**.
- e) The parent and subsidiary have directors in common: Under VT, Simon Withey was the Group MD for my division and Marcus Watson, (one of the individual respondents), was the VT MD for Education and Skills **(I refer to document number 109 of the bundle)**. Bev Bannister is a Babcock employee and she is in charge of the operational practice at my office, Lewisham Connexions **(I refer to document number 54, 65 of the bundle)**.
- f) Currently, Kevin Thomas is the Chief Executive for the division that I belong to (Support Services). Education and Training falls under Support Services. Alex Khan is *Babcock's* MD for Education and Training; **(I refer to document number 110-111 of the bundle)** relating to Alex Khan's communication with *Careers*

Enterprise staff dated 21st July 2010 and organizational chart (**I refer to document numbers 136 and 137 of the bundle**).

- g) As the Careers Enterprise LTD had and has no control over the budget, I believe that the profits/savings were that of *VT Group PLC* and/or *VT Enterprise/ VT Education and Skills LTD*, (now *Babcock International Group PLC* and/or *Babcock Enterprise/Babcock Education and Skills LTD*): VT's Sharon Scott (Operations Executive/Strategic Contracts Manager) was in charge of Operations at Lewisham between August 2008 and March 2009), (**I refer to document numbers 121, 122, 138, 139,142, 148 and 153 of the bundle**), this role was then taken over by VT/Babcock's Be Bannister, (Operations Executive East) in late 2009 and she has remained in this role since that time. She had/has responsibility for other offices/areas of work in VT/Babcock. My employer is contractually obliged to fill this post, but has not, which I believe has resulted in a profit/saving for VT/Babcock since August 2008.
- h) My job involves working with children, young and vulnerable people, and as such I am required to be CRB checked. This was done through VT. *VT Group PLC* (now *Babcock International Group PLC*) is the registered Body with the Criminal Records Bureau (**I refer to document numbers 95, 179, 187, 188, 199, 200, 201 of the bundle**).
- i) My grievances and appeals (about the operational practice at Lewisham Connexions), were heard by VT senior managers, along with its HR staff (**I refer to document numbers 182, 183, 184, 185, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206 and 207 of the bundle**). This fact is also supported by statements made in the Respondent party's ET3 response, (**I refer to document numbers 52-71 of the bundle**), where its sets out the details of the coordination of my

grievances and appeals by VT/Babcock staffs and the grievances and appeals outcomes/decisions made by VT/Babcock senior managers.

- j) My medical condition was most effectively exacerbated through the grievance procedure. The parent company unreasonably delayed the process.
- k) The parent company also has responsibility/control for health and safety and this is such as to create a duty of care to me. My complaints of excessive stress to VT management and HR staff went unheeded and as such they failed in the duty of care and breached the implied term to maintain the relationship of trust and confidence: As I stated in my ET1's, Health and safety is controlled by the parent company *VT/Babcock*- **(I refer to document numbers 208-243 of the bundle)** relating to office based risk assessments, fire risk assessments, individual risk assessments, correspondence with the Union about Health and Safety issues, Workplace Inspection and Audit Report and the e-mail from the former VT's Operations Director Sharon Scott stipulating the duty of care owed to staff by VT **(I refer to document number 236 of the bundle)**. VT/Babcock's Bev Bannister conducted the risk assessments for my office. The Respondent party's ET3 responses also states that Margaret Jones (Babcock employee), is responsible for health and safety **(I refer to document numbers 66 and 151 of the bundle)**.
- l) I was also seen by *VT Group PLC*'s occupational health consultant 'Medigold', following a request from VT Group, yet in my employer's response to my DL56 questionnaire it states that 'Careers Enterprise Ltd wanted to refer me to their occupational health consultants,' **(I refer to document numbers 73, 208, 209 and 210 of the bundle)**, which are e-mails and extracts from the DL56 questionnaire completed by Paris Smith on behalf of my employer.
- m) With regards to training, this was also something that is provided to employees by VT/Babcock, **(I refer to document numbers 74, 119, 120, 248, 249, 250, 251**

and 252 of the bundle), which are e-mails and extracts from the DL56 questionnaire completed by Paris Smith on behalf of my employer that refer to training provided by Babcock and training needs analysis which is undertaken by VT/Babcock.

16. Some of the additional evidence supporting the fact that I was perceived by the parent company as an employee are as follows:

- a) A letter from VT Group PLC's Chief Executive Paul Lester inviting me to take part in the annual VT Group employee satisfaction survey **(I refer to document number 190 of the bundle)**.
- b) A letter to me from VT Group PLC's Chairman Mike Jeffries, explaining the company whistleblowing policy/procedure and stating that I am a 'VT employee' **(I refer to document number 92 of the bundle)**
- c) An e-mail from Babcock employee (Operations manager at my place of work) to Careers Enterprise LTD (Lewisham Connexions) staff, advising us that VT has given us extra holiday **(I refer to document number 108 of the bundle)**.
- d) In both VT and Babcock staff telephone directories I am listed as a member of VT and Babcock staff **(I refer to document numbers 126 and 145 of the bundle)**.
- e) A VT Group letter advising me about my salary increase **(I refer to document number 156 of the bundle)**.
- f) A VT Group company notice from Chief Executive: regarding pay review **(I refer to document number 157 and 158 of the bundle)**.

- g) A VT Group e-mail sent on behalf of VT/Babcock's London Executive Manager Amanda Duckett to staff: regarding VT Pay Award Proposal 2009/10 **(I refer to document number 159 and 160 of the bundle)**.
- h) Unison, Unite's and GMB's joint statement on VT Group pay freeze, which staff at my office were affected by **(I refer to document numbers 164 and 165 of the bundle)**.
- i) Unison/GMB joint announcement to Careers Enterprise LTD (Lewisham Connexions) staff: regarding VT pay award for Careers Enterprise LTD (Lewisham Connexions) staff **(I refer to document number 166 and 167 of the bundle)**.
- j) An e-mail from VT's HR Partner Adam Buckby to me regarding pay scales and future 'cost of living award from VT' **(I refer to document numbers 172 and 173 of the bundle)**.
- k) An e-mail from VT/Babcock's HR Partner Adam Buckby informing me that I need to have a CRB disclosure number through VT **(I refer to document number 179 of the bundle)**.
- l) Two letters from VT/Babcock's HR Partner Adam Buckby to me informing me that VT's Bev Bannister will be hearing my grievance **(I refer to document numbers 182 and 183 of the bundle)**. One of the letters (the latter), advises me that I can access the company employee assistance programme (counselling), but I need to let them know that I work for VT.
- m) A letter from VT/Babcock's Group HR Director to me stating that VT HR Policies and Procedures will apply to me **(I refer to document number 186 of the bundle)**.
- n) An e-mail from Unison to Careers Enterprise LTD (Lewisham Connexions) staff regarding letters sent by VT HR to staff: Details the fact

that VT intend to harmonise policies, in order 'to operate one system throughout VT **(I refer to document number 163 of the bundle)**. This contradicts the information provided in the DL56 questionnaire that was completed by Paris Smith on behalf of my employer, advising me that the Prospects policy applied to me. **(I refer to document number 74 of the bundle)**. This is false as policies had been harmonized some time ago and VT policies only now apply to all staff.

- o) A letter from VT Group HR Director informing me that I can join the VT Group Flexible benefits Scheme **(I refer to document number 189 of the bundle)**.
- p) An e-mail from VT MD for Education Marcus Watson to staff in his division (including Careers Enterprise LTD (Lewisham Connexions) staff): regarding VT's responsibility for CRB checking staff and that this should be done via VT HR **(I refer to document number 196 of the bundle)**.
- q) VT/Babcock's Amanda Duckett's appeal outcome statement to me: It makes numerous references to 'my transfer to VT'; VT's handling of the CRB process for Careers Enterprise LTD (Lewisham Connexions) staff and VT's responsibility for health and safety **(I refer to document numbers 198, 199, 200, 201, 202, 203 and 204 of the bundle)**.
- r) An e-mail from VT/Babcock's HR Partner Adam Buckby to me stating that VT insurance will cover me in the event of an accident or injury at work **(I refer to document numbers 237 and 238 of the bundle)**.
- s) An e-mail from Lewisham Team Manager Theresa Peters asking me to complete a VT incident report which will be sent to VT Health and Safety Officer Margaret Jones- with attached VT incident report **(I refer to document number 239 and 240 of the bundle)**.

- t) An e-mail from VT/Babcock's Bev Bannister to Careers Enterprise LTD (Lewisham Connexions) staff advising us that she and Babcock's Premises Manager Martin Lindley will be attending a meeting with local police to discuss health and safety issues following a series of incidents in my office and minutes from the health and safety meeting for our office, which VT/Babcock health and safety people attended **(I refer to document numbers 234, 235 and 241 of the bundle)**.
- u) A letter from VT/Babcock senior manager Amanda Duckett, on VT headed paper, clearly indicating that VT 'took over the contract' in August 2008, that it is responsible for health and safety and that Careers Enterprise staff all had a VT induction in 2008, **(I refer to document numbers 233a, 233b and 233c of the bundle)**.

17. I believe that the overwhelming evidence supports my assertion that *VT Group PLC and/or VT Education and Skills LTD (now Babcock International Group PLC and /or Babcock Education and Skills LTD)* owes me a duty of care and as such it should be made a respondent in the proceedings.

18. In relation to the second pre-hearing review question, point b): I believe that the way that the Respondent party and/or those acting by or on behalf of the Respondent party is conducting the proceedings is unreasonable, vexatious and oppressive. (*ET Regulations 2004 Sch1 r18 (7)*). The experience of bullying, harassment and victimisation at work and the process of going through the internal grievance procedure was very traumatic and stressful. I now have to go through a tribunal process that is equally as stressful and has been made even more so by the way that Paris Smith has been conducting proceedings. My

condition has worsened and I have been anxious the entire time. I've lost a lot of weight and have felt withdrawn most of the time. This experience has caused me to have less confidence in people. There have been failures to comply with the rules; in relation to seeking additional information and trying to get orders that are not in line with ET Regulations etc.

19. Paris Smith have also requested that the tribunal consider an order limiting the number of incidents of discrimination / protected disclosures that I can rely upon **(I refer to document number 21 of the bundle)**. As a result of this I was asked to produce a schedule of my claims. I applied for an extension of time to do this (on health grounds) but my application for an extension of time on the CMD order was rejected.

20. I found it extremely difficult to produce a schedule of claims, without the benefit of legal assistance. It has put a great strain on me and exacerbated my medical condition. I believe that it would have been more reasonable for Paris Smith 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 I have indicated in both my ET1's that I made over 30 protected disclosures and that there have been over 50 detriments/incidents of discrimination in relation to my first claim and over 30 in my second claim. These factors make it impossible for me to specify which detriment/incident of discrimination might relate to each specific protected act. However, I did produce the document to avoid having my claim struck out, and I hope that the tribunal panel who will hear my case will find it to be a useful 'tool' to clarify the claims and put them in order, in the context of continuing acts. The Respondents would later complain to the tribunal about the

fact that my schedule of claims was not set out over only 1 or 2 pages, **(I refer to document number 51 of the bundle)**, which was not a requirement and it would also be impossible for anyone to do. Further to this, I had already written to the respondent party and the tribunal on 8th September 2010, explaining why it was not possible to present the information on 1 or 2 pages- *'due to the amount of columns/information ordered by Judge Salter, and the numerous amounts of protected disclosures, detriments and incidents of discrimination involved in the case (I refer to document number 79 of the bundle)*. This is another example of the respondent party's unreasonable, vexatious and oppressive behaviour. It also shows a clear disregard for my health and my disability.

21. Paris Smith, acting on behalf of the Respondent party also stated at the CMD on 12th August that some of my claims were out of time and should be struck out. During the course of the CMD Paris Smith's Ms Biddlecombe threatened to make an application for costs on the grounds of 'unreasonable behaviour', if I did not agree to limit the amount of claims that I rely on. Please note that the Respondent party had failed to stipulate their belief that my claims were out of time in their CMD Agenda **(I refer to document numbers 11-21 of the bundle)**. I lodged my claim in April 2010 and the Respondent party had ample time to raise this issue, but failed to do so. Paris Smith, acting on behalf of the Respondent party also failed to make a strike-out application in respect of the acts (which they failed to identify at the CMD), they feel are beyond the three month time limit. They also failed to mention it in the ET3 response **(I refer to document numbers 51-71 of the bundle)**.

22. I believe that Paris Smith, acting on behalf of the Respondent party, have only decided to raise this as an issue now in an attempt to deny me my right to a fair hearing. Their actions also obstruct the just disposal of the proceedings. If Paris Smith believed that any of the incidents/protected disclosures was out of time, they should have requested leave to make a strike-out application in respect of those acts which are beyond the three month time limit. Most significantly, Paris Smith in it's letter to the tribunal dated 17th August 2010 it denies the allegations that I set out in my letters to the tribunal dated 13th and 16th August 2010, relating to the way that it has been conducting proceedings (including trying to conceal evidence about a breach of a legal obligation, impropriety in relation to the use of the company structure to avoid/conceal liability and the control of the company by the wrongdoer and the (mis)use of the company as a devise or a façade to conceal the wrongdoing).

23. Paris Smith, acting on behalf of the Respondent party has also requested that the tribunal issues an Order preventing me from requesting any further Orders (**I refer to document number 1 of the bundle**). Paris Smith's solicitor, (Ms Biddlecombe) has behaved unreasonably throughout. She has failed on more than one occasion to copy me into correspondence with the tribunal on the same day that she sent the correspondence (**I refer to document numbers 9 and 10 of the bundle**).

24. Another example of he Respondent party's unreasonable, vexatious and oppressive behaviour is their attempt to deny me my right to call witnesses and submit written statements from them. In their letter to the tribunal dated 11th August 2010, (**I refer to document number 9a of the bundle**) the Respondent

party asserted that it would not be necessary for me to submit the evidence of Wayne Davis and Tanya Davis, as this was disproportionate and would not be in accordance with the overriding objective. This challenge was made even in light of the fact that I am alleging that Paris Smith's solicitor (Jane Biddlecomb) had made various statements at the CMD which took place on 12th August 2010, which she is denying. Wayne Davis and Tanya Davis were also present at the CMD and can corroborate my evidence. Therefore written statements and oral evidence were required from Tanya Davis and Wayne Davis for the clarification of the issues and for the just handling of proceedings, which is very much in line with the overriding objective. This was an attempt by the Respondent party is to suppress evidence obstruct the just disposal of the proceedings.

25. The basis of the Respondent party's resistance does not give a clear picture of why they think the claim should be rejected. It merely provides a brief story (less than nine pages) of events that led up to the action being complained about (**I refer to document numbers 52-71 of the bundle**). This information will normally emerge in witness statements. The defence is inconsistent and fails to establish a positive case as to why I was treated in a particular way. The ET3 response to the racial discrimination claim states that I went off sick on 3rd November 2009 and it fails altogether to address the complaints made about Sasha Chaudri, my employer's failure to follow the whistleblowing procedure and the failure to make the credit monitoring payment. It also fails to address all the complaints made about Paul Kelly (**I refer to document number 52-61 of the bundle**). The ET3 response to my disability discrimination claim states that I went off sick on 5th November 2009 and it fails altogether to address the complaints made about the conduct of Sasha Chaudri. (**I refer to document**

numbers 62-71 of the bundle). Both responses fail to address all complaints relating to the company's failure to adhere to grievance procedure time limits **(I refer to document numbers 52-71 of the bundle).**

26. The Respondent party has even denied that I have made any protected disclosures, which has widened the issues and will increase costs, because it will mean that evidence will have to be heard in relation to this at the main hearing. The response is also vague and contradictory. I have requested additional information and written answers with regards to both claims **(I refer to document numbers 28-39 of the bundle)**, but Paris Smith, acting on behalf of the Respondent party have refused to provide this information **(I refer to document number 40 and 42 of the bundle)** and as such I have made two applications to the tribunal requesting an order for additional information and written answers **(I refer to document numbers 43-46 of the bundle)**. This was listed as an item on my CMD agenda, (in line with my requests for orders). However. At the CMD this matter was not addressed at all by the Chairman.

27. Paris Smith, acting on behalf of the Respondent party, has stated in its CMD agenda that there should be no medical and expert evidence and no submissions **(I refer to document numbers 17 and 21 of the bundle)**, yet in its response to my disability questionnaire the Respondent party states that without medical evidence it cannot confirm or deny what factors contributed towards my medical impairment **(I refer to document number 72 of the bundle)**. This contradicts the ET3 responses, which clearly state that it is denied that the Respondents are liable for my physical and psychological health issues. I believe that this is an example of vexatious and unreasonable conduct and a weak defence.

28. Another very important example of the Respondent party's weak defence can be shown in a statement in the ET3 response to my disability claim and an answer given in the related DL56 questionnaire. The statement in question was based on information that had been given to my employer, by a Babcock employee (who I had named as an individual respondent), a month before. The statement was an attempt to justify the breach of my privacy by Sue Ely (HR Business Partner). It is misleading and implausible. It also fails to name the person it is referring to as having made the statement. In the response it states: *'a GMB Union representative (who had represented the Claimant) approached Paul Kelly, HR Business Partner, at a union meeting and indicated that the claimant may be interested in leaving the company'*. The paragraph in the response goes on to say that *'Sue Ely believed that the Claimant had raised the issue of leaving the company with her union representative.'* **(I refer to document number 57 of the bundle)**. Yet in the DL56 it states: *'At a union meeting on 26 May 2010, Paul Kelly briefly met with Mick Simpkin of the GMB union to discuss your case. Mick stated to Paul that it was his opinion that you were seeking a financial settlement to leave the organization.'* **(I refer to document number 73 of the bundle)**.

29. This all links in with Paris Smith's Ms Biddlecombe breaching my privacy and disclosing confidential information **(I refer to document number 49 of the bundle)** to individuals who were not her clients at the time (VT/Babcock employees, not employees of Careers Enterprise Ltd). When I complained about Sue Ely's actions, (copying in Ms Biddlecombe to the e-mail), Ms Biddlecombe then forwarded that e-mail (containing my personal e-mail address) to four VT/Babcock Staff, (two of whom are also individual respondents and the other

two have been named in my claim). I had not consented to my e-mail address being disclosed. This was a breach of my privacy. As a direct result of Ms Biddlecomb's actions, I was subjected to harassment by a member of staff who had received my personal e-mail details from her **(I refer to document numbers 48 and 49 of the bundle)**. The Respondent party has agreed to this e-mail being submitted as evidence **(I refer to document number 75 of the bundle)**. This member of staff (individual respondent Deborah Francis), contacted me on my personal e-mail address. She was also investigating my internal grievance at the time) and had full knowledge that I had only a few days prior, been signed off sick with depression **(I refer to document number 69 of the bundle)**. Her e-mail refuted my claim about Sue Ely. Within the context of that e-mail she also asked questions about my tribunal claim and informed me that my employer did not wish me to leave my employment.

30. This triggered several severe panic attacks and exacerbated my medical condition. If you refer to Ms Biddlecombe's e-mail **(document number 47 of the bundle)**, you will see that she states that she has done nothing wrong. She did not care about the affect that her actions had on my health. She was completely unsympathetic and unapologetic.

31. I have a witness (a Unison representative), who is willing to testify at my main hearing, that he received the telephone call from Sue Ely and that she had stated that the GMB union had 'advised' my employer to settle, and that she asked him whether I would consider leaving my job if they offered me money, (or words to that effect). This completely contradicts my employer's version of events.

32. I have never indicated to the GMB or my employer that I wanted to leave the company. Neither did I ask Mick Simpkin /GMB to discuss my case with my employer, because the GMB had not supported me in my tribunal claim. In addition to this, at no time did Mick Simpkin or the GMB inform me that he spoken to my employer about my tribunal case. Following receipt of the ET3 (Response) and becoming aware that someone had given false information to my employer, I sent an angry letter to the GMB (the Regional Secretary Richard Ascough) and copied in Mick Simpkin, the branch secretary Tony Smith (who was the GMB rep who had accompanied me to my first hearing in February 2010) and the leader of the GMB, Paul Kenny, demanding an explanation, **(I refer to document numbers 76 and 77 of the bundle)**. The GMB subsequently refused to answer my questions. Mick Simpkin failed to come forward, even though I had copied him into the e-mail. This is not the actions of an innocent party.

33. Mick Simpkin had also never even represented me or sent any communication to my employer following a request from me or with my knowledge. The GMB had also failed to attend a scheduled appeal hearing on only two weeks before, (giving me only 50 minutes notice and not advising my employer at all). This fact is also acknowledged by the Respondent party in its original response to my race discrimination claim, **(I refer to document numbers 71a and 71b of the bundle)**. The Respondent party has now subsequently omitted this from its amended response **(I refer to document numbers 57 and 68 of the bundle)**. By the date that my employer states that Mick Simpkin met with Paul Kelly, I had already been accompanied by someone else to the rescheduled appeal hearing, because the GMB had shown itself to be unreliable. Why then would my

employer act on the opinion of someone from an organization who had failed to show up for my appeal hearing only two weeks before, (giving hardly any notice at all), and who themselves had never represented me or sent any communication to my employer on my behalf or with my knowledge? The factors set out in paragraphs 25-33 show that the Respondent party's defence is weak.

34. In this case, it's quite clear that Respondent party (Careers Enterprise Ltd and others) and/or those acting by or on behalf of the Respondent party (Paris Smith Solicitors), deliberately and persistently disregarded the required procedural steps by lying at a Case Management Discussion, attempting to conceal evidence about a breach of a legal obligation, impropriety in relation to the use of the company structure to avoid/conceal liability and the control of the company by the wrongdoer and the (mis)use of the company as a device or a façade to conceal the wrongdoing, by attempting to seek orders that were not in line with procedural rules, by failing on more than one occasion to copy me into correspondence to the tribunal 'in good time', by breaching my privacy, by challenging my request for a Pre-Hearing Review in an apparent effort to obstruct justice and to make sure that the damning evidence never surfaces.

35. In relation to the third pre-hearing review question, point c): 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 **(please refer to bundle document numbers 81-90)**. I considered Judge Salter's advice and decided to limit the scope of my claims. In the Order on the Case Management Discussion, I know that Judge Salter stated that he intended to look at the merits of my claim. I would like to remind the tribunal that it should be rare in whistleblowing cases or

discrimination cases to strike out on the ground of no reasonable prospect of success, as these issues are particularly fact-sensitive and dependant on evidence being heard.

36. In support of this witness statement and my evidence, I have also provided written submissions, **(I refer to document number 257-278 of the bundle)**. Within the context of that document I have requested that if the tribunal does not consider it appropriate to strike out the defence, that it should provide remedies relating to directions. Ordinarily such directions would be considered during the CMD, but because I am asking the tribunal to consider the remedies as part of this PHR, which might then result in the an order, and the documentation and issues are quite substantial, I believe that it would be just and equitable to postpone the CMD that is due to take place after this PHR in order to consider the evidence, witness statements, written submissions and my request for remedies.

37. I had no other option but to request a pre-hearing review in order to raise these matters. I feel strongly about the fact that the Respondent party and its parent company Babcock International Group PLC have behaved improperly by misusing the company structure and that Babcock, the Respondent party and those acting by or on behalf of the Respondent party are now using the company structure to avoid/conceal its liability and in addition to this, they are also attempting to deny me my right to a fair hearing. Standing back for a moment and surveying the course of this litigation I have no doubt that the Respondent party and its agents, (my employer Careers Enterprise Ltd and Paris Smith solicitors)

conduct is an abuse of process. It is designed to cause maximum vexation, inconvenience and distress to me.

38. Telling others about the most difficult experience of my life has not been an easy thing for me to do. It would have been more comfortable for me to remain silent. I never wanted to have the title of 'whistle-blower', but I strongly believe that the attack on my legislative rights should not go unchallenged. I truly believe that no one is above the law and that the law is fair.

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

Ayodele Adele Vaughan

Date: 26th October 2010