IN THE HIGH COURT **KB-2024-001538, KB-2024-001772 and QB-2021-000171**

KING'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

BETWEEN:

PROFESSOR THEODORA KOSTAKOPOULOU

Claimant

-and-

(1) UNIVERSITY OF WARWICK (Corporate Body incorporated by Royal Charter under Royal Charter Number: RC0006678)
(2) PROFESSOR ANDREW SANDERS
(3) PROFESSOR CHRISTINE ENNEW OBE
(4) PROFESSOR ANDY LAVENDER
(5) MS DIANA OPIK

Defendants

CLAIMANT'S RESPONSE

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1. On 24 July 2024, the Defendants' solicitor, Mr Tim Smith, added to their SO/SJ application an application for an ECRO to be imposed on the Claimant, Prof. Kostakopoulou. This was an improper application having a tactical purpose (to distract from fraud proceedings in KB-2024-001518 and KB-2024-001772 and the deception that took place in 2021, revictimise and intimidate the Claimant and disempower her so that the University of Warwick and DWF could proceed with their unlawful asset stripping plan on the basis of the 2021 fraudulent costs with no effective resistance and challenge), thereby falling within the *Hunter* definition of abuse of the court's process (*Hunter v Chief Constable of the West Midlands Police* [1982] AC 529 which was reiterated and confirmed in *Mueen-Udin v SSHD* [2022] EWCA Civ 1073 at [37-39]).

2. On 12 August 2024 (application to strike out the Defendants' SO/SJ application), the Claimant exposed the DARVO tactics (reversing of the victim/offender positions) underpinning the Defendants' ECRO application. These submissions, ordered by Mr J. Bourne, are supplementary to those contained in the Claimant's application dated 12 August 2024. They further support the Claimant's position that the ECRO application is totally unmeritorious, an aggressive and abusive litigation tactic aiming at the Claimant's rights' erosion and designed to mislead the HC with a view to breaching the Claimant's

right to a fair hearing under Article 6(1) ECHR as well as Article 8 ECHR (- and quite likely in a longer term, Article 1 of Protocol 1 ECHR), once again.

3. The HC is also invited to consider whether this abuse of process itself merits a civil restraint order against the applying party – there is an irony in that their tactical misuse of the CRO procedure could justify a CRO against them and to report the matter to the SRA for the reasons outlined below. The HC has been witnessing a systematic and persistent use of misleading litigation tactics (in 2021 and 2024). In 2021, these were operative in procuring a real miscarriage of justice for the Claimant.

The ECRO is totally ill-conceived – Mr Smith and the Defendants know very well that the Claimant's quest for justice and real and effective judicial protection against the wrongs she suffered from the Ds falls outside the remit of vexatious litigation

4. The law defines with accuracy wrongs, be they torts, such as libel, or economic torts, such as malicious falsehood or human rights violations. It also prescribes the remedies for the violations of protected and legitimate interests. If the Defendants had not smeared the Claimant's professional reputation with unsubstantiated and malicious allegations of misconduct and gross misconduct, had not suspended her and removed her from her office and campus for six (6) months, had not subjected her to unnecessary disciplinary proceedings, had not ignored her evidence and pleas of innocence for months and had not dismissed her in absentia and without offering her an opportunity to challenge their fraudulent allegations, the Claimant would not have embarked upon any legal proceedings.

5. The law also prescribes the conditions and requirements for Tahkar-based rescission of judgements procured by a party's deception and fraud, as noted in the Claimant's two particulars of claims. Rescission is commanded by justice itself owing to cunning and illegitimate obstructions to the operation of Clause 40 of Magna Carta 1215, stating, 'To no one will we sell, to no one will we refuse or delay, right or justice'.

6. In addition, the law determines the meaning of vexatious litigation in an unambiguous way. The case of *Bhamjee and Forsdick and Others* (No 2) [2003] EWCA Civ 1113 [7] referred to Lord Bingham's definition in *Attorney-General v Barker* [2000] 1 FLR 759 [19]:

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

7. It is highly unlikely that Mr Smith has not been aware of the above definition. It is also unlikely that he does not know the case law. He also knows that the Claimant's reputation was soiled by the Defendants' fraudulent and malicious accusations of gross misconduct (- and misconduct) as well as

the harms inflicted upon the Claimant on all aspects of her life, depriving her of a job, career progression and livelihood – personal and professional injuries which could only be surpassed by death and chronic illness on an index of harm.

8. In addition, Mr Smith knows that the Claimant was deprived of access to justice and a fair substantive HC hearing in 2021. He is aware of the refusal of the Defendants to take part in the pre-action Protocol, the blocked disclosure of the Claimant's Part 18 request for documents and further information on just six questions in July and August 2021, his firm's (BLM) refusal to admit facts because 'of the prejudicial risk to the Defendants' in September 2021 and the deceptive narrative about 'students who were harassed, threatened and intimidated by the Claimant making allegations to the University of Warwick' that was put before the HC in October 2021. Furthermore, Mr Smith knows that the Defendants have not accounted for their words and actions in any UK judicial forum since 2020; all their efforts have focused on preventing a public hearing.

9. At the same time, the Claimant has had to endure on a daily basis the destruction of her whole life's work, reputation and dignity, and the diminution of her life options. The career ending accusations of the Defendants have been life-disrupting, life-changing and truly career-ending. The Claimant's 2021 action was well-justified in order to protect her violated claim-rights based in law (national, international [ECHR] and supranational [EU law]), and, as her access to justice was blocked in 2021, she had the right to make wrongful losses correctable by justice in 2024 following the discovery of crucial material evidence in 2022, 2023 and 2024 (- and more recently, on 2 October 2024 when a BLM interim bill was disclosed to her by the Defendants' legal team, which she included as an Exhibit in her application dated 15 November 2024, as Mr Justice Bourne witnessed in the December hearing).

10. Therefore, her 2021 libel, malicious and breach of human rights action and her Tahkar-based 2024 rescission claims are nowhere near the definition of 'vexatious litigation'. In fact, even if Tahkar never existed, '**a judgment which can be shown to have been obtained by fraud or collusion, or by the giving of perjured evidence, or by any other means which would render it contrary to natural justice, is open to challenge in any proceedings in which it is relied upon as giving rise to some right or defence**' (*Jet Holdings Inc v Patel* [1990] 1 QB 335).

11. Since the Defendants are aware of the above facts, one can only suppose that the ECRO request in the N244 application notice dated 24 July 2024 (without notice application) is based on Mr Smith's belief that:

EITHER

a) the Claimant was never harmed by the Defendants because they never accused her of harassing, threatening and intimidating students, seeking to influence the investigation into her compliance with her duties, never suspended her without giving her an opportunity to heard, never kept her in suspension for six months despite her multiple submissions and pleas about her innocence, never convened a disciplinary hearing during her illness and never dismissed her in absentia on the libellous accusations and so on, and thus she pursues unjustified litigation to harass or annoy or drain the innocent Defendants

OR

b) the above wrongs, which are defined as actions contrary to rights, took place, but the Claimant has no right to access the Court in order to right them because for some reason, probably relating to her gender, nationality or race, she does have the right to 'have the estimation in which she stands in the opinion of others unaffected by false statements to her discredit' (per Cave J. in Scott v Sampson (1882)) and to defend her rights. She should thus spend the rest of her life enduring her wrongful humiliation

and defamation, the destruction of her life-work, the impossibility of having another job in the university sector and the loss of significant income and pension rights.

12. But in truth,

(A) above is plainly untrue; the Defendants have admitted the facts about the mistreatment of the Claimant. And even if they had not, what the Claimant suffered in the hands of the Defendants has been captured meticulously by incontrovertible documentary evidence

while

(B), that is, the pursuit of (b) option, would strip the Claimant of all rights and would transform the UK legal order into anomia or a Wild West where anything, including malicious attacks on someone's reputation and human rights abuse, goes.

13. Since the multiple harms inflicted upon the Claimant are real, suffering-inducing and continuing (- she has had no substantive hearing and no redress) and her High Court claims are well-grounded in laws, no one could even contemplate the applicability of Lord Bingham's definition of vexatious litigation to the Claimant's case. Clearly, the Claimant has been seriously wronged.

14. To suggest otherwise would not only be inappropriate but also contrary to the duty of candour owed by legal representatives to the Court. In fact, by making the ECRO application, Mr Smith, on behalf of the Defendants, is misleading the High Court. It invites it to force a carefully orchestrated and faulty narrative of 'vexatious litigant' on the Claimant.

15. By so doing, he has breached the SRA code of conduct and placed himself in contempt of court. The specific SRA principles breached are:

SRA principle 1.4 (do not mislead or attempt to mislead the Court);
SRA principle 2.2 (do not seek to influence the substance of evidence);
SRA principle 2.4 (to refrain from making assertions or putting forward statements, representations and submissions to the Court or others which are not properly arguable)
SRA principle 2.5 (to refrain from placing oneself in contempt of court) and
SRA principle 2.6 (not to waste the court's time).

16. Accordingly, on 24 July 2024, Mr Smith was not truthful to the HC; he hid the objective inapplicability of Lord Bingham's definition of vexatious litigation in his N244 application for an ECRO and breached the requirements of *Brink's Mat Ltd v Elcombe* [1988] 1 WLR 1350 (full and frank disclosure) since he had submitted a without notice application.

Ds'/Mr Smith's misleading N244 statements in relation to CROs/ECROs

17. In *Bhamjee and Forsdick and Others* (No 2) [2003] EWCA Civ 1113, the Court of Appeal added in paras 39 and 40:

'39…Normally we would not expect a civil restraint order to be made until after the litigant has made a number of applications **in a single set of proceedings all of which have been dismissed because they were totally devoid of merit. The characteristics of "vexatious" conduct set out by Lord Bingham CJ in his judgment in *Barker* (see para 7 above) may be a useful indicator of the need for a civil restraint order.**

40. Because the effect of a civil restraint order is limited to the particular proceedings in which it is made, it will ordinarily remain in effect for the duration of the proceedings unless a judge subsequently considers it appropriate to set the order aside. The order will identify the judge to whom the necessary applications should be made.'

18. And in paras 41 and 42 on extended 'Grepe v Loam Order' the Court of Appeal stated:

'….**A High Court judge may make an order restraining the litigant in any division of the High Court or in any county court**. If a Master or a district judge in a district registry of the High Court considers that an extended civil restraint order may be desirable he should transfer the relevant proceedings to a High Court judge for consideration as to whether the order should be made. At county court level such an order should only be made by a designated civil judge or his appointed deputy, and must be restricted to the control of litigious activity within his designated county court districts. A district judge should transfer the proceedings to his designated civil judge if he considers that an extended civil restraint order may be called for. No doubt similar arrangements will be made in connection with family proceedings in the county court in due course, because the nuisance (and the need for an appropriate remedy) is identical, although in that jurisdiction judges already possess the statutory power available to them in section 91(14) of the Children Act 1989.

42. An extended civil restraint order will identify the judge to whom written applications for the requisite permission should be made. It should be made for a period not exceeding two years. By the time the order comes to be made the litigant for whom the further restraint has been adjudged necessary will have exhibited **not only the hallmarks of vexatiousness (see para 7 above) but also the hallmarks of persistent vexatiousness** (see para 22 above). We do not include the word "habitual" among the necessary criteria for an extended civil restraint order, but there has to be an element of persistence in the irrational refusal to take "no" for an answer before an order of this type can be made. The duration of the order may have to be extended if this is considered appropriate, but it should not be extended for a period greater than two years on any given occasion.'

19. For completeness, it should be mentioned, here, section 42 of the Senior Courts Act 1981 which provides for restriction of **vexatious legal proceedings** if (s 42(1)), 'on an application made by the Attorney General under this section, the High Court is satisfied that any person **has habitually and persistently and without any reasonable ground, has instituted vexatious legal proceedings**…'

20. At the time of making the SO/SJ application, Mr Smith, solicitor for the Defendants, not only knew that per *Bhamjee v Forsdick* [2003] EWCA Civ 1113 such orders are made 'in more serious circumstances and with more draconian effect' when there is a 'proven need' to protect opposing parties from 'inconvenience, harassment and expense out of all proportion to any gain likely to accrue to the claimant', the public against vexatious claims and the wider interests of justice, but also that the above conditions on CROs did not apply to the Claimant.

21. But Mr Smith wrote on the N244 application notice dated 24 July 2024 at para 8, section 10:

'(1) The four previous claims brought by the Claimant against all or the first three of the Defendants have each been struck out , two as disclosing no reasonable grounds and two due to the Claimant's conduct being 'scandalous, unreasonable or vexatious''.

22. In reality, however:

> **Falsehood 1**. There were never any '**four previous claims brought by the Claimant against all or the first three of the Defendants**'. There was only the HC 2021 claim (QB-2021-000171), and the ET claims of 24 February 2020 (victimisation and unlawful suspension) and 4 August 2020 (wrongful dismissal, automatic unfair dismissal, discriminatory dismissal and so on).
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> **Falsehood 2**: QB-2021-000171 was not struck out 'as disclosing no reasonable grounds', but because, as Sir Nicol wrote in his judgment, the Ds 'had an unanswerable defence based on consent and Friend' (para 76 of the judgment) and 'an unanswerable defence of qualified privilege' (para 84). (Mr Munden had also misled Sir Nicol that the claim infringed the Johnson principle while, in reality, there were many claims relating to human rights breaches, EU law breaches, the pre-dismissal unfair treatment including a suspension without the right to be heard and thus unlawful which took place six months before the dismissal).
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> **Falsehood 3**: On 24 July 2024, there had been **no claim by the Applicant in either the HC or the County Court that had been certified as totally without merit**. On the contrary, the first Defendant had pursued a hopeless application for an interim charging order in the County Court wasting the court's resources and distressing the Claimant and her family from May 2023 until November 2023. Even when the Claimant objected in May 2023 that the CC had no jurisdiction, Mr Wright (Senior Legal Counsel, University of Warwick) continued to pursue it for several months condemning the Claimant and her family to perpetual distress, loss of time and inconvenience.
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> **Falsehood 4**. In addition, Mr Smith knew that on 24 July 2024 there had been **no application in these proceedings** (KB-2024-001518 and KB-2024-001772) (single set of proceedings, para 38 in Bhamjee) that had been certified as being totally without merit.

23. So what Mr Smith, and Mr Munden, did on behalf of the Defendants was to misuse and mislead the HC about historic applications in the 2021 HC litigation (- these will be examined in detail below in the interests of public interest and justice, irrespective of my submission about their inadmissibility below).

24. The resurrection of totally without merit certifications from 2021 to ground an Extended Civil Restraint Order by the Defendants/Mr Smith, represents a serious abuse of process that undermines the preventative purpose of the court's restraint jurisdiction. As Lord Bingham emphasized in *Attorney General v Barker* [2000] 1 FLR 759, the court's power to restrain litigation is forward-looking and preventative, not punitive. The fact that these historic TWM certifications did not warrant an ECRO when they were made in 2021 - and would have expired by now had one been made - renders them manifestly inappropriate as grounds for a restraint order in 2024. To permit such tactical deployment of stale TWM certifications would transform the court's protective jurisdiction into a weapon of procedural harassment.

25. The brazen nature of this application is compounded by its transparent primary purpose to create a procedural diversion from ongoing fraud proceedings. This perfectly exemplifies the type of abusive litigation that Lord Phillips MR warned against in *Bhamjee v Forsdick* [2003] EWCA Civ 1113. The abuse of process principle from *Hunter v Chief Constable of the West Midlands Police* [1982] AC 529 is also relevant. Using court procedures for an ulterior purpose (here, to create a distraction from the real issues, muddle the picture and prevent justice) is an abuse of process. (Mis)Using court procedures in order to remove the right to access to a court is a very serious abuse.

26. *Grepe v Loam* (1887) 37 Ch. D. 168 established that restraint orders should be based on current conduct showing a need for court protection, not past resolved matters. *Bhamjee* and Practice Direction 3C also demand evidence of current vexatious conduct, not the opportunistic excavation of historic applications that were previously deemed insufficient to warrant restraint. To entertain this application would not only waste precious court resources but would establish a dangerous precedent whereby historic TWM certifications could be stockpiled and deployed tactically, fundamentally distorting the protective purpose of the civil restraint jurisdiction.

27. To conclude this section, Mr Smith's tactical application for an ECRO was based on false statements and was made for collateral purposes rather than a genuine need to prevent vexatious litigation (which does not exist). Any reference he made to applications (- without even presenting the copies of those applications) from 2021 should be discounted as misleading in that he drew on historic applications (staleness). Courts generally look for a pattern of persistent and recent vexatious behaviour when considering whether to impose an ECRO and applications from 3 years ago would be considered stale. The fact that the High Court chose not to impose a CRO in 2021 when the TWM applications were made is significant. The court had the opportunity to impose a CRO then and decided not to; if it had, it would have expired by now. This creates an implicit judicial determination that those applications did not warrant a restraint at the time. And given the purpose of CROs, without evidence of current or threatened vexatious litigation, there is no proper basis for an ECRO. Using historic TWM applications to seek an ECRO now, particularly for the admitted purpose of creating a procedural distraction from a fraud case, could itself be considered an abuse of the court's process.

28. I will nevertheless look more closely at the TWM applications in QB-2021-000171 referred to by Mr Smith because their scrutiny will also reveal how and why crucial evidence that should have been before Sir Nicol in October 2021 was suppressed purposefully because the discovery had been blocked by the HC itself and the role played by TWM mis-certifications in this process.

Ds/Mr Smith propelling the High Court to act against the law (CPR and PD3C)

29. What did Mr Smith ask the HC to do in his ECRO application at para 11 of Section 10 of the N244?

'**To make an Extended Civil Restraint Order (<u>form N19A</u>) preventing the Claimant from issuing any claim or application against any of the Defendants concerning any matter involving or relating or touching upon or leading to claims nos. QB-2021-000171, KB-2024-001518 or KB-2024-001772, or Employment Tribunal claims nos. 13004457/2020 or 1306894/2020, without the Court's permission**'.

30. But Mr Smith, who requested an ECRO under CPR's Practice Direction 3C '(form N19A)' at para 11 of his 2024 SO/SJ application, knows that:

> a) the HC has absolutely no jurisdiction on employment tribunal claims (- in any case, the Claimant does not have any ET pending matters);
>
> b) under CPR 3.11, 'court' does not include a tribunal as it is outside the scope of the Civil Procedure Act; please see section 1(1) of the Civil Procedure Act 1997.

c) under Practice Direction 3C, para 3.2(1)(b), a High Court Judge can only **restrain a party from issuing claims or making applications in the High Court or the County Court**' if 'a party has persistently issued claims or made applications which are totally without merit' (para 3.1 of PD 3C). The phrase 'unless a court otherwise orders' is not be interpreted in an expansive way so as to cover judicial bodies not mentioned in these rules. A HC judge cannot affect claims or proceedings made in the Employment Tribunals and to pre-judge appeals pending before the Employment Appeal Tribunal.

d) the N19A form Mr Smith requested the High Court to complete has set boxes for the Court of Appeal (if a CA judge makes the order), the High Court, County Court(s), Any County Court and Any Court (if a CA judge makes the order). There is no reference to an employment tribunal or employment appeal tribunal on the form, which is plainly a manifestation of a CPR operation. There is also a recent authority on this, namely, *R (on the application of Ogilvy) v Secretary of State for the Home Department* [2022] UKUT 00070 at [75-77] distinguishing the operation of CPR's PD3C from the High Court's inherent jurisdiction.

31. Despite the plain meaning of the PD3C's provisions on ECROs and the N19A form, Mr Smith requested the HC to exceed its jurisdiction and to ignore para 3.2(1)(b) thereby breaching the letter of CPR's r 3.11 and PD 3C, para 3.2(1)(b).

32. Mr Smith, and Mr Munden, used applications of mine relating to my employment tribunal cases, the vast majority of which are under appeal to the EAT, and before Mr Marshall (Judicial Conduct and Appointments Ombudsman) and the JCIO and the Justice Committee of the House of Commons.

33. I am precluded by law (Constitutional Reform Act) to present evidence on official judicial complaints and, even if I were not, it would be disproportionate and an unnecessary expense to prepare for EJ Bourne more than 6000 pages of documents (- the documentary evidence for EJ Perry's hearing alone is more than 4000 pages) which would then need days and not the scheduled 2 hours to be presented.

34. I respectfully submit that all ET-related matters are inadmissible as irrelevant for both the KB-2024-001518 liability judgment and KB-2024-001772, which is exclusively about the Defendants' fraud in the costs they submitted to the HC and the deceitful procurement of the order of 75,000 BP unevidenced, unassessed, unreasonable and disproportionate costs on the Claimant. They are also irrelevant to the outcome of the judicial decision on the basis of para 3.2(1)(b) of PD3C, since the options before the High Court judge are the extension of restraint in High Court or County Court litigation.

35. The attempted reliance on Employment Tribunal TWM certifications that are actively under appeal, with those appeals scheduled for hearing in April 2025, represents an egregious abuse of process that strikes at the heart of proper judicial administration. These certifications cannot properly ground a Civil Restraint Order application in the High Court while their very validity remains contested through the appellate process. Employment Tribunals operate under a distinct statutory regime with their own rules and procedures. Practice Direction 3C to the CPR governs Civil Restraint Orders in the High Court and does not contemplate cross-jurisdictional use of TWM certifications. Employment Tribunal decisions are made under the Employment Tribunals Rules of Procedure, which is a separate regime. The High Court cannot review the decisions of such courts; it can only assist them in administering justice fully and effectively. And as Employment Tribunals apply different legal tests and thresholds than the High Court, if, hypothetically speaking, the High Court were in a position to consider that evidence, it would need to independently assess whether applications (particularly those relating to requests for disclosure,

inspection of documents, including electronic inspection, Claimant's applications for sanctions to be imposed on the Respondents for breaches of ET orders and so) were truly without merit or whether TWM certification were given in order to obstruct justice and to prejudice the Claimant. Moreover, the existence of pending complaints to the Judicial Appointments and Conduct Ombudsman (JACO), the JCIO and the Justice Committee of the House of Commons concerning these certifications further undermines their reliability as evidence. For the High Court to treat such disputed certifications as established facts would risk prejudicing both the pending appeals and the JACO investigation, potentially leading to inconsistent judicial determinations and bringing the administration of justice into disrepute.

36. The impropriety of using these disputed Employment Tribunal certifications is amplified by the fundamental principle that Civil Restraint Orders must be based on clear, unambiguous evidence of persistent vexatious litigation. There is none in the Claimant's case. As emphasized in *Bhamjee v Forsdick* [2003] EWCA Civ 1113, the court's restraint jurisdiction must be exercised with scrupulous attention to justice and fairness. The HC must have proper evidence from within its own jurisdiction showing persistent totally without merit claims or applications and there is no such evidence (- including the Claimant's application for Mr J. Spencer's void ab initio CRO which is also incompatible with Article 6(1) ECHR). Relying on TWM certifications from a different jurisdiction that are subject to both appellate review and formal conduct complaints represents the antithesis of such scrupulous fairness. As Lord Woolf emphasized in *Ebert v Venvil* [2000] Ch 484, courts must be careful not to prejudice pending appeals when considering restraint orders. Using TWM certifications under appeal could effectively prejudge those appeals. It would also breach natural justice. The party subject to the TWM certifications must have a proper opportunity to challenge them through the appropriate appellate process before they could potentially be relied upon in any other context. It appears that Mr Smith's application is a tactical attempt to prejudge the outcome of proper legal processes, bypass the appellate system's safeguards, gain a tactical advantage and improperly influence parallel proceedings. This Court should reject such misuse of its processes in the strongest possible terms and consider whether the party attempting this strategy should themselves face sanctions for this attempt to manipulate judicial procedures.

37. For the foregoing set of reasons set out in this section as well, the HC should dismiss the Defendants' application and apply the authorities of *Brett v SRA* ([2014] EWHC 2974) and *Shaw v SRA* ([2017] EWHC 2076).

38. *Brett* exemplifies the Court's stance when solicitors violate the core duty of integrity as well as the core duty not to deceive or mislead the court, clients and others (core duty 11). The Guidance in the Code of Conduct concerning rule 11 states that the court could be deceived or misled 'by a solicitor submitting inaccurate information or allowing another person to do so.' This is 'one of the most serious offences an advocate or litigator can commit. It is not simply a breach of the rule of a game, but a fundamental affront to a rule designed to safeguard the fairness and justice of proceedings' (*Brett*, [111]). 'Where an advocate or other representative or a litigator puts before the Court matters he knows not to be true or by omission leads the court to believe something he knows not to be true, then as an advocate knows of these duties, the inference will be inevitable that he has deceived the court, acted dishonestly and is not fit to be a member of any part of the legal profession' (Brett, [112]). Relying on *Brett*, in *Shaw v SRA* ([2017] EWHC 2076) Mrs Justice Carr observed that 'there is harm to the reputation of the solicitors' profession when a solicitor and officer of the court dishonestly misleads the court', while in *R (on the application of Gopinath Sathivel) v Secretary of State for the Home Department*, [2018] EWHC 913, Mr Justice Green expressed his concern about a system 'where lawyers can mislead the courts with impunity' [48]. The Post Office scandal has highlighted this problem and the need for regulatory reform.

The Defendants' Improper Motives underpinning the tactical ECRO application

39. The Claimant's application to strike out the Defendants' SO/SJ application (pp. 525-535 of the Claimant's Bundle for the HC hearing of 2-3 December 2024) exemplified the improper motives of the Defendants in para 20 (p. 533-535 of the Claimant's Bundle). The Claimant will not repeat those submissions (20(A)-(I)).

40. Of particular significance is the DARVO tactic (G-H on page 534), a common strategy of sophistry designed to 'prevent the Court from doing justice' where the victim and offender positions are revered and the offender is presented as the 'victim' of the real victim's quest for justice and redress. By so doing, the offender deflects attention from their actions by attacking the victim and their credibility (- in this case by branding the victim as vexatious), thereby creating confusion, muddling facts and perverting the fair disposal of proceedings. This is one of the most abhorrent cancellation of both the truth and natural justice that a court can witness as the innocent are forced via chicanery to 're-enter the horror movie of their abuse of rights' by being depicted as 'fake' victims having 'false grievances' and 'harassing the offenders'.

41. Using the Court' process in order to practise DARVO is condemnable. It 'inflicts oppression on their adversaries' and damages the public interest via a totally unjustified use of judicial time to use Lord Justice Law's statements in *Attorney-General v Ebert* [2000] EWHC Admin 286 [50].

42. But the use of DARVO tactic would bring about gains for the Defendants. If the Claimant were restrained then, the offenders would escape justice; would not have to account for their words and actions and pay compensation to the Claimant; their wrongful actions would be hidden from public view because there would be no merits hearing; their fraudulent scheme would be fully operable by stealing the Claimant's property since the Claimant would be paralysed by the refusal of judicial permission to set aside or appeal their order of sale of the house and her employment appeal litigation would be hijacked. In other words, the procedural disempowerment of the Claimant would enable both the institutional cover-up of the Defendants' libel, malicious falsehood and human rights abuse and the revictimization of the rights- defender via her asset stripping. In such a scenario, the HC would be fully complicit in actions antithetical with its functions and justice and participant in an unlawful abuse of rights prohibited by the ECHR.

43. There is a lot of information in the public domain on the serious fraud taking place in the UK via the asset stripping of mostly single, professional women who dared to stand up to unlawful employment practices by taking their employers to court. The pattern is common: inflated and unjustified legal costs which are never assessed become legitimised via charging orders and orders of sale of primary residence while the victims are ECROed through the misuse of TWM certifications and thus unable to challenge them effectively and to fully exercise their rights. I personally witnessed this very recently.

44. To conclude this section, the fact that on 24 July 2024 there was no County Court application or HC application in KB-2024-001518 and KB-2024-001772 submitted by the Claimant that had been certified as totally without merit, thereby posing problems for the Defendants and yet the

Defendants/Mr Smith submitted an ECRO application is telling. Equally telling is that the HC, having ignored completely the Claimant's application of 12 August 2024 for an expedited hearing which would have prevented unnecessary costs and profiteering by DWF as well as her appeal against Master Dagnall's orders dated 20 August, came in October 2024 to surprise the Claimant with TWM certifications on totally false premises in order to impose a CRO on her and thus to facilitate Mr Smith's ECRO application.

45. It can thus be concluded once again that the Defendants' application for an extended civil restraint order dated 24 July 2024 must be dismissed because, in addition to being substantively inappropriate and a DARVO tactic designed to distract the Court's attention from the real facts and law in issue, it is procedurally against the law since it does not comply with the requirements of CPR and PD3C for an extended civil restraint order, natural justice and Article 6(1) ECHR. It is also contrary to the *Hunter* and *Arrow Nominees* authorities.

46. Let us now subject to scrutiny the HC historic and recently procured TWM applications the Ds/Mr Smith have submitted to the HC as supporting evidence for an ECRO (- there are no such County Court claims or applications).

THE LAW OF THE LAND ON TOTALLY WITHOUT MERIT CERTIFICATIONS

47. The meaning of "totally without merit" (TWM) certifications was discussed and clarified to an extent in the Court of Appeal's judgment in *Wasif and another v Secretary of State for the Home Department* [2016] EWCA Civ 82. In this case, the Court of Appeal made further observations which were intended for use by the Upper Tribunal as well as the High Court. I term these '*Wasif* requirements'.

48. The standard for TWM: The test for TWM (as established in *Wasif*) requires the claim (or application) to be:

> 1. **Bound to fail**. This means there is no rational basis on which the claim could succeed: para 15 (See also *R (Grace) v SSHD* [2014] EWCA Civ 1191). This is distinct from cases where the judge can see a rational argument but is confident it is wrong. The distinction is "not black-and-white" but nevertheless "real". The judge must be "confident after careful consideration" that the case truly is bound to fail (para 17(2)), considering a) the seriousness of the issue, b) the consequences of the decision in the particular case and c) the claimant should get the benefit of any real doubt.
>
> 2. **Hopeless**.
>
> 3. **With little or no discernible basis in law**.

4. **Abusive or irrational per *Grace***.

49. Essential Requirements under *Wasif*:

1. The Judge must ensure "peculiar care" is taken to ensure that all arguments raised in the grounds are properly addressed (paras 19-20):

a. If there are professionally pleaded grounds, those grounds should be taken in turn.
b. If grounds are discursive or repetitious, the Judge must analyse them into component parts and say why each fails.
c. Must be sufficient to show with particularity why permission is refused.
d. Conciseness is a virtue, but what is necessary depends on the case.

2. A Judge should only certify if they are satisfied that in the circumstances of the particular case a hearing could not serve to address with oral advocacy the perceived weaknesses in the claim. The Claimant should get the benefit of any real doubt (para 17(3)). The core test is that the case must be "bound to fail", that is, there is no rational basis on which the claim could succeed.

3. It is broadly right (and a useful thought process) for the judge to ask whether they can conceive of another judge with the benefit of oral submissions at an oral hearing taking a different view (para 17(4)).

4. Certification should not be made where the judge suspects that proper presentation might disclose an arguable basis of claim (para 17(5)).

5. Certification should not be made on the basis of points in the summary grounds to which the Claimant might have had an answer if given the opportunity (para 17(6)).

6. It is important that the judge gives reasons for the certification separately (para 21).

7. Structured reasons should be given for the certification, distinct from the reasons for refusing permission. While these reasons can build on what was said regarding the permission refusal, they should be structured separately(paras 21, 45). Even if all that can be said is "I consider the application totally without merit: my reasons are those already given above", this is a valuable discipline because it reminds judges the exercises are distinct.

50. The key distinction drawn by the Court of Appeal is between cases that are merely "not arguable" (which might still benefit from an oral hearing) and those that are "totally without merit" (where no oral hearing could possibly help). This is described as not being "black-and-white" but nevertheless a "real" distinction.

51. Out of the *Wasif* requirements noted above, three appear, in my opinion, as the most critical and would almost certainly lead to a TWM certification being set aside if they are not met. This is because they relate to fundamental principles of procedural fairness and proper judicial reasoning and are clear, objective requirements that an appellate court can easily verify whether they are met. These are:

1. The requirement to give separate, structured reasons specifically for the TWM certification (distinct from the reasons for refusing permission). The Court emphasized that "peculiar care must be taken" and that separate reasoning is mandatory, even if brief. This procedural requirement appears fundamental to enable proper review of the decision.

2. The requirement that all arguments raised in the grounds must be properly addressed. The Court explicitly stated that "where a claim is certified as 'totally without merit' then peculiar care must be taken to ensure that all the arguments raised in the grounds are properly addressed." Failing to address all arguments would be a clear error of law.
3. The prohibition on making TWM certifications based on points raised in the summary grounds of defence to which the claimant hasn't had a chance to respond. This is a fundamental fairness requirement that ensures the claimant has had the opportunity to address all points counted against them.

52. It would be helpful to draw a comprehensive template at this point; a check-list of the *Wasif* requirements which could be applied to each HC application submitted by the Claimant and its certification, as follows:

Mandatory Procedural Requirements	**Judge's Compliance**	**Application's Merit**
1. Separate, structured reasons for TWM certification distinct from permission refusal	Did the judge give separate reasons for TWM? Were they structured?	N/A (Procedural only)
2. "Peculiar care" taken to address all arguments in grounds addressed - Reasons show particularity	Did the judge address all arguments? Was each component analysed? Were reasons particular enough?	N/A (Procedural only)
3. If grounds are confusing but proper presentation might reveal arguable claim, no TWM	Did the judge consider whether better presentation might reveal merit?	Could better presentation reveal an arguable claim?
4. No TWM based on summary grounds points claimant has not addressed	Did the judge rely on unaddressed summary grounds?	Has claimant had chance to address all points?
Substantive Requirements		
1. "Bound to fail" test: No rational basis for success- Distinct from confident rejection of rational argument	Did judge apply the correct test? Did judge distinguish between "bound to fail" and "confident rejection"? Did the judge explain why argument x is hopeless?	Grounded in specific legal rules and case law? Based on established procedural rights? Supported by relevant CPR rules and Practice Directions? Logically structured and well-argued? Is there an argument that, while possibly wrong, is rational?
2. Not automatic consequence of permission refusal	Did judge consider TWM separately from permission?	N/A (Procedural only)
3. Judge "confident after careful consideration": Considered	Evidence of careful consideration? Consideration of seriousness/consequences?	How serious is the case?

Mandatory Procedural Requirements	Judge's Compliance	Application's Merit
seriousness, Considered consequences, Gave benefit of doubt	Proper approach to doubt?	What are the consequences? Is there any real doubt?
4. Hearing could serve no purpose: Consider value of oral advocacy; Consider addressing weaknesses	Did judge consider potential value of hearing? Did judge consider if weaknesses could be addressed?	Could hearing help? Could weaknesses be addressed?
5. "Thought experiment" - could another judge take different view	Evidence judge considered this?	Could another judge reasonably take different view?

My Usage Notes:

1. Complete the second column based on the judge's written decision
2. Complete the third column based on case materials and grounds
3. Mark each requirement as:
    a. Met ✓
    b. Not Met ✗
    c. Unclear ?
4. Add specific notes/evidence for each assessment
5. Consider the overall pattern when evaluating TWM certification

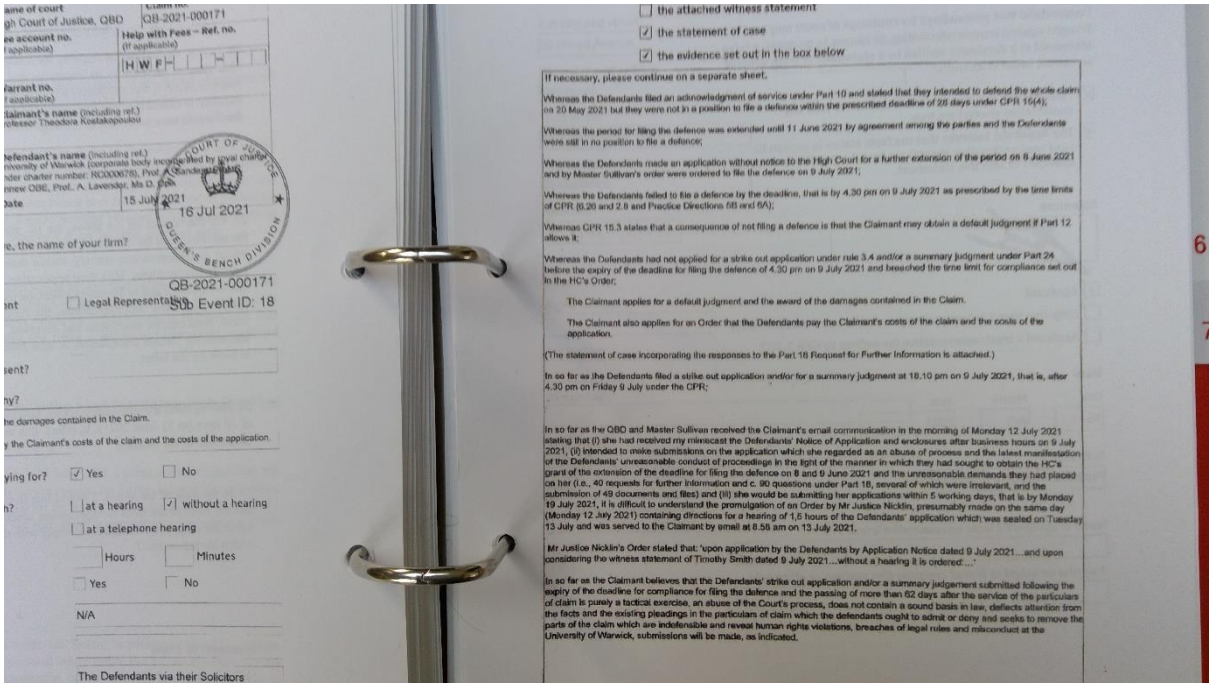
53. If a judge does not provide a) structured, separate reasons, b) does not address all the grounds of the application or overlooks the grounds completely, c) ignores a well structured and well-grounded application and gives a totally without merit certification, then their decision is voidable and cannot reliably demonstrate that the application was "totally without merit" as required for civil restraint orders.

HISTORIC (i.e., 2021) TWM CERTIFICATIONS IN QB-2024-000171

54. The Defendants/Mr Smith presented to the HC quite a lot of narrative unfavourable to the Claimant but essentially only three applications which the Claimant had made in 2021: namely, a) her application for default judgment dated 15 July 2021 and b) her applications dated 27 August 2021 for a Court Order for the Defendants to particularise their allegations under Part 18 and of 9 September seeking the Court's directions about continued inaccurate and misleading statements made by Mr Smith in his witness statements and their removal.

55. I will take them in turn.

56. The Claimant's application for a default judgment is in the Defendants' Bundle and the crucial page is replicated as an image here for convenience:



57. The Defendants were required to file their defence by 4:30 pm on July 9, 2021, following multiple extensions (from the original 28 days to June 11, then to July 9). They failed to meet this deadline. Instead, at 6:10 pm on July 9 (approximately 1 hour and 40 minutes after the deadline), they filed a strike out/summary judgment application. The Defendants had not applied for any further extension of time before the 4:30 pm deadline expired. Nor did they apply for relief from sanctions afterwards. The Claimant believed that the court (Mr Justice Nicklin) improperly rectified the Defendants' default by unilaterally extending the time for the defence without any application from the Defendants for relief from sanctions or for an extension of time. She contended this was a serious procedural irregularity that effectively rewarded the Defendants' non-compliance with CPR rules and court orders. Her key argument was that once defendants are in default, they cannot prevent a default judgment simply by filing a late strike-out application - they must first obtain relief from sanctions and an extension of time.

Otherwise, she argued, this would encourage defendants to deliberately delay filing defences, breach deadlines and Court orders and then prevent default judgments through late strike-out applications, undermining the CPR's time limits and the overriding objective of dealing with cases justly.

58. Evidently, the application raised significant issues about procedural fairness and the proper administration of justice. The judge (Mr Justice Nicklin) effectively rewarded the Defendants' non-compliance with court orders and CPR rules without requiring them to follow proper procedure for obtaining relief from sanctions. Under *Wasif*, this type of substantive legal argument about procedural requirements cannot be characterized as having "no rational basis for success."

59. Furthermore, there is no evidence that the Judge, Mr Justice Nicklin, had provided separate, structured reasons for a TWM certification which Sir Nicol could use - a fundamental requirement under Wasif. The seriousness of the procedural issue and its implications for civil procedure generally required careful consideration of the Claimant's arguments and scrutiny of the case law. Given that the application raised legitimate concerns about compliance with court orders and procedural fairness, it seems impossible to conclude that a hearing could not possibly help in July 2021 or that another judge might not take a different view. The failure to meet these basic Wasif requirements makes the TWM certification particularly problematic.

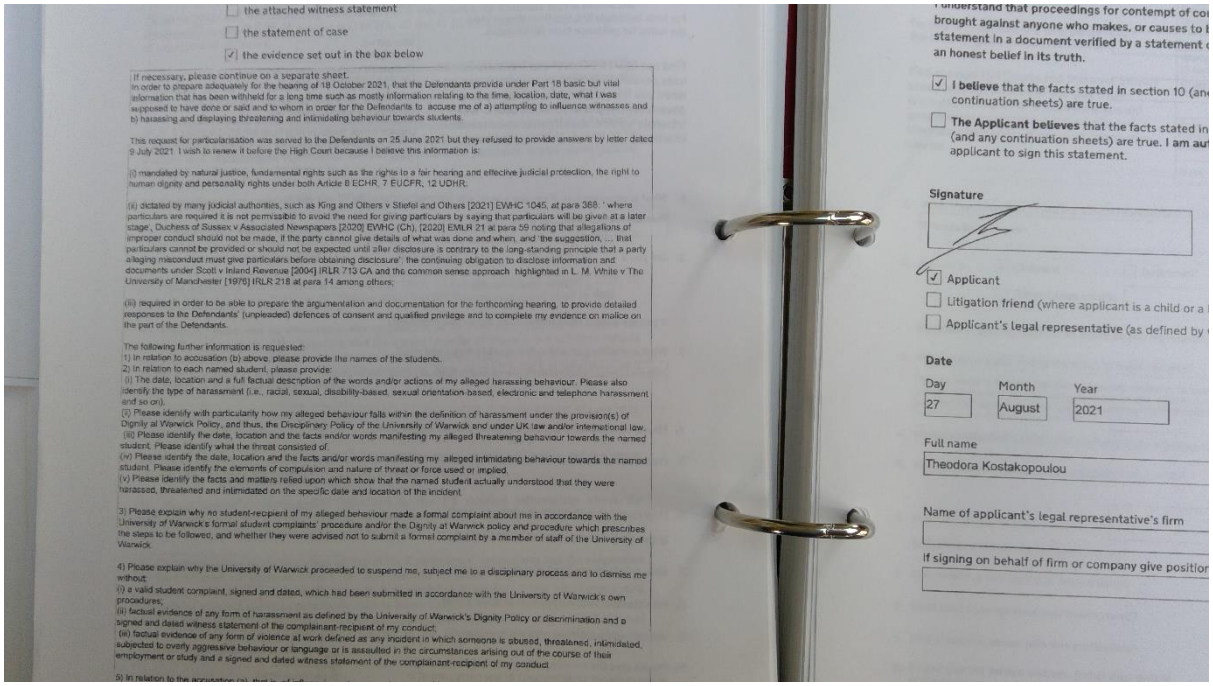
60. Mr Justice Nicol dealt with the Claimant's default judgment application. In para 107 of his judgment, he wrote in relation to the Claimant's application: '**In my view this application is hopeless. Nicklin J. extended time for the defence as I have said**.'

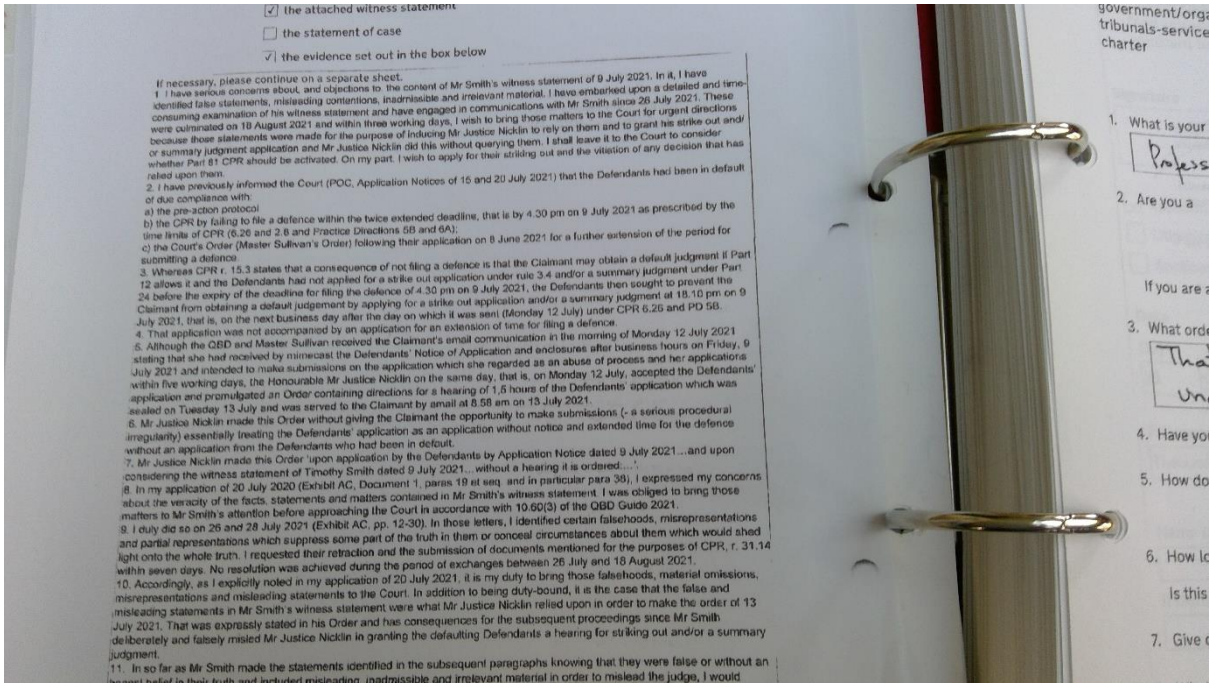
61. But in para 108 of his judgment Sir Nicol also stated: 'Since I would refuse the Claimant's application for judgment in default of defence in any event, it is not necessary for me to engage with the argument that might involve resolving **at what precise time the application to strike out the Particulars of Claim was issued**.

62. Yet, the precise time **was the central issue** because when the Ds filed the SO/SJ application were in double default; they had breached the deadline for the submission of their defence which expired at 4,30 pm on 9 July and Master Sullivan's order.

63. Following the Wasif requirements noted above, and in particular the critical ones, 'peculiar care must be taken', 'separate structured reasons must be provided' and 'all the arguments raised in the grounds must be properly addressed', the Claimant's application was mis-certified as a TWM application. Furthermore, and the Defendants' breaches of the CPR rules and the case law (*Denton, Mitschell*) were covered up via the mis-certification of the application for default judgment as TWM. There was no fair play and impartiality; the HC descended into the arena and helped the Defendants while harming her legal position and denigrating a perfectly good application.

64. The Claimant's other two applications, namely the Part 18 application and the application dated 9 September 2021 on Mr Smith's inaccurate and misleading statements in his witness statements are in the Defendants' Bundle and images which could be enlarged on the computer are included for convenience below:





65. The Claimant's Part 18 application was properly grounded in law and was logically structured. Prof. Kostakopoulou cited the specific legal basis (Part 18 CPR) and organized her requests systematically, breaking down exactly what information she needed about each allegation against her. The application followed a clear logical progression, requesting specific details about: (1) the identities of students involved, (2) particulars of alleged harassment including type, words, dates/locations, (3) how the behaviour fit legal/policy definitions of harassment, (4) evidence of students' understanding of harassment, and (5) explanations for procedural irregularities. The requests were precisely formulated to obtain the basic factual information needed to understand and respond to the allegations against her. The information was requested specifically to prepare for the October hearing. Without this information, the Claimant would be clearly disadvantaged in challenging potential misrepresentations about student complaints. The timing of the request was driven by the hearing schedule, not a tactical delay and the Court needed to have this information before it for the summary judgment determination.

66. Therefore, Mr Justice Nicklin's TWM certification was problematic because the application was neither hopeless nor bound to fail - it was a properly structured Part 18 request seeking legitimate particulars of serious allegations. This is particularly concerning given the asymmetry that the Defendants had already used Part 18 to obtain 90 answers from her. To certify such an application as totally without merit, without providing separate structured reasons, considering Professor Kostakopoulou's CPR-based right to seek this information, natural justice and a long list of case law supporting the disclosure of such information and without properly considering whether oral advocacy might address any perceived weaknesses, falls short of the *Wasif* requirements. A properly grounded application seeking basic particulars of career-ending allegations cannot be said to have "no rational basis for success" as required by *Wasif*.

67. Based on the Wasif requirements, Mr Justice Nicklin's certification of Professor Kostakopoulou's applications as totally without merit was problematic on other grounds, too. The documents show that Judge Nicklin did not provide separate, structured reasons for the TWM certification distinct from his reasons for refusing permission - a fundamental requirement under Wasif. Additionally, he did not demonstrate the required "peculiar care" in addressing all arguments raised in the grounds, particularly regarding the asymmetric treatment of Part 18 requests and the need for information to challenge potential misrepresentations about student complaints. The core Wasif test of whether the applications were "bound to fail" (meaning no rational basis for success) does not appear to have been met, as there was a clear rational basis for seeking particulars of serious allegations affecting the claimant's career and reputation. What Mr Justice Nicklin did was very concerning because the Claimant suspected that the Defendants' case rested on student allegations that did not exist and thus on an attempted deception of the HC. In effect, Mr Justice Nicklin obstructed justice and allowed Mr Smith and Mr Munden to disseminate a faulty narrative at the HC hearing before Sir Nicol.

68. Furthermore, Judge Nicklin failed to consider whether oral advocacy at a hearing might have addressed the perceived weaknesses in the applications - another key *Wasif* requirement. Given the complexity of the case, the seriousness of the allegations, and the fundamental importance of knowing the case against oneself, it seems difficult to conclude that no hearing could possibly help. The judge also did give the Claimant the benefit of any real doubt, as required by *Wasif*, particularly given that the information sought was basic factual detail about allegations being used to justify disciplinary action. Most significantly, there is no evidence that he conducted the required "thought experiment" of whether another judge might take a different view with the benefit of oral submissions.

69. The same applies with respect to the Claimant's September application. Professor Kostakopoulou brought to the attention to the High Court deliberately misleading statements in Mr Smith's witness statement and sought directions. She followed the QB Guide which requires parties to inform the Court about such transgressions. The September 2021 application raising concerns about Mr. Smith's conduct and witness statements was similarly well-grounded. It identified specific misleading statements, provided evidence of procedural irregularities, and sought appropriate court directions. Again, Mr Justice Nicklin failed to provide separate, structured reasons for the TWM certification as required by Wasif, did not demonstrate the required "peculiar care" in addressing all arguments, and did not appear to consider whether oral advocacy might address any perceived weaknesses. Most significantly, he did not wish to give proper weight to the seriousness of the allegations about misleading the court and the real possibility that another judge might take a different view with the benefit of oral submissions. These applications raised legitimate concerns about the administration of justice that warranted proper consideration, making the TWM certifications particularly problematic under the *Wasif* guidelines. If

the *Wasif* guidelines had been followed, the HC would have prevented the miscarriage of justice based on deception by Mr Smith in 2021 and the subsequent 2024 litigation.

70. More importantly for our purposes, Sir Nicol set aside the TWM certification of Mr J. Nicklin by ruling in para 111 of his judgment:

'**I do not regard this as a fruitful use of the Court's time…..In my view it is not necessary or a proportionate time of the Court's time to go further and to investigate and rule on each of the Claimant's objections to Mr Smith's witness statements**.'

71. And in his Order dated 22 December 2021, under Order 3, Sir Nicol wrote:

'I**t is not necessary or a proportionate use of the Court's time to consider the Claimant's application to strike out parts of Mr Smith's witness statements and no order is made on that application**'.

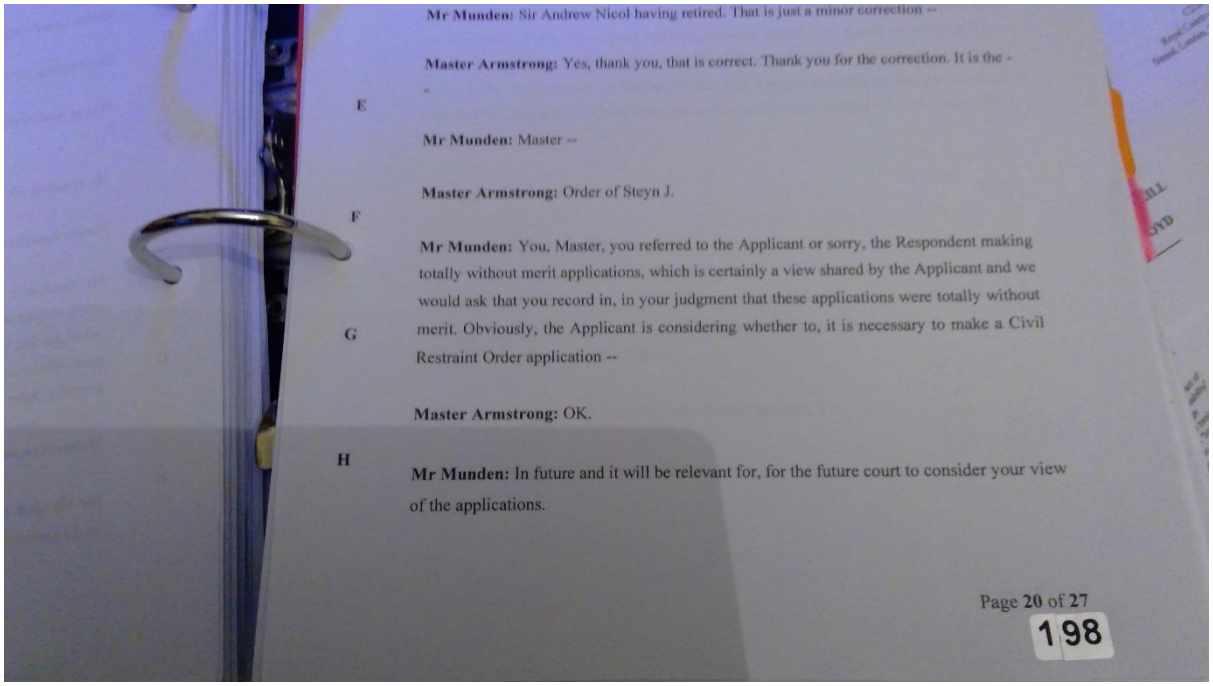
2024 HC CERTIFICATIONS OF TWM APPLICATIONS

72. Mr Tim Smith then wrote in para 21 of the Continuation Sheet (p. 458 of the Claimant's Bundle) with respect to the final charging order of Master Armstrong dated 14 June 2024 in QB-2021-000171 that the Claimant's applications were dismissed as totally without merit and that the Master refused 'her application for permission to appeal and certified that application as totally without merit'.

73. Let us interrogate what really happened and whether Mr Smith is telling the HC the truth. The Claimant's applications, namely, structured objections to the interim charging order of Master Dagnall dated 13 May 2024 and to strike out Mr Wright's application dated 6 June 2024 for multiple breaches of the CPR are in the Claimant's Bundle (pages 138-148 and 149-172).

74. The judgement of Master Armstrong has been officially transcribed and approved and is contained on pages 208-211 of the Bundle. **It did not contain a TWM certification**.

75. Please see how Mr Munden then acted to impress the TWM certification onto Master Armstrong and to disclose his intention to make a CRO against the Claimant on pages 198 and 199 of the Claimant's bundle which include the transcript of the hearing. Mr Munden then drafted Master Armstrong's order.



Mr Munden: Sir Andrew Nicol having retired. That is just a minor correction --

Master Armstrong: Yes, thank you, that is correct. Thank you for the correction. It is the -

E

Mr Munden: Master --

Master Armstrong: Order of Steyn J.

F

Mr Munden: You, Master, you referred to the Applicant or sorry, the Respondent making totally without merit applications, which is certainly a view shared by the Applicant and we would ask that you record in, in your judgment that these applications were totally without merit. Obviously, the Applicant is considering whether to, it is necessary to make a Civil Restraint Order application --

G

Master Armstrong: OK.

H

Mr Munden: In future and it will be relevant for, for the future court to consider your view of the applications.

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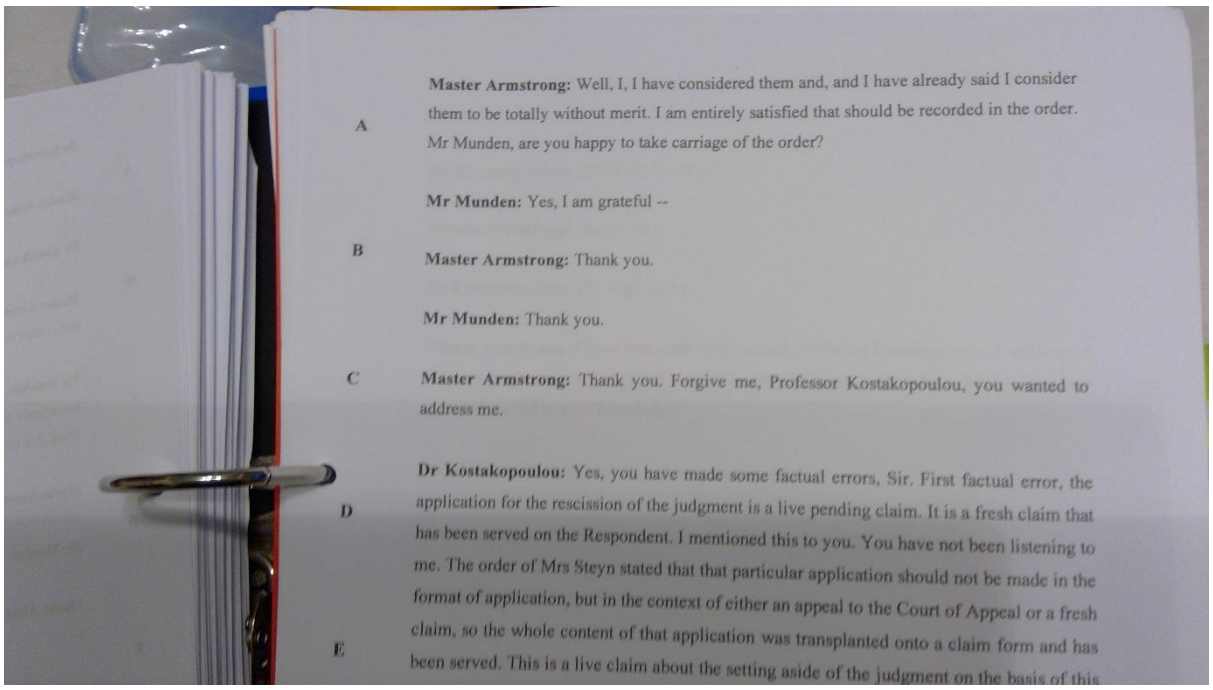

A

Master Armstrong: Well, I, I have considered them and, and I have already said I consider them to be totally without merit. I am entirely satisfied that should be recorded in the order. Mr Munden, are you happy to take carriage of the order?

Mr Munden: Yes, I am grateful --

B

Master Armstrong: Thank you.

Mr Munden: Thank you.

C

Master Armstrong: Thank you. Forgive me, Professor Kostakopoulou, you wanted to address me.

Dr Kostakopoulou: Yes, you have made some factual errors, Sir. First factual error, the application for the rescission of the judgment is a live pending claim. It is a fresh claim that has been served on the Respondent. I mentioned this to you. You have not been listening to me. The order of Mrs Steyn stated that that particular application should not be made in the format of application, but in the context of either an appeal to the Court of Appeal or a fresh claim, so the whole content of that application was transplanted onto a claim form and has been served. This is a live claim about the setting aside of the judgment on the basis of this

D

E

76. On pages 220 et seq of the Claimant's bundle, the reader can discern all the facts and evidence disregarded by Master Armstrong, while on pages 286 et seq. the Claimant outlined several errors of law in her appeal against Master Armstrong's decision, including his persistent failure to record in his judgment that the rescission claim KB-2024-001518 had been issued and served on the Defendants as well as their breach of the mandatory requirements of CPR r 73.7(5) since they had served their documents in 5 and less than 5 days (- as opposed to the prescribed 21 days) before Master Armstrong's hearing.

77. The TWM certification of the Claimant's applications by Master Armstrong represents a particularly concerning departure from the proper judicial process and the *Wasif* requirements. Firstly,

the official transcribed and approved judgment (pp 208-211) contains no TWM certification at all – this was retrospectively added through Mr Munden's post-judgment submission and the drafting of the order after indicating his intention to seek a Civil Restraint Order. This procedural manipulation fundamentally undermines the *Wasif* requirement for proper judicial consideration and reasoned decision-making in TWM certifications.

78. Moreover, the applications that were supposedly certified as TWM raised substantial legal issues that could not be characterized as "bound to fail" under Wasif. Professor Kostakopoulou had identified clear violations of CPR r 73.7(5) where documents were served in 5 days rather than the mandatory 21 days, and had raised the existence of a rescission claim (KB-2024-001518) that was not acknowledged in the judgment. These were serious procedural irregularities with clear legal bases that warranted proper consideration. The attempt to retrospectively impose a TWM certification on applications raising such substantive issues, without any separate structured reasons represents not just a failure to meet the Wasif requirements but a concerning manipulation of the TWM certification process itself.

79. The Claimant wrote meticulously argued and very well-structed appeals against Master Armstrong's final charging order on her primary residence (pp. 286-315 of the Claimant's Bundle) and applied to set aside Sir Stewart's refusal of stay of enforcement since fraud-based rescissions of Sir Nicol's judgment and costs order were pending (pp. 318-328 of the Claimant's Bundle). Ms Justice Collins-Rice refused both of them on paper on 2 October 2024 arguing that the Claimant should submit rescission claims in the future despite the fact that these had been submitted to the HC several months before her judgment (pp. 609-612 of the Claimant's Bundle). The Claimant applied for the discharge of Ms Justice Collins' Rice's order since it was based on fundamentally false premises and an oral hearing on 9 October 2024 (pp. 613-637). Ms Justice Collins-Rice misused the TWM certification and fundamentally failed to meet the Wasif requirements in several critical ways. She did not provide separate, structured reasons for the TWM certification distinct from her refusal of permission - a basic Wasif requirement. More critically, she overlooked substantial evidence of pending rescission claims (KB-2024-001518 and KB-2024-001772) based on fraud which she had in front of her, arguing irrationally that the Claimant should submit such claims, as well as serious allegations about fraudulent costs statements, despite confirming she had read the appeal bundle containing this information. The applications raised legitimate legal arguments supported by case law about enforcing potentially fraudulent judgments and breaches of Article 6 ECHR rights - they cannot be said to have "no rational basis for success" as required by Wasif. Ms Justice Collins-Rice also failed to consider the appeal grounds of Professor Kostakopoulou and the grounds in her application to set aside Sir Stewart's refusal of stay of enforcement despite the clear evidence of fraud allegations in the £75,000 unevidenced, unreasonable, disproportionate and unassessed costs order that could lead to the loss of Professor Kostakopoulou's home (primary residence). The judge's failure to engage with the submitted grounds, evidence and the cited supporting case law while simultaneously removing the right to an oral hearing and threatening the Claimant capture precisely the type of situation Wasif's procedural safeguards were designed to prevent.

80. The Claimant argued in her application of 9 October 2024 that the TWM certification was made in bad faith, in breach of natural justice and Article 6(1) ECHR (and other Convention rights) and judicial ethics in order to harm the Claimant's legal position and to aid the Defendants' ECRO application (pp. 634-636 of the Claimant's Bundle). Complaints of judicial misconduct were also submitted to the appropriate bodies.

81. A few days later, on 18 October 2024, Mr Justice Spencer, made the LRO on similar false premises and issued a problematic limited restraint order containing ways of entrapping the Claimant; this was raised in the December hearing and will not be discussed here. The Claimant immediately challenged it as void ab initio, brought it before the appropriate bodies and will further challenge it as a very serious breach of the rule of law and deliberate misuse of judicial power for improper purposes.

82. The above submissions and the underpinning documentary evidence constitute very robust and substantial evidence of misuse of TWM certifications and transgression of the Wasif mandatory requirements. Instead of the Court focusing on the determination of rights and liabilities, and examining with due care the underlying claims and legal submissions of the Claimant, it made defective TWM certifications in order to prevent the examination with 'peculiar care' of all the underpinning claims and legal submissions of the Claimant and to benefit the Defendants in a significant way. It was improper for the Ds/Mr Smith to excavate the past (2021 HC applications). The three applications he used as evidence from the QB-2021-000171 proceedings should be dismissed as inadmissible for the grounds stated in paras 24-27 above.

83. But even if these applications were recent, a careful examination of them would render them legitimate, reasonable, well-grounded in law and necessary: the Claimant had the right to make a Part 18 application for disclosure which it also served the wider interests of justice and would have yielded the true information that Sir Nicol needed to have in front of him in October 2021, namely, that the Claimant never harassed, threatened and intimidated students, which then became 2 students (Ms Opik and her former boyfriend, Mr Sharma), which then became one (Ms Opik) since Mr Sharma never alleged to the University that he was harassed, threatened or intimidated by the Claimant and there are neither facts nor evidence that the Claimant engaged in any such conduct, and then became none because there is neither factual nor evidential basis that Ms Opik was subjected to such a conduct and no evidence that she made such a complaint to the University in accordance with its procedures or even informally apart from the Professors A. Sanders' distorted hearsay and double hearsay and Ennew's fabrication of those accusations in order to harm the Claimant. If Mr Justice Nicklin had granted the Claimant's application in the summer 2021, as he ought to have done on the basis of the law, the wider interests of justice would have been served, the 2021 miscarriage would have been averted, Mr Smith and Mr Munden would not have been able to deceive the court and there would be no need for further court resources to be allocated. The injuries and losses to the Claimant would have been mitigated in 2021 and the rescission claims of 2024 would not have arisen. The same applies to the Claimant's 2021 applications for a default judgment (the Defendants' breaches of the CPR and the case law were suppressed and cured) and for directions because of falsehoods in Mr Smith's witness statements – an issue that comes back to the HC in 2024 on the basis of Tahkar. Historic, defective certifications of TWM in QB-2021-000171 cannot lend any credence to Ds/Ms Smith's ECRO application of 24 July 2024. Nor could Master Armstrong's TWM certification of June 2024 in QB-2021-000171 in terms of the final charging order because, in addition to all its other flaws, this did not come from Master Armstrong following the Wasif requirements. It came from Mr Munden.

84. In other words, the Ds/Mr Smith had nothing to base their defective ab initio and tactical ECRO application on 24 July 2024; there was no proof of a previous vexatious claim and no proof of a previous vexatious application in KB-2024-001518 and KB-2024-001772; there was no vexatious claim or application to the County Court and no vexatious applications in QB-2021-000171. The Ds/Mr Smith knew this and misled the Court and imposed unnecessary costs on me. The Claimant also noted this in her cross-strike out application dated 12 August 2024 requesting an expedited hearing of 2 hours for the disposal of the SO/SJ application in August or September or early October 2024. That would have

saved thousands and thousands of pounds, court resources, the Claimant's unnecessary expenditure of time, money, efforts to remove barriers to legal rights and severe mental distress thereby actualising the overriding objective of the CPR, particularly in dealing with cases "expeditiously and fairly" (CPR 1.1(2)(d)).

85. The Defendants/Mr Smith were in real need of help; and the HC, namely Ms J. Collins-Rice and Mr J. Spencer, came to help them in October 2024 and to force a LRO onto the Claimant by mischaracterising her legitimate, reasonable, and well-grounded in law applications in the same way that Mr Justice Nicklin and Sir Nicol had helped them in 2021, thereby ensuring that the innocent Claimant would be denied access to the Court and substantive justice.

86. But as the Court of Appeal stated in *Locabail (UK) Ltd v Bayfield* [2000] EWCA Civ 3004 [3] '**Any judge who allows any judicial decision to be influenced by partiality or prejudice deprives the litigant of the important right to which we have referred and violates one of the most important principles underlying the administration of justice**'.

87. Equally, the Court cannot permit its restraint jurisdiction to be misused in this way. To do so would not only exceed its statutory powers but would fundamentally undermine the administration of justice by allowing procedural mechanisms designed to prevent abuse to become instruments of oppression and profound injustice.

88. The ECRO application should therefore be dismissed on jurisdictional grounds, procedural requirements, and substantive merits, while representing an improper attempt to misuse the Court's restraint jurisdiction, with appropriate consideration given to the conduct of those who have attempted to mislead the Court through this improper application.

NOTE:

I explained and justified above the exclusion of ET-related matters. I will include merely one email communication (without its many attachments and evidence) in confidence for Mr J. Bourne's understanding of the serious matters involved. Obviously, I cannot present this publicly on 17 January 2024.

Professor Dora Kostakopoulou, Claimant in Person

Submission Date: 17 December 2024