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Case No: KB-2023-000137

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 31 July 2023

Before :

MR JUSTICE CONSTABLE

Between :

QBE UK LIMITED

Claimants

- and -

MARK RAYMOND HILTON

Defendants

Paul Higgins (instructed by Keoghs LLP) for the Claimants
Kate O'Raghallaigh (instructed by Morrison Spowart) for the Defendants

Hearing date: 31 July 2023

JUDGMENT

This judgment was handed down by the Judge remotely by circulation to the parties' representatives by email and release to The National Archives. The date and time for hand-down is deemed to be 16:30 on Monday 31st July 2023.

MR JUSTICE CONSTABLE:

1. This is an application by QBE UK Limited for permission to commence committal proceedings against the Respondent, Mark Raymond Hilton.
2. The application first came before the Court on Monday 19 June 2023. On that occasion, it was initially unclear whether the Respondent, a litigant in person, would attend in light of the content of communications between the Applicant and the Respondent in the days leading up to the hearing. I briefly adjourned the hearing for further enquiries to be made. I was informed after about 20 minutes that the Respondent was in attendance but felt extremely unwell, anxious and was concerned about his heart. Prior to resuming the hearing (in order to determine whether to proceed), security informed me that they were sufficiently concerned that an ambulance was called.
3. The Applicant took instructions and invited the Court to adjourn the hearing. In *Fox v Graham Group Plc*, The Times, 16 February 2001 guidance was provided as to the proper approach to be made where a litigant in person fails to attend on his application/appeal but seeks an adjournment. The Judge said that a careful balancing act had to be carried out, but unless the appeal/application is, on its face, totally hopeless then a Judge hearing such application/appeal ought, in the ordinary course of events, grant one adjournment provided good reasons for such an adjournment had been provided (eg, medical evidence etc). On the facts of the particular appeal the Judge held that the appeal was bound to fail, and it would therefore be unfair to the Respondent to adjourn it, even though there were good grounds for granting an adjournment, and he accordingly refused an adjournment and dismissed the appeal.
4. In circumstances where the Applicant considered that, on balance, the better course was to adjourn, this was the course adopted by the Court. The purpose, in part, of the adjournment was to allow the Respondent to seek representation through legal aid, given the serious nature of these proceedings. The Respondent was directed to provide medical evidence relating to the underlying heart complaint which was said to be underlying his condition on 19 June 2023, together with any records created which arose from the events of that morning.
5. The adjourned hearing was due to take place on 24 July 2023. For reasons beyond the control of the parties, this was adjourned again to 31 July 2023. At this hearing, Mr Hilton was represented by Ms O’Raghallaigh of Counsel. I extend my thanks to both Counsel for their assistance and efficient submissions.
6. The original proceedings concerned an at work accident on the 15th July 2015. Proceedings were issued on cusp of limitation and sealed by the Court on the 18th July 2018. The claim was substantial – in his updated schedule of loss the Mr Hilton claimed damages in excess of £600,000.
7. A Defence was filed and served on the 11th January 2019. Liability was admitted and the claim proceeded in respect of causation and quantum only. The Respondent failed to file a Directions Questionnaire and his claim was struck out, but he applied successfully to have it reinstated.

8. In the directions, the Respondent was permitted to rely upon the expert medico-legal evidence of four experts: two orthopaedic surgeons, a clinical psychologist, and a consultant in pain medicine. The Applicant was permitted to reply on an orthopaedic surgeon, a consultant psychiatrist, and a consultant in pain medicine.
9. As will be further described below, investigations by the Applicant including the use of surveillance led it to believe that the Respondent was making fraudulent statements, including forging documents, and grossly exaggerating his injuries in pursuit of his claims. In due course the Applicant sought to amend its Defence to allege that the claim was fundamentally dishonest within the meaning of CPR 44.16, that QOCS should be disapplied and that the claim should be dismissed under s.57 of the Criminal Justice and Courts Act 2015. An application was made to amend the Defence to plead a case of fundamental dishonesty, which was granted by HHJ Simpkins on the 15th April 2021. In doing so, he observed at a hearing in open court that the allegations in the Amended Defence would, if true, represent the second most egregious example of a fraudulent claim that he had ever encountered.
10. HHJ Simpkins ordered that the Respondent's medico-legal experts be provided with the surveillance footage and intelligence material, and they were to file additional reports. This order was not complied with. The Judge also ordered permitted the Defendant to rely upon further responsive statements from its medico-legal experts and that there be a joint report between the experts following discussions. The latter directions could not be complied with because of the failure of the Respondent to comply with the Court Orders.
11. There was an application to strike out the proceedings. That application was dealt with by HHJ Catherine Brown, who struck the claim out, ordered the Respondent to pay QBE's costs of the proceedings and disapplied QOCS under CPR 44.15(1)(c)(i) (see the Order of the Court drawn on the 31st January 2022) [713]. The Judge also ordered that the Respondent make a payment on account of costs in the sum £1,000 (designed to enable QBE to know whether the Respondent would rely upon impecuniosity). The Respondent has not paid any of QBE's costs. The Respondent has not repaid any of the £10,000 he received by way of interim payments. The Applicant's solicitors wrote to the Respondent on the 14th February 2022 asking him to repay the interim payments and the interim costs order (total £11,000.00) but he has not done so – asserting that '*the case is not over*' and that he has financial issues that prevent re-payment: '*I don't know where you think I can write a cheque for £11,000 as I was put out of work by your client...*'.

The Law

12. On an application for permission to make a committal application, the question for the court is not whether a contempt of court has in fact been committed but whether proceedings should be brought to establish whether it has not. As set out in the White Book at 81.3.11:

'Put shortly...permission should not be granted under r81.3.2(5)(b)...unless (1) a strong prima facie case has been shown against the alleged contemnor; and (2) the court is satisfied that (a) the public interest requires the

proceedings to be brought; (b) the proposed proceedings are proportionate; and (c) the proposed proceedings are in accordance with the overriding objective.'

13. The correct approach on an application for permission was set out in *Stobart Group Ltd v Elliot* [2014] EWCA 564, CA, in which the Court of Appeal endorsed the summary of the first instance judge, HHJ Pelling, which set out as follows:

'i) In order for an allegation of contempt to succeed it must be shown that " in addition to knowing that what you are saying is false, you had to have known that what you are saying was likely to interfere with the course of justice" - see Edward Nield v. Loveday [2011] EWHC 2324 (Admin);

ii) The burden of proof is on the party alleging the contempt who must prove each element identified above beyond reasonable doubt - see Edward Nield v. Loveday (ante);

iii) A statement made by someone who effectively does not care whether it is true or false is liable as if that person knew what was being said was false - see Berry Piling Systems Limited v. Sheer Projects Limited [2013] EWHC 347 (TCC), Paragraph 28 - but carelessness will not be sufficient - see Berry Piling Systems Limited v. Sheer Projects Limited (ante), Paragraph 30(c);

iv) Permission should not be granted unless a strong prima facie case has been shown against the alleged contemnor- see Malgar Limited v. RE Leach (Engineering) Limited [1999] EWHC 843 (Ch), Kirk v. Walton [2008] EWHC 1780 (QB), Cox J at paragraph 29 and Berry Piling Systems Limited v. Sheer Projects Limited (ante) at Paragraph 30(a);

v) Before permission is given the court should be satisfied that

a) the public interest requires the committal proceedings to be brought;

b) The proposed committal proceedings are proportionate; and

c) The proposed committal proceedings are in accordance with the overriding objective -

- see Kirk v. Walton (ante) at paragraph 29;

vi) In assessing proportionality, regard is to be had to the strength of the case against the respondents, the value of the claim in respect of which the allegedly false statement was made, the likely costs that will be incurred by each side in pursuing the contempt proceedings and the amount of court time likely to be involved in case managing and then hearing the application but bearing in mind the overriding objective - see - Berry Piling Systems Limited v. Sheer Projects Limited (ante) at Paragraph 30(d);

vii) In assessing whether the public interest requires that permission be granted, regard should be had to the strength of the evidence tending to show that the statement was false and known at the time to be false, the circumstances in which it came to be made, its significance, the use to which it was actually put and the maker's understanding of the likely effect of the statement bearing in mind that the public interest lies in bringing home to the profession and through the profession to witnesses the dangers of knowingly making false statements - see KJM Superbikes Limited v. Hinton [2008] EWCA Civ 1280, Moore-Bick LJ at Paragraphs 16 and 23; and

viii) In determining a permission application, care should be taken to avoid prejudicing the outcome of the application if permission is to be given by avoiding saying more about the merits of the complaint than is necessary to

resolve the permission application - see KJM Superbikes Limited v. Hinton (ante) at Paragraph 20."

14. Permission in respect of each ground of committal must be considered separately (*Patel v Patel* [2017] EWHC 1588). Clearly, whether there is a 'strong prima facie case' may well differ from ground to ground depending on the allegation and the evidence, such that separate analyses are required in turn within the Court's determination. On the other hand, it is likely that questions of overall public interest, proportionality and the overriding objective may be more likely to be matters that are capable of being articulated as applicable equally to each of the grounds on a more holistic basis, and may therefore be legitimately approached this way providing the Court ensures it has put its mind to the relevant questions as applicable to each ground.
15. It is also apparent from the authorities that the Court must be vigilant to exercise caution before giving permission to launch committal proceedings. This derives from the need for a public interest in the proceedings, which are therefore different in nature from other litigation pursued by private individuals. In KJM Superbikes Limited v Hinton [2009] 1 WLR 2406, Moore-Bick LJ said:

'16. *Whenever the court is asked by a private litigant for permission to bring proceedings for contempt based on false statements allegedly made in a witness statement it should remind itself that the proceedings are public in nature and that ultimately the only question is whether it is in the public interest for such proceedings to be brought. However, when answering that question there are many factors that the court will need to consider. Among the foremost are the strength of the evidence tending to show not only that the statement in question was false but that it was known at the time to be false, the circumstances in which it was made, its significance having regard to the nature of the proceedings in which it was made, such evidence as there may be of the maker's state of mind, including his understanding of the likely effect of the statement and the use to which it was actually put in the proceedings. Factors such as these are likely to indicate whether the alleged contempt, if proved, is of sufficient gravity for there to be a public interest in taking proceedings in relation to it. In addition, the court will also wish to have regard to whether the proceedings would be likely to justify the resources that would have to be devoted to them.*

17. *In my view the wider public interest would not be served if courts were to exercise the discretion too freely in favour of allowing proceedings of this kind to be pursued by private persons. There is an obvious need to guard carefully against the risk of allowing vindictive litigants to use such proceedings to harass persons against whom they have a grievance, whether justified or not, and although the rules do not prescribe the class of persons who may bring proceedings of this kind, the court will normally wish to be satisfied that the applicant was liable to be directly affected by the making of the statement in question before granting permission to bring proceedings in respect of it. Usually the applicant will be a party to the proceedings in which the*

statement was made, but I would not exclude the possibility that permission might be granted to someone other than a party if he was, or was liable to be, directly affected by it. In my view there is also a danger of reducing the usefulness of proceedings for contempt if they are pursued where the case is weak or the contempt, if proved, trivial. I would therefore echo the observation of Pumfrey J. in paragraph 16 of his judgment in Sony v Ball that the court should exercise great caution before giving permission to bring proceedings. In my view it should not do so unless there is a strong case both that the statement in question was untrue and that the maker knew that it was untrue at the time he made it. All other relevant factors, including those to which I have referred, will then have to be taken into account in making the final decision.'

16. In the context of alleged contempts such as the present ones, the Courts have repeatedly stated that the prevalence of false or fraudulently exaggerated personal injury claims means that they ought to be treated as particularly serious in the scale of contempts. As set out in the oft-quoted passage of Moses LJ in South Wales Fire & Rescue v Smith [2011] EWHC 1749:

1. *For many years the courts have sought to underline how serious false and lying claims are to the administration of justice. False claims undermine a system whereby those who are injured as a result of the fault of their employer or a defendant can receive just compensation.*
2. *They undermine that system in a number of serious ways. They impose upon those liable for such claims the burden of analysis, the burden of searching out those claims which are justified and those claims which are unjustified. They impose a burden upon honest claimants and honest claims, when in response to those claims, understandably those who are liable are required to discern those which are deserving and those which are not.*
3. *Quite apart from that effect on those involved in such litigation is the effect upon the court. Our system of adversarial justice depends upon openness, upon transparency and above all upon honesty. The system is seriously damaged by lying claims. It is in those circumstances that the courts have on numerous occasions sought to emphasise how serious it is for someone to make a false claim, either in relation to liability or in relation to claims for compensation as a result of liability.*
4. *Those who make such false claims if caught should expect to go to prison. There is no other way to underline the gravity of the conduct. There is no other way to deter those who may be tempted to make such claims, and there is no other way to improve the administration of justice.*
5. *The public and advisors must be aware that, however easy it is to make false claims, either in relation to liability or in relation*

to compensation, if found out the consequences for those tempted to do so will be disastrous. They are almost inevitably in the future going to lead to sentences of imprisonment, which will have the knock-on effect that the lives of those tempted to behave in that way, of both themselves and their families, are likely to be ruined.

6. *But the prevalence of such temptation and of those who succumb to that temptation is such that nothing else but such severe condemnation is likely to suffice.*

17. In a similar vein, in Havering v Bowyer [2012] EWHC 2237 (Admin) Rafferty LJ said:

'12. The administration of justice requires parties and potential parties to understand that truthfulness lies at the centre of litigation. Those who mock that concept by their arrogance and avarice do not simply tilt at the scales of justice in their own cause, but compromise the reputation or probity of these courts when they reach a decision and make an award'.

The Grounds

18. Grounds 1 to 11 relate to allegedly false statements in the Respondent's witness statement dated 18th March 2020, verified with a statement of truth. The statements are:

- (1) *'I cannot dress or undress myself'*
- (2) *'I am totally reliant on others'*
- (3) *'I can barely walk'*
- (4) *'I cannot cook or do any of the household chores'*
- (5) *'Using a single stick, I can manage about five or six painful steps'*
- (6) *'With a Zimmer frame I can manage at most twelve steps'*
- (7) *'Mostly, my movement is in a wheelchair'*
- (8) *'...for all intents and purposes I am housebound'*
- (9) *'...other than essential medical appointments I do not go out'*
- (10) *'I cannot drive'*
- (11) *'I still require constant care and assistance'*

19. Grounds 12 to 14 concern allegedly false statements made in the Updated Schedule of Loss, verified by a statement of truth. The statements are:

- (12) *'Mr Hilton is generally housebound'*
- (13) *'By March 2019, she [Mr Hilton's wife] had to give up work altogether and become her husband's full time carer'*
- (14) That the Respondent's claim was valued at £600,385.03

20. Grounds 15 and 16 concern the alleged creation of the false birth certificate, intending to serve and rely upon that document in his proceedings, and service of that false document.

21. Grounds 17 to 19 concern alleged lies told by the Respondent in his 30th September 2020 witness statement about his daughter's date of birth/the false document. The statements are:

- (17) *'I do have two daughters however the eldest was born on 17th May 1998'*
(18) *'I exhibit to this statement a copy of my eldest daughter's birth certificate'*.
(19) *'at the time of this alleged appointment with Gillian Bowden I would not have had a 18 month old child my youngest was yet to be born.'*

22. Grounds 20 and 21 concern alleged lies told by the Respondent in his 22nd January 2021 witness statement about his daughter's date of birth/the false document. The statements are:
- (20) *'I can confirm I have two daughters. The eldest was born on the 17 May 1998.'*
(21) *'I refer to exhibit MH4 which is a copy of my eldest daughter's birth certificate'*
23. It is alleged that each of these statements was a false statement made without an honest belief in the statement, and that the birth certificate exhibited to the statement was a false document which the Respondent knew to be false.
24. Mr Hilton, through Counsel, concedes that there is enough admissible evidence available to the Court for grounds 3, 5-12, 16 and 21 to proceed. It is also conceded that ground 14 should proceed, on an accepted basis that Mr Hilton himself did not carry out the calculation of loss (he supplied the information to others who particularised the quantum of the claim). It is said that these taken together properly embrace the contemptuous conduct alleged by the Applicant. The other grounds are disputed for reasons set out further below. However, it is to be noted that Mr Hilton has, again through Counsel, indicated that he intends to admit all allegations for which permission is given, notwithstanding his counsel's arguments that certain allegations ought not be taken forward.

Consideration of the Grounds

25. The grounds, and the evidence relied upon in respect of them, fall into two categories. Grounds 1 to 14 are each statements by the Respondent of varying kinds describing the severity of his medical condition, his lack of mobility and pain, the restrictions on his life and the level of care he required, purportedly by way of justification for the £600,000+ claim, itself an alleged ground of contempt. The evidence which is relied upon by the Applicant to demonstrate that (in the context of this application) there is a strong prima facie case that these allegations, relating to his physical condition, are false is the surveillance evidence. Grounds 15-21 each relate to the production of what is said to be a forged birth certificate of one of his daughters, stating that her birthday was 17 May 1998, together with statements made in relation to her age, the context of which is explained further below. The evidence relied upon in respect of these grounds is the fact that the Respondent's daughter's date of birth is in fact 17 May 1996.
26. I have watched the surveillance evidence relied upon. The following description of the evidence is taken largely from the skeleton argument of Mr Higgins, Counsel for the Applicant, for which I am grateful. For the purposes of these permission proceedings I am satisfied that it is an accurate description:

- (1) On the 2nd August 2016 the Respondent is seen driving a car to a shop. He alights without difficulty and walks into a shop without using a stick. He moves freely and without any obvious difficulty. He is then observed leaving the shop on foot, this time carrying various items, before entering the driver's seat of the car and driving away. Later he is seen working mechanically on a different car. The bonnet is up and he is seen standing next to it whilst smoking. He looks at the engine bay before getting into the passenger seat without any difficulty. He is not using a stick during any of the footage. After some time he alights and is then seen bending over into the engine bay whilst seeking, presumably, to effect a repair. He is bent over for multiples of tens of seconds at a time, and is seen unscrewing something in the engine bay whilst leaning forward and taking his weight on his arms. Next he is seen driving a different car to Stratford. He alights from the car and walks away unaided. He then proceeds to walk for a full twenty minutes, putting a hoodie on as he does so. He arrives at a ticket window where he stands before entering the West Ham United store. Here he performs a shop, carrying various items in his arms as he walks unaided around the store. He appears to be on his feet for a period of up to two hours before he visits a café and sits down, and where he eats and drinks using both hands without any obvious difficulty before walking back to the car.
- (2) On the 11th November 2016 the Respondent is seen in the driver's seat of a car. He alights holding a mobile telephone in his right hand. He is not using any form of walking aid and opens the hatchback boot and retrieves various items before closing it and walking away without any apparent difficulty. Later he is observed entering the passenger seat of another car which is driven to a certain place. He alights and speaks to a number of men. He is not using any walking aid. Later he is seen driving a car. He visits some premises and obtains a bottled item (seemingly a solvent that is to be added to the fuel tank of the car) which he attempts to open using both hands. The top of the bottled item is difficult to unscrew and he is seen applying significant force to open it. He reaches onto the roof of the car and is not using a stick at any time. The Respondent decants the liquid into the fuel tank, enters the car and then lights a cigarette before driving away.
- (3) On the 25th May 2018 the Respondent is observed walking a dog in the street whilst smoking. He initially holds the lead in the right hand but subsequently transfers it to his left hand. He is not using a stick or a Zimmer frame and moves without any obvious difficulty. He is next seen driving a car to a Sainsburys supermarket with a female. He alights from the car and then proceeds into the shop. He is observed walking significant distances, at times holding a stick in his hand but he does not appear to put significant weight through the stick which appears to be used as a prop rather than a functional aid.
- (4) On the 11th December 2019 the Respondent was observed driving a car for more than 30 minutes to an Ikea store. He entered the store and sequentially visited the kitchenware, bedding, home furnishing, lighting and Christmas departments before descending on a travelator and proceeding to exit the store. Save for a couple of occasions he was on his feet, predominantly walking, for

90 minutes. He held a stick in his right hand but did not appear to put any significant weight through it. He then returned to the car and drove away to a Primark store which he visited on foot before returning to the car.

- (5) On the 12th December 2019 the Respondent is seen attending a medical appointment in London with the assistance of a crutch to his left arm. He appears to lean awkwardly onto the crutch and places significant weight through it. This is the day that the Respondent saw Dr. Luscombe, Consultant in Pain Medicine. He told Dr. Luscombe that he used a frame and/or bilateral sticks when walking or a wheelchair. He said he could walk only 10-20 yards with a stick.
 - (6) On the 13th December 2019 he is seen driving a car and visiting a clothing store where he is observed using a stick in his right hand absent significant weight being applied through it, before visiting a fast food restaurant and then driving a car once again.
27. The witness statement which contained the assertions relied upon for each of grounds 1-11 was dated March 2020. Put shortly, it is said that the statements made by Mr Hilton are wholly irreconcilable with the lack of obvious physical manifestation of any problems from the surveillance material. Moreover, Mr Higgins juxtaposes the dates of the surveillance material in his submissions with what was being said to the various medico-legal experts contemporaneously with the footage. For example, the footage taken on 2 August 2016 and on 11 November 2016 is broadly contemporaneous with the Respondent's appointment with Mr Tindall, Consultant Orthopaedic Surgeon, during which the Respondent said that his back was in permanent spasm, that he was unable to help with any but the lightest of domestic activities, that he could only manage 25 yards of walking and even then only very slowly and with the assistance of one stick and his wife. He said that his standing tolerance was only two to three minutes.
 28. The concession made by counsel for Mr Hilton in respect of allegations 3, 5-12,16 and 21 was plainly realistic. Without going further than is necessary for the purposes of this permission hearing, it is plain that there is a strong prima facie case that Mr Hilton knew that each of the statements in respect of which a concession has been made in his were false when he made them, and that he was either fabricating or grossly exaggerating the effects of the accident which was the subject matter of the litigation.
 29. What about those grounds in respect of which no concession has been made?
 30. The thrust of Ms O'Raghallaigh's argument is that the other allegations are duplicative, risk overcomplicating or needlessly burdening the Court's task and that it is not in the public interest that repetitive allegations are made. An analogy is drawn with an 'overloaded indictment' in the context of criminal proceedings (see HHJ Walden-Smith in *Liverpool Victoria Co. Ltd v Khan & Ors* [2016] EWHC 1212 (QB)). Mr Higgins submits that each of the allegations adds something to the overall picture of the contempt, and in certain respects specifically aggravates the conduct. He submits, rightly in my judgment, that in due course the sentencing judge can only sentence within the four corners of the grounds of contempt admitted or proved to the

criminal standard. In this context, a ground which is precisely duplicative may well be unnecessary and should not be permitted; but similar grounds which themselves are demonstrative of the number of times someone was prepared to make false statements and/or the different contexts in which they were so prepared may well be justifiable, and considered properly in the public interest so that any penalty imposed may reflect the true extent of contemptible conduct.

31. Allegation 1 is '*I cannot dress/undress myself*'. The point made is that there is no direct surveillance evidence relating to Mr Hilton's ability to dress himself, a statement which was to some extent qualified by the statement that '*I cannot put my trousers or underpants up and I need help to get my right arm into sleeves. This is all done for me by Debbie.*' Whilst it is correct that there is nothing directly within the surveillance evidence which directly proves or disproves this statement, it is quite proper for the Applicant (as it is open to the prosecution in a criminal case) to ask the tribunal of fact to draw an inference from the evidence available to determine whether a particular fact is proven to the criminal standard. Whilst it is true that ground 11 ('*I still require constant care and assistance*') which has been conceded might be somewhat of an umbrella statement which expresses the alleged consequence of ground 1, this does not make them duplicative, and it is not in my view oppressive that the (false, if it is admitted or proved) particularisation of the reason why Mr Hilton alleged an inability to care for himself forms part of the case against him.
32. Allegations 2 and 4 form part of a single sentence taken from Mr Hilton's witness statement of 18 March 2020. I do not accept the submission that it is forensically and evidentially wrong to separate out the elements of the sentence: indeed, it could at least theoretically be the case that a respondent might accept one part of the sentence was contemptuous, and the other not, and this approach could not be criticized. I accept Mr Higgins submission that these allegations add to ground 11 in describing the nature of the purported restriction on Mr Hilton's life (which in turn will have had a direct impact on the extent of quantification of loss). In the same way that these assertions were made in the witness statement for the very purpose of adding colour to the picture being built up in the litigation itself, it would be wrong in my judgment to excise that colour in the context of contempt proceedings.
33. Ground 13 relates to the specific evidence that Mr Hilton's wife had to give up work to become Mr Hilton's carer. This was obviously an important statement affecting the potential financial recovery, if true. It is not a duplicative or oppressive ground.
34. The second category of grounds relates, as set out above, to the allegedly forged birth certificate of the Respondent's daughter. The brief context of this allegation is as follows. The Respondent's medical records of November 1997 indicate various psychological and psychiatric issues, depression, mood swings, anxiety, self-harm and alcohol problems. When seeing the Applicant's medico-legal experts (Psychiatric and Pain Management), the Respondent said that he had never consulted his GP on any psychiatric or psychological issues before the index event and had no history of depression or anxiety. When the discrepancies with the Respondent's medical records were brought to the attention of the Respondent, he asserted that the records did not relate to him, and related to another 'Mark Hilton' registered with the same practice and which must have been muddled up. He was required by the Court to identify those records which he contended were not relating to him.

35. One of the contested medical records included a letter from a Chartered Clinical Psychologist, to his then GP dated 16th September 1998. Of this the Respondent stated: *'This letter refers to a problem of "not seeing his daughter...is now 18 months old". This categorically does not relate to me. I can confirm I have two daughters. The eldest was born on 17 May 1998, making her four months old at the time the Psychologist's letter was written to my then Doctors. My youngest was born on 22 August 2000. I refer to exhibit "MH4" which is a copy of my eldest daughter's birth certificate and youngest daughters diving licence as evidence of the same. I can confirm that I have no other children'*.
36. The Respondent next referred to a letter from his then doctor dated 30th December 1998 in which reference was made to psychological problems, a suicide attempt, lying, stealing money and losing a girlfriend and access to a child. He said *'this categorically does not relate to me for the reasons stated'*.
37. Exhibit 'MH4' to the Respondent's 22nd January 2012 witness statement was a purported copy birth certificate relating to a his daughter who is recorded as having been born on the 17th May 1998. The purported certificate was not signed.
38. The Applicant claims that it is unarguably a forgery. It is said that the girl does exist but her date of birth is 17th May 1996, consistent with the Respondent having an 18-month old baby daughter in November 1997. He contends that no reasonable inference is available save that the Respondent forged (or caused to be forged) a false birth certificate so as to support his dishonest evidence that he did not have an 18-month old baby daughter in November 1997, in an attempt to disassociate himself from genuine entries in his medical records that conflicted with what he had said to medical experts in the case.
39. Mr Hilton, though Counsel, accepts that grounds 16 and 21 should proceed, and given the indication that these grounds will be admitted, it is accepted that the document was a forgery.
40. Taking those other related grounds which it is argued should not proceed:
 - (1) I accept, as submitted by Mr Higgins, that there is a distinction between procuring the creation of a false document (ground 15) and deploying a false document by service in litigation (ground 16), and that the former may be said to aggravate the conduct overall. As such ground 15 is not duplicative and should proceed;
 - (2) Grounds 17-19 each relate to the fact that, having served the document, Mr Hilton proceeded to give false evidence based upon the document. I accept that ground 17 does not add materially to ground 19, which contains the context and the false statement, and the exhibition of the false document at ground 18 is a properly separate ground. Therefore, permission is not given to ground 17, but 18 and 19 proceed.
 - (3) Ground 20 is additive to ground 21, in the way that grounds 18 and 19 may properly proceed, and grounds 20 and 21 themselves are important as they reflect the decision by Mr Hilton to continue with a dishonest explanation when the

Court's order already reflected clear scepticism surrounding the position advanced with regard to his medical records.

41. In conclusion, save in respect of ground 17, all grounds of contempt should proceed. There is a strong prima facie case in respect of each, and it is in the public interest that contempt proceedings are brought in relation to them.
42. Given the indication already given, the Respondent is to make such admissions as he intends to with 7 days of this judgment. The parties are to liaise with the Court in relation to a date upon which the penalty will be imposed. Any material to be relied upon by way of mitigation shall be served on the Claimant and lodged with the Court no later than 10 days before such hearing. Skeleton arguments to be lodged no later than 2 days before the hearing. Liberty to apply.