

Appellant's notice

(All appeals except small claims track appeals and appeals to the Family Division of the High Court)

Notes for guidance are available which will help you complete this form. Please read them carefully before you complete each section.

For Court use only	
Appeal Court Ref. No.	
Date filed	17 Jan 2022



CA-2022-000041

SEAL

Submitted Date -
11 Jan 22

Section 1 Details of the claim or case you are appealing against

Claim or Case no.	QB-2021-000171	Fee Account no. (if applicable)	
Help with Fees - Ref no. (if applicable)	H W F		
Name(s) of the	Claimant(s) <input type="checkbox"/> Applicant(s) <input checked="" type="checkbox"/> Petitioner(s) <input type="checkbox"/>		
	T KOSTAKOPOULOU		
Name(s) of the	Defendant(s) <input type="checkbox"/> Respondent(s) <input checked="" type="checkbox"/>		
	UNIVERSITY OF WARWICK, A. SANDERS, C. ENNEW OBE, A. LAVENDER AND D. OPIK		

Details of the party appealing ('The Appellant')

Name

Theodora Kostakopoulou

Address (including postcode)

32 Sneyd Avenue, Westlands, Newcastle - u - Lyme,
Staffordshire, ST5 2PP

Tel No. 01782 662716

Fax

E-mail dorakostakopoulou@protonmail.com

Details of the Respondent to the appeal

Name

University of Warwick, Professor Stuart Croft

Address (including postcode)

University House, University of Warwick,
Coventry, Warwickshire, CV4 8UW

Tel No. 02476574951

Fax

E-mail S.Croft@warwick.ac.uk

Details of additional parties (if any) are attached

Yes ☐ No ☒

Section 2 Details of the appeal

From which court is the appeal being brought?

- ☐ The County Court at
- ☐ The Family Court at
- ☐ High Court
- ☒ Queen's Bench Division
- ☐ Chancery Division
- ☐ Family Division
- ☐ Other (please specify)

What is the name of the Judge whose decision you want to appeal?

Sir Nicol

What is the status of the Judge whose decision you want to appeal?

- ☐ District Judge or Deputy ☐ Circuit Judge or Recorder ☐ Tribunal Judge
- ☐ Master or Deputy ☒ High Court Judge or Deputy ☐ Justice(s) of the Peace

What is the date of the decision you wish to appeal against?

21 December 2021

Is the decision you wish to appeal a previous appeal decision? ☐ Yes ☒ No

Section 3 Legal representation

Are you legally represented?

☐ Yes ☒ No

If Yes, is your legal representative (please tick as appropriate)

- ☐ a solicitor
- ☐ direct access counsel instructed to conduct litigation on your behalf
- ☐ direct access counsel instructed to represent you at hearings only

Name of your legal representative

--

The address (including postcode) of your legal representative

--

Tel No.	
Fax	
E-mail	
DX	
Ref.	

Are you, the Appellant, in receipt of a Civil Legal Aid Certificate?

☐ Yes ☒ No

Is the respondent legally represented?

☒ Yes ☐ No

If 'Yes', please give details of the respondent's legal representative below

Name and address (including postcode) of the respondent's legal representative

Mr Tim Smith BLM 30 Fenchurch Street London EC3M 3BL
--

Tel No.	02078653313
Fax	
E-mail	tim.smith:blmlaw.com
DX	
Ref.	

Section 4 Permission to appeal

Do you need permission to appeal?

☒ Yes ☐ No

Has permission to appeal been granted?

☐ Yes (Complete Box A)

☒ No (Complete Box B)

Box A

Date of order granting permission

Name of Judge granting permission

Box B

I T. Kostakopoulou

the Appellant(s legal representative) seek permission to appeal.

If permission to appeal has been granted **in part** by the lower court, do you seek permission to appeal in respect of the grounds refused by the lower court?

☐ Yes ☐ No

Section 5 Other information required for the appeal

Please set out the order (or part of the order) you wish to appeal against

I hereby request permission to appeal against:

a) Sir Nicol's decision of 21 December 2021 striking out my claim for breach of human rights and primary and secondary EU law (Articles 8 and 14 ECHR (taken with s 6 HRA 1998), 1,7, 21 and 31 EUCFR, 6(3) TEU, 20 and 45(2) TFEU and Article 7(1) of Regulation 492/2011 and the general principles of EU law of proportionality and the right to be heard), libel and/or malicious falsehood on the grounds that it is wrong and unjust and amounts to a denial of fair trial under common law and Article 6(1) ECHR and substantive legal rights;

and

b) his Order of the same date requiring me to pay unreasonable and disproportionate costs of £ 75,000 to the Defendants who have been in breach of the pre-action protocol, have failed to consider and to participate in ADR and been in breach of CPR rules and Court orders which are outlined below;

and

c) to request a stay of the execution of the enforcement of the payment of £ 75,000 which is not consonant with justice, is punitive and threatens the imposition of serious hardship on myself and my family.

Have you lodged this notice with the court in time?

(There are different types of appeal - see Guidance Notes N161A)

☒ Yes ☐ No

If '**No**' you must also complete
Part B of Section 10 and Section 11

Section 6 Grounds of appeal

Please state, in numbered paragraphs, **on a separate sheet** attached to this notice and entitled 'Grounds of Appeal' (also in the top right hand corner add your claim or case number and full name), why you are saying that the Judge who made the order you are appealing was wrong.

☒ I confirm that the grounds of appeal are attached to this notice.

Section 7 Arguments in support of grounds for appeal

- ☒ I confirm that the arguments (known as a 'Skeleton Argument') in support of the 'Grounds of Appeal' are set out **on a separate sheet** and attached to this notice.

OR (in the case of appeals other than to the Court of Appeal)

- ☐ I confirm that the arguments (known as a 'Skeleton Argument') in support of the 'Grounds of Appeal' will follow within 14 days of filing this Appellant's Notice. A skeleton argument should only be filed if appropriate, in accordance with CPR Practice Direction 52B, paragraph 8.3.

Section 8 Aarhus Convention Claim

For applications made under the Town and Country Planning Act 1990 or Planning (Listed Buildings and Conservation Areas) Act 1990

I contend that this claim is an Aarhus Convention Claim ☐ Yes ☐ No

If Yes, and you are appealing to the Court of Appeal, any application for an order to limit the recoverable costs of an appeal, pursuant to CPR 52.19, should be made in section 10.

If Yes, indicate in the following box if you do not wish the costs limits under CPR 45 to apply. If you have indicated that the claim is an Aarhus claim set out the grounds below

Section 9 What are you asking the Appeal Court to do?

I am asking the appeal court to:-
(please tick the appropriate box)

- ☒ set aside the order which I am appealing
- ☐ vary the order which I am appealing and substitute the following order. Set out in the following space the order you are asking for:-

- ☐ order a new trial

Section 10 Other applications

Complete this section **only** if you are making any additional applications.

Part A

- ☒ I apply for a stay of execution. (You must set out in Section 11 your reasons for seeking a stay of execution and evidence in support of your application.)

Part B

- ☐ I apply for an extension of time for filing my appeal notice. (You must set out in Section 11 the reasons for the delay and what steps you have taken since the decision you are appealing.)

Part C

- ☐ I apply for an order that:

(You must set out in Section 11 your reasons and your evidence in support of your application.)

Section 11 Evidence in support

In support of my application(s) in Section 10, I wish to rely upon the following reasons and evidence:

I have been instructed to pay unreasonable and disproportionate costs of £ 75,000 to the Defendants for their strike out application. The Defendants have been in breach of the pre-action protocol, have failed to consider and to participate in ADR and been in breach of CPR rules and Court orders. I pursued a strong and legitimate claim and believe that it is struck out for reasons other than its merits. The Defendants abused me, raised false and malicious allegations, put me under a disciplinary process lasting 9 months, suspended me for six months on no evidence of wrong doing and dismissed me thereby destroying my reputation. I sought justice and to clear my name and do not believe that justice is done.

Since July 2021 I have been alerting the High Court about the Defendants' strategy on costs and my information about past occurrence of the same strategy of highly inflated, astronomical costs imposed to victimise the applicants. My warnings have been consistently ignored. The University of Warwick has insurance to cover its costs. I do not. I am a litigant in person who has been seriously wronged and injured by the Defendants and is fighting for justice.

There is also the issue of breaches of rules by the Defendants (envisaged by r 44(3) CPR);

The Defendants have displayed:

- a) non-compliance with the pre-action protocol;
- b) non-compliance with the CPR's rules on the submission of the defence (rules 15.2 : 'A defendant who wishes to defend all or part of a claim must file a defence', 15.4(1)(b) and the extension granted under the HC's Order, below);
- c) non-compliance with Master Sullivan's Order to serve the defence on 9 July 2021, and the deemed time of 4.30 pm.;
- d) non-compliance with PD 23(A) 2.7 in relation to bringing the strike out and/or summary judgment applications early, that is, before the extensions of time for filing the defence they sought and the volume of requests for the inspection of documents and for further information they directed to the Claimant;
- e) non-compliance with CPR r 31.14(1) on the provision of documents referred to in a witness statement for inspection within 7 days;
- f) refusal to make admissions after being served with several notices to admit facts under CPR r 32.18 which has costs consequences. These notices were served on 13 September, 14 September and 21 September 2021;
- g) failure to comply with the prohibition of false and misleading statements in witness statements verified with a statement of truth (CPR r 32.14 and PD supplementing CPR Part 32 para 20.3);
- h) breach of case management directions imposed by the Court; the bundle for the hearing which was due to be submitted on 17 September 2021 (following an extension agreed by the parties) to the Claimant was submitted on 22 September 2021 at 13.14 pm containing more than 1500 pages;
- i) a very large number of pages from the Claimant's filed evidence were missing and this obstructed significantly the Claimant's drafting of the skeleton argument. No attempt was made for the deficiency to be rectified within a few days following formal notification;
- j) breach of the Court's direction for the authorities on which the Defendants relied to be submitted to the Claimant on 22 September by 10 am (- they were submitted at 2.40 pm).

The costs implications of those breaches and their impact on the innocent party must not be ignored.

I would like to request an urgent stay of the execution of the enforcement of the payment of £ 75,000 which is not consonant with justice, is punitive and threatens the imposition of serious hardship on myself and my family.

Statement of Truth – This must be completed in support of the evidence in Section 11

I believe (The appellant believes) that the facts stated in this section are true.

Full name

Name of appellant's legal representative firm

signed 

Appellant ('s legal representative)

position or office held

(if signing on behalf of firm or company)

Section 12 Supporting documents

To support your appeal you should file with this notice all relevant documents listed below. To show which documents you are filing, please tick the appropriate boxes.

If you do not have a document that you intend to use to support your appeal complete the box over the page.

In the County Court or High Court:

- ☐ three copies of the appellant's notice for the appeal court and three copies of the grounds of appeal;
- ☐ one additional copy of the appellant's notice and grounds of appeal for each of the respondents;
- ☐ one copy of the sealed (stamped by the court) order being appealed;
- ☐ a copy of any order giving or refusing permission to appeal; together with a copy of the judge's reasons for allowing or refusing permission to appeal; and
- ☐ a copy of the Civil Legal Aid Agency Certificate (if legally represented).

In the Court of Appeal:

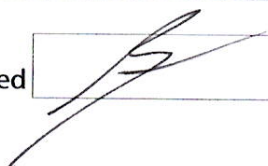
- ☒ three copies of the appellant's notice and three copies of the grounds of appeal on a separate sheet attached to each appellant's notice;
- ☒ one additional copy of the appellant's notice and one copy of the grounds of appeal for each of the respondents;
- ☒ one copy of the sealed (stamped by the court) order or tribunal determination being appealed;
- ☐ a copy of any order giving or refusing permission to appeal together with a copy of the judge's reasons for allowing or refusing permission to appeal;
- ☐ one copy of any witness statement or affidavit in support of any application included in the appellant's notice;
- ☐ where the decision of the lower court was itself made on appeal, a copy of the first order, the reasons given by the judge who made it and the appellant's notice of appeal against that order;
- ☐ in a claim for judicial review or a statutory appeal a copy of the original decision which was the subject of the application to the lower court;
- ☒ one copy of the skeleton arguments in support of the appeal or application for permission to appeal;
- ☒ a copy of the approved transcript of judgment; and
- ☐ a copy of the Civil Legal Aid Certificate (if applicable)
- ☐ where a claim relates to an Aarhus Convention claim, a schedule of the claimant's financial resources

Reasons why you have not supplied a document and date when you expect it to be available:-

Title of document and reason not supplied	Date when it will be supplied

Section 13 The notice of appeal must be signed here

Signed



Appellant('s legal representative)

IN THE COURT OF APPEAL

Claim No.: QB-2021-000171

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

GROUND OFS OF APPEAL

1. The Judge erred in law in striking out the human rights limb of the claim without dealing with the question of whether the University of Warwick by raising false accusations of misconduct and gross misconduct had unjustifiably and disproportionately interfered with the Claimant's personality rights entailed by the right to respect for private life (Article 8 ECHR and Article 7 EUCFR) and equal human dignity under Article 1 EUCFR (POC, para 44(a)).

2. The Judge erred in law in failing to examine whether the suspension of the Claimant and her ban from the University of Warwick campus, her office and from all contact with her

undergraduate students, postgraduate students and colleagues amounted to an unwarranted and disproportionate interference with Article 8 ECHR and Article 7 EUCFR and her absolute right to equal human dignity under Article 1 EUCFR (POC, para 44(b)).

3. The Judge erred in law in failing to engage with the pleading that, by ignoring the Claimant's multiple submissions about her innocence and the accompanying documentary evidence for more than six months and intentionally maintaining the dissemination of damaging allegations that were untrue in substance and in fact and keeping her in suspension for more than six months (16 January – 20 July 2020), the University of Warwick breached Article 8 ECHR, 7 EUCFR and her inherent dignity under Article 1 EUCFR (POC, paras 44 (c) and (d)).

4. The Judge erred in law in failing to examine whether by dismissing the Claimant on the basis of false gross misconduct charges the First Defendant breached Articles 8 ECHR, 7 EUCFR and 1 EUCFR.

5. The Judge erred in law in failing to engage adequately with the pleading that the Claimant was the victim of discriminatory treatment prohibited by Article 14 ECHR and Article 21 of the EU Charter of Fundamental Rights taken together with Articles 8 ECHR and 1 and 7 EUCFR and failing to provide a reasoned decision on this.

6. The Judge decided to strike out the claim without dealing with the question whether the First defendant had acted procedurally ultra vires by suspending the Claimant without giving her advance notice and the opportunity to be heard.

7. Because the right to be heard is a mandatory procedural step required under the common law principle of natural justice, the Simms principle of legality as well as a General Principle of EU law, which must always be respected and observed, the Judge overlooked the

Claimant's request for her suspension to be declared unlawful and thus void as a matter of law.

8. The Judge erred in law in overlooking whether the First Defendant had acted disproportionately to the nature of the Claimant's actions.

9. The Judge erred in law in failing to examine whether the First Defendant had breached the Claimant's rights under Article 31 EUCFR (the right to working conditions which respect a worker's health, safety and dignity) Article 20 TFEU (EU Citizenship) and the right to equal treatment as regards other conditions of work and employment under Article 45(2) TFEU which has been implemented by Regulation 492/2011 (Article 7(1) of Reg. 492/2011 on non-discrimination of EU nationals in respect of other conditions of employment and work) replacing Regulation 1612/68.

10. The Judge did not examine whether by not affording the Claimant a right to appeal against a suspension decision and, given the continuation of the suspension for a lengthy period, a right to appeal against the continued suspension, the First Defendant breached the requirements of natural justice.

11. The foregoing errors and the striking out of the public law related limb of the claim expose the Claimant to a flagrant denial of justice and remedies in contravention of the rights to fair hearing conferred by common law and guaranteed by Article 6(1) of the Convention and EU law and to effective judicial protection.

12. The Judge misdirected himself in holding that Friend provides an unanswerable defence for the Defendants in this case and wrongly proceed to strike out the defamation limb of the claim on this basis

13. The Judge arrived at an erroneous conclusion of fact in para 72 concerning to what the Claimant had actually consented as part of her contract of employment as well as the evidential absence of consent in 2019/2020.

14. The Judge erred in law by not giving sufficient weight to legal authorities pre-dating and post-dating Friend and to statutory requirements enacted following Friend.

15. The Judge erred in failing to explain his conclusion why ‘there is not arguable case of malice’ and ‘the present pleading is hopeless’ and to provide reasons by engaging with the Claimant’s sufficiently particularised in the pleadings about each Defendant in the particulars of claim, her skeleton arguments and the evidence that has been produced

16 The Judge acted upon wrong principles in arriving at his conclusion that the defendants have an unanswerable defence of qualified privilege given that malice is a question of assessment on the facts.

17. The Judge erred in law in that it wrongly proceeded to apply the Johnson principle concerning the manner of the dismissal to causes of action, such as breaches of human rights, breaches of EU law rights, of proportionality and the right to be heard and malicious falsehood, which is not even dependent on proof of actual damage if the words were calculated to cause pecuniary damage in respect of the Claimant’s office, profession and so on, which accrued six months before the dismissal and are independent of it.

18 The Judge erred in placing the defamation cause of action and the suspension of the Claimant on 16 January 2016 within the *Johnson* exclusion area

19 Sir Nicol erred in failing to apply the principle in *Hoddinott* concerning the effect of the statutory submission to the Court’s jurisdiction.